

立法會
Legislative Council

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**Establishment Subcommittee of the Finance Committee
of the Legislative Council**

**Minutes of the 7th meeting
held at the Legislative Council Chamber
on Wednesday, 19 January 2000, at 10:45 am**

Members present:

Dr Hon Philip WONG Yu-hong (Chairman)
Hon NG Leung-sing (Deputy Chairman)
Hon Michael HO Mun-ka
Ir Dr Hon Raymond HO Chung-tai, JP
Dr Hon David LI Kwok-po, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon MA Fung-kwok
Hon CHEUNG Man-kwong
Hon CHAN Kwok-keung
Hon Bernard CHAN
Hon CHAN Wing-chan
Dr Hon LEONG Che-hung, JP
Hon Jasper TSANG Yok-sing, JP
Hon Howard YOUNG, JP
Hon YEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon SZETO Wah

Members absent:

Hon Andrew WONG Wang-fat, JP
Hon CHOY So-yuk

Public officers attending:

Mrs Carrie LAM, JP	Deputy Secretary for the Treasury
Mr D W PESCOD, JP	Deputy Secretary for the Civil Service
Mr K K LAM	Principal Executive Officer (General), Finance Bureau
Mr Richard LUK	Principal Assistant Secretary for Economic Services
Mr Alex AU	Deputy Director of Civil Aviation
Mr Norman LO	Assistant Director of Civil Aviation
Mrs Carrie WILLIS, JP	Principal Assistant Secretary for Security
Captain Brian Y M BUTT	Controller, Government Flying Service
Ms Rosanna LAW	Assistant Director of Administration
Mr S Y CHAN, JP	Director of Legal Aid
Mrs Fanny YU	Deputy Director of Legal Aid
Mr Thomas KWONG	Assistant Principal Legal Aid Counsel, Legal Aid Department
Mr Robert ALLCOCK, BBS	Solicitor General
Mr Peter H H WONG	Senior Assistant Solicitor General
Mrs Pamela TAN, JP	Director of Administration and Development, Department of Justice
Mr Peter H K CHEUNG, JP	Deputy Director (Administration), Department of Justice
Mr Howard LEE	Principal Assistant Secretary for Economic Services
Dr H K LAM, JP	Director of the Hong Kong Observatory
Mr K H YEUNG	Assistant Director of the Hong Kong Observatory

Clerk in attendance:

Miss Polly YEUNG	Chief Assistant Secretary (1)3
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Staff in attendance:

Ms Pauline NG	Assistant Secretary General 1
Ms Sarah YUEN	Senior Assistant Secretary (1)4

EC(1999-2000)32 Proposed non-civil service appointment of four Flight Operations Inspectors on agreement terms at the equivalent rank of D1 under Head 28 Civil Aviation Department as a long term solution to the recruitment and retention problems

While stating her support for the proposal, Miss Emily LAU was concerned about how existing Senior Operations Inspectors (SOI) could attain the necessary experience, in particular the 5 000 hours of air transport pilot-in-command experience, for advancement to Flight Operations Inspectors (FOI) in meeting the long-term objective of localising the Flight Operations Inspectorate. In response, the Deputy Director of Civil Aviation pointed out that the SOIs already had substantial air transport pilot-in-command experience and there was also a mechanism in the Civil Aviation Department to enable them to acquire further experience on jet aircraft to meet the 5 000-hour requirement while performing their inspection and surveillance duties. He further assured members that the duties assigned to SOIs, though less demanding than those of FOIs, were equally important and they would be given ample opportunities and in-service training to take up higher-level duties.

2. Mr Howard YOUNG expressed support for the proposal but enquired whether a higher retirement age than that of the civil service would be adopted for the proposed FOIs in consideration of the limited supply of suitable candidates. In response, the Assistant Director of Civil Aviation said suitability for the posts would be the major consideration and where warranted, the retirement age of these consultant posts would be adjusted flexibly for the purpose of retaining the necessary professional expertise in Hong Kong to maintain service quality.

3. The item was voted on and endorsed by the Subcommittee.

EC(1999-2000)33 Proposed amalgamation of the existing Air Crewman and the Air Crewman Officer grades in the Government Flying Service into a new Air Crewman Officer grade

4. The item was voted on and endorsed by the Subcommittee.

EC(1999-2000)34 Proposed creation of one supernumerary post of Assistant Principal Legal Aid Counsel (DL1) in the Policy and Administration Division of the Legal Aid Department for a period of 15 months from 1 April 2000 to 30 June 2001 to oversee the implementation of the Information System Strategy

5. Miss Margaret NG stated her support for the proposal and reported that the proposal had already been deliberated by the Administration of Justice and Legal Services (AJLS) Panel which in general supported the creation of the proposed post, its proposed duration and ranking.

6. While expressing support for the proposal, Miss Emily LAU sought further details on the expected benefits of the Integrated Information System which had necessitated the creation of the proposed post, and on the new performance pledges referred to in paragraph 7 of the paper.

7. In response, the Director of Legal Aid (DLA) highlighted the following improvements -

- (a) The time taken to respond to enquiries involving complex questions could be reduced from 15 to five minutes. Moreover, over 90% of the enquiries could be handled at first call without having to locate the files.
- (b) 80% of the applications for legal aid could be processed within 2½ months instead of three months. The System would also enable certain business processes to be re-engineered to further shorten the target processing time.
- (c) On case management, as over 70% of the Legal Aid Department (LAD)'s cases were assigned out, the System, which could capture major events for each case, would enable LAD to keep track of case progress and the costs incurred more effectively. Moreover, the System would also allow access to information on a case file by staff of different sections at the same time and hence, help improve efficiency.
- (d) At present, depending on the nature of payment, it took four to six weeks to process payment to lawyers and legal aid clients. As the System would eliminate the need for re-entry of payment information and allow vetting and processing of payments to be conducted at the same time, payment could be expedited by two weeks.
- (e) Where comprehensive management information was concerned, with detailed information on the work of all sections of LAD being made

available, the System could provide comprehensive and timely information to facilitate management, cost control and strategic planning.

8. Noting that the holder of the proposed post would have to be a legal professional conversant with the operation and information technology needs of the LAD, Miss Emily LAU was concerned about the availability of such a candidate. DLA advised that in view of the scale and complexity of the System and the tight schedule for its implementation, the post would be filled by the Assistant Principal Legal Aid Counsel who had acted as the project director during the six-month feasibility study of the System.

9. The item was voted on and endorsed by the Subcommittee.

EC(1999-2000)35 Proposed creation of one permanent post of Deputy Principal Government Counsel (DL2) in the Department of Justice with effect from 1 March 2000 to head the Basic Law Unit in the Legal Policy Division and to provide advisory service on the Basic Law and related constitutional issues

10. Miss Margaret NG expressed support for the proposal and reported that it had already been examined twice by the AJLS Panel which in general supported the creation of the proposed permanent post of Deputy Principal Government Counsel to head the Basic Law Unit (DPGC/BL) of the Department of Justice (the Department). Members noted that on the first occasion, concerns were raised about whether the proposed ranking of the DPGC/BL was sufficiently high to ensure that the post-holder would be competent and independent enough in giving advice, particularly in cases where there might be a potential conflict between adherence to policy and upholding of a high degree of autonomy in Hong Kong. Miss NG further advised that the Administration had provided the Panel with a comprehensive supplementary paper when the proposal was scheduled for discussion on the second occasion. While some Panel members still had reservation on the safeguards to ensure the independence of DPGC/BL in performing his duty, she herself considered the proposals put forward by the Administration to address the Panel's concerns acceptable.

11. In this connection, the Solicitor General (SG) supplemented that by proposing to create a permanent post of DPGC/BL when the existing supernumerary post lapsed on 1 March 2000, the Department was only seeking to maintain the status quo of its operational structure under which a directorate officer at DL2 level was to take charge of its Basic Law Unit. Moreover, the post holder would not be the only one in the Department providing a legal advisory service in respect of the Basic Law and related constitutional issues. In fact, as shown in Enclosure 2 to the paper, the Basic Law Unit was overseen by

the Deputy Solicitor General (Constitutional), who was under the Solicitor General who in turn reported to the Secretary for Justice. As such, if a particular item of Basic Law advice was sufficiently important, it would be referred to more senior officers in the Department before it was finally issued. As regards whether the post-holder would be able to perform his advisory role independently of policy considerations, SG emphasised that all counsel in the Department followed the same ethical codes as every other lawyer in Hong Kong and it was their professional duty to give their clients competent legal advice to the best of their ability based on sufficient knowledge of the relevant facts and adequate consideration of the applicable law.

12. Mr CHAN Wing-chan expressed support for the proposal but enquired about the growing complexity of and increasing need for Basic Law advice mentioned by the Administration in justifying the proposed post. In response, SG explained that Basic Law advice varied in complexity. For example, advice on issues on which the court had already decided was relatively straightforward. However, many provisions of the Basic Law were yet to be interpreted and since the Basic Law was a constitutional document, its provisions were worded in general terms. As such, the work involved in interpreting these provisions was both substantial and difficult since the provisions might be capable of different interpretations. There was thus a need to research into whether there were precedents relating to similar provisions in other jurisdictions. Moreover, the Basic Law Unit had to provide advice both for the purposes of litigation and in the preparation of bills. In consideration of the volume and complexity of the work involved, there was a need for the proposed permanent post of DPGC/BL.

13. Miss Emily LAU questioned whether the advice given by DPGC/BL was purely legal, or whether he was also required to consider the likely adverse political, social or other consequences of policies and to re-affirm the policies the Administration wished to implement. In response, SG stressed that the advice given by DPGC/BL was fundamentally legal, though he also gave legal policy advice on areas related to the rule of law, independence of the Judiciary, etc. However, in consideration of the general application of the Basic Law and that advice given to a particular bureau in relation to a particular proposal might have implications on the activities of other bureaux, DPGC/BL had to consider such wider implications when giving advice.

14. Miss Emily LAU asked whether it was the Department's policy to seek outside independent legal advice on controversial subjects. SG replied in the positive and recalled that, recently, legal advice had been sought from Senior Counsel both locally and in London.

15. Mr NG Leung-sing sought information relating to the Department's work in establishing and maintaining contact with counterparts in the Mainland. In reply, SG said that the Department had been liaising with Qinghua University in relation to researching into the drafting history of the Basic Law. The University was

collecting information on the subject to build up a Library on Basic Law and a committee headed by a High Court Judge was also examining the establishment of such a library in Hong Kong. He agreed with Mr NG Leung-sing's comment that exchange of views on the legislative intent of the Basic Law would facilitate understanding of its provisions and might also be helpful in obviating future needs to seek an interpretation of the Basic Law from the Standing Committee of the National People's Congress.

16. The item was voted on and endorsed by the Subcommittee.

EC(1999-2000)36 Proposed creation of one permanent post of Assistant Director of the Hong Kong Observatory (D2) in the Hong Kong Observatory with effect from 1 April 2000 to oversee aviation meteorological services and weather radar and satellite reception functions

17. Whilst stating his support for the proposal, Mr CHAN Wing-chan sought further information on the benefits of creating a permanent post of Assistant Director (AD) of the Hong Kong Observatory (HKO) to oversee aviation meteorological services and weather radar and satellite reception functions when the present supernumerary post of Assistant Director for Aviation Meteorological Services (AD(A)) lapsed on 1 April 2000.

18. In response, the Director of the Hong Kong Observatory (D(HKO)) elaborated that while the AD(A) post was initially created to formulate policies and strategies regarding aviation meteorological services and to oversee the development of meteorological facilities and services for the new airport, its functions had undergone some changes over the years and the nature of the majority of its current duties such as management of the Airport Meteorological Office (AMO) and further development of existing aviation meteorological systems had become on-going and permanent. Moreover, new areas of work had also arisen from the following developments, namely, the study and trial of the Communication, Navigation and Surveillance/Air Traffic Management (CNS/ATM) systems, HKO's plan to launch an efficiency enhancement programme, the need for continued high level input at AD level to ensure the effective operation of more complex aviation meteorological facilities, and the proposed transfer of the weather radar and satellite reception functions presently under the 'F' Branch to 'A' Branch. D(HKO) reiterated that aviation meteorological services were very important in ensuring aviation safety. There was thus a strong need for a dedicated and permanent AD post to maintain and further improve the standard of aviation meteorological services to keep abreast of technological developments, new service needs and international standards.

19. Mr CHEUNG Man-kwong noted that the supernumerary AD(A) post was first created in 1992 to oversee the smooth operation of the meteorological

facilities and services for the new airport and the second runway in the initial year of their operation. Subsequently, the post had been extended four times. Now that the new airport was up and running, the original justifications for the supernumerary post were no longer valid. In the face of the prevailing economic downturn and freeze on civil service posts, Mr CHEUNG considered it inappropriate to convert this supernumerary post into a permanent post mainly by assigning to it some duties from another team to expand its scope of work. He further opined that even if there was a genuine need for increased staffing support, it was still doubtful whether the post should be pitched at D2.

20. In response, D(HKO) explained that the functions to be transferred from the 'F' Branch to the proposed post would only constitute a small part of the AD's work. The main reason for creating a permanent AD(A) post was because its current duties of managing the AMO and further developing existing aviation meteorological systems were of an on-going and permanent nature. The importance of such work could be reflected in the fact that nearly 40% of HKO's departmental expenses were under the charge of AD(A) and the cost of meteorological facilities at the new airport under him accounted for over 70% of the value of the total equipment asset of HKO. The Principal Assistant Secretary for Economic Services also highlighted that the operation of the new airport was much more sophisticated and specialised than that at Kai Tak. The scope, capability and complexity of aviation meteorological services and facilities required of HKO had increased substantially. Moreover, many of these systems, such as those for windshear and turbulence detection, embodied new technologies. There was thus a need for continued high-level input at AD level to ensure the effective operation and development of these systems.

21. In this connection, the Deputy Secretary for the Civil Service confirmed that the Civil Service Bureau (CSB) supported the creation of the proposed permanent AD post in consideration of the permanent nature of the duties of the post-holder. Having sought the advice of the Standing Committee on Directorate Salaries and Conditions of Service, CSB also agreed that the job content of the post warranted its ranking at D2 level. The Deputy Secretary for the Treasury (DS(Tsy)) further advised that all additional posts for the Airport Core Programme (ACP) projects were funded on a time-limited project basis and were subject to annual reviews to see if they should be retained or deleted. She said that the review mechanism would ensure that departments could not hold on to posts created for the ACP work unless there were strong justifications. As such, despite repeated extensions of the AD(A) post in view of actual needs, the proposal to make the post permanent was only endorsed by the Finance Bureau in the second half of 1999.

22. Mr CHEUNG Man-kwong cautioned that there might be a growing trend of supernumerary posts being turned into permanent posts after several extensions with the addition of some duties. He urged the Administration to note his concern. As far as the present proposal was concerned, he accepted DS(Tsy)'s

explanation that posts related to the airport project had all along been kept on a supernumerary basis and that approval would only be sought to turn them into permanent posts when circumstances so warranted. Mr CHEUNG said that he was willing to support the present proposal.

23. Mrs Selina CHOW agreed with the need to create a permanent AD(A) post but enquired about the financial implications arising therefrom. In response, DS (Tsy) confirmed that the financial implications were the same whether the post was supernumerary or permanent.

24. While agreeing that requests for permanent staffing support should be critically reviewed, Mr NG Leung-sing accepted that the job content of the AD(A) post had changed so much over the years that there was a need to retain it on a permanent basis. He however sought elaboration on specific users' demand and public opinion surveys referred to in paragraphs 8(c) and (d) of the paper.

25. In reply, D(HKO) reported that there were many specific users of HKO's services. For example, because temperatures affected the demand for electricity, power companies required timely reports of temperatures at different times of the day and forecasts on the daily minimum and maximum temperatures to make accurate estimates of electricity demand for the purpose of matching supply with demand. As for public opinion surveys, D(HKO) advised that they were conducted to gauge the effect of weather forecasting services and the performance of public weather warning systems so as to identify the most appropriate substance, form and channel of such reports to enhance the effectiveness of crisis management in natural disasters.

26. As to whether AD(A)'s duty to closely liaise with the Civil Aviation Administration of China (CAAC) and other Mainland authorities in the co-ordination and setting of policies on interaction with the International Civil Aviation Organisation (ICAO) was newly added after the handover of Hong Kong, D(HKO) confirmed that the duty was not new but that instead of liaising with the CAAC, HKO had previously liaised with its counterpart in the United Kingdom before 1997. However, as Hong Kong was in the same region as the Mainland and hence shared similar concerns, liaison in this regard was closer than before.

27. Noting that when compared with its neighbouring airports, the Hong Kong airport might have more advanced equipment, Mr Howard YOUNG was concerned that by exchanging aviation weather information and technology with these airports, Hong Kong might in some way be subsidising their meteorological services. In response, D(HKO) pointed out that all airports had to operate according to the standards promulgated by the ICAO. As such, the exchange of information was conducted on an equal footing. In fact, as adjacent airports in Shenzhen, Guangzhou and Zhuhai would also serve as Hong Kong's alternate aerodromes when necessary, there was a need for more frequent exchanges of information with them than that required by international standards.

28. In reply to Mr Howard YOUNG, D(HKO) confirmed that aviation safety was one of the major considerations of the creation of the proposed permanent post to improve aviation meteorological services. Mr YOUNG also enquired whether the Administration would put up additional staffing requests if the report on the clash of an aircraft of the China Airlines at the Hong Kong airport in 1999 confirmed that windshear was the major cause. In response, D(HKO) stressed that the proposed AD would be responsible for all aviation meteorological services and he currently did not envisage the need for further request for directorate staff to deal with windshear detection.

29. In response to Miss Emily LAU's enquiry about the acquisition of the Light Detection and Ranging System, D(HKO) confirmed that reports from pilots had been received on windshear in non-rainy situations which could not be detected by the present radar system. Hence, HKO had decided to install the \$9.5-million system to enhance low-level windshear detection in non-rainy situations. He further advised that the consultants who studied the handling of windshear at the new airport in 1992 had already tested the effect of the system. However, since the system was still under development at that time and not yet ready for general application, its installation had not been recommended in the relevant consultancy report. As to the number of windshear reports by pilots, he recalled that there were more than ten pilot reports out of an average of around 14 000 flights at the new airport each month. At Miss LAU's request, he agreed to provide in writing a breakdown on such windshear reports by rainy and non-rainy situations.

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30. As to Miss Emily LAU's question on why the requirement for "accurate" weather forecasts had not been included in the proposed AD's job specifications, D(HKO) pointed out that the provision of "accurate" weather forecasts was understood to be a pre-requisite in the work of HKO for which no special mention needed be made. He added that in order to meet this standard, HKO had recently purchased a super computer for simulation of atmospheric changes. On whether the public was satisfied with the accuracy of HKO's weather forecasts, he reported that there were two ways by which the HKO gauged its performance, one by computer according to a set of predetermined criteria and the other through telephone surveys. The former had shown a 85% accuracy rate representing an improvement when compared to the rate of 75% ten years ago; the latter showed that the public's satisfaction rate had all along remained at 75%. D(HKO) remarked that the figures reflected a rising demand for improved public weather service notwithstanding actual improvements in forecast accuracy.

31. The item was voted on and endorsed by the Subcommittee.

32. The Chairman reminded members that an additional meeting of the Subcommittee had been scheduled for Wednesday, 26 January 2000, at 9:00 a.m. to examine the resubmitted proposal on revision of the civil service starting salaries voted down by this Subcommittee at the meeting on 12 January 2000.

33. The Subcommittee was adjourned at 12:00 noon.

Legislative Council Secretariat
16 February 2000