

**Paper for the meeting of the Panel on Welfare Services
on 10 July 2006**

**Observations on the Response of the Administration
to the Benchmark issue**

At the meeting of the Panel on Welfare Services held on 8 November 2005, a representative of the Hong Kong Social Workers Association commented that the Social Welfare Department (SWD) had violated the contractual obligation by unilateral deducting 9.3% from the Benchmark Salary of Non-governmental Organizations (NGO) on Lump Sum Grant (LSG) over the years as a result of Enhanced Productivity Programme (EPP) and Efficiency Savings (ES). The response of the Administration attached as Appendix 1 to a letter dated 30 March 2006 from the Secretary for Health, Welfare and Food was circulated on the same date (LC Paper No. CB(2) 1631/05-06 (01)) (the Response). The Legal Service Division has been asked to comment on the Administration's response. This paper sets out our observations on the issue.

The purpose or relevance of the Benchmark

2. It would assist Members to ascertain the purpose or relevance of the Benchmark in relation to the LSG. This could be seen from the relevant paragraphs of the Social Welfare Services Lump Sum Grant Manual (Edition 2) (the Manual) issued by SWD. The reference to the Benchmark appears in paragraph 2.6 (page 10) of the Manual. Paragraph 2.6 provides that—

“LSG replaces the Model System and consists of the total of Salaries, Salary-related Allowances, Provident Fund, Other Charges and Recognised Fee Income calculated as follows : -

(a) Salaries

(i) First of all, the **Benchmark** for the LSG of each NGO is determined on the basis of the **mid-point salaries of the pay**

scales as at 31 March 2000 of its recognised establishment (i.e. all approved posts including fractional posts) as at 1 April 2000;

(ii) A **Snapshot** of staff strength of each NGO as at 1 April 2000 is taken and its salary subvention for 2000-01 under the current subvention rules is projected;

(iii) This Snapshot is then compared with the Benchmark;

(iv) Agencies with Snapshot **above** the Benchmark will receive the Snapshot. There will be no top-up and no claw-back except for adjustment as explained in paragraph 2.13 below. Their Snapshot will be reduced annually **in steps of 2% per annum** starting from 2006-07 to reach the Benchmark; and

(v) For agencies with Snapshot **below** the Benchmark, they will receive the Benchmark **in one step** provided that their service has already been fully commissioned (otherwise in line with the agreed phased commissioning of the facility/service). Likewise, there will be no top-up and no claw-back except for adjustment as explained in paragraph 2.13 below.

.....”

In the context of this paragraph, it is apparent that the Benchmark is used as a basis for calculating the salaries component of the LSG. Nothing suggests that the salaries of the staff of NGO will be paid at the level of the Benchmark. The Benchmark has no direct link to the actual salaries paid to staff of a NGO.

How LSG is affected by EPP or ES

3. The effect of EPP or ES on LSG is that the amount of LSG payable to a NGO is reduced. During the period from 2000-01 to 2002-03, a 5% EPP target has been set and 1% across-the-board cut was made. In 2003-04 and 2004-05, 1.8% and 2.5% ES respectively have been applied across-the-board to the subvention allocations. Such reduction is quite unrelated to the Benchmark and so far as the calculation of the salaries component in the LSG is concerned, the Benchmark remains unchanged. However, the LSG so calculated would only be paid to NGOs after taking into account EPP and ES.

The Response

4. We note in paragraph 2 of the Response that NGOs have agreed to EPP and ES, and have signed to indicate their acceptance of the adjustments. It would seem that the deductions resultant from EPP and ES have not been made unilaterally.

5. It is not apparent that any promise having been made in the Manual that staff salaries of NGOs will irrespective of EPP and ES be paid at the level of the Benchmark.

6. Paragraph 4 of the Response referred to a statement purported to have been quoted from a technical paper on the calculation methodology (the technical paper) presented at the 13th LSG Steering Committee meeting held on 21 October 2003 (the statement). It has been suggested that the statement and the representations made at that meeting (which was summarised in paragraph 52 of the minutes of the meeting) meant that salaries calculated on basis of the Benchmark would not be affected by across-the-board adjustments to subvention allocations, such as EPP and ES, which “would have no effect on the Benchmark”. The statement quoted is a summarised version of paragraph 4 of the technical paper. In the context, the paragraph has said no more than that the Benchmark would not be affected by EPP and ES, which is true. We do not see anything in the statement or paragraph 52 of the minutes of the meeting that requires us to modify our analyses or conclusions set out in paragraphs 2 and 3 above. The statement and paragraph 52 support, and are consistent with, our analyses given above.

Conclusion

7. The reduction in staff salaries of NGOs could owe as much to the application of EPP and ES as to the internal resources deployment of NGOs. The Benchmark is the basis for calculating the salaries component of the LSG but is not meant to be a guarantee for the level of salaries actually paid to the staff of NGOs.

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