

Public Service Commission
Annual Report 2008

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This report covers the Commission's work in 2008.

At the end of the year, the unprecedented global financial crisis was affecting Hong Kong much as it did elsewhere, with varying impacts on people of all walks of life. The community is gravely concerned about the economic situation and the impact on unemployment. In contrast, the civil service has resumed full open recruitment in 2008 following the lifting of the recruitment freeze. This is expected to continue in the coming years and will have a positive impact on the employment situation in Hong Kong. Indeed, the Commission sees the present job market as an opportunity for the Government to trawl talents into the civil service. In the midst of the economic turmoil, a civil service career with its distinctive feature of job security should have a strong appeal. The streamlined recruitment process jointly developed by the Commission and the Civil Service Bureau (CSB) in 2007 and 2008 has been most timely and should help expedite the recruitment process.

Job security aside, the civil service must be competitive overall in order to attract talents and be able to retain them. As highlighted in last year's Report, the Commission has joined hands with CSB to conduct a study on the attractiveness of civil service jobs. The findings of the study suggest that the civil service continues to be a meritocracy and civil service jobs remain attractive. But there is no room for complacency. The Commission has observed that it will be difficult for the civil service to retain talents if its competitive edge is not maintained. The impact of the Political Appointment System on the role and stability of the civil service is another area of concern for

attracting talents into the civil service and keeping them. Retention of good staff is a subject which demands serious attention to ensure Hong Kong's future good governance. Chapter 4 of the Report gives details of the study and explores the options on retention of talents.

During the year the Commission has continued to play a vigorous role in reviewing policies and practices on appointments, performance management and succession planning. The related observations and reviews are summarised under Chapters 3 and 5 to 8. Our suggestions on good practices relevant to individual departments are directly channelled to the respective Heads of Department. The positive response and the improvements they have made are encouraging.

On the discipline front, the Commission continues to support the Administration's integrity drive to maintain the highest standard of conduct in the civil service. It works in concert with CSB to review policies and procedures to allow for expeditious and effective disciplinary action to achieve the desired punitive and deterrent effect. An account of the Commission's activities in this area is given in Chapter 9.

It has been as always a busy year for the Commission. I remain indebted to all Members for their wise counsel and contribution.

A handwritten signature in black ink, appearing to read 'Nicholas Ng Wing-fui'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Nicholas Ng Wing-fui
Chairman

1.1 The Commission was established in 1950 as an independent statutory body and its remit is stipulated in the Public Service Commission Ordinance¹ (PSCO) and its subsidiary regulations (Chapter 93 of the Laws of Hong Kong). The fundamental role of the Commission is to advise the Chief Executive (CE) on civil service appointments, promotions and discipline. The Commission's mission is to safeguard the impartiality and integrity of the appointment and promotion systems in the civil service and to ensure that fairness and broad consistency in disciplinary punishment are maintained throughout the service.

Functions

1.2 With a few exceptions², the Commission's advice on appointments and promotions relates only to the senior ranks of the civil service. This covers posts with a maximum monthly salary at Master Pay Scale Point 26 (currently at \$35,095) or more, up to and including Permanent Secretaries, Heads of Department and officers of similar status. At the end of 2008, the number of established civil service posts under the Commission's purview was 35 542.

1.3 The posts of Chief Secretary for Administration, Financial Secretary, Secretary for Justice, the Director of Audit as well as posts in the Judiciary, the Independent Commission Against Corruption and the disciplined ranks of the Hong Kong Police Force fall outside the Commission's purview. In addition, following the introduction of the Political Appointment System on 1 July 2002 and the further development of the System in 2008, the appointment of Directors of Bureau, Deputy Directors of Bureau as well as Political Assistants (which are non-civil service positions) need not be referred to the Commission.

1.4 As regards disciplinary cases, the Commission's purview covers all Category A officers³ with the exception of exclusions specified in the PSCO. Category A officers include virtually all officers except those on probation, agreement and those remunerated on the Model Scale 1 Pay Scale⁴. At the end of 2008, the number of Category A officers under the Commission's purview for disciplinary matters was about 112 556. The Commission advises on cases involving officers who are subject to formal

¹ In accordance with section (s.) 6(2) of the PSCO, Cap. 93 of the Laws of Hong Kong, the posts of Chief Secretary for Administration, Financial Secretary, Secretary for Justice, the Director of Audit as well as posts in the Judiciary, the Independent Commission Against Corruption and the disciplined ranks of the Hong Kong Police Force fall outside the Commission's purview.

² The following types of case, irrespective of rank, must be submitted to the Commission for advice -

- non-renewal/offer of shorter-than-normal agreement;
- deferment/refusal of passage of probation/trial bar; and
- retirement in the public interest under s.12 of the Public Service (Administration) Order (PS(A)O).

³ According to the PS(A)O, officers appointed to and confirmed in established offices are classified as Category A officers.

⁴ According to the PS(A)O, an officer who holds a non-established office, or an established office on month-to-month or probationary terms, or an officer on agreement terms, is classified as a Category B officer. Prior to 1 October 2008 all Model Scale 1 (MOD 1) grades were non-established offices and hence all MOD 1 staff were Category B officers outside the Commission's purview. Having regard to the long-term service needs for a core workforce of MOD 1 staff, the Administration announced via Civil Service Bureau Circular No. 5/2008 dated 14 July 2008 that concerned MOD 1 offices have been declared as established offices by the CE with effect from 1 October 2008. Around 10 200 serving MOD 1 staff are allowed an irrevocable option to convert from Category B to Category A status during the specified option period from 14 July 2008 to 31 December 2008.

disciplinary proceedings as provided for under the Public Service (Administration) Order (PS(A)O) sections (s.) 9⁵, 10⁶ and 11⁷. Minor misconduct cases which are punished by summary disciplinary action in the forms of verbal or written warning do not require submission to the Commission for advice.

- 1.5 In examining submissions from the Administration, the Commission may raise questions where necessary to ensure that the recommendations are sound and the related process is carried out fairly, meticulously and thoroughly. The Administration is required to clarify or justify its recommendations in response to the Commission's observations and queries. On many occasions, the Administration has modified its recommendations following comments from the Commission whilst, in other instances, the Commission has been satisfied with the propriety of the recommendations after seeking further clarifications or additional justifications. The Commission also draws the Administration's attention to deviations from established procedures or practices and staff management problems identified during the processing of submissions and, where

appropriate, recommends measures to tackle these problems.

- 1.6 The Commission also handles representations from officers on matters falling within the Commission's statutory responsibilities and in which the officers have a direct and definable interest. In 2008, the Commission dealt with 21 representations relating to appointment issues. After careful and thorough examination, the Commission was satisfied that the grounds for representations in all these cases were unsubstantiated. There were also 13 other complaints relating to matters outside the Commission's purview. They were referred to the relevant departments for follow-up action.
- 1.7 Separately, the Commission is required to advise on any matter relating to the civil service that may be referred to it by the CE. The Commission also acts as a "think tank" to the Secretary for the Civil Service on policy and procedural issues pertaining to appointments, promotions and discipline as well as on a wide range of subjects relating to the review and development of Human Resource Management.

⁵ Formal disciplinary action is instituted under s.9 of the PS(A)O if the alleged misconduct, when proven, is not serious enough to warrant removal of the officer from the service.

⁶ Action under s.10 of the PS(A)O is taken if the alleged misconduct, when proven, may result in dismissal or compulsory retirement of the officer.

⁷ In accordance with s.11 of the PS(A)O, if an officer has been convicted of a criminal charge, the disciplinary authority may, upon consideration of the proceedings of the court of such charge, inflict such punishment upon the officer as may seem to him to be just, without any proceedings.

Provisions under the Law Relevant to Conduct of Commission's Business

1.8 In accordance with s.12(1) of the PSCO⁸, the Chairman or any member of the Commission or any other person is prohibited from publishing or disclosing to any unauthorised person any information which has come to his knowledge in respect of any matters referred to the Commission under the Ordinance. Under s.13 of the PSCO⁹, every person is prohibited from influencing or attempting to influence any decision of the Commission or the Chairman or any member of the Commission. The provisions under the law are clear safeguards for the confidentiality and impartial conduct of the Commission's business.

Performance Target

1.9 In 2008, the Commission advised on 970 submissions covering recruitment and promotion exercises, disciplinary cases and other appointment-related subjects. Altogether 417 submissions were queried, resulting in 143 re-submissions (34%) with recommendations revised by the Civil Service Bureau and departments after taking into account the Commission's observations. A statistical breakdown of these cases is shown in *Appendix I*.

1.10 In dealing with recruitment, promotion and disciplinary cases, the Commission's target is to tender its advice or respond formally within six weeks upon receipt of departmental submissions. All submissions in 2008 were dealt with within the pledged processing time.

⁸ In accordance with s.12(1) of the PSCO, it is an offence for the Chairman or any member of the Commission or any person, without the written permission of the CE under the hand of the Chief Secretary for Administration, to publish or disclose to any unauthorised person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which has come to his knowledge in the course of his duties under the Ordinance or under any regulation made thereunder in respect of any matters referred to the Commission under the Ordinance or under any regulation made thereunder. Any person who knowingly acts in contravention of the above provisions shall be guilty of an offence and shall be liable to a fine of \$2,000 and imprisonment for one year.

⁹ According to s.13 of the PSCO, every person who otherwise than in the course of his duty directly or indirectly influences or attempts to influence any decision of the Commission or the Chairman or any member thereof shall be guilty of an offence and shall be liable to a fine of \$4,000 and imprisonment for two years.

2.1 Under the Public Service Commission Ordinance, the Commission comprises a Chairman and not less than two or more than eight members. All are appointed by the Chief Executive and have a record of public or community service. Members

of the Legislative Council, the Hong Kong Civil Service and the Judiciary may not be appointed to the Commission. This restriction does not extend to retired officers.

Membership

2.2 The membership of the Commission during 2008 was as follows -

Chairman	Mr Nicholas NG Wing-fui, GBS, JP	(since May 2005)
Members	Mr Simon IP Sik-on, JP	(since May 2003)
	Mr Michael SZE Cho-cheung, GBS, JP	(since February 2004)
	Mr Thomas Brian STEVENSON, SBS, JP	(since February 2004)
	Mr Nicky LO Kar-chun, JP	(since February 2006)
	Mrs Mimi CUNNINGHAM KING Kong-sang	(since February 2006)
	Ms WONG Mee-chun, JP	(since July 2006)
	Prof. CHAN Yuk-shee, BBS, JP	(since December 2007)
Secretary	Mrs Stella AU-YEUNG KWAI Wai-mun	(since November 2002)
Curricula vitae of the Chairman and Members are at <i>Appendix II</i> .		

Secretariat of the Commission

2.3 The Commission is served by a small team of civil servants from the Executive Officer, Secretarial and Clerical grades. At the end of 2008, the number of established posts in the Commission Secretariat is 27. An organisation chart of the Commission Secretariat is at *Appendix III*.

Method of Work

2.4 Submissions from the Civil Service Bureau (CSB) and government departments/bureaux are meticulously examined by the Commission Secretariat, with further clarifications and justifications obtained where necessary, before the advice of the Commission is sought. Promotion cases form the bulk of the work of the Commission Secretariat and a flow chart illustrating the vetting process of such cases is at *Appendix IV*.

2.5 The business of the Commission is normally conducted through circulation of files. Meetings are held to discuss major policy

issues or cases which are complex or involve important points of principle. At such meetings, representatives from CSB and senior management from departments are invited to attend to appraise the Commission of the background of the issue or case but the Commission forms its views independently.

Homepage on the Internet

2.6 The Commission's homepage can be accessed at the following address-

<http://www.psc.gov.hk>

The homepage provides basic information on the Commission's role and functions, its current membership, the way the Commission conducts its business and the organisation of the Commission Secretariat. Our Annual Reports (from 2003 onwards) can also be viewed on the homepage and can be downloaded¹⁰.

¹⁰ Hard copies of the Annual Report are also available in public libraries and District Offices.

3.1 Recruitments in the civil service are undertaken by the Civil Service Bureau (CSB) and individual bureaux / departments (B/Ds). Since the establishment of the Hong Kong Special Administrative Region (HKSAR) Government on 1 July 1997, new appointees to the civil service must be permanent residents of the HKSAR. However, professional and technical posts may be filled by non-permanent residents in accordance with Article 101 of the Basic Law if there are no qualified or suitable candidates with permanent resident status. The Commission oversees the procedural aspects, examines the shortlisting criteria and advises on recommendations for filling of vacancies in the senior ranks¹¹ of the civil service covering both open and in-service recruitments. It also advises B/Ds on procedural problems they have encountered in the recruitment process.

Assessment of Basic Law (BL) Knowledge

3.2 As announced by the Chief Executive (CE) in the 2007 Policy Address, in addition to enhancing BL training for civil servants, the Government would incorporate assessment

on BL knowledge into civil service recruitment. The objective is to heighten public awareness of the BL and promote a culture of learning of BL in the community.

3.3 With effect from 1 September 2008, assessment on BL knowledge has been incorporated into the recruitment of all civil service jobs, including open recruitments¹² and in-service appointment¹³ exercises. In principle, the major consideration for suitability for appointment remains whether or not a candidate's qualifications, experience and calibre meet the requirements for effective performance of the job. BL test result would not affect a candidate's eligibility for a civil service job but would be one of the considerations to assess the suitability of a candidate.

An Overview of Recruitment Position in 2008

3.4 Following the lifting of the service-wide open recruitment freeze¹⁴ with effect from 1 April 2007 for those grades not included in the second Voluntary Retirement (VR)

¹¹ They refer, for recruitment purpose, to those senior ranks under the normal appointment purview of Commission (i.e. those attracting maximum monthly pay at Master Pay Scale (MPS) Point 26 (currently \$35,095) and above or equivalent). They exclude (i) the basic ranks of non-degree entry and non-professional grades with a maximum monthly salary at MPS Point 26 or above, and (ii) the judicial service, the Independent Commission Against Corruption and the disciplined ranks of the Hong Kong Police Force which are specifically outside the purview of the Commission.

¹² Open recruitments are conducted for basic ranks, or a promotion rank when no one is found suitable in the lower rank, or where there is a special need. Since the establishment of the HKSAR Government on 1 July 1997, new appointees to the civil service must be permanent residents of the HKSAR. However, professional and technical posts may be filled by non-permanent residents in accordance with Article 101 of the Basic Law if there are no qualified or suitable candidates with permanent resident status.

¹³ In-service appointment exercises are arranged when the pool of candidates is restricted to all or selected groups of serving civil servants.

¹⁴ Under the service-wide open recruitment freeze imposed from 1 April 2003 to 1 April 2007, while in-service recruitments, which did not affect the overall strength of the civil service, was generally permissible, exceptional approval by the Joint Panel (co-chaired by the Chief Secretary for Administration and the Financial Secretary and with the Secretary for the Civil Service as member) was required for the conduct of any open recruitment exercise.

Scheme¹⁵, and the expiry of the 5-year open recruitment freeze for the VR grades on 21 March 2008, civil service open recruitments were resumed at different pace by B/Ds. However, to ensure that open recruitment is conducted only where it is fully justified, CSB maintains control on the open recruitment for some selected grades with existing or anticipated surplus staff based on the latest manpower projection, or which are in a state of obsolescence, or where new intakes normally come from in-service recruitment. To fill vacancies in these “controlled grades”, the Heads of Department (HoDs)/Heads of Grade (HoGs) may conduct in-service recruitment exercises, but prior approval of the Secretary for the Civil Service must be obtained before an open recruitment exercise is mounted.

- 3.5 With the resumption of open recruitments of varying scale, the number of new recruits in 2008 was significantly higher than the figures in the previous three years. Altogether the Commission advised on the filling of 1 935 posts, of which 1 677 were through open recruitment and 258 by in-service appointment. One new recruit who was a non-permanent resident was appointed due to the lack of suitable local candidates. A statistical breakdown of these appointments and a comparison of the number of appointees in 2008 with that in the past three years are provided at *Appendix V*.

Improvement to the Recruitment System

- 3.6 The Commission observes closely the effectiveness of the civil service recruitment system. During 2008, it continued to work jointly with CSB in enhancing the service-wide system through further streamlining of the recruitment process and rationalising the relevant rules and practices. The ensuing paragraphs provide a summary of the reviews initiated and the observations made by the Commission during the year.

I. Reviews Initiated by the Commission

(a) Further streamlining of the recruitment process

- 3.7 As stated in the 2007 Annual Report, the Commission is concerned with the lengthy process involved in the recruitment of civil servants which puts the Government in a disadvantageous position in competing with the private sector for talents. The Commission has conducted a joint review with CSB to streamline the process and a number of improvement initiatives have been implemented since December 2007 as the first phase of shortening the recruitment process. The effectiveness of these initiatives and further streamlined measures adopted in the past year are reported below -

¹⁵ As one of the measures to achieve the Government’s aim to reduce civil service establishment to around 160 000 by 2006-07, the second VR Scheme was launched in March 2003 to enable identified or potential surplus staff in 229 designated grades to leave the service voluntarily. About 5 300 officers retired under the Scheme.

(i) Phase I of the streamlining process and its effectiveness

3.8 With the introduction of the Phase I streamlined measures in December 2007, the Commission ceased its involvement in those steps¹⁶ that would not add value to but only lengthen the recruitment process by duplicating the efforts made by the recruiting B/Ds. As regards those recruitment steps which the Commission has decided to retain its vetting role¹⁷, the Commission would seek to verify information with the recruiting B/Ds whenever inconsistent or unclear entries are spotted in vetting the compliance checklists submitted by them. Moreover, for quality assurance purpose, the Commission Secretariat has set up a random-checking system whereby a full-scale checking of the qualifications and experience of all recommended appointees and the performance records of those applicable¹⁸ would be conducted for every 15th departmental submission received. B/Ds would be informed of any irregularities, if identified, together with the relevant observations and suggestions for improvement.

3.9 Before implementing the Phase I streamlined measures, an open recruitment exercise could span from three (for a small scale exercise) to nine months¹⁹ (for a large scale exercise). In the 97 open recruitment cases processed by the Commission in 2008 after implementation of the streamlined measures, it was observed that 95% (i.e. 92 cases) were completed within 2.5 to eight months, indicating a general shortening of the process by about four weeks, as anticipated. In some cases, the departments concerned had achieved significant time savings of up to two months as compared to those exercises conducted before implementing the streamlined process. Yet a small number of recruiting B/Ds have still taken an unduly long period of time to process recruitment cases which are not particularly large in size. For instance, in one case, only 27 shortlisted candidates were interviewed, but the department took almost six months²⁰ to submit its board report to the Commission for advice. In those cases, the Commission has invariably advised the B/Ds concerned to exert more efforts in speeding up the recruitment process and identify further scope for streamlining at their end.

¹⁶ The recruitment steps which the Commission ceased to advise after streamlining include -

- (i) the content of the vacancy circulars or advertisements;
- (ii) sorting results; and
- (iii) the selection arrangements (including the assessment form to be used in selection interviews, the selection format and interview arrangements).

¹⁷ The recruitment steps which the Commission continues to advise after streamlining include -

- (i) any proposed deviations from the established appointment rules, procedures and practices or approved Guides to Appointment;
- (ii) the shortlisting criteria proposed for adoption to reduce the number of candidates to be interviewed, if appropriate; and
- (iii) the proposed offers of appointment to selected candidates.

¹⁸ In line with existing practice, recruitment boards are required to make reference to the performance records of serving or ex-officers on civil service or non-civil service terms of appointment.

¹⁹ Counting from the date of placing an advertisement to the submission of its board report to the Commission for advice.

²⁰ See Note 19 above.

The Commission has also requested CSB to analyse the recruitment time frame of selected grades with a view to identifying best practices from those exercises where time savings are achieved and share the information with B/Ds.

(ii) Phase II of the streamlining process

3.10 Since the implementation of the Phase I streamlined measures in December 2007, the Commission has fine-tuned the procedures in order to further expedite the recruitment process. During the year, recruiting B/Ds were advised on the need to draw up a realistic waiting list recommended by recruitment boards for appointment, thus saving the time to conduct integrity checking²¹ and to verify the documentary proof on the qualifications and experience of candidates who would not be offered appointment in the end. Also, the past arrangement of requiring recruiting B/Ds to submit staff reports of all recommended appointees who were serving officers or ex-officers for the Commission's scrutiny has been revised. To save the vetting time otherwise required by the Commission Secretariat, recruiting B/Ds have been required since August 2008 to submit staff reports only when the assessment as portrayed in the staff reports does not support a candidate's appointment or a decision is made not to offer appointment to an otherwise suitable candidate after reference is made to the staff reports.

3.11 Whilst the recruitment process has been cut down by about four weeks under Phase I of the streamlining exercise as mentioned in paragraph 3.9 above, the Commission considers that it is still a very long process which can take up to eight months to complete a recruitment exercise. There is scope for the recruiting B/Ds to expedite the recruitment process under their sole control covering all preparatory work including the conduct of written or physical tests, marking of test papers, conduct of selection interviews and preparation of board reports. The Commission has requested CSB to oversee Phase II of the streamlining exercise and to specifically identify and share with departments those common areas where further improvements are required. CSB has responded positively to the Commission's request by promulgating in December 2008 some measures to speed up the recruitment process for filling civil service posts. For instance, B/Ds should better plan and stagger recruitment exercises so as to avoid the bunching of different exercises. Some tasks can be done well in advance of the commencement of the recruitment exercise and in parallel, e.g. seeking CSB's approval of updated Guides to Appointment²² and the appointment authority's approval of the selection mechanism. If a recruitment examination is considered necessary, B/Ds should plan ahead and allow sufficient time

²¹ As a normal procedure, integrity checking is conducted for candidates recommended by the recruitment board to ensure that the potential appointees are of good character and high integrity to carry out the duties of the posts.

²² The Guide to Appointment (G/A) is an official document prepared by departments for individual ranks to specify the qualification, requirements and the terms of appointment for recruitment or promotion to respective ranks. B/Ds are required to seek approval from CSB for updating of G/As before the issue of recruitment advertisement/vacancy circular.

for organising the examination, including the completion of any contracting-out formalities in the event that the organisation of the examination is to be outsourced. In case of an overwhelming number of applications, B/Ds should consider arranging temporary deployment of staff from other offices to assist in the staff-intensive process and conducting several interview boards concurrently with a reasonably uniform standard of assessment maintained amongst the boards. Save for the assessment of individual candidates and the board's recommendations, the rest of the board report can be prepared in advance without waiting for the completion of the entire selection process.

3.12 Hong Kong has been facing an unprecedented downturn in its economy in the wake of the global financial turmoil. To shore up the economy and alleviate the unemployment situation, the CE announced in December 2008 that the Government would launch a series of measures, including the creation of job opportunities. In this regard, the Government would speed up the recruitment process to fill about 7 700 civil service vacancies by open recruitment from December 2008 to March 2010. Looking back, the Commission has initiated timely the pursuit of a streamlined recruitment process in the civil service with new arrangements taking effect as from December 2007. The joint efforts made by the Commission and CSB in cutting short the lengthy recruitment process as detailed

in paragraphs 3.8 to 3.11 above are particularly important during this very difficult period in helping to achieve the Government's objective of accelerating civil service recruitment. The Commission will, as always, deliver prompt advice on all recruitment recommendations and continue to work closely with CSB to monitor the effectiveness of the streamlined measures in speeding up civil service recruitments.

(b) *Guidelines on reduction of probationary period*

3.13 All recruits to the civil service since June 2000 are put on New Terms²³ and are normally appointed on 3-year probationary terms to be followed by 3-year agreement terms before they are considered for appointment on permanent terms, i.e. the "3+3" entry system. All candidates are required to undergo the same period of probation. However, in case the new recruit has served in the department on non-civil service contract (NCSC)²⁴ terms performing similar or comparable duties to those of the civil service rank to which he has been selected for appointment and the department has his prior performance records, then the purpose of observation with a view to establishing his suitability for joining the civil service may have been partially met. Under such circumstances, the appointment authority is allowed to exercise the discretion to reduce, where justified and appropriate, the probationary period required of that new recruit provided that the criteria, which

²³ Officers on New Terms are those appointed to the civil service on or after 1 June 2000 who are not eligible for pensions and medical and dental benefits after retirement, and their leave earning rate is also lower than those on Local and Common Terms.

²⁴ The engagement of NCSC staff has been introduced for more than nine years since January 1999 to meet service needs which are short-term, part-time, or where the mode of service delivery is under review or likely to be changed. CSB Circular No.2/2001 sets out the arrangements for HoDs/HoGs to employ NCSC staff.

include the relevancy of job duties, clear service and appraisal records, as well as satisfactory performance and conduct, as set out in the relevant guidelines drawn up by CSB have been fully met. The reduction in probationary period should be no more than the period of the new recruit's past service in the department, and in any case no more than half of the normally required probationary period.

3.14 In vetting the results of one recruitment exercise, the Commission noted that the department had obtained advice from CSB that HoDs/HoGs could exercise the discretion of reducing their probationary period if the new recruits concerned had served on NCSC terms with "possibly a short break" in service before appointment on civil service terms. But the duration of a "short break" was not defined. In the Commission's view, officers who have left the service within six months by the time the offer of appointment is made should be regarded as falling well within the spirit of a "short break". The department concerned has been advised accordingly. To ensure that a consistent approach is adopted across the service, the Commission is pursuing with CSB on the need to codify the practice for adoption by B/Ds.

(c) *Adoption of a minimum period of work experience as shortlisting criterion*

3.15 As stated in the 2007 Annual Report, the Commission has raised concern about the

appropriateness of using a minimum period of work experience as a shortlisting criterion for recruitment at degree entry rank level in some exercises. Such a practice would cause a significant impact on the mix of candidates selected for appointment and may deprive good candidates, in particular fresh graduates, of the chance of pursuing a civil service career in a relevant grade that may appeal to their interest. For recruitments at basic rank requiring a general degree, a mix of fresh graduates, in-service appointees and outsiders is normally expected. It will be more appropriate to screen out fresh graduates during the examination and interview process rather than to disqualify them by adopting a minimum period of work experience as a shortlisting criterion. Upon review, CSB has agreed to remind departments to use work experience as a shortlisting criterion only where necessary and to incorporate suitable guidelines on the subject in the revised "Guidebook on Appointments" currently under preparation.

(d) *Appropriateness of using recruitment examination as shortlisting criterion*

3.16 As mentioned in the Commission's 2007 Annual Report, different departments and grades have accorded different status to the recruitment examinations in the appointment process which in turn has given rise to different treatments²⁵ to people with disabilities in recruitment exercises. The Commission considers that the status accorded to recruitment examinations

²⁵ The different treatments to people with disabilities (PWDs) as a result of the different status accorded to recruitment examination is that where the recruitment examination is treated as a job requirement, PWDs who have not sat or passed the written examination would be automatically screened out. However, where the recruitment examination is treated as a shortlisting tool, then PWDs who are not subject to any shortlisting criteria would be invited for interview even if they have not attended or passed the recruitment examination.

as a shortlisting tool or part of the job requirement should be aligned across the service. In general, recruitment examinations should be part of the selection process to screen out candidates who do not meet the job requirements if the need to conduct recruitment examination is established. The subject is still under consideration by CSB.

II. Other Observations of the Commission

(a) *Thorough checking of departmental submissions*

3.17 As a result of the open recruitment freeze for several years and also the personnel turnover, the Commission has observed that some departments have become less focused on certain recruitment steps affecting as a result the thoroughness of their submissions. In one exercise, a candidate who claimed to have acquired the requisite Common Recruitment Examination²⁶ results in his application form and recommended for immediate appointment, was later found out to have not acquired such results as claimed. While the department had subsequently withdrawn its recommendation on this candidate's appointment, it was seriously advised to exercise great care in vetting applications and verifying applicants' qualifications and other entry requirements to ensure accuracy of the information

provided. In another recruitment exercise, a candidate who was classified as a disabled candidate by the department was waitlisted for appointment without being accorded with an appropriate degree of preference²⁷ as stipulated in the relevant guidelines. In another recruitment exercise, two waitlisted candidates receiving the same score in the selection interviews were prioritised by the departmental management for appointment according to their relevant experience. However, in examining the employment records of the two candidates, the Commission noted that the candidate who was accorded a lower priority for appointment had left the end date of his employment period blank in his application form and the department had assumed the employment period in question as having lasted only "one day" in counting the candidate's relevant experience. Upon the Commission's enquiry, the department confirmed, after seeking clarification with the candidate concerned, that he had in fact been working in the relevant company up to the date of enquiry and hence should be accorded a higher priority than the other candidate who was originally waitlisted for appointment ahead of him. The department was reminded to exercise due care in examining candidates' records and where in doubt, to clarify with the candidates

²⁶ Since 1 January 2003, all applicants for civil service posts at degree and professional level should obtain a pass in two language papers, i.e. Use of English (UE) and Use of Chinese (UC) in the Common Recruitment Examination (CRE) held by CSB. To perfect the system, the Administration had, in response to the Commission's observations, modified the CRE requirements. Starting from the CRE conducted in December 2006, the results of the UE and UC papers have been classified as "Level 2" or "Level 1" or "Fail", with "Level 2" being the highest. Results of the Hong Kong Advanced Level Examination (HKALE) have also been accepted as equivalent to the CRE results and applicants with the requisite HKALE results are not required to sit for the respective language paper(s) of the CRE. The validity period of the CRE results has been made permanent.

²⁷ The degree of preference for appointment of PWDs depends on the facts and circumstances of the particular case in question and should satisfy the test of fairness, genuine need, rationality and proportionality and "reverse discrimination" has to be avoided. A proper balance has to be struck between the legitimate aim of giving a person with disability equal opportunities with another able-bodied candidate for a government position and the latter's right to non-discrimination.

concerned to avoid any misjudgement made on the basis of wrong presumption.

3.18 The above cases call for a need to strengthen the training of officers involved in the recruitment process to ensure that they are familiar with the prevailing recruitment policy and procedures. At the request of the Commission, CSB has undertaken to organise more training or experience-sharing workshops to better prepare officers engaged in recruitment duties to master the skills in ensuring the swift conduct of recruitment exercises.

(b) *Setting of unrealistically high shortlisting benchmark in recruitment exercises*

3.19 For recruitment exercises which attract an overwhelming number of applications, it is common for departments to devise shortlisting criteria to reduce the number of candidates to be interviewed. In a recruitment exercise for one vacancy in a rank with basic entry academic qualification set at a bachelor degree in the relevant subject, it attracted an overwhelming number of some 500 qualified applications. The department made reference to the academic achievements of the candidates and shortlisted only 27 candidates with a first class honours degree and a master degree in the relevant subject for interviews. Although there was still a reasonably large pool of candidates for the department to select even with the high academic benchmark set, the Commission raised the concern that the high academic benchmark as set might not be realistic as candidates with exceptionally sound

academic background might not possess the attributes/qualities required of the post. Departments should be vigilant in devising shortlisting criteria in order not to deprive candidates of high calibre who meet the basic entry requirements of an interview opportunity. To reduce the number of candidates to be interviewed, departments may instead consider conducting recruitment examination or preliminary interviews to screen out unsuitable candidates.

(c) *Conduct of written examinations for selected grades*

3.20 As observed in the 2007 Annual Report, some departments do not conduct recruitment examinations to screen candidates for selection interviews but instead interview all shortlisted candidates despite the large number of candidates involved. This has lengthened considerably the whole recruitment process. The Commission notes that at the departmental level, there may not be sufficient resources for written examinations of the right standard to be set and marked or even for the physical conduct of such written examinations when the number of applicants is large and yet the personnel support is too thin to afford such task. To enable a speedier offer of appointment to the right candidates particularly for those recruitment exercises involving a large number of applications, the Commission has requested CSB to consider rendering assistance to individual grades which may not have the experience of organising such written examinations on satisfaction that their requests are reasonable

and the timing will fit the schedule of those written examinations centrally co-ordinated by the Civil Service Examinations Unit of CSB. CSB has responded positively to the Commission's suggestion and agreed to assist in arranging written examinations for the recruitment of two departmental ranks which used to attract a large number of applications in past exercises.

(d) *Bunched recruitments*

3.21 In one exercise, the department took some nine months²⁸ to submit the recruitment board report to the Commission for advice. One of the reasons for the unduly long recruitment process was that the department had concurrently held three other recruitment exercises. The bunched recruitments had stretched the recruitment resources of the department, thus lengthening the recruitment process of each of the exercises. The department has been advised to better plan and stagger individual recruitment exercises in the future.

(e) *Declaration of conviction record in applying civil service job*

3.22 The Commission has noted with concern that in one recruitment exercise, a candidate had failed to declare his previous conviction record when completing the relevant criminal declaration form. The candidate

thought that he could withhold disclosure of his conviction record in accordance with section 2(1) of the Rehabilitation of Offenders Ordinance (ROO)²⁹. However, it turned out that the post he was being considered for appointment was subject to exceptions of the ROO which required declaration of his previous conviction record to the recruiting department.

3.23 In examining the case, the Commission has noted that there is a "Note" in the relevant declaration form stating that candidates may refer to the ROO in case of doubt on whether or not to report a particular offence in the form. However, the Note does not go into relevant details worthy of a candidate's attention, nor is there any indication on exceptions to the application of the ROO. As reflected in this case, candidates may have genuine difficulties in correctly interpreting the ROO. Upon the Commission's request, CSB has revised the Note, highlighting the relevant sections of the ROO where exceptions apply for the easy understanding of candidates in making their declaration of conviction records for not only recruitment but also promotion purposes.

²⁸ See Note 19 under Chapter 3 on page 10.

²⁹ According to section 2(1) of the ROO, where an individual has been convicted of an offence in respect of which he was not sentenced to imprisonment exceeding three months or to a fine exceeding \$10,000, unauthorised disclosure of his previous conviction is prohibited if a period of three years has elapsed without that individual being again convicted of an offence in Hong Kong.

4.1 As highlighted in the 2007 Annual Report, the Commission has joined hands with the Civil Service Bureau (CSB) to pursue a study on the attractiveness of civil service jobs to coincide with the resumption of full scale recruitment to the civil service. The young people who seek entry or have successfully gained access to the civil service today will provide the pool of management and leaders of the future. With the changes to the terms and conditions of civil service appointment over the past ten years and the development of the Political Appointment System which has significant impact on the role of civil servants, the Government must know if the administrative route to serving Hong Kong still remains attractive to this pool of young people. The study should provide the Government with food for thought on how to further improve and sustain the competitiveness of the civil service to attract and retain talents.

4.2 In pursuing the study, CSB has conducted a two-part survey (a quantitative first-part survey and a qualitative second-part survey) covering eight selected grades, namely the Administrative Officer (AO), Executive Officer, Information Officer (General) (IO(G))³⁰, Labour Officer (LO), Maintenance Surveyor (Architectural Services Department), Solicitor (Intellectual

Property Department), Trade Officer (TO) and Treasury Accountant grades. Except for the IO(G) grade, the other seven grades are all typical degree or professional grades attracting a starting salary on Master Pay Scale (MPS) Points 16 - 32 (currently at \$21,880 - \$46,230). They usually attract a considerable number of applications.

Findings of the Two-part Survey

The quantitative survey

4.3 The quantitative survey focuses on the recruitment outcome and turnover of the eight selected grades by comparing the situation in 2007 versus that in 1998 (the year before the introduction of recruitment freeze in 1999 and the New Terms³¹ on 1 June 2000). The results as evaluated from data provided by the respective Heads of Grade (HoGs) show that save with the varying number of applications, the decline rate and the number of resignation in the year 2007 are comparable to those recorded for 1998. The following statistics are relevant -

- (a) totally 61 747 and 44 883 applications were received in recruitment exercises of the eight selected grades conducted in 1998 and 2007 respectively. The difference is mainly due to the drop in the number of applications for the LO grade (from 13 483 to 5 774) and TO

³⁰ The IO(G) grade is a multiple-entry grade accepting Bachelor's Degree, Higher Diploma/Associate Degree, a Diploma from a registered post-secondary college or a pass in two subjects at Advanced Level in the Hong Kong Advanced Level Examination and Level 3/Grade C or above in three other subjects in the Hong Kong Certificate of Education Examination (plus relevant experience) for appointment. The starting salary for degree holder is MPS Point 16, and non-degree holders will enter at two points below at MPS Point 14.

³¹ See Note 23 under Chapter 3 on page 12.

grade (from 13 730 to 3 602) for identifiable reasons³²;

- (b) the average decline rate (i.e. number of candidates who declined offer divided by number of candidates offered appointment) is 26.7% and 23.9% in 1998 and 2007 respectively, showing no significant change in the two rounds of recruitment despite a span of nine years; and
- (c) the number of resignations is 34 in 1998 and 23 (16 on Local Terms³³ and seven on New Terms) in 2007. The turnover rate (i.e. number of resignations divided by strength) is 0.9% and 0.7% respectively. Again, there is no significant change. For most cases, the reasons for resignation are either not disclosed to the management or the reasons given are personal or family considerations. For cases where more specific reasons are quoted, the main reasons include further study, lack of interest in the job, better career prospect of other jobs, emigration etc.

The qualitative survey

4.4 The qualitative survey aims to gauge the views of serving officers in the eight

selected grades on whether the civil service employment satisfies their general aspiration and if the career prospects of their respective grades meet their specific expectation. CSB invited 446 officers serving at the basic and the immediate higher ranks of the eight selected grades who have five to ten years of service in the grade to complete a questionnaire covering the respondents' views on three main areas, i.e. overall job satisfaction, satisfaction towards the Hong Kong Special Administrative Region (HKSAR) Government and the bureaux or departments they are working in, and training and development. CSB received 282 completed questionnaires from respondents whose age profile is between 25 and 34 (73%), 35 and 44 (23%) and 45 and 54 (4%). The findings are as follows -

- (a) overall, respondents are most satisfied with the working environment, relationships with colleagues (including knowledge sharing) and self-development. Similar feedback comes from respondents on New Terms and Local and Common Terms³⁴ alike. Yet those on Local and Common Terms have much higher percentage (52%) of giving positive feedback³⁵ on "conditions of service/benefits" than those on New Terms (28%);

³² The drop is attributable to the fact that in 1998 the Administration allowed candidates to apply to five grades, namely, LO, TO, AO, Executive Officer (EO) and Management Services Officer grades, by submitting one application form. Applicants could find it convenient to apply to all of these grades in one go. This practice was ceased in 2007 and applications have been handled by individual HoGs save for the joint recruitment of AO and EO grades. The number of applicants that specifically applied to the LO and TO grades has since then dwindled.

³³ Local officers who joined the service before 1 January 1999 are on pensionable terms.

³⁴ Those who joined the service between 1 January 1999 and 31 May 2000 were appointed on Common Terms. Officers on Common Terms are eligible for pension benefits on retirement from the service.

³⁵ The respondents are required to rate their satisfaction on different aspects against a five-tier rating scale ranging from positive feedback of "Very satisfied", "Satisfied", neutral feedback of "Neither satisfied or dissatisfied" to negative feedback of "Dissatisfied" and "Very dissatisfied".

- (b) generally, respondents rate the HKSAR Government as an above average organisation to work for and they are satisfied with the salary they get; and
- (c) respondents are less positive or have given divided responses to the following -
- Opportunities for career development
 - Appropriate workload
 - Regular recognition for effort
 - Seeing tangible results from work
 - Optimism about their future in the HKSAR Government service

The response to “opportunities for career development” is most negative, with 40% of respondents feeling “dissatisfied” or “very dissatisfied”.

Observations from the Survey

4.5 Notwithstanding the limited scope and scale of the two-part survey, the results throw considerable light on how employees see their prospects with the HKSAR Government as employer. The following paragraphs set out some general observations.

The civil service remains a meritocracy

4.6 The quantitative survey findings reflect that civil service jobs remain attractive. Amongst the eight grades under survey, not only was the number of applications

in the two recruitment years large, the competition was also keen. The over-subscription rate in terms of vacancy versus qualified candidates was on average 1:7 for the three professional grades and for the remaining five grades, it ranged from 1:59 for the IO(G) grade to 1:333 in the case of the AO grade. To these applicants, civil service jobs are still highly sought after in the market. Amongst those who apply, selection of the appropriate candidates is achieved through the civil service’s merit-based recruitment mechanism which permits entry solely based on academic credentials and performance during the selection process. Checks and balances against nepotism or favouritism have been built in the process requiring declaration of interests and proper documentation of such declarations covering also those sitting on the recruitment boards. All academically qualified applicants must also satisfy the very stringent entry requirements set by the individual grades. For applicants to degree and professional grades, they must sit for two language papers and, if applicable, the aptitude test of the Common Recruitment Examination³⁶ and gain the requisite results set by the grades before they are invited to sit for further task papers, if any, to be followed by interviews. They are treated throughout the process on equal footing regardless of their background, race and sex so long as they are qualified for the job. The fair conduct of the recruitment

³⁶ The Common Recruitment Examination (CRE) comprises two language papers (i.e. Use of English and Use of Chinese (UC)) and one aptitude test paper. As explained under Note 26 under Chapter 3 on page 14, the results of the language papers are classified as “Level 2” or “Level 1” or “Fail”, with “Level 2” being the highest. Amongst the eight selected grades participating in the survey conducted by CSB, six set the CRE requirement for both language papers at Level 2. For the remaining two grades, the Solicitor grade (Intellectual Property Department) however sets the requirement for UC paper at Level 1 and the Maintenance Surveyor grade (Architectural Services Department) sets both language papers at Level 1 having regard to their respective job requirements.

exercises as overseen by the Commission ensures a trawl of the most appropriate new recruits amongst all competitors to the service. Before offer of appointment, successful applicants are also subject to integrity checking³⁷ as a safeguard to ensure their integrity before they are trusted to provide services to the public.

- 4.7 In all respects, the Commission is satisfied that the civil service remains a meritocracy and it continues to attract quality candidates with a mix of background. The decline rate of 23.9% in 2007 of the eight grades under survey as mentioned in paragraph 4.3(b) above should be seen in perspective as it includes the number of successful applicants who declined the offer of appointment in one grade in order to join another grade in the civil service which had a stronger appeal to them.

Inherent attractiveness of civil service jobs

- 4.8 The civil service, being the largest employer, holds several established attractions compared to the private sector. Competitive pay and conditions of service, security of tenure, fairness and meritocracy in career progression, and direct opportunities for servicing the community are some of the traditional appeals of a civil service career.
- 4.9 Pay is always a prime concern in an employee's mind when assessing job attractiveness. It is the Government's pay

policy to offer sufficient remuneration to attract, retain and motivate staff of a suitable calibre to provide the public with an effective and efficient service and to ensure that the remuneration is regarded as fair by both civil servants and the public they serve. In addition, civil servants enjoy a progressive pay scale and on satisfactory performance, increments are paid on an annual basis for non-directorate staff and on every two to three years for directorate staff up to a ceiling in the incremental scale. Also there are advisory bodies advising the Government not only on pay, but also on grade structure, and conditions of service of the civil service to ensure the broad comparability of civil servants' jobs with those in the private sector³⁸. The other prime concerns include job security and fringe benefits including, probably at a later stage of one's career, retirement benefits. On job security, the Commission believes at this time when the community is facing the uncertainties of the financial turmoil and when the job market in the private sector looks so gloomy, it will surface as a core attraction of civil service jobs. Even at hard times, the Government seldom initiates layoffs or terminates the employment of civil servants prematurely. Voluntary retirement schemes were introduced instead as was the case in 2000 and 2003 when the Government was then introducing efficiency drives to reduce headcounts³⁹. The job security thus offered should help attract and retain staff,

³⁷ See Note 21 under Chapter 3 on page 11.

³⁸ The relevant advisory bodies include the Standing Commission on Civil Service Salaries and Conditions of Service, the Standing Committee on Directorate Salaries and Conditions of Service and the Standing Committee on Disciplined Services Salaries and Conditions of Service.

³⁹ The first Voluntary Retirement (VR) Scheme was launched in July 2000 to allow eligible civil servants in 59 designated grades where there was identified or anticipated staff surplus to retire voluntarily with pension benefits and compensation. The second VR Scheme was launched in March 2003 to enable identified or potential surplus staff in 229 designated grades to leave the service voluntarily. About 9 800 officers retired under the first VR Scheme and 5 300 under the second VR Scheme.

particularly those with families to support. Civil servants are also provided with retirement benefits in the form of pension (for those joining the service before the introduction of the New Terms on 1 June 2000) and Civil Service Provident Fund (CSPF) Scheme⁴⁰ (for those joining the service on New Terms on or after 1 June 2000). There are other fringe benefits, including leave entitlement and medical and dental benefits for all⁴¹. For more senior officers, i.e. those remunerated at MPS Point 34 and above, they are eligible for housing benefits⁴² as a condition of service. Leave passage allowance is also payable to officers at the directorate level. The fringe benefits, while important, may weigh perhaps less heavily in the minds of young recruits. Given their age, a structured career path that allows them to move up to reach senior and directorate positions should matter more. The civil service does provide such an incentive. As a general rule, promotion is predominantly from within the service and recruitment to promotion ranks from outside the service

is permitted only when no suitable officer in the lower rank is identified as suitable to fill the promotion post. The fairness of the promotion system is overseen by the Commission. For self-development and to facilitate career progression, training and career development programmes are built in as core functions of individual grades. All HoGs/Heads of Department (HoDs) are aware of their role to help staff to develop and grow in their job. There is also in each grade a career structure guaranteeing progression through the ranks. The factor that distinguishes a civil service career from most other jobs is the fact that it offers direct opportunities to serve the community for the public good. This could be a key reason for people with high ideals to opt to join the civil service.

Other Observations - Dilution of Attractiveness of Civil Service Jobs

4.10 Apart from the observations in paragraphs 4.8 - 4.9 above as drawn from the findings

⁴⁰ At present, appointees on new probationary/agreement terms are only eligible for the Government's mandatory contributions in accordance with the Mandatory Provident Fund Schemes Ordinance which is set at 5% of an employee's monthly income and capped by \$1,000 per month. Upon an appointee's progressing onto the new permanent terms, he will be eligible for the Government's voluntary contributions under the CSPF Scheme with a progressive contribution rates schedule set according to the appointee's completed years of continuous service. The existing contribution rate for three to less than 15 completed years of continuous service under the CSPF Scheme is 15%, and progressively increases to 25% for officers with 30 or above completed years of continuous service.

⁴¹ Leave earning rates are set with reference to an officer's rank and length of service (e.g. a newly joined officer at MPS Point 14 and above earns 18 days' leave per year). Medical and dental benefits are provided through the service of the Hospital Authority and Department of Health.

⁴² For those who were offered appointment between 1 October 1990 and 31 May 2000 on Local and Common Terms, they are eligible for benefits respectively under the Home Financing Scheme (HFS) and the Rent Allowance Scheme (RAS) under which the allowances are payable for a maximum aggregate period of ten years upon the officers concerned reaching MPS Point 34 or above or equivalent. For those who were offered appointment before 1 October 1990 and who have not opted to join HFS, they are entitled to the Private Tenancy Allowance on reaching MPS Point 34 or above or equivalent, and non-departmental quarters on reaching MPS Point 45 or above or equivalent until they leave the service. These different forms of housing benefits have now been replaced by the Non-Accountable Cash Allowance (NCA) Scheme, which is applicable to all new recruits to the civil service on or after 1 June 2000. Under the NCA Scheme, officers on or above MPS Point 34 or equivalent will be provided with the NCA for a maximum aggregate period of ten years. As at 1 April 2008, the NCA for MPS Points 34 - 37 or equivalent is \$14,270 and will progressively rise up to the highest of \$39,520 when the officer's pay point reaches the Directorate Pay Scale Point 6 or above or equivalent.

of the survey and notwithstanding the inherent factors as mentioned therein, the Commission is concerned that civil service jobs may not be as attractive as in the past.

4.11 To start with, the offer of appointment has taken a different form. New recruits at basic ranks joining the service on or after 1 June 2000 are put under the New Terms. They are required to complete a longer observation period of a 3-year probation plus 3-year agreement (3+3) before confirmation on permanent terms, versus a normally 2-year probation for those joining the service before 1 June 2000. The Commission has noted in this relation concerns pointing to the 3+3 policy for recruiting civil servants under the New Terms as a disincentive to attracting and retaining people. Nevertheless, as observed from the findings of the survey as mentioned in paragraph 4.3(c) above, the policy has not yet led to any higher turnover rate. Separately, the Commission has observed that for new recruits who have served in the civil service holding similar ranks or assuming similar duties, the appointment authority may reduce their probationary period by no more than half of the probationary period required for the new office. After completion of the reduced probationary period of say 1½ years, they are then appointed on a 3-year agreement before they are considered for appointment on permanent terms. But overall the observation period for such new recruits totalling 4½ years is still

more than double that of those joining the service before 1 June 2000 who served on probationary terms normally for two years only. This can be viewed as a disadvantage. (See also paragraph 4.19 below regarding the arrangement applied to officers who are promoted to the next higher rank during the 3+3 period and the Commission's advice on such an arrangement.)

4.12 Fringe benefit provision is now less generous as compared with the past. With the introduction of the New Terms of appointment, pension has been replaced by retirement benefits under the CSPF Scheme. The enhanced contribution rate of the Government, which follows a progressive rates schedule starting from 5% and increasing up to 25% of the basic salary, is believed to be still competitive. But it is not comparable to the pension entitlement of officers on local and common terms. Housing benefits have been transformed even before the New Terms of appointment came into effect on 1 June 2000. The provision of non-departmental quarters and private tenancy allowance without restriction on entitlement period have been replaced by the Home Financing Scheme (HFS) and Rent Allowance Scheme (RAS) applicable to officers offered appointment on or after 1 October 1990 and the Non-Accountable Cash Allowance applicable to new recruits since 1 June 2000 under the New Terms. These allowances are provided with restriction, notably with the application of a 10-year rule and in the case of the HFS and RAS, the double benefit restriction⁴³ also

⁴³ Under the double benefit restriction, an officer is not eligible to claim housing allowance under HFS and RAS if his spouse is in receipt of a housing benefit even if it is provided by a private sector employer.

applies in full. The Standing Committee on Directorate Salaries and Conditions of Service (the Directorate Committee) conducted a review of the directorate grade structure in 2008 with private sector data captured before the downturn of the economy. As mentioned in its Eleventh Report published in November 2008, there was a gap in the pay of directorate officers as compared to that in the private sector, particularly at the senior directorate level, namely those at D5 and above occupying positions of HoDs and Permanent Secretaries. One contributory reason for the pay gap as identified in the Report was housing allowance. In the private sector, it is normally a fixed allowance without restrictions insofar as the entitlement period is concerned.

4.13 Recent developments on the social, constitutional and political fronts may also have an impact on the attractiveness of civil service jobs. In the past the civil service offered better prospects for those who aspire to the most senior positions. Since July 2002 there has been a reduction in the most senior positions to which civil servants can progress upon the introduction of the Political Appointment System with the political appointment of Principal Officials above the civil service and more recently Under Secretaries and Political Assistants. Career civil servants used to fill all the positions in the upper echelon of the Government. This is no longer the position. Moreover, the further development and expansion of the Political Appointment System is still unfolding and its impact on the civil service has yet to

settle. (The Commission's views on the subject as submitted to the Administration in response to the invitation of the Secretary for the Civil Service on the Consultation Document on Further Development of the Political Appointment System published in July 2006 were detailed in Appendix I(c) of its 2006 Annual Report.) In addition, on occasions when government policies became unpopular or when expectations of enhanced public services were not met, cynicism of the quality of the civil service was played up and the feeling of the civil service being undervalued by the public would inevitably emerge. Besides, there is always a close scrutiny by the public on the personal integrity of senior civil servants. The impact of all these developments on the competitiveness of the Government in competing for talents with private sector employers have to be closely monitored.

Challenges to the Retention of Talents in the Civil Service

4.14 Against the backdrop of the civil service remaining a meritocracy (paragraphs 4.6 - 4.7), but with its inherent attractiveness (paragraphs 4.8 - 4.9) being diluted over the years (paragraphs 4.11 - 4.13), it is high time to assess the Government's retention capability, particularly in relation to the retention of talents to fill senior and directorate positions to provide leadership for the future civil service. As observed by the Commission, the retention of talents in the short and medium term does not appear to pose a problem. As mentioned in paragraph 4.3(c) above, the turnover rate (0.7%) in 2007 of officers who have joined the eight grades under survey is low. The low turnover rate

is observed across the service including those at directorate levels who currently are almost all on pensionable terms. According to Government statistics, the number of resignations has steadied at below 0.5% of the civil service strength since the late 1990's. It is apparent from such findings that for those who have joined the service, civil service jobs do have their inherent attractiveness that help to keep them. This is particularly the case with those appointed under pensionable terms, viz. officers joining the service before 1 June 2000. But as always, the strength of the economy would have a prominent influence on the Government's ability to retain people. The prevailing market conditions with the threat of both pay and job cuts in the private sector favour retention of talents in the civil service.

4.15 Retention of talents may become a problem when the economy revives, turning the market conditions around to provide more job openings. As mentioned in paragraph 4.4 above, the majority of respondents (73%) to the qualitative survey is in the age group of 25 - 34. This group of young people as well as those of comparable age not responding or covered in the survey will be the pool of supply for talents at the middle and top levels in the future. As revealed from the current age profile of the civil service, around two-thirds of the serving officers are aged over 40 and the number of retirees will climb steadily in the next 15 years, from the actual annual average of around 3 000 in the past 5-year period of 2003 - 04 to 2007 - 08,

to an estimated annual average of 5 800 in 2013 - 14 to 2017 - 18 and 7 100 in 2018 - 19 to 2022 - 23. The ability to retain talents from amongst this pool of officers aged between 25 and 34 is important, lest succession to the top levels of the civil service in the long run will be adversely affected, thus impacting on the governance of Hong Kong. This will be a challenge in the light of the perceived dilution to the attractiveness of a civil service career as mentioned above.

4.16 The Commission considers that the Government should stay alert to possible retention problem in the next decade. Around 2013 the first batch of officers under the New Terms will have exhausted their 10-year NCA housing benefit. The temptation for them to leave the service for job openings with better pay package in the private sector or quasi-government bodies will be great. Besides, without pension provision and being under the CSPF Scheme, these officers can have their accrued benefits attributable to mandatory contributions preserved in the Mandatory Provident Fund system upon switching to the private sector or quasi-government bodies. Moreover, the accrued benefits attributable to Government's voluntary contributions would be payable immediately on their leaving the civil service after completion of a continuous service of ten years. As regards those on local and common terms, whose pension benefits are payable upon their reaching the normal retirement age⁴⁴, some have already exhausted their 10-year housing

⁴⁴ The normal retirement age of officers on Old Pension Scheme and New Pension Scheme (NPS) is 55 and 60 respectively. For those officers on NPS who joined the service before 1 July 1987, they can opt to retire between the age of 55 and 60. For officers on NPS, they will also be eligible for deferred pension benefits on resignation after completion of qualifying service of no less than ten years, payable when they reach their normal retirement age of 55 (for those joining the service before 1 July 1987) or 60 (for those joining the service on or after 1 July 1987).

benefit, whether on HFS or RAS. Others may be currently recipients of HFS or RAS, or waiting in line for their further career progression to become eligible for such housing benefits. While the further accumulation of pensionable service will remain attractive for this category of pensionable officers, the incentive for them to seek better job openings outside the Government may however increase at relevant points when they have maximised their 10-year housing benefits.

The Way Forward

4.17 The Commission trusts that the Administration will review the civil service pay package from time to time to ensure its broad comparability to that offered by the private sector. In the meantime, to prepare for retention of talents to meet future succession needs as projected in paragraphs 4.15 and 4.16 above, the Commission considers that the Government should focus on meeting the aspirations of officers on the New Terms by appealing to them that a good job, and particularly a civil service job which aims to serve people, is not defined by monetary gain alone. A recognition of their work would be important and elements of the workplace attracting them to stay should include opportunity for growth and challenging daily work. They need to feel valued and they should be provided with good opportunities for career development. Such nurturing approaches must sink into every layer of a department or bureau and across the service in order to get them engaged and prepared for future challenges in higher positions. In this respect, the civil service has the inherent

strength in career development and as mentioned in paragraph 4.9 above, within the service all HoGs/HoDs are aware of their role to help staff to develop and maximise their potential. The Commission however has observed the need to enhance the nurturing role to increase the appeal of civil service jobs for retention purpose. In other words, the Government should place renewed emphasis on career development.

4.18 In making renewed efforts, individual HoGs/HoDs should assess if they have provided a clear career development plan to help the self-development and progression of their staff. Those grades as surveyed should study the findings of the qualitative survey and work out enhanced career development plans to address the concerns of their grade members. For other grades not covered in the survey, they should make a similar attempt to understand the career development needs of their grade members and map out relevant plans to suit their needs. To attract new recruits to stay, individual grades may consider setting up mentoring programmes so that the more senior members of the grade can coach them and impart relevant knowledge to them. Jobs should also be re-designed, where appropriate, to free these young officers from some of the more mundane aspects of their jobs to keep them more challenged. Intensive and structured training as well as regular job rotations should be provided to broaden their experience and exposure. Besides, appropriate exposure to higher level responsibilities should constantly be arranged to keep them motivated.

4.19 Separately, fast-track promotion and prompt confirmation on permanent terms of officers thus promoted should be considered for better succession planning purpose. As pointed out in paragraph 4.11 above, the longer period of observation under the 3+3 policy for officers appointed under the New Terms can be viewed as a disadvantage, notwithstanding that it has not led to any higher turnover rate. Nevertheless the Commission accepts that the 3+3 policy has allowed for better quality control of staff in that the new appointees have to demonstrate their suitability in all respects before they are considered for appointment on permanent terms. But the Commission has reservation on the present arrangement that even if an appointee gets promoted within the 3+3 period, he will not be confirmed to permanent establishment. Such an arrangement works against retaining talents. In the Commission's view, for an appointee who is promoted after proving his capability in taking up responsibilities in the higher rank, it is unnecessary to continue to put him under observation of his suitability for confirmation to the permanent establishment. He should be confirmed to permanent terms on an accelerated basis. On confirmation, he will become instantly

eligible for the Government's voluntary contributions under the CSPF Scheme. This automatic and accelerated escalation to permanent status as a result of promotion should help keep the officer motivated, thereby enhancing his level of commitment which is crucial to his retention in the service.

4.20 In a nutshell, the joint study has been useful. It should not however stop there as a one-off exercise. The situation needs constant monitoring. As undertaken by the Administration, the conduct of the quantitative survey will continue and will cover other grades. HoGs will also be involved more extensively in collecting data from grades under their management covering various information, including the decline of offer of appointment by candidates in recruitment exercises and the reasons for those leaving the service or a grade through the conduct of exit interviews. The Commission welcomes such an undertaking, which is important in gauging whether the Government is able to attract and retain staff. It will continue to monitor the efforts made by the Government on this very important subject which is vital to Hong Kong's good governance.

5.1 One of the key roles of the Commission is to advise on promotions to senior ranks⁴⁵ in the civil service. In examining the recommendations of each promotion exercise, the Commission will ensure that proper procedures are followed and the system is administered in a fair and equitable

manner. The Commission will make sure that the claims of all eligible officers are fully considered on an equal basis and that only the most suitable persons are selected for promotion on the criteria of prescribed qualifications, ability, experience, performance and character.

An Overview of Promotion Cases Advised in 2008

5.2 During the year, the Commission advised on 581 submissions on promotion, compared with 512 in 2006 and 526 in 2007. They involved 3 947 officers, broken down as follows -

Promotion-related appointment cases advised in 2008:
(a) 1 579 promotees*
(b) 30 officers waitlisted for promotion
(c) 319 officers appointed for acting with a view to substantive promotion (AWAV) ⁴⁶
(d) 48 officers waitlisted for AWAV
(e) 1 971 officers appointed for acting for administrative convenience (AFAC) ⁴⁷
Total 3 947 officers
* Promotees to fill vacancies in 439 ranks ⁴⁸ , including 113 promotions to directorate positions.

I. Reviews Initiated by the Commission

5.3 During the year, the Commission continued to make observations on the proper conduct of individual promotion exercises and work in close collaboration with the Administration to further enhance the civil

service promotion system. The succeeding paragraphs give a detailed account of the reviews initiated and observations raised by the Commission with the Administration and the latest development of the issues.

⁴⁵ They refer, for promotion purpose, to those senior ranks under the normal appointment purview of the Commission (i.e. those attracting maximum monthly pay at Master Pay Scale Point 26 (currently \$35,095) and above or equivalent). They exclude the judicial service, the Independent Commission Against Corruption and the disciplined ranks of the Hong Kong Police Force which are specifically outside the purview of the Commission.

⁴⁶ An officer is appointed to AWAV before substantive promotion if he is considered suitable in nearly all respects for undertaking the duties in the higher rank and he is ready to be further tested on the minor doubtful aspects in the higher rank. The norm for this type of acting appointment is six months but may vary.

⁴⁷ An officer is appointed to AFAC if he is not yet ready for immediate promotion, but is assessed as having better potential than other officers to undertake the duties of the higher rank; or he is considered more meritorious but could not be so promoted because of the lack of substantive and long-term vacancies.

⁴⁸ The number of eligible officers far exceeded the number of promotees. In a number of promotion exercises, over 300 candidates were shortlisted for detailed consideration by the board.

(a) *Steer for promotion boards to accord appropriate weighting to acting performance*

5.4 To further enhance the equity of the civil service promotion system, the Commission formulated some fundamental principles governing acting arrangements as detailed in its 2007 Annual Report. The Commission undertook to further develop these fundamental principles in consultation with the Administration with a view to providing clear steer for promotion boards on the appropriate weights to be accorded to acting performance. During the year, the Commission took note of further cases involving acting appointments which threw more light on the formulation of the guidelines on the subject. In one promotion exercise, the board considered the claim of an officer who was not selected in the last exercise but had doubled-up the higher rank duties for operational reasons and recommended, without good justifications, his AWAV appointment ahead of some officers who were recommended for AFAC by the last board and had sustained an impressive acting performance in the previous year. In another exercise, an AFAC recommendee of the last board was recommended to cease acting due to deficiencies in his acting appointment. But there was no appraisal report on his acting performance as the officer concerned had commenced acting outside the last reporting cycle under review by the board. It raised concern on whether the recommendation on cessation of acting appointment, based

entirely on board members' personal knowledge of the officer's performance, was fair given the absence of a written record. There were also a number of promotion exercises in which the acting performance of some officers who took up long-term acting appointment on the recommendation of previous boards was assessed in one annual appraisal report which also covered their performance in the substantive rank before they took up the acting appointment in a different office. Such a practice was considered undesirable as the acting performance became blurred when it was subsumed in the annual appraisal report covering also the officer's performance at his substantive rank.

5.5 Taking into account its observations on the cases quoted above, the Commission has further deliberated the subject of according appropriate weight to acting performance with the Administration. It is generally agreed that in principle the recommendations of the last board on AFAC appointments should carry an appropriate weight. In other words, although the recommendations of the previous promotion board should not have any binding effect on the current board, it is not unreasonable for the officers who have been acting on the last board's recommendations to have a higher claim for promotion over the other eligible officers, if justified on grounds of comparative merits. On this premise, the Commission has formulated the following guidelines to steer promotion boards in considering the claims of an AFAC recommendee of the last board -

For an AFAC recommendee who has started acting

- (i) When an officer takes up a long-term acting appointment on the recommendation of previous boards, a separate appraisal report covering the acting period with his performance assessed at the acting rank should be prepared so that it would be easier for a promotion board to assess his promotion claim.
- (ii) He should be allowed every opportunity to be tested in the higher rank. Unless he has demonstrated obvious deficiency in his acting performance and failed to prove his worth, he should not be made to give way to other officers without good reasons.
- (iii) Direct comparison of his acting performance with the performance of those at the substantive rank is inappropriate given their different levels of responsibilities.
- (iv) Any decision to cease his AFAC appointment should be fully justified by a thorough assessment of deficiencies in his acting performance and such deficiencies should have been made known to the officer or duly reflected in his appraisal reports.
- (v) A reflection of the deficiencies of an officer may not be possible if he commenced his acting appointment outside the period under review by

the promotion board. To cater for situations in such circumstances, there should be a management practice whereby the supervisors are required to interview the officer bringing such deficiencies to his attention without having to wait till the annual appraisal cycle is due. The communications with the officer, covering the observed deficiencies in his performance, the reasons behind such observations and the advice given to him and his feedback, should be properly recorded. Such records may take the form of a written account of the interview which can be treated as a mid-year review of the officer's performance in the appraisal report of the current cycle. These records, which fall outside the period of appraisal reports under review by a promotion board, would facilitate a more thorough review of the officer's suitability to continue to act and provide a basis, with the support of evidence, to recommend the cessation of the officer's acting appointment.

For an AFAC recommendee who has yet to start acting

Any recommendation by the current board to withdraw his name from the acting list should be supported by a written record of a deterioration in performance in his substantive rank after the last promotion board meeting, or in case of very keen competition, a thorough assessment on his relative merits as compared to other close contenders, in particular those who lost out to him in the last exercise.

5.6 The Administration generally supports the guiding principles developed by the Commission as set out in paragraph 5.5 above and would suitably incorporate them in the revised “Guidebook on Appointments” and “Guide on Performance Management” currently under preparation.

(b) *Handling of promotion cases involving on-going disciplinary investigations or proceedings*

5.7 The Commission raised concern in its 2007 Annual Report that some departments had recommended officers who were involved in on-going disciplinary investigations for promotion or long-term acting appointment without justifications. In line with the existing practice, promotion should not take effect any time earlier than the time when all integrity doubts on the officer concerned are cleared. Where there are very special circumstances which warrant exceptional consideration, each case has to be considered on its own merits. From the Commission’s point of view, it is the responsibility of the appointment authority to carefully balance between fairness to an individual officer and the need to maintain the integrity of the civil service in the public interest before making a decision on whether the board’s recommendation should be supported for the Commission’s advice. Relevant considerations include the nature and severity of the alleged charge, the sensitivity of the duties of the higher rank, and the

perceivable risks associated with the officer’s integrity doubts in carrying out the related duties. At the Commission’s request, the Administration had incorporated some basic principles in the revised “Guide for Officers Nominated to Serve as Chairman, Member, Secretary of a Promotion Board” promulgated in 2007. In order to provide clearer steer for promotion boards as well as the appointment authorities on the proper handling of promotion cases involving on-going disciplinary investigations or proceedings and also to define their respective roles in handling such cases, the Administration has drawn up, with substantial input from the Commission, a set of detailed guidelines on the subject. The guidelines will be issued in the first quarter of 2009 for reference by bureaux/departments (B/Ds).

(c) *Inverted diamond grade structure*

5.8 The Commission has expressed concerns as mentioned in its 2007 Annual Report that some grades have an inverted diamond shape structure at the lowest two levels, i.e. the number of available vacancies in the next higher rank outnumbered the existing pool of officers in the basic rank. As a result of such a peculiar grade structure, the grades identified could have an insufficient number of officers meeting the succession need of the next higher rank. In response to the Commission’s observation, the Administration has conducted a review and identified ten grades⁴⁹ as having a relatively

⁴⁹ The ten shortlisted grades comprise the Analyst/Programmer, Dental Technician, Immigration Assistant, Inspector (Graduate), Labour Inspector, Labour Officer, Management Services Officer, Radio Mechanic, Solicitor and Trade Officer grades.

higher degree of invertedness⁵⁰. None of them however has in recent years arranged for inexperienced officers to act in the next higher rank on a long-term basis. For those two grades which may encounter problems in filling the promotional vacancies in the coming few years, the Administration has introduced a more stringent control mechanism by requesting the two Heads of Grade (HoGs) concerned to conduct a review of their rank structure and examine the scope for re-ranking some of the posts at the promotional rank. As undertaken by the Administration, apart from introducing monitoring measures to control the rank structure of these ten grades, triennial reviews would also be conducted to monitor changes to the rank structure of all civil service grades. Meanwhile, all Heads of Department (HoDs)/HoGs have been reminded of the need to maintain a healthy and viable rank structure for a grade when creating new posts under delegated authority and to conduct regular establishment reviews of grade(s) under their purview. The Commission appreciates the efforts made by the Administration in addressing this particular problem of invertedness in rank structure covering the lowest two levels of the rank structure.

(d) Review of acting appointments

5.9 Under Civil Service Regulation (CSR) 160(1)(b)(ii)⁵¹, acting appointments lasting or expected to last for longer than six months should be reviewed on a regular basis in consultation with the Commission as appropriate. The approving authority should adopt the same procedures as for substantive appointment (i.e. by conducting promotion or selection boards) to select the most suitable officer to take up the acting appointments as required under CSR 166(6)⁵². In its 2007 Annual Report, the Commission provided its observations on the procedural lapses in arranging acting arrangements by B/Ds, leading to the issue of the “Guidelines on Acting Appointment” in August 2007 by the Civil Service Bureau (CSB) to remind all B/Ds to strictly comply with the required procedures for making acting appointments. In response to the Commission’s observations, CSB has undertaken to monitor acting appointments across the service and to follow up with individual B/Ds where anomaly is spotted.

5.10 While there have been some improvements in this area, irregularities were still observed during the year. For example, in advising

⁵⁰ The degree of invertedness is measured by the ratio of the number of posts at the second lowest rank to the number of posts at the lowest rank.

⁵¹ CSR 160(1)(b)(ii) stipulates that acting appointments for administrative convenience are subject to review at regular intervals if they are expected or likely to last or has lasted for longer than six months.

⁵² CSR 166(6) stipulates that the approving authority should, as far as practicable having regard to management considerations and operational circumstances, appoint officers to act on a fair basis. For an acting appointment that is expected or likely to last or has lasted for more than six months, the approving authority should follow the normal procedures for selection for substantive appointment to select an officer to take up the acting appointment, subject to the advice of the Public Service Commission as appropriate.

on the recommendations of two promotion exercises, the Commission noted that some candidates recommended for promotion/acting appointment had been acting in the higher rank for one to three years to meet operational needs. However, their long-term acting appointments had not been reviewed by a promotion or selection board until the conduct of the current board. Without going through a formal selection/review process to identify the most suitable officer to take up the long-term acting appointment, the department would run the risk of giving the selected officer an undue advantage over other candidates for promotion. On the other hand, the overdue review of the selected officers' acting performance might have deprived concerned officers of the opportunity to be considered for promotion at an earlier date. The Commission had reminded the departments concerned to observe the requirements as stipulated in the CSRs in future exercises.

(e) Review of pool of candidates for appointment to HoD posts in the departments under the Development Bureau

5.11 Promotion to the HoD posts in the departments under the Development Bureau has been subject to the "open directorate" arrangement. Under the old arrangement, professional officers with relevant administrative experience at the substantive ranks of D3 and above in these departments and the related bureaux were eligible candidates. The old pool of eligible candidates included Engineers, Architects, Surveyors, Town Planners, Solicitors, Government Counsel and Environmental

Protection Officers. As stated in its 2005 Annual Report, the Commission noted that some eligible officers, though included for historical reasons, did not possess the relevant professional experience and/or knowledge to make them realistic contenders. The Commission requested the Administration then to review the eligibility of the pool of candidates drawing reference to the job requirements of the HoD posts in question.

5.12 In response to the Commission's request, the Administration has conducted a review on the subject, concluding in 2008 that knowledge and experience in engineering, architecture, surveying, planning and land administration is pertinent for the effective performance of the work of the HoD posts in question. As a result, D3 and above officers in the grades of Government Counsel and Environmental Protection Officer are no longer eligible for consideration for appointment to the HoD posts in question. Professional officers of equivalent ranks who have the relevant administrative and professional experience in the fields specified and are currently serving in one of these fields will remain in the pool as eligible candidates.

5.13 The Commission supports the above review findings within the current structure. This notwithstanding, the Commission considers that the most logical approach in determining the pool of candidates eligible for a particular HoD post is to set out the job and qualification requirements of the post and invite applications and/or consider all the eligible members of the relevant grades in a selection exercise. This approach is more flexible than the outcome

of the current review which tries to work out the largest common denominators in eligibility among the different bureaux and different professional grades for the rather contrived “open directorate” promotion exercises for the HoD posts in question. The Administration has been requested to consider reviving the logical approach suggested by the Commission above if there should be any more arguments in future about the eligibility question relevant to the filling of the HoD posts concerned.

(f) Fairness of the fast-track AWAV and promotion arrangement

5.14 Some departments have a long-standing practice of filling certain professional posts, particularly those of a multi-disciplinary nature, in the first instance by posting (either lateral posting or posting on an acting basis) of those officers in the relevant parent grades. When any posting arrangement to fill these designated professional posts has proved futile, an in-service appointment (ISA) exercise will be conducted. Professional officers of all appropriate grades, including those in the relevant parent grade, in the relevant departments one rank below will be invited to apply for consideration to fill the post concerned. The successful candidate will be appointed to AWAV in the post in the first instance normally for a period of not less than six months. If the officer’s performance during the period of acting appointment is satisfactory and subject to confirmation from his parent HoG that he will be accommodated in the higher rank after a normal tour of three years, his promotion in his parent grade will be effected. If such a

confirmation is not received from his parent HoG, the candidate will only act in the designated post during the normal 3-year tour before his return to the parent grade. This system in effect allows such designated multi-disciplinary posts to be used and recycled every three years or so as openings for out-of-turn promotions for the officers concerned.

5.15 In examining the recommendations of a promotion exercise, the Commission noted that one of the eligible officers was selected through an ISA exercise in the previous year to fill a designated post on a 12-month AWAV basis before substantive promotion. He was also eligible for consideration in the current promotion exercise of his parent grade under which he was assessed as having to consolidate his experience in the substantive rank. But such an assessment would not deter his chance for fast-track AWAV appointment and promotion through the ISA channel.

5.16 In another promotion exercise, one of the eligible candidates who gained his promotion to his substantive rank through the ISA channel had acted in the higher rank in yet another designated professional post for several months. He was considered by the promotion board of his parent grade as not yet ready for higher responsibilities in view of his narrow exposure and detachment from mainstream duties for some years whilst serving in the designated posts.

5.17 While the Commission does not see problems with a multi-disciplinary post being filled by officers across a range of

background and disciplines, nor does it object to high-fliers' abilities and merits being rewarded appropriately, it questions the fairness of such a fast-track AWAV and promotion arrangement in situations when the incumbents selected were assessed as too narrow in exposure and not yet ready for higher responsibilities when being considered for promotion by their respective parent grades. The more appropriate way of filling such multi-disciplinary posts is to allow, and even require, different officers to have such exposure, by AFAC where necessary, and to recognise such an exposure in the officers' claim to promotion in their parent grades. The Commission also considers that posting is a prerogative of the management. The practice for those selected for lateral posting to have the privilege of refusing posting is unnecessary. The present system constitutes an unfair advantage to the officers so selected for AWAV outside the mainstream.

5.18 The Commission has requested the Administration to review the recyclable fast-track promotion in the form of an ISA as currently practised by some departments. The Administration has responded positively and is conducting a full-scale review of the arrangements. Details of the review will be reported in the next issue of the Commission's Annual Report.

II. Other Observations of the Commission

(a) Training in conducting promotion exercises and related issues

5.19 To further enhance the quality of the civil

service promotion system, CSB shares the Commission's view that it would be useful to strengthen supervisory staff's knowledge of the proper conduct of a promotion exercise through a more focused training programme. To this end, CSB has been developing a web training package on promotion issues in modular format, covering the proper conduct of a promotion board in video format as well as the rules and regulations to note, the do's and don't's, etc. The training package is expected to be launched in mid-2009. Promotion board chairman and members would be provided with a flyer on the link to the web training package.

(b) Claims of officers who have stepped down from an unsuccessful acting appointment

5.20 In a promotion exercise, the Commission observed that one of the candidates was once put to test in the higher rank for one year on operational grounds but was found to have much room for improvement in his acting performance. Although his performance in the substantive rank upon cessation of acting appointment had been very effective in subsequent years, the board had no confidence in recommending him for an acting appointment again. The Commission considers that in general it is reasonable to observe an officer's performance in the substantive rank for a substantive period after cessation of an unsuccessful acting appointment. However, it may be too harsh not to recommend this officer again for an acting appointment if he has rendered very effective performance in the substantive rank for at least three years subsequently and has compared favourably with other

contenders. In cases like that, the board should critically review the officer's claim to ensure that his interest will not be overlooked.

(c) *Validity of AWAV period for consequential deputy HoD posts*

5.21 Under prevailing policy, departmental grade officers in the deputy HoD rank recommended for promotion to HoD ranks are required as a norm to go through the AWAV process for at least six months before substantive promotion, so as to help ensure that the recommended officers would be fully competent of discharging the duties and responsibilities at the HoD level. The consequential vacancy in the deputy HoD rank should likewise be filled on an AWAV basis if the selected officer is generally considered almost ready for promotion or by an AFAC appointment if the selected officer is not considered fully ready. In the context of examining the recommendation of a promotion exercise, the Commission has further rationalised the above policy on the filling of deputy HoD posts by specifying that since the AWAV arrangement, where justified on the merits of the officer selected, is consequential on the vacancy opened up by the HoD's AWAV appointment, it follows that -

(i) the AWAV period for the selected deputy HoD incumbent must not be shorter than that of the HoD incumbent. Any possible extension incurred by the latter officer should correspondingly be extended to the former officer; and

(ii) the AWAV appointment of the selected deputy HoD incumbent will lapse if the selected HoD fails the AWAV test and is required to revert to his substantive rank on stepping down, rendering a consequential vacancy no longer available. Exceptionally the selected deputy HoD incumbent may get promoted on satisfactory completion of the AWAV appointment if the selected HoD incumbent, on stepping down, can be accommodated in a post within or outside the department at his substantive rank which is equivalent to the deputy HoD level, subject to there being little risk of over-establishment as assessed by the approving authority.

5.22 The Commission has requested the Administration to include these pointers in the revised "Guidebook on Appointment" under preparation.

(d) *Unavailability of performance appraisal reports for consideration by the promotion board*

5.23 In examining the recommendations of some promotion boards, the Commission noted with concern that the appraisal reports of some eligible officers were still outstanding when the boards met. The arrangement of conducting a promotion exercise when up-to-date reports were unavailable was most undesirable. Without the up-to-date appraisal reports, the board could not be availed of the latest performance of the candidates when deliberating on their relative merits for promotion and the Commission could have no basis to verify

the board's assessments. The Commission noted in these cases that the appraisees concerned had failed to complete and submit the appraisal report forms to the appraising officer leading to the non-completion of the appraisal reports in question. In the Commission's view, such a situation could have been avoided as the appraising officer can still proceed with completion of the appraisal report based on his understanding of the appraisee's duties.

(e) *Extension of AWAV period for officers on prolonged period of study/vacation/sick leave*

5.24 The Commission received from a serving officer a suggestion to extend the AWAV appointment of officers nominated to attend full-time government-sponsored training programmes of over a week. The Commission takes note that an AWAV appointment normally lasts six months only and a thorough test of an officer's competence in the higher rank throughout the period is essential. It therefore considers the suggestion worthy of the Administration's consideration to cover also situations of study/vacation leave but the period should be longer than one week, say, one month or more. As for sick leave, each case should be considered on its own merits. Separately, the Commission takes the view that an extension of any AWAV appointment would not be necessary if in the first place the management has not arranged the training or approved any study/vacation leave of a prolonged period during an officer's AWAV period. The Administration shares

the Commission's views and will arrange to incorporate suitable guidelines into the "Guidebook on Appointment" currently under revision for reference by B/Ds.

(f) *Avoidance of conflict of interest in promotion exercises*

5.25 As a general principle, those who sit on a promotion board should avoid any genuine and perceived conflict of interest when considering the claims of eligible candidates of a promotion exercise. According to the "Guide for officers nominated to serve as Chairman, Member, Secretary of a Promotion Board" promulgated by the Administration, the chairman and members of a promotion board should declare, before the conduct of a promotion board meeting, whether any of the officers under consideration are their relatives or close personal friends. If there are such officers, the appointment authority should be informed and asked to determine whether a change in the membership of the board is necessary. There are, however, no further guidelines on how the conflict of interest can be best avoided in case the claim of a close relative of the chairman of the promotion board is involved. In such a case, the Commission considers that the possibility of appointing another officer to chair the promotion board should be explored. Where the chairmanship involves a directorate officer in the department, the appointment of another departmental directorate officer or a bureau representative of a comparable (if not higher) ranking to chair the promotion board should be explored. A CSB representative may be appointed to chair the board if all options

have been exhausted. In response to the Commission's observation, CSB has agreed to develop further guidelines on the subject for incorporation into the "Guidebook on Appointment" currently under revision.

(g) *Promotion interest of officers selected to fill non-mainstream posts*

5.26 In vetting the recommendation of a promotion exercise, the Commission noted that a recommended officer had acted in a non-conventional post in the Information Technology (IT) Section for more than two years. Because of the job nature, the post did not bring out the officer's leadership quality which is an important consideration for promotion to the higher rank. The officer was recommended for a new posting to ascertain his ability in leadership. The case has raised the Commission's concern of the need to safeguard the career interests and training needs of those officers who are put, either on a substantive or acting basis, in non-mainstream posts (such as IT-related and project-based posts).

5.27 The Commission considers that in selecting a suitable officer to fill any non-mainstream post, his career interest should be carefully assessed against the operational requirements of the department. Specifically, the management should ensure that -

- (i) the officer selected to fill such a post is provided with adequate training and support;

- (ii) the officer should not be unduly prejudiced in his career advancement if he is not temperamentally or technically suited to such specialised work; and

- (iii) an officer adept at such duties should not be confined to the post for an unduly long duration, lest his chance for exposure to the mainstream duties of the rank/grade is deprived.

CSB shares the Commission's views and will include the above guidelines in the "Guidebook on Appointment" currently under revision, in addition to reminding HoGs of their role to closely monitor the career development needs of individual grade members and to arrange for their regular career postings to broaden their exposure.

6.1 The Commission's sustained efforts in promoting good performance management practices in the past three years have yielded encouraging results. Apart from advising departments and bureaux concerned of the Commission's observations and suggestions when tendering the Commission's advice, the Chairman of the Commission also issued personal letters to Heads of Department/ Heads of Grade (HoDs/HoGs) concerned, pointing out those areas requiring their prompt action for improvement. The Commission is delighted to observe across the service the marked improvement on the timely completion of performance appraisals, timely conduct of promotion boards and obvious drop in the number of cases of non-compliance with Civil Service Regulations (CSRs) 231(1)⁵³ and 232(2)⁵⁴. It is also encouraging to note that some HoDs/HoGs have taken further steps to strengthen their performance management systems. The improvement efforts and positive response made by HoDs/HoGs concerned in response to the Commission's appeal are illustrated in the ensuing paragraphs.

I. Improvement Efforts and Positive Response made by HoDs/HoGs

(a) Timely completion of performance appraisals by supervisors

6.2 The Commission has long advocated the importance of preparing performance appraisals not only for promotion purpose,

but also to allow for a timely assessment on and feedback to the appraisee for development purpose by early rectification of shortcomings, if identified. Late completion of performance appraisals may lead to the deprivation of an officer's chance of improving his shortcomings in a timely manner. To get this message across, the Commission has made the point that in assessing a supervising officer's competence for further promotion, all aspects of staff management competency including timeliness in giving feedback and completing performance appraisals should be taken into account. While the Civil Service Bureau (CSB) would highlight this point in the revised "Guide on Performance Management" as mentioned in the Commission's 2007 Report, it has also selected a particular grade to pilot an enhanced reminder and tracking system through electronic means in place of the current manual practice to embrace the preparation and return of job descriptions for prompt performance reporting purpose. The revised appraisal form of this grade has also built in, for assessment purpose, an officer's timely completion of performance appraisals, the quality of the performance appraisals prepared by him and the efforts made by him in linking the performance assessment to the career development of his subordinates. If proved successful after trial, the new form as well as the electronic reminder and tracking system will be introduced to other grades.

⁵³ CSR 231(1) stipulates that when the reporting officer is of the same substantive rank (although acting in a higher rank) as the officer to be reported upon, there are two alternatives. Either the next most senior officer should instead be the reporting officer, or the officer who is acting should discuss the report which he proposes to make with the next most senior officer and should submit the report in draft for approval before it is entered on the report form.

⁵⁴ CSR 232(2) stipulates that no matter who (reporting officer or countersigning officer) conducts the performance appraisal interview, the countersigning officer is encouraged to complete his/her assessments before the interview.

6.3 In one department, the HoD, upon receipt of the Chairman's letter, had personally reviewed the problem of late completion of performance appraisals and made significant efforts to rectify the problem. Out of the 680 or so performance appraisals of a core grade of the department, there were only 13 cases of late reporting in the 2008 reporting cycle. In 11 of those cases, the delay was not more than two weeks each. In another department, the Grade Management had made concerted efforts in demanding the timely completion of performance appraisals. The results were very encouraging in that all the performance appraisals of a particular rank were completed on time in 2008, which represented a tremendous improvement when taking into account the fact that about 80% of the performance appraisals of that rank were completed late in the previous year.

6.4 In one grade, the Grade Management on noting that there are inordinate delays in the completion of performance appraisals by individual grade members on their subordinates from other grades, has introduced improved measures to record cases of acute delay in the supervisors' own staff report file. An entry would be made against the core competency of "Performance Management and Appraisal" in their performance appraisals pin-pointing their failure to complete performance appraisals on their subordinates in a timely manner for promotion boards' attention. Separately in cases where the delay is

caused by the appraisees themselves failing to submit their job descriptions, despite repeated reminders, the Grade Management has requested the supervisors to proceed with completion of the appraisals, based on their understanding of the appraisees' duties, in line with the Commission's observation as recorded in paragraph 5.23 under Chapter 5.

6.5 To ensure strict adherence to the deadlines set for completion of performance appraisals, a HoG has made a standing arrangement for the conduct of Assessment Panels (APs)⁵⁵ within three months after the end date of the last reporting cycle so that all performance appraisals must be completed before the APs meet. A requirement for supervisors concerned to explain in writing the reasons for the delay in the completion of performance appraisals has also been imposed. The HoG concerned has also written to other departments where his staff are seconded appealing to them to ensure the timely completion of performance appraisals of his grade members.

6.6 In another grade, a new appraisal form, with the addition of "Timely Completion of Performance Appraisals" as a competency item under "Performance Management", has been introduced to take effect from the 2008 reporting cycle. To impress upon the supervisors on the best practices in performance management and appraisal writing, the Grade Management has run a series of performance management workshops for them.

⁵⁵ Under CSB Circular No. 10/2000, HoDs/HoGs are encouraged to promote a wider use of APs among grades under their purview to undertake levelling and moderating work among performance appraisals, monitor performance and identify under-performers/outstanding performers for appropriate action.

6.7 Other improvement measures taken by HoDs/HoGs include the personal commitment of some of them to seriously monitor the timely completion of performance appraisals and to escalate non-observance of the report submission deadlines to his personal attention.

(b) *Timely conduct of promotion boards*

6.8 Departmental efforts in meeting the Commission's advocated target of conducting promotion/selection exercises within a period of six months from the end date of the last reporting cycle are encouraging. For better monitoring of progress, a department has fixed target dates for all critical procedural steps relevant to the timely conduct of promotion exercises. In another department, the management has instituted an early alarm system to seek its policy bureau's approval for the conduct of promotion exercises. Other departments have either worked out for better planning of resources a schedule of all promotion boards or undertaken to critically review the existing workload and procedures with a view to expediting the conduct of its promotion exercises.

(c) *Non-compliance with CSR 231(1) and CSR 232(2)*

6.9 Recognising that the non-compliance with these regulations is to some degree caused by the design of the departmental performance appraisal forms, some HoDs/HoGs have suitably revised the appraisal forms in one of the following manner -

- (i) to insert a new section specifying the requirement of CSR 231(1) in the appraisal forms;
- (ii) to highlight both requirements in the new set of "Guidance Notes on the Completion of the New Appraisal Form" to be introduced in the 2008 reporting cycle; and
- (iii) to re-arrange, in the new appraisal forms to be introduced in the next reporting cycle, the part on countersigning officer's assessment to appear before the part on performance appraisal interview to ensure that the countersigning officer would comply with CSR 232(2) and complete his assessment before the conduct of the appraisal interview.

(d) *Implementation of career postings recommended by promotion boards*

6.10 To ensure proper and timely implementation of career postings recommended by the promotion boards, a HoG has personally taken stock of all career posting recommendations by the last promotion boards for monitoring of the implementation progress.

(e) *Tightening-up of reporting standard*

6.11 In response to the Commission's observation on over-generous reporting, one department has arranged a series of briefings/seminars on the importance of adhering to the appropriate assessment criteria in writing

performance appraisals for all members of a grade. In another department, the management has issued a general circular providing guidelines on performance appraisal system for reference by the departmental grade staff. As a result, the reporting standard of a particular grade is observed to have been tightened up in the subsequent reporting cycle.

(f) *Assessment on staff's readiness to perform duties at the next higher rank*

6.12 In response to the Commission's comments made in its 2007 Annual Report on the non-committal rating of "possibly yes" in assessing an officer's readiness for advancement, the departmental management has revised the performance appraisal form for the concerned grade in 2008. In the revised appraisal form, the wordings of the whole rating scale are replaced by clearer and more explicit descriptions with the deletion of the "possibly yes" rating to avoid ambiguity in the assessment standard.

6.13 The Commission is pleased to note from the examples quoted above that the senior management of many departments has demonstrated by example its commitment to good management practices. Without such a commitment, less than desirable management practices will persist as staff at large will wrongly perceive that such practices are tolerable.

II. Continuous Improvement Efforts to Strengthen the Performance Management System

(a) *Revision of existing "Guide on Performance Management"*

6.14 As mentioned in its 2007 Annual Report, the Commission has raised some specific issues pertinent to the strengthening of the performance management system in the civil service. CSB has actively responded to the Commission's observations and upon review, developed further guidelines and performance management principles to perfect the system. CSB's efforts will culminate in its issue of a revised "Guide on Performance Management" in early 2009 covering the following areas of interest raised by the Commission in the past two years -

- (i) APs - updating the existing guidelines on the operation of APs and incorporating the best AP practices, including the avoidance of rigid adherence to quota systems or forced distribution of performance ratings;
- (ii) Performance appraisal - providing broad guidelines to assist departments in setting clear benchmarks for performance rating;
- (iii) Career interviews - providing guidelines on how to conduct career interviews systematically for officers who are passed over or not recommended in a promotion exercise;

- (iv) Improved transparency - encouraging the disclosure of HoGs' remarks to appraisees if the comments are different from those made by the appraising and countersigning officers; and
- (v) Timely appraisal - reminding supervising officers of the importance of timely staff reporting which will be reflected as an aspect in their staff management competency.

(b) Strengthening of the operation of APs

6.15 During the year, the Commission gave further thoughts on strengthening the operation of APs. In the Commission's view, the APs should be tasked mainly to rationalise the obvious or major differences in reporting standards by -

- (i) drawing up guiding principles to align the appraising standard within the grade/rank;
- (ii) identifying glaring cases of overly harsh or loose marking for management's follow-up action as appropriate; and
- (iii) monitoring the appraising standard for the grade/rank, in particular with a view to avoiding different standards of reporting which could lead to unfair assessments of individual officers.

6.16 The Commission has also drawn the attention of CSB to the concerns raised by individual officers in relation to the operation of APs in their departments such

as the concerns on the lack of evidence and justifications for APs to upgrade or downgrade the performance ratings given in the performance appraisals and the perceived manipulation of APs in influencing the promotion claim of individual officers. The Commission also considers that the existing practice in some departments of relying on the AP to assess the "promotability" of an officer by reference to a formula relating to the ratings of his score in core competencies is too mechanical. The Commission holds the view that the AP should be tasked to focus more on ensuring consistency in assessment standards and fairness in performance ratings in appraisals rather than in assessing individual officers' "promotability" which should be more appropriately the function of a promotion board.

6.17 CSB will take into account the Commission's views in the preceding paragraphs in revising the "Guide on Performance Management". It has also undertaken to continue offering advisory support to departments to enhance the functioning of their APs and to organise relevant training in the form of experience sharing workshops to disseminate the best practices in APs.

(c) Progress on the adoption of competency-based approach in performance appraisals

6.18 The Commission has called for the widest possible application of a competency-based approach in performance appraisals for ensuring consistency in the reporting standard and enhancing the objectivity and

comprehensiveness in preparation of such appraisals. CSB has responded positively to the call and reported after review that of the 650 ranks or 230 grades considered suitable for adopting a competency-based reporting format, about 80% has already been assessing the performance of their grade members using such a format. To facilitate the remaining grades and ranks to implement a similar reporting format, CSB has introduced a new general appraisal form (GF 1) for officers with salaries on Master Pay Scale (MPS) Point 45 and above in September 2008. It is envisaged that by mid-2009, about 90% will have adopted the competency approach. Another general form designed for use by officers at MPS Points 10 - 44 (GF 94) is under preparation and will be introduced in 2009. CSB would continue to assist the remaining grades/ranks to suitably develop such a reporting format.

7.1 Succession planning in the civil service culminates in succession to the directorate levels. As mentioned in its 2007 Annual Report, the Commission has been pushing for a more transparent directorate succession mechanism and for succession planning to be linked to an effective talent development system. This in turn should be tied to a robust performance management system covering honest reporting, merit-based selection of officers for further career advancement and regular career postings to broaden their job knowledge and exposure as well as to further develop their leadership talent. To achieve this and with a view to retaining talents as highlighted in Chapter 4 of the Report, the Commission has requested the Civil Service Bureau (CSB) to devise a schematic approach in linking the talent development system to a much strengthened succession planning mechanism and tying it to a robust performance management system.

Basic Principles and Best Practices for Succession Planning

7.2 To ensure effective implementation of the succession planning system, the Commission has requested the Administration to advocate the following principles and best practices -

- (a) The fast-track career development system must be fair and the selection of exceptionally meritorious officers must be based on honest reporting.
- (b) While the system should allow for the identification of those more

junior officers who are exceptionally meritorious to assume, on an accelerated basis, higher responsibilities to prepare them for earlier accession to more senior positions, it should not exclude the selection of more senior officers for promotion if their performance is assessed to be on a par with the more junior officers and if they are also considered to have the potential for the next higher rank. In this regard, for promotion to the junior directorate levels of Assistant Head of Department (HoD) (D2) or D1 level, in departments with a reasonable pool of directorate posts, an officer's longer term potential to rise to the top, as restricted by his age, should not normally be a factor to deter promotion and it would be appropriate to strike a fine balance between identifying high flyers for succession purpose and promoting loyal, dedicated and long-serving officers.

- (c) For promotion to a HoD post, the selected officer should have preferably three years' active service on assumption of the post to allow sufficient time and continuity for the office holder to lead the department and motivate staff in delivering better services. On this basis, the consideration of an officer's competence and potential for the HoD post, on which his age would have a bearing, would inevitably come into play. This also points to the need for departments to reach down, if required, to even one rank below the eligible

level for suitable officers to be groomed for earlier succession to the HoD level.

- (d) The equal importance of career and exposure postings under a robust performance management system in support of succession planning must be established. To this end, HoDs are encouraged to adopt a more vigorous career posting plan and to make their posting policy more transparent to their staff. The senior directorate should be reminded clearly of their collective role as talent breeders and their responsibility to remind supervisors at all levels of the obligation to release staff for career posting, failing which an adverse reflection of their staff and performance management competence would be taken into consideration when assessing their promotability.

7.3 The Commission is pleased to note that the Administration has responded positively to the Commission's advocacy. Adopting the Commission's line of thinking as spelt out at paragraph 7.2(c) above, CSB has started to advise incumbent HoDs of the inevitable age bearing as a guiding principle to be taken into account when considering succession to senior directorate level at D3 and above. As noted, out of six promotion exercises to HoD posts advised by the Commission in 2008, five meet the preferred 3-year service advocated by the Commission.

Implementing Succession Planning

Early identification of talents

7.4 As observed by the Commission through examining recommendations put up by promotion boards, age bunching of departmental grade officers at the directorate levels occurs in a number of departments, affecting adversely the drawing up of a healthy directorate succession planning for the departments concerned. This heightens the need for the Administration to step up efforts in identifying more vigorously promising officers at the non-directorate level at an early stage for further grooming for senior directorate succession purpose. The availability of a larger pool of eligible officers should ensure the selection of the most suitable officer to take up the important role of heading a department to provide the best service to the public. To meet this target as urged by the Commission, the Civil Service Training and Development Division of CSB will step up its efforts in assisting departments to take forward succession planning in a more focused manner by arranging the following -

- (a) The issue of a guide cum information pack on succession planning which covers the guiding principles for talent development and guidelines for HoDs/ Heads of Grade (HoGs) to take a holistic approach in succession planning to take into account the need for career posting, training and job attachment.

- (b) The conduct of visits to departments identified as having succession problems, advising the senior management of any training and development needs of individual officers.

Renewed emphasis on career development

- 7.5 To groom talents for directorate succession, the Commission considers it vital for all HoDs/HoGs to adopt more vigorous career development and posting plans for all ranks under their management and to include the formulation of Government Secretariat attachment programmes in consultation with their respective housekeeping Permanent Secretaries. Besides, they should make these plans transparent to their staff and remind supervisors of their staff management role which embraces staff development and the obligation to release staff for career posting. Specifically, HoDs/HoGs concerned should make it a conscious policy to require a certain number of career postings at different ranks to broaden the experience and exposure of their staff. With an early alert system made transparent through promulgating the posting policy, the HoGs would be able to explain to the user bureaux/departments (B/Ds) and the different ranks of officers the objective and intervals of the career postings to facilitate timely release of officers for career posting purpose. In unique circumstances where particular operational needs of a user B/D require the retention of an officer for a longer period, exceptions to allow for slight deviations from the policy can be

considered. CSB will suitably incorporate the importance of career postings in the “Guidebook on Appointments” currently under revision for departments to follow and will separately remind HoDs of the same at directorate succession planning meetings.

- 7.6 As stated in Chapter 4 of the Report on “Attractiveness of Civil Service Jobs”, career development is vital to retention of talents in the service. Concerted efforts should be made by the Administration to demonstrate its commitment to retaining talents for succession to the top levels of the civil service through a renewed emphasis on career development.

Discouragement of extension of service or re-employment after retirement

- 7.7 To complement the pursuit of vigorous succession plans by the Administration, the Commission takes the stance that applications for extension of service or re-employment after retirement should only be considered in exceptional circumstances to meet strong operational needs, subject to the officer’s physical fitness, good conduct and performance as well as the consideration that his retention would not cause any promotion blockage in the lower ranks. Also, the extension or re-employment period, if approved, should be for a limited duration. Throughout the past three years, the Commission had adopted a stringent standard in considering applications of the like. As a result, the number of such applications had dropped significantly in

the recent two years and at the directorate level, not a single application was received by the Commission in 2008. Upon the Commission's request, CSB has also completed a review and identified measures to improve the administration of the policy. The Chief Executive has also approved the retrieval of approving authority from HoD to the Secretary for the Civil Service to align the approving authorities for such applications from directorate officers. The related Civil Service Regulations will be amended and promulgated in 2009. As for those cases for which the HoDs remain to be the approving authorities, clear guidelines will be issued by CSB for HoDs to follow/consider in vetting such applications.

8.1 Apart from advising on the filling of vacancies of the senior ranks⁵⁶ of the service by recruitment and promotion, the Commission also advises on appointment matters relating to an officer's continuous employment or termination of his service. They cover cases of non-renewal or termination of agreements, offer of shorter-than-normal agreements, refusal or deferment of passage of probation or trial bar on conduct or performance grounds, early retirement of directorate officers under the Management Initiated Retirement Scheme⁵⁷ and retirement in the public interest under section (s.) 12 of the Public Service (Administration) Order (PS(A)O). In addition, the Commission advises on other appointment-related cases including those of extension of service or re-employment after retirement, secondment⁵⁸, opening-up arrangement⁵⁹, and revision of

terms of employment⁶⁰ of serving officers in the senior ranks of the civil service. A statistical breakdown of cases advised by the Commission in 2008 by category of these appointment matters is provided at *Appendix VI*.

Retirement in the Public Interest under s.12 of the PS(A)O

8.2 Retirement under s.12 of the PS(A)O is not a form of disciplinary action or punishment but pursued as an administrative measure in the public interest on the grounds of –

- (a) “persistent sub-standard performance” – when an officer fails to reach the requisite level of performance despite having been given an opportunity to demonstrate his worth; or

⁵⁶ They refer to those senior ranks under the normal appointment purview of the Commission (i.e. those attracting maximum monthly pay at Master Pay Scale (MPS) Point 26 (currently \$35,095) and above or equivalent). They exclude (i) the basic ranks of non-degree entry and non-professional grades with a maximum monthly salary at MPS Point 26 or above, and (ii) the judicial service, the Independent Commission Against Corruption and the disciplined ranks of the Hong Kong Police Force which are specifically outside the purview of the Commission.

⁵⁷ The Management Initiated Retirement Scheme, first introduced in 2000, provides for the retirement of directorate officers on the permanent establishment to facilitate organisational improvement and to maintain the high standards expected of the directorate. It can be invoked on management grounds if the approving authority has been fully satisfied that –

- (a) the retirement of an officer from his present office is in the interest of the organisational improvement of a department or grade; or
- (b) there would be severe management difficulties in accommodating the officer elsewhere in the service.

The officer concerned will be notified in advance and given the opportunity to make representations. A panel chaired by the Secretary for the Civil Service will consider each case following which the Commission's advice will be sought on the recommendation to retire these officers.

⁵⁸ Secondment is an arrangement to temporarily relieve an officer from the duties of his substantive appointment and appoint him to fill another office not in his grade on a time-limited and non-substantive basis. Normally, a department will consider a secondment to fill an office under its charge if it needs skills or expertise for a short period of time and such skills or expertise are only available from another civil service grade.

⁵⁹ Under the opening-up arrangement, positions in promotion ranks occupied by agreement officers are opened up for competition between the incumbent officer and eligible officers one rank below. This arrangement applies to both overseas agreement officers who are permanent residents and are seeking a further agreement on locally modelled conditions, or other agreement officers applying for a further agreement on existing terms.

⁶⁰ Officers serving on Local Agreement Terms or Locally Modelled Agreement Terms or Common Agreement Terms are eligible to apply for transfer to Local or Common Permanent and Pensionable Terms subject to (a) service need; (b) a Chinese language proficiency requirement if that is required for the efficient discharge of duties; (c) performance and conduct; and (d) physical fitness.

(b) “loss of confidence” – when the management has lost confidence in the officer and cannot entrust him with public duties.

An officer who is to retire in the public interest will have his pension benefits deferred until the date he reaches his statutory retirement age.

8.3 During the year, a total of 46 officers from 22 bureaux/departments were put under close observation in the context of the s.12 procedures. Upon the Commission’s advice, the Administration retired five officers on the ground of persistent sub-standard performance (excluding two others who were retired on the ground of loss of confidence). While 22 officers remained under close observation as at the end of the year, ten officers were, on the other hand, taken off the watch-list after their performance had improved to the required standard. The other nine officers left/will leave the service for reasons including resignation, retirement, invaliding and removal on disciplinary grounds. With the concerted efforts of the Administration and the departmental management in striving for a better performance management with a view to putting the sub-standard performers on the right track, the Commission notes that the number of completed s.12 cases remained stable in 2008.

8.4 In processing a case of retirement in the public interest under s.12 on grounds of persistent sub-standard performance, the

Commission noted that while due advice and guidance had been given to the officer to improve his performance through interviews conducted by his supervisors, the Head of Grade (HoG) only interviewed and reminded the officer to strive for improvement one month before the special observation period ended. The Commission considers that as HoGs are responsible for looking after the career development of the grade members, they should take a proactive and forthcoming role in monitoring the performance of their staff and providing the appropriate assistance and guidance at an early stage to help them improve. Where cases/potential cases of under-performance are identified, they should keep a close watch on the performance of the officer concerned and maintain close communication with the relevant supervisors. Appropriate remedial actions including the issue of written advice, interview, calling of special up-to-date report, etc. should be taken promptly whenever necessary without having to wait for the annual appraisal. All actions taken should also be properly documented and copied to the officer concerned where appropriate. The Commission has advised the department to remind the HoG of the above best practice on good staff management.

8.5 The Commission will continue to draw attention to potential s.12 cases for departmental action in the course of vetting staff appraisal reports in connection with promotion exercises. It will also monitor closely departmental management’s readiness in pursuing such an administrative action.

Review on the Effectiveness of the Streamlined s.12 Procedures

- 8.6** As reported in previous Annual Reports, the Civil Service Bureau (CSB), in consultation with the Commission, has implemented the new streamlined procedures for handling sub-standard performers under s.12 of the PS(A)O since October 2005. Under the new arrangement, the threshold for invoking s.12 action has been reduced from 12 to six months of unsatisfactory performance, improving further the timeliness in taking appropriate management action. As a result of the implementation of the new procedures, the average length of time taken by a bureau/department to follow through a s.12 case from the forewarning of the civil servant concerned up to the submission of the case to CSB has been significantly shortened from the previous average of about 15 months to the current average of about ten months.
- 8.7** While noting the significant reduction in the lead time required to complete a s.12 case, the Commission has suggested to the Administration that since the streamlined s.12 procedures have been implemented for over three years, a review should be conducted to assess their effectiveness. The Administration has responded positively to the suggestion and a review is under way.

Extension of Agreement for Officers Appointed on New Agreement Terms (NAT) under the New Entry System

- 8.8** Under the new entry system introduced on 1 June 2000, recruits to the basic ranks

will normally be appointed on 3-year new probationary terms to be followed by 3-year NAT before they are considered for appointment on new permanent terms. An officer appointed on NAT would be considered for further appointment on new permanent terms only if he has sustained continued satisfactory conduct and efficient work performance, is physically fit and has met any other requirements as may be stipulated by the Government from time to time for general application or for the department, grade or rank concerned. In advising on cases involving extension of agreement for officers appointed on NAT, the Commission noted that some departments were not familiar with the proper procedures in handling such cases, nor were they aware of either of the following requirements -

- (a) the need to invite representations from the officer concerned in relation to the department's intention to extend his agreement and to give him seven calendar days for making representations; and
 - (b) the need to serve notification, preferably three months in advance, in case the officers concerned will not be re-appointed.
- 8.9** The Commission considers that departments should be made fully aware of the proper procedures to follow in handling extension of agreement cases under NAT to avoid any omission. The Administration has been requested to remind departments of the requirements accordingly and to incorporate them in the revised

“Guidebook on Appointments” currently under preparation.

8.10 Separately, in examining cases of extension of agreement of officers appointed on NAT, the Commission noted that there was room for improvement by the departmental management and the Grade Management. Despite the fact that the officers concerned were observed as having some weaknesses in the later years of their agreement period, they were still recommended for the grant of an increment, indicating that the departmental management was satisfied with their performance in the years concerned. Although due advice and counselling had been given by their supervisors, the officers concerned had never been told that they would not be offered permanent terms of appointment until at a very late stage when it was already too late for them to strive for improvement on their weaknesses, necessitating an extension of their agreement.

8.11 The Commission considers, with regard to the cases quoted in the preceding paragraph, that the departmental management should be more vigilant when making recommendation on the grant of increment. Besides, timely and proactive action should

have been taken to formally advise the concerned officers of their deficiencies and clearly alert them of the implications on their further appointment on permanent terms in case those deficiencies persisted. The relevant departments have been advised to make early identification of potential cases of extension of agreement so that the respective HoG can offer assistance and guidance to concerned officers as early as possible.

Conversion of Model Scale 1 (MOD 1) staff from Category B⁶¹ to Category A⁶²

8.12 As stated in Chapter 1, the Commission’s advice on appointment matters of Category A officers is sought only in respect of those occupying posts with a maximum salary at Master Pay Scale Point 26 (currently at \$35,095) or more, up to and including Permanent Secretaries, Heads of Department and officers of similar status⁶³. As regards disciplinary cases, the Commission’s purview covers all Category A officers irrespective of ranks with the exception of exclusions specified in the Public Service Commission Ordinance⁶⁴. For Category B officers, their appointment⁶⁵ and disciplinary matters are outside the Commission’s purview. Compared with a Category B officer, a Category A officer enjoys greater job security and better safeguard in respect

⁶¹ See Note 4 under Chapter 1 on page 3.

⁶² See Note 3 under Chapter 1 on page 3.

⁶³ Exceptionally and irrespective of rank, the following types of cases involving Category A officers must be submitted to the Commission for advice – (a) deferment/refusal of passage of probation/trial bar and termination/extension of probation/trial; and (b) retirement in the public interest under s.12 of the PS(A)O.

⁶⁴ See Note 1 under Chapter 1 on page 3.

⁶⁵ For Category B officers on agreement terms, appointment matters covering the renewal of their agreement and promotion in competition with Category A officers with a maximum salary reaching Point 26 of the Master Pay Scale are however subject to the advice of the Commission.

of disciplinary and related procedures in that the Commission should be consulted before requiring a Category A officer to retire in the public interest and before a decision is made on the punishment of a Category A officer⁶⁶. Besides, a Category A officer is provided with more favourable arrangements upon in-service appointment to another grade⁶⁷. The bulk of the civil service is made up of Category A officers.

8.13 MOD 1 grades⁶⁸ occupy non-established offices and thus all serving MOD 1 staff were originally Category B officers. Over the past years, the staff side has been liaising with the Administration to convert all serving MOD 1 staff from Category B to Category A status for greater security in employment, better safeguard in terms of disciplinary and related procedures. Having considered the long-term service needs for a core workforce of MOD 1 staff, the Administration, after consulting the Standing Commission on Civil

Service Salaries and Conditions of Service, supports the granting of Category A status to MOD 1 staff. In principle, the conversion should not lead to any substantial change in the pay and conditions of service of MOD 1 staff. The legislative amendments for the conversion were approved by the Legislative Council in June 2008. Accordingly, MOD 1 offices have been declared as established offices by the Chief Executive under the Pensions Ordinance (Cap.89) and Pension Benefits Ordinance (Cap.99) with effect from 1 October 2008.

8.14 Following the conversion of certain MOD 1 staff from Category B to Category A status with effect from 1 October 2008, the Commission's advice would have to be sought under the established procedures on relevant appointment matters and all disciplinary and s.12 cases⁶⁹ relating to Category A MOD 1 staff.

⁶⁶ In accordance with s.18 of the PS(A)O, the Chief Executive shall not inflict a punishment upon a Category A officer under s.9 to 11 of the Order or require an officer to retire under s.12 of the Order without first consulting the Commission. Pursuant to s.6(2)(d) of the Public Service Commission Ordinance (PSCO) (Cap. 93), this requirement to consult the Commission does not apply to cases of disciplinary punishment/retirement in the public interest involving Police officers.

⁶⁷ Category A officers are appointed on trial terms upon in-service transfer to another established office. They may revert to the parent grade if they fail to pass the trial bar. Category B officers are appointed on probationary terms upon in-service transfer to established offices. They have to leave the civil service in the event they fail to pass the probation bar.

⁶⁸ There are 11 MOD 1 grades, comprising six common grades (i.e. Car Park Attendant II, Ganger, Property Attendant, Ward Attendant, Workman I and Workman II), four departmental grades (i.e. Explosives Depot Attendant, Gardener, Workshop Attendant and Barber) and one general grade of Supplies Attendant.

⁶⁹ See Note 63 under Chapter 8 on page 51 and paragraphs 9.2 and 9.3 under Chapter 9 on page 53.

9.1 The presence of a clean, efficient and professional civil service is vital to maintaining public trust in and support for the Government. Civil servants are expected to uphold the highest standards of honesty and probity in discharging their duties as well as in their daily lives. They are liable to disciplinary action if they fail to observe any government regulations or official instructions, misconduct themselves in any manner or by their actions, bring the civil service into disrepute.

9.2 The Commission plays a key role in providing independent and impartial advice to the Chief Executive (CE) on civil service discipline cases of all Category A⁷⁰ officers under its purview. Except those cases which involve minor acts of misconduct where Heads of Department (HoDs) may initiate summary disciplinary action and issue warnings⁷¹ to the officers concerned without recourse to formal disciplinary proceedings, formal disciplinary action under section

(s.) 9 of the Public Service (Administration) Order (PS(A)O)⁷² or s.10⁷³ of the same order would be taken against the defaulting officer in the event of repeated minor misconduct or an act of serious misconduct. In the case of a criminal conviction, action under s.11 of the PS(A)O⁷⁴ would be considered.

9.3 With the exception of exclusions specified in the Public Service Commission Ordinance (PSCO)⁷⁵ and save in cases of summary disciplinary action involving the issue of warnings, the Administration is required under s.18 of the PS(A)O to consult the Commission before inflicting any punishment⁷⁶ under s.9 to s.11 of the PS(A)O⁷⁷ upon a Category A officer.

9.4 To uphold a standard of conduct commensurate with the rising public expectations about the conduct and probity of civil servants, the Commission supports the Administration's resolute stance on the discipline front and the taking

⁷⁰ As explained under Note 3 under Chapter 1 on page 3, officers appointed to and confirmed in established offices are classified as Category A officers according to the Public Service (Administration) Order (PS(A)O). This covers virtually all officers except those on probation, agreement and those remunerated on the Model Scale 1 Pay Scale who were serving as at 1 October 2008 but are not converted to Category A status in accordance with Civil Service Bureau (CSB) Circular No. 5/2008 issued on 14 July 2008. At the end of 2008, the total number of Category A officers in the civil service was about 135 339, of whom 112 556 were under the Commission's purview insofar as disciplinary cases are concerned.

⁷¹ Summary disciplinary action includes verbal and written warnings. This action is taken in less serious acts of misconduct that do not warrant formal disciplinary proceedings. A verbal or written warning will normally debar an officer from promotion and appointment for one year. The Commission's advice is not required in summary disciplinary cases.

⁷² See Note 5 under Chapter 1 on page 4.

⁷³ See Note 6 under Chapter 1 on page 4.

⁷⁴ See Note 7 under Chapter 1 on page 4.

⁷⁵ See Note 1 under Chapter 1 on page 3.

⁷⁶ Such punishments include reprimand, severe reprimand, reduction in rank, compulsory retirement and dismissal. A financial penalty may also be imposed concurrently with these punishments (except in the case of dismissal and reduction in rank) when the other punishment alone is inadequate to reflect the gravity of the misconduct/offence or to achieve the desired punitive and deterrent effect, but a higher level of punishment is not applicable or justified. See also Notes 80-81 on financial penalty of fine and reduction in salary.

⁷⁷ With the exception of certain members of disciplined services departments who are subject to the respective disciplined service legislations (i.e. Prison Ordinance, Fire Services Ordinance, etc.), all civil servants are governed by disciplinary provisions in the PS(A)O.

of expeditious action against any civil servant alleged of misconduct in order to achieve the desired punitive and deterrent effect. The resolute stance and expeditious action notwithstanding, the Commission is mindful that its advice on disciplinary cases must be based on the principles of equity, fairness and maintenance of broad consistency in punishment throughout the service, with due reference to the nature and gravity of the misconduct or offence involved in each case, the officer's disciplinary and service record, any mitigating factors, and the customary level of punishment. Within the limits of broad consistency in punishment, the Commission is prepared to support a tougher stance on particular acts of misconduct, if considered necessary by some departments. For example, departments with a large number of frontline staff working in sub-offices may need to adopt a higher standard of punishment for misconduct cases of workplace violence so as to achieve the necessary punitive effect on the defaulting officers and deterrent effect on their staff at large.

9.5 Before tendering its advice, the Commission will seriously consider the views and

arguments put forth by both the department concerned and the Secretariat on Civil Service Discipline (SCSD). In cases where there is a difference of opinion on the level of punishment between the department and SCSD, the views of both parties would be submitted to the Commission for consideration.

An Overview of Disciplinary Cases Advised in 2008

9.6 The Commission advised on the punishment of 92 disciplinary cases in 2008 which, when read together with the 103 and 91 cases in 2006 and 2007 respectively, suggests a steady overall trend. It is also an extremely small number representing less than 0.1% of the 112 556 Category A officers under the Commission's purview.

9.7 A breakdown of these 92 cases by misconduct or offence and the form of punishment is at *Appendix VII*. An analysis by salary group and penalty is at *Appendix VIII*. Of these 92 cases, 29 (31.6%) had resulted in the removal of the officers concerned from the service⁷⁸. There were 32 (34.7%) cases resulting in "severe reprimand"⁷⁹ plus financial penalty in the form of a "fine"⁸⁰ or "reduction in salary"⁸¹ which is the heaviest

⁷⁸ The punishment of removal from the service can take the form of compulsory retirement, compulsory retirement plus fine, or dismissal, depending on the gravity of the case. An officer who is compulsorily retired may be granted a pension, but payment of the pension will be deferred until he reaches his normal retirement age, i.e. 55 or 60 under the relevant pensions legislation. Dismissal is the most severe form of punishment as the officer forfeits his claims to all pension, gratuity and benefits (except the Government's mandatory contribution under the Mandatory Provident Fund or the Civil Service Provident Fund Scheme).

⁷⁹ A severe reprimand will normally debar an officer from promotion or appointment for three to five years. This punishment is normally recommended for more serious misconduct or for repeated minor misconduct/offences.

⁸⁰ A fine is a form of financial penalty which is currently capped at an amount equivalent to two increments for 12 months.

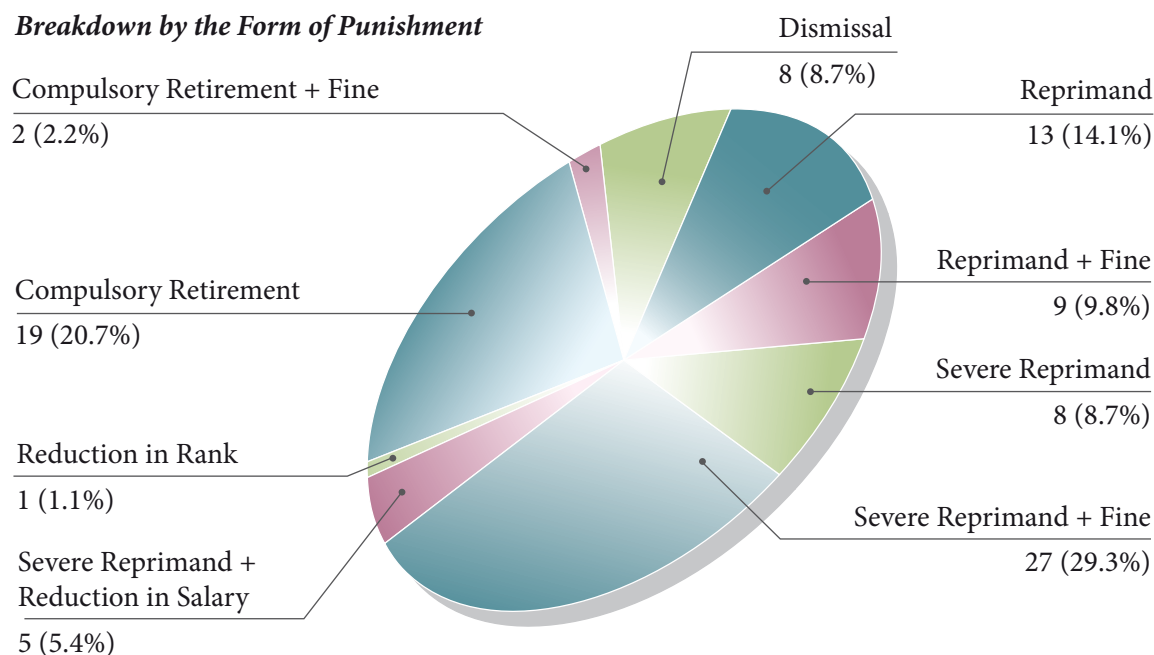
⁸¹ Reduction in salary is a form of financial penalty by reducing an officer's salary by one or two pay points. When an officer is punished by reduction in salary, salary-linked allowance/benefits originally enjoyed by the officer would be adjusted or suspended in case after the reduction in salary the officer is no longer on the required pay point for entitlement to such allowance/benefits. The defaulting officer can "earn back" the lost pay point(s) through satisfactory performance and conduct, which is to be assessed through the usual performance appraisal mechanism. In comparison with a "fine", reduction in salary offers a more substantive and punitive effect. It also contains a greater "corrective" capability in that it puts pressure on the officer to consistently perform and conduct himself up to the standard required of him in order to "earn back" his lost pay point(s).

punishment next to removal from the service and “reduction in rank⁸²”. These figures bear testimony to the resolute stance that the Administration has taken against civil

servants committing acts of misconduct. The chart below gives a breakdown of the 92 cases advised in 2008 by the punishment awarded.

Disciplinary Cases Advised in 2008

Breakdown by the Form of Punishment



Reviews and Observations of Major Disciplinary Issues

9.8 Apart from providing independent and impartial advice on disciplinary cases, the Commission also oversees the operation of the disciplinary mechanism. In vetting departmental submissions, the Commission will identify issues of concern and initiate reviews and discussions with the

Administration with a view to rationalising existing disciplinary policies or procedures and formulating new policies or procedures and benchmarks of punishment. The major issues reviewed in 2008, together with the observations and recommendations made by the Commission, are set out in the ensuing paragraphs.

⁸² Reduction in rank, or demotion, is a severe punishment. It carries the debarring effect of a severe reprimand, i.e. the officer will normally be debarred from promotion or appointment for three to five years, and results in loss of status and heavy financial loss. The pension payable in the case of an officer punished by demotion is calculated on the basis of the salary at his demoted rank. An officer's salary and seniority after reduction in rank will be determined by the Secretary for the Civil Service. He would normally be demoted to the lower rank at the pay point that he would have received had his service been continuous in the rank.

Scope for Further Streamlining of Disciplinary Procedures

9.9 In processing a misconduct case involving an officer who had failed to report criminal proceedings⁸³ during the year, the Commission noted that the misconduct case processed under s.9 of the PS(A)O was not dealt with and submitted together with the officer's related criminal offence case processed under s.11 of the PS(A)O. As a result, the concerned officer was punished by a reprimand under s.9 of the PS(A)O for omission of reporting the criminal proceedings about a year after the award of a severe reprimand to him under s.11 of the PS(A)O for the related criminal conviction.

9.10 The Commission considered that the time gap of a year in inflicting the second punishment was excessively long considering the straightforward nature of the s.9 case. There should be scope to further streamline the relevant disciplinary procedures by making the following improvements to the system -

- (a) the omission of reporting a criminal proceeding/conviction (under s.9 of the PS(A)O) should be processed in parallel and included for the Commission's advice in the same submission as the case of conviction (under s.11 of the PS(A)O); and
- (b) the approach as stated in (a) above of considering related cases in the

same submission should also apply to disciplinary cases originating from the same incident.

9.11 In response to the Commission's observations, SCSD has reviewed the relevant disciplinary procedures and agreed to adopt improved arrangements as summarised below -

- (a) With regard to the processing of a s.9 case as a follow-up to a s.11 case under the PS(A)O, the following new arrangements will apply -
 - (i) to commence and proceed in parallel a s.9 case of failure to report a criminal proceeding/conviction with that of the criminal conviction case under s.11 covering the same officer. Under the old practice, disciplinary action on the criminal offence under s.11 of the PS(A)O is dealt with first which normally takes about three months to complete. The parallel arrangement will reduce the time gap for completion of the related s.9 and s.11 cases covering the same officer by about three months;
 - (ii) to fast-track the processing of a s.9 case of failure to report a criminal proceeding/conviction where it is satisfied that the evidence available is sufficient to support a prima

⁸³ Under s.13(1) of the Public Service (Disciplinary) Regulation (PS(D)R), an officer against whom criminal proceedings are being instituted is required to report the fact forthwith to his HoD, irrespective of whether such proceedings would lead to criminal conviction. Failure to do so constitutes a disciplinary offence.

facie case of misconduct and/or the defaulting officer has indicated an intention to plead guilty to the disciplinary charge. Such an arrangement will reduce the processing time of the concerned s.9 case by about one month; and

(iii) to bundle related s.9 and s.11 cases in one submission to the Commission if SCSD envisages that the time gap between completion of the two cases is within two months.

(b) With regard to disciplinary cases of different officers originating from the same incident, SCSD will as far as possible arrange for their inclusion in one submission to the Commission particularly when the number of officers involved is small and on satisfaction that a single submission will not delay unnecessarily the infliction of punishment on those officers whose disciplinary hearings are completed earlier than the others.

9.12 The Commission considers the proposed streamlining and improvement measures appropriate and acceptable. It suggests further the inclusion of relevant rules and

regulations in the monthly salary statements issued by the Treasury to all civil servants as a reminder for compliance purpose and also as an evidence of their awareness of the reporting requirements, if applicable. For the latter purpose when applying to the handling of “omission to report criminal proceedings” cases as mentioned in paragraph 9.10(a) above, the time currently spent by a department in tracing evidence of defaulting officers’ awareness of such reporting requirement from departmental records can be saved, thus expediting the processing of the related disciplinary proceedings⁸⁴. The Administration has undertaken to follow up.

Wider Use of “Reduction in Rank” and “Reduction in Salary”

9.13 As mentioned in previous Annual Reports of the Commission, the Administration has reviewed the suggestion of an additional tier of punishment between dismissal and compulsory retirement (CR)⁸⁵. After careful deliberation, the Administration concludes that such an intermediate tier would not be necessary. In the circumstances, the Commission has urged the Administration to consider instead the wider use of the punishment of “reduction in rank” and the financial penalty of “reduction in salary” as they may achieve a more substantive and

⁸⁴ Evidence of an officer’s knowledge of the requirement to report criminal proceedings under s.13(1) of the PS(D)R is required before formal disciplinary action can proceed. As such in handling “omission to report criminal proceedings” cases the departments concerned are required to provide evidence that the relevant memorandum on the reporting requirement has been brought to the attention of the officer. The collection of evidence in this regard would take varying time depending on how soon the department concerned is able to trace its records to provide the proof.

⁸⁵ The Commission has raised before the suggestion of an additional tier of punishment between compulsory retirement and dismissal to provide for the imposition of a reduced pension in cases bordering on dismissal. There was then the concern that in certain misconduct cases it could either be too harsh to dismiss an officer because he would lose all pension benefits, or too lenient to compulsorily retire an officer who would be entitled to retain his pension benefits on reaching normal retirement age.

sustained punitive effect. While reduction in rank or salary was rarely used before, in the year of 2008 there were five cases where the financial penalty of reduction in salary was inflicted and one case where the defaulter was punished by reduction in rank. The Administration has developed guidelines on the use of the punishment of reduction in rank or salary which should help determine which cases should warrant the recommendation of such a punishment.

Review of Warnings Given under Summary Disciplinary Action to Officers with Suspected Mental Illness

9.14 Summary disciplinary action includes verbal and written warnings. It serves to enable departmental managers and particularly frontline supervisors to correct and determine minor and isolated acts of misconduct in a timely manner. There is the existing review mechanism that relevant HoDs are required to review all verbal or written warnings issued under summary disciplinary action within six weeks from the date of their issue to ensure that the warnings are appropriate and consistent, and, where appropriate, direct other courses of action to be taken, including institution of formal disciplinary action or substitution of the warning by another form of warning or other administrative action.

9.15 In advising a case which involved workplace violence committed by an officer with a

known mental illness history, the Commission observed that it had taken a prolonged period of 19 months for the department to reach a view to revoke the written warning previously given to the officer and proceed with formal disciplinary proceedings under s.9 of the PS(A)O against him. While appreciating the difficulties and extra complexities linked to disciplinary cases involving mentally ill officers including, for example, the need to require the officer to attend a medical board to assess his general mental state⁸⁶ which can only be convened with the consent of the officer concerned, the Commission considered that the prolonged processing of the case as well as the departmental management's eventual decision, after review, to revoke the written warning and proceed instead with formal disciplinary action had unnecessarily put the officer, who had a history of mental illness, under lingering stress. In response to the Commission's observations, the Administration has followed up with the department on areas where in general the investigation process can be expedited and requested the Hospital Authority (HA) to streamline arrangements for the convening of medical boards for those cases which HA has no record of the medical history of the officers concerned. Separately the Administration will update the relevant circular on the processing of cases involving officers suspected to be mentally ill to take into account the Commission's observations.

⁸⁶ According to CSB Circular No. 20/80, as soon as it comes to notice that an officer has misconducted himself and it is suspected that he may be suffering from mental illness, the officer should be required to attend a medical board to assess the officer's general mental state and the board should advise on whether the officer's mental state exculpates him from his misconduct or provides a mitigating factor and whether the officer is fit to attend a disciplinary investigation.

The Commission's Purview to Advise on Disciplinary Cases of Civilian Grade Civil Servants in the Hong Kong Police Force (the Force)

9.16 With the enactment of the Independent Police Complaints Council (IPCC) Ordinance in July 2008, the IPCC will be established as a statutory body in 2009. One of the IPCC's functions is to monitor actions taken or to be taken in respect of a member of the Force by the Commissioner of Police (CP) in connection with reportable complaints, and to advise CP or the CE or both of them its opinion on such actions. Noting that the definition of "a member of the Force" covers a civilian grade civil servant of the Force, the Commission has raised with the Administration the concern that the IPCC's above-mentioned function may seem to duplicate the role of the Commission in respect of disciplinary actions taken or to be taken against civilian grade civil servants of the Force. In response, the Administration has assured the Commission that it remains the Government's principal statutory advisory body on matters relating to disciplinary actions on civilian grade civil servants in the Force (as with civilian grade civil servants in other parts of the Government) as provided for under the PSCO. The Administration has set out clearly the policy intent in the Secretary for Security's speech delivered at the Legislative Council during the Committee Stage of the Ordinance on 11 July 2008 that should the

IPCC and the Commission hold different views on disciplinary matters pertaining to a civilian grade civil servant of the Force, the ultimate decision of the Administration would be taken on the basis of the advice of the Commission.

Reporting of Non-duty-related Traffic Offence

9.17 Under existing practice, so long as the non-duty-related offence committed by an officer relates to "careless driving" alone with no casualty involved, the officer would not be punished under s.11 of the PS(A)O. However, the officer is still required under s.13(1) of the Public Service (Disciplinary) Regulation (PS(D)R)⁸⁷ to report the relevant criminal proceedings to his HoD for consideration of disciplinary punishment under s.11 of the PS(A)O. As such offences are not duty, conduct or integrity related and the image of Government should not be adversely affected, the Commission is of the view that so long as no other offences are involved and the officers concerned are not driving government vehicles when committing the offence, they should be relieved of the psychological burden of having to report the related proceedings and to await the Administration's decision as to whether they should be punished.

9.18 As mentioned in the Commission's 2006 and 2007 Annual Reports, the Commission has asked the Administration to consider blanket exemption of such cases from the application

⁸⁷ See Note 83 under Chapter 9 on page 56.

of s.13(1) of the PS(D)R and s.11 of the PS(A)O. In other words, an officer against whom criminal proceedings for non-duty-related “careless driving” have been instituted should be exempted from the filing of a report to his HoD; neither would conviction on such “careless driving” offence require any follow-up action by departments.

9.19 After review, the Administration has come up with a proposal to exempt from the reporting requirement all types of non-duty-related⁸⁸ traffic offences, “careless driving” included, which satisfy all the following conditions -

- (a) the officer is convicted of only one traffic offence in the court proceedings concerned;
- (b) the conviction results in a fine of not more than \$1,000, with no other penalty imposed; and
- (c) the officer has no more than one criminal conviction of traffic offence in the two years preceding the date of the current conviction (i.e. an officer is required to report his case if it is his third conviction of any traffic offence in the 2-year period ending on the date of the current conviction).

The effect of the exemption arrangement is that an officer against whom criminal

proceedings for a non-duty-related traffic offence have been instituted is required to consider reporting his case to the HoD only when the court has convicted and sentenced him in respect of the offence. Should the criminal conviction fail to meet any of the above conditions stipulated in (a) to (c) above, it will be necessary for the officer to report his criminal conviction to his HoD immediately, even if he intends to appeal against the conviction or sentence. Owing to operational reasons or the constraints in existing legislation in particular of the disciplined services departments, the exemption does not apply to disciplined services staff of the Police Force, the Fire Services Department, the Customs and Excise Department and the Correctional Services Department.

9.20 The Commission supports the exemption arrangement and notes that it will relieve officers who have committed minor non-duty-related traffic offences the unnecessary agony of having to report and to await the Administration’s decision of punishment. The Commission considers that the exemption should be seen in the right perspective and suggests that in promulgating the new arrangements, civil servants should be reminded that the Administration would continue to take a serious view on all acts of misconduct or offence, including those which are non-duty-related.

⁸⁸ For the purpose of the exemption, a traffic offence refers to an offence committed by an officer in connection with the driving or use of a motor vehicle, whether as a driver or passenger, on a road. A traffic offence is deemed to be not duty-related if the officer is not driving or using a government owned or hired vehicle, nor driving or using any vehicle for specified duties as instructed by his department, at the time of committing the offence.

9.21 The Administration intends to implement the new arrangements in January 2009, after consulting the departmental management and staff sides. It will be stressed in the relevant circular promulgating the new arrangements that the exemption from reporting covers only non-duty-related traffic offences committed by an officer meeting all the conditions set out in paragraph 9.19. There is no relaxation to the reporting requirement under s.13(1) of the PS(D)R for duty-related traffic offences and other non-traffic offences.

Punishment Framework for Officers under the Civil Service Provident Fund (CSPF) Scheme

9.22 As reported in the 2007 Annual Report, the Administration had consulted the Commission on the preliminary framework for determining different tiers of disciplinary punishment applicable to officers under the CSPF Scheme⁸⁹. The Commission generally supported the preliminary framework on satisfaction that it was broadly comparable to that currently applied to pensionable staff.

⁸⁹ Applicable to officers who joined the service under the New Terms on or after 1 June 2000 and have been confirmed to the permanent establishment.

9.23 The Administration has since consulted the staff sides and they are generally supportive of the need for such a framework. Having regard to the feedback from the consultations, the current disciplinary

framework for pensionable staff and the features of the benefits provided under the CSPF Scheme, the Administration has refined the proposed disciplinary framework as follows -

Level of punishment	For CSPF staff (proposed)		For pensionable staff (currently in force)
	With ten or more years of service	With less than ten years of service	
Formal disciplinary action			
<i>Removal punishment</i>			
Level 1	Dismissal with forfeiture of full Government Voluntary Contributions (GVC) ⁹⁰	Dismissal without GVC benefits due to ineligibility for such benefits	Dismissal with 100% forfeiture of pension benefits
Level 2	CR with up to 25% reduction of GVC benefits		CR with up to 25% reduction of pension benefits ⁹¹
Level 3	CR with full GVC benefits		CR with deferred pension benefits
<i>Non-removal punishment</i>			
Level 4	Reduction in rank		Reduction in rank
Level 5	Severe reprimand		Severe reprimand
Level 6	Reprimand		Reprimand
Summary disciplinary action			
Level 7	Written warning		Written warning
Level 8	Verbal warning		Verbal warning

⁹⁰ GVC benefits will be fully vested and payable to an officer when he leaves service upon completion of at least ten years of continuous service since first appointment. The first batch of officers appointed in 2000 (who joined the CSPF Scheme in July 2003) would be entitled to the accrued GVC benefits in 2010. For these officers, the need to trigger the withholding or forfeiture procedures set out in CSB Circular No. 9/2003 would not arise until 2010. Accrued GVC benefits will also be fully vested and payable to a CSPF officer upon his retirement on or after reaching the prescribed retirement age irrespective of the length of service.

⁹¹ Pursuant to s.15(1) of the Pensions Ordinance and s.29(1) of the Pension Benefits Ordinance, pension may only be forfeited in whole or in part on grounds of three categories of serious criminal conviction as set out below -

- (i) any offence in connection with the public service under the Government, which is certified by the CE to have been gravely injurious to Hong Kong or to be liable to lead to serious loss of confidence in the public service;
- (ii) any offence under Part II of the Prevention of Bribery Ordinance (Cap. 201), which is related to the person's previous public service under the Government; or
- (iii) treason under s.2 of the Crimes Ordinance (Cap. 200).

Level of punishment	For CSPF staff (proposed)		For pensionable staff (currently in force)
	With ten or more years of service	With less than ten years of service	
Financial penalty			
1	Reduction in salary		Reduction in salary
2	Stoppage or deferment of increments		Stoppage or deferment of increments
3	Fine (calculated on the basis of an officer's substantive monthly salary (salary-pegged fine), capped at an amount equivalent to one month's salary)		Fine (calculated on the basis of an officer's salary increment (increment-pegged fine), capped at an amount equivalent to a reduction in salary by two increments for 12 months) ⁹²

With regard to the proposal to cap the proposed salary-pegged fine at one month's salary, it is roughly equal to the existing fine ceiling of two increments for 12 months. In cases where the maximum fine of one month's salary is considered too low to reflect the punitive effect of disciplinary punishment, the Commission has urged the Administration to consider, where

appropriate, the use of the punishment of reduction in rank or salary to achieve a longer-term punitive effect⁹³.

9.24 The Administration will take the proposals through the requisite legislative process before the new disciplinary framework takes effect.

⁹² The Administration considers that the existing increment-pegged fine is not tidy as it can translate into different percentages of the monthly salary of individual officers. With the Commission's support, the Administration proposes to turn the calculation of fine from an increment-based approach to a salary-based approach, capped at an amount equivalent to one month's salary. The salary-pegged fine which will apply to both CSPF and pensionable staff should help remove the anomaly.

⁹³ See Notes 81 and 82 under Chapter 9 on pages 54 and 55.

10.1 In 2008, the Chairman and Members of the Commission visited the Housing Department (HD) and the Architectural Services Department (Arch SD) to exchange views with the top management of these departments on issues of mutual interest as well as to promote good Human Resource Management practices. Through the visit to HD, the Commission has a better understanding of its achievement in applying advanced information technology

to enhance efficiency and effectiveness in estate management through the department's presentation on its Estate Management and Maintenance System. As for the Arch SD's visit, the Chairman and the Member participating in the visit toured around the department's Resource Centre, getting first-hand information on the latest design and technology applied in various large projects under planning or construction.

Mr Nicholas NG (second right), Chairman of the Public Service Commission, and Mr Brian STEVENSON (first right), Member of the Commission, visited the Architectural Services Department.



Mr Nicholas NG (second right), Chairman of the Public Service Commission, discussed with Mr Thomas CHAN (third left), Permanent Secretary for Transport and Housing (Housing) cum Director of Housing, on the work and staffing matters of the Housing Department during his visit to the department.

11.1 The Commission would like to express its sincere gratitude to the Secretary for the Civil Service and her staff for their continued support and assistance in all areas of its work. The Commission also warmly acknowledges the ready co-operation and understanding shown by Permanent Secretaries, Heads of Department and their senior staff in responding to the Commission's enquiries and suggestions during 2008.

11.2 As always, the staff of the Commission Secretariat have continued to provide unfailing support to the Commission by working most efficiently and maintaining a very high standard in vetting departmental submissions. The Chairman and Members of the Commission wish to place on record their appreciation to the Secretary of the Commission and her team for their steadfast work and contribution.



Back Row: Mr Nicky LO, JP Mrs Mimi CUNNINGHAM Ms WONG Mee-chun, JP Prof CHAN Yuk-shee, BBS, JP
Front Row: Mr Michael SZE, GBS, JP Mr Nicholas NG, GBS, JP (Chairman) Mr Simon IP, JP Mr Brian STEVENSON, SBS, JP

Submissions with Revised Recommendations after the Commission Secretariat's Observations

Category	Open/ In-service Recruitment	Promotions/ Acting Appointments	Continuous Employment/ Termination of Service ⁹⁴	Other Appointment- related Submissions ⁹⁵	Discipline	Total
Number of submissions advised on	116	581	52	129	92	970
(a) Number of submissions queried	36	321	20	16	24	417
(b) Number of submissions with revised recommendations following queries	7	116	2	2	16	143
(b)/(a) x 100%	19%	36%	10%	13%	67%	34%
Comparison with Previous Years						
Year			2006	2007	2008	
Total number of submissions advised on			892	895	970	
(a) Number of submissions queried			278	321	417	
(b) Number of submissions with revised recommendations following queries			115	121	143	
(b)/(a) x 100%			41%	38%	34%	

⁹⁴ Continuous employment/termination of service cases cover non-renewal, offer of shorter-than-normal agreements, deferment/refusal of passage of probation/trial bar on conduct/performance grounds, early retirement of directorate officers under the Management Initiated Retirement Scheme and compulsory retirement under section 12 of the Public Service (Administration) Order.

⁹⁵ Other appointment-related submissions cover renewal/extension of agreements under the old/new entry system, extension of service/re-employment after retirement, review of acting appointments made to meet operational needs, opening-up, secondment, revision of terms of employment and updating of Guides to Appointment.



Mr Nicholas NG Wing-fui, GBS, JP

Chairman, Public Service Commission (appointed on 1 May 2005)

Occupation : Chairman, Public Service Commission

Qualification : B.Soc.Sc. (Hons) (HKU), MEd (HKU), F.C.I.S., F.C.S.

Mr Ng was a veteran civil servant. He joined the Administrative Service in 1971. Senior positions he held prior to his retirement include Deputy Secretary for the Civil Service (Staff Management) (1985 - 1987), Secretary-General of the Standing Commission on Civil Service Salaries and Conditions of Service (1989 - 1991), Director of Administration of the Chief Secretary's Office (1991 - 1994), Secretary for Constitutional Affairs (1994 - 1997) and Secretary for Transport (1997 - 2002).



Mr Simon IP Sik-on, JP

Member, Public Service Commission (appointed on 23 May 2003)

Occupation : Businessman

Qualification : Solicitor of Supreme Court of Hong Kong

Mr Ip is a Member of the Board of Stewards of the Hong Kong Jockey Club and an Independent Non-Executive Director of Hang Lung Group Limited. Mr Ip is also a Member of the Advisory Committee on Post-retirement Employment, the Exchange Fund Advisory Committee, the Hang Seng Index Advisory Committee and the AIDS Foundation Advisory Board. He also serves as an Honorary Court Member of the Hong Kong University of Science and Technology, an Honorary Lecturer in the Department of Professional Legal Education of the University of Hong Kong, an Honorary Research Fellow of the Faculty of Law of Tsinghua University, Beijing and an Honorary Fellow of the Management Society for Healthcare Professionals.



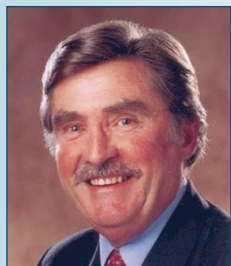
Mr Michael SZE Cho-cheung, GBS, JP

Member, Public Service Commission (appointed on 1 February 2004)

Occupation : Independent Non-Executive Director of Swire Pacific Ltd. and
Non-Executive Director of Lee Kum Kee Co. Ltd.

Qualification : B.A.(Hons) (HKU)

Mr Sze is a Member of the Operations Review Committee of the Independent Commission Against Corruption. He was a career civil servant and joined the Administrative Service in 1969. In a career of some 26 years, he headed a number of Departments and Policy Branches. He retired from the post of Secretary for the Civil Service in 1996 to be Executive Director of Hong Kong Trade Development Council. He retired from this position in May 2004.



Mr Thomas Brian STEVENSON, SBS, JP

Member, Public Service Commission (appointed on 1 February 2004)

Occupation : Businessman

Qualification : CA(Scotland), LL.B(Glasgow), LL.M(HKU)

Mr Stevenson is the Deputy Chairman of the Hong Kong Jockey Club, a Non-Executive Director of the Hong Kong and Shanghai Banking Corporation Limited and the MTR Corporation Limited and a Member of the Asia Pacific Advisory Board of British Telecom.



Mr Nicky LO Kar-chun, JP

Member, Public Service Commission (appointed on 1 February 2006)

Occupation : Businessman

Qualification : B.Sc.(Hons) (HKU)

Mr Lo is the President and Chief Executive Officer of Synnex Technology International (HK) Limited. He is also the Chairman of the Standing Commission on Civil Service Salaries and Conditions of Service, and a Member of the Standing Committee on Directorate Salaries and Conditions of Service.



Mrs Mimi CUNNINGHAM KING Kong-sang

Member, Public Service Commission (appointed on 1 February 2006)

Occupation : Director-Human Resource, Kowloon Canton Railway Corporation/Director-Special Duties, MTR Corporation Limited

Qualification : B.A.(Hons) (HKU), MBA (CUHK), MA (University of London)



Ms WONG Mee-chun, JP

Member, Public Service Commission (appointed on 1 July 2006)

Occupation : Chief Financial Officer of JV Fitness Limited

Qualification : B.Sc.(Econ)(LSE, London), ACA (England and Wales)

Ms Wong is a Member of the Standing Committee on Disciplined Services Salaries and Conditions of Service and the Chairman of its General Disciplined Services Sub-committee. She also serves as a Member of the Administration Appeal Tribunal Panel. She is an Independent Non-Executive Director of Excel Technology International Holdings Limited.



Prof CHAN Yuk-shee, BBS, JP

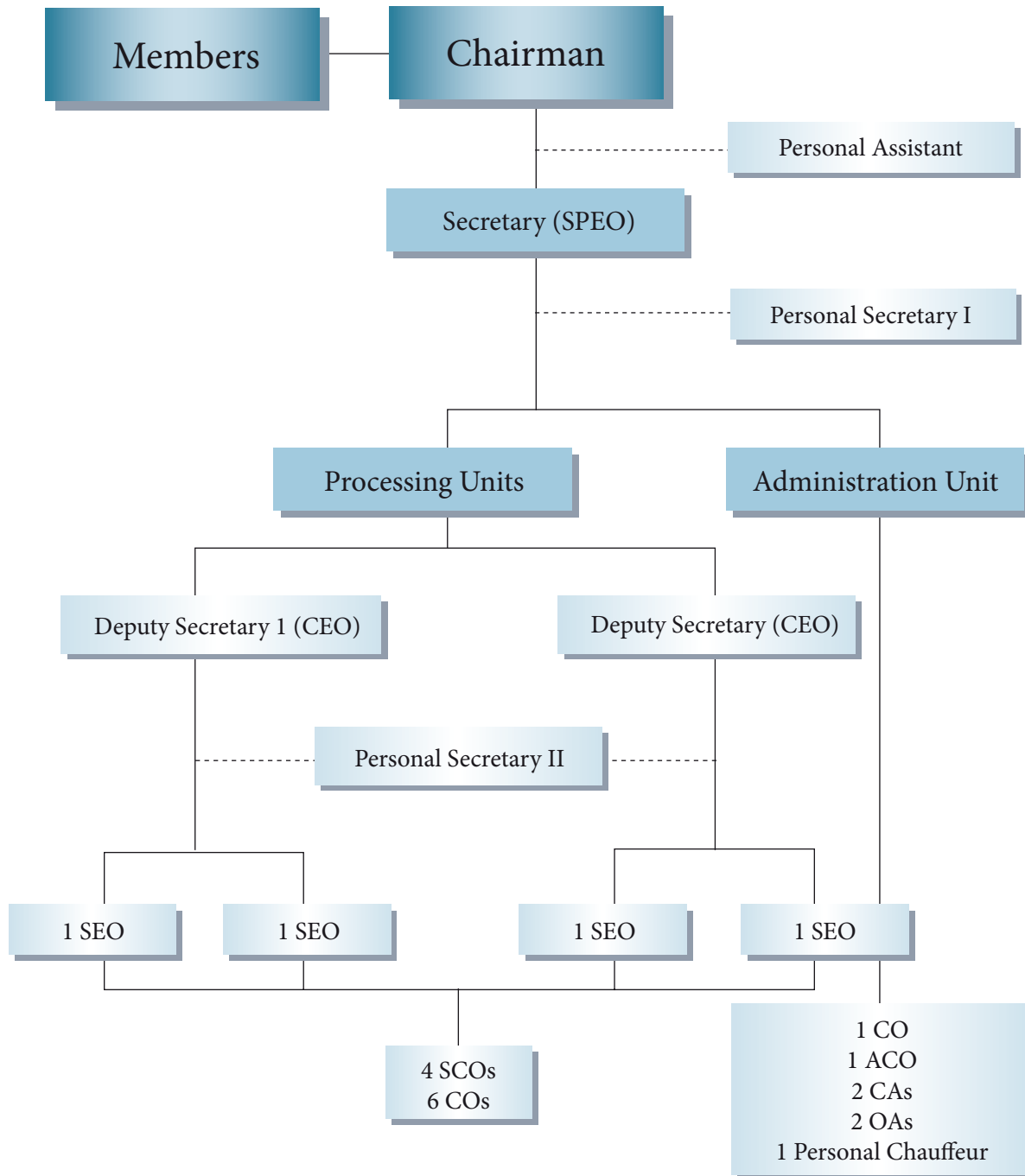
Member, Public Service Commission (appointed on 1 December 2007)

Occupation : President of the Lingnan University

Qualification : BBA (CUHK), MBA (UC at Berkeley), MA(Econ) (UC at Berkeley), PhD (Business Administration – Finance) (UC at Berkeley)

Prof Chan is the Chairman of the Social Welfare Advisory Committee and a Member of the Process Review Panel for the Securities and Futures Commission and the Standing Committee on Judicial Salaries and Conditions of Service. He is also an Independent Non-Executive Director of Sa Sa International Holdings Limited.

Organisation Chart of the Public Service Commission Secretariat

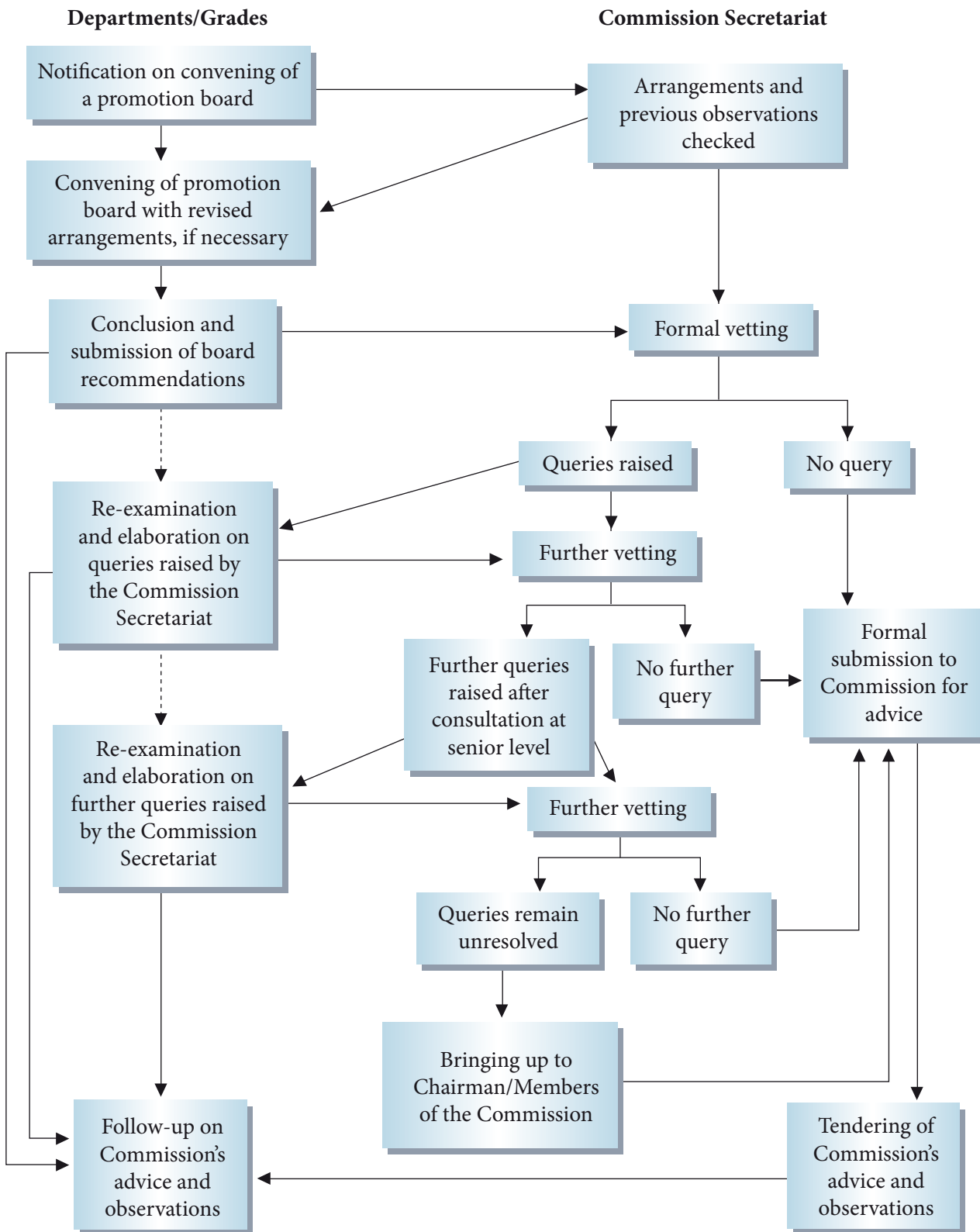


Legend

- SPEO - Senior Principal Executive Officer
- CEO - Chief Executive Officer
- SEO - Senior Executive Officer
- SCO - Senior Clerical Officer
- CO - Clerical Officer
- ACO - Assistant Clerical Officer
- CA - Clerical Assistant
- OA - Office Assistant

Establishment

Directorate Executive Officer	1
Executive Officer Grade	6
Clerical Grade	16
Secretarial Grade	3
Chauffeur Grade	1
	27



Number of Appointees (by Terms of Appointment) in the Open and In-service Recruitment Exercises in 2008

Open Recruitment	Number of Appointees
• on probationary terms	1 582
• on agreement terms	24
• on transfer (between departments or grades)	71
Sub-total	1 677
In-service Appointment	
• on trial terms	240
• on probationary terms	18
• on local agreement terms	0
Sub-total	258
Total	1 935

Comparison with Previous Years			
Year	Number of Local Candidates Appointed	Number of Non-permanent Residents Appointed	Total
2008	1 934	1	1 935
2007	674	2	676
2006	396	0	396
2005	223	0	223

Other Civil Service Appointment Matters Advised by the Commission in 2008 (Breakdown by Category)

Other Civil Service Appointment Matters	Number of Submissions
Non-renewal of agreement	4
Offer of shorter-than-normal agreements <ul style="list-style-type: none"> • on performance/conduct ground (5) • to tie in with the 60th birthday of the officers concerned⁹⁶ (6) 	11
Renewal or extension of agreement	17
Refusal of passage of trial bar	1
Refusal of passage of probation bar	2
Deferment of passage of trial bar	8
Deferment of passage of probation bar	19
Early retirement of directorate officers under the Management Initiated Retirement Scheme	0
Retirement under Section 12 of Public Service (Administration) Order ⁹⁷	7
Extension of service or re-employment after retirement <ul style="list-style-type: none"> • Directorate officers (0) • Non-directorate officers (23) 	23
Secondment	2
Opening-up arrangement	2
Revision of terms of employment	0

⁹⁶ Under Civil Service Regulations 280 and 281, the further employment of an agreement officer beyond the age of 60 will not be considered other than in very exceptional circumstances.

⁹⁷ Retirement under Section 12 of Public Service (Administration) Order is not a form of disciplinary action or punishment but pursued as an administrative measure in the public interest on grounds of persistent sub-standard performance or loss of confidence.

Disciplinary Cases Advised by the Commission in 2008 Breakdown by Category of Misconduct/Offence and Punishment

Category of Misconduct/Offence							
Punishment	Traffic related offences	Theft	Crimes conviction not under columns 1 and 2*	Negligence, failure to perform duties or follow instruction, supervisory accountability and insubordination	Unpunctuality, unauthorised absence, abscondment	Other misconducts**	Total
Dismissal	0	1	4	0	3	0	8
Compulsory Retirement + Fine	0	0	1	0	0	1	2
Compulsory Retirement	0	1	9	5	2	2	19
Lesser Penalty	2	4	12	17	15	13	63
Total	2	6	26	22	20	16	92

Note: (a) The Commission advised on 92 disciplinary cases in 2008.

(b) 34 of the 92 disciplinary cases followed upon conviction.

(c) In 3 of the remaining 58 disciplinary cases, the officers concerned have absconded.

* Including common assault, conspiracy for public servants to accept advantages, deception, fraud, gambling and misconduct in public office, etc.

** Including unauthorised outside work, unauthorised loan, being rude to supervisor/client, and providing false information, etc.

Disciplinary Cases Advised by the Commission in 2008 Breakdown by Salary Group and Punishment

Punishment	Salary Group			Total
	Master Pay Scale Pt.13 and below or equivalent	Master Pay Scale Pt.14 to 33 or equivalent	Master Pay Scale Pt.34 and above or equivalent	
Dismissal	3	5	0	8
Compulsory Retirement + Fine	0	1	1	2
Compulsory Retirement	7	8	4	19
Reduction in Rank	1	0	0	1
Severe Reprimand + Reduction in Salary	5	0	0	5
Severe Reprimand + Fine	14	11	2	27
Severe Reprimand	3	5	0	8
Reprimand + Fine	3	3	3	9
Reprimand	5	6	2	13
Total	41	39	12	92