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Legislative Council

LC Paper No. CB(4)455/17-18(03)

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Panel on Public Service

Meeting on 15 January 2018

**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. At its peak, the number of full-time NCSC staff employed by B/Ds was 18 537 as at 30 June 2006. Since then, B/Ds have reviewed the employment situation of their NCSC staff from time to time to ascertain the need to replace those NCSC positions with established long-term service needs by civil service posts. As at 30 June 2016, about 8 100 full-time NCSC positions were identified as involving work with long-term service needs that should more appropriately be carried out by civil servants, and 7 500 positions (93%) of them had already been replaced. The remaining 600 odd positions will be phased out as and when the corresponding civil service posts are created and filled. The 2017-2018 Draft Estimates of Expenditure provide for 3 378 additional civil service posts in various B/Ds, 405 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

5. According to the Administration, there were 11 923 full-time NCSC staff employed by B/Ds as at 30 June 2016 as compared with 12 036 as at 30 June 2015.

6. Statistics on the employment situation of full-time NCSC staff by B/Ds from 2006 to 2016, employment of full-time and part-time NCSC staff in B/Ds as at 30 June 2016 and a breakdown of full-time NCSC staff employed by B/Ds by years of continuous service as at 30 June 2016 are in **Appendices I to III** respectively.

Discussions of the Panel

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

¹ See Examination of Estimates of Expenditure 2017-18 by the Finance Committee - Reply Serial No. CSB014 for details.

Replacement of NCSC positions by civil service posts

8. 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 21 November 2016, some members expressed concern that although the total number of NCSC staff had reduced from 18 537 to 11 923 between 2006 and 2016, the number of NCSC staff who had served continuously for five years or more still remained at 3 884 as at 30 June 2016. They urged the Administration to sustain its efforts to replace all these NCSC positions by civil service posts, and critically review the employment situation of NCSC staff in those B/Ds which had a relatively high ratio of NCSC staff.

9. The Administration advised that of the 11 923 NCSC staff, about 3 000 were engaged by trading fund departments to respond effectively to customer requirements and market competition. For other B/Ds, a ceiling had been set for employment of NCSC staff and waiver would only be granted based on sound justifications. As regards the 3 884 NCSC staff who had served continuously for five years or more, about 1 800 were meant to cater for service needs subject to market fluctuations or jobs with conditioned hours less than that of civil servants, while about 1 200 occupied positions were under review. The Administration was focusing on the latter for possible conversion to civil service posts.

10. The Administration further advised that there was an operational need for some B/Ds to engage a certain number of NCSC staff for job-specific duties to meet changing community needs or maintain a certain degree of turnover of talents engaging in creative work or to provide services under time-limited funds/grants. CSB would continue to liaise with B/Ds to ascertain the need to replace NCSC positions with established long-term service needs by civil service posts.

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 three departments, namely, the Hongkong Post ("HKP"), the Leisure and Cultural Services Department ("LCSD") and the Education Bureau, which had the largest number of NCSC staff, the Administration explained at the Panel meetings on 16 December 2013 and 21 November 2016 that:

- (a) for HKP, 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

need for HKP to engage a mix of civil servants and NCSC staff in order to maintain flexibility in manpower deployment. NCSC staff in HKP 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 HKP 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; and
- (c) as for Education Bureau, some NCSC staff were employed by government schools to provide services under time-limited funds/grants. There were also NCSC staff employed under the Funding Flexibility Scheme whereby government schools were given the flexibility to hire the right mix of supporting staff to meet their operational needs for clerical and janitor services at different times. In 2014-2015 and 2015-2016 financial years, 43 NCSC positions in government schools had been replaced by civil service posts.

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. As an illustration, the Administration advised at the Panel meeting on 21 November 2016 that the average success rate of serving NCSC staff was around 16%, whereas the average success rate for other applicants was only around 2%.

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.

16. Members also expressed concern about the layoff of NCSC staff who had worked for more than five years by some B/Ds due to the completion of time-limited projects or by outsourcing their work to contractors. They urged the Administration to employ these NCSC staff as civil servants. The Administration responded that, for those who had worked in some B/Ds for a long period of time, they might not find the entry salary of civil servants attractive considering their cumulative pay rise over the years.

Terms and conditions of service for NCSC staff

17. 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. Some members were also worried that the Administration had merely focused on cutting costs without caring about job security and prospect of NCSC staff or service quality. They requested the Administration to quantify the amount of savings derived from employing NCSC staff.

18. The Administration stressed that cost reduction was not a main determinant of whether NCSC staff should be engaged, and 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. The terms and conditions of service of NCSC staff was not necessarily inferior to those of civil servants. For example, some people might prefer working on contract term with gratuity payment. 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.

19. 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.

20. 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

21. At the Panel meeting on 12 October 2017, Hon HO Kai-ming proposed to discuss the retirement age of NCSC staff as most of their employment contracts were not renewed after they had reached 60 years of age.

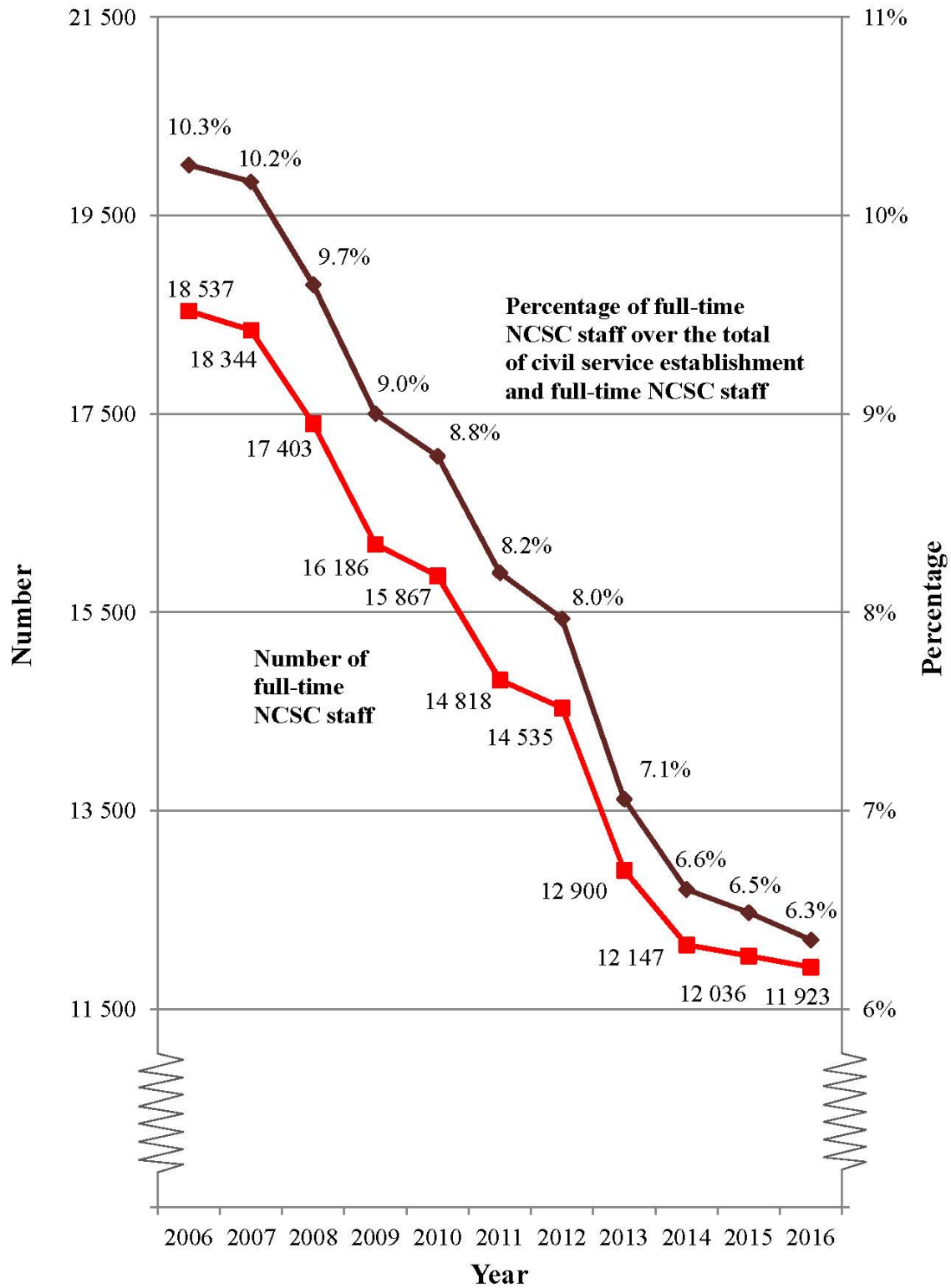
22. The Administration will update the Panel on the employment situation of NCSC staff at the Panel meeting on 15 January 2018.

Relevant papers

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

Council Business Division 4
Legislative Council Secretariat
11 January 2018

**Employment Situation of NCSC Staff from 2006 to 2016
(Position as at 30 June)**



Source: Annex A of LC Paper No. CB(4)124/16-17(03)

Appendix II

Employment of full-time and part-time Non-Civil Service Contract ("NCSC") staff in Bureaux / Departments / Offices (as at 30 June 2016)

Bureau / Department / Office	No. of full-time ^{Note 1} NCSC staff	No. of part-time ^{Note 2} NCSC staff
Agriculture, Fisheries and Conservation Department	211	108
Architectural Services Department	42	21
Buildings Department	222	-
Census and Statistics Department	312	-
Chief Executive's Office	6	-
Chief Secretary and Financial Secretary's Offices	36	3
Civil Aviation Department	16	56
Civil Engineering and Development Department	55	1
Civil Service Bureau	1	1
Commerce and Economic Development Bureau	33	7
Companies Registry	65	-
Constitutional and Mainland Affairs Bureau	3	-
Correctional Services Department	6	37
Customs and Excise Department	7	-
Department of Health	513	247
Department of Justice	57	3
Development Bureau	47	-
Drainage Services Department	94	-
Education Bureau	1 157	63
Efficiency Unit	428	135
Electrical and Mechanical Services Department	784	-
Environment Bureau	3	-
Environmental Protection Department	80	138

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	21	268
Food and Environmental Hygiene Department	241	-
Food and Health Bureau	13	-
Government Flying Service	9	4
Government Laboratory	14	1
Government Logistics Department	40	2
Government Property Agency	4	-
Highways Department	71	-
Home Affairs Bureau	59	1
Home Affairs Department	442	164
Hong Kong Observatory	19	-
Hong Kong Police Force	50	2
Hongkong Post	1 876	-
Immigration Department	32	-
Information Services Department	22	1
Inland Revenue Department	258	8
Innovation and Technology Commission	32	2
Intellectual Property Department	12	6
Invest Hong Kong	58	-
Judiciary	89	6
Labour and Welfare Bureau	26	1
Labour Department	119	1
Land Registry	98	-
Lands Department	190	-
Legal Aid Department	7	-
Leisure and Cultural Services Department	1 447	5 435

Bureau / Department / Office	No. of full-time^{Note 1} NCSC staff	No. of part-time^{Note 2} NCSC staff
Marine Department	27	17
Office of the Communications Authority	123	-
Office of the Government Chief Information Officer	15	-
Official Receiver's Office	35	-
Planning Department	38	-
Radio Television Hong Kong	238	493
Rating and Valuation Department	39	-
Registration and Electoral Office	949	-
Security Bureau	21	-
Social Welfare Department	128	143
Trade and Industry Department	58	2
Transport and Housing Bureau	7	1
Transport Department	55	39
Treasury	21	-
University Grants Committee Secretariat	16	-
Water Supplies Department	89	-
Working Family and Student Financial Assistance Agency	554	1
Total	11 923	7 419

Note 1: "Full-time" employment means employment under a "continuous contract" as defined by the Employment Ordinance ("EO"). According to the Ordinance, an employee is regarded as being employed under a continuous contract if he or she works continuously for the same employer for four weeks or more, with at least 18 hours in each week.

Note 2: "Part-time" employment means employment whereby the number of working hours of the NCSC staff is less than those under a "continuous contract" as defined by EO. The number of part-time NCSC staff set out at the above table refers to those with employment contractual relations with the user Bureaux / Departments / Offices as at 30 June 2016 and only some of them were called upon to perform duty on that date.

(Source: Annex A to Examination of Estimates of Expenditure 2017-18 by the Finance Committee - Reply Serial No. CSB013.)

Appendix III

Breakdown of full-time Non-Civil Service Contract ("NCSC") staff by years of continuous service ^{Note 3} (position as at 30 June 2016)

Bureau / Department / Office	No. of NCSC staff				Total
	with less than three years of continuous service	with three years to less than five years of continuous service	with five years to less than ten years of continuous service	with ten years or more of continuous service	
Agriculture, Fisheries and Conservation Department	136	36	18	21	211
Architectural Services Department	40	2	-	-	42
Buildings Department	91	64	28	39	222
Census and Statistics Department	300	9	3	-	312
Chief Executive's Office	3	1	-	2	6
Chief Secretary and Financial Secretary's Offices	21	8	7	-	36
Civil Aviation Department	8	2	6	-	16
Civil Engineering and Development Department	29	10	7	9	55
Civil Service Bureau	1	-	-	-	1
Commerce and Economic Development Bureau	14	7	12	-	33
Companies Registry	46	11	8	-	65
Constitutional and Mainland Affairs Bureau	2	-	-	1	3
Correctional Services Department	6	-	-	-	6
Customs and Excise Department	2	5	-	-	7
Department of Health	105	51	235	122	513
Department of Justice	44	8	5	-	57

Bureau / Department / Office	No. of NCSC staff				Total
	with less than three years of continuous service	with three years to less than five years of continuous service	with five years to less than ten years of continuous service	with ten years or more of continuous service	
Development Bureau	25	15	7	-	47
Drainage Services Department	73	9	7	5	94
Education Bureau	802	161	130	64	1 157
Efficiency Unit	258	36	87	47	428
Electrical and Mechanical Services Department	42	155	354	233	784
Environment Bureau	-	2	1	-	3
Environmental Protection Department	66	6	8	-	80
Financial Services and the Treasury Bureau	38	25	16	4	83
Fire Services Department	11	2	2	6	21
Food and Environmental Hygiene Department	133	21	48	39	241
Food and Health Bureau	8	2	3	-	13
Government Flying Service	5	-	4	-	9
Government Laboratory	5	4	3	2	14
Government Logistics Department	22	7	4	7	40
Government Property Agency	4	-	-	-	4
Highways Department	61	8	-	2	71
Home Affairs Bureau	41	9	7	2	59
Home Affairs Department	321	57	58	6	442
Hong Kong Observatory	16	3	-	-	19
Hong Kong Police Force	42	7	-	1	50
Hongkong Post	565	200	437	674	1 876

Bureau / Department / Office	No. of NCSC staff				Total
	with less than three years of continuous service	with three years to less than five years of continuous service	with five years to less than ten years of continuous service	with ten years or more of continuous service	
Immigration Department	5	2	10	15	32
Information Services Department	13	2	4	3	22
Inland Revenue Department	238	5	10	5	258
Innovation and Technology Commission	13	4	10	5	32
Intellectual Property Department	4	5	1	2	12
Invest Hong Kong	9	8	12	29	58
Judiciary	51	7	21	10	89
Labour and Welfare Bureau	18	5	3	-	26
Labour Department	30	30	18	41	119
Land Registry	27	12	36	23	98
Lands Department	158	27	5	-	190
Legal Aid Department	5	1	1	-	7
Leisure and Cultural Services Department	1 023	47	121	256	1 447
Marine Department	22	2	3	-	27
Office of the Communications Authority	55	17	31	20	123
Office of the Government Chief Information Officer	5	6	4	-	15
Official Receiver's Office	25	3	5	2	35
Planning Department	23	7	6	2	38
Radio Television Hong Kong	125	38	34	41	238
Rating and Valuation Department	25	2	8	4	39

Bureau / Department / Office	No. of NCSC staff				Total
	with less than three years of continuous service	with three years to less than five years of continuous service	with five years to less than ten years of continuous service	with ten years or more of continuous service	
Registration and Electoral Office	929	5	5	10	949
Security Bureau	12	3	6	-	21
Social Welfare Department	95	14	10	9	128
Trade and Industry Department	21	13	21	3	58
Transport and Housing Bureau	7	-	-	-	7
Transport Department	18	11	15	11	55
Treasury	15	3	3	-	21
University Grants Committee Secretariat	6	3	6	1	16
Water Supplies Department	36	7	17	29	89
Working Family and Student Financial Assistance Agency	396	12	81	65	554
Total	6 795	1 244	2 012	1 872	11 923

Note 3 : "Continuous service" refers to employment in the same NCSC position, as well as employment in different NCSC positions of the same department without a break in service.

(Source: Annex B to Examination of Estimates of Expenditure 2017-18 by the Finance Committee - Reply Serial No. CSB013.)

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>
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>

Date	Meeting/Event	References
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>
21 November 2016	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>
22 March 2017	Council meeting	<u>Written question raised by Hon KWOK Wai-keung</u>

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