

For information

Legislative Council Panel on Public Service

Follow-up to Meeting on 19 May 2008 Prevention of Double Benefits in the Civil Service

During the discussion of Agenda Item IV on the prevention of double benefits in the civil service at the Panel meeting held on 19 May 2008, the Administration undertook to provide supplementary information on the enforcement of the rules on the prevention of double housing benefits (DBRs) in the civil service. The information is set out in paragraphs 2 – 12 below.

Enforcement of DBRs in the civil service in the past three years

2. There were 62 DBR breach cases, all related to housing benefits in the past three years (2005 – 2007). This represented 0.1% of the total number of civil service housing benefits recipients. All the officers involved were offered appointment to the civil service before 1 June 2000 and are subject to DBRs in full.

3. An officer in breach of DBRs is required to refund the Government the overpaid benefits with interest and be subject to possible disciplinary/legal actions. A breakdown of the 62 cases referred to in the above paragraph is as follows –

| Nature of breach | No. of cases | Amount of overpaid benefits (\$m) | Amount of recovery (including interest) (\$m) |
|---|---------------------|--|--|
| (a) Concurrent receipt of civil service housing benefits and public housing benefits provided to the officer or his/her spouse | 46 | 20.3 | 2.6 |
| (b) Concurrent receipt of civil service housing benefits and employment-related housing benefits provided to the officer's spouse | 13 | 3.4 | 3.7 |
| (c) Receipt of civil service housing benefits by officers who had earlier forfeited their eligibility for such benefits | 3 | 0.6 | 0.2 |
| Total : | 62 | 24.3 | 6.5 |

4. As set out in the table above, over the past three years, the amount of recovery was about 27% of the overpaid benefits. This is because waivers of varying degrees had been granted with due regard to the special circumstances of each individual case. As the vast majority of the cases (74%) involved concurrent receipt of public housing benefits

caused by the late deletion of the officer's or his/her spouse's name from the public housing records, which did not constitute wilful breaches of a serious nature, only an appropriate amount was recovered in each of these cases.

Enforcement of DBRs in the disciplined services departments

5. Disciplined services quarters (DSQs) are a form of civil service housing benefits and their provision is subject to the terms and conditions of employment of the officers concerned, and the relevant regulations including DBRs. Detailed information on the enforcement of DBRs for disciplined services officers in the allocation of DSQs is set out in paragraphs 6 – 11 below.

Rule on no-concurrent receipt of housing benefits

6. As a general rule, a disciplined services officer may not receive DSQ benefits if his/her spouse is receiving any housing benefits, whether such benefits are provided by the Government, a publicly-funded organisation (PFO) or a private employer. The underlying principle is that if an officer's housing needs have been met under the employment of his/her spouse, to ensure prudent use of public resources, the Government would not provide further housing benefits to the officer at the same time. In accordance with this "no-concurrent receipt of housing benefits" rule, if an officer's spouse is in receipt of a housing benefit from the spouse's employer at the time of marriage, the officer's eligibility for DSQ will not be affected so long as the spouse relinquishes the benefit before the officer starts to receive the DSQ benefits, except under the circumstances involving housing benefits with a forfeiture requirement as explained in paragraph 8 below.

Rule on no-concurrent receipt of public housing benefits

7. The receipt of public housing benefits by an officer or his/her spouse will not affect an officer's eligibility for DSQ, as long as such benefits are not received concurrently with DSQ benefits. It is not necessary for the spouse of a disciplined services officer to relinquish

his/her public housing beneficiary status before the officer could apply for a DSQ.

Rule on forfeiture requirement

8. Where an officer's spouse, at the time of marriage to the officer, is receiving a housing benefit from the Government/PFO which has a forfeiture requirement (e.g. a benefit which provides assistance for acquiring property), the officer is given 60 days after marriage to choose to receive either his/her or his/her spouse's housing benefit. If an officer opts to retain his/her eligibility for DSQ benefit instead of the spouse's housing benefit, the spouse's receipt of any publicly funded housing benefit with a forfeiture requirement prior to their marriage will not affect the officer's eligibility for DSQ. If an officer opts for the spouse's housing benefit, the couple as one entity will be regarded as having chosen that particular form of housing assistance provided with public funding. Under these circumstances, the eligibility of the officer and his spouse as a couple for civil service housing benefits schemes will be restricted to the scheme they have opted for or similar schemes designed to provide assistance for acquiring property.

9. An officer who has enjoyed or is enjoying DSQ benefits will not forfeit his eligibility for other civil service housing benefits in future. He/she may still apply to join another housing benefit scheme for which he/she is eligible according to his/her terms of appointment, e.g. a home purchasing scheme to meet his/her accommodation needs. When such an application is approved, the officer will need to relinquish his DSQ benefits.

For civil servants with spouses who are also civil servants and offered appointment on or after 1 June 2000

10. The rule on no-concurrent receipt of housing benefits will not affect an officer's receipt of DSQ benefits if his/her spouse is a civil servant offered appointment on or after 1 June 2000 and is in receipt of Non-accountable Cash Allowance Scheme benefits under the new remuneration package, which has de-linked the provision of housing benefits from the marital status of eligible officers.

Enforcement of DBRs by disciplined services departments

11. The disciplined services departments have so far not encountered any particular problems in the enforcement of DBRs in the administration of DSQs.

Family Status Discrimination Ordinance (FSDO), Cap. 527

12. As confirmed by the Department of Justice, the enforcement of DBR is legally in order under FSDO in view of the “exceptions” provisions under s.43(1) and Schedule 2 of FSDO, which stipulate that any discrimination against a person who has family status arising from a provision of the Civil Service Regulations and relating to housing benefits or allowances shall not be unlawful. The “exceptions” provisions have been in force since the enactment of FSDO.

Civil Service Bureau
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