

立法會

Legislative Council

LC Paper No. CB(1)173/11-12
(These minutes have been seen
by the Administration)

Ref : CB1/PL/ PS/1

Panel on Public Service

**Minutes of meeting held on
Monday, 20 June 2011, at 10:00 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Mrs Regina IP LAU Suk-ye, GBS, JP (Chairman)
Hon IP Wai-ming, MH (Deputy Chairman)
Hon LEE Cheuk-yan
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Hon TAM Yiu-chung, GBS, JP
Hon LI Fung-ying, SBS, JP
Hon WONG Sing-chi
Dr Hon PAN Pey-chyou

Members absent : Dr Hon LEUNG Ka-lau
Hon LEUNG Kwok-hung

Public officers attending : **Agenda item III**

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

Mr Raymond H C WONG, JP
Permanent Secretary for the Civil Service

Mr Brian LO, JP
Deputy Secretary for the Civil Service 2

Mrs HONG CHAN Tsui-wah
Principal Education Officer (Professional
Development & Training)
Education Bureau

Agenda item IV

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

Mr Raymond H C WONG, JP
Permanent Secretary for the Civil Service

Mr Brian LO, JP
Deputy Secretary for the Civil Service 2

Agenda item V

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

Mr Raymond H C WONG, JP
Permanent Secretary for the Civil Service

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

**Attendance by
invitation** : **Agenda item III**

Education Employees General Union

Ms Eva YU Yee-wah
President

Ms YU Lai-ha
General Officer

Individual

Mr YUNG Shek-shing

Union of Government School Teachers

Mr KWONG Kam-tong
Academic Officer

Ms WONG Heung-lin
Co-opted member

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

Staff in attendance : Ms Sarah YUEN
Senior Council Secretary (1)2

Ms Emily LIU
Legislative Assistant (1)2

Action

I Confirmation of minutes of meeting
(LC Paper No. CB(1)2445/10-11 - Minutes of meeting on
18 April 2011)

The minutes of the meeting held on 18 April 2011 were confirmed.

II Information papers issued since last meeting
(LC Paper No. CB(1)2188/10-11 - Further submission from a
member of the public
regarding his complaint
about the rejection of his
application for retirement on
attaining the maximum
pension
LC Paper No. CB(1)2370/10-11 - Administration's paper on
procedures on requests for
defence representation

from officers subject to disciplinary action under the Police (Discipline) Regulations (Cap.232A))

2. Members noted the above papers issued since the last meeting.
3. In response to Ms LI Fung-ying, the Chairman confirmed that the item on "Direct appointment of personal chauffeurs and personal secretaries for principal officials under the accountability system" had already been included in the Panel's list of outstanding items for discussion. The Chairman further reminded members that when the Administration was ready, a special meeting would be scheduled to discuss "Review of post-service outside work for directorate civil servants".

III Pay policy of the Government in the calculation of salaries of Government school teachers

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| (LC Paper
CB(1)2436/10-11(01) | No. - Administration's paper on determination of teachers' salaries in Government schools |
| LC Paper
CB(1)1700/09-10(01) | No. - Submission dated 15 April 2010 from the Education Employees General Union complaining about Education Bureau's failure to comply with the pay policy of the Government in the calculation of salaries of Government school teachers and subsidized school teachers |
| LC Paper
CB(1)2497/09-10(01) | No. - Administration's response to the submission from the Education Employees General Union |
| LC Paper No. CB(1)433/10-11(01) | - Submission from the Union of Government School Teachers complaining about wage arrears for government teachers |

- LC Paper No. CB(1)770/10-11(01) - Further submission dated 8 December 2010 from the Education Employees General Union
- LC Paper No. CB(1)1543/10-11 - Letter from the Education Employees General Union to the Chief Executive and copied to the Panel
- LC Paper No. - Letter from the Education
CB(1)1962/10-11(01) Employees General Union to the Panel
- LC Paper No. - Letter from the Education
CB(1)2047/10-11(01) Employees General Union to the President of the Legislative Council
- LC Paper No. - Letter from the Education
CB(1)2141/10-11(01) Employees General Union to the Chairman of the Panel requesting early discussion of the item on "Pay policy of the Government in the calculation of salaries of Government school teachers")

Meeting with deputations/ the Administration

Education Employees General Union (EEGU)
(LC Paper No. CB(1)2455/10-11(01))

4. Ms Eva YU briefed members on EEGU's submission. Members noted that according to EEGU, due to certain administrative omission in working out arrangements according to the pay policy of the Government in the determination of salaries of Government school teachers, some Government school teachers with more experience were paid less than those with less experience (referred to as "salary differential within the Government school sector" hereafter), and certain Government school teachers were paid less than their counterparts in aided schools with the same number of years of service (referred to as "salary differential between Government schools and aided schools" hereafter) as described in examples quoted in EEGU's submission. She queried whether the quoted cases had breached Government's policy of encouraging a healthy turnover of teachers between schools in the public sector (the "healthy turnover arrangement") and other principles of Government's pay policy, such as the

principle that "the pay and conditions of service for staff of the subvented sector should be no better than their counterparts in the civil service" (the "no better than" principle), and stressed the need to adhere to the relevant pay policies and principles.

Mr YUNG Shek-shing

5. As one of the teachers suffering from the above described salary differential problem, Mr YUNG Shek-shing echoed EEGU's views, and elaborated on his case as well as the fruitless efforts he had made during the past ten years to rectify the administrative omission exposed in his case. According to him, Appendix VI to EMB Circular No. 31/2000 (Appendix 10 to EEGU's submission (LC Paper No. CB(1)2455/10-11(01))) had omitted to mention how a Government school teacher's post-qualification experience should be taken into account to grant him Incremental Credits for Experience/Qualifications (ICE/ICQ). As a result, he and other colleagues who joined the Government in the year in question and hence had their entry point determined according to the Circular were denied ICE/ICQ. He urged the Civil Service Bureau (CSB) to check whether there had been any omission on the part of the Education Bureau (EDB).

Union of Government School Teachers (UGST)
(LC Paper No. CB(1)2455/10-11(02))

6. Mr KWONG Kam-tong briefed members on UGST's submission, which in gist pointed out that in the case of Ms WONG Heung-lin, another representative of UGST attending this meeting, when she was appointed on transfer from the Certificated Master/Mistress (CM) rank in the non-graduate CM grade to the Assistant Education Officer (AEO)/Assistant Primary School Master/Mistress (APSM) ranks in the two graduate grades of Education Officer (EO) and Primary School Master/Mistress (PSM) (hereafter referred to as "re-graded") in 2009, the arrangements made had contravened the Government policy that teachers would not be made worse off when they moved among Government and aided schools, so that her entry pay was six pay points below that of her counterparts in the aided schools with the same number of years of service similarly re-graded. He urged the Panel to follow up cases like Ms WONG's.

7. Ms WONG Heung-lin highlighted paragraph 11 of the Administration's paper for this item (LC Paper No. CB(1)2436/10-11(01)), which pointed out that the "salary differential between Government schools

and aided schools" could be attributed mainly to the different arrangements on the grant of ICEs in the civil service and in the aided school sector. She asked the Secretary for the Civil Service (SCS) to confirm whether the above difference in arrangements had contravened the relevant pay policy and, if so, to take follow-up actions accordingly.

8. The Chairman and members thanked the deputations for attending the meeting to express their views. Members noted that Government Teacher United, which did not attend the meeting, had also provided submissions (LC Papers Nos. CB(1)2499/10-11(01) and (02)) for members' reference.

The Administration's initial response to the concerns of deputations

9. At the Chairman's invitation, SCS made the following points in response to the deputations' views –

- (a) Government school teachers were civil servants and subject to Civil Service Regulations (CSRs). Their pay was determined in accordance with CSRs and other rules as promulgated by CSB. Teachers in the aided school sector, on the other hand, were not civil servants. Their pay was determined in accordance with the Codes of Aid and other rules as promulgated by EDB. Hence, though paid according to the same salary scale, teachers in the civil service and teachers in the aided sector were in fact under different employers, different management and subject to different terms and conditions of service. It was not appropriate to make simplistic comparison of individual employment terms between the two;
- (b) the "healthy turnover arrangement" only aimed to ensure that individual teachers would not be made worse off when they transferred between Government and aided schools, or when appointed on transfer from the non-graduate CM grade to the graduate GM/EO/PSM grades. Hence, when ascertaining whether the arrangement had been followed, comparison should be made between the pay of the teacher concerned before and after the transfer. It would not be appropriate for teachers in the civil service and teachers in the aided sector to compare and catch up with each other in terms of pay and other employment conditions;

- (c) as to the "no better than" principle, the basis for comparison under this principle should be the remuneration package of the civil service. The principle did not mean that the remuneration package of teachers in the civil service should be compared to that of teachers in the aided sector and, in the event that the latter was better, the former should be improved to make up for the difference;
- (d) regarding the "salary differential within the Government school sector", the following developments were relevant –
 - (i) CSR 130(1) provided that the entry pay of an appointee (including a new recruit and a serving civil servant appointed on transfer from one civil service grade to another) should normally be offered at the minimum pay point of the civil service grade to which the appointee was appointed. As such, when the starting salaries of the basic ranks of the EO, PSM and CM grades were reduced as a result of the 1999 Starting Salaries Review (SSR), the entry pay of aided school teachers appointed to the civil service as Government school teachers from 1 April 2000 should have been subject to the reduced starting salaries. To avoid deterring their transfer to become Government school teachers, a “carry forward arrangement” had been put in place since 1 April 2000. Under this arrangement, serving teachers in the public education sector would carry their individual existing pay upon transfer (within the same rank or between comparable ranks) between aided schools or between aided and Government schools without a break in service, if doing so would give them a higher entry pay than the then prevailing starting salaries of the teaching grades, plus ICEs where applicable; and
 - (ii) subsequently, when the starting salaries of the AEO, APSM and CM ranks were increased in accordance with the findings of the 2006 Starting Salaries Survey (SSS), a "normal conversion arrangement" was applied to those civil servants who were appointed to and remained in these ranks on 1 August 2007 and who had been affected by the reduced starting salaries

between 1 April 2000 and 31 July 2007. Under this arrangement, where the pay of an affected teacher on 1 August 2007 was lower than the increased starting salary of his rank, his pay would be brought up to the increased starting salary. Where the pay of an affected teacher on 1 August 2007 was equal to or higher than the increased starting salary of his rank, his salary would be brought up to the next higher pay point. This "normal conversion arrangement", however, would not apply to Government and aided school teachers who were protected by the "carry forward arrangement" from 1 April 2000 to 31 July 2007 as they had not been affected by the reduced starting salaries which prevailed during that period; and

- (e) Government school teachers appointed at different points in time would be subject to the employment terms and conditions prevailing at the time of appointment. For example, Government teachers recruited before and after 2000 were entitled to different types of retirement benefits. It was not appropriate to make simplistic comparison between individual employment terms of teachers appointed at different times. Although Government school teachers who received less pay than their counterparts in the aided sector might feel that they had been unfairly treated, the most important thing was that the relevant pay principles and rules then prevailing had been observed when determining the pay of the teachers concerned. In this regard, the Administration noted that the relevant principles and rules had been consistently applied, and there was no evidence of maladministration.

Discussion

Likely causes of the salary differential problem

10. Mr CHEUNG Man-kwong opined that the crux of the salary differential problem was that, because of the considerable span between the 1999 SSR and the 2006 SSS, there was a significant difference of starting salaries for the relevant ranks between 1 April 2000 and 31 July 2007, namely, a 5-pay point reduction in the starting salaries of the basic ranks of the EO and PSM grades and a 2-pay point reduction in the starting salaries of the basic ranks of the CM grade in 2000, and a 5-pay point increase in

the starting salaries of the AEO and APSM ranks in 2007. As a result, in the worst case highlighted by Ms Eva YU above, the pay a teacher received could be six pay points lower than that in the best case, and new recruits might receive pay higher than serving teachers. Following a significant increase in the number of graduate teachers in 2007, the problem had become more serious and, the divisive effect so resulted had, in his view, made it necessary for the Administration to actively address the problem regardless of whether there was maladministration. He therefore sought figures on the number of civil servants, Government school teachers and aided school teachers who received less pay than those with less experience during the period between 2000 and 2007, and enquired whether the Administration would consider taking special measures to compensate for the salary differential suffered by them through a one-off grant.

11. SCS responded that she could not provide the requested figures because the Administration did not have figures in this regard from aided schools. She pointed out that the problem of a re-graded teacher with some experience receiving less pay than those with less experience could also arise before 2000. The problem therefore should not be solely attributed to the adjustment of the starting salaries in 2000 and 2007. Under the Improved Civil Service Pay Adjustment Mechanism, the SSS would be conducted every three years to avoid having a wide gap between two SSSs. She also reiterated the points she made in her response to the deputations in paragraph 9 above, in particular paragraphs 9(d) and 9(e), and emphasized that as long as the relevant pay policies had been consistently applied, it would be up to individual teachers concerned to decide, in the light of the prevailing salary offered, whether to accept appointments or to transfer between schools. The teachers concerned should not feel being unfairly treated after making their decision.

12. The Deputy Chairman shared Mr CHEUNG Man-kwong's views in paragraph 10 above and expressed regrets about the Administration's short-sighted policy which had led to the above highlighted significant fluctuation of starting salaries. He also questioned whether the figures requested by Mr CHEUNG were really not available, or that the Administration was only unwilling to address the salary differential problem because it had wide implications and might affect other subvented agencies as well. Pointing out that the Permanent Secretary for the Civil Service (PSCS) was in EDB when the salary differential problem emerged, he further asked PSCS to respond to the problem.

13. PSCS responded that in observing the "no better than" principle, the focus should be placed on the overall remuneration package and not only

the monthly pay, and that although the pay scale of the staff of the subvented sector should not be more favourable than that of their counterparts in the civil service, this did not mean that all employment terms of teachers in aided schools and Government schools should be exactly the same. This was because flexibility in handling personnel matters had long been granted to aided schools in recognition that they were operated by different school sponsors with different operational considerations. Highlighting the timely introduction of the "carry forward arrangement", he also denied that the Administration's policy was short-sighted. Since some teachers had found the salary differential unfair, the Administration had carefully examined their claims and explained to them that the relevant pay policies and principles had in fact already been consistently applied without any omission or mistake. It was regrettable that despite these efforts, some teachers still did not accept the explanation.

Queries of whether relevant pay policies and principles had been complied with

14. Ms LI Fung-ying questioned why, with the "healthy turnover arrangement" in place, there were still cases of teachers suffering from salary differentials upon transfer. SCS responded that the purpose of this arrangement was to ensure that "individual" teachers would not be made worse off when they transferred among Government and aided schools, or when appointed on transfer from the non-graduate CM rank to the graduate GM/EO/PSM ranks. It had never been the intention that the pay of teachers appointed and transferred at different times to different types of schools would be aligned. Moreover, as explained in paragraph 9(d)(i) above, the "carry forward" arrangement had already ensured that a teacher with no break in service would be allowed to "carry forward" his existing salary upon transfer as appropriate.

15. Highlighting the "no better than" principle, Ms LI Fung-ying sought to ascertain whether there were cases where aided school teachers were paid more than their counterparts in the civil service with the same number of years of service. SCS responded that the salary differential between Government schools and aided schools could be attributed, to a certain extent, to the practice of granting ICEs. While the prevailing arrangement in the civil service was that ICEs would be granted to an appointee only when there was recruitment difficulty and when there was a specific need for the experience possessed by the appointee, the aided school sector was allowed greater flexibility. The above different arrangements on the grant of ICEs had been permitted in recognition of the special operational considerations of aided schools.

Possible solutions

16. Noting the difference of views between the deputations and the Administration, the Chairman enquired whether the two sides were willing to resolve their differences through mediation or arbitration. Mr YUNG Shek-shing responded that he would be glad to see follow-up of the salary differential problem in whatever form. He then pointed out that while the various pay principles and policies highlighted by SCS above might appear reasonable, there were cases where teachers with similar experience and moving among aided and Government schools at the same time were paid differently. In response to the Chairman, he further supplemented that teachers suffering from the problem might number a few thousand. SCS, however, responded that since it was clear that there was no maladministration or non-compliance with any relevant policies and principles on the part of the Administration, she could not see any case for arbitration.

17. Mr TAM Yiu-chung declared interest as the Vice President of EEGU, and pointed out that the salary differential problem had already existed for over ten years. As such, in recognition of the grievances of the teachers affected, CSB and EDB should think of a way to resolve the problem even though they had not made any mistake in determining these teachers' salaries. In this regard, the Chairman stressed that arbitration might be a way out because a third party could then be involved in sorting out the differences.

18. In response, SCS reiterated the points she made above, and pointed out that the grievances of the teachers concerned might have arisen from misunderstanding of the relevant pay policies and principles. She hoped that the above detailed explanation and clarification of the policies and principles could help to address their concerns. The Principal Education Officer (Professional Development & Training), Education Bureau added that there were clear salary assessment guidelines for calculation of pay for teachers although the rules might have undergone changes over time. In fact, the guidelines were so clear-cut that there was practically no room for discretion. There was therefore little scope for resolving the salary differential problem through arbitration.

19. The Chairman emphasized that in recognition of the low morale of the teachers affected, there was a need to address the salary differential problem by exercising discretion. SCS responded that the “carry forward arrangement” had already been introduced as a special arrangement since 1 April 2000 to ensure that teachers transferred from 1 April 2000 to 31 July

2007 would not be affected by the reduction in starting salaries which prevailed during that period. Moreover, there was no room for her to exercise any discretionary power to introduce further special arrangement without affecting other teachers in the public sector.

20. Dr PAN Pay-chyou considered it undesirable that the Administration had maintained that they had not made any mistakes, and had refused to take remedial actions accordingly. In his view, the teachers affected by the salary differential problem were understandably aggrieved because neither the "healthy turnover arrangement", the "no better than" principle, nor the established need to grant ICE/ICQ could help prevent the problem, and that there was no written proof that, as SCS stated in paragraph 9(b) above, the "healthy turnover arrangement" was for ensuring "individual" teachers and not teachers "in general" would not be made worse off when moving among Government and aided schools. He also indicated support for the requests made by the deputations in their submissions, which he considered reasonable.

21. SCS responded that she would be willing to take remedial actions if the Administration had not properly implemented any pay policy or principles, or that there had been maladministration. However, this was not the case.

22. Pointing out that teachers' pay scale was different from those of other civil servants and hence special measures to handle their case were justified, Dr PAN Pey-chyou indicated disagreement with SCS's statement in paragraph 19 that further special arrangements should not be made to remedy the salary differential problem. The Deputy Chairman shared his views. SCS reiterated that she did not consider it appropriate to introduce further special arrangements to Government and aided school teachers on top of the "carry forward arrangement" specially devised to protect the teaching sector. The Administration would, however, continue to apply the "carry forward" arrangement for the benefit of individual teachers where appropriate, and would also continue to grant ICE/ICQ to teachers in accordance with the prevailing policies and rules.

Motion

23. After discussion, Dr PAN Pey-chyou moved the following motion, which was seconded by Mr TAM Yiu-chung –

"本會促請政府當局重新檢討政府學校教師薪酬及聘用條件，使政府學校教師與資助學校教師薪酬待遇符合

「健康轉任」、「不能優於」等原則，並就過往失誤導致的收入損失作出補償。」

(Translation)

"That this Panel urges the Administration to review afresh the salaries and terms of employment of Government school teachers to enable the salaries and terms of employment of Government school teachers and those of aided school teachers to comply with the policy of "healthy turnover of teachers" and the principle that "the pay and conditions of service for staff of the subvented sector should be no better than their counterparts in the civil service", and make compensation for their loss of income arising from previous mistakes. "

24. Ms LI Fung-ying opined that to retain flexibility, it might not be desirable to mandate adherence to the policy of "healthy turnover arrangement" and the "no better than" principle. Mr CHEUNG Man-kwong added that the policy and principle were very complex, and hence might not necessarily work to the benefit of the teachers concerned when applied to them. While emphasizing that the "no better than" principle should as far as possible be upheld, Dr PAN Pey-chyou and Mr TAM Yiu-chung agreed to delete the following phrase from the proposed motion –

"使政府學校教師與資助學校教師薪酬待遇符合「健康轉任」、「不能優於」等原則，"

(Translation)

"to enable the salaries and terms of employment of Government school teachers and those of aided school teachers to comply with the policy of "healthy turnover of teachers" and the principle that "the pay and conditions of service for staff of the subvented sector should be no better than their counterparts in the civil service"

25. The Chairman put the motion amended as follows to vote –

"本會促請政府當局重新檢討政府學校教師薪酬及聘用條件，並就過往失誤導致的收入損失作出補償。"

(Translation)

"That this Panel urges the Administration to review afresh the salaries and terms of employment of Government school teachers and make compensation for their loss of income arising from previous mistakes. "

26. Six members voted for the motion and none voted against it. The Chairman declared that the motion was carried.

IV 2011-2012 Civil Service Pay Adjustment

(File
CSBCR/PG/4-085-001/69

Ref. - Administration's paper on
2011-12 civil service pay
adjustment dated 7 June 2011
(Legislative Council Brief)

File
CSBCR/PG/4-085-001/69

Ref. - Administration's paper on
2011-12 civil service pay
adjustment dated 14 June
2011 (Legislative Council
Brief))

27. SCS briefed members on the 2011-2012 civil service pay adjustment. Members noted that the Chief Executive-in-Council had decided on 14 June 2011 that, with retrospective effect from 1 April 2011, civil service pay should be increased by 7.24% for civil servants in the directorate and upper salary band, and 6.16% for civil servants in the middle and lower salary bands.

Application of the pay adjustment

To non-civil service contract staff and agency workers

28. Mr LEE Cheuk-yan pointed out that Hong Kong Confederation of Trade Unions supported the above pay adjustment decision and hoped that all civil servants could enjoy a pay increase of 7% considering the high inflation rate. He however expressed concern that non-civil service contract (NCSC) staff might not receive the same pay increase since the pay adjustment decision would not be applied to them, especially as the proposed rates of increase were significant, and the operating expenditure envelopes of individual bureaux/departments (B/Ds) concerned might not suffice to absorb the cost incurred. With the existing problem of "different pay for the same job" aggravated as a result, NCSC staff might

be aggrieved, not to mention that some NCSC staff, who had been recruited for work where the mode of delivery was under review or likely to be changed and hence might have worked in the B/Ds concerned for a long time without being converted to civil servants, already had many grievances. He therefore enquired whether, to address the grievances, SCS would issue to B/Ds guidelines on pay adjustment for NCSC staff.

29. SCS responded that the Administration could not agree that NCSC staff should be compared to civil servants because NCSC staff were not civil servants and their pay was managed differently from that of the civil service. The Administration therefore did not consider that the pay adjustment decision for civil servants should be automatically applied to them. That said, Heads of Department (HoDs) had the authority to review and adjust, where appropriate, the pay of their NCSC staff to keep up with the market rate, having regard to, amongst other factors, the increase in the cost of living in the year concerned, the wastage rate of the NCSC staff in the relevant department, and the years of service of the NCSC staff concerned.

30. Mr LEE Cheuk-yan considered it unfair that the cost for increasing the pay for NCSC staff would have to be absorbed by the B/Ds concerned, while the additional fund required for increasing civil service pay would be sought from the Finance Committee (FC). To encourage individual B/Ds to increase the pay of their NCSC staff and ensure fairness, he opined that the additional fund required should come from a separate Head of Expenditure instead of from individual B/Ds' operating expenditure envelopes. SCS responded that the current arrangement was justified because the civil service establishment was some 165 000 strong and civil service pay was administered centrally. There were only 15 000 to 16 000 NCSC staff who were employed by different departments, and their pay was managed by the departments concerned. B/Ds had the flexibility to adjust the pay of their NCSC staff with resources in their operating expenditure envelopes. The Administration did not perceive any need to introduce changes to the current arrangement.

31. Highlighting this year's high inflation rate, and the need for the Administration to be more considerate and willing to take up responsibilities, Ms LI Fung-ying maintained that, instead of allowing the B/Ds concerned to decide whether to increase the pay of their NCSC staff, the Administration should make greater efforts to ensure that they would have the financial capacity to do so, considering that about half of the some 15 000 NCSC staff had already worked for the Government for over three years, with some even having worked for ten years, and that over

70% of NCSC staff were receiving monthly pay of less than \$15,000. Dr PAN Pey-chyou and the Deputy Chairman expressed similar views.

32. SCS responded that she was not aware of any case where because of financial constraints, a B/D could not increase the pay of its NCSC staff as appropriate. In fact, past experience suggested that major B/Ds using NCSC staff had under-expenditure even after taking into account pay adjustment for their NCSC staff. CSB considered it inappropriate to direct B/Ds to increase pay of their NCSC staff, and believed that the HoDs concerned should be allowed to make decisions in accordance with the established mechanism as in the past. The Administration would closely monitor the situation to ensure that financial constraints would not be a factor affecting pay increase for NCSC staff.

33. Noting the above response, Ms LI Fung-ying opined that CSB should undertake to provide assistance if any B/D did not have sufficient funds to increase the pay of its NCSC staff. SCS responded that while she would pay close attention to the issue, she could not make the above undertaking because the funding authority did not rest with CSB.

34. Dr PAN Pey-chyou and the Deputy Chairman maintained that NCSC staff and agency workers must not be ignored or discriminated against. The Deputy Chairman emphasized that SCS had the responsibility to ensure their pay was reasonable, and that it would be adjusted as appropriate in response to inflation because they were, similar to civil servants, serving the Government and citizens. If not, the problem of "different pay for the same job" would undermine trust and co-operation among Government staff.

35. SCS responded that CSB would, as in the past, issue a reminder to all Controlling Officers to remind them of the criteria for considering pay adjustment for their NCSC staff. CSB would therefore be playing a role to ensure NCSC staff could enjoy pay adjustment where appropriate. As to pay for agency workers, since service providers would be paid according to the contract terms specified in the relevant service contracts, the Administration would not require service providers to adjust agency workers' pay in response to pay adjustment in the civil service. However, since the implementation of the statutory minimum wage, all employment agencies providing agency workers for the Government were required to comply with the statutory requirement since 1 May 2011.

36. In response to the Deputy Chairman, SCS confirmed that the Government's service providers were not required to pay agency workers

wages comparable to those paid to their counterparts in the civil service. This was because the pay of an agency worker should be a matter between him/her and the relevant service provider as his/her employer. She however advised that even before the implementation of the statutory minimum wage, service providers of service contracts that relied heavily on the deployment of non-skilled workers to perform functions comparable to the duties of the Government's Model Scale 1 Grade staff had already been required to offer such workers monthly wages no less than the average monthly wages for the relevant industry/occupation as published in the latest Census and Statistics Department's Quarterly Report of Wage and Payroll Statistics at the time when tenders were invited. After the introduction of the statutory minimum wage, service providers were instead required to comply with the statutory minimum wage requirement.

To staff of the subvented sector

37. Ms LI Fung-ying welcomed the proposed 2011-2012 civil service pay adjustment in consideration of the high inflation. She, however, expressed concern that it would be up to individual subvented bodies, as employers, to decide whether to increase the salaries of their employees and, if so, the rate of increase, and that CSB would only remind the subvented bodies concerned that the additional subventions from the Government were meant to allow room for pay adjustment for their staff through the relevant controlling officers. She considered the above arrangement undesirable because, where the civil service pay adjustment involved a pay rise, the additional provisions for subventions would already be calculated and provided for the subvented sector in accordance with the weighted average of the pay rise decided for the civil service. As such, the subvented agencies should be required to use the additional provisions for pay increase and not for any other purposes. If not, there would be disputes.

38. SCS responded that the additional subventions provided to subvented bodies were meant to enable them to adjust the pay of their staff. The Administration did not consider it appropriate to specify how the subvented bodies should adjust the pay of their staff because the pay of subvented sector staff had already been delinked from the pay scales and pay adjustment of the civil service. As the pay of the staff concerned was in principle a matter between the subvented bodies as employers and their employees, it would not be appropriate for the Government to interfere in the matter. She noted that the above arrangement had been adopted for years and that every year the Welfare Services Panel would

monitor whether welfare organizations had paid heed to pay adjustment reminders from controlling officers. Moreover, staff of subvented bodies whose pay had not been adjusted could always take their case to Members of the Legislative Council, or seek rectification of any unreasonable practices through other channels.

39. Ms LI Fung-ying was not assured, pointing out that there had been complaints about use of the additional subventions for pay adjustment for other purposes every year in the past. In recognition that pay increase had been proposed this year, she urged SCS to ensure the controlling officers concerned would take effective measures to ensure staff of the subvented sector would enjoy pay increase in 2011-2012. SCS responded that CSB would convey Ms LI's views to the controlling officers.

To political appointees

40. In reply to the Chairman's question on pay increase for political appointees, SCS explained that officials under the Political Appointment System were not civil servants, and that the pay policy and pay adjustment mechanism for them were distinct and separate from those for the civil service. For example, while there had been a 1.6% upward pay adjustment for civil servants in the directorate and upper salary band in 2010-2011, the remuneration for politically appointed officials had remained unchanged. The latter had voluntarily undertaken a 5.38% pay cut since 1 July 2009. In response to the Chairman, SCS supplemented that apart from Under Secretaries and Political Assistants who could enjoy pay adjustment as and when determined necessary in pay reviews, Principal Officials might not have any pay adjustment during their five-year tenures.

The rates of pay adjustment

41. The Chairman highlighted comments that the rates of the 2011-2012 civil service pay adjustment were high because, in conducting the relevant annual Pay Trend Survey (PTS), the Administration had collected data from companies which offered high pay increases. At her request to respond to the comments, SCS made the following points –

- (a) The companies from which data were collected in the PTS were agreed upon by the tripartite PTS Committee, comprising representatives of the staff sides, management representatives, and members from two independent

advisory bodies on civil service salaries and conditions of service.

- (b) When selecting companies for the survey field, the PTS Committee would consider a number of factors, and would ensure that the companies were generally known as good and steady employers conducting wage and salary administration on a rational and systematic basis. For smaller companies with 50-99 staff, they should not have been convicted of any charges under labour-related legislation. The PTS Committee would also ensure that the companies selected would come from Hong Kong's nine major economic sectors, including the import and export trade, the construction trade, the manufacturing trade, the financial services sector, the personal services sector, etc., and that the distribution of the companies selected should closely reflect the overall distribution of Hong Kong's economically active population. However, despite the above efforts to ensure a balanced distribution of companies in the survey field, whether to accept the invitation to participate in the survey was decided by the companies concerned on a voluntary basis.
- (c) To ensure continuity and year-on-year comparability, companies which had participated in the previous PTS would normally be approached for inclusion in the survey field of the new PTS. The overwhelming majority of the participating companies in every PTS were participants in the past exercise.

42. The Chairman enquired whether the proposed pay increase by 7.24% for civil servants in the directorate and upper salary band would suffice to offset their pay reduction by 5.38% in 2009-2010. SCS responded that the pay reduction for civil servants in the directorate and upper salary band came into effect in January 2010 after the enactment of the relevant legislation. In April 2010, their pay was increased by 1.6% having regard to the result of the 2010 PTS. If FC approved the funding for the 2011-2012 civil service pay adjustment to enable the pay of these civil servants to be increased by 7.24% this year, they would in effect have a net pay increase of some 3.5% when compared to their pay on 1 January 2010.

Concerns about the time lag in implementation of pay adjustment

43. Dr PAN Pey-chyou pointed out that civil service pay adjustment had always lagged behind the economic cycle because of the time taken to conduct the PTS and to ascertain the need for pay adjustment. As a result, while the pay adjustment in the private sector was moderate this year, the proposed rates of civil service pay increase in 2011-2012, in trying to make up for the 2010 pay reduction, appeared embarrassingly excessive and hence were unacceptable to the public. In response, SCS made the following points –

- (a) There would inevitably be delays as long as the existing civil service pay adjustment mechanism was operating with reference to the PTS, which collected data on the actual year-on-year pay adjustment movements in the private sector in the past twelve months. If, instead of actual pay adjustments, participating companies were requested to make forecasts on the pay adjustment they would make in the future, there would be the concern that they might tend to adopt a conservative approach, giving rise to controversies on the survey results and the proposed rates of civil service pay adjustment.
- (b) As understood from the Secretariat of the PTS Committee, of the 116 companies from which data had been collected in the 2011 PTS, two-thirds had decided to adjust the pay of their staff in the first quarter of 2011. The time lag in the implementation of the PTS findings this year was therefore not serious.
- (c) Since there was no need to introduce legislation, civil service pay increase, if approved by the FC, could normally be implemented within three months. It had been the general practice that civil service pay increases would be effected retrospectively from 1 April of the year concerned.
- (d) The time lag would be somewhat more serious where pay reduction was involved because of the need to introduce legislation for the purpose. For example, the decision on the 2009-2010 pay reduction was made in June 2009 with reference to the result of the 2009 PTS covering the period from April 2008 to March 2009. However, although the relevant bill was introduced in July 2009, given the time

required to scrutinize the bill, pay reduction could only be implemented in January 2010. There were hence some grievances about the pay reduction. According to legal advice, however, for certainty and to forestall possible legal challenges, legislation was required to effect civil service pay reduction, and the Administration could only help minimize time lag by introducing the relevant bill expeditiously.

44. Declaring interests that his wife was a civil servant, the Deputy Chairman urged the Administration to note the views of not only civil servants but also the public on civil service pay adjustment, especially as there were already queries of the proposed rates of increase in 2011-2012, which some considered excessive. He proposed that the Administration should explain the time lag problem to the public, and should examine whether civil service pay reduction could be effected without introducing legislation because, not only would the approach reduce flexibility but it would also damage the relations between civil servants and the Government as the employer. SCS responded that she could see no better alternative to effect reduction of civil service pay than legislation.

V Racial profile of the civil service

(LC Paper No. - Administration's paper on
CB(1)2436/10-11(02) racial profile of the civil
service)

45. SCS briefed members on the findings of a voluntary and anonymous survey on the racial profile of the civil service in 2011 (the survey).

Views and comments on the survey

46. Mr LEE Cheuk-yan was keen to ensure the employment and promotion prospects of ethnic minorities in the civil service, and that such prospects were not affected by their failure to attain proficiency in Chinese language. As such, he opined that questions in this regard, particularly on whether civil servants who were ethnic minorities enjoyed equal opportunities for promotion, should be asked in the survey to provide useful and comprehensive reference materials to facilitate understanding of the situation. He further enquired about ethnic minorities' employment opportunities with the Correctional Services Department (CSD) and other disciplined services departments, and asked whether any

survey had been conducted on the number of job applications from them and the success rates.

47. SCS responded that the foci of the survey were not ethnic minorities' employment and promotion prospects in the civil service because the survey had in fact been conducted in response to the Code of Practice on Employment under the Race Discrimination Ordinance issued by the Equal Opportunities Commission (EOC) in July 2009, which encouraged employers to take reasonably practicable steps to regularly monitor and review the implementation of their equal opportunities policies and good employment procedures and practices, so as to gain an appreciation of the situation regarding, for example, the composition of the workforce by racial group, for comparison with benchmarks such as census data. Mr LEE Cheuk-yan, however, maintained that the Administration should consider conducting a more in-depth survey to better understand how ethnic minorities viewed their promotion prospects in the civil service.

48. Ms LI Fung-ying also considered it necessary to collate more information from the survey to enable members to ascertain whether the Administration had adhered to its recruitment policy of fair competition and meritocracy. Noting that only 17% of the 156 781 civil servants serving on 31 March 2011 had responded to the survey, she and Dr PAN Pey-chyou considered the response rate low, and urged the Administration to make greater publicity efforts to increase the rate when conducting the survey again in 2013 as planned. Meanwhile, Ms LI noted that disciplined services departments employed more ethnic minorities than other departments, and enquired why other departments had not employed as many ethnic minorities. She also enquired why CSD and the Hong Kong Police Force (the Police Force) employed the largest number of Indians and Whites respectively, and questioned why the Social Welfare Department (SWD), which came into contact with many ethnic minorities when helping them to integrate into the community, had not recruited ethnic minorities to help it better perform the above duty.

49. In response, SCS made the following points –

- (a) she agreed with Ms LI Fung-ying on the need to make greater publicity efforts when conducting the survey in 2013, and would act accordingly;
- (b) the Administration could only guess the reasons why disciplined services departments seemed to have employed

more ethnic minorities than other departments because firstly, the survey was conducted on a voluntary and anonymous basis. And the Administration could not determine whether a civil servant belonged to an ethnic minority by merely looking at his/her surname. Secondly, certain departments might have no ethnic minorities simply because performance of duties in such departments required certain professional and technical qualifications which the ethnic minorities job applicants did not possess or no person of ethnic minority applied to join these departments, and not because of discrimination;

- (c) as to why the Police Force employed the largest number of Whites, the reason might be that before 1997, police inspectors were recruited from both the United Kingdom and Hong Kong, and some of the Whites in the Force had been recruited during this period; and
- (d) regarding the point about SWD, it should be noted that the Social Work Officer grade required professional qualifications which few ethnic minorities possessed. As to the Social Work Assistant (SWA) grade which did not require professional qualifications, since the grade would involve filling of forms for clients, candidates were required to have attained language proficiency requirements (LPRs) equivalent to Form 4 or 5 standard. Not many ethnic minorities could meet the above requirement and, if flexibility was exercised in assessing the suitability of ethnic minorities for the posts concerned, there might be the risk of the Government being criticized for discriminating against Chinese applicants. As such, CSB could only keep reminding HoDs/Heads of Grade (HoGs) to review the LPRs of their respective departments/grades and other requirements from time to time to ensure they were imposed out of operational needs and not excessive. She undertook to provide a paper in this regard to address members' concerns.

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50. Noting the Administration's response in paragraph 49(c) above, the Deputy Chairman opined that, to facilitate analysis of whether the Whites in the Police Force mainly occupied posts of higher ranks, and whether a high standard of written Chinese should be required if the ethnic minorities concerned were professionals, etc, there was a need to collate

information on the ranks to which the ethnic minorities in the civil service belonged, particularly on whether they belonged to professional grades. SCS responded that the salary groups to which ethnic minorities in the civil service belonged could to a certain extent already shed light on their ranks and whether they were professionals. The Administration was concerned that the more questions asked in the survey, the greater the resistance and hence the lower the response rate would be.

51. Mr TAM Yiu-chung declared interests that there were some 700 ethnic minorities in the Democratic Alliance for the Betterment and Progress of Hong Kong to which he belonged. Seeing the need to collate more comprehensive information on ethnic minorities' employment and promotion prospects in the civil service, he asked whether there would be any discrimination implications if new recruits into the civil service were required to indicate their race. SCS responded that new recruits would only be required to provide their identity card numbers and their bank account numbers for effecting salary payment. They would not be required to indicate their race because there was no need for such information for staff management purposes. Collation of such information might therefore give rise to suspicion that they were treated differently because of their race.

52. The Chairman considered it undesirable to use the terms "White", "Black" and "Mixed" in the survey to describe the ethnic groups to which individual civil servants belonged, and proposed that the terms should be replaced by more modern terms, such as "Caucasian" and "Multi-racial". SCS responded that the terms presently used were the same as those adopted in the 2006 Population By-census of Hong Kong and the coming 2011 Population Census of Hong Kong scheduled for 30 June to 2 August 2011. Noting the response, the Chairman said that the Census and Statistics Department (C&SD) should be requested to change the terms they used. SCS responded that C&SD had decided on the terms used according to principles laid down by the United Nations. Notwithstanding this, she undertook to, as was the case this year, consult EOC on the questionnaire for the planned 2013 survey and make improvements as necessary in the light of views received on the survey this year, including those from the Chairman. The Chairman maintained that the Administration should be more progressive, and should use the most updated terms as appropriate.

53. The Deputy Chairman considered it confusing that some of the racial groups used in the survey referred to the race and some the nationality. He also considered it insufficient to break down the

respondents by salary group only, and called for the provision of finer details, such as a breakdown by grade and information on the respondents' years of service, to enable members to ascertain the implications of the changes in LPRs after 1997. SCS responded that participants in the survey this year were only required to answer two questions, one on race and the other on monthly salary. In the planned 2013 survey, the Administration would examine the feasibility of expanding the survey scope to collect more information, such as the length of service of the respondents, so as to work out whether they had joined the civil service before or after 1997. As to the above concern about the racial groups used in the survey this year, although the ethnic groups adopted had not made clear differentiation between race and nationality, these were the terms commonly used and understood by laymen.

54. Dr PAN Pey-chyou opined that, to ensure the findings could reflect the real situation, a more targeted approach should be adopted in conducting the survey, such as by first conducting random sampling, followed by more in-depth interview of the individual civil servants concerned. SCS responded that she had reservation about the proposal because judging from the strong preference for an anonymous survey as expressed by the Staff Sides of the Central Consultative Councils of the Civil Service when consulted on how the survey this year should be conducted, the civil service's response to a targeted approach might be negative.

55. Dr PAN Pey-chyou said that the survey could still remain anonymous and voluntary under the above targeted approach. SCS responded that if the civil servants sampled could choose not to respond, the response rate might be even lower, especially as the sampling exercise might facilitate identification of particular respondents notwithstanding assurances that the questionnaires would be destroyed after use. She urged members to allow the Administration to conduct the survey in 2013 as proposed in recognition of the potential sensitivity of the exercise and the need to minimize any suspicion that might arise.

56. Pointing out that the purpose of conducting the survey was to ascertain the distribution of individual ethnic minority groups in the civil service, so as to ascertain if there had been any racial discrimination, Dr PAN Pey-chyou considered it necessary for the Administration to collate figures on complaints received during the past five to ten years alleging unfair denial of appointment to the civil service or promotion to higher ranks because of racial discrimination. SCS responded that the above figures had not been collated because such complaints had not been

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Views and comments on the language proficiency requirements

57. Mr LEE Cheuk-yan highlighted the recent decision of CSD to use training to replace the internal Chinese written test for ethnic minorities as he had urged, and pointed out that in assessing ethnic minorities' suitability for joining the disciplined services departments, their ability to communicate with ethnic minorities should be considered an asset to qualify them for the job, instead of rigidly requiring them to demonstrate proficiency in Chinese language equivalent to Level 2 in Chinese Language in the Hong Kong Certificate of Education Examination (HKCEE), especially as many of them did not have problem in speaking Chinese.

58. SCS responded that not all civil service grades required proficiency in Chinese language equivalent to Level 2 in HKCEE but HoDs/HoGs were responsible for stipulating the LPRs for each of the grades under them and make changes in this regard in response to changes in the community and operational needs. As a follow-up to the Panel meeting on 24 May 2010, the Administration would submit a paper to the Panel to explain the changes in the LPRs for rank and file officers which CSD and the Hong Kong Police Force had introduced since May and September 2011 respectively. Noting the response, Mr TAM Yiu-chung said that he would assess whether the LPRs concerned were reasonable when the paper was available, and examine whether there was a need to require ethnic minorities whose spoken Chinese was good to demonstrate equally high performance in written Chinese.

59. Mr LEE Cheuk-yan reiterated that to achieve racial integration, the Administration should exercise greater flexibility when considering whether ethnic minorities could meet the relevant LPRs for joining the civil service and for promotion. Mr TAM Yiu-chung shared his views and added that persons who could communicate with ethnic minorities might be required to fill civil service posts that provided service to ethnic minorities. SCS responded that the Government's recruitment policy was fair competition and meritocracy, to which the Administration would continue to adhere.

VI Other business

60. The Chairman expressed concern about complaints alleging use of government resources and involvement of civil servants of the "Administrative Officer" (AO) grade in election campaigns. Highlighting the importance of the principle of political neutrality of civil servants, the Chairman opined that CSB should investigate into the matter and report the outcome to the Panel. CSB should also issue circulars to remind civil servants of the above principle. SCS responded that the officer of the Information Services Department allegedly involved had already issued a public statement clearly denying the allegations. The Director of Information Services had also undertaken to look into the matter, and would inform CSB of the findings and report them to the public. SCS further reported that CSB would reissue election-related CSB circulars to civil servants before each important election. Such a practice would continue.

61. Stressing that violation of the above principle by AOs was very serious, the Chairman considered it necessary for CSB to take the initiative to conduct its own investigation into the above allegation. Pointing out that the "revolving door" arrangement had been made for SCS to enable her to perform her role professionally and independently, she also urged SCS to ensure the allegation would be duly handled. SCS responded that apart from restricting four groups of civil servants, namely, directorate officers, AOs, information officers, and police officers from participating in the Election Committee for Legislative Council elections and the Election Council for the National People's Congress elections, civil servants also had to remain politically neutral according to the Civil Service Code, and any complaints in this regard would be investigated by the HoDs or the Permanent Secretaries concerned, with the findings passed to CSB for follow-up as necessary. The above mechanism would be followed when handling the above allegation and, as was always the case, she would handle this allegation seriously. The Chairman urged the Administration to report the relevant findings to the Panel when they were available.

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