

立法會
Legislative Council

LC Paper No. CB(1)674/05-06
(These minutes have been seen
by the Administration)

Ref : CB1/PL/PS/1

Panel on Public Service

Minutes of meeting
held on Monday, 21 November 2005 at 10:45 am
in the Chamber of the Legislative Council Building

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon LI Fung-ying, BBS, JP (Deputy Chairman)
Hon LEE Cheuk-yan
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon Bernard CHAN, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon Howard YOUNG, SBS, JP
Hon WONG Kwok-hing, MH
Hon KWONG Chi-kin

Member attending : Hon Emily LAU Wai-hing, JP

Public officers attending : Agenda Item IV

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

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

Ms Ellen CHOY
Principal Assistant Secretary for the Civil Service
(Appointments)

Agenda Item V

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

Mr K S SO
Deputy Secretary for the Civil Service (2)

Attendance by invitation : Agenda Item V

Police Force Council Staff Side

Mr David WILLIAMS
Secretary
Overseas Inspectors' Association

Mr CHUNG Kam-wa
1st Vice-Chairman
Junior Police Officers' Association

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 (1)8

Action

- I. Confirmation of minutes of meetings**
- | | |
|------------------------------|-------------------------|
| (LC Paper No. CB(1)121/05-06 | — Minutes of meeting on |
| | 13 October 2005 |
| LC Paper No. CB(1)294/05-06 | — Minutes of meeting on |
| | 17 October 2005) |

The minutes of the meetings held on 13 October and 17 October 2005 were confirmed.

II. Information papers issued since the regular meeting held on 20 June 2005

2. Members noted the following information papers issued since the regular meeting held on 20 June 2005:

- (a) The Sixteenth Report on the Work of the Advisory Committee on Post-retirement Employment (1 January 2004 - 31 December 2004) (LC Paper No. CB(1)2205/04-05); and
- (b) Information paper on “Review of fringe benefit type of civil service allowances” (LC Paper No. CB(1)2298/04-05).

III. Proposed discussion items for the Panel meetings to be held from December 2005 to June 2006

(LC Paper No. CB(1)295/05-06(01) — List of outstanding items for discussion

LC Paper No. CB(1)295/05-06(02) — List of follow-up actions)

3. The Chairman reported that he had discussed with the Secretary for the Civil Service (SCS) on 8 November 2005 on the discussion items proposed by members and the Administration for the Panel meetings to be held from December 2005 to June 2006. He then briefed members on the proposed discussion items set out in LC Paper No. CB(1)295/05-06(01).

4. Members agreed that the following items be discussed at the next regular meeting scheduled for 19 December 2005:

- (a) Development of an improved pay adjustment mechanism for the civil service: Progress update on pay level survey; and
- (b) Creation of directorate posts to provide support to the expanded Commission on Strategic Development (CSD).

5. On paragraph 4(a) above, members noted that the Administration would brief the Panel on the latest progress of the conduct of a pay level survey for the civil service and the next steps forward. As regards paragraph 4(b), members noted that the Administration would brief the Panel on the directorate staffing requirements to provide the necessary secretariat support to the expanded CSD.

(Post-meeting note: At the request of the Administration and with the concurrence of the Chairman, the item in paragraph 4(b) above was subsequently replaced by the item on “National studies programme for civil

servants”. Members were informed of the change in agenda item vide LC Paper No. CB(1)483/05-06 on 8 December 2005.)

6. Noting that the Administration proposed to update the Panel on the employment of non-civil service contract (NCSC) staff at the regular meeting in April 2006, Mr WONG Kwok-hing and Mr LEE Cheuk-yan requested that discussion of the subject be advanced to the Panel meeting in January 2006, so as to enable the Administration, before deciding on the allocation of funds in the 2006-07 Estimates to be published in February 2006, to take into account the Panel’s views on the need for renewal of contract of NCSC staff and conversion of some of the NCSC posts to civil service posts. In this connection, Mr LEE requested the Administration to brief the Panel on its plans, if any, for the conversion of those NCSC posts with long-term service needs to civil service posts.

7. Mr LEE Cheuk-yan also requested that the feasibility of implementing the five-day week arrangement in the civil service be discussed at a meeting of the Panel in the 2005-06 session. Mr WONG Kwok-hing supported Mr LEE’s request and suggested that the subject be discussed at the Panel meeting in April 2006.

8. The Chairman directed the Clerk to follow up with the Administration members’ requests in paragraphs 6 and 7 above. He also pointed out that the proposed discussion items for the meetings to be held from January to June 2006 were tentative and would have to be reviewed and updated in due course to meet the needs of the Panel and the Administration.

(Post-meeting note: The letter from the Clerk to Panel to the Administration on members’ requests in paragraphs 6 and 7 above and the Administration’s reply were circulated to members vide LC Paper Nos. CB(1)538/05-06(01) and (02) on 15 December 2005.)

IV. Review of policy on post-service employment of former directorate civil servants

(LC Paper No. CB(1)295/05-06(03) — Paper provided by the Administration on “Arrangements governing the taking up of outside work by directorate civil servants after ceasing active government service”

LC Paper No. CB(1)295/05-06(04) — Background brief prepared by the Legislative Council Secretariat)

Overall comments on the revised arrangements

9. Mr KWONG Chi-kin welcomed the revised arrangements put forward by the Administration to improve the existing control regime. In particular, Mr KWONG appreciated the Administration's efforts in consulting staff on the preliminary proposals before finalizing the revised arrangements and the lengthening of the minimum sanitization period for directorate officers at D4 level and above to 12 months.

10. While recognizing that the revised arrangements would bring about improvement to the control regime, Ms LI Fung-ying pointed out that the effectiveness of the proposed arrangements would hinge on their smooth implementation and the Administration's continued monitoring to ensure compliance with the approving criteria. In this connection, Ms LI enquired about the measures to be put in place to ensure the smooth implementation of the revised arrangements.

11. SCS explained that improvements in different areas had been proposed with a view to putting in place a comprehensive control regime. In brief, the areas of improvements included: imposing more stringent control on the applications in respect of the length of minimum sanitization period and the standard restrictions on scope of work; enhancing the transparency of the approved applications by placing the basic information on approved outside work taken up by officers at D4 level or above in a register for public inspection upon request; and requiring officers concerned in all cases of approved outside work to provide updates on their involvement in the approved work annually or as requested by the Civil Service Bureau (CSB). Responding to Ms LI Fung-ying's further enquiry, SCS confirmed that failure to comply with the requirement on providing annual updates on their approved work would constitute a breach of rule under the control regime.

12. Ms Emily LAU pointed out that the trend of retired civil servants at senior ranks taking up employment with consortia shortly after their retirement in recent years had aroused wide public concern and disappointment. She opined that the revised arrangements still fell short of the public expectation for a more stringent control regime. Apart from staff consultation, Ms LAU doubted whether the Administration had conducted thorough consultation on the proposed arrangements before recommending for implementation in early 2006.

13. SCS assured members that the Administration had conducted thorough consultation in formulating the final set of revised arrangements. He pointed out that the Administration had taken on board the major proposals endorsed by Members in a motion debate on the subject at the LegCo meeting held on 2 February 2005. On 21 March 2005, the Administration consulted the Panel on a set of preliminary proposals in parallel to staff consultation. Taking account of the feedback received during the staff consultation period, views expressed by the general public and the LegCo Members, as well as advice of the independent Advisory Committee on

Post-retirement Employment (ACPE), the Administration had finalized the revised policy and arrangements on the taking up of outside work by directorate officers after they had ceased active government service. The Administration presented the revised arrangements to the Panel at the meeting today before their implementation on 1 January 2006. SCS stressed that the revised arrangements were generally more stringent compared to the existing ones.

Approving criteria

14. Given that land was an important and valuable asset to Hong Kong, Mr KWONG Chi-kin was of the view that former directorate officers involved in the formulation of land-related policy should be subject to more stringent control, for instance, in the form of a longer control period during which they had to seek prior permission for taking up outside employment.

15. SCS advised that a set of standard restrictions on scope of work would be imposed across the board to all cases of outside work taken up by directorate officers during the final leave and/or control period, to better guard against conflict of interest and negative public perception. In essence, a directorate officer could not be personally involved, whether directly or indirectly, in any bidding for government land, property, projects, contracts or franchises, or be engaged in work which was connected with certain aspects of his/her former duties (e.g. the formulation of policy or decisions, access to sensitive information) undertaken during the last three (or more) years of government service. SCS pointed out that the approving authority would decide on the specific restrictions on the scope of work, if any, after detailed examination of individual applications and taking into consideration the advice of the independent Advisory Committee on Post-service Employment of Civil Servants (the Advisory Committee, currently known as the ACPE).

16. Ms Emily LAU noted that the primary factors to be taken into account when considering an application were whether there was real or potential conflict of interest between the applicant's former government duties and the proposed work, and whether any aspects of the proposed work would give rise to negative public perception. She queried whether there were any objective criteria and/or definition in the consideration of these two factors.

17. In response, SCS explained that the procedures for processing directorate officers' applications to take up post-service outside work would help safeguard objectivity in the assessment of the applications. Under the control regime, applications were first scrutinized by the Head of Department (HoD) concerned and where necessary, forwarded to the relevant Bureau as well, and then passed to the independent Advisory Committee for advice. The recommendations of HoD/Bureau and the advice of the Advisory Committee would be considered by CSB in deciding whether there was any real or potential conflict of interest and/or negative public perception involved. Depending on the circumstances of individual cases, specific restrictions on the scope of work or longer sanitization period might be imposed.

Sanitization period

18. Mr LEE Cheuk-yan opined that the minimum sanitization period for directorate officers retired/retiring under pensionable terms should be lengthened to three years to guard against any real or potential conflict of interest between their post-service employment and their previous work in the Government. In his view, these former directorate officers, who were entitled to pension benefits, should not have any real financial needs to take up paid employment after retirement. Mr LEE was particularly concerned that under the revised arrangements, the sanitization period would be counted from the cessation of active service, i.e. including the period of final leave. Such arrangement could not guard against conflict of interest as officers who had accumulated long period of leave, say up to one year, would be able to take up outside work immediately or very soon after ceasing active service.

19. While appreciating Mr LEE Cheuk-yan's concern, SCS explained that in working out the revised arrangement on the length of minimum sanitization period, the Administration had taken into consideration the views of LegCo Members as well as civil service unions, and had struck a balance in this respect. SCS pointed out that under the revised arrangements, directorate officers were not permitted to take up any full-time remunerated work or any work of a commercial nature during the final leave period. In this regard, directorate officers on final leave might, on application, only take up part-time or notionally remunerated work with certain non-commercial organizations. Moreover, directorate officers had to seek prior permission for taking up outside work during the control period and approval would only be granted for applications which met the approving criteria. The Deputy Secretary for the Civil Service 1 (DSCS1) added that the approving authority might impose a longer sanitization period having regard to the circumstances of a particular case so as to more fully forestall conflict of interest or negative public perception. Referring to the figures on applications from former directorate officers for taking up outside work, DSCS1 pointed out that the majority of the applications were submitted on average 15 months or more after the officers concerned had ceased active service.

20. Mr Howard YOUNG supported the revised arrangement of imposing a longer minimum sanitization period for former officers at D4 level or above. In this connection, Mr YOUNG sought information on the minimum sanitization periods for former directorate officers appointed on non-civil service contract (NCSC) terms.

21. In response, DSCS1 explained that for officers appointed on agreement or NCSC terms, the need for and length of sanitization period would be determined on a case-by-case basis having regard to the circumstances of each case. As the circumstances of officers appointed on agreement or NCSC terms varied greatly, for instance, in terms of the length of government service which had a bearing on an officer's exposure to sensitive work or information, it would be reasonable to decide the length of sanitization period having regard to the circumstances of each case.

22. Given that more and more directorate officers were employed on agreement terms or NCSC terms, Mr CHEUNG Man-kwong and Ms LI Fung-ying were of the view that minimum sanitization period should be specified for these officers. Mr CHEUNG suggested the Administration to impose minimum sanitization period for those officers who had been employed for a period of time, for example, for three years or more, and/or involved in the formulation of policy and/or had access to sensitive information. Ms LI opined that clear requirements on the control period and sanitization period for former directorate officers appointed on agreement or NCSC terms should be set out under the revised arrangements, instead of assessing each application on a case-by-case basis, so as to ensure consistency in the handling of applications.

23. SCS explained that the taking up of outside work by directorate officers appointed on agreement terms were also subject to control under the revised arrangements. Nevertheless, as officers formerly appointed on agreement terms would not enjoy financial security in terms of pensions or accrued benefits under the Civil Service Provident Fund Scheme, their situations were far less uniform. The Administration therefore considered it reasonable to determine the need for and length of sanitization period or other restrictions on their applications on a case-by-case basis. SCS pointed out that where an agreement officer's government duties were of particular sensitivity, the appointment authority might, at the point of offering the appointment, stipulate a sanitization requirement in the employment agreement so as to guard against possible conflict of interest arising from outside work taken up by the officer after he/she had left the civil service. Nevertheless, SCS took note of members' concerns on the need to specify minimum sanitization period for directorate officers formerly appointed on agreement terms or NCSC terms and undertook to consider whether the proposed arrangement should be improved in this regard.

Transparency

24. On the issue of enhancing transparency, Mr CHEUNG Man-kwong opined that the information on outside work taken up by all directorate officers irrespective of their rank should be made available for public inspection. Ms Emily LAU shared Mr CHEUNG's view. In their view, if the information of approved cases involving directorate officers ranked below D4 level would not be disclosed upon their approval, the public would have no means to know about and comment on the cases, and the Administration had no basis to decide whether there was negative public perception on the cases.

25. In response, SCS explained that the new arrangement already represented a significant improvement over the present practice whereby information on cases of approved outside work was normally not disclosed without consent of the officers concerned. In devising the two-tier system for disclosure of information, the Administration had taken account of staff feedback, legal advice, and advice of the Office of the Privacy Commissioner for Personal Data on compliance with the Personal Data (Privacy) Ordinance (Cap. 486). The proposed disclosure requirement

represented a reasonable balance between the need to protect the officers' privacy and to enhance transparency of the control regime. He said that where there was a need, the effectiveness of the disclosure requirement could be reviewed after its implementation. As to the assessment on whether the proposed outside work would give rise to negative public perception, SCS advised that under the control regime, all applications from directorate officers would have to go through a due process, including consideration by the relevant HoD/Bureau, seeking advice of Advisory Committee and making a decision on approval or otherwise by CSB on the basis of the recommendation and advice of the former parties. With the three-stage procedures for handling applications as well as the involvement of the independent Advisory Committee which was chaired by a judge and comprised members outside the civil service, SCS believed that all applications would be assessed in an objective and fair manner.

26. Ms Emily LAU was of the view that the approving authority, including the HoD/Bureau concerned, should be held responsible for wrong judgment if the approved outside work subsequently did give rise to negative public perception. Mr CHEUNG Man-kwong shared her view and opined that the requirement to disclose employment information to the public should be the obligation of former directorate officers who wished to seek permission for taking up outside work during the control period, and should not be regarded as an intrusion on their personal privacy. SCS responded that mishandling the applications or negligence on the part of the HoD/Bureau in processing the applications could be followed up in accordance with the provisions in the Civil Service Regulations, where appropriate. SCS undertook to consult the staff side on members' suggestion on the arrangement to enhance transparency.

Geographical scope of activities subject to control

27. Mr WONG Kwok-hing opined that the requirement for seeking prior permission for the taking up of a business or employment the principal part of which was carried on in Hong Kong might be abused by retired civil servants who took up employment with international enterprises in their overseas offices. As business and employment carried on outside Hong Kong might also constitute a conflict of interest with the retired officer's previous service in the Government, Mr WONG urged the Administration to put in place adequate control in this respect.

28. In reply, SCS explained that under the control regime, all directorate officers retired on pensionable terms were required to inform CSB of any paid employment undertaken anywhere during the control period. The authority to determine whether the principal part of the reported employment was carried on in Hong Kong rested with CSB. CSB would advise the officer concerned where necessary if the prospective employment might constitute a conflict of interest with the officer's previous service in the Government. DSCS1 supplemented that directorate officers were required to seek prior permission to take up paid outside work involving duties outside Hong Kong during their final leave and/or control period if they were to be

based in Hong Kong, or if they were to work outside Hong Kong in a business that had any connection with Hong Kong.

29. Mr WONG Kwok-hing maintained his view and requested the Administration to remove any geographical scope for the control coverage so that directorate officers would have to seek prior permission for paid outside work taken up in anywhere of the world.

30. SCS pointed out that in making improvements to the control regime, the Administration needed to strike a balance between the rights of the former officers as individuals to pursue employment or business after ceasing government service and the views and expectation of the public regarding the integrity and impartiality of the civil service. SCS advised that under the pensions legislation, the 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 to implement the extension of the geographical scope of application. He said that the current arrangement for former officers to report to CSB on their employment outside Hong Kong during the control period had been effective in monitoring the cases. Nevertheless, SCS took note of Mr WONG Kwok-hing's concern and agreed to take this into consideration in any future reviews of the control regime.

Admin

Blanket permission

31. Mr WONG Kwok-hing was concerned that the blanket permission to be given for unremunerated work with certain organizations would be subject to abuse by former directorate civil servants who took up unremunerated work during the control period but was subsequently given remuneration by the organizations after completion of their work. Mr James TO expressed similar concern. In this connection, Mr TO asked whether the officers concerned had to seek permission under the control regime for acceptance of a lump sum remuneration in the form of a bonus upon completion of their work with the non-commercial organizations.

32. Mr CHEUNG Man-kwong opined that if a former officer had taken up unremunerated work under the blanket permission and subsequently received financial reward after completion of service, he/she had in fact breached the rule under the control regime and the Administration should take necessary actions against the officer concerned.

33. Mr Bernard CHAN supported the idea of facilitating the taking up of voluntary work by former directorate officers so that they could contribute to the community with their experience in the public service. Mr CHAN enquired whether former directorate officers who wished to take up notionally remunerated work with non-commercial organizations would be subject to the same control mechanism governing the taking up of employment with commercial organizations.

34. SCS explained that the blanket permission was meant to streamline the procedure and to facilitate the taking up of voluntary work with certain organizations that sought to achieve objectives of public interest. He pointed out that the blanket permission only covered unremunerated work with a few clearly defined categories of non-commercial organization having considered the possible ambiguity arising from the definition of “notional remuneration”. While former directorate officers taking up remunerated work with non-commercial organizations would have to seek prior permission during the control period, consideration might be given to shortening the minimum sanitization period for their work where the work would not give rise to conflict of interest and would unlikely cause negative public perception. In response to Mr James TO’s concern, SCS undertook to seek legal advice on the appropriate measures to strengthen control on acceptance of remuneration in cases of outside work undertaken under the blanket permission.

35. DSCS1 added that former directorate officers who wished to take up outside work under the blanket permission were still required to notify CSB of the outside work beforehand, and to report any material change to their outside work. CSB would follow up with the officers concerned if any irregularities were detected in the outside work undertaken under the blanket permission.

Sanctions and Monitoring

36. Pointing out that the forms of sanctions to be invoked in the event of a breach of rules stipulated in the approvals mainly covered the suspension of pension for officers on pensionable terms, Mr CHEUNG Man-kwong doubted whether the sanctions would have adequate deterrent effect on former directorate officers, especially where the prospective employment to be taken up would bring about an amount of financial gain which far exceeded their pensions.

37. Referring to paragraph 16 of the paper provided by the Administration, Ms Emily LAU noted that the control regime would remain essentially an honour system. In this connection, Ms LAU was concerned whether the officers concerned would have a continued duty to report changes to their employment; and if not, how SCS could monitor compliance with the rules governing the employment and decide whether to invoke suspension of pension for any breaches.

38. In reply, SCS explained that while the control regime would remain essentially an honour system under which approvals would be granted on the basis of the information provided by the officers concerned in their applications, the Administration would make it clear to all directorate officers from the outset that where there was a breach of the rules governing the taking up of outside work by directorate officers, depending on the nature and gravity of the breach, SCS might consider invoking suspension of pension under the pension legislation and/or other forms of sanctions as set out in item 12 of the Annex to the paper provided by the Administration, such as initiation of civil action to seek an injunction or sue for

damage. SCS pointed out that the risk of sanctions should have considerable deterrent effect on the officers who took up outside employment, bearing in mind the impact on their reputation and work. Responding to Mr CHEUNG Man-kwong's further enquiry, SCS said that depending on the nature of the cases and subject to the legal advice obtained by the Administration, the Administration would initiate appropriate legal proceedings against the officers concerned. SCS confirmed that the officers concerned would have a duty to report changes to their employment to CSB.

Control on the taking up of outside work by non-directorate civil servants

39. Mr James TO pointed out that the Administration should also consider measures to strengthen the mechanism governing post-service employment of former non-directorate officers, as some of these officers, such as officers in the Customs and Excise Department and police officers responsible for investigation of commercial crimes, would have access to sensitive information during their service in the Government. In response, SCS advised that under the current mechanism, applications from non-directorate officers to take up outside work during the control period were processed by their respective HoDs/Bureaux. He believed that HoDs/Bureaux would take note of the revised arrangements for directorate officers and consider whether some of the provisions might be of relevance when they examined particular applications from non-directorate officers. SCS also undertook, as a next step, to discuss with the departments on whether similar changes should be made to the mechanism governing non-directorate officers.

40. Mr WONG Kwok-hing requested the Administration to report to the Panel on whether any changes had been made to the proposed arrangements for addressing the various issues raised by members at the meeting. SCS undertook to provide a written response.

(Post-meeting note: The supplementary information provided by the Administration in response to members' requests in paragraphs 23, 26, 34, 39 and 40 was issued vide LC Paper No. CB(1)427/05-06(01) on 30 November 2005.)

V. Appointment of consultant for the pay level survey for the civil service

(LC Paper No. CB(1)2295/04-05(01) — First submission dated 2 September 2005 from the Police Force Council Staff Associations (PFCSA) on appointment of the Watson Wyatt Hong Kong Limited to conduct the pay level survey for the civil service

LC Paper No. CB(1)2295/04-05(02) — The Administration's written response dated 17 September 2005

LC Paper No. CB(1)104/05-06(01) — Second submission dated 29 September 2005 from PFCSA

LC Paper No. CB(1)104/05-06(02) — The Administration's written response dated 19 October 2005

LC Paper No. CB(1)295/05-06(05) — Third submission dated 26 October 2005 from PFCSA

LC Paper No. CB(1)295/05-06(06) — Submission dated 14 November 2005 from the Police Force Council Staff Side)

41. The Chairman pointed out that the Police Force Council Staff Side (PFC Staff Side) had expressed their concern, through written submissions to the Panel, about the appointment of the Watson Wyatt Hong Kong Limited (Watson Wyatt) by the Government as the Phase Two Consultant for the pay level survey (PLS) for the civil service. In its recent submission of 26 October, the PFC Staff Side requested that its representatives be allowed to attend this meeting to present views on the subject. Given the PFC Staff Side's concern about the subject, arrangement was made for its representatives to present views to the Panel.

42. The Chairman welcomed representatives of the Administration and PFC Staff Side to the meeting. He reminded the representatives of PFC Staff Side that when addressing the Panel, they would not be covered by the protection and immunity provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382), and their written submissions were also not covered by the Ordinance.

Presentation of views by PFC Staff Side

43. At the invitation of the Chairman, Mr David WILLIAMS, Secretary of the Overseas Inspectors' Association, presented views to the Panel. He said that PFC Staff Side objected to the appointment of Watson Wyatt by the Administration as the Phase Two Consultant for PLS for the civil service. He highlighted the main concerns of PFC Staff Side, as follows:

- (a) Watson Wyatt was commissioned by the Hong Kong General Chamber of Commerce (HKGCC) to conduct a survey for comparison of the civil service pay level with that of the private sector in 2002. The findings of the survey, as announced by HKGCC in February 2003, indicated that the civil service pay was 17% to 229% higher than the private sector pay. HKGCC also commented that civil service pay was substantially higher than that of the private sector no matter how the survey results were analyzed. This comment was endorsed by Watson Wyatt. The involvement of Watson Wyatt in the HKGCC survey and its appointment as the Phase Two Consultant of the PLS had resulted in a conflict of roles, which seriously undermined the impartiality of Watson Wyatt and confidence of the staff side and the public on the credibility of the findings of the upcoming PLS.
- (b) The Administration had been seen to implement the recommendations of HKGCC made on the basis of the 2002/03 survey. The first recommendation of a 6% pay cut for the civil service had been implemented through the pay reductions in 2004 and 2005, the so called "0-3-3" pay consensus with the staff side. The second recommendation of HKGCC for the Administration to conduct its own PLS for the civil service was also taken forward, even by appointing the same consultant for conducting the survey field work.
- (c) Confidence in Watson Wyatt was further undermined by its initial response to staff queries about its role in the HKGCC survey. At the 17th meeting of the Consultative Group on Civil Service Pay Adjustment Mechanism (the Consultative Group) held on 13 June 2005, Watson Wyatt representatives had persistently evaded questions from the PFC Staff Side representatives in respect of their involvement in the survey.
- (d) The information provided by Watson Wyatt in August 2005 in respect of the methodology adopted in the HKGCC survey could not restore the confidence of public and staff side in its credibility, as it had admitted that no job inspection of civil service positions compared in the survey had been carried out and it simply relied on publicly

available descriptions of the positions and “assumed” that all civil servants received all the benefits they were entitled to.

- (e) To ensure the credibility and the impartiality of the upcoming PLS for the civil service, the Administration should accede to the request of members of the Panel, which was raised at the Panel meeting held in June 2005, to appoint another consultant in place of Watson Wyatt for conducting the survey field work of PLS.

Brief response by the Administration

44. In response, SCS clarified that the Administration had no involvement in the HKGCC survey and had not made any comments nor taken any stance on the results of the survey. The decision of civil service pay reduction in 2004 and 2005 was implemented by way of legislation (i.e. the Public Officers Pay Adjustments (2004/2005) Bill passed by the LegCo in 2003) and was neither directly nor indirectly related to any recommendations of the HKGCC survey.

45. As to the concerns expressed by the staff side on the appointment of Watson Wyatt, the Deputy Secretary for the Civil Service (2) advised that the Administration had taken the concerns of the staff side about the appointment of the Phase Two Consultant seriously. The Administration had reviewed the entire selection and appointment procedures taken and was satisfied that there was no impropriety involved. To address the concern of the PFC Staff Side about possible conflict of roles, the Administration had taken a number of follow-up actions, such as, requesting the Phase Two Consultant to provide information comparing the methodologies used in the HKGCC survey and the upcoming PLS, and adopting measures and procedures to ensure that the Phase Two Consultancy would be carried out with full participation of grade management, departmental management and staff bodies. He assured members that the Administration would take every necessary measures to ensure that PLS would be conducted in a professional and impartial manner so that the survey results would be credible in the eyes of the civil service and the community at large.

(Post-meeting note: the Administration’s written response dated 19 November 2005 to the submission from PFC Staff Side tabled at the meeting was circulated to members vide LC Paper No. 351/05-06(01) on 22 November 2005.)

Discussion

46. Mr WONG Kwok-hing opined that despite the Administration’s claim that the methodologies of the HKGCC survey and the upcoming PLS were vastly different and the credibility of the PLS results would not be affected by appointing Watson Wyatt as the Phase Two Consultant, the strong objections and concerns expressed by the staff sides, including staff side members of the Consultative Group,

the Hong Kong Chinese Civil Servants' Association (HKCCSA) and the PFC Staff Side, should not be overlooked. In his view, it only took a little political wisdom to realize the risk of insisting the appointment of Watson Wyatt and continuing the Phase Two Consultancy despite objections from the staff side. In this connection, Mr WONG urged the Administration to take into serious consideration the request of the staff unions for replacing Watson Wyatt. Mr KWONG Chi-kin shared Mr WONG's view. Mr KWONG also considered that being a politically appointed Principal Official, SCS should give due consideration to the political implications of taking forward such an important survey with the appointment of a consultant which was not seen as impartial and credible by the civil service staff bodies.

47. Mr LEE Cheuk-yan was of the view that given the involvement of Watson Wyatt in the HKGCC survey with the biased findings published, it was obvious that the confidence of the civil service unions and the community at large in the credibility of the firm could hardly be secured. Mr LEE cautioned that if the Administration decided not to replace Watson Wyatt, the credibility of the PLS results would also be at risk.

48. In reply, SCS stressed that the Government's established procedures for the procurement of consultancy service had been strictly followed in the selection and appointment of Watson Wyatt as the Phase Two Consultant. It was only proper that the established procedures be strictly followed to ensure the integrity and impartiality of the procurement process. SCS reiterated that having reviewed the entire selection and appointment procedures taken and consulted the Department of Justice, the Administration was satisfied that there was no impropriety involved in the selection of the Phase Two Consultant. The Administration appreciated that some staff bodies might continue to have lingering concerns over the consultancy, and would take every possible measure to overcome these concerns. In view of the misunderstanding about the conclusion of the HKGCC survey, the Watson Wyatt had clarified vide an information note posted onto the CSB website that the figure of 229% was not adopted as a conclusion of the survey. Moreover, the Watson Wyatt had openly confirmed that its prior work for any of its clients did not directly or indirectly bind or constrain the company in any manner in its conduct of PLS. Since the commencement of the Phase Two Consultancy, the Consultant had been taking forward the exercise in consultation with civil service staff unions/associations. The Consultant would submit an interim report on the Phase Two Consultancy to the Consultative Group. To enhance transparency of the survey, the Administration had also undertaken to release the survey report (except commercially sensitive information) for public information.

49. Given the absence of support and recognition from the staff unions/associations to the appointment of Watson Wyatt as the Phase Two Consultant, Ms LI Fung-ying doubted whether the PLS results would be accepted by the staff side. She was concerned that while staff side representatives were consulted and involved in the process of PLS, the Administration was not attaching any importance to their views and concerns in taking forward the survey.

50. In response, SCS reiterated that the Administration had taken staff concerns seriously and it would continue its discussions with the staff side members in earnest on issues pertaining to the conduct of PLS with a view to completing the survey in a credible and timely manner. SCS pointed out that while some staff bodies might continue to have concerns over the consultancy, the relevant staff bodies were working closely with the Phase Two Consultant and the Administration in preparation of the job inspection process, which was a crucial step of the current PLS.

51. Mrs Sophie LEUNG opined that the Administration should take every precautionary measure in the selection and appointment of the Phase Two Consultant to alleviate staff concerns about the credibility of the Consultant appointed. Mrs LEUNG was of the view that the worries of the staff unions and the potential conflict of roles of the Consultant relating to its prior involvement in its work for other clients should be taken into consideration in the selection process. She pointed out that the controversy over the impartiality and credibility of the Consultant would also have adverse impact on the reputation of the firm.

52. SCS explained that the Phase Two Consultancy was commissioned through an open procurement process. In particular, it was important that throughout the process, all consulting firms should be subject to evaluation by the same set of pre-determined assessment criteria, which should not, and could not, be changed once they had been determined and made known to all the consulting firms. Indeed, it would not be fair, honest and impartial if these assessment criteria were to be changed subsequently against a particular consulting firm due to other considerations not previously specified, such as the staff concerns over the prior involvement of the firm in another survey for its client.

53. Mr LEE Cheuk-yan queried why, in assessing the proposals submitted by prospective consulting firms, the Administration had not taken into consideration important factors such as whether a firm's prior work would jeopardize its impartiality in conducting the upcoming PLS. Mr LEE was of the view that a firm's prior work might have demonstrated that it had a pre-determined stance on the subject of the consultancy in question and this should have been taken into consideration in the procurement process.

54. In reply, SCS clarified that given that the Phase Two Consultancy would be carried out in strict accordance with the methodology developed after two years' intensive discussions with the staff side members under the Phase One Consultancy, the problem about the Phase Two Consultant's prior involvement in the HKGCC survey, and that the Consultant's stance on the matter would affect the results of the upcoming PLS, simply did not exist. Responding to Mr LEE Cheuk-yan's further enquiry on whether the progress of PLS had been affected by the controversy on the appointment of the consultant, SCS confirmed that PLS was in progress and the Administration would continue to attach great importance to staff participation in

taking forward PLS and valued every opportunity to discuss with the staff side to address their concerns.

Motion proposed by Mr WONG Kwok-hing

55. Mr WONG Kwok-hing put forward the following motion for the Panel's consideration, a copy of which was tabled at the meeting:

“本事務委員會促請公務員事務局接納公務員團體普遍的要求，撤換華信惠悅顧問有限公司進行公務員薪酬水平調查第二階段顧問。”

(English translation)

“That this Panel urges the Civil Service Bureau to accept the general request of civil service organizations to replace Watson Wyatt Hong Kong Limited, the Phase Two Consultant for conducting the pay level survey for the civil service.”

56. The Chairman considered that the proposed motion was directly related to the agenda item under discussion and it was appropriate for the Panel to deal with the motion. All members present agreed that the motion should be proceeded with. The Chairman put the motion to vote. Mrs Sophie LEUNG indicated that she would abstain from voting. The other four members present voted for the motion. The Chairman declared the motion passed.

57. The Chairman invited the Administration to provide the Panel with a written response to the motion after the meeting. SCS said that there was no question of replacing the consultant as the appointment was done in strict accordance with the relevant rules and procedures. He undertook to provide a full written response after the meeting.

(Post-meeting note: The Administration's written response to the motion was circulated to members vide LC Paper No. CB(1)542/05-06 on 16 December 2005.)

VI. Any other business

58. There being no other business, the meeting ended at 12:55 pm.