

立法會
Legislative Council

LC Paper No. CB(1)683/04-05
(These minutes have been seen
by the Administration)

Ref : CB1/PL/PS/1

Panel on Public Service

Minutes of meeting
held on Tuesday, 21 December 2004 at 4:00 pm
in the Chamber of the Legislative Council Building

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon LEE Cheuk-yan
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon Bernard CHAN, JP
Hon Howard YOUNG, SBS, JP
Hon WONG Kwok-hing, MH
Hon KWONG Chi-kin

Members attending : Hon CHAN Yuen-han, JP
Hon Abraham SHEK Lai-him, JP

Members absent : Hon LI Fung-ying, JP (Deputy Chairman)
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP

Public officers attending : **Agenda Items III & IV**

Mr Joseph W P WONG, GBS, JP
Secretary for the Civil Service

Mrs Rebecca LAI, JP
Permanent Secretary for the Civil Service

Miss Jennifer MAK, JP
Deputy Secretary for the Civil Service (1)

Agenda Item V

Mrs Rebecca LAI, JP
Permanent Secretary for the Civil Service

Mrs Jessie TING, JP
Deputy Secretary for the Civil Service (2)

Agenda Item VI

Mrs Rebecca LAI, JP
Permanent Secretary for the Civil Service

Mr Christopher WONG
Deputy Secretary for the Civil Service (3)

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

Staff in attendance : Ms Rosalind MA
Senior Council Secretary (1)8

Ms May LEUNG
Legislative Assistant

Action

- I. Confirmation of minutes of meeting**
(LC Paper No. CB(1)482/04-05 — Minutes of meeting on
15 November 2004)

The minutes of the meeting held on 15 November 2004 were confirmed.

II. Date of next meeting and items for discussion

(LC Paper No. CB(1)532/04-05(01) — List of outstanding items for discussion

LC Paper No. CB(1)532/04-05(02) — List of follow-up actions)

2. Members agreed that the following items be discussed at the next regular meeting scheduled for 17 January 2005:

- (a) Briefing by the Secretary for the Civil Service (SCS) on the policy initiatives of the Civil Service Bureau featuring in the Chief Executive's 2005 Policy Address; and
- (b) Update on civil service training.

III. Policy governing post-retirement employment of civil servants

(LC Paper No. CB(1)473/04-05(01) — Joint letter dated 7 December 2004 from Hon CHEUNG Man-kwong and Hon KWONG Chi-kin to the Chairman of the Panel

LC Paper No. CB(1)473/04-05(02) — The Administration's reply dated 14 December 2004

LC Paper No. CB(1)532/04-05(03) — First letter dated 16 December 2004 from Ms Elaine CHUNG Lai-kwok

LC Paper No. CB(1)545/04-05(01) — Second letter dated 18 December 2004 from Ms Elaine CHUNG Lai-kwok

LC Paper No. CB(1)548/04-05(01) — Third letter dated 18 December 2004 from Ms Elaine CHUNG Lai-kwok

LC Paper No. CB(1)549/04-05(01) — Letter dated 18 December 2004 from the Clerk to Panel to Ms Elaine CHUNG Lai-kwok

- LC Paper No. CB(1)565/04-05(01) — Letter dated 20 December 2004 from the Group General Manager of the Hong Kong Ferry (Holdings) Co. Ltd. on behalf of Ms Elaine CHUNG Lai-kwok in reply to the Clerk to Panel
- LC Paper No. CB(1)565/04-05(02) — Letter dated 20 December 2004 from Hon CHEUNG Man-kwong to the Chairman of the Panel
- LC Paper No. CB(1)565/04-05(03) — Letter dated 20 December 2004 from the Clerk to Panel to the Secretary for the Civil Service
- LC Paper No. CB(1)532/04-05(04) — Background brief prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)354/04-05(01) — Letter dated 25 November 2004 from Ms Elaine CHUNG Lai-kwok to the Secretary General of the Legislative Council (with press releases issued by the Hong Kong Ferry (Holdings) Co. Ltd. on 9 and 15 November 2004)

Introduction by the Chairman

3. The Chairman briefed members that when the subject of the policy governing post-retirement employment of civil servants was last discussed at the Panel meeting on 17 May 2004, members doubted the effectiveness of the existing policy and approval mechanism in ensuring that the retired civil servants would not take up any employment which would constitute a conflict of interest with their previous service in the Government. Members therefore urged that the existing mechanism be reviewed as soon as possible. The Administration undertook to review the existing mechanism, and subsequently advised that it would report to the Panel on the outcome of the review in May 2005. In November 2004, there was wide media coverage over the possible involvement of the former Deputy Director of Housing (DDH) in the bidding of the West Kowloon Cultural District (WKCD) development project by a private company. At the request of the Panel, the Administration agreed to expedite the review and advance the date for reporting the

outcome of the review to March 2005. Given the public concern about the subject, the Panel decided that the policy governing post-retirement employment of civil servants and related issues should be further discussed at this meeting.

4. The Chairman pointed out that in order to facilitate discussion of the subject, he had accepted some members' request that Ms Elaine CHUNG Lai-kwok, the former DDH, be invited to attend this meeting. The Clerk to Panel then extended the invitation to Ms CHUNG by phone and in writing. However, Ms CHUNG responded that she considered it inappropriate for her, as a non-civil servant, to attend a meeting of the Panel to discuss Government policies. She then provided some information related to her case through her three letters to the Clerk to Panel. She confirmed over the phone on 18 December 2004 that she would be out of town and would not be able to attend this meeting.

Briefing by the Administration

5. At the invitation of the Chairman, SCS briefed members on the progress of the review on the policy governing post-retirement employment of civil servants and issues related to Ms Elaine CHUNG's case. He assured members that the Administration would report the outcome of the review to the Panel in March 2005. He was prepared to discuss with members at this meeting on the Administration's preliminary thoughts about the measures for improving the existing approval mechanism. As regards Ms Elaine CHUNG's case, SCS referred members to the Administration's reply dated 14 December 2004 (LC Paper No. CB(1)473/04-05(02)), which set out the current policy governing post-retirement employment of civil servants, the Administration's response to the questions raised by Mr CHEUNG Man-kwong and Mr KWONG Chi-kin, and a detailed account of the Administration's consideration of the case.

(Post-meeting note: The Administration's reply dated 21 December 2004 in respect of Mr CHEUNG Man-kwong's request for provision of all papers related to Ms Elaine CHUNG's application for post-retirement employment was tabled at the meeting and then circulated to members vide LC Paper No. CB(1)576/04-05(01) on 22 December 2004.)

Discussion

Approval granted for the post-retirement employment of the former DDH

6. Pointing out that Ms Elaine CHUNG, the former DDH, had undertaken in a broadcasting programme that she would attend meetings of the Legislative Council (LegCo) to answer Members' questions, Mr CHEUNG Man-kwong regretted that Ms CHUNG had finally declined the Panel's oral and written invitations to attend this meeting. Referring to the information obtained from the official website of the Hong Kong Ferry (Holdings) Co. Ltd. (HKF), Mr CHEUNG said that it was obvious that the company's major business and major source of income were

property-related. He therefore doubted whether SCS as the approving authority had exercised due care in examining details of the application before granting approval for Ms CHUNG to take up employment with HKF after retirement. Quoting the remarks made by President HU Jintao on 20 December 2004 during the Chief Executive (CE)'s duty visit to Macau, calling on the Hong Kong Special Administrative Region Government to identify inadequacies, Mr CHEUNG urged SCS to review whether there was any misjudgment and/or negligence on his part in handling the case.

7. In response, SCS explained that when assessing an application for post-retirement employment, the primary consideration was on the nature and scope of the proposed work and whether a conflict of interest existed between the proposed work and the applicant's former duties. As set out in the Annex to the Administration's reply dated 14 December 2004, the scope of work given in Ms Elaine CHUNG's application for post-retirement employment with HKF included the fields of travel, hotel, cultural and recreational services. The application had not mentioned any plan of the ferry company to invest in any property project or the WKCD development project. The application was processed in accordance with the existing procedures. It was first scrutinized by the Head of Department (HoD) concerned and forwarded to the Advisory Committee on Post-retirement Employment (ACPE) for advice. After taking into consideration the advice of ACPE, approval was given for the applicant to take up the employment. SCS stressed that the scope of the approval was confined to the areas of work specified in the application and did not cover land and property nor any other fields of activities taken up by the ferry company.

8. Mr CHEUNG Man-kwong considered that while the application had not mentioned any plan of the ferry company to invest in any property project or the WKCD development project, the Administration should have checked what the company's major business was before approving the application. He was of the view that SCS as the approving authority had not exercised due diligence in verifying the information provided by the applicant and had therefore approved the application without taking into account the fact that the major business of the ferry company was property-related. Mr LEE Cheuk-yan expressed similar views. Mr KWONG Chi-kin also considered that the Administration should have verified the information provided by the applicant to ensure that there would be no conflict of interest. Referring to the high approval rate of applications for post-retirement employment (only one of the 76 applications submitted by retired directorate officers in 2003 was rejected), Mr KWONG was concerned that the approving authority was acting like a rubber stamp in granting approvals.

9. SCS disagreed that the approving authority was acting like a rubber stamp. He reiterated that when assessing an application for post-retirement employment, the primary consideration was on the nature and scope of the proposed work. Under the existing mechanism, such applications would be processed on the basis of the information provided by the applicants. He assured members that any inadequacies

of the existing mechanism would be addressed in the review being conducted by the Administration.

10. Miss CHAN Yuen-han expressed dissatisfaction about SCS's handling of the case. Referring to the Administration's reply dated 14 December 2004, Miss CHAN considered that in approving Ms CHUNG's application, SCS had overlooked the three factors set out in paragraph 2(a), (b) and (c) of the reply, namely:

- (a) whether the officer, while serving in the Government, was involved in policy formulation, or decisions which could have benefited his prospective employer;
- (b) whether the prospective employer might gain an unfair advantage over competitors because of the officer's previous knowledge and experience; and
- (c) the public perception of the officer taking up the proposed business or employment.

11. In response, SCS reiterated that the application in question was processed in accordance with the existing procedures which were applicable to all applications for post-retirement employment. It was first scrutinized by the HoD concerned and forwarded to the ACPE for advice. The approval was granted on the basis of the information available at the time of approval, and he did not agree that there was negligence in the processing of the application or misjudgment in the approval of the application. Nevertheless, the Administration would consolidate the experience gained from this case and expedite the review on the existing policy and approval mechanism.

12. Mr Howard YOUNG enquired what information would be provided to the HoDs concerned to facilitate their consideration of the applications. SCS said that all the information provided by the applicants in their applications would be passed to the HoDs concerned. To facilitate the HoDs concerned in making their recommendations on the applications, Mr YOUNG suggested that the Civil Service Bureau (CSB) should collate more information about the applications, such as information on whether the company was a subsidiary or associate of another business group. SCS undertook to consider Mr YOUNG's suggestion.

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13. Mr KWONG Chi-kin queried why approval was given for Ms Elaine CHUNG to take up employment during her pre-retirement leave. Moreover, Ms CHUNG was allowed to take up the employment about four and a half months after her cessation of duty with the Government, instead of the normal sanitization period of six months. Mr Howard YOUNG shared Mr KWONG's concern and considered that such an arrangement would defeat the purpose of imposing the sanitization period.

14. SCS explained that under the existing mechanism, approval might be granted for a retired civil servant to take up employment during the final leave period after he or she had ceased duty with the Government. The final leave was the leave earned and accumulated by an officer during the course of his or her service with the Government. He or she was entitled to salary for the whole leave period and there was no question of “double pay”. SCS pointed out that the propriety of permitting retired civil servants to take up employment during their final leave period was being reviewed. As regards the sanitization period, it was normally six months from cessation of duty. However, it might be lengthened depending on circumstances of individual cases or shortened if it could be established that there would be no conflict of interest. For Ms Elaine CHUNG’s case, the sanitization period was shortened to less than six months because of the consideration at the time of approval that there was no conflict of interest between her last post in the Government and the proposed employment. With the benefit of the hindsight and judging from the subsequent development of the case, SCS said that it might have been better if the normal sanitization period of six months had been imposed. Mr CHEUNG Man-kwong considered that it was a misjudgment of SCS to have shortened the sanitization period for Ms CHUNG’s case.

Monitoring compliance with the terms of approval

15. Mr CHEUNG Man-kwong, Mr KWONG Chi-kin and Mr WONG Kwok-hing queried whether CSB had closely monitored the approved applications to ensure that no conflict of interests existed between the retired civil servants’ post-retirement employment and their former duties. Referring to Ms Elaine CHUNG’s case, they pointed out that despite that the approval granted for her to take up post-retirement employment with HKF did not cover land or property, it was reported by the media that she was subsequently involved in activities of the Henderson Land Development Co. Ltd. (HLD)’s bid for the WKCD development project. Moreover, it was reported in today’s newspapers that according to a Kwai Tsing District Council (DC) member, Ms CHUNG was involved in lobbying DC members in June 2004 for their support for the proposed change of land use of the Tsing Yi shipyard into a batching plant. Mr WONG further pointed out that according to media reports, Ms CHUNG’s office was located in Central within the premises of HLD, instead of the premises of HKF in Tsing Yi.

16. Referring to the Annex to the Administration’s reply dated 14 December 2004, SCS pointed out that CSB had monitored the development of the case and taken necessary follow up actions to ensure that the applicant complied with the terms of approval. Between May and September 2004, CSB had communication with Ms Elaine CHUNG on several occasions on matters relating to her approved employment and the nature of her involvement in the WKCD development project. Ms CHUNG confirmed verbally and in writing that she had been performing work strictly within the confines of her approved employment with the ferry company.

She also confirmed that she was never involved in land property matters and her service with the ferry company in relation to the WKCD project was limited to the cultural aspects only. In view of continued and intensified reports in the press about Ms CHUNG's possible involvement in the bidding of the WKCD development project, CSB approached her again in November 2004 and advised her to refrain from involving herself in anything which might be perceived as providing services to any bidding team. CSB also reviewed the case and sought the advice of ACPE. On the basis of the information provided by Ms CHUNG, CSB concluded that there was no apparent conflict with the terms of approval given for her employment with the ferry company. For the avoidance of doubt, CSB had conveyed to Ms CHUNG in writing in November 2004 the types of activities which the terms of approval for her employment did not permit her to take part in.

17. Mr KWONG Chi-kin pointed out that SCS had, in response to a relevant oral question raised at the LegCo meeting on 1 December 2004, informed Members that the Administration understood that Ms Elaine CHUNG's current job was consistent with the scope of her approved employment and she had not breached the terms of approval. CSB had handled the case in a passive manner and taken follow up actions only upon complaints and media reports about the possible conflict of interests between Ms CHUNG's post-retirement employment and her previous service in the Government. Given the grave public concern about the subject, CSB then started to take more proactive actions. Mr CHEUNG Man-kwong, Miss CHAN Yuen-han, Mr LEE Cheuk-yan and Mr WONG Kwok-hing expressed similar concerns and doubted whether the monitoring actions taken by the Administration was effective. Referring to the remarks made by President HU on 20 December 2004, Mr WONG considered that CSB should consolidate the experience gained and identify inadequacies of the existing mechanism. He pointed out that while the majority of the retired civil servants observed the requirement for avoidance of conflict of interests in taking up post-retirement employment, the improper employment undertaken by a few retired civil servants would be detrimental to the integrity of the Government and the image of the civil service.

18. SCS stressed that CSB had taken necessary follow up actions in a proactive manner to ensure that Ms Elaine CHUNG's post-retirement employment was confined to the scope permitted in the approval. The actions were taken before, and not only in response to, the oral question raised at the LegCo meeting on 1 December 2004. SCS also pointed out that in response to Members' follow-up questions on 1 December 2004, he had clearly stated that CSB had reminded Ms CHUNG that the scope of work of her approved employment did not cover any activities that might be perceived as directly or indirectly related to the bidding of the WKCD development project. Nevertheless, SCS agreed that with the benefit of hindsight, improvement could have been made in the handling of the case by providing a more detailed account of the case, probably in his main reply to the oral question on 1 December 2004. He assured members that better arrangements would be made in future.

19. Mr LEE Cheuk-yan was concerned that despite CSB's communication with Ms Elaine CHUNG between May and September 2004, she still participated in a press conference hosted by HLD in November 2004 for bidding the WKCD development project. Mr LEE also pointed out that in Ms CHUNG's letter dated 25 November 2004 to the Secretary General of LegCo, she had clearly stated that her work with HKF included travel, hotel, recreational services, batching plants, liaison with DCs, etc. The work relating to batching plants and liaison with DCs might in fact be referring to the lobbying activities in June 2004 for securing the support of Kwai Tsing DC members for the change of land use of the Tsing Yi shipyard into a batching plant.

20. SCS said that CSB had noted the press reports today concerning Ms Elaine CHUNG's possible involvement in lobbying DC members for their support for the proposed change of land use of the Tsing Yi shipyard. CSB had taken immediate follow up actions requesting Ms CHUNG to provide an explanation in writing. SCS considered that in order to be fair to the officer concerned, she should be given an opportunity to provide an explanation on the allegation against her.

21. Mr WONG Kwok-hing was not satisfied with the follow up actions taken by CSB in monitoring compliance with the terms of approval in Ms CHUNG's case. He suggested that the following actions be taken by CSB:

- (a) To write to the Kwai Tsing District Officer and/or the Kwai Tsing DC Chairman to seek clarification of Ms CHUNG's involvement in lobbying DC members for their support for the proposed change of land use of the Tsing Yi shipyard into a batching plant in June 2004; and
- (b) To write to HLD to confirm whether Ms CHUNG's office was located in the premises of the company in Central.

22. In response, SCS pointed out that he had only highlighted the immediate actions taken to follow up the recent complaint about Ms CHUNG and that the Administration would take further actions as appropriate. In this connection, he undertook to consider the above actions suggested by Mr WONG Kwok-hing.

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23. Mr CHEUNG Man-kwong was also not satisfied with the follow up actions taken by CSB in monitoring compliance with the terms of approval in Ms CHUNG's case. He requested CSB to conduct a full investigation of the case, looking into all the complaints about the possible conflict of interests between Ms CHUNG's post-retirement employment and her previous service in the Government, taking any necessary actions against the officer if any breach of the terms of approval was confirmed and providing the Panel with a report on the outcome of the investigation.

24. Mr WONG Kwok-hing supported Mr CHEUNG Man-kwong's request. Mr WONG cautioned that the inadequacies of the policy governing post-retirement employment of civil servants and the approval mechanism, in particular the mishandling of the post-retirement employment of retired civil servants at senior ranks, had tarnished public confidence towards the Government. Mr WONG and Mr CHEUNG requested the Administration to conduct a thorough investigation of Ms CHUNG's case and provide a report on the outcome within two months.

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25. In response, SCS said that in respect of Ms CHUNG's involvement in the WKCD development project, the Administration had completed the investigation and taken the necessary follow up actions. The officer concerned as well as her company had confirmed that she had ceased to be involved in the cultural aspect of the project. He assured members that the Administration would take follow up actions on other complaints about possible conflict of interests between Ms CHUNG's post-retirement employment and her previous service in the Government, including the complaint about her involvement in lobbying DC members mentioned in paragraph 15 above. SCS undertook to provide a report on the outcome of the investigation to the Panel within two months.

26. Mr James TO pointed out that as demonstrated in Ms Elaine CHUNG's case, ambiguity might exist in the terms of approval for post-retirement employment. He enquired whether the terms of approval, including the types of activities that the applicants were permitted and not permitted to take part in during their approved employment, had been clearly conveyed to the retired civil servants concerned. Pointing out that private companies might change their scope of business or engage in providing consultant or contract services to other companies in different fields, Mr TO considered it essential for the Administration to strengthen its monitoring of the approved cases to ensure compliance with the terms of approval. In this connection, he requested the Administration to look into the approved cases and remind the retired civil servants concerned of the terms of approval, such as the types of activities that they were not permitted to take part in during their approved employment. Mr CHEUNG Man-kwong and Mr WONG Kwok-hing shared Mr TO's view and supported his request. Given that the review of the existing policy and approving mechanism would only be completed in March 2005, Mr WONG further enquired whether the Administration had any effective means to monitor the approved cases before the implementation of any improvement measures.

27. SCS pointed out that in Ms Elaine CHUNG's case, there was no ambiguity in the terms of approval. He noted Mr James TO's observation that it was difficult to determine whether the retired civil servant's provision of internal advisory service to the ferry company for the part of the company's involvement in the cultural aspects of the WKCD development project as a consultant of another company constituted a breach of the terms of approval. SCS stressed that the Administration would take necessary actions against any complaints on breach of the terms of approval. If each approved case had to be monitored closely with the

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assumption of possible non-compliance of the officers concerned, it would involve considerable manpower resources. Nevertheless, SCS undertook to look into the approved cases and remind the retired civil servants concerned of the terms of approval, and explore means to strengthen the monitoring of approved cases.

Penalty for breach of the terms of approval

28. Referring to the letter dated 16 December 2004 from Ms Elaine CHUNG to the Clerk to Panel, Mr LEE Cheuk-yan questioned whether Ms CHUNG's participation in the WKCD development project, i.e. her participation in the press conference hosted by HLD on 10 November 2004, had already constituted a breach of the terms of approval for her post-retirement employment with HKF; and if yes, the penalty and the disciplinary actions she might be subject to under the existing pensions legislation. Mr CHEUNG Man-kwong expressed similar concern.

29. In reply, SCS reiterated that the Administration had concluded that on the basis of the information provided, there was no apparent conflict with the terms of approval in Ms Elaine CHUNG's case as far as the officer's participation in the WKCD development project was concerned. SCS pointed out that in accordance with the pensions legislation, the monthly pension payment for the officers concerned might be suspended in case of breach of the terms of approval. He also pointed out that although retired civil servants would not be subject to the punishment under the civil service disciplinary mechanism, public criticisms on their post-retirement employment would be a form of penalty, in particular for those retiring at senior ranks.

Improvement measures to the existing policy and approving mechanism

30. In response to Mr WONG Kwok-hing's reference to remarks made by President HU on 20 December 2004 regarding the need to identify inadequacies, SCS said that the President also encouraged unity and harmony in the community, and therefore he looked forward to co-operation with LegCo Members on making improvements. SCS said that while Ms Elaine CHUNG's case had revealed some inadequacies of the existing mechanism, the Administration had already started a review of the existing policy and mechanism before her case had become an issue of public concern. SCS further pointed out that in the current review, a number of improvement measures were being considered, including the lengthening of the normal sanitization period for retired senior directorate officers from six months to 12 months and regular disclosure of information on the approved applications to enhance monitoring by the public and the Administration. The information to be disclosed might include the names of the officers concerned and the last posts they held in the Government, the companies employing their services, the approved scope of work, the sanitization period, and the restrictions imposed on the employment, if any. As the review was still underway, legal advice had to be sought and more time would be required for internal discussion of the proposed

improvement measures. SCS welcomed members' views on the proposed measures.

31. Referring to the previous discussions by the Panel on the policy governing the post-retirement employment of civil servants, Mr LEE Cheuk-yan expressed grave concern about the trend for retired civil servants at senior ranks to take up employment with consortia shortly after their retirement. This trend gave rise to the query on whether the retired civil servants concerned had, during their previous service in the Government, given any favouritism towards consortia in their policy formulation or decisions in order to pave way for their post-retirement employment. Miss CHAN Yuen-han shared Mr LEE's concern. Mr LEE and Miss CHAN considered that this undesirable trend had seriously affected public confidence in the integrity and probity of the civil service. They considered that the proposed improvement in the transparency of the approved employment of retired directorate officers could not address the problem, and urged the Administration to take immediate action to rectify the problem.

32. SCS explained that under the existing mechanism, retired civil servants who had been granted a pension was required to seek prior permission before he or she entered into business or took up an employment within two years after his or her retirement, if the principal part of his or her business or employment was carried on in Hong Kong. Retired officers at the Administrative Officer Staff Grade A1 rank had to seek permission within three years after retirement. He pointed out that the existing mechanism had been worked out with reference to the mechanism in the United Kingdom and had been in use for a long time. While sharing members' concern that there was room for improvement in the existing mechanism, SCS advised that amendments to the pensions legislation might be required for making substantive changes to the existing policy and approval mechanism. For example, under the pensions legislation, the existing requirement for retired officers to seek prior permission only applied if the principal part of the business or employment was carried on in Hong Kong. Hence, legislative amendments would be necessary if it was considered appropriate to extend the scope of application. SCS also pointed out that in implementing the post-retirement employment policy, the Administration needed to strike a balance between the rights of the retired civil servants as individuals to pursue employment or business after retirement and the views and expectation of the public regarding the integrity and probity of the civil service. He assured members that the Administration would review the existing policy and approval mechanism in a prudent manner and report the outcome of the review to the Panel in March 2005.

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Conclusion

33. There being no other questions from members, the Chairman summed up the discussion. He said that the members present considered that substantive improvements should be made in the existing policy governing post-retirement employment of civil servants and the approval mechanism, and that the monitoring

of the approved cases should be strengthened. The Panel would discuss the subject further in March 2005 when the Administration would report on the outcome of the review.

IV. New special unpaid leave arrangement

(LC Paper No. CB(1)178/04-05(05) — Paper provided by the Administration

LC Paper No. CB(1)310/04-05(01) — Written submission dated 18 November 2004 from the Leisure Services Staff Association to the Director of Leisure and Cultural Services

LC Paper No. CB(1)494/04-05(03) — Administration's response dated 13 December 2004 to the Leisure Services Staff Association)

34. At the invitation of the Chairman, the Deputy Secretary for the Civil Service (1) (DSCS1) briefed members on the proposed new special unpaid leave (SUL) arrangement as set out in the paper provided by the Administration. She highlighted the following salient features of SUL:

(a) Purpose and scope

The SUL scheme would be applicable to grades/ranks with identified or anticipated surplus staff up to 2006-07 such that the release of staff would provide Heads of Departments/Grades (HoDs/HoGs) with added flexibility for operations to be streamlined or the mode of service delivery to be changed. The lists of eligible grades/ranks would be determined and announced by HoDs/HoGs after assessing the manpower situation up to 2006-07 in their respective departments and grades.

(b) Eligibility

Only officers of grades/ranks that had identified or anticipated surplus staff up to 2006-07 might apply for SUL, excluding a few categories of officers, such as agreement officers, officers on probation, etc.

(c) Duration

It was proposed that the duration of SUL should at least last for one year and should not normally exceed three years except with reasonable justifications and after consulting SCS.

(d) Arrangements for the officers during SUL period

During the SUL period, the officers concerned would not receive any salary or benefits in general other than medical or dental benefits. As they would not receive any salary during the period, they might apply for outside work. Moreover, they would be encouraged to pursue study to enhance their qualifications or competencies. In this regard, the Administration proposed that training assistance be provided to the officers concerned to facilitate them to undertake training programmes.

35. DSCS1 pointed out that a consultation paper had been issued to the staff side and departmental/grade management in November 2004 inviting them to give views on the proposed SUL arrangement. In general, HoDs welcomed the proposed arrangement as it would provide an additional measure for managing their manpower resources. While a majority of the staff side had no objection, some of them had expressed reservation on the proposal. In brief, they were concerned about the impact of the SUL scheme on the workload of the existing staff; whether staff would be consulted before the list of eligible grades/ranks was determined; and whether the officers concerned would be allowed to resume their work upon expiry of the SUL period. DSCS1 assured members that the Administration would further explain the details of the proposed scheme to the staff side so as to address their concerns. It would be made clear to them that the officers concerned would be allowed to resume work in their original department upon expiry of the SUL period, and that HoDs/HoGs would be invited to consult the staff side before determining the list of eligible grades/ranks.

36. DSCS1 further pointed out that the Administration would take into account the views received during the consultation period and the views of Members, and refine the proposed arrangement where necessary.

Discussion

Purpose and features of the SUL scheme

37. Mr WONG Kwok-hing queried why the Administration put forward the proposed SUL scheme at the present time when the civil service manpower situation remained tight after the significant reduction in civil service establishment in recent years for relieving the fiscal deficit problem.

38. SCS explained that the SUL scheme was proposed as a measure in addition to the Voluntary Retirement (VR) Scheme for addressing the problems of staff surplus and mismatch in the civil service. The scheme would only apply to grades/ranks with identified or anticipated surplus staff up to 2006-07. Under the proposed scheme, eligible staff might apply for unpaid leave for such purposes as undertaking personal development or training programmes to enhance their

capabilities and versatility in meeting new work challenges and opportunities, etc. It would facilitate civil servants, in particular those with low level of education attainment, to further develop their potential and abilities for future career advancement. In this connection, SCS pointed out that due to technological and socio-economic changes, some of the civil servants might need to upgrade their skills and knowledge to face the changing environment. He also pointed out that among the some 23 000 civil servants who were working at the posts with entry requirement at Form Three/Four/Five, over 13 000 were aged below 40 and had 20 more years of service before retirement. The SUL scheme would provide them with an opportunity to undertake further study for future career advancement or outside work to test their suitability for transfer to another field.

39. Mr WONG Kwok-hing said that civil service unions were concerned whether the SUL scheme was really voluntary and whether it would turn out to be a redundancy scheme. SCS reassured members that the SUL scheme was entirely voluntary in nature and that the officers concerned would be allowed to resume work in their departments upon expiry of the SUL period. He also reiterated the Government's pledge not to force any civil servant to leave the service through redundancy plan.

40. Mr LEE Cheuk-yan said that while he supported the implementation of SUL in principle, he considered that the purpose of the scheme should be for providing civil servants with an opportunity to take care of their families or pursue further studies during the SUL period. It should not be implemented for the purpose of providing the Administration with an additional measure for addressing the problems of staff surplus and mismatch in the civil service. In this connection, Mr LEE did not support the Administration's proposal that the scheme should apply to grades/ranks with identified or anticipated surplus staff. Quoting the VR Scheme as an example, he pointed out that according to staff feedback, some of the grades/ranks with identified or anticipated surplus staff covered by the Scheme in fact did not have surplus staff and the implementation of the Scheme had increased the workload of the remaining staff of the grades/ranks concerned. Mr LEE also did not support the proposed arrangement under which the civil servants concerned were allowed to undertake outside work during the SUL period, as it would impose pressure on the job market. He suggested that non-civil service contract (NCSC) staff be recruited to fill the posts temporarily left vacant during the SUL period. This measure would help relieve the unemployment problem.

41. In response, SCS pointed out that allowing civil servants to undertake studies and training but not outside work during the SUL period would make it impossible for them to apply what they had learned in a new job and to test their suitability for transfer to another field. This would undermine the attractiveness of the scheme. SCS also considered it inappropriate and not justified to allow civil servants to take unpaid leave and at the same time, recruit NCSC staff to fill the posts temporarily left vacant during their leave period. The Permanent Secretary for the Civil Service (PSCS) added that the implementation of SUL scheme and the

recruitment of NCSC staff were two different issues which should be dealt with separately. As regards Mr LEE Cheuk-yan's concern about the scope of application of the SUL scheme, she assured members that HoDs/HoGs would be required to consult the staff side before determining the eligible grades/ranks.

42. Mr Howard YOUNG supported the SUL scheme in principle, and pointed out that unpaid leave was a common practice adopted by private organizations. He however considered it inappropriate to recruit NCSC staff to fill the posts temporarily left vacant during the SUL period. Mr YOUNG also enquired how the Administration would ensure that the civil servants concerned would not take up any employment during the SUL period which might constitute a conflict of interest with their service in the Government. In reply, PSCS advised that the established rules and guidelines on avoiding conflict of interest would apply. Civil servants were required to be vigilant at all times against any real or apparent conflict of interest situation.

43. Mr WONG Kwok-hing enquired whether a civil servant who had applied SUL for undertaking further studies would be allowed to undertake outside work during the same leave period. DSCS1 replied that the officer might submit his application for outside work to the approving authorities and the prevailing regulations governing outside work would apply.

Staff consultation

44. The Chairman enquired about the number of staff who had expressed interest in joining the scheme. DSCS1 replied that according to the departmental management, some civil servants had approached them enquiring about the scheme or expressing their interest in the joining the scheme, but the exact number of such staff was not available. Given that the scheme was voluntary in nature, the Administration had not set any target number of participants.

45. Mr WONG Kwok-hing pointed out that the Chief Executive (CE), at a meeting with Mr KWONG Chi-kin, Miss CHAN Yuen-han and he himself on 25 September 2004, had undertaken that the Administration would reach a consensus with civil service unions before implementing any civil service reform measures. Mr WONG requested the Administration to honour CE's undertaking and reach a consensus with civil service unions before implementing the proposed SUL scheme. SCS advised that as a matter of principle, the Administration had all along endeavoured to reach a consensus with the staff side before implementing any reform measures.

V. Review of fringe benefit type of civil service allowances
(LC Paper No. CB(1)494/04-05(04) — Paper provided by the Administration)

46. At the invitation of the Chairman, the Deputy Secretary for the Civil Service (2) (DSCS2) updated members on the progress of the review of fringe benefit type of civil service allowances. She said that the objectives in pursuing the review were three-fold, namely -

- (a) to ensure that payment of civil service allowances was in line with present day circumstances;
- (b) to enhance control over Government expenditure on civil service allowances and to achieve substantive savings in this regard; and
- (c) to identify scope for improving efficiency in the administration of civil service allowances.

47. DSCS2 advised that the Administration had briefed members at the Panel meeting held on 19 April 2004 that it would adopt a two-phase approach for the review of fringe benefit type of benefits, and then updated members on the progress of the phase one review through an information paper provided to the Panel in June 2004. The period of staff consultation on the change proposals under the phase one review closed on 14 August 2004. Taking account of the consultation feedback and the policy objectives set out in paragraph 46 above, the Administration had refined the proposed change measures under phase one of the review. In parallel, it had examined the possible scope for change in respect of the remaining allowances covered by the phase two review. She advised that in response to staff feedback received during the consultation on the phase one review that they would like to know the full package of change proposals in offering comments, the Administration aimed to present the full set of change proposals for staff consultation before making a decision on the proposals for implementation.

48. DSCS2 further pointed out that on 29 November 2004, the Court of Appeal had by a majority allowed the appeals against the ruling of the Court of First Instance in respect of the Public Officers Pay Adjustment Ordinance (POPA Ordinance) (Cap. 574) which was in favour of the Government. The Government had obtained leave to appeal to the Court of Final Appeal (CFA) against the Court of Appeal's decision. While noting that the legal proceedings in respect of the POPA Ordinance and the review of fringe benefit type of civil service allowances were two separate issues, DSCS2 informed members that the Administration considered it prudent to take forward the review (including presenting the change proposals for staff consultation) when the CFA judgment was available.

49. The Chairman invited the Administration to update the Panel on further

developments in due course.

VI. Civil Service Customer Service Award Scheme

(LC Paper No. CB(1)494/04-05(05) — Paper provided by the Administration)

50. At the invitation of the Chairman, the Deputy Secretary for the Civil Service (3) (DSCS3) briefed members on the 2005 Civil Service Customer Service Award (CSCSA) scheme. DSCS3 highlighted the following proposed enhancements to the 2005 award scheme:

- (a) To expand the ambit of the scheme to cover other quality services in addition to customer service;
- (b) To allow more time for departments to make preparation (with the award presentation ceremony accordingly scheduled to take place in December 2005);
- (c) To enhance the extent of public involvement in the adjudication process by inviting LegCo Members and DC members to vote for one of the principal awards, apart from maintaining the adjudication methods used in 2004; and
- (d) To line up two half-hour video segments on TV, radio programmes and a newspaper supplement for show-casing the award-winning departments and/or teams, on top of the award presentation ceremony broadcast on TV.

51. While expressing support for the CSCSA scheme as a recognition of the achievements of civil servants, Mr WONG Kwok-hing opined that the ambit of the scheme should be further expanded. He proposed that apart from commending quality services and achievements of serving civil servants, recognition should also be given to retired civil servants who had participated in voluntary and/or charitable activities after their retirement. PSCS appreciated Mr WONG's proposal and advised that as the CSCSA scheme was designed for participation on departmental and/or team basis, the proposal might have to be taken forward separately through a new award scheme for commending voluntary work among serving and retired civil servants on an individual basis. She undertook to consider Mr WONG's proposal. At the request of Mr WONG, PSCS agreed to provide a paper to report on the outcome in due course.

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52. Mr Howard YOUNG was concerned that only departments and/or frontline staff directly involved in providing services to the public would be commended through the CSCSA scheme. Pointing out that in some private companies, recognition was given to the contribution of teams or divisions providing internal

services to their staff members, such as human resources management, accounting, general administration, he urged the Administration to consider means of giving recognition to other parts of the civil service in this regard.

53. Referring to paragraph 10 of the information paper, PSCS said that the Administration also proposed to give out awards for specialized service and innovation/application of technology. The former was for departments which either did not provide direct service to the public or provided specialized service. The latter was designed to recognize success in applying innovative ideas, new management models or technology that helped enhance cost-effectiveness and service quality. She added that apart from the CSCSA scheme, there were other incentive award schemes in place to commend civil servants for the provision of efficient and quality service, such as the Staff Suggestion Scheme which encouraged civil servants to make improvement suggestions on civil service efficiency.

VII. Any other business

54. There being no other business, the meeting ended at 6:45 pm.

Council Business Division 1
Legislative Council Secretariat
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