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Panel on Public Service

Meeting on 21 November 2016

**Updated background brief on
employment situation of non-civil service contract staff**

Purpose

This paper provides background information on the employment situation of non-civil service contract ("NCSC") staff and summarizes the major views and concerns expressed by members when the subject was discussed by the Panel on Public Service ("the Panel").

The NCSC Staff Scheme

Scope of the Scheme

2. The NCSC Staff Scheme, introduced in 1999, aims at providing Permanent Secretaries and Heads of Departments ("HoDs") with a flexible means of employment to respond more promptly to changing operational and service needs of Bureaux/Departments/Offices ("B/Ds") -

- (a) which may be time-limited, seasonal, or subject to market fluctuations;
- (b) which require staff to work less than conditioned hours;
- (c) which require tapping the latest expertise in a particular area; or
- (d) where the mode of service delivery is under review or likely to be changed.

3. The terms of employment of NCSC staff are separate and different from those of civil servants. HoDs may determine the appropriate employment package for their NCSC staff having regard to the condition of the employment

market, recruitment results, cost of living and other relevant considerations, provided that the terms offered are overall speaking no less favourable than those prescribed under the Employment Ordinance (Cap. 57) ("EO") and no more favourable than those applicable to civil servants in comparable civil service ranks or with comparable levels of responsibilities where they exist.

Replacement of NCSC positions by civil service posts

4. In 2006, the Civil Service Bureau ("CSB"), in conjunction with B/Ds, conducted a special review on the employment situation of NCSC staff. The number of full-time NCSC staff employed by B/Ds was 16 488 as at 31 March 2006. The Administration advised the Panel in December 2006 that the review had identified some 4 000 NCSC positions as suitable for replacement by civil service posts. As at September 2015, almost all those 4 000 positions have been replaced by civil service posts.

5. Between March 2006 and June 2015, B/Ds identified another 3 560 full-time NCSC positions which involved work with permanent service needs. As at 30 June 2015, 2 930 of these positions have been replaced by civil service posts. According to the Administration, the remaining 630 odd positions would be phased out as and when the corresponding civil service posts are created and filled. The 2016-2017 Draft Estimates of Expenditure provide for 2 223 additional civil service posts in various B/Ds, 544 of these posts are approved for replacing NCSC positions for which the long term need has been established.¹

Statistics on the employment of NCSC staff

6. According to the Administration, there were 12 036 full-time NCSC staff employed by B/Ds as at 30 June 2015 as compared with 12 147 as at 30 June 2014. Whilst the overall size of NCSC staff had been reducing upon the lapse of time-limited or project-based NCSC positions, individual B/Ds might have a genuine need to create new NCSC positions to meet their new short-term/time-limited operational and service needs.

7. Statistics on the employment situation of full-time NCSC staff by B/Ds from 2006 to 2015, employment of full-time and part-time NCSC staff in B/Ds as at 30 June 2015 and a breakdown of full-time NCSC staff employed by B/Ds by years of continuous service as at 30 June 2015 are in **Appendices I to III** respectively.

¹ See Examination of Estimates of Expenditure 2016-17 by the Finance Committee - Reply Serial No. CSB039 for details.

Discussions of the Panel

8. The major concerns and views expressed by Panel members and the Administration's responses are summarized in the ensuing paragraphs.

Replacement of NCSC positions by civil service posts

9. Members generally expressed concern over the slow progress of replacing NCSC positions by civil service posts, in particular in replacing those with established long-term service needs. At the Panel meeting on 16 November 2015, some members expressed grave concern that although the total number of NCSC staff had reduced from 18 537 to 12 036 between June 2006 and June 2015², the number of NCSC staff who had continuous service of five years or more was still about 4 060 as at 30 June 2015. They urged the Administration to speed up replacing those NCSC positions by civil service posts, and critically review the manpower situations of those B/Ds which had relatively high ratio of NCSC staff.

10. The Administration advised that of these 4 060 NCSC staff, only about 30% (or about 1 200 in number) had served in different NCSC positions without a break in service for meeting different service needs. Whilst HoDs were provided with the flexibility to employ NCSC staff to enable them to respond promptly to changing operational and service needs of their B/Ds, it was incumbent upon HoDs to review from time to time whether the use of NCSC staff to meet certain service needs should better be met by other means. CSB would also closely monitor whether the employment of NCSC staff for five years or more fit the ambit of the NCSC Scheme, so as to further reduce the number of NCSC staff.

Employment of NCSC staff by certain B/Ds

11. In response to members' enquiries about the Administration's plans to reduce the number of NCSC staff in the four departments, namely, the Hongkong Post ("PO"), the Leisure and Cultural Services Department ("LCSD"), the Education Bureau and the Electrical and Mechanical Services Department ("EMSD"), which had the largest number of NCSC staff, the Administration explained at the Panel meeting on 16 December 2013 that:

- (a) due to the particular work pattern in mail processing, seasonal and daily fluctuations in mail traffic against the need to meet performance pledges, as well as uncertainty in the longer term changes in the posting behaviours of mailers, there was a practical

² See Appendix I for details of the employment situation of NCSC staff by the Administration from 2006 to 2015.

need for PO to engage a mix of civil servants and NCSC staff in order to maintain flexibility in manpower deployment. NCSC staff in PO typically took up specified tasks rather than the full range of duties normally assigned to civil service posts. About half of the NCSC staff in PO were engaged to meet service needs that required them to work less than the conditioned hours required of civil servants;

- (b) LCSD had a relatively high proportion of NCSC staff due to the nature of the services provided by the department. Around 67% of the NCSC staff were employed by LCSD mainly to meet service needs which were time-limited or seasonal in nature. For some grades such as lifeguards, problems might arise from recruiting civil servants to meet service needs that were seasonal in nature because the number of lifeguards required during the summer season far exceeded that during winter. The remaining NCSC staff were mainly employed to provide services where the mode of service delivery was, at the time when the employment contracts were entered into, under review or likely to be changed, such as public libraries and public museums;
- (c) under the school-based management initiative, government schools were provided with greater flexibility and autonomy in managing their operations and resources according to their actual circumstances to develop quality education with characteristics unique to the schools. As such, about 900 NCSC staff were engaged by schools to provide support to various education initiatives on a short-term or time-limited basis, depending on the duration of projects and nature of work required; and
- (d) around 78% of EMSD's NCSC staff were employed to deliver services under the department's trading fund arm which fluctuated according to changes in market demand. Such services were ad hoc or time-limited in nature. The remaining NCSC staff were employed mainly as apprentices for training purposes on a time-limited basis in collaboration with the Vocational Training Council.

12. On members' concern that NCSC positions were created by the Efficiency Unit to man the 1823 hotline and the Administration had no plan to replace them by civil service posts, the Administration explained that NCSC staff were employed because there was no comparable civil service rank in the Government performing this type of work and it was not appropriate to create a new civil service rank with no potential for development solely for manning the

hotline. Moreover, NCSC staff employed to man the 1823 hotline generally did not intend to stay in the job on a long-term basis.

Recruiting NCSC staff as civil servants

13. Members raised questions as to whether preferential consideration could be given to NCSC staff applying for civil service posts, say, by implementing a marking scheme. To ensure the fairness of the selection process in an open recruitment, the Administration could make known to the public the marking scheme for giving preferential consideration to NCSC staff applying for civil service posts.

14. The Administration pointed out that to give preferential consideration to NCSC staff would be at variance with the Government's policy to select the most suitable persons to fill civil service vacancies through an open, fair and competitive process. Since relevant working experience was one of the factors considered in the recruitment of civil servants, NCSC staff who met the basic entry requirements should generally enjoy a competitive edge over other applicants because of their working experience in the Government. In fact, the average success rates for NCSC staff and other applicants during the period from January 2007 to August 2015 were around 15% and 2% respectively.

15. The Administration also advised that when B/Ds identified specific NCSC positions for phasing out, the concerned staff were advised well in advance so that they might plan and seek alternative employment in good time. B/Ds also offered employment assistance to outgoing NCSC staff where necessary. Interested NCSC staff were encouraged to apply for civil service jobs.

Terms and conditions of service for NCSC staff

16. Members expressed concern that NCSC staff were receiving less favourable terms and conditions of service than their civil service counterparts doing the same job. They requested the Administration to improve the remuneration packages for NCSC staff and consider relaxing the existing rule that the salaries of NCSC staff should not exceed the salary mid-point of comparable civil service ranks.

17. The Administration responded that it was not appropriate to compare the terms and conditions of employment of NCSC staff with that of civil servants, as they were two distinct types of employment. Apart from complying with EO and the guiding principles for employing NCSC staff, B/Ds were also required to ensure the competitiveness of the terms and conditions of service of the NCSC positions so as to be able to recruit persons of suitable calibre and to retain suitable NCSC staff.

18. In response to members' enquiry about measures to be taken by the Administration to boost the morale of NCSC and to retain their services, the Administration advised that B/Ds would conduct periodic reviews on the pay of their NCSC staff to ensure that it remained competitive with the prevailing pay levels in the market, and enabled them to recruit and retain NCSC staff. Where justified, pay revisions were implemented on a prospective date after the conclusion of pay reviews and/or upon contract renewal of serving NCSC staff.

Offsetting of severance and long service payments

19. Members noted that under the current arrangement, the accrued benefits arising from the employer's contributions made by B/Ds to the Mandatory Provident Fund ("MPF") schemes of their NCSC staff were used for offsetting the severance and long service payments to NCSC staff. The Administration was urged to take the lead in abolishing the offsetting arrangement of the severance and long service payments against the accrued benefits arising from the employer's MPF contributions payable to their NCSC staff to set a good example for other employers.

20. The Administration responded at the Panel meeting on 16 November 2015 that there were different views on the proposal of abolishing the offsetting arrangement and the public consultation on retirement protection to be conducted by the end of 2015 would include the issue. When there was a wide consensus on the issue and a policy had been established, CSB would be happy to take follow up action under its purview.

End-of-contract gratuities

21. On the suggestion of offering all NCSC staff end-of-contract gratuities equal to 15% of the total amount of their basic salaries, the Administration advised that B/Ds had the full discretion to determine the appropriate employment package of their NCSC staff, having regard to factors such as the recruitment situation and employment market, and to decide whether to offer end-of-contract gratuity and the percentage rate of gratuity. In accordance with the prevailing guidelines, the end-of-contract gratuities plus the Government's MPF contributions in respect of the NCSC staff should not be more than 15% of the total basic salaries drawn during the contract period if the staff were required to perform skilled jobs. If the staff were required to perform non-skilled jobs, the percentage rate should not be more than 10%.

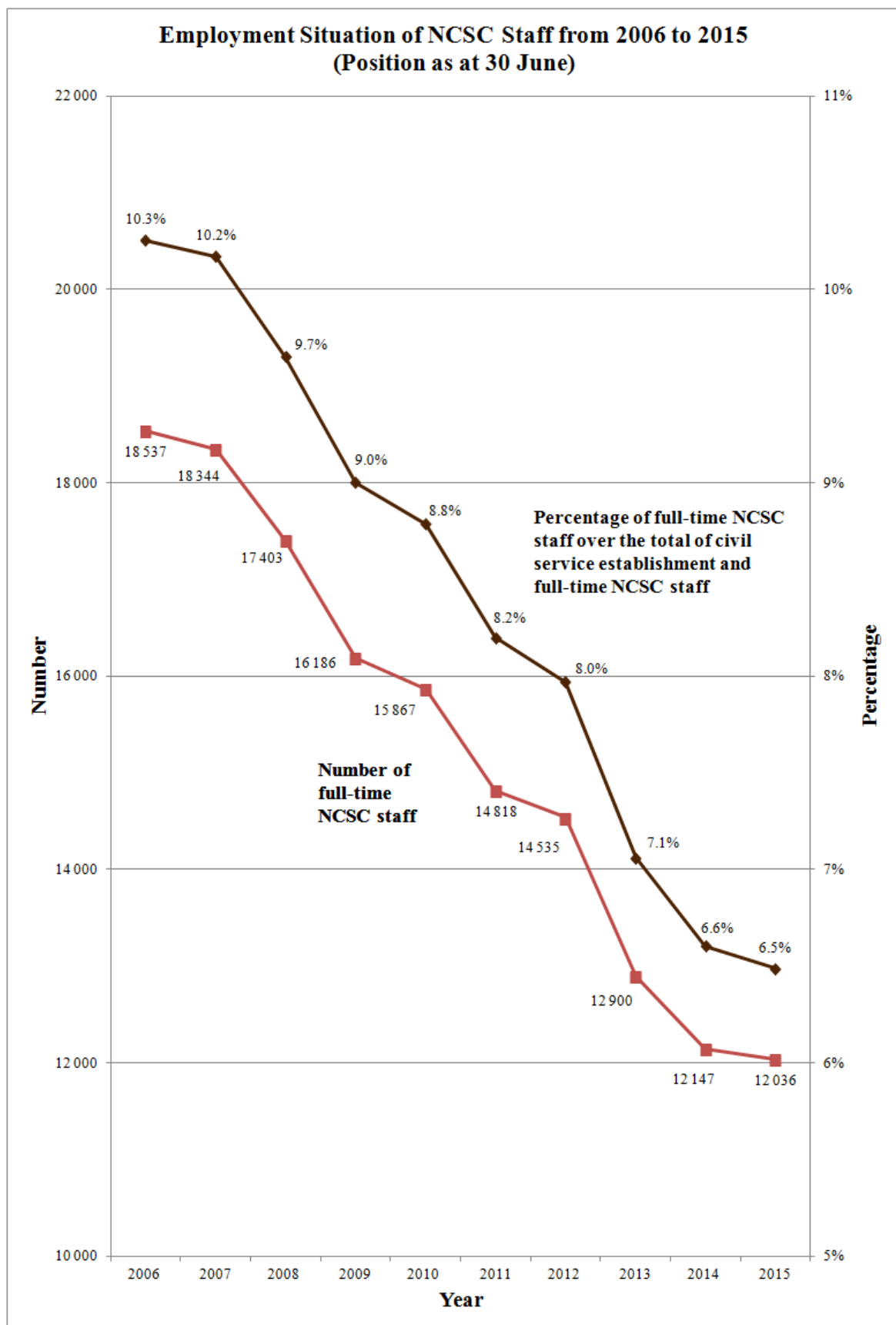
Latest position

22. The Administration will update the Panel on the employment situation of NCSC staff at the Panel meeting on 21 November 2016.

Relevant papers

23. A list of relevant papers is in **Appendix IV**.

Council Business Division 4
Legislative Council Secretariat
15 November 2016



Source: Annex A of LC Paper No. CB(4)194/15-16(05)

Appendix II

Employment of full-time and part-time Non-Civil Service Contract ("NCSC") staff in Bureaux / Departments / Offices ("B/Ds") (as at 30 June 2015)

Bureau / Department / Office	No. of full-time ^{Note 1} NCSC staff	No. of part-time ^{Note 2} NCSC staff
Agriculture, Fisheries and Conservation Department	269	113
Architectural Services Department	45	19
Buildings Department	236	-
Census and Statistics Department	306	-
Chief Executive's Office	6	-
Chief Secretary and Financial Secretary's Offices	38	1
Civil Aviation Department	18	64
Civil Engineering and Development Department	62	2
Civil Service Bureau	-	6
Commerce and Economic Development Bureau	32	7
Companies Registry	75	-
Constitutional and Mainland Affairs Bureau	6	1
Correctional Services Department	21	35
Customs and Excise Department	114	21
Department of Health	508	251
Department of Justice	69	4
Development Bureau	48	-
Drainage Services Department	87	-
Education Bureau	1 137	63
Efficiency Unit	431	92
Electrical and Mechanical Services Department	889	-
Environment Bureau	5	-
Environmental Protection Department	73	118

Bureau / Department / Office	No. of full-time^{Note 1} NCSC staff	No. of part-time^{Note 2} NCSC staff
Financial Services and the Treasury Bureau	83	1
Fire Services Department	41	279
Food and Environmental Hygiene Department	229	-
Food and Health Bureau	14	-
Government Flying Service	8	4
Government Laboratory	22	1
Government Logistics Department	39	-
Government Property Agency	2	-
Highways Department	55	-
Home Affairs Bureau	50	1
Home Affairs Department	439	793
Hong Kong Observatory	17	-
Hong Kong Police Force	46	1
Hongkong Post	1 906	-
Immigration Department	52	-
Information Services Department	22	1
Inland Revenue Department	259	8
Innovation and Technology Commission	33	1
Intellectual Property Department	13	7
Invest Hong Kong	57	-
Judiciary	86	6
Labour and Welfare Bureau	24	1
Labour Department	170	2
Land Registry	111	-
Lands Department	188	-
Legal Aid Department	7	-

Bureau / Department / Office	No. of full-time^{Note 1} NCSC staff	No. of part-time^{Note 2} NCSC staff
Leisure and Cultural Services Department	1 688	5 703
Marine Department	23	15
Office of the Communications Authority	131	-
Office of the Government Chief Information Officer	19	-
Official Receiver's Office	34	-
Planning Department	36	1
Radio Television Hong Kong	250	466
Rating and Valuation Department	52	-
Registration and Electoral Office	536	-
Security Bureau	18	-
Social Welfare Department	137	155
Trade and Industry Department	69	2
Transport and Housing Bureau	8	1
Transport Department	64	24
Treasury	15	-
University Grants Committee Secretariat	23	-
Water Supplies Department	96	-
Working Family and Student Financial Assistance Agency	389	2
Total	12 036	8 272

Note 1: "Full-time" means the employment is on a "continuous contract" as defined by the Employment Ordinance ("EO"), namely an employee who works continuously for the same employer for four weeks or more, with at least 18 hours in each week.

Note 2: "Part-time" NCSC staff refers to those NCSC staff whose number of working hours is less than the "continuous contract" as defined by the EO. The number of part-time NCSC staff set out at the above table refers to those with employment contractual relations with the user B/Ds as at 30 June 2015 and only some of them were called upon to perform duty on that date.

(Source: *Annex A to Examination of Estimates of Expenditure 2016-17 by the Finance Committee - Reply Serial No. CSB034.*)

Appendix III

Breakdown of full-time Non-Civil Service Contract ("NCSC") staff by years of continuous service (position as at 30 June 2015)

Bureau / Department / Office	No. of NCSC staff with less than three years of continuous service	No. of NCSC staff with three years to less than five years of continuous service	No. of NCSC staff with five years to less than ten years of continuous service	No. of NCSC staff with ten years or more of continuous service	Total
Agriculture, Fisheries and Conservation Department	183	40	16	30	269
Architectural Services Department	35	10	-	-	45
Buildings Department	90	67	42	37	236
Census and Statistics Department	290	6	10	-	306
Chief Executive's Office	4	-	-	2	6
Chief Secretary and Financial Secretary's Offices	26	8	4	-	38
Civil Aviation Department	10	6	2	-	18
Civil Engineering and Development Department	37	8	6	11	62
Commerce and Economic Development Bureau	16	9	7	-	32
Companies Registry	55	10	10	-	75
Constitutional and Mainland Affairs Bureau	3	2	-	1	6
Correctional Services Department	20	1	-	-	21
Customs and Excise Department	113	1	-	-	114
Department of Health	55	97	326	30	508
Department of Justice	56	10	3	-	69
Development Bureau	28	15	5	-	48

Bureau / Department / Office	No. of NCSC staff with less than three years of continuous service	No. of NCSC staff with three years to less than five years of continuous service	No. of NCSC staff with five years to less than ten years of continuous service	No. of NCSC staff with ten years or more of continuous service	Total
Drainage Services Department	65	10	9	3	87
Education Bureau	744	177	168	48	1 137
Efficiency Unit	252	46	94	39	431
Electrical and Mechanical Services Department	113	178	377	221	889
Environment Bureau	2	2	1	-	5
Environmental Protection Department	56	9	8	-	73
Financial Services and the Treasury Bureau	52	21	8	2	83
Fire Services Department	32	1	6	2	41
Food and Environmental Hygiene Department	101	46	42	40	229
Food and Health Bureau	9	-	5	-	14
Government Flying Service	4	-	4	-	8
Government Laboratory	4	12	4	2	22
Government Logistics Department	21	7	7	4	39
Government Property Agency	2	-	-	-	2
Highways Department	49	3	1	2	55
Home Affairs Bureau	37	7	5	1	50
Home Affairs Department	310	62	60	7	439
Hong Kong Observatory	14	3	-	-	17
Hong Kong Police Force	31	9	6	-	46
Hongkong Post	590	177	585	554	1 906

Bureau / Department / Office	No. of NCSC staff with less than three years of continuous service	No. of NCSC staff with three years to less than five years of continuous service	No. of NCSC staff with five years to less than ten years of continuous service	No. of NCSC staff with ten years or more of continuous service	Total
Immigration Department	22	3	19	8	52
Information Services Department	12	3	2	5	22
Inland Revenue Department	242	1	15	1	259
Innovation and Technology Commission	17	2	9	5	33
Intellectual Property Department	9	1	1	2	13
Invest Hong Kong	10	9	10	28	57
Judiciary	37	11	34	4	86
Labour and Welfare Bureau	16	6	2	-	24
Labour Department	53	44	41	32	170
Land Registry	38	7	43	23	111
Lands Department	157	27	4	-	188
Legal Aid Department	6	1	-	-	7
Leisure and Cultural Services Department	1 189	73	157	269	1 688
Marine Department	20	1	2	-	23
Office of the Communications Authority	61	20	26	24	131
Office of the Government Chief Information Officer	9	7	3	-	19
Official Receiver's Office	20	4	8	2	34
Planning Department	27	2	5	2	36
Radio Television Hong Kong	142	24	43	41	250
Rating and Valuation Department	33	7	9	3	52

Bureau / Department / Office	No. of NCSC staff with less than three years of continuous service	No. of NCSC staff with three years to less than five years of continuous service	No. of NCSC staff with five years to less than ten years of continuous service	No. of NCSC staff with ten years or more of continuous service	Total
Registration and Electoral Office	514	8	7	7	536
Security Bureau	7	2	9	-	18
Social Welfare Department	80	19	22	16	137
Trade and Industry Department	31	9	23	6	69
Transport and Housing Bureau	8	-	-	-	8
Transport Department	26	14	18	6	64
Treasury	6	5	3	1	15
University Grants Committee Secretariat	11	3	8	1	23
Water Supplies Department	38	25	7	26	96
Working Family and Student Financial Assistance Agency	182	50	107	50	389
Total	6 532	1 448	2 458	1 598	12 036

(Source: Annex B to Examination of Estimates of Expenditure 2016-17 by the Finance Committee - Reply Serial No. CSB034.)

Appendix IV

Employment situation of non-civil service contract staff

List of relevant papers

Date	Meeting/Event	References
6 February 2013	Council meeting	<u>Oral question raised by Hon Mrs Regina IP</u>
19 June 2013		<u>Written question raised by Hon TANG Ka-piu</u>
16 December 2013	Panel on Public Service	<u>Administration's paper</u> <u>Updated background brief prepared by the Legislative Council Secretariat</u> <u>Minutes</u> <u>Administration's follow-up response to issues raised at the Panel meeting</u> <u>Administration's response to the letter from Hon TANG Ka-piu and Hon KWOK Wai-keung dated 18 December 2013</u>
19 March 2014	Council meeting	<u>Written question raised by Hon Mrs Regina IP</u>

Date	Meeting/Event	References
15 December 2014	Panel on Public Service	<u>Administration's paper</u> <u>Updated background brief prepared by the Legislative Council Secretariat</u> <u>Minutes</u> <u>Administration's follow-up response to issues raised at the Panel meeting</u>
16 November 2015	Panel on Public Service	<u>Administration's paper</u> <u>Updated background brief prepared by the Legislative Council Secretariat</u> <u>Minutes</u> <u>Administration's follow-up response to issues raised at the Panel meeting</u>
27 January 2016	Council meeting	<u>Written question raised by Ir Dr Hon LO Wai-kwok</u>

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Legislative Council Secretariat
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