

立法會
Legislative Council

LC Paper No. CB(1)1245/06-07
(These minutes have been seen
by the Administration)

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Panel on Public Service

Minutes of meeting
held on Thursday, 8 February 2007 at 10:45 am
in Conference Room A of the Legislative Council Building

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

Member absent : Hon TAM Yiu-chung, GBS, JP

Public officers attending : **Agenda item IV**

Miss Denise YUE, GBS, JP
Secretary for the Civil Service

Mr Andrew H Y WONG, JP
Permanent Secretary for the Civil Service

Mr Patrick CHAN Nim-tak
Director of General Grades
Civil Service Bureau

Mr CHAN Hung-cheung, Stephen, JP
Deputy Director of Electrical and Mechanical Services
(Regulatory Services)

Mr CHONG Kwok-fai, Bernard
Departmental Secretary
Electrical and Mechanical Services Department

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

Ms Venner CHEUNG
Assistant Director of Food and Environmental Hygiene
(Administration)

Miss Nancy LAW, JP
Deputy Director of Social Welfare (Administration)

Mrs WONG CHEUK Wai-kuen
Departmental Secretary
Social Welfare Department

Mr AU Choi-kai
Deputy Director of Buildings

Mrs YUEN KWONG Wai-king
Departmental Secretary
Buildings Department

Mr TAM Wing-pong, JP
Postmaster General

Mr CHAN Yau-fung, JP
Deputy Postmaster General

Mrs Vivian TAM
Departmental Secretary
Hongkong Post

Agenda items V and VI

Miss Denise YUE, GBS, JP
Secretary for the Civil Service

Mr Andrew H Y WONG, JP
Permanent Secretary for the Civil Service

Mrs Rosanna URE, JP
Deputy Secretary for the Civil Service 3

Clerk in attendance : Mr Andy LAU
Chief Council Secretary (1)2

Staff in attendance : Mr Noel SUNG
Senior Council Secretary (1)4

Miss Winnie CHENG
Legislative Assistant (1)5

Action

I Confirmation of minutes of meeting
(LC Paper No. CB(1)876/06-07 — Minutes of meeting on 15 January 2007)

The minutes of the meeting held on 15 January 2007 were confirmed.

II Information paper issued since last meeting
(LC Paper No. CB(1)843/06-07(05) — Information paper on update on occupational safety and health in the Government provided by the Administration)

2. Members noted the information paper entitled "Update on occupational safety and health in the Government", which was originally scheduled for discussion at the meeting but was subsequently deferred to make way for the discussion of item VI. Members agreed that it was not necessary to discuss the paper at a separate meeting.

III Items for discussion at the next meeting scheduled for 15 March 2007
(LC Paper No. CB(1)843/06-07(01) — List of outstanding items for discussion
LC Paper No. CB(1)843/06-07(02) — List of follow-up actions)

3. Members agreed that the following items proposed by the Administration should be discussed at the next meeting scheduled for 15 March 2007 –

- (a) Civil service-related issues featuring in the 2007 Budget Speech; and
- (b) Civil service establishment and related matters.

4. In connection with the discussion of the related matters arising from the review of employment situation of non-civil service contract (NCSC) staff, members also agreed that the Panel should receive views from interested parties, including representatives of NCSC staff from the Hongkong Post and other government

ariat bureaux/departments, at the next Panel meeting scheduled for 15 March 2007.

IV Follow-up on review of employment situation of non-civil service contract staff

- (LC Paper No. CB(1)843/06-07(03) — Information paper provided by the Administration
- LC Paper No. CB(1)623/06-07(03) — Information paper provided by the Administration
- LC Paper No. CB(1)471/06-07(03) — Information paper provided by the Administration
- LC Paper No. CB(1)473/06-07 — Background brief prepared by the Legislative Council Secretariat)

General employment situation of NCSC staff

5. The Secretary for the Civil Service (SCS) said she envisaged the Government would need to employ some NCSC staff at all times, in order to meet service needs which were time-limited, short-term, seasonal, or subject to market fluctuations, or which required staff on a part-time basis, or which required tapping the latest expertise in a given area in the market, or where the mode of delivery of the service was under review or likely to be changed through, for example, contracting out. As the service needs were time-limited, or under review, once the services were no longer required or contracted out, the employment contracts of the NCSC staff involved would not be renewed. The bureaux and departments would try to avoid termination of the employment of NCSC staff in the middle of their contracts. SCS reiterated that under the "big market, small government" principle, the Government's established policy was to contract out those services which should more appropriately be taken up by the private sector. The contracting out of appropriate government services would not give rise to a net reduction of job opportunities in Hong Kong because jobs displaced from the Government would be created in the private sector. When the Government contracted out services which involved non-skilled labour, namely security and cleansing services, it would require the contractors to pay to these non-skilled workers a salary not lower than the median monthly wages for the relevant industry/occupation in the market as published by the Census and Statistics Department.

6. Mr LEE Cheuk-yan requested that the Civil Service Bureau (CSB) should inform the Panel in advance the number of NCSC staff whose contracts would be terminated as a result of contracting out of services in various bureaux/departments.

7. SCS pointed out that in the papers provided to the Panel regarding the employment situation of NCSC staff, e.g. Annex A of LC Paper No. CB(1)843/06-07(03), the Administration had already provided the job titles and number of NCSC staff who were employed to meet service needs that were time-limited, or short-term, or seasonal in nature, or subject to market fluctuation, or where the mode of delivery of the services was under review or likely to be changed, or to tap the latest expertise in the market. The contracts for the NCSC staff involved would not be

renewed if the service needs no longer existed, or decisions were taken to contract out the services after reviewing the mode of service delivery. In view of the information already submitted to the Panel, CSB did not see a need to co-ordinate further information from bureaux/departments. If members would like to receive further details concerning NCSC staff engaged by particular bureaux/departments, the relevant bureaux/departments would be happy to provide.

Social Welfare Department

8. Having noted that there were 199 Employment Assistance Co-ordinators (EACs), 135 Programme Assistants and 133 Community Work Organizers in the Social Welfare Department (SWD), Mr LEE Cheuk-yan queried why, since the Government had laid down the policy to provide employment and community services through SWD, and the 199 EACs had worked in the department for seven to eight years, it was still necessary to review the services, resulting in the NCSC positions not being identified for conversion into civil service posts. Mr LEE pointed out that after the special review of the NCSC Staff Scheme, the Government had started dismissing some of the NCSC staff, although the Government still had to provide the related services. For instance, the Agriculture, Fisheries and Conservation Department had to continue to deploy staff to clear the trenches and to handle the work arising from the improvement projects for the country parks, and yet the department had laid off more than 30 NCSC staff. He opined that outsourcing would lead to low wages and an unstable employment situation for the workers. He asked whether the Government planned to gradually dismiss the 12 000 odd NCSC staff whose positions were considered unsuitable for conversion into civil service posts. Mr LEE also requested the Administration to provide information regarding the timing of the review of the employment services under the employment assistance scheme.

Admin

9. The Deputy Director of Social Welfare (Administration) (DD/SW(A)) responded that the EACs and the Community Work Organizers were engaged in assisting recipients under the Comprehensive Social Security Assistance Scheme (CSSA Scheme) through a co-ordinated programme of counselling, employment and retraining services and engagement in community services. Having regard to the fact that the Labour Department and the Vocational Training Council also provided employment services and training, SWD would have to look into the provision of such services under the CSSA Scheme which might have an impact on the NCSC positions. The Programme Assistants were employed under the Family Support Programme which was introduced in July 2006 and would be subject to review in 2007-2008.

10. Mr KWONG Chi-kin asked why it was necessary to review the services provided by the five Care Assistants.

11. DD/SW(A) replied that the five Care Assistants worked in the two rehabilitation centres operated by SWD, and the department was reviewing the mode of delivery of the related services.

12. Mrs Sophie LEUNG LAU Yau-fun asked whether the number of EACs would be reduced after setting up social enterprises in the community.

13. DD/SW(A) responded that the EACs were responsible for assisting CSSA recipients who were between the age of 15 to 59 through a co-ordinated programme of counseling, employment and retraining services to look for jobs, so that they could re-join the labour force. Since the department would look into the related social welfare policy including the employment services, the future of the concerned NCSC positions would be reviewed in due course. The setting up of social enterprises was a separate issue.

Food and Environmental Hygiene Department

14. Mr WONG Kwok-hing said that the Food and Environmental Hygiene Department (FEHD) had employed over 160 NCSC staff to perform the most obnoxious work in the department, e.g. cleaning and handling of dead bodies. Based on the information provided by 80 odd NCSC staff from FEHD, the number of NCSC staff who had worked for more than five years in the department was as follows:

Year of joining the FEHD	1995	1997	1998	1999	2001
No. of NCSC staff	1	7	68	8	6

Mr WONG pointed out that in the past the NCSC staff had been offered short-term contracts ranging from one to six months and only in recent years they were given one-year contracts, each time at a lower salary. The department had explained that only recently it was allocated with the resources to employ the NCSC staff. Mr WONG said that when the Chief Executive (CE) met representatives of some labour associations in an open forum in November 2005, the NCSC staff of FEHD had conveyed their concern about their employment situation to the CE; and the CE had said that if there was a long term need of their services, the NCSC staff should be employed on a long term basis. Notwithstanding the undertaking given by the CE and the fact that FEHD was allocated with the necessary resources, the NCSC staff were still being offered one-year contracts. As the NCSC staff had worked in the department for a long time, they demanded that the department should offer them longer contracts, i.e. contracts for two to three years, so that they did not have to worry about the renewal of their contracts at the end of each year. Mr WONG requested that the FEHD should honour the CE's undertaking and meet the NCSC staff's demand, as the need for the NCSC staff's service had been established.

15. Deputy Director of FEHD (Administration and Development) (DD/FEHD(A&D)) responded that currently the department employed about 140 NCSC workmen mainly to perform cleansing duties. Despite that the department was given the resources to provide the service, it should be noted that majority of the cleansing service of the department had been contracted out. The department had offered one-year contracts to the majority of its contract staff as it needed to review its service needs, manpower requirements and market situation on a yearly basis before offering contracts to the staff, so as to maintain flexibility.

16. Mr WONG Kwok-hing queried why, since the NCSC staff had worked in the FEHD for a long time, there was no long term need for their service.

17. DD/FEHD(A&D) said that even if there was a long term need for the provision of a particular service, consideration had to be given to the appropriate mode for delivery of the service, e.g. through contracting out the service.

18. Mr WONG Kwok-hing said that the CE had only said that if there was a long term need for a service, the staff involved should be employed on a long term basis, without mentioning that the service should be contracted out. The department should not deviate from what the CE had said.

19. DD/FEHD(A&D) said that FEHD's outsourcing arrangements followed the laid down policy of the Government and the employment of NCSC staff followed the guidelines set out by CSB. SCS added that it was the policy of the HKSAR Government, led by the CE, to operate under the principle of "big market, small government", and to contract out its services where appropriate. Under this policy, bureaux and departments would consider the appropriate mode of delivery of their services.

20. Mr WONG Kwok-hing said that he was furious at the way the Administration handled the matter. As the CE had undertaken to consider offering long term employment to the NCSC staff, the bureaux and departments should honour the CE's undertaking. He opined that even under the "big market, small government" principle, the Government should treat its staff with compassion. As the NCSC staff had worked for FEHD for a long time, they should be offered long term employment.

21. Mr LEE Cheuk-yan said that since it had been raised many times at the Panel meetings that the CE had made an undertaking to allow the NCSC staff in the FEHD to be employed on a long term basis if there was a long term need for the services and the staff had worked in the department for a long time, the CE should be requested to clarify on the undertaking given.

22. SCS responded that all bureaux and departments followed the Government's laid down policy in employing NCSC staff. Before it could consider replacing NCSC positions by civil service posts, the Administration had to be satisfied that there was a long term need for the NCSC positions and that civil servants were considered more

appropriate for discharging duties currently performed by the NCSC staff. Establishment of the long term need of the NCSC positions alone did not fully meet the criteria for creation of civil service posts to replace NCSC positions.

23. Mr WONG Kwok-hing opined that notwithstanding the established policy for the NCSC Staff Scheme, the Government should respond to the prevailing aspirations of the parties concerned and the need of the community, and consider revising the relevant policy. The Government could not stick to a draconian policy rigidly without paying due attention to the demand of the public, the civil service and the NCSC staff. The Administration had avowed to promote a just, compassionate and harmonious community. Since the CE had undertaken to review the NCSC staff situation, the bureaux and departments should review it to see if there were any problems with the policy, e.g. departure from the original objectives of the scheme, taking into consideration public aspirations and opinions. Mr WONG said that it was reasonable for the relevant bureaux and departments to review afresh the NCSC staff situation, given the concern expressed by the relevant parties, and the CE's undertaking to review the situation at the open forum held in November 2005 and on subsequent occasions. Mr WONG reiterated that the NCSC staff had undertaken the most obnoxious duties in the FEHD for eight to ten years, and yet they did not enjoy the benefits of civil service staff. The NCSC staff did not ask to be converted into civil servants but only requested for contracts of a longer duration, i.e. two to three years. Since the department had obtained the resources to employ the staff, and the Administration aimed to create more job opportunities, the Government should review the situation of the NCSC staff, taking into consideration the contribution of the staff concerned. Mr WONG opined that the outsourcing policy, said to be saving public money, had forced the workers to accept unreasonably low wages. Mr WONG said that the CE should understand that there was a "big market, small government" policy, and yet he had agreed to review the NCSC staff situation. He requested that CSB and FEHD should review the NCSC staff situation afresh.

24. SCS responded that the CSB and relevant bureaux/departments had taken nine months to conduct a review of the NCSC positions which was completed just three months ago. The Administration had explained in detail the outcome of the review to the Panel. For the management of the civil service and NCSC staff, the Government had to take into consideration the laid down policy, the need to obtain value for the public money spent, and the need to implement public policy in an objective manner.

25. Mr WONG Kwok-hing reiterated that CSB and FEHD should review the NCSC staff situation afresh, as bureaux and departments had not responded to the problem of the NCSC staff, and had not honoured the CE's undertaking to review the situation of the NCSC staff, despite that a review had been completed just three months ago and the Panel had been discussing the outcome of the review since December 2006. Mr WONG opined that public money had not been wasted as the NCSC staff had worked loyally for the department for eight to ten years even at reduced wages.

26. In response to Mr KWONG Chi-kin's enquiry about the duties of the NCSC position of Building Services Engineer, DD/FEHD(A&D) said that the Building Services Engineer was responsible for monitoring the electrical and mechanical services provided by the Electrical and Mechanical Services Trading Fund (EMSTF) and private contractors.

Electrical and Mechanical Services Department

27. Ms LI Fung-ying was concerned that only 14 out of the 1 054 NCSC positions in the EMSD would be converted into civil service posts, and the converted posts were all at officers' level. She asked whether the department would be fully privatized. Ms LI pointed out that as the department no longer recruited civil servants, a succession problem would soon emerge as a result of the departure of the existing civil servants through retirement.

28. Deputy Director of EMSD (Regulatory Services) (DD/EMSD(RS)) responded that the 14 NCSC positions pending conversion into civil service posts were mainly engaged in regulatory services, which should more appropriately be performed by civil servants for the sake of impartiality and stability. EMSD considered that, given the keen competition in the market for electrical and mechanical services and business fluctuations, the EMSTF needed an appropriate mix of civil servants and NCSC staff and the current mix was about 77: 23 in respect of the overall establishment of the department. Excluding the 94 Contract Technician/Craft Apprentice positions, the ratio between civil servants and NCSC staff in the department was about 80:20 respectively. DD/EMSD(RS) stressed that EMSD had a succession plan for its civil service staff, but had no plan to privatize the department. SCS added that she was not aware of any proposal by the concerned policy bureau to privatize the EMSD. She said that a general recruitment freeze on the civil service had been introduced since 2003. A recruitment freeze was also imposed on the civil service grades included in the second Voluntary Retirement Scheme until March 2008. As the recruitment freeze would, in the long term, affect the succession arrangements in the civil service, CSB had embarked on a review of the policy on the recruitment freeze and would report the findings to the Panel upon the completion of the review.

Admin

29. At the request of Ms LI Fung-ying, DD/EMSD(RS) undertook to provide information regarding the number of civil service Works Supervisor and Senior Artisan/Artisan grades staff who would retire in the next three and five years.

Buildings Department

30. Mr KWONG Chi-kin was concerned that the Buildings Department (BD) employed 781 NCSC staff, including 47 Contract Structural Engineers and 71 Contract Building Surveyors, to meet service needs that were time-limited, short-term or seasonal in nature, compared with only 126, 80 and 95 NCSC staff in the SWD, FEHD and EMSD respectively.

31. Deputy Director of Buildings (DD/B) responded that BD had embarked on a large-scale programme since 2001 to enforce regulations on unauthorized structures and enhance the safety of buildings. The target was to demolish 150 000 to 300 000 unauthorized structures in buildings within five years. In view of the magnitude and the tight time-frame of the project, the department had to employ a large number of NCSC staff to assist in implementing the programme.

32. Mr KWONG Chi-kin was concerned about the progress of the special programme. He pointed out that in view of their large number, unauthorized structures would still exist after the special programme. He opined that a core team of enforcement staff, say 500 permanent staff and 200 to 300 temporary staff, should be set up to deal with the issue.

33. DD/B responded that enforcement of the building regulations was one of the core duties of BD. A designated team of civil servants was responsible for dealing with unauthorized structures on buildings. As a large-scale demolition plan was drawn up in 2001 to clear 150 000 to 300 000 unauthorized structures within five years, the department had to employ NCSC staff to assist in implementing the programme. DD/B said that between 2001 and 2005, about 190 000 unauthorized structures had been demolished and the safety condition of about 8 000 buildings had been improved. After a review of the programme in 2005 and in view of the fact that a large number of unauthorized structures with priority for demolition according to the department's enforcement policy had yet to be cleared, the department started another five-year programme, i.e. from 2006 to 2011, to demolish 180 000 unauthorized structures and to improve the safety condition of 5 000 buildings.

34. Mr KWONG Chi-kin opined that BD had abused the NCSC Staff Scheme, as it had envisaged that the enforcement project against unauthorized structures would last for ten years and yet it did not employ permanent staff to handle the work, especially in view of the fact that unauthorized structures would continue to exist after the special enforcement project. Mr KWONG said that BD should review its policy of employing NCSC staff to undertake the enforcement project and convert some of the NCSC positions into civil service posts.

Hongkong Post

35. With reference to Annex C of LC Paper No. CB(1)843/06-07(03), Mr LEE Cheuk-yan pointed out that although the contract weekly working hours of the Contract Workers were 18 to 36 hours, their average weekly working hours reached 48.7 hours. In the case of Part-time Sorters, the contract hours were 18 to 24 hours per week whereas their average weekly working hours amounted to 47.9 hours. He opined that in such circumstances, the contract hours for the staff should be increased. He said that if the NCSC positions were not converted into civil service posts simply because their working hours were a few hours short of the required conditioned working hours for civil servants, the department should allow the NCSC staff to work a few more hours in order to meet the time requirement for civil service posts. He asked whether the statistics in Annexes C and D only covered the type of NCSC staff who were employed

to meet service needs which were time-limited, short-term or seasonal in nature. Mr LEE also asked whether the Hongkong Post had removed the word "contract" from the post titles of the NCSC staff and the reason for such a change.

36. Deputy Postmaster General (DPMG) explained that Annex C of LC Paper No. CB(1)843/06-07(03) showed the working hours of the "part-time" NCSC staff employed by Hongkong Post to meet service needs that required staff to work less than the conditioned hours required of civil servants. Quoting Part-time Sorters as an example, DPMG said that it was only for 7.2 weeks in 2006 that the NCSC staff had worked 47.9 hours per week on average. DPMG said that the word "contract" was removed from the post titles of the NCSC staff because the department wanted to remove the nomenclature distinction between civil servants and NCSC staff so as to enhance collaboration among the staff, who should work as members of one family.

37. Mr LEE Cheuk-yan said that members of the same family should enjoy the same benefits. He wondered whether the removal of the word "contract" from the post titles of NCSC staff would imply that the staff would not be bound by a contract and would work continuously in the department until and unless the department advised the staff their services were no longer required. Mr LEE pointed out that since the "part-time" staff had to work long hours of overtime, the full-time staff of Hongkong Post would inevitably have to work even longer hours of overtime, which should reflect that the business of Hongkong Post was extremely stable, and was not subject to such a level of fluctuation that the department had to maintain a large number of "part-time" staff. Based on the statistics, there should be scope for the Hongkong Post to convert some of the NCSC positions into civil service posts. Mr LEE pointed out that the Panel had agreed to further discuss the NCSC staff situation in the Hongkong Post, and other departments at the next meeting.

V Integrity enhancement initiatives for civil servants

(LC Paper No. CB(1)843/06-07(04) — Information paper provided by the Administration)

38. SCS said that an honest and clean civil service was vital to maintaining effective governance. The Administration was committed to upholding high standards of integrity and probity in the civil service. The commitment was enshrined in the rules and regulations governing conduct in the civil service, which laid down clear guidelines against malpractices. To safeguard the integrity in the civil service, a three-pronged approach was adopted, namely prevention, education and sanction. Where, following impartial investigations and proceedings, a civil servant was found guilty of misconduct, disciplinary sanctions were strictly enforced.

39. Members noted the information paper.

VI Briefing by the Administration on the progress of the disciplinary proceedings surrounding the Harbour Fest case conducted by the Civil Service Bureau

- (LC Paper No. CB(1)882/06-07(01) — Letter from Hon CHEUNG Man-kwong dated 27 January 2007
- LC Paper No. CB(1)882/06-07(02) — Information paper provided by the Administration
- LC Paper No. CB(1)891/06-07 — Background brief on follow-up actions taken by the Legislative Council and the Government in relation to the Hong Kong Harbour Fest prepared by the Secretariat)

40. The Chairman said that at the request of Mr CHEUNG Man-kwong, the item was included in the agenda to replace the item on "Update on Occupational Safety and Health in the Government". Owing to the short notice, the paper was provided by the Administration only in the evening of the previous day and was issued to members before the meeting. The paper was also tabled at the meeting. The Chairman stressed that the Public Accounts Committee (PAC) and the Panel on Financial Affairs (FA Panel) had reported on their findings of inquiry into the issues surrounding Harbour Fest, and the present paper focused on the disciplinary proceedings against a civil servant involved in the Harbour Fest event. He pointed out that the Panel should not repeat the work already undertaken by the PAC and the FA Panel, and should concentrate on the civil service disciplinary mechanism, progress of the disciplinary proceedings on the civil servant concerned, etc.

(Post-meeting note: Information paper LC Paper No. CB(1) 882/06-07(02) was circulated to members on 9 February 2007.)

Briefing by the Administration

41. SCS said that CSB was informed about a week ago of the outcome of the appeal to the CE by the civil servant involved in the disciplinary proceedings in relation to the Harbour Fest. She said that it was the Administration's established practice not to disclose the details of individual disciplinary cases, and the CSB's decision to give an account to the Panel of the process and the outcome of the disciplinary proceedings surrounding the Harbour Fest was extremely exceptional. This exceptional decision was taken primarily to uphold confidence in the integrity of the civil service disciplinary mechanism. She stressed that the relevant disciplinary proceedings were conducted in accordance with the laid down procedures under the Public Service (Administration) Order (PS(A)O). The principles of natural justice, including the rules against bias and the right to a fair hearing, had been observed in the disciplinary proceedings. SCS said that members should also be aware that the civil servant concerned, after being informed of the outcome of his appeal to the CE, had publicly stated that he would seek legal advice to pursue all avenues of appeal. In the circumstance, SCS said that she would take special caution in speaking on the issue at the Panel so as not to compromise the

Administration's position in possible judicial review in connection with the case. She said that she hoped to have members' understanding if she could not answer some of the questions raised by members.

Accountability of Principal Officials in the event

42. Mr CHEUNG Man-kwong said that he was very disappointed with the Government's report on the outcome of the disciplinary actions on officers involved in the Harbour Fest. Likewise, the public would not be satisfied with the result as the report had only focused on the disciplinary proceedings and outcome of a civil servant involved in the Harbour Fest event, and had not comprehensively and fairly dealt with the accountability issues of those Principal Officials involved in the event, including the Financial Secretary, the Secretary for Commerce, Industry and Technology, the Secretary for Economic Development and Labour, and the Secretary for Financial Services and the Treasury. He opined that the Harbour Fest held in 2003 was a fiasco in which \$100 million of public money had been wasted. Mr CHEUNG said that all members would agree that the Controlling Officer of the project had to shoulder the responsibility for failing to discharge his duties. However, this did not preclude the need for identifying the responsibility of those Principal Officials who were involved in the event. Mr CHEUNG was dissatisfied that the Government simply took disciplinary actions against an individual civil servant but did not take any action against the concerned Principal Officials who were involved in the event. He opined that such a course of action was unacceptable and unreasonable. He requested that the Administration should provide the Chief Secretary (CS)'s full report on the issue so that the Panel could know whether the report had dealt with the aforesaid questions regarding the concerned Principal Officials. Otherwise, the report was biased, erroneous and incomprehensive. Having noted that the Financial Secretary (FS) had been one of the four witnesses giving testimony in the Inquiry Committee, Mr CHEUNG queried whether it was appropriate for the FS, who had admitted his responsibility for the event, to be a witness. Mr CHEUNG said that only when the responsibility of the concerned Principal Officials in the Harbour Fest fiasco was properly dealt with would the controversy surrounding the Harbour Fest be settled. He said that SCS should reflect his view to the CE who should state his view on the matter.

43. SCS responded that the disciplinary proceedings in the current case were conducted in accordance with the provisions set out in the PS(A)O which was only applicable to civil servants. The Principal Officials appointed under the Accountability System were not covered by the PS(A)O. A separate code had been drawn up governing Principal Officials appointed under the Accountability System. These Officials were accountable to the CE for the outcome of their decisions and policies. SCS pointed out that the CE had made a statement on 17 May 2004 in response to the report submitted by the Independent Panel of Inquiry (IPI) on the Harbour Fest, which stated that "I (the CE) accept the Panel's findings and recommendations. I agree with the Panel that all of the parties involved in the various phases of the project were responsible in their respective ways." As the Chairman of the Economic Relaunch Working Group (ERWG), the FS had also made a statement after the release of the IPI report, stating that "as Chairman of the ERWG, I have overall responsibility for all the activities of the

ERWG." SCS said that the concerned Principal Officials had attended the meetings of the FA Panel in 2004 and 2005 to answer members' questions regarding the responsibility for the Harbour Fest. As such, the question relating to the Principal Officials' responsibilities in the Harbour Fest had been dealt with. The outstanding issue regarding the Harbour Fest was therefore the disciplinary proceedings conducted on a civil servant involved in the event. The appeal to the CE by the civil servant concerned was disposed of on 26 January 2007 and the present paper gave an account of the disciplinary proceedings and outcome of the appeal to the Panel. SCS stressed that the civil servant concerned had submitted his representations in relation to the disciplinary case to the CE under section 20 of the PS(A)O. The CE had delegated to the CS the authority to determine the representations on his behalf, and the CS had made the decision to uphold the Inquiry Committee's findings accepted by SCS, in accordance with the PS(A)O.

44. Mr LEE Cheuk-yan said that he agreed with Mr CHEUNG Man-kwong's view that the \$100 million spent on the Harbour Fest had been wasted and the Controlling Officer of the event as well as those Principal Officials concerned should collectively be held accountable for the event and be punished together. He also enquired whether it was appropriate for the FS to give testimony before the Inquiry Committee. Mr LEE considered that the accountability issue of the concerned Principal Officials involved in the Harbour Fest case should be followed up by the relevant panel.

45. Mr CHEUNG Man-kwong reiterated his concern as to whether it was appropriate for the FS, who had overall responsibility for the Harbour Fest fiasco, to give testimony before the Inquiry Committee. Mr CHEUNG also opined that the Principal Officials involved in the Harbour Fest had been treated extremely lightly despite the fact that the CE had already come to the view that all of the parties involved in the various phases of the project were responsible in their respective ways and that the FS, being the Chairman of the ERWG, had already admitted that he should have the overall responsibility for all the activities of the ERWG. As \$100 million of public fund had been wasted, he considered that the level of punishment for the concerned civil servant, which was merely a fine of about \$160,000, was unfairly light. Worse still, those Principal Officials involved in the event were not subject to any form of punishment. He queried whether it was a typical case of protection among the peers in the Administration. Mr CHEUNG opined that as an accountable Principal Official, the SCS had a duty to reflect the unreasonable treatment in the disciplinary proceedings surrounding the Harbour Fest to the CE. He asked whether SCS would reflect the case to the CE.

46. SCS said that the former CE had dealt with the issue relating to the responsibility of the Principal Officials in the Harbour Fest and that she had nothing further to add.

47. Mr CHEUNG Man-kwong said that the public would not be satisfied with the outcome of the disciplinary proceedings on officials involved in the Harbour Fest fiasco, and the way the whole affair surrounding the Harbour Fest was handled. Mr CHEUNG said that he would follow up on the related matters. He said that the arrangement was regrettable as there was an existing institutional channel to reflect the views of members to the CE, and yet this could not be done. Mr CHEUNG said that when the Accountability System for Principal Officials was set up, the SCS was vested with the duty to reflect to the CE any views regarding the unfair treatment of civil servants. Mr CHEUNG opined that the imposition of a fine of \$160,000 on the civil servant concerned was an unfair judgment in view of the gravity of the misconduct involved; and it was even more unfair that the accountable Principal Officials were not held responsible for the matter.

Misconduct charges

48. With reference to paragraph 14(a) to 14(e) of the information paper, Mr WONG Kwok-hing enquired as to which misconduct charge laid against the civil servant was found by the Inquiry Committee as "substantiated", and which four charges were found "partially substantiated".

49. SCS replied that the Inquiry Committee had found the misconduct charge at paragraph 14(a) "substantiated" and the other four charges in paragraph 14(b) to 14(e) "partially substantiated".

50. Mr WONG Kwok-hing pointed out that the individual charges in paragraph 14(b) to 14(e) also covered different aspects. He asked which parts of the charges in these paragraphs were "substantiated".

51. SCS responded that she was not in a position to provide further information in these respects.

52. Mrs Sophie LEUNG LAU Yau-fun said that any charges of misconduct against a civil servant should be based on certain regulations. She opined that the magnitude of such an event as the Harbour Fest was unprecedented in Hong Kong, and there was no local expertise available to determine whether the prices offered to the entertainers were reasonable. Consideration should be given to the fact that the civil servant had no previous experience in supervising such an event, and the tight time frame within which the event was organized. She opined that the disciplinary proceeding against the civil servant could only be made on the basis of the officer's failure in discharging his duties as a controlling officer.

Time limit for handling appeals

53. With reference to paragraph 21 of the paper, and having noted that the civil servant concerned had submitted his representations in relation to the disciplinary case to the CE in mid-October 2005, and the civil servant was informed of CS's decision on 26 January 2007, Mr WONG Kwok-hing asked why it took the CS nearly 16 months to

consider the case, and whether there was any time-limit for handling such cases. He opined that the setting of time-limit for disciplinary hearings would enhance the transparency of the system, without affecting the impartiality of the hearings. Mr WONG said that the Administration should consider setting a time-frame for disciplinary hearings, including handling of appeals.

54. SCS responded that in dealing with civil service disciplinary cases, the principles of natural justice, including the rule against bias and the right to a fair hearing should be adhered to. The decision on a disciplinary case, including handling of appeals, should not be made hastily because of a time limit set for such proceedings. She pointed out that the processing of the current case involved the scrutiny of a large number of documents, and the CS had taken time to examine the evidence and representations before coming to a fair and impartial decision. She said that it was the civil service's established practice to be very careful and thorough in handling disciplinary cases to ensure that each case was handled in a thorough, equitable and just manner.

55. Mr LEE Cheuk-yan pointed out that, with reference to paragraphs 14 and 16 of the discussion paper, it was unreasonable for the SCS to accept the Inquiry Committee's findings within three months and yet the CS had spent about 16 months to consider the civil servant's representation, taking into account the fact that the same amount of documents was presented to the SCS and the CS. Mr LEE opined that it was unreasonable that the CS had to spend 16 months to consider one civil service disciplinary case; and wondered whether this was a dereliction of duty on the part of the CS. The timing for announcement of the CS's decision was also extremely sensitive as it was made just before the CE election. Mr LEE asked whether there were political considerations in timing the announcement of CS's decision on the disciplinary case against the concerned civil servant.

56. SCS stressed that the disciplinary proceedings conducted on a civil servant in connection with the Harbour Fest did not involve any political considerations. She pointed out that part of the SCS's core duties was to deal with disciplinary matters relating to civil servants, whereas the CS's main responsibilities did not include the handling of civil service disciplinary cases. It was therefore not surprising that the SCS took less time to process a disciplinary case than the CS.

57. Ms LI Fung-ying asked whether the officer had paid the fine. She also queried whether it was fair to a civil servant if the CE had to take about 16 months to consider his representation made under section 20 of the PS(A)O. She asked whether it would be more appropriate to set a time-limit for the CE to handle such cases. Ms LI also enquired as to whether the CE had asked the CS to review the Harbour Fest disciplinary case just, say, two weeks ago.

58. SCS responded that action had already been initiated to collect the fine from the civil servant concerned. She said that her personal view was that it was not appropriate to set a time frame for processing civil service appeal cases, as this could result in the relevant official not having sufficient time to review extraordinarily complex cases,

which would not be compatible with the principle of natural justice. In her view, civil servants subjected to disciplinary hearing would want their cases to be disposed of pursuant upon a meticulous, thorough and fair review, and setting a deadline would not be conducive to this process. SCS said that the CE delegated to the CS the authority to determine the representations made by the civil servant concerned on his behalf in early 2006.

59. Ms LI Fung-ying disagreed that the setting of a time-limit for processing appeals from civil servants would lead to the cases being disposed of hastily. She pointed out that many departments had made performance pledges on their service by setting deadlines for processing particular cases, and this did not mean that the cases would be handled lightly. Instead a performance pledge facilitated the monitoring of the efficiency of the Administration. A civil servant facing disciplinary hearing would want to know the outcome of the hearing within a set period, and would not want to wait endlessly for the result. She opined that different time-limits could be set for the CE to review cases of different levels of complexity.

Level of penalty

60. Mr KWONG Chi-kin asked about the total amount of the fine imposed on the civil servant.

61. SCS informed members that the fine imposed on the civil servant, which was equivalent to reduction in salary by two increments for 12 months, amounted to \$156,600.

62. Mr KWONG Chi-kin opined that the fine was relatively small taking into account the fact that \$100 million of public money had been wasted. He queried whether the penalty on the civil servant involved in the Harbour Fest fiasco was too light by quoting two examples. Mr KWONG said that in the first case a policeman was indebted after the outbreak of the Severe Acute Respiratory Syndrome which had caused his wife to be unemployed. The policeman was dismissed after reporting his indebtedness to the department despite that he should be able to repay the debt over a period of time. The policeman's appeal to the SCS and the CE were quashed. In the second case, a Postman had a squabble with his senior officers and pushed his two supervisors. In the incident, the Postman was accused of committing two assaults and was dismissed. Mr KWONG said that if the incident was counted as one assault case, the Postman would not be dismissed. Moreover, the Postman was provoked by his supervisors in committing the assault. By comparing the Harbour Fest case with the two cases quoted above, Mr KWONG said that it would seem that the penalty imposed on senior civil servants who were found guilty of misconduct was relatively light, i.e. a fine of about \$160,000 and a caution of removal from the office in the event of further misconduct, whereas junior officers were dismissed even if they only committed relatively lighter offences, and there were mitigation reasons. Mr KWONG queried whether natural justice was administered in the handling of civil service disciplinary cases.

63. SCS responded that the factors which CSB had taken into consideration in imposing the penalty on the civil servant involved in the Harbour Fest case were set out in paragraph 20 of the discussion paper. She reiterated that it was very exceptional for CSB to give an account to the Panel of the process and the outcome of the disciplinary proceedings on a civil servant involved in the Harbour Fest, and she would not comment on other disciplinary cases.

64. Mr KWONG Chi-kin was concerned that whilst CSB's judgment on whether a civil servant was guilty of misconduct might be fair, there was a blatant loophole in the whole civil service disciplinary system, namely the head of the relevant department was to make recommendation on the penalty to be imposed on the civil servant. He considered that the supervising officers concerned would be naturally biased when considering the level of penalty, especially in marginal cases where a civil servant might be dismissed or given a lighter penalty. There would also be a possibility of favouritism if the supervisors wanted to protect a particular staff.

65. SCS responded that whenever a penalty was proposed as a result of a civil service disciplinary hearing held under the relevant sections of PS(A)O, a recommendation on the level of punishment would be made to the Public Service Commission (PSC), a statutory and independent body, for advice. Based on the advice of the PSC, the disciplinary authority would decide on the level of punishment.

66. Mr KWONG Chi-kin reiterated that if the relevant department was responsible for recommending the level of punishment, the head of department might be biased in his recommendation, especially in cases where a junior officer was involved in disputes with his supervisors.

67. SCS responded that the existing civil service disciplinary system was a fair and transparent system underpinned by the PS(A)O. The system was well established and had been in practice for a long time. To address the allegation of possible bias, a statutory and independent body, namely the PSC, had been established to vet cases involving imposition of penalty against civil servants.

68. Mr KWONG Chi-kin opined that since there was a blatant loophole in the civil service disciplinary system, namely the relevant department was allowed to make recommendation on the level of punishment on a civil servant guilty of misconduct, the Panel should examine the system as a separate discussion item.

Chairman's remark

69. The Chairman pointed out that, with reference to the Background Brief prepared by the Legislative Council Secretariat on the issue, the FA Panel had met the FS, the civil servant concerned and the former Chairman of AmCham in deliberation of the affairs relating to the Harbour Fest, and had expressed dissatisfaction with the way the Government had handled the event, but there was no mentioning about disciplinary actions. The PAC report only recommended that disciplinary action should be taken

against the civil servant involved but not other officers. This Panel mainly concentrated on the disciplinary mechanism of the civil service, and any issues surrounding the Harbour Fest should be discussed at the appropriate Panel or committee. The Chairman said that he and the Deputy Chairman would consider after the meeting whether a special agenda item should be included in a future Panel meeting to discuss the disciplinary system in the civil service, including the determination of the level of punishment, the setting of a time-limit for handling appeals, etc.

VII Any other business

70. There being no other business, the meeting ended at 1:05 pm.

Council Business Division 1
Legislative Council Secretariat
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