

立法會

Legislative Council

LC Paper No. CB(1)870/09-10

(These minutes have been
seen by the Administration)

Ref : CB1/PL/ PS/1

Panel on Public Service

Minutes of meeting held on Monday, 19 October 2009, at 10:45 am in the Chamber of the Legislative Council Building

Members present : Hon LEE Cheuk-yan (Chairman)
Dr Hon PAN Pey-chyou (Deputy Chairman)
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Hon LI Fung-ying, BBS, JP
Hon LEUNG Kwok-hung
Dr Hon LEUNG Ka-lau
Hon WONG Sing-chi
Hon IP Wai-ming, MH
Hon Mrs Regina IP LAU Suk-ye, GBS, JP

Member attending : Hon WONG Kwok-hing, MH

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

**Public officers
attending** : **Agenda item III**

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

Mrs Ingrid YEUNG, JP
Deputy Secretary for the Civil Service 1

Ms Mimi LEE
Deputy Secretary for the Civil Service 3

Mr Patrick CHAN Nim-tak
Director of General Grades

Agenda item IV

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

Mrs Ingrid YEUNG, JP
Deputy Secretary for the Civil Service 1

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (1)2

Staff in attendance : Mr YICK Wing-kin
Assistant Legal Adviser 8

Ms Sarah YUEN
Senior Council Secretary (1)6

Miss Winnie CHENG
Legislative Assistant (1)5

Action

- I Information papers issued since the last regular meeting on 29 June 2009**
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| (LC Paper No. CB(1)2026/08-09(01) | — Letters from Hong Kong Leisure Services Staff General Union |
| LC Paper No. CB(1)2235/08-09(01) | — Administration's paper on employment of non-civil service contract staff |
| LC Paper No. CB(1)2330/08-09(01) | — The 20th Report on the Work of the Advisory Committee on Post-service Employment of Civil Servants |
| LC Paper No. CB(1)2354/08-09(01) | — Administration's response to letters from Hong Kong Leisure Services Staff General Union |

- LC Paper No. CB(1)2494/08-09(01) — Submission on conversion of a staff standby room of the Marine Department into the office of the Department's Fleet Operation Section from Marine Department Staff Alliance Branch
- LC Paper No. CB(1)2502/08-09(01) — Correspondence on the posting of slogans between the Marine Department and its Staff Alliance Branch
- LC Paper No. CB(1)2503/08-09(01) — Submission on inclusion of the librarian grade in the list of public officers (enforcement officers) under the Fixed Penalty (Smoking Offences) Ordinance from the Government Librarians Association
- LC Paper No. CB(1)2512/08-09(01) — Submission on operation of labour unions from the Government Employees Solidarity Union
- LC Paper No. CB(1)2580/08-09(01) — Administration's paper on finalized Civil Service Code issued by the Civil Service Bureau
- LC Paper No. CB(1)2706/08-09(01) — Correspondence on the posting of slogans between the Marine Department and the Marine Department Staff Alliance Branch of the Government Employees Solidarity Union
- LC Paper No. CB(1)25/09-10(01) — Administration's response to the submission from Government Employees Solidarity Union on operation of labour unions)

Members noted the above papers issued since the last meeting.

II Items for discussion at the next meeting scheduled for 16 November 2009

(LC Paper No. CB(1)51/09-10(01) — List of outstanding items for discussion

LC Paper No. CB(1)51/09-10(02) — List of follow-up actions)

2. Members agreed to discuss the following items proposed by the Administration at the next regular meeting on Monday, 16 November 2009, at 10:45 am –

- (a) Grade structure review for the directorate grades;
- (b) Grade structure review for the disciplined services; and
- (c) Grade structure review for selected non-directorate civilian grades.

(Post-meeting note: On the instruction of the Chairman, the regular meeting was advanced to Monday, 2 November 2009, at 4:30 pm with the above three items merged into one, namely "Grade Structure Review reports on the directorate, the disciplined services and specific civilian grades".)

III Briefing by the Secretary for the Civil Service on the policy initiatives of the Civil Service Bureau featuring in the 2009-2010 Policy Address

(LC Paper No. CB(1)34/09-10(01) — Administration's paper on policy initiatives of the Civil Service Bureau under the 2009-2010 Policy Address and Policy Agenda

Address by the Chief Executive at the Legislative Council meeting on 14 October 2009 - "Breaking New Ground Together"; and

The 2009-2010 Policy Address - "Policy Agenda")

3. The Secretary for the Civil Service (SCS) briefed members on the Government's new and on-going initiatives relating to the Civil Service Bureau (CSB).

Employment of non-civil service contract staff

4. Mr WONG Kwok-hing welcomed the Government's plan to increase the civil service establishment to meet service needs. Referring to the new civil service posts so arising, he enquired about the success rate of serving non-civil service contract (NCSC) staff in applying for civil service posts.

5. SCS responded that to ensure the quality of the civil service, civil service vacancies were filled through an open, fair and competitive recruitment process. A mechanism had been put in place to inform serving NCSC staff of civil service openings to ensure that the information relating to recruitment of civil servants was drawn to the attention of serving NCSC staff who might be interested to join the civil service, and those who met the relevant entry requirements would be encouraged to apply. NCSC staff would also be reminded to visit relevant Government websites regularly for details on new openings. As she understood from the major user departments of NCSC staff, the average success rate of job applicants who were former NCSC staff (at some 20%) was much higher than that of applicants who were not (at some 2%).

6. Addressing Mr WONG Kwok-hing's concern about those NCSC staff whose applications for civil service posts were unsuccessful, SCS advised that the contracts of those NCSC staff might be renewed if the positions they presently held were not replaced by civil service posts and there was an operational need to retain the NCSC positions. If the NCSC positions they held were identified to be replaced by civil service posts, they would be employed until their contracts expired. They could continue to apply for other civil service posts and NCSC job openings. In some cases, if the departments concerned could identify other NCSC positions of similar job nature, the NCSC staff might also be accommodated in these NCSC positions if they met the relevant job requirements.

7. Mr WONG Kwok-hing expressed concerns about the recent trend of government resorting to the use of agency workers in service delivery, and the impact of the use of such staff on the quality and efficiency of government services and the development of civil servants. He noted that these staff were generally under-paid and could not be entrusted with the handling of confidential information. He requested the Administration to provide details of the relevant policy.

8. SCS advised that the Administration had earlier undertaken to provide supplementary information on the engagement of agency workers by bureaux and departments (B/Ds). The requisite information would take time to collate because at present CSB did not request B/Ds to regularly provide figures in this regard. The information, when available, would be able to provide a snapshot of the present situation, covering the area of services provided by agency

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workers, the number of agency workers engaged by B/Ds, etc. SCS further explained that under the present policy, it was entirely up to the Controlling Officers to determine how the services of their B/Ds should best be delivered and to ensure that there were adequate and appropriate manpower resources to implement the Government's policy initiatives. In so doing, they would take into consideration the need for confidentiality of the work involved, the long-term need for the services concerned, and whether the tasks concerned should more appropriately be performed by civil servants. The Chairman requested provision of the requisite information before the meeting on 21 December 2009 at which the subject "Employment of NCSC staff" would be discussed. SCS responded that the Administration would endeavour to make available the information once ready.

9. The Deputy Chairman stated that the Hong Kong Federation of Trade Unions opposed the employment of NCSC staff because it had given rise to the problem of "different pay for the same job" and it also opposed the engagement of agency workers by the Government. While urging the Administration to reduce the number of NCSC staff and agency workers in the long run, he said that the Administration in the interim should improve the employment terms of these staff, which should not be even worse than those in the private sector.

10. SCS responded that as explained in the Administration's paper, NCSC staff were employed to serve specific purposes and hence had distinctive employment packages. In determining the employment packages of NCSC staff, the Heads of departments (HoDs) concerned would have to ensure that the terms and conditions should be overall speaking no less favourable than those set out under the Employment Ordinance (Cap. 57) and no more favourable than those applicable to civil servants in comparable civil service ranks or with comparable levels of responsibilities where they existed. They also had to give regard to considerations including condition of the employment market, recruitment results and staff retention needs, etc. After the review on the employment situation of NCSC staff in 2006, CSB had also introduced additional measures to ensure that the employment of NCSC staff would adhere to the scope of the NCSC Staff Scheme. SCS said that the employment of NCSC staff by B/Ds had complied with the relevant guidelines promulgated by CSB.

11. Noting that the Government had not imposed any prescribed ratio of NCSC staff to civil servants, Ms LI Fung-ying considered the arrangement undesirable because heavy reliance on NCSC staff would in turn affect the age profile of the civil servants in the departments concerned and give rise to succession problems especially in professional departments. In response, SCS explained that services with a long-term need, or which involved the handling of confidential information or law enforcement, would be performed by civil servants. NCSC staff were mainly employed to meet service needs that were time-limited, short-term or seasonal in nature, etc. She added that with the

continued introduction of new initiatives and the lifting of the ceiling on the civil service establishment, she was confident that the need for civil servants would not be reduced.

12. Mr IP Wai-ming opined that to ensure the quality of government services, civil servants should be recruited to provide government services as far as possible instead of employing NCSC staff. Moreover, even when the employment of NCSC staff and engagement of agency workers were inevitable, the Administration should ensure that their terms of employment would not be worse off than those of civil servants so as not to set a bad example for the private sector. He urged the Administration to review or stop the employment of NCSC staff and engagement of agency workers. SCS explained that it was an established policy that the Government should use the private sector where appropriate, in keeping with the economic and fiscal objectives of maintaining a small and efficient government. At present, she did not see the need to review the employment of NCSC staff or outsourcing of government services. Moreover, there were only 14 000 to 15 000 NCSC staff as against some 160 000 civil servants. The two groups together accounted for only less than 10% of the workforce in Hong Kong.

13. The Chairman pointed out that there was indeed exploitation where engagement of agency workers was concerned as exemplified by the pay cut of 15% to 20% for the agency workers engaged by four B/Ds, namely the Buildings Department, the Correctional Services Department, the Water Supplies Department and the Education Bureau. He said that when their contracts were renewed recently, some were offered a salary of only \$4,900. The Chairman said that cost consideration should not be the only factor governing the Government's manpower policy, and that the tender prices quoted by agencies should not be taken as the market rates. The Chairman asked whether certain departments were engaging agency workers to replace NCSC staff because of the tightened control of the latter.

14. SCS said that despite the imposition of a ceiling on the employment of NCSC staff by individual B/Ds, B/Ds could apply for an upward adjustment of the ceilings imposed where there were justified operational needs. The Chairman suggested that the Administration should examine the correlation between the imposition of ceiling on the employment of NCSC staff and the rising trend in the engagement of agency workers by B/Ds.

Succession problem

15. Mr CHEUNG Man-kwong welcomed the Administration's plan to create 2 500 more civil service posts. He, however, expressed concern that the number still fell short of the difference of 6 000 between the strength and establishment of the civil service, and that if the number of new recruits continued to lag behind that of retirees year after year, the civil service might

face succession problem. He further referred to the Public Service Commission (PSC)'s Annual Report 2008, and pointed out that around two-thirds of the serving officers were aged over 40. On the other hand, the number of retirees would climb steadily in the next 15 years, from the actual annual average of around 3 000 in the past 5-year period from 2003-2004 to 2007-2008, to an estimated annual average of 5 800 from 2013-2014 to 2017-2018, and 7 100 in 2018-2019 to 2022-2023. PSC had already highlighted the need to retain talents from amongst the pool of officers aged between 25 and 34 lest succession to the top levels of the civil service in the long run would be adversely affected. Mr CHEUNG asked whether any measures were in place to tackle the succession problem.

16. Regarding the difference between the strength and establishment of the civil service, SCS explained that the former was always smaller than the latter by some 5 000 to 7 000 mainly because of the need to keep a number of posts on the establishment to accommodate civil servants on pre-retirement final leave. She further explained that not all posts left vacant due to retirement of serving officers would be filled, because in some cases the posts might be deleted in due course as a result of manpower redeployment or revised mode of delivery of service. In fact, of the some 7 500 civil servants recruited and to be recruited from December 2007 to March 2010, only around 5 500 would fill posts left vacant due to retirement. The rest would fill newly created posts.

17. As to concern about succession problems, SCS said that the Administration regularly reviewed the age profile of the civil service and released the relevant figures annually. She also met with every Head of B/D at least once every year to discuss the succession situation at the senior level to ensure that timely actions were taken to address problems in this regard. In a few departments, there was a succession problem mainly because the next generation of HoDs were only one to two years younger than the current generation of HoDs. PSC had already pointed out that for promotion to a HoD post, the selected officer should have preferably three years' active service on assumption of the post to allow sufficient time and continuity for the office holder to lead the department and motivate staff in delivering better services. The Administration was also making efforts to ensure the above as far as practicable.

18. Mr CHEUNG Man-kwong stressed the need to maintain a sufficiently large pool of eligible officers to ensure effective succession planning to prevent problems of age bunching of departmental grade officers at the directorate levels in individual departments (the age bunching problem), particularly in professional departments such as the Department of Justice, where secondment of officers from other departments was infeasible. Pointing out that the age bunching problem would affect the service quality and long-term planning of the departments concerned, he enquired about details of departments that had such a problem.

19. SCS responded that because of two significant periods of expansion of the civil service in the 1970s and 1980s respectively, quite a large number of officers in the junior and middle ranks of the disciplined services would reach the retirement age of 55 in the following five to ten years. The departments concerned were already reviewing their training capacity to ensure that the anticipated number of new recruits would receive adequate training. She was also confident that the education system of Hong Kong would be able to produce sufficient quality candidates for recruitment as civil servants to forestall succession problem in the longer term. CSB would also make efforts to ensure that new recruits to the civil service would be provided with adequate training and support.

20. Ms LI Fung-ying was also concerned about the succession problem, in particular the age bunching problem. In response to her on specific measures to address the problems, SCS elaborated that since late March 2008 when the open recruitment freeze imposed on those grades included in the Second Voluntary Retirement Scheme was lifted, the Heads of B/Ds had been allowed to fill vacancies in most grades through open recruitment as they considered necessary. The Administration had also been stepping up efforts in talent development and closely monitoring the succession situation of all departments. All the above should forestall succession problem in the longer term. Ms LI said that it was necessary for the Administration to have more active forward planning to prevent the succession problem. SCS assured her that with the resumption of open recruitment, no structural succession problem was envisaged. She further explained that the need to recruit a large number of new officers to replace the retiring ones in the disciplined services was not related to the open recruitment freeze as they had not been subject to the freeze. As to the age bunching problem expected to be encountered by a few departments five to ten years later, SCS said that the Administration was making active efforts to improve the situation.

The brain drain problem

21. Mrs Regina IP expressed concern about the brain drain of Administrative Officers (AOs), in particular to non-government public bodies such as the Hong Kong Monetary Authority (HKMA). She was wary that as a result, the professional knowledge in financial affairs of the AOs working in the Financial Services and the Treasury Bureau (FSTB) would lag far behind that of the staff who had worked for a long time in HKMA. As a result, FSTB's ability to regulate the organizations within its purview would be open to doubt. In her view, the recruitment and retention problem of AOs might have to do with the implementation on 1 June 2000 of a new entry system and the introduction of new terms of appointment and conditions of service for new appointees to the civil service, and the stringent control of post-service outside work for directorate civil servants, such as the suspension of monthly pension

payments to retired pensionable civil servants working on a full-time and paid basis in the 16 specified subvented organizations (the pension suspension practice). In response to her call for improvements, SCS made the following points –

- (a) As different from the past two years, newly recruited AOs this year had all reported for duty. In order to contain brain drain in all grades, CSB had conducted with PSC a small-scale job satisfaction survey on seven to eight grades to identify areas for special attention. Meanwhile, as a result of the 2006 Starting Salaries Survey, the Administration had already readjusted the entry pay point of AOs to that before June 2000. Starting salaries surveys would also be conducted every three years and in fact the 2009 exercise had already begun;
- (b) As to the above concern about FSTB, the Administration would suitably determine the posting frequency of AOs working in the financial services or other policy purviews involving relatively technical subjects, in particular those at Staff Grade B or B1. Where circumstances permitted, priority consideration would also be given to posting AOs who had previously worked in FSTB back to the bureau to assume responsibilities at a higher level. In-service training such as attachment to private-sector organizations or attendance of workshops and seminars organized by these organizations would also be arranged. The Administration was also exploring the feasibility of the proposal made by a Member earlier on posting AOs interested in the financial affairs stream to work for two to three years in international financial organizations such as the World Bank and the International Monetary Fund; and
- (c) The pension suspension practice concerning post-service work in subvented organisations, which had been in place since 1980s, was recommended to be abolished in the report of the Committee on Review of Post-Service Outside Work for Directorate Civil Servants. This recommendation and the other recommendations in the report were being considered by the Administration.

22. Mrs Regina IP further suggested that exchange programmes should be arranged for AO grade staff in FSTB to work in HKMA and the Securities and Futures Commission. The Administration noted the suggestion.

Civil service pay adjustments

23. Highlighting the importance of the stability of the civil service, Dr Margaret NG stressed the need to introduce a general enabling legislation on civil service pay adjustment mechanism to provide the legal framework for implementing upward or downward pay adjustments instead of implementing civil service pay reduction by a one-off legislation, and enquired about the progress in this regard. SCS responded that the above proposed legal framework had been discussed for some 20 months with the staff sides in a consultative group established under CSB but the proposal was opposed to by all the staff sides representatives in the consultative group. They preferred, instead, the enactment of one-off legislation to implement each pay reduction as and when it occurred. The Public Officers Pay Adjustment Bill had been introduced because, according to the legal advice obtained by the Administration, for certainty and to forestall possible legal challenges, legislation was required to effect civil service pay reduction.

24. In response to Ms LI Fung-ying on the timetable for making a decision on the introduction of the above general enabling legislation, SCS advised that the above discussions mainly centered around the development of an effective arrangement for implementing both upward and downward pay adjustments arising from the application of the results of the six-yearly Pay Level Survey (PLS). Since the next PLS would be conducted in 2012-2013, the Administration aimed to achieve a consensus or at least a majority view with the staff sides in this regard around 2010 for the Chief Executive (CE)-in-Council's decision.

25. Referring to the Government's recent decision to impose a pay cut of 5.38% on civil servants in the upper salary band and above, Dr Margaret NG opined that to ensure stability of the civil service and the community, unless the Government's fiscal position was very stringent, pay freeze instead of pay cut should be implemented as far as practicable.

26. SCS responded that the CE-in-Council had decided on the 2009 civil service pay adjustment in strict accordance with the annual civil service pay adjustment mechanism and had taken into consideration the six relevant factors, namely the net pay trend indicators, the state of the economy, changes in the cost of living, the Government's fiscal position, the pay claims of the staff sides, and the state of the civil service morale. Civil service pay adjustments were therefore not determined arbitrarily and the Government was obliged to ensure the prudent use of public resources.

27. Noting the disputes surrounding the survey field and results of the 2009 Pay Trend Survey (PTS), Dr Margaret NG saw a need for an arbitration mechanism in this regard. SCS responded that the companies to be included in each year's survey field were in fact decided by the staff side

representatives, management representatives and the non-official members of the tripartite PTS Committee together. In fact, the views and concerns as expressed by some of staff side representatives, including concerns about the inclusion of two companies code named L057 and L080 in the 2009 survey field, had been fully considered by the CE-in-Council. The CE was satisfied that the 2009 PTS had been conducted in strict accordance with the survey methodology.

Grade structure reviews (GSR)

28. The Deputy Chairman enquired whether there were plans to conduct GSRs more regularly and if so, the relevant details. SCS responded that the CE-in-Council would come up with a decision on the frequency of future reviews when it considered and decided on the recommendations in the GSR reports on the directorate, the disciplined services and specific civilian grades before end October 2009.

IV Review of post-service outside work for directorate civil servants

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| (LC Paper No. CB(1)34/09-10(02) | — Administration's paper on review of post-service outside work for directorate civil servants |
| LC Paper No. CB(1)39/09-10 | — Updated background brief on the policy on post-service employment of former directorate civil servants prepared by the Legislative Council Secretariat) |

29. SCS briefed members on the outcome of the consultation on the recommendations of the Committee on Review of Post-service Outside Work for Directorate Civil Servants (the Recommendations).

30. Mr WONG Kwok-hing highlighted the motion on "Monitoring the post-retirement employment of the Chief Executive, principal officials under the accountability system and civil servants at directorate level with private-sector organizations" passed by the Council on 2 February 2005, and enquired about how the post-office employment control of politically appointed officials was being followed up. SCS responded that the subject was under the purview of the Constitutional and Mainland Affairs Bureau (CMAB) and members' concerns in this regard would be conveyed to CMAB for consideration. The Chairman added that as agreed at the Panel meeting on 13 July 2009, concerns in this regard had been referred to the Panel on Constitutional Affairs for follow-up discussion.

31. Noting from the Administration's paper that many of the respondents consulted on the Recommendations did not see the justifications for imposing further restrictions to limit the freedom of work by directorate civil servants after leaving the service, Mr CHEUNG Man-kwong expressed concern that this view might not represent public sentiments because the parties consulted were mainly civil servants and civil service bodies. Mr CHEUNG said that he was particularly concerned about the finding that "Some respondents contend that the controls imposed on directorate civil servants should not be more stringent than those imposed on political appointees". He considered that since directorate civil servants were well remunerated during their service with the Government and could enjoy generous retirement benefits, it should be reasonable to restrict their right to pursue post-service outside work. This could avoid suspicion or perception of "deferred reward" for past favour given by a former directorate civil servant in his official position to a particular entity or individual in return for lucrative post-service employment.

32. SCS advised that the Administration would take into consideration all the views received during the consultation and Panel members' views in formulating the Administration's stance on the Recommendations. To ensure the legality of the Recommendations, the Administration would also seek legal advice on the relevant issues. SCS added that the Advisory Committee on Post-service Employment of Civil Servants and PSC had been invited to give their views during the consultation exercise.

33. Mr CHEUNG Man-kwong pointed out that the Recommendations, which only sought to enhance vetting procedures during the application stage and to lengthen the periods of restrictions, were in fact not directed at restricting senior civil servants' right to work after leaving the Government. He considered that these enhancement measures had been put forward in response to public expectations for improvements to address the issue of "deferred reward". He suggested that the above background should be clearly explained to civil servants so that they would understand the reasons for the proposed tightened control.

34. SCS emphasized that "deferred reward", if substantiated, would constitute a criminal offence and could be referred to the relevant enforcement agencies for action notwithstanding the expiry of the relevant periods of restrictions. Mr CHEUNG said that there might be difficulty in substantiating such cases given the difficulty in collecting evidence. He remained of the view that there was a need to ensure that appropriate restrictions on taking up post-service outside work should be imposed whenever there were reasonable causes for suspicion of "deferred reward".

35. In reply to the Chairman on the timetable for taking forward the Recommendations, SCS said that after receiving and considering the legal advice on the relevant issues, the Administration would formulate its stance on

the Recommendations for the consideration and decision of the CE-in-Council. She was unable to give a definite timeframe for taking forward the Recommendations at the present stage.

V Any other business

36. There being no other business, the meeting ended at 12:30 pm.

Council Business Division 1
Legislative Council Secretariat
15 January 2010