

立法會

Legislative Council

LC Paper No. CB(1)2602/11-12
(These minutes have been seen
by the Administration)

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Panel on Public Service

**Minutes of meeting held on
Monday, 18 June 2012, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

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

Members absent : Hon Mrs Regina IP LAU Suk-ye, GBS, JP (Chairman)
Dr Hon LEUNG Ka-lau

**Public officers
attending** : **Agenda item II**

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 III

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

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

Clerk in attendance : Mr Arthur LEUNG
Chief Council Secretary (1)7

Staff in attendance : Mr Simon CHEUNG
Senior Council Secretary (1)9

Miss Iris CHEUNG
Legislative Assistant (1)7

Ms Jennifer LEUNG
Clerical Assistant (1)7

Action

Dr PAN Pey-chyou, the Deputy Chairman, chaired the meeting as the Chairman was unable to attend the meeting.

I. Papers issued since last meeting

(LC Paper No. CB(1)2084/11-12(01) -- Referral from the Complaints
(*Chinese version only*) Division dated 31 May 2012
regarding the staff salary
adjustment arrangements of
subvented bodies within the
social welfare sector
(Restricted to members)

LC Paper Nos. CB(1)2168/11-12(01) -- Submissions from the
and (02) Association of Government
(*Chinese version only*) Cartographic Staff and the
Association of Government
Technical and Survey Officers

on the staffing arrangements
in the Planning Department)

2. Members noted that the above papers had been issued since the last meeting on 21 May 2012.

II. 2012-2013 Civil Service Pay Adjustment

(File Ref. CSBCR/PG/4-085-001/70 -- Administration's paper on 2012-2013 civil service pay adjustment dated 5 June 2012 (Legislative Council Brief)

File Ref. CSBCR/PG/4-085-001/70 -- Administration's paper on 2012-2013 civil service pay adjustment dated 12 June 2012 (Legislative Council Brief)

LC Paper No. CB(1)2117/11-12(01) -- Paper on 2012-2013 Civil Service Pay Adjustment prepared by the Legislative Council Secretariat (Background brief))

3. Secretary for the Civil Service ("SCS") briefed members on the decisions of the Administration on the civil service pay adjustments for 2012-2013. With retrospective effect from 1 April 2012,

- (a) pay for civil servants in the upper salary band and the directorate would be increased by 5.26% (equal to the net Pay Trend Indicator ("PTI") for the upper salary band);
- (b) pay for civil servants in the middle salary band would be increased by 5.80% (equal to the net PTI for the middle salary band); and
- (c) pay for civil servants in the lower salary band would be increased by 5.80% (equal to the net PTI for the middle salary band), by invoking the "bring-up" arrangement.

4. Mr TAM Yiu-chung noted that the results of the Pay Trend Survey ("PTS") this year were not disputed by any civil service staff unions and the

staff sides of the four central consultative councils generally accepted the pay offers. He hoped that the pay adjustment exercises in future could be conducted as smoothly as this year. SCS responded that most of the staff sides had adopted a pragmatic attitude towards pay adjustments this year. The Deputy Chairman added that he considered that the staff sides had all along adopted a pragmatic attitude. SCS agreed to his view.

Pay increase for civil servants in the upper salary band

5. The Deputy Chairman noted that the Hong Kong Chinese Civil Servants' Association had proposed a pay increase of 5.80% for civil servants in the upper salary band, same as that proposed for the middle and lower salary bands, so as to assist the civil servants concerned to cope with the high inflation. He however noted that the Administration had rejected the proposal, saying that inflation began to ease on entering 2012 as the forecast headline inflation rate for 2012 as a whole was 3.5% while the headline inflation for the 12-month period ended March 2012 stood at 5.6%. He considered that as the civil service pay adjustments were based on the year-on-year pay adjustments in the private sector in 2011-2012, the Administration should have used the inflation rate in the same period of 2011-2012, rather than the forecast inflation rate for 2012, in determining the civil service pay adjustments.

6. SCS replied that the pay adjustment for the upper salary band in the last financial year was 7.26%, which was higher than the actual headline inflation of 5.6% for the year. In determining pay adjustments for employees, employers in the private sector generally took into consideration the performance of the companies concerned, the performance of the employees concerned and the change in cost of living. Consequently, the impact of past inflation rate was already reflected in PTS results. According to press reports, the basic salary in the private sector rose by about 4% to 4.5% over the past 12 months. As the pay adjustment would apply for the 12-month period commencing in April, the forecast inflation rate for the period was relevant and should be taken into consideration.

Plan to conduct Pay Level Survey in 2012

7. Noting that the Administration planned to conduct the Pay Level Survey ("PLS") in 2012 and that a plus/minus 5% had been adopted as the acceptable range of difference between the civil service and private sector pay indicators for a job level, Mr LEE Cheuk-yan expressed concern that the civil service pay for Mod I scale civil servants might need to be adjusted downwards as a result of the PLS, and if so the pay increase received by such

civil servants this year would be cancelled out. He urged the Administration to shelve the plan to conduct PLS.

8. SCS responded that under the existing policy, PLS would be conducted every six years and it covered all non-directorate civilian civil service grades. The purpose of conducting PLS was to ascertain whether civil service pay was broadly comparable with private sector pay. As the use of public funds was involved, the public expected that the remuneration for civil servants to be broadly comparable to that for employees in the private sector. Likewise, civil servants would have an interest to know if the pay they were receiving was broadly comparable to that received by private sector employees performing similar duties.

Application of the civil service pay adjustments to non-civil service contract staff

9. Ms LI Fung-ying welcomed the Administration's decision to invoke the "bring-up" arrangement, whereby the pay adjustment for civil servants in the lower salary band was aligned to the net PTI of the middle salary band, which was higher than the net PTI of the lower salary band. Given the high inflation rate last year, Ms LI enquired if non-civil service contract ("NCSC") staff recruited by individual bureaux and departments ("B/Ds") would be given the same pay rise as civil servants.

10. SCS replied that subject to the guiding principles that the terms of employment and conditions of services offered to NCSC staff should be no less favourable than those prescribed 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, Heads of Departments ("HoDs") had full discretion in determining the appropriate employment package for their NCSC staff, including the pay level and any pay adjustment during the contract period. In setting the employment terms for NCSC staff, the factors which HoDs might take into consideration included the pay levels of staff performing similar duties in the private sector, the general employment situation of Hong Kong, the responses to the recruitment exercises concerned, the need to retain competent NCSC staff, and the changes in cost of living.

11. The Deputy Chairman said that as there were as many as 16 000 NCSC staff, it would be undesirable for HoDs to make their decisions on the pay adjustment rates separately. He enquired if there was a mechanism to assist HoDs to objectively determine the pay adjustment rates.

12. SCS said that while HoDs had full discretion on the pay adjustment rates for their NCSC staff, CSB had provided general guidelines to departments on factors to be taken into consideration in reviewing the pay for their NCSC staff. HoDs might consider the unemployment rates and wage statistics published by the Census and Statistics Department, the results of pay surveys conducted by employers associations and human resources consultancies, and the civil service pay adjustment. If necessary, HoDs might also engage consultants to conduct surveys on the relevant pay level in the private sector.

13. Mr LEE Cheuk-yan expressed dissatisfaction that despite being raised at Panel meetings for many years, the issue of NCSC staff not being given the same pay increase as civil servants had remained unresolved. He did not understand why the Administration had discriminated against NCSC staff in determining the pay adjustments for them.

14. SCS responded that the Administration had no intention to discriminate against NCSC staff. As civil servants and NCSC staff were employed under different mechanisms, it was inappropriate to compare the terms of employment of these two types of staff.

15. Mr IP Wai-ming declared the interest that his wife was a civil servant. He said that while some NCSC staff, for example those working in the Buildings Department or Social Welfare Department, were performing duties which used to be performed by civil servants, the former were paid less, indicating a situation of "different pay for the same job".

16. SCS responded that civil servants and NCSC staff were recruited under two different systems and their remuneration should not be compared. To meet time-limited operational and service needs of B/Ds, it was more preferable to engage NCSC staff. Notwithstanding this, following a review in 2006, some 4 000 NCSC positions were gradually replaced by civil service posts as the work involved were considered more appropriately be performed by civil servants.

17. Ms LI Fung-ying said that members' main concern was whether NCSC staff would receive the same pay rise as civil servants working under the same roof. She considered that SCS should instruct HoDs to give their NCSC staff the same pay rise, instead of leaving HoDs to decide on their own. She expressed concern that the pay rise for NCSC staff might be checked as the relevant costs would have to be absorbed by the B/Ds concerned.

18. SCS responded that according to enquiries made with HoDs, there had not been any case in which HoDs had failed to implement pay rise for NCSC staff owing to financial constraints. Even for B/Ds engaging a relatively large number of NCSC staff, the costs of pay rise for NCSC staff accounted for less than 1% of the annual departmental expenditure and such expenditure was much smaller than the amount of under-spending by B/Ds at the end of financial years. CSB would, as in the past, issue a reminder to all controlling officers to remind them of the mechanism for considering pay adjustment for their NCSC staff.

NCSC staff who received a pay rise in the past few years

19. Mr LEE Cheuk-yan enquired if the Civil Service Bureau ("CSB") had kept statistics on the number of NCSC staff who received a pay rise last year. SCS replied that according to the available information provided by HoDs, last year, 95% of NCSC staff received a pay increase after the pay rise for civil servants was decided.

20. Noting that a few percent of NCSC staff did not get any pay rise last year, Mr LEE Cheuk-yan enquired about the B/Ds in which such NCSC staff worked. He considered that the HoDs concerned were too mean given that such B/Ds had a significant amount of under-spending at year-end.

21. SCS replied that HoDs should not give a pay rise to NCSC staff just to please them, nor should they be regarded being mean if they did not give a pay rise to NCSC staff. There were a small number of NCSC staff who did not receive a pay rise as their salaries were already higher than the market rate. Such NCSC staff joined the service in the nineties of the last century and they were then offered a high salary in line with the labour market situation. When the contracts of such NCSC staff were renewed during economic downturn, the Controlling Officers concerned decided not to implement a salary cut for such staff in line with the labour market situation, so that their standard of living could be maintained. Such decisions were based on the premise that the salaries of such staff would be frozen in the next few years to allow the salaries of private-sector employees carrying out similar duties to catch up.

22. Mr IP Wai-ming enquired about the pay adjustment rates applicable to NCSC staff in the past few years. SCS replied that according to her recollection, the pay adjustment rates for most NCSC staff were almost the same as those for civil servants.

Admin 23. Mr LEE Cheuk-yan asked for information on pay adjustments of NCSC staff last year. Mr IP Wai-ming requested for the same figures in the past three years. SCS undertook to provide the figures as far as possible.

Timing of pay adjustments for NCSC staff

24. Mr IP Wai-ming enquired if NCSC staff would receive back pay as civil servants would. SCS explained that different mechanisms had been adopted for adjustment of pay to civil servants and NCSC staff. For civil service pay adjustment, the following steps were involved in the annual pay adjustment exercise:

- (a) around October each year, the Pay Trend Survey Committee to review and recommend on the methodology for conducting PTS;
- (b) the Standing Commission on Civil Service Salaries and Conditions of Service to decide on the methodology for conducting PTS;
- (c) the Joint Secretariat for the Advisory Bodies on Civil Service and Judicial Salaries and Conditions of Service ("JSSCS") to conduct PTS;
- (d) the JSSCS to liaise with the staff sides of the four central consultative councils on matters arising from the conduct of PTS;
- (e) the staff sides of the four central consultative councils to be informed of the findings of PTS;
- (f) the findings of PTS to be submitted to CSB;
- (g) CSB to invite the staff sides of the four central consultative councils to make pay claims;
- (h) the Chief Executive-in-Council to decide on the pay offers to be made to the staff sides of the four central consultative councils;
- (i) the staff sides to respond to the pay offers;
- (j) the Chief Executive-in-Council to decide on the pay adjustment proposals;

- (k) the Panel on Public Service of the Legislative Council ("LegCo") to be briefed on the pay adjustment proposals; and
- (l) the Administration to seek funding approval from the LegCo Finance Committee for the pay adjustment proposals.

25. SCS pointed out that given the procedures described above, the civil service pay adjustment exercise could not be concluded until June or July each year. Consequently, the established practice was to effect the pay adjustment retrospectively from 1 April each year. On the other hand, the pay adjustment exercise for NCSC staff involved fewer steps and hence less time. HoDs generally were able to determine in July or August each year the pay adjustments for their NCSC staff. There was therefore no need to effect pay adjustment retrospectively for NCSC staff.

Application of the pay adjustment to staff of subvented bodies

26. As additional provisions for subventions would be provided to subvented bodies following a civil service pay increase, Ms LI Fung-ying enquired the measures the Administration would put in place to ensure the additional subventions would be used solely for pay increase for staff of subvented bodies.

27. SCS replied that it had been the established practice that following a civil service pay adjustment, the Government would adjust the provisions for subventions. Where the civil service pay adjustment involved a pay rise, the additional provisions for subventions were in general calculated in accordance with the weighted average of the pay rise adopted for the civil service. Upon approval given by the LegCo Finance Committee, the Controlling Officers would issue letters to subvented bodies under their purview to remind them that the additional subventions from the Government were meant to allow room for pay adjustment for their staff. With the exception of teaching and related staff in the aided school sector who were paid according to the civil service pay scales, the Government, as a general rule, was not involved in the determination of pay or pay adjustment of staff employed by subvented bodies. These were matters between the concerned bodies and their employees.

28. Mr LEE Cheuk-yan pointed out that some subvented non-governmental organisations ("NGOs") in the social welfare sector had retained some of the additional subventions meant for pay increase by not giving their employees back pay or lowering their pay adjustment rate on premise of poor performance of the staff concerned. He pointed out that the Lump Sum Grant reserves hoarded by NGOs in total had reached the staggering amount of \$2.5 billion.

He therefore had doubts about the effectiveness of the letters sent by Controlling Officers to subvented bodies, given that there was no sanction for non-compliance.

29. Mr IP Wai-ming opined that while the delivery of government welfare services might be outsourced to subvented bodies, the monitoring role of the Administration could not. He considered that the Administration should enforce the relevant conditions in the Funding and Service Agreements signed between NGOs and the Administration. He enquired if the Administration would consider requiring NGOs to keep separate accounts on staff and other expenses.

30. SCS stated that when making funding provisions to subvented bodies, no conditions had been imposed on the remuneration they offered to their staff. According to her observation, most subvented bodies had paid heed to the Controlling Officers' reminder and used the additional subventions for making pay adjustments to their staff. Besides, as the Panel on Welfare Services monitored the matter closely, she considered that there was no need for the Administration to intervene with the employment matters in subvented bodies.

31. Mr LEUNG Kwok-hung said that it was unfair for the Administration to leave subvented bodies to decide on the pay adjustment for their staff. He considered that even if the Administration had not imposed any conditions when granting subventions to subvented bodies in the past, it was free to do so at any time. He criticised the Administration for doing nothing to stop NGOs in building up Lump Sum Grant reserves.

32. Ms LI Fung-ying said that the main problem was that there were a few NGOs which had not passed on the additional subventions to their staff. She considered that a mechanism should be put in place to penalize these NGOs as the Government was the ultimate employer of such NGO staff. SCS clarified that the Government did not have any employment relationship with the employees of NGOs and as such it should not get involved in the employment issues of NGOs. SCS reiterated that it was inappropriate for the Government to intervene with the remuneration matters between subvented bodies and their employees.

III. An updated overview of post-service outside work by directorate civil servants

(LC Paper No. CB(1)2117/11-12(02) -- Administration's paper on an updated overview of

post-service outside work by
directorate civil servants

LC Paper No. CB(1)2117/11-12(03) -- Paper on the policy on post-service outside work by directorate civil servants prepared by the Legislative Council Secretariat (Updated background brief)

33. Noting that 41 and six applications for post-service outside work by directorate civil servants were approved and rejected respectively in 2011 by SCS, Mr LEE Cheuk-yan enquired about the reasons for approval or rejection.

34. SCS replied that the 41 applications had been approved as she was satisfied that the taking up of outside work by the applicants would neither constitute real or potential conflict of interest with their former government duties, nor cause well-founded negative public perception embarrassing the Government and undermining the image of the civil service. Examples of approved cases were former government lawyers, doctors and dentists being allowed to take up private practice, subject to certain work restrictions. On the other hand, six applications had been rejected because she considered the taking up of the work by the applicants might give rise to the above-mentioned concerns.

35. In reply to Mr IP Wai-ming's enquiry about the examples of work restrictions which had been imposed, SCS said that, amongst others, former directorate civil servants were prohibited from directly or indirectly taking part in the bidding for any government land, property, projects, contracts or franchises for their new employers, or contacting certain incumbent government employees.

36. Mr TAM Yiu-chung noted that the control regime on post-service outside work had been tightened up after the publication of the report of the Legco Select Committee on Review of Post-service Work of Mr LEUNG Chin-man ("Select Committee"). He had noted press articles in which some former civil servants had criticized CSB for being too stringent in processing applications for post-service outside work. He enquired if the numbers of applications rejected in the past few years bore this out. SCS replied that two applications were rejected in 2009 and no application was rejected in 2010.

The taking up of post-service outside work by directorate civil servants who left the Civil Service on non-retirement grounds

37. Ms LI Fung-ying enquired how the Administration exercised effective control over the taking up of post-service outside work by directorate civil servants who left the Civil Service on non-retirement grounds. SCS replied that she would consider the applications using the same criteria as those applicable to retired directorate civil servants. Although there was no pre-determined minimum sanitisation period, she could decide on an application-specific basis whether a sanitisation period should be imposed, and if so the length of it, having regard to concerns over conflict of interest and public perception. As the imposition of a sanitisation period on a case-by-case basis might be regarded as arbitrary, Ms LI enquired further if the Administration would consider laying down guidelines for determining the length of the sanitisation period for applicants leaving the Civil Service on non-retirement grounds. SCS replied that the factors for consideration had been set out in the relevant CSB circular and departing directorate civil servants would be informed of them during the exit interview.

The taking up of unpaid work with specified non-commercial organisations by directorate civil servants

38. Mr IP Wai-ming noted that directorate civil servants were only required to notify the Administration of their taking up unpaid work with specified non-commercial organisations. As some non-commercial organisations might be involved in the bidding of government contracts, he was concerned that the assistance rendered by former civil servants to such organisations might put the latter in a more advantageous position than others in the bidding of such contracts.

39. SCS replied that former directorate civil servants were prohibited under the Official Secrets Ordinance (Cap. 521) from disclosing without authorization documents, information or knowledge received in confidence in the course of duties or by virtue of their official position. A civil servant who had disclosed specified information without authority was liable to criminal sanction.

40. The Deputy Chairman pointed out that certain non-commercial organizations might be profit-making in nature e.g. social enterprises, schools of continuing education established by universities, private hospitals registered as charitable bodies under the Inland Revenue Ordinance (Cap. 112). He opined that the Official Secrets Ordinance could not deal with the issue of

conflict of interest, which explained why the control regime on post-service outside work by directorate civil servants had been put in place.

41. SCS drew members' attention to footnote 2 of the paper provided by the Administration (LC Paper No. CB(1)2117/11-12(02)), which stated that a non-commercial organisation should be "not primarily engaged in commercial operations" for it to be regarded as a "specified non-commercial organisation". Charitable bodies registered under the Inland Revenue Ordinance would not automatically be recognized as "specified non-commercial organizations". As such, the types of organisations mentioned by the Deputy Chairman might not qualify as specified non-commercial organisations. Besides, the factors taken into consideration in determining whether an application would give rise to conflict of interest were much wider in scope than those covered by the Official Secrets Ordinance. Permanent Secretary for the Civil Service added that upon receipt of a notification of taking up unpaid work by a former directorate civil servant, CSB would scrutinise the case closely and, if necessary, request the civil servant concerned to provide additional information or even to seek approval before taking up the work.

42. Mr IP Wai-ming enquired about the definition of "commercial operations" adopted in relation to notification of taking up post-service outside work by directorate civil servants. SCS replied that no pre-determined definition had been adopted and each application would be considered under its own particular circumstances. Where necessary, SCS could request the former civil servant to provide further information or not to commence the outside work pending submission and approval of an application.

Appeal channels for directorate civil servants whose applications for post-service outside work were rejected

43. Mr TAM Yiu-chung enquired whether appeal channels were available to applicants whose applications for post-service outside work had been rejected. SCS replied that the applicant whose application had been rejected might request for a review of the application by providing CSB with new information. If the application was rejected again, the applicant might lodge an appeal with the Chief Executive, who might uphold or overturn SCS's decision. Alternatively, the applicant might seek a judicial review of SCS's decision. Mr TAM enquired if the relevant B/Ds supported the six applications which were rejected in 2011 and whether the applicants had lodged any appeal. SCS replied that she did not have the information on hand but the Advisory Committee on Post-service Employment of Civil Servants ("Advisory Committee") had recommended to the decision authority that the six applications be rejected.

44. Mr LEUNG Kwok-hung enquired how much time SCS had spent in scrutinizing the six applications she had rejected. SCS replied that she did not have the information on hand. Mr LEUNG commented that the Advisory Committee could be wrong in its recommendations. SCS said that she was responsible for making the decisions taking into account the Advisory Committee's recommendations. The revised control regime which came into effect on 1 September 2011 had put in place the recommendation, made by both the Select Committee and the independent Committee on Review of Post-Service Outside Work for Directorate Civil Servants, of improving the accessibility to the register of approved cases. Details of approved and taken-up cases, including the Advisory Committee's recommendation, were made available on the CSB web site for public scrutiny. In reply to Mr LEUNG's further enquiry, SCS said that the number of rejected cases but not the details of them were available in the annual report of the Advisory Committee.

Expression of views on public policies openly by former high-ranking officials

45. The Deputy Chairman enquired about the Administration's view on the trend in recent years that more and more former high-ranking officials participated in media programmes commenting on public policies. SCS replied that during the control period, former directorate civil servants were required to obtain approval before taking up work in media organisations. They were also subject to the confidentiality requirements under the Official Secrets Ordinance before and after the control period. Subject to these requirements, former civil servants were free, as members of the public, to express their views on any matters, including public policies.

IV. Any other business

46. As this was the last Panel meeting for the fourth LegCo term, the Deputy Chairman thanked SCS, her colleagues in CSB and staff of the LegCo Secretariat for their unfailing support to the Panel. Members also commended SCS for attending personally all meetings of the Panel.

47. There being no other business, the meeting ended at 12:55 pm.