

立法會
Legislative Council

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LC Paper No. CB(2)673/06-07
(These minutes have been seen by
the Administration)

Panel on Manpower

Minutes of meeting
held on Thursday, 16 November 2006, at 2:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Hon LAU Chin-shek, JP (Chairman)
Hon KWONG Chi-kin (Deputy Chairman)
Hon LEE Cheuk-yan
Hon CHAN Yuen-han, JP
Hon LEUNG Yiu-chung
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Andrew CHENG Kar-foo
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon WONG Kwok-hing, MH
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
- Public Officers attending** : Item III
Mr Matthew CHEUNG Kin-chung, JP
Permanent Secretary for Economic Development and
Labour (Labour)

Mr CHING Chung-cham, Dennis
Administrative Officer (Employment)
Labour Department

Ms Julina CHAN
Deputy Director (Administration and Development)
Food and Environmental Hygiene Department

Action

Miss Bella MUI
Senior Administrative Officer (Administration and
Development)
Food and Environmental Hygiene Department

Mr LAU Sin-pang, JP
Deputy Director of Agriculture, Fisheries and
Conservation

Mr CHEUNG Hing-wah
Assistant Director (Youth & Corrections)
Social Welfare Department

Miss Olivia CHAN
Assistant Director (Leisure Services) 2
Leisure and Cultural Services Department

Mrs Betty CHU
Assistant Director (Administration)
Home Affairs Department

Mr Paul CHENG
Principal Assistant Secretary (Health) 2 (Acting)
Health, Welfare and Food Bureau

Mr Alex LEUNG
Co-ordinator (Human Resources)
Hospital Authority

Ms Doreen KWAN
Assistant Commissioner for Tourism (3) (Acting)
Tourism Commission

Item IV

Mr Matthew CHEUNG Kin-chung, JP
Permanent Secretary for Economic Development and
Labour (Labour)

Mrs. CHAN MAK Kit Ling, Jenny, JP
Deputy Commissioner (Labour Administration)
Labour Department

Miss CHANG Kar-wai, Carrie
Assistant Commissioner (Policy Support and Strategic
Planning) (Acting)
Labour Department

Action

Clerk in attendance : Mrs Sharon TONG
Chief Council Secretary (2) 1

Staff in attendance : Ms Katherine YUNG
Senior Council Secretary (2) 8

Miss Helen DIN
Legislative Assistant (2) 1

Action

I. Confirmation of minutes of previous meeting
(LC Paper Nos. CB(2)146/06-07 and 366/06-07)

The minutes of the meetings held on 12 October 2006 and 24 October 2006 respectively were confirmed.

II. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)333/06-07(01) and (02))

Meeting in December 2006

2. Members agreed that the following items would be discussed at the next meeting to be held on 21 December 2006 at 2:30 pm -

- (a) Progress of the Labour Department's youth employment/training programmes and the setting up of Youth Employment Resource Centres; and
- (b) A proposal to adjust the rate and proportions of allocation of the Employees' Compensation Insurance Levy.

Items for discussion at future meetings

3. Ms LI Fung-ying suggested that the issue of severance payment claimed by workers employed under short-term contracts (i.e. contracts of less than two years' duration) should be discussed by the Panel as soon as possible. She said that the Employment Ordinance was ineffective in the protection of employees' labour rights as employers could evade their obligations for severance payment by offering employees with short-term contracts of less than two years intermittently. Permanent Secretary for Economic Development and Labour (Labour) (PSL) responded that the Administration was examining the Court's judgement and would report to the Panel as soon as ready.

Action

4. Ms LI Fung-ying expressed concern that construction workers suffering from Mesothelioma but without the symptoms of silicosis were unable to claim compensation from the Pneumoconiosis Compensation Fund. She said that Mesothelioma was caused by prolonged contacts with asbestos and should be classified as occupational disease. She suggested that the issue of compensation for construction workers suffering from Mesothelioma should be followed up by the Panel. PSL said that the Administration was studying the issue and would report to the Panel in due course.

5. Ms LI Fung-ying asked when the issue of extending the applicability of the Employment Ordinance to government employees on non-civil service contract (NCSC) terms and employees who are not employed under a continuous contract (i.e. persons who are employed for less than four weeks and whose working hours are less than 18 in each week) would be discussed. PSL responded that as the Administration was awaiting the result of the survey on the latter conducted by the Census and Statistics Department (C&SD), the issue would not be ready for discussion by the Panel before the second quarter of 2007.

III. Results of the review on temporary jobs in the public sector
(LC Paper No. CB(2)333/06-07(03))

6. PSL briefed members on the Administration's proposal to extend and regularise some of the temporary jobs in the public sector to meet operational needs.

7. Mr WONG Kwok-hing welcomed the Administration's proposal to retain and regularise a large proportion of the temporary jobs. He asked whether those workers whose jobs would not be retained would be absorbed by other departments.

8. PSL responded that funding of \$780 million had been allocated for implementing the Administration's proposal to regularise and extend some of the temporary jobs. Recurrent funding of \$680 million on an annual basis would be required for regularising some 7 800 temporary jobs. The extension of some 1 700 positions in the Social Welfare Department (SWD) for only one year required funding of \$97 million. This demonstrated the Administration's sincerity to assist these temporary workers, having regard to operational needs. PSL assured members that the Labour Department (LD) would do its best to assist the affected workers.

9. Regarding the 2 286 temporary jobs of Hospital Authority (HA) to be regularised, Mr WONG Kwok-hing enquired whether a "through-train" arrangement would be applied to these job holders.

10. Mr LEE Cheuk-yan expressed concern whether HA would dismiss all these temporary job holders and re-employ them on a selective basis. He asked whether HA could assure that unless individual worker's performance was not up to standard, these temporary job holders would be offered the regularised jobs.

Action

11. Coordinator (Human Resources) of the Hospital Authority (C(HR)/HA) responded that HA would not lay off these temporary job holders and recruit them again. There was no question of a selection process. HA would try its best to retain all these workers.

12. Ms LI Fung-ying commented that the funding for the temporary jobs would be regularised. However, there was no assurance whether the temporary job holders would be "regularised". Regarding the 2 286 jobs to be regularised under HA's purview, she considered that a "through-train" arrangement should be given to these job holders.

13. PSL clarified that some of the temporary jobs were outsourced ones, and it was beyond the control of the Administration as to who should fill the positions. To his understanding, HA intended to retain all existing temporary job holders as far as possible.

14. C(HR)/HA reaffirmed that HA had no intention to dismiss these temporary workers and planned to retain all existing job holders employed by HA.

15. Mr LEUNG Kwok-hung asked whether all the 2 286 temporary job holders of HA could have the benefit of transition to the regularised jobs without undergoing selection process or signing new contracts.

16. C(HR)/HA reiterated that HA had no intention to dismiss the temporary workers and recruit them again. He said that out of 2 286 jobs, 500 jobs were outsourced ones which were beyond HA's control. Regarding the 1 786 temporary workers employed by HA, they would be retained under normal circumstances.

17. Mr LEE Cheuk-yan commented that the Administration's paper was misleading in that, in reality, only the funding was regularised, but not the positions nor the temporary job holders. He enquired whether, after the workers having their jobs regularised, the workers concerned could be included in the establishment of HA and fit into HA's rank list.

18. C(HR)/HA said that an employee could join HA as a temporary worker for a year; afterwards, subject to satisfactory performance and availability of position, the employee would become a contractual employee. HA was currently reviewing how workers employed on long-term contracts could be employed on a permanent basis. The policy, if enacted, would apply to all staff groups consistently.

19. Mr LEE Cheuk-yan said that at present, welfare non-government organisations were mostly subvented under lump sum grant mode and they had the flexibility in employing the number of staff and deciding on the types of jobs. He wondered how SWD would ensure that the funding allocated would be spent on the 1 383 jobs to be regularised, and not other categories of jobs, such as Activity Assistants.

Action

20. Assistant Director (Youth and Corrections) of the Social Welfare Department (AD(YC)/SWD) responded that the subvented organisations were required to submit statistics on these jobs, and as at present, SWD had not detected any irregularities.

21. Mr LEE Cheuk-yan enquired whether the 516 temporary jobs to be scrapped as proposed by the Food and Environmental Hygiene Department (FEHD) could be retained, as cleanliness of streets would need to be maintained.

22. Deputy Director (Administration and Development) of the Food and Environmental Hygiene Department (DD(AD)/FEHD) responded that those 516 outsourced workers who would not be extended belonged to three categories of cleansing jobs, namely, toilet attendants, workers for removing illegal street posters, and cleaning workers for public cemeteries. She noted that these jobs were created earlier in the context of job creation to provide employment opportunities. Upon general economic recovery and recent review, the department came to the view that the said cleaning services could adequately be provided through regular cleaning contracts and that service standards could still be reasonably maintained. There was no established long-term operational need to retain these jobs.

23. Mr LEUNG Yiu-chung considered that FEHD should seriously study the possibility of retaining these cleansing jobs as additional manpower was required to maintain the cleanliness of public toilets, and to prevent cleaners from being verbally assaulted while working alone in cleaning street posters.

24. Mr Frederick FUNG asked whether all departments could assure that the existing job holders would continue to be employed after their jobs had been regularised. The Chairman said that each department should proclaim whether the temporary workers could be transferred to the regularised jobs under its purview, and if the response was negative, it had to provide explanations. A tacit attitude of a department would be taken as an affirmative response.

25. DD(AD)/FEHD responded that most temporary jobs in FEHD were outsourced. With regard to jobs on NCSC terms, priority would be given to the workers currently in post of the jobs to be regularised. Mr Frederick FUNG asked about the consideration factors of FEHD in retaining the existing workers. DD(AD)/FEHD said that at this stage, these temporary workers would remain in the jobs proposed to be regularised. However, their contract would be subject to review annually or upon expiry. The Administration would study whether some of the NCSC posts could be converted into civil servant posts.

26. Mr Frederick FUNG was of the view that a "through-train" arrangement should be given to these temporary workers.

27. Mr Frederick FUNG requested the Administration, in respect of each department, to provide information on the number of workers before and after their

Action

jobs had been regularised together with the reasons for the change, e.g. whether they left employment on their own accord or they were dismissed, in order to enable the Panel to better understand the impact of regularising these jobs on the job holders.

28. Mr Tommy CHEUNG enquired whether the employment terms, wages and benefits of the temporary workers engaged by the Government would remain the same before and after regularising the jobs, and whether individual departments could determine the terms and wage levels. He also asked whether the Administration would allocate the funding on top of the financial envelope so that individual Bureau Director could decide on the number of workers to be employed for jobs to be regularised. He considered that FEHD should retain the 516 cleaners as this would help maintain the cleanliness of the city and to generate revenue in the form of penalty paid by offenders caught by cleaners for posting street posters.

29. PSL responded that the wages and benefits of these temporary workers would remain basically the same after their jobs had been regularised. He said that the funding for the regularised jobs would be included in the respective financial envelope of Bureau Directors concerned. It would be up to individual departments to decide on the number of workers to be employed, having regard to operational needs. DD(AD)/FEHD said that for the 584 jobs to be regularised, there was no plan to change the wages and benefits of the job holders in the near future. As the contracts of these workers were subject to regular review, the department would make reference to the prevailing market situation at the time of renewal.

30. Mr WONG Kwok-hing enquired about the duration of the contracts of temporary workers. He strongly felt that the duration should be of three or five years. He said that it would defeat the purpose of regularising the funding and the positions, if the temporary job holders were still offered one-year temporary contracts.

31. PSL responded that the duration of the contracts should be determined by the departments concerned based on actual situation. Regarding employees' benefits, he believed that the departments concerned would not treat the workers harshly. He added that he would reflect to the relevant departments members' views and concerns.

32. Mr LEE Cheuk-yan enquired whether the 584 positions on NCSC terms to be regularised would be on civil service terms. DD(AD)/FEHD responded that though the funding was recurrent, whether the positions would be on civil service or other terms would be reviewed separately.

33. Miss CHAN Yuen-han said that members of the Panel on Manpower and Panel on Public Service had once remarked that temporary workers having worked for a long time in a department should be employed on a long-term basis. She was disappointed that the temporary workers were still offered one-year temporary contracts. She said that to resolve the problem, both the jobs and the temporary job holders would need to be regularised as it was very distressing for workers having to continually sign short-term contracts twice a year for four to nine consecutive years. She added that

Action

offering workers a longer term contract did not necessarily mean that workers would be on civil service terms.

34. PSL responded that the recurrent funding secured was a major step forward. Without the funding, the jobs could not be retained in the first place. Regarding members' concern that the temporary workers might lose their jobs, he said that the departments concerned would be very cautious in taking the proposal forward. He added that the Administration would examine how some of the jobs proposed to be regularised could be dealt with in the longer term, such as the youth training places.

35. Mr Frederick FUNG said that regularising in this context had three levels, namely the funding, the positions and the temporary job holders. Given the availability of the funding as at present, the Administration should give a clear response on how it would deal with the second and third levels. Mr FUNG considered that both the jobs and the temporary job holders should be regularised, and that these temporary job holders should be offered long-term contracts of at least two to three years.

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36. PSL said that the Administration noted members' concern about the short duration of contracts. The Chairman asked the Administration to provide its response to the issues raised by Mr FUNG at the next meeting. PSL said that the Administration would try its best to do so. However, the Administration would need sufficient time to coordinate a response as the subject involved the Civil Service Bureau and other departments concerned.

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37. Mr LEUNG Yiu-chung requested the Administration to provide before the next meeting a paper, in respect of each department, covering the meaning of regularisation of jobs, whether the existing workers could be offered long-term contracts, and the establishment of these regularised jobs. He also requested FEHD to examine how to retain the 516 cleansing jobs and revert to the Panel. Ms LI Fung-ying added that the Administration should also provide information on the modus operandi in employing temporary workers on the regularised jobs and their duration of contracts. PSL agreed to provide the requested information as soon as possible.

38. Mr Tommy CHEUNG enquired whether the regularised positions would not be included in the civil service establishment, and whether the number of civil servants would be maintained. He also asked whether the contracts of these NCSC post holders could be extended to two years.

39. PSL responded that the regularised posts would not be included in the establishment of the civil service. He said that for obvious reasons, the ceiling of the number of civil servants had to be adhered to and that the conversion of a NCSC position into civil service terms had to undergo very stringent scrutiny. With the earmarked funding, it would be for individual departments concerned to decide on the duration of the contracts on the basis of operational needs.

IV. Wage Protection Movement for employees in the cleansing and guarding service sectors

(LC Paper No. CB(2)333/06-07(04))

40. PSL briefed members on the modus operandi of the Wage Protection Movement (WPM) for cleaning workers and security guards and the Administration's strategy in taking it forward.

41. Mr WONG Kwok-hing expressed doubt about the overall effectiveness of WPM. With a view to proving the immense deficiency of WPM in safeguarding the minimum wages of workers and urging the Administration to legislate for a minimum wage, he suggested that the Panel should make the progress of WPM a standing item for discussion. He considered that WPM had no binding effects and could not force the employers to offer market wage rates to workers. He cited two cases to illustrate that workers were afraid of reporting cases of unscrupulous employers lest they would be dismissed. He said that the Administration should address this point.

42. PSL responded that there was misunderstanding on the term "reporting" as WPM was a voluntary movement with a view to achieving a culture change among employers. However, the Labour Department would welcome any feedback from trade unions, individual employees and employers alike as the movement progressed. He said that whilst the issue of legislating had been debated at length by both the Panel and the Legislative Council, the present focus was to take a pragmatic approach by launching WPM.

43. Mr LEE Cheuk-yan proposed that a subcommittee should be formed to closely monitor the progress of WPM and to study the introduction of legislation for a minimum wage. He said that his proposal could be dealt with at the next meeting. He further said that it was the Chief Executive who called on members of the public to report unscrupulous employers who did not comply with the wage requirement under WPM. Mr LEE considered that WPM could not take immediate effect as employers participating in WPM would offer average market rates as published in C&SD's Quarterly Report of Wages and Payroll Statistics (Quarterly Report) when renewing the contracts of cleaning workers and security guards. He asked about the criteria and evaluation mechanism to be adopted by LAB for assessing the overall effectiveness of WPM and whether the benchmark participation rate would be set at 90% as recently stated by the Secretary for Economic Development and Labour.

44. Ms LI Fung-ying expressed doubt about how the Administration could take forward WPM in making the employers offer market wage rates to workers. She enquired whether LD would take immediate follow-up actions regarding cases while employers failed to offer average market wages to workers under new contracts. She was also concerned how to determine overtime rates and implement overtime payment. She considered that there was an urgent need for LAB to devise the mechanism for

Action

measuring the overall effectiveness of WPM, as the new Board would only have been in operation for several months before conducting the mid-term review.

45. PSL responded that "reporting" meant to provide information and communication. WPM aimed to boost enterprises' participation and promote social harmony. Despite the many difficulties ahead, he was reasonably confident that the movement would stand a good chance of succeeding, given concerted efforts and support on all sides. During the past month, there had already been promising signs of acceptance amongst enterprises and their awareness of the obligation to offer wages to their workers not lower than the average market rates. He pointed out that employers who joined WPM were required to provide written employment contracts, setting out the employment terms, including wages and overtime pay rate, for their cleaning workers and security guards. Regarding the criteria and mechanism for the mid-term review of WPM, he said that this would be the priority task of LAB.

46. Mr LEUNG Yiu-chung asked about the basis for calculating overtime pay rate. PSL responded that it would be up to employers and the workers concerned to decide. The overtime pay rate had to be specified in the written agreement between the employers and workers.

47. Mr LEUNG Yiu-chung expressed concern that WPM could not protect the interests of the lowest-income group, especially when employers did not join WPM. He queried how the Administration would address the concern that workers dared not to report cases of exploitation by employers for fear that they would be dismissed. In his view, the introduction of legislation for a minimum wage would be effective in protecting the interest of workers.

48. PSL responded that-

- (a) whenever there were reports on employers paying unreasonably low wages, the Administration would take follow-up actions;
- (b) though WPM had been launched for only several weeks, there had been favourable culture change among employers in that some were prepared to offer wages not lower than the average market rates to workers in the two sectors concerned. When WPM was in full swing, the number of workers benefited from the movement should increase substantially; and
- (c) if, after a trial of two years with collaborative efforts from the Administration, business community and labour unions, WPM still failed to deliver satisfactory results in protecting the workers, the Administration would proceed to legislate.

49. Mr Frederick FUNG enquired how the Administration would resolve the inequality between the employers who opted for WPM and those who did not, as the former were obliged to offer higher wages and hence higher bids in tendering than the latter. He considered that the Administration should prepare to put in place legislation

Action

concurrently during the two-year trial period of WPM; otherwise, the introduction of the legislation would be unduly delayed for another four years when WPM failed to achieve satisfactory results after two years. He also queried whether the Administration would set a participation rate for assessing the overall effectiveness of WPM.

50. PSL responded that sufficient time should be given to WPM to be tried out. He was reasonably confident that it would stand a good chance of succeeding, given the concerted efforts from all parties concerned. At this stage, the Administration was adopting a pragmatic approach in launching WPM. He added that the criteria and mechanism for assessing the overall effectiveness of WPM would be discussed by LAB.

51. Miss CHAN Yuen-han queried how the mid-term review in October 2007 would be conducted when the criteria and mechanism for assessing the overall effectiveness of WPM had yet to be devised. She opined that LAB should have a very clear set of measuring mechanism and performance indicators for the review. She requested the Administration to report to the Panel the number of employers who had joined WPM and the mechanism for the mid-term review at its next meeting.

52. PSL said that much work had been done to solicit the support of the chambers of commerce and owners' corporations with encouraging results. The Chinese General Chamber of Commerce had announced the previous day that about 120 member organisations had joined WPM. He had held a meeting with all 18 District Officers the previous day and discussed how best to target owners' corporations. Regarding the criteria and mechanism for the review of WPM, PSL said that this would be the priority task of LAB. He stressed that at the present stage, a pragmatic approach would be the key to success. The Administration would revert to the Panel on the strategy for the mid-term review at an appropriate time, and to report to the Panel regularly on the progress of WPM.

53. Mr Andrew LEUNG expressed concern that WPM, which had just commenced, would have to be prepared to face a review next year. He considered that this would make the work of the chambers of commerce very difficult and the message given to the community would likewise be very negative. A lot of work could be done in this movement with coordinated efforts from many parties concerned, which, however, required a harmonious environment. Whilst he understood the ultimate aspiration of labour unions was to legislate for a minimum wage, he was of the view that WPM should be allowed enough time for it to be tried out. He hoped that members could be more positive towards WPM. He enquired about the responses of small and medium-sized enterprises on WPM.

54. PSL responded that he had contacts with and written to the business community, namely the major chambers of commerce, small and medium-sized enterprises, overseas chambers of commerce, as well as the owners' corporations. The list of participating enterprises and corporations would be released once it was consolidated. He reiterated his optimism on WPM, given the positive feedback so far.

Action

55. Mr Tommy CHEUNG enquired how the Administration would categorise the types of jobs for the cleansing and guarding services sectors as there were immense diversities in terms of wages and requirements amongst these jobs. He also asked whether the wages offered to workers in these two sectors would be adjusted each year. He expressed concern that the enterprises would find it difficult to satisfy the wage requirement in light of changes in the labour market.

56. PSL responded that for the purpose of WPM, the jobs in these two sectors referred to the very general and basic types of jobs requiring services of cleaning workers and security guards, and not the high-end ones requiring special training and language and other skills. In general terms, cleaning workers were those responsible for general cleaning work and cleaning toilets and washrooms, whilst the security guards were those to be responsible for preventing unauthorised entry into building, patrolling regularly to prevent violence, fire or disturbances etc., and providing assistance in case of emergency. Regarding the wage level, PSL said that the rates referred to the prevailing market rates as stipulated in C&SD's Quarterly Report prevailing at the time employment was offered. For instance, the latest average hourly rate for general cleaners was \$24.2.

57. The meeting ended at 4:42 pm.

Council Business Division 2
Legislative Council Secretariat
15 December 2006