

Revised Proposals on Civil Service Allowances
Comments of the Overseas Inspectors' Association
Hong Kong Police

With reference to the consultation on revised proposals on Civil Service Allowances, issued by the Secretary for the Civil Service (SCS) on 22nd September 2005, the Overseas Inspectors' Association (OIA) of the Hong Kong Police has the following comments.

General Matters of Principle

2. From the outset let it be clear that the OIA *strongly objects* to any unilaterally change in contractual conditions of service, which is exactly what the proposals made by SCS amount to. The continued use of the phrase "fringe benefit type allowances" serves as a focal point for the feelings of anger and resentment that most civil servants hold towards the current administration and SCS in particular. It is particularly galling for police officers to be faced with a constant attack on our conditions of service given that we have specifically sought out, and received, assurances on these conditions from Chinese officials prior to the handover of sovereignty. Attached in hard copy to this submission are copies of newspaper articles reflecting promises made in 1991 and 1994, by Mr. ZHOU Nan and Mr. LU Ping respectively, that police conditions of service would not be changed.

3. It was promises such as these from the Mainland authorities, and their counterparts in Hong Kong itself, that persuaded many officers to serve on in Hong Kong and start families. Our loyalty has not been repaid and the broken promises will long remain the legacy of this administration. All hopes for a new order with the removal of Mr. TUNG have been dashed, leaving the current SCS free to continue his attack on honest, hardworking police officers across Hong Kong.

4. Once again, we must reiterate that we are not talking about "fringe benefits". As noted at paragraph 8 of the CSB note dated 22nd September, the administration's final proposals will be put to the **Standing Commission on Disciplined Services Salaries and Conditions of Service (SCDS)** for advice. The SCDS does not have anything to do with fringe benefits - it is concerned with *Salaries and Conditions of Service*, as its title clearly suggests.

5. The Administration yet again intends to unilaterally implement these proposals despite the tremendous ill feeling caused by the imposition of pay cuts in similar fashion. Agreement or otherwise to cuts in contractual conditions of service is a matter for individual officers in consultation with the employer.

6. The proposed savings in no way justify the exercise, especially given that the allowances can only be claimed by an ever shrinking pool of officers. The justification given by CSB is statistically unsound and contradictory. In addition CSB have refused to adopt staff suggestions that would actually increase savings, calling into question the whole rationale of the exercise.

7. The OIA is of the opinion that the proposals yet again breach Article 100 of the Basic Law. The Basic Law issue apart, we are dealing here with benefits that have accrued to individuals as a matter of contract over many years of service. Therefore, we cannot agree on members' behalves to the reduction of any benefits, that as a matter of law have accrued to them as individuals. For example, in the case of Accommodation Allowance, surely it would be a more productive, and potentially less painful for Government, to negotiate directly with the very small number of individuals who are currently entitled to this allowance, instead of varying their contracts unilaterally?

8. The existence of a clause in the standard MOCS, reserving the Government's "right" to vary terms and conditions of service needs to be viewed in the context of compliance with Basic Law and contractual requirements. We consider that the way in which the Administration is seeking to apply the clause is in no way lawful. If applied to that extent it would effectively nullify the contract between the Government and its employees because it would mean that the Government could change any condition of the contract at any time. Clearly such a provision could not stand under a modern interpretation of the common law relating to contracts. Nor is there any offer of fair or reasonable compensation in the proposals.

9. The OIA also takes issue (yet again) with the justification put forward in support of these proposals. Where are the "present day circumstances" described and what are they? According to all recent media reports the economy is recovering and pay rises abound outside Government, and have apparently done so since 2002, when police pay was first cut!

10. The proposals put forward are being presented with a lack of good faith. The Government has already made up its mind to unilaterally deprive its qualifying staff of their legitimate entitlement. An example of this is the lack of a willingness to support suggestions from the OIA in respect of Accommodation Allowance, suggestions that would actually save the Government more money. We question whether this is a reasonable way for the Government to treat its loyal and long-serving police officers, and whether it is of any concern to the Government that such actions are bound to have a long-term effect on loyalty and service culture.

11. What possible justification can be put forward for further aggravating and alienating police officers by the unilateral erosion of their accrued benefits and terms and conditions of service? How can this blatant attack on police officers possibly benefit Hong Kong? None of the measures proposed will have any significant effect on Government expenditure.

12. The Administration would do well to remember the special role of the Hong Kong Police in maintaining the social order and stable economic environment that all of us enjoy. When deciding to become a police officer, staff do so on the basis of receiving a salary and contractual conditions of service. Serving as a police officer is a non-transferrable profession and so we cannot simply skip across and join another company, unlike other civil servants. We are stuck with our decision to serve the public of Hong Kong, a decision for which we should not be penalised by a Government that consistently kowtows to big business and changes makes unilateral changes to contractual conditions of service.

Comments on Individual Proposals

Leave Passage Allowance

13. The OIA generally agrees that the provision of LPA must be retained on existing terms. We note also that the CSB stance that "*provision of LPA to officers on overseas terms and directorate officers is broadly in line with private sector practice, and the number of eligible officers on overseas terms will gradually reduce*" and that "*the estimated savings ...are not significant*". This reasoning applies equally to **ALL** other proposed cuts, given that most allowances ceased to be offered to recruits since 1996, or 2000 at the latest.

14. However, the OIA questions why the proposal to make the allowance fully non-accountable has not been pursued, as mooted in the initial proposals last year. As the Administration itself noted last year, this would provide extra flexibility and save money on administration costs by up to 15%. *Why has the Administration ignored a valid suggestion to cut costs and reduce bureaucracy?* The OIA believes many officers would be prepared to accept a fully accountable LPA if negotiated on an individual basis, or offered as an option in a similar fashion to the Modified Annual Leave option.

Accommodation Allowance Scheme

15. The problems with AAS have been known to the administration for some time and, despite repeated requests by the OIA, the Administration has failed to address any of our members' concerns. On the contrary, the revised proposals serve to exacerbate the dire situation already facing members on the AAS. As a basic indicator, the current AAS rate represents a drop of 45% from its peak 1997 value. However, rentals prices are fast rising to previous levels, leaving AAS claimants floundering financially. In order to understand the problems faced by many of these officers, a single example is described below.

16. Officer A has over 14 years service in the Force and is on the AAS. He has now moved house four times in 8 years, the latest after his landlord increased his rent by HK\$10,000- per month. The financial burden has forced family upheaval every two years as the officer seeks new (and vastly inferior) accommodation. Nothing in the Government's proposals seeks to resolve these fundamental problems with the AAS and those problems will be exacerbated when the officer's child moves into full time education, as the child will be forced to move school every two years. This in addition to the poor child having to continually make new friends in a new environment. The officer may well have no option but to resign, taking with him 14 years of training and expertise. It is a disgraceful state of affairs.

17. The recalculation of rates is a superficial attempt to make the scheme more "user friendly" but fails to take into account that regardless the claimant is at the mercy of unscrupulous landlords. The proposed "locking-in" of a tenancy to the current rate is also scandalous given that claimants have suffered for many years, and can currently enjoy a higher rate if it rises and keep the starting rate if it falls, but will now be locked-in as the market rises!

18. By CSB's own admission the prevailing rates for the AAS are 12 months behind the rental market. Reliance on figures calculated by the Rating and Valuation Department for the previous year render the prevailing AAS rate obsolete by anywhere between 12 and 23 months, depending on the date of tenancy. CSB also appear to view any new tenancy agreements taken out before the completion of original agreements as suspicious. As mentioned, officers do not want to move continually - apart from the emotional upheaval, the costs associated with these moves are prohibitive, including removal expenses, agents fees and other associated expenses.

19. It is apparent that CSB are going out of their way to make the AAS scheme as untenable as possible. However, if they want officers off this scheme then they must provide suitable and financially viable alternatives. They have failed to do and this brings us to the proposed Non-Accountable Cash Allowance Scheme, which is discussed below.

Non-Accountable Cash Allowance

20. Some officers have indicated that the option of a non-accountable cash allowance is a small step in the right direction, albeit the amount being offered is totally unrealistic. CSB has confirmed that the majority of OIA members opting out of AAS to take up this proposal would draw NCA at a rate of HK\$12,830- per month. Under the proposal this rate would be fixed at 5% below HFS levels and would expire after 10 years. The current rate of AAS being claimed by officers is HK\$20,500- per month, and eligible officers can receive this contractual condition of service until such time as they leave the police force. What possible incentive is there to join the NCA scheme, particularly in a rising property market? What sort of "responsible" employer forces this situation onto employees?

21. Officers are particularly disappointed that a non-accountable cash option (albeit totally unviable) is being opened up now when those same officers were refused the option of HFS or something similar in the mid-1990s. Previous suggestions by the OIA to move these officers back into quarters (another cost saving proposal) have been totally ignored by CSB. There are, after all, only about 40 officers who are claiming under the AAS. Again we question the true motivation behind the proposals.

Overseas Education Allowance

22. This allowance affects many officers and all are aggrieved about the revised proposals on reductions to this allowance, for which any recruits after 1 August 1996 (9 years ago) are in any event ineligible. When quoting the increase in costs for the provision of this allowance, the Administration has attempted to address why those costs have increased. The reasons quoted include rising number of claimants, increased school fees and appreciation of foreign currencies. What the Administration has failed to mention is *why* there are an increased number of claimants. The answers of course lie with the Administration itself, "hoist by its own petard".

23. If the Administration provided a suitable education system for children in Hong Kong there would be no need for more and more parents to send children abroad. As the quality of education in Hong Kong declines because of ill advised Government policies, so more and more parents look elsewhere for suitable options for their children. If the Administration had not been threatening since 1999 to cut education allowances, no doubt fewer claimants would have felt the need to take advantage of this condition of service. Which civil servant, having been treated as shabbily as this Government has treated civil servants since 1999, would not want to claim every available benefit before they disappear altogether? None, the OIA would submit.

24. Whilst it may be politically expedient now to paint this condition of service as "anachronistic and a throwback to the colonial era", for those with children going through the UK education system, or intending to do so, this is an issue of great concern. The allowance at present levels is already insufficient to keep pace with the rapid increase in school fees and associated costs (guardian fees etc).

25. The allowance is subject to taxation and currency fluctuations, with many officers already struggling to make ends meet. The proposed freeze for current claimants can only serve to exacerbate the situation. Officers are going to face severe financial hardship and possibly will have to withdraw children from overseas schools, with the added stress (for parent and child) of trying to reintegrate into the local school system.

26. Given the problems described above with existing rates, the reduction of OEA to 1997 levels for new claimants will obviously dissuade any parent from sending children overseas. It is fatuous to expect any parent to enter into overseas education at today's prices when only receiving 80% of the allowance available to existing claimants. And what of the situation where one child is already studying overseas but a sibling cannot because of the decrease in allowance? What responsible employer would attempt to divide the children of its employees in this way?

Local Education Allowance

27. At first glance the proposals on LEA appear to be relatively innocuous. However, this is another significant issue with implications on staff retention and staff morale. There is no doubt that local school fees will increase, especially those in the English Schools Federation (ESF), to which most members are sending their children. The problems facing the ESF have been widely reported, and an increase in school fees is inevitable if the standard of tuition is to be maintained. This again, is as a result of cuts enforced by the Administration.

28. The freeze in LEA will mean the allowance will quickly lag behind school fees, thereby reducing any perception of "assistance" being provided to eligible claimants. For many officers this is simply a "backdoor" pay cut. Most officers staying on after 1997 did so in the belief that the LEA was a significant contribution to the costs of educating any newly born or planned children. That will no longer be the case. Reducing the allowance for claimants who have been eligible for many years but only now planned a family is frankly outrageous. The Government's assertion that fees have not risen in the last 10 years is ridiculous and has no meaning given that we have been in a recession for most of that period. The same cannot be predicted for the next 10 years!

School Passage Allowance

29. This is another area of concern in which the Administration has been extremely devious in drafting its proposals. Although the amount does not appear to be reduced dramatically (\$25,100 to \$23,600), the proposals indicate a change to allow the SPA to be split over only 2 trips. Any remaining passage cannot be carried forward and only economy class tickets can be bought.

30. Given the price range of economy class tickets, only about HK\$18,000- of the allowance will be able to be spent, meaning the actual amount lost by claimants is in the region of HK\$7,000- or about 30%. The UK school system has three long holidays a year. Where are children supposed to stay when they can't return to Hong Kong on the third trip? *What sort of employer deliberately sets out to split employees' children from their parents during a school holiday.* The OIA objects in the strongest terms to the proposals that SPA can only be split over two trips. What possible justification is there for this proposal?

Conclusion

31. The administration will purportedly now "consider" our formal response to the proposals and consult the various advisory bodies before making a final decision. Let it be clear that any agreement to the cuts proposed to our contractual conditions of service will obviously open the door for this Administration to inflict further cuts on police officers. The Government intention to 'divide and conquer' the police force is there for all to see.

32. We would urge that instead of applying a "top down" approach, the Administration negotiates properly with staff on the appropriate compensation to be offered in return for the reduction of benefits proposed. However, experience tells us that the current SCS cannot be trusted to engage in negotiation on a basis of mutual respect. We need only look at the pay cut legislation to see the low regard in which how this SCS views his "colleagues". We express our total and utter lack of trust in Mr. Joseph WONG Wing-ping.

33. When seeking advice from the SCDS on Salaries and Conditions of Service, we expect the Administration to fully and frankly reflect our stance, which is that we steadfastly oppose the proposals because:

- (a) the proposals breach the Basic Law;
- (b) the proposals breach Hong Kong contractual law;
- (c) the proposals have been presented in bad faith, taking no account of promises made to police officers by senior Mainland officials before the change of sovereignty, upon which many of our members chose to stay and serve Hong Kong; and
- (d) the proposals are mean spirited, unreasonable and unfair.

34. Overall we believe the one-sided implementation of these proposals will generate considerable ill will. We question whether the miniscule monetary savings could possibly be worth the ill will generated. The unilateral implementation of the proposals will also send a signal to the international community that the Hong Kong Government is yet again failing to respect contracts and the rule of law. We urge the Hong Kong Government to honour the promises made by the Government of the Peoples Republic of China to police officers prior to the change of sovereignty.

**Executive Committee
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