

**Extract from the minutes of meeting  
of the Panel on Public Service on 26 April 2001**



**IV. Policy on earth burial at Gallant Garden**

- (LC Paper No. CB(1)1044/00-01(06) — Paper provided by the Administration
- LC Paper No. CB(1)1044/00-01(03) — Submission provided by the Disciplined Services Consultative Council (Staff Side)
- LC Paper No. CB(1)1044/00-01(04) — Submission provided by the Police Force Council (Staff Side)
- LC Paper No. CB(1)1044/00-01(05) — Submission provided by the Senior Civil Service Council (Staff Side)

19. The Chairman welcomed the staff side representatives of the three Staff Consultative Councils, namely, Disciplined Services Consultative Council (DSCC), Police Force Council (PFC) and Model Scale I Staff Consultative Council (MSISCC) to the meeting. He drew members' attention that two of these Councils had already submitted their submissions to the Panel for consideration. Although the Senior Civil Service Council (Staff Side) was unable to attend the meeting, it had also provided a submission for members' reference.

Presentation by Staff Consultative Councils

*Disciplined Services Consultative Council (Staff Side)*

20. At the invitation of the Chairman, Mr CHIU See-wai, representative of DSCC (Staff Side), briefed members on DSCC (Staff Side)'s view. He pointed out that DSCC (Staff Side) had all along requested the Administration to grant permanent earth burial at Gallant Garden to civil servants died on duty to commemorate their contribution. DSCC (Staff Side) considered that Gallant Garden, which was set up for civil servants died on duty, should not be regarded as a public cemetery and therefore, should not be subject to the six-year exhumation policy applicable to public cemeteries. DSCC (Staff Side) noted that following the death of the late Mr LEUNG Kam-kwong, Senior Immigration Officer, the Administration had reviewed its policy and decided that upon request of family members of the deceased, civil servants who died whilst performing an "exceptional act of bravery" should be granted permanent

earth burial at Gallant Garden. DSCC (Staff Side) considered this policy unfair to other civil servants died on duty and the definition of “exceptional act of bravery” unclear. It urged the Administration to further review the policy.

*Police Force Council (Staff Side)*

21. Mr Mark FORD-McNICOL, representative of PFC (Staff Side) referred members to PFC (Staff Side)’s submission. PFC (Staff Side) requested the Administration to consider granting permanent earth burial at Gallant Garden to police officers died on duty. Mr FORD-McNICOL highlighted that police officers were required to perform duties of different kinds and levels of risks depending on the nature and location of jobs. While some police officers performed risky duties on a daily basis, any police officers might be called upon at any time as stipulated in the Police Force Ordinance (Cap. 232) to act during an incident to protect life and property. These selfless acts deserved the recognition of the community of Hong Kong. Under the existing policy, however, the family of a police officer died on duty had to be engaged in lengthy discussions with the Administration on this issue. In the absence of a clear definition of “exceptional act of bravery”, it took time for the Administration to decide whether the police officer concerned should be granted permanent earth burial. This had caused anguish to the deceased’s family. PFC (Staff Side) therefore suggested the Administration to consider using “job risk” as a key criterion for determining permanent earth burial at Gallant Garden.

*Model Scale I Staff Consultative Council (Staff Side)*

22. Mr LUNG Wing-fat, Chairman of MSISCC (Staff Side) said that MSISCC (Staff Side) requested the Administration to grant permanent earth burial at Gallant Garden to civil servants died on duty to commemorate their contribution.

Presentation by the Administration

23. At the invitation of the Chairman, SCS (Atg) briefed members that the purpose of setting up Gallant Garden was to commemorate the contribution of civil servants died on duty. The Administration was not hard-hearted and had no intention to undervalue their contribution. However, the question was how to determine permanent earth burial of civil servants in the context of Hong Kong where the land supply was limited.

24. DSCS3 added that as the Gallant Garden formed part of the Wo Hop Shek Public Cemetery, it was subject to the six-year exhumation policy. Following the death of the late Mr LEUNG Kam-kwong, Senior Immigration Officer, the policy had been revised in September 2000 whereby civil servants who died while performing an exceptional act of bravery in their final duties should, on request of the deceased’s family, be granted permanent earth burial at Gallant Garden, and non-civil servants be granted permanent earth burial at public cemeteries in accordance with the same criterion.

25. As regards the staff sides' request of granting permanent earth burial to civil servants died on duty, DSCS3 pointed out that according to the legal advice given by the Department of Justice, to allow permanent earth burial of the remains of these civil servants but not the remains of non-civil servants might likely constitute discrimination within the meaning of Article 22 of the Hong Kong Bill of Rights Ordinance (HKBOR) and Article 26 of the International Covenant on Civil and Political Rights (ICCPR). In response to PFC (Staff Side)'s suggestion of using "job risk" as the key criterion for determining permanent earth burial at Gallant Garden, DSCS3 considered it difficult to assess the levels of risks of different jobs. The risk element would be different for officers in the same grade deployed to undertake different duties.

26. Mr CHAN Kwok-keung considered the revised policy unfair to civil servants and queried how the term "exceptional act of bravery" should be defined. In view of the low occupancy rate where only 14 out of a total of 110 earth burial spaces at Gallant Garden had so far been taken up, Mr CHAN requested the Administration to consider relaxing the existing six-year exhumation policy to allow civil servants permanent earth burial at Gallant Garden. DSCS3 reiterated that according to the legal advice obtained by the Administration, the permanent earth burial policy, if adopted, should apply to both civil servants and non-civil servants. If the number of employees' compensation cases which was over 200 cases per annum was used as the basis for estimating the demand for earth burial spaces from non-civil servants, the demand could be quite substantial and the adoption of the permanent earth burial policy would put pressure on land supply for that purpose. The Administration considered it appropriate to use "exceptional act of bravery" as a criterion to determine whether permanent earth burial should be granted.

27. Mr CHAN Kwok-keung asked whether the Administration would consider relocating the Gallant Garden to the Tseung Kwan O Chinese Permanent Cemetery to allow permanent earth burial of civil servants died on duty. DSCS3 replied that as the Tseung Kwan O Chinese Permanent Cemetery was a private cemetery, the proposed relocation would involve additional public monies for the purchase of earth burial spaces in a private cemetery. It would involve even more public monies if the same arrangement had to be made for non-civil servants.

28. Miss LI Fung-ying considered the Administration's advice self-contradictory. While the Administration stressed that civil servants and non-civil servants should be subject to the same treatment, it had set up Gallant Garden to commemorate the contribution of civil servants died on duty, but not non-civil servants. DSCS3 clarified that both civil servants and non-civil servants buried in public cemeteries were subject to the same six-year exhumation policy. Responding to Miss LI's query on the definition of the term "exceptional act of bravery", DSCS3 appreciated the difficulties in defining the term. She assured members that the Administration would decide each case on its own merits.

29. Mr Andrew WONG considered that Gallant Garden, though located at Wo Hop Shek, should not be regarded as a public cemetery because it was reserved for civil servants died on duty. He asked for a copy of the legal advice sought by the Administration. DSCS3 replied that the main points of the legal advice had already been incorporated into paragraph 7 of the Administration's paper.

*(Post-meeting note: As the Chairman had to leave for another important engagement, the Deputy Chairman took the chair at this juncture.)*

30. Mr Albert CHAN considered that the fundamental question to be addressed was whether a higher standard should be set for permanent earth burial at Gallant Garden, i.e. only civil servants died on duty whilst performing an exceptional act of bravery should be granted permanent earth burial. He sought the views of the representatives of the staff sides on this issue.

31. Mr CHIU See-wai, representative of DSCC (Staff Side) said that any civil servant died on duty should deserve recognition from the government and the community regardless of whether he had been engaged in an exceptional act of bravery or not. Mr LAU Kam-wah, representative of PFC (Staff Side), reiterated PFC (Staff Side)'s view that in the absence of a clear definition of "exceptional act of bravery", it would take time for the Administration to decide whether the deceased civil servant should be granted permanent earth burial. The lengthy process and discussions would cause anguish to the deceased's family. Mr LUNG Wing-fat, Chairman of MSISCC (Staff Side) pointed out that MSI staff were normally required to perform manual labour duties. If "exceptional act of bravery" was adopted as the criterion for determining permanent earth burial at Gallant Garden, it was not clear under what circumstances a MSI staff died on duty would be regarded as performing an "exceptional act of bravery".

32. SCS (Atg) said the Administration was of the view that permanent earth burial at Gallant Garden should be granted to civil servants died on duty whilst performing an exceptional act of bravery. He however shared the view of Mr LAU Kam-wah, representative of PFC (Staff Side) that the procedures and time involved for a decision on the matter should be minimized to avoid causing anguish to the deceased's family.

### Conclusion

33. The Deputy Chairman thanked both the Administration and the representatives of the Staff Consultative Councils for attending the meeting. In the light of the views of the Staff Consultative Councils, the Administration was requested to reconsider the following:

- (a) granting permanent earth burial at Gallant Garden to civil servants died on duty to commemorate their contribution; and

- (b) providing a clear definition on “exceptional act of bravery” and using job risk as a key criterion for determining permanent earth burial at Gallant Garden.

*(Post-meeting note: The Administration’s response was circulated to members for reference vide LC Paper No. CB(1) 1248/00-01 on 18 May 2001.)*

