

**Legislative Council Panel on Public Service
Meeting on 15 May 2000**

Management-Initiated Retirement Scheme

Purpose

This paper briefs Members on the Administration's proposals for the management-initiated retirement (MIR) scheme. The MIR scheme was first put forward in the Civil Service Reform Consultation Document issued in March 1999 as one of the initial ideas in the reform proposals.

Why the MIR Scheme?

2. In order to better serve the community and to meet its changing needs effectively, the Civil Service has responded by embracing changes, promoting a culture of openness and encouraging a customer-oriented approach in service delivery. As in all organisations, these changes need to be led by the senior management which should have the vision, leadership and skills to shape policies, adjust operation modalities, articulate plans and motivate staff to collectively achieve organisational objectives. While we have put in much efforts to this end, there are occasions that we feel constrained by the lack of a management tool to deal with the following situations -

- (a) due to the changing focus or development plans of a department or office, an officer has difficulties in adapting to the changes in the requirements of the job or the department and his continued service would hinder organisational improvement to the department or grade; or
- (b) despite substantial posting attempts, an officer in a general grade is not accepted for posting and his retirement is considered to be in the interest of the grade.

3. Under the present civil service management system, the exit mechanisms for permanent and pensionable officers are limited to specific circumstances mainly relating to serious misconduct, non-performance, medical condition or staff surplus situation. There is no management tool to cater for situations where individual senior officers are found to be unable to match the development needs of the organisation. We therefore see a need to introduce an MIR scheme as a new exit mechanism which is fair

and reasonable to cater for management needs and to deal with the circumstances described in paragraph 2 above, in line with modern-day management practices. As a good employer and in line with the practice in the private sector, the officers affected should be compensated for the disruption to their career.

4. It should be emphasised that the MIR scheme is not proposed as a scheme for removal of non-performing officers, and is not a punitive act to deal with conduct and disciplined cases. These cases shall continue to be dealt with in accordance with the established procedures for removal of non-performers and disciplinary procedures respectively under the present civil service management system.

Proposals for the MIR Scheme

5. The detailed proposals for the MIR scheme have the following key features -

- (a) the scheme shall apply to **permanent and pensionable civil servants at directorate level** which forms the core management of the Civil Service;
- (b) the scheme shall only be **initiated at top management level by policy secretaries or heads of department**;
- (c) the officer **may voluntarily accept the management's initiative to retire early**, and if not, will be given the opportunity to **make representations against the recommendation to retire him under the scheme**;
- (d) in each and every case, the initiating officer and the approving authority will have to be satisfied that **the retirement of an officer from his present office is in the interest of organisational improvement of a department or grade AND the management is unable to accommodate him elsewhere in the service**;
- (e) in particular, **alternative management measures such as posting, redeployment, secondment or demotion will be considered**, and it has to be confirmed that other management measures to accommodate the officer within the civil service have been exhausted or are not appropriate;
- (f) no promotion over a long period of time or lack of potential to advance are not of themselves reasons for invoking the MIR scheme, as an officer may

continue to be performing competently and effectively at his substantive rank despite the lack of promotion opportunities or potential;

- (g) each case shall be considered and approved by a **high-level panel chaired by the Chief Secretary for Administration (CS)**, with members comprising the **Financial Secretary, Secretary for the Civil Service and the relevant policy secretary or head of department**. The panel may also include as co-opted members up to two policy secretaries or heads of department who have no direct supervisory relationship with the officer concerned but who have knowledge of the officer or the work of his department or grade;
- (h) retirement of an officer under the scheme **requires the advice of the Public Service Commission**. The **Chairman or Members of the PSC will also be invited to attend the panel as observers** to ensure fairness and impartiality of the process of consideration;
- (i) the **retirement of an officer under the scheme will be made in accordance with Civil Service Regulation** which provides that an officer may be compulsorily retired to facilitate improvement in organisation to effect greater efficiency; and
- (j) an officer may make further representations to the Chief Executive under section 20 of the Public Service (Administration) Order against a decision to retire him under the scheme. The Chief Executive shall consider and act upon such representations as public expediency and justice to the individual may require.

6. The proposed MIR scheme is applicable to all P&P civil servants at directorate level, including those who are appointed as principal officials, subject to the provisions of the Basic Law regarding their removal under Article 48(5) being fulfilled.

Retirement Package

7. As the MIR scheme is not a punitive measure, we consider that it is only reasonable that an officer who is retired under the MIR scheme should be granted immediate and enhanced pension on the same basis as redundancy on abolition of office in accordance with the pension legislation. The pension benefits aim to compensate for loss of future pension earning capacity as the expectation of a full pensionable career is cut short. We also propose that an ex-gratia payment at a rate of six months of the

officer's final substantive salary should be granted similar to the normal practices for redundancy, to cater for disturbance caused to the officer such as disruption of the officer's career and the grant of fringe benefits. The grant of such ex-gratia payment will be subject to necessary funding approval.

Consultation

8. Divergent views on the proposal were received during the initial consultation on the Civil Service Reform conducted last year. Staff associations had reservations over the proposal because they considered that a civil servant faithfully and adequately performing his duties should not be removed even if he might be lacking in potential or competencies to meet new challenges. On the other hand, departmental management and many commentators supported the proposal as a necessary management tool to facilitate organisational development and improvement. It was also noted that a flexible exit mechanism was a common practice in the private sector and increasingly in civil service elsewhere to facilitate organisation changes in response to new challenges.

9. In the light of comments received, we have formulated the detailed proposals for the MIR scheme as set out in paragraph 5 above and conducted a second stage consultation with the staff sides and departmental/grade management in April 2000. One staff association expressed strong objection in principle to the scheme. Other central staff unions have expressed a number of reservations over the proposals and made various comments and suggestions.

10. On the other hand, the majority of departmental/grade management and many individual directorate officers who commented on the proposed MIR scheme supported the scheme as a management tool to facilitate organisational improvement. Many departmental/grade management and individual officers have made a number of suggestions over various aspects of the scheme.

Areas of Concerns

11. We have carefully assessed the views and comments from the management, the staff sides and the general feedback from members of the community. Though the proposed scheme has attracted divergent view, we feel that there is general understanding and acceptance about the need for an MIR scheme at the senior echelon of the civil service in principle. In the light of the comments received, we consider that we should continue to develop the scheme as a management tool to provide for a new exit for directorate officers on management grounds. The major areas of concerns

expressed and our proposals to address them are summarised in the following paragraphs.

(a) Labelling effect

12. Many respondents considered that the negative perception of the MIR scheme and the association of the scheme with non-performance or mediocrity had taken root in the media and the public. Thus retirement of an officer under the scheme would be a stigma and create a negative labelling effect which was unfair to the officer.

13. In this regard, we shall continue to clarify that the scheme is to be invoked on organisational improvement grounds and is not a punitive measure, and that non-performers or disciplinary cases will continue to be tackled under other established procedures within the civil service management civil system.

(b) Confidentiality

14. Many respondents indicated that the confidentiality of proceedings and retirement under the scheme was of paramount importance. They were of the view that proceedings under the scheme should be kept strictly confidential to preserve the dignity of individual officers affected by the scheme and to respect their rights of privacy.

15. We agree that all personal data of officers affected by the scheme should be handled with the highest sensitivity and be kept confidential. We also maintain as a policy that we do not comment on the personal circumstances or information of an officer who leaves the service early.

(c) Voluntary/negotiated retirement

16. The staff sides and quite a few individual respondents suggested that an option for voluntary retirement under the scheme should be introduced. Some even suggested that a voluntary retirement scheme might be able to replace the MIR scheme.

17. We do not support the comments that the MIR scheme should be replaced by a voluntary retirement scheme for directorate officers. We also consider it essential that the decision to retire individual officers under the scheme should be reserved to the management. However, we would provide opportunities for individual officers to indicate whether they accept the retirement voluntarily. Stringent procedures would also be set to ensure that the scheme would only be applied where the criteria are fully met.

(d) Criteria

18. A number of respondents considered that the specific circumstances under which the MIR scheme could be invoked tend to be vague and subjective. However, many of them accepted the need for a retirement scheme to be initiated by the management on organisational development grounds.

19. Given that the scheme is proposed as a management tool, it is unrealistic to exhaustively list out the circumstances for invoking the MIR scheme. On the other hand, we take note of the comments of the staff sides on the need to distinguish the proposed scheme from other procedures to deal with poor performance or disciplinary cases. In particular, it must be emphasised that the scheme should be invoked only if it could be established that the retirement of an officer is in the interest of organisational improvement of a department or grade, and only if the management is unable to accommodate the officer elsewhere in the service.

20. In this regard, we shall build in various procedural safeguards in the detailed procedures for the scheme to ensure that the scheme is invoked only when necessary and justified. The scheme will be subject to very stringent scrutiny up to the highest level. The initiation, consideration, assessment and approval under the scheme will be proceeded on a fair and objective basis, with checks and balances including scrutiny by the Public Service Commission and procedures for making representations and further appeal to the Chief Executive.

Advice Sought

21. We are formulating the detailed procedures for the MIR scheme and will further consult the staff sides and departmental/grade management. Members' views on the proposed scheme are also invited. Subject to the outcome of the consultation, the Administration will decide whether and if so how the scheme should be adopted for implementation.