

立法會
Legislative Council

LC Paper No. CB(1)2112/99-00
(These minutes have been seen
by the Administration and
cleared with the Chairman)

Ref : CB1/PL/PS/1

Legislative Council
Panel on Public Service

Minutes of meeting
held on Monday, 19 June 2000 at 10:45 am
in the Chamber of the Legislative Council Building

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon Mrs Sophie LEUNG LAU Yau-fun, JP (Deputy Chairman)
Hon Michael HO Mun-ka
Hon LEE Cheuk-yan
Hon LEE Kai-ming, SBS, JP
Hon CHEUNG Man-kwong
Hon CHAN Kwok-keung
Hon CHAN Wing-chan
Hon Howard YOUNG, JP
Hon Ambrose LAU Hon-chuen, JP

Member attending : Hon NG Leung-sing

Member absent : Hon Andrew WONG Wang-fat, JP

Public officers : **Items II to V**
attending

Mr LAM Woon-kwong
Secretary for the Civil Service

Ms Anissa WONG
Deputy Secretary for the Civil Service (1)

Mr D W PESCOD
Deputy Secretary for the Civil Service (2)

Mrs Susan MAK
Deputy Secretary for the Civil Service (3)

Clerk in attendance : Miss Salumi CHAN
Chief Assistant Secretary (1)5

Staff in attendance : Mr Matthew LOO
Senior Assistant Secretary (1)7

Action

- I. Confirmation of minutes of meeting and matters arising**
(LC Paper No. CB(1)1836/99-00 — Minutes of meeting on 15 May 2000
LC Paper No. CB(1)1837/99-00(01)— List of follow-up actions)

Confirmation of minutes of meeting

The minutes of the meeting held on 15 May 2000 were confirmed.

Matters arising

2. Members noted the Panel's list of follow-up actions and that the Administration had provided the information required.

- II. Promotion of integrity within the civil service**
(LC Paper No. CB(1)1837/99-00(02) — Paper provided by the Administration)

Briefing by the Administration

3. At the Chairman's invitation, Deputy Secretary for the Civil Service (3) (DSCS3) briefed members on the work of the Civil Service Bureau (CSB) in the promotion of integrity in the civil service. She advised that the Civil Service Integrity Programme (CSIP) jointly organized by CSB and the Independent Commission Against Corruption (ICAC) was targeted at three levels. At the central level, CSB was reviewing, updating and consolidating central circulars and memoranda and related

Civil Service Regulations (CSRs) governing conflict of interest, and aimed to complete the review for promulgation of updated central guidelines later this year. At the departmental level, visits had been paid to 21 departments and would be paid to the remaining 46 departments to help them review and develop departmental guidelines on conduct and discipline. On service-wide, tailor-made training courses for individual departments were in progress to raise staff awareness of the standard of integrity.

4. DSCS3 pointed out that apart from the implementation of CSIP, ICAC had assisted departments in carrying out preventive work, for example, by strengthening system control to eliminate and reduce opportunities for corruption and malpractices. CSB had also commissioned a survey company to conduct a survey among directorate officers in the civil service on work ethics. The survey report completed in April 2000 provided useful indicators on the noteworthy areas. Furthermore, CSB and ICAC would jointly produce a handbook for senior managers at Master Pay Scale (MPS) Point 45 or above to provide references for them to strengthen ethical values among their staff and guard against corruption in their organizations. Examples of vulnerable areas such as conflict of interest and indebtedness would be included.

Declaration of liabilities

5. Mr CHEUNG Man-kwong appreciated the efforts made by the Administration to promote integrity but considered those inadequate to cater for present day situations where it was easy for civil servants to become indebted by acquiring loans from various banks, in particular under the various credit card schemes. Mr CHEUNG was concerned about the impact of the problem of indebtedness on the integrity of civil servants. To address the problem, he reiterated his view expressed at the Panel meeting held on 17 April 2000 that the scope of the declaration system of investments should be expanded to cover declaration of liabilities over a certain amount, say \$100,000.

6. In response, DSCS3 advised that in requiring civil servants to declare their personal information, a proper balance between public interests and civil servants' right to privacy should be maintained. CSB, having consulted the Department of Justice and ICAC, came to the view that it was inappropriate to require civil servants to declare their liabilities if the loans were obtained through legal means and their performance had not been affected. Mr CHEUNG Man-kwong clarified that his proposal was to facilitate the Administration to manage the problem of indebtedness of civil servants. Civil servants' right to privacy could be maintained if the information declared by civil servants was kept to the senior management and not disclosed to the public.

7. The Chairman pointed out that he had recently received a complaint from a police officer who was aggrieved that he might be subject to dismissal after seeking advice from the departmental Staff Relation Officer on how to handle his problem of

indebtedness. In response to the Chairman's enquiry, DSCS3 advised that in the absence of the details of the case, she was unable to make any comment. The Chairman considered that if civil servants were subject to dismissal after reporting their liabilities, they would be reluctant to seek advice or assistance from the departmental management. He suggested the Administration to look into this point.

Survey on work ethics

8. Responding to Mr CHAN Wing-chan, DSCS3 advised that the survey report mentioned at paragraph 4 above was an internal document of the civil service and would not be disclosed to the public. Nevertheless, the information gathered from the survey would be used to promote the integrity of civil servants through CSIP and other integrity training programmes tailor-made for individual departments.

Statistics on corruption cases

9. Responding to Mr CHAN Wing-chan, DSCS3 advised that the number of corruption cases in the civil service had dropped by 1% in 1999, comparing with that in 1998.

III. Preventive measures against abuse of office by senior civil servants

(LC Paper No. CB(1)1837/99-00(03) — Paper provided by the Administration)

General guidelines

10. Referring to the Chinese version of the paper provided by the Administration, Mr LEE Kai-ming noted that under CSR, civil servants were required to avoid lavish or unreasonably generous entertainment (公務員必須避免接受任何過分慷慨或殷勤的款待). He considered the phrase "過分殷勤的款待" too vague. DSCS3 advised that as revealed from past experiences, lavish or unreasonably generous entertainment might lead to corruption and therefore should be avoided. The central guidelines provided under CSR only set out the general requirements and more specific guidelines had been devised by various departments to cater for their own situations.

Sanctions

11. Mr CHEUNG Man-kwong noted that civil servants abusing office for personal gains might be liable to prosecution under the Prevention of Bribery Ordinance (Cap. 201), and that abuse of office by civil servants involving criminal elements might also lead to criminal proceedings taken by the Police. Mr CHEUNG however pointed out that the existing legislation did not cover cases of abuse of office by civil servants where personal gains or criminal elements were not involved. To plug the loophole, he suggested the Administration to make reference to the studies

conducted by the United Kingdom (UK) and ICAC on the subject, and consider introducing legislation to govern this type of cases. In response, DSCS3 advised that the Administration had been maintaining close contact with ICAC on the subject and studying the practices in the Mainland and other countries such as UK, Canada and Australia. It was noted that in UK, a study on the subject was in progress and a public consultation exercise would be conducted by the end of 2000 on whether the abuse of office by civil servants should be dealt with by criminal laws or administrative means. The Administration would make reference to the result of the UK study and experiences of other countries before deciding on the way forward.

12. At the request of Mr LEE Cheuk-yan, DSCS3 undertook to provide information on the types of disciplinary action involved in the 148 cases (by types of offence) set out in the Annex to the paper provided by the Administration.

(Post-meeting note : The information provided by the Administration was circulated to members vide LC Paper No. CB(1)27/00-01 on 11 October 2000.)

IV. Mandatory Provident Fund arrangements for government employees who are not exempt from the Mandatory Provident Fund Schemes Ordinance

(LC Paper No. CB(1)1362/99-00(01) — Paper provided by the Administration)

Briefing by the Administration

13. At the Chairman's invitation, Deputy Secretary for the Civil Service (1) (DSCS1) briefed members on the Mandatory Provident Fund (MPF) arrangements for government employees who were not exempt from the Mandatory Provident Fund Schemes Ordinance (MPFSO) (Cap. 485). She advised that about 29 000 government employees would be subject to the provisions of MPFSO by December 2000 and would then be required to contribute to a registered MPF scheme. Among these 29 000 employees, 7 000 of them were serving on gratuity-bearing contracts. As the amount of their gratuities covered the element of retirement benefits, the Administration would deduct from the gratuities the employer's mandatory contributions under the MPFSO and pay the contributions to the relevant employees' accounts under the MPF schemes. Regarding the remaining 22 000 employees engaged on terms without gratuity provision, the Administration would make the employer's mandatory contributions.

MPF arrangements for employees serving on gratuity-bearing contracts

14. Mr LEE Cheuk-yan and Mr CHAN Wing-chan considered it unfair and illogical for the Administration to deduct the government's contributions to MPF

schemes from the gratuities of the 7 000 relevant employees. Mr LEE was also concerned that this arrangement might set a bad example to the private sector. In response, DSCS1 reiterated that the amount of gratuities covered three elements including retirement benefits. The government's contributions to MPF schemes, though seemingly deducted from the gratuities, would be paid to the employees' account and the accrued benefits would be vested in the employees. Mr LEE was not convinced of the Administration's response and pointed out that contract gratuities and contributions to MPF schemes were completely different in nature.

15. In response to Mr LEE Cheuk-yan's query, DSCS1 advised that the new arrangement had been provided for in the contracts offered or renewed since mid-December 1998. For those relevant employees whose current contracts were entered into before the introduction of the new arrangement in mid-December 1998, the Administration would comply with the gratuity rates stipulated in the prevailing contracts and make the employer's contributions to the MPF schemes separately. In view of the Administration's advice that contract gratuities covered the element of retirement benefits, the Deputy Chairman considered that this alternative arrangement might cause double-benefits.

16. At the request of Mr LEE Cheuk-yan, DSCS1 agreed to provide the Panel with the following information:

- (a) In respect of the 7 000 government employees serving on gratuity-bearing contracts, a breakdown of the number of civil service contract staff and non-civil service contract staff, and a breakdown of the levels of their gratuities (e.g. 25%, 15% or 10%); and
- (b) The implications of the MPF arrangement for government employees on the staff side of the contractors of the government, in particular the contractors for capital works.

(Post-meeting note : The information provided by the Administration was circulated to members vide LC Paper No. CB(1)27/00-01 on 11 October 2000.)

Teachers employed under the Native English Teachers Scheme

17. Mr CHEUNG Man-kwong considered that as most teachers employed under the Native English Teachers Scheme (the Scheme) were foreigners who might leave Hong Kong after completing their contracts, they should be exempted from MPFSO. DSCS1 advised that those teachers might withdraw the accrued benefits from their MPF schemes when they left Hong Kong permanently. Mr LEE Kai-ming added that the Bills Committee formed to scrutinize the Mandatory Provident Fund Schemes Bill had considered whether foreign employees should be exempted from MPFSO, and concluded that foreign and local employees should be treated the same.

Staff consultation

18. Responding to Mr CHAN Wing-chan, DSCS1 advised that the Administration had sought the comments of the staff sides of the Central Civil Service Consultative Councils on 2 December 1998 on a draft circular on gratuity provision in contracts for new recruits and another one for serving officers. The Senior Civil Service Council (Staff Side) noted the change in the provision of contract gratuity and the others had no comments. The two circulars were then issued in mid-December 1998. To facilitate communication with staff and departments on the implementation of the MPF scheme for government employees, the Administration had set up in January 2000 a Liaison Group involving representatives of the staff sides of the Central Civil Service Consultative Councils and the management of major departments with employees subject to MPFSO. An information booklet on the subject had also been issued in March 2000 to facilitate departments to brief their staff on the MPF system and the implications for them. The Administration would promulgate further details on the MPF arrangements adopted as and when available.

Selection of Master Trust Schemes

19. In response to Mr CHAN Kwok-keung's enquiry, DSCS1 advised that the Administration would arrange to procure the services of MPF service providers by way of contracting several Master Trust Schemes (MTSs) through a bulk contract. The Administration aimed to provide a choice of schemes at competitive rates for the relevant employees. Although the relevant employees would not be involved in the selection process of MTSs, they could choose their own investment options offered under each MTS.

V. Proposal on conversion of Model Scale I Staff from Category B Officers to Category A Officers

(LC Paper No. CB(1)1837/99-00(04) — Paper provided by the Administration

LC Paper No. CB(1)1837/99-00(05) — Submission from Model Scale I Staff Consultative Council (Staff Side))

20. Mr LEE Cheuk-yan, Mr CHEUNG Man-kwong, Mr LEE Kai-ming, Mr CHAN Wing-chan and Mr CHAN Kwok-keung supported the Model Scale I (MOD I) Staff Consultative Council (Staff Side)'s proposed conversion of MOD I staff from Category B to Category A status to remove the existing discriminatory arrangement. Deputy Secretary for the Civil Service 2 (DSCS2) clarified that it was not discriminatory to have different groups of civil servants employed on different terms and conditions. MOD I staff had their own pay scale and dedicated terms, fringe benefits and disciplinary arrangements. Their terms and conditions of appointment, just like other civil service terms and conditions of service, were made having regard

to those of the appropriate private sector analogues and were reviewed from time to time. When the Standing Commission on Civil Service Salaries and Conditions of Service (the Standing Commission) last considered the matter in 1989, it noted that the private sector still differentiated between the terms and conditions of service of employees comparable to MOD I staff and those comparable to the staff on MPS. It therefore concluded that the arrangement of having two separate pay scales should continue.

21. Members were of the view that with a lapse of 11 years, the Standing Commission should reconsider the matter. DSCS2 advised that the matter was one of those items on the agenda for the regular meetings between CSB and the Standing Commission. Since 1998 when MOD I staff put up their request for conversion, CSB had maintained an open dialogue with them and assured them that the Administration would review the subject as and when appropriate. Members urged the Administration to set up a timetable for the review. DSCS2 responded that no specific timetable was available at this stage.

22. Members suggested the Administration to consider implementing the conversion by phase. The Administration might first apply the disciplinary procedures for Category A officers to MOD I staff, and then discuss the details of the proposed conversion with the staff side. DSCS2 pointed out that the various implications of the proposed conversion, including the financial implications and the implications on the disciplinary procedures, should be considered carefully. The Administration considered it more appropriate to deal with the matter as a whole. Members noted that MOD I staff were liable to summary dismissal if they were on prolonged unauthorized absence, or wilfully refused or omitted to perform their duties, while other civil servants were not subject to the same disciplinary procedures. Members considered it unfair to MOD I staff. DSCS2 advised that summary dismissal of MOD I staff could not be taken arbitrarily or without good reasons. Each case was considered carefully on its own circumstances before a decision was made and any termination might only be effected with the authority of the Head of Department. Members were not convinced of the Administration's response and maintained their view that MOD I staff should be subject to the same disciplinary procedures applicable to Category A officers.

23. Responding to Mr LEE Cheuk-yan, DSCS2 advised that additional costs were also involved in the transfer of the Senior Artisan and Artisan Segments of MOD I to MPS in 1991. At the request of Mr CHAN Kwok-keung, DSCS2 undertook to provide the Panel with information about the transfer.

24. To conclude, the Chairman urged the Administration to:

- (a) maintain dialogue with MOD I Staff Consultative Council (Staff Side) on the proposed conversion;

- (b) set up a timetable for the proposed conversion; and
- (c) in the interim, take steps to narrow the gap between the terms of service of MOD I staff and those of staff on MPS, such as adopting the same disciplinary procedures for these two categories of officers.

(Post-meeting note : The information provided by the Administration was circulated to members vide LC Paper No. CB(1)27/00-01 on 11 October 2000.)

VI. Any other business

25. The Chairman advised that the meeting was the last meeting of the Panel in the current legislative term. He thanked members, Secretary for the Civil Service and other representatives of the Administration, and staff of the Legislative Council Secretariat for their support for the work of the Panel.

26. There being no other business, the meeting ended at 12:50 pm.

Legislative Council Secretariat
29 September 2000