

HONG KONG
STANDING COMMISSION ON CIVIL SERVICE
SALARIES AND CONDITIONS OF SERVICE

REPORT No.43

GRADE STRUCTURE REVIEW

CHAIRMAN

MR NICKY LO KAR-CHUN, JP

NOVEMBER 2008

公務員薪俸及服務條件常務委員會
Standing Commission on Civil Service Salaries and Conditions of Service

本會檔號 Our Ref.: JS/SC9/1

尊函檔號 Your Ref.: CSBCR/PG/4-085-001/59

電 話 Tel.:

27 November 2008

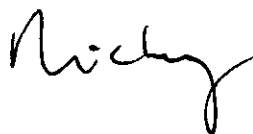
The Honourable Donald Tsang, GBM
The Chief Executive
Hong Kong Special Administrative Region
People's Republic of China
Government House
Hong Kong

Dear Sir,

At the invitation of the Administration, the Standing Commission on Civil Service Salaries and Conditions of Service has conducted two grade structure reviews: one on the Veterinary Officer grade, and one on the Government Counsel grade and the related Legal Aid Counsel and Solicitor grades.

On behalf of the Standing Commission, I have the honour to submit our Report No. 43: Grade Structure Review, which contains our findings and recommendations.

Yours faithfully,



(Nicky Lo Kar-chun)
Chairman

Standing Commission on Civil Service
Salaries and Conditions of Service

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Abbreviations

AFCD	Agriculture, Fisheries and Conservation Department
APGC	Assistant Principal Government Counsel (a deleted DL1 rank in the Government Counsel grade)
The Commission	The Standing Commission on Civil Service Salaries and Conditions of Service
DoJ	Department of Justice
DPGC	Deputy Principal Government Counsel
FEHD	Food and Environmental Hygiene Department
GC	Government Counsel
GSR	Grade Structure Review
IP	intellectual property
IPD	Intellectual Property Department
JSPS	Judicial Service Pay Scale
LAC	Legal Aid Counsel
LAD	Legal Aid Department
LCSD	Leisure and Cultural Services Department
M&HO	Medical and Health Officer
MPS	Master Pay Scale

ORO	Official Receiver's Office
PGC	Principal Government Counsel
PLS	pay level survey
PVO	Principal Veterinary Officer (a proposed D1 rank in the Veterinary Officer grade)
QG	Qualification Group
SGC	Senior Government Counsel
SLAC	Senior Legal Aid Counsel
SVO	Senior Veterinary Officer
USG	Unified Solicitor Grade
VO	Veterinary Officer

Summary of Recommendations

Paragraph

The Veterinary Officer Grade

The Veterinary Officer (VO) rank

- | | |
|--|------|
| (1) The starting pay should be raised by two points from Master Pay Scale (MPS) 29 to MPS 31 to recognise a significant increase in the complexity of work and level of responsibilities of the VO rank, and to ease the persistent recruitment and retention difficulties. | 3.14 |
| (2) The existing three omitted points at MPS 31, 35 and 38 should be repositioned to MPS 33, 37 and 40 accordingly. | 3.16 |
| (3) The maximum pay point should remain at MPS 44. | 3.17 |
| (4) Normal conversion arrangement should be adopted for the proposed adjustment to the starting pay for the VO rank. The Administration should also draw up the conversion arrangement for the proposed repositioning of omitted points, having regard to the established practice as appropriate. | 3.18 |

The Senior Veterinary Officer (SVO) rank

- | | |
|---|------|
| (5) The pay scale for the SVO rank (MPS 45 – 49) should remain unchanged. | 3.19 |
|---|------|

Other issues

- (6) To address the recruitment and retention issues of the VO grade, the Administration is invited to –
- (a) explore the feasibility of offering bonded traineeships to veterinary students in universities and work out the implementation details; 3.21
 - (b) review whether it is appropriate to expand the lists of overseas veterinary qualifications registrable in Hong Kong; and in the long term, explore with local universities the desirability and feasibility of introducing veterinary training in Hong Kong; 3.23 – 3.24
 - (c) review whether it is functionally justified to create a new tier beyond the SVO rank; 3.27
 - (d) review whether any of the VO posts should be upgraded based on functional justifications; and 3.29
 - (e) provide more advanced training opportunities for the VO grade with adequate training reserve and funding support. 3.31

The Government Counsel Grade

The Government Counsel (GC) rank

- | | | |
|-----|--|-----------------------|
| (7) | The starting point and the maximum point of the GC rank should remain unchanged at MPS 32 and MPS 44 respectively. | 4.26 & 4.35 |
| (8) | The existing omitted point of the GC rank at MPS 37 should be repositioned to MPS 36, and an additional omitted point be introduced at MPS 40 to address the recruitment and retention issues, subject to a review of the continued need for the additional omitted point three years after implementation. The Administration should draw up the conversion arrangement for the repositioned and additional omitted points, having regard to the established practice as appropriate. | 4.30 – 4.31
& 4.46 |

The Senior Government Counsel (SGC) rank

- | | | |
|------|--|-------------|
| (9) | The pay scale for the SGC rank (MPS 45 – 49) should remain unchanged. | 4.39 – 4.40 |
| (10) | There is a prima facie case for reviewing some of the SGC posts to determine whether they are functionally justified to be upgraded to the next higher rank beyond the senior professional rank. Subject to the view of the Standing Committee on Directorate Salaries and Conditions of Service, one option would be to re-create a rank at DL1 on the Directorate (Legal) Pay Scale in the GC grade to accommodate those SGC positions considered justified for upgrading. | 4.41 – 4.42 |

The Legal Aid Counsel (LAC) and Solicitor Grades

- (11) Recommendations at (7), (8) and (9) should apply to the LAC and Solicitor grades. 4.62
- (12) In line with the recommendation at (10) above, the Director of Intellectual Property is invited to consider whether some of its Senior Solicitor posts are functionally justified for upgrading to the next higher rank beyond the senior professional rank. 4.62

Other Issues

- (13) To attract, retain and motivate the staff in the legal grades, the Administration is invited to –
 - (a) conduct regular establishment reviews to meet the changing developments; 4.66
 - (b) be more responsive to staff concerns about the working environment; 4.68
 - (c) take steps to streamline and expedite the recruitment process; and 4.69
 - (d) provide more continuing professional development opportunities. 4.70

Review of Omitted Points

- (14) As a general point, the continued need for omitted points in all non-directorate civilian grades should be kept under regular review having regard to the changing recruitment and retention situation of individual grades. 4.31

Chapter 1

Introduction

Background

1.1 On 20 December 2007, the Secretary for the Civil Service invited the Standing Commission on Civil Service Salaries and Conditions of Service (the Commission) to conduct two Grade Structure Reviews (GSR): one on the Veterinary Officer (VO) grade, and one on the Government Counsel (GC) grade and the related Legal Aid Counsel (LAC) grade and Solicitor grade; and to submit its findings and recommendations to the Chief Executive. The Commission accepted the invitation on 21 December 2007. This report sets out the Commission's findings and recommendations.

1.2 Unlike the overall reviews conducted by the Commission in 1979 and 1989 that embraced all major grades and ranks under the purview of the Commission, the GSR has a well-defined scope. Since the Administration has already established the broad comparability of the pay level of non-directorate civilian grades with private sector pay in the 2006 Pay Level Survey (PLS), the GSR is intended to focus on selected non-directorate civilian grades with proven recruitment and retention difficulties and problems that have not been and could not be addressed through the service-wide PLS. Based on the advice of Heads of Grades and Heads of Departments and having critically examined the information provided, the Secretary for the Civil Service considered that the GC grade and the VO grade warrant a review by the Commission in view of their clearly demonstrated recruitment and retention difficulties. The Secretary for the Civil Service further recommended that the GSR on the GC grade should also include two related grades, namely the LAC grade and the Solicitor grade, given their similarity in work nature, job duties, responsibilities, grade structure and qualifications for appointment with the GC grade, although there has been no recruitment and retention difficulties with the two related grades in the past few years.

General Remarks

1.3 In undertaking the GSR, we were mindful that pay and conditions of service could not, and should not, be the only solution to tackle recruitment and retention problems. Our exchanges with staff representatives have reaffirmed our belief that many civil servants are dedicated professionals with a strong sense of responsibility. They are committed to serving the community, and they take great pride in their public service. Apart from a reasonable remuneration package, more recognition and appreciation of good performance, coupled with better prospect of professional development, would go a long way to enhancing a sense of achievement among the staff, motivating them to continue to render high standards of service to the society. Caring management practices and a cordial working environment would also enhance morale and foster a sense of belonging. Against this background, we have, where appropriate, ventured to touch on issues that may not be directly related to the grade structure per se, hoping that we can address the issues using a holistic approach in enabling the relevant grades to recruit, retain and motivate talent.

Acknowledgements

1.4 We would like to express our sincere gratitude to both the management and staff representatives of the grades concerned for providing us with information and written submissions which have been of considerable assistance to our deliberation. During our visits to departments, we have received every co-operation and assistance from both the departmental management and staff associations/representatives. We have been able to gain a better understanding of the operation of the departments and the problems faced by the grades concerned as well as the problems affecting staff. In the course of our review, we have also met with the Senior Civil Service Council to exchange views on the GSR for the selected non-directorate civilian grades. We wish to extend our sincere thanks to all those who have contributed to our review.

1.5 Our appreciation also goes to the Secretary General and the Joint Secretariat for the Advisory Bodies on Civil Service and Judicial Salaries and Conditions of Service for their hard work and unfailing support throughout the GSR.

Chapter 2

General Approach and Principles

Scope of the Review

2.1 As stated in Chapter 1, the GSR focuses on two specific grades, namely the Veterinary Officer (VO) grade and the Government Counsel (GC) and related grades. Having regard to the Administration's invitation, we agree that –

- (a) the GSR should pay special attention to the recruitment and retention difficulties of the grades concerned;
- (b) the GSR would focus primarily on the pay scale (e.g. the starting pay, omitted points and maximum pay) and the structure of the grades concerned, having regard to their duties and responsibilities as well as other relevant factors;
- (c) the Commission would also examine other issues which it comes across and which it considers to be relevant to the GSR; and
- (d) when the Commission comes across issues which it considers falling outside the ambit of the GSR, but are nonetheless of relevance to the efficient and effective management of the grades, the Commission would bring them to the Administration for attention and follow-up.

Guiding Principles and Key Considerations

2.2 Taking into account the terms of reference of the Commission (**Appendix A**), and building on the experiences of past reviews, we have decided that the GSR should have due regard to the following guiding principles and key considerations –

- (a) the Government's pay policy for the civil service is to offer sufficient remuneration to attract, retain and motivate staff of suitable calibre to provide the public with an effective and efficient service; and to ensure that civil service remuneration is regarded as fair by both civil servants and the public they serve;
- (b) the identified grades are an integral part of the civil service of the Hong Kong Special Administrative Region;
- (c) the established pay principles, such as the qualification benchmark system for determining entry pay and the broadbanning principle¹ for determining the pay scale for higher ranks, reflect the outcome of detailed deliberation in previous reviews, notably the 1989 Salary Structure Review. These principles provide a solid foundation for reviews of individual grades. The Commission would have due regard to these reviews, as well as changes and developments since the last review in the work nature, job duties, responsibilities and workload of these grades and ranks, and in the public expectation of these grades consequential upon the changing social, economic and political landscape;
- (d) the recruitment, morale, retention and career progression situation of each grade; and
- (e) any wider community interest, including financial and economic considerations, which in the Commission's views are relevant.

Mode of Operation

2.3 The Commission (membership at **Appendix B**) conducted the GSR through a combination of Commission meetings, visits, invitation and examination of written submissions and discussion with stakeholders.

¹ Under the "broadbanning principle", the pay and rank structure of senior professional ranks are "broadbanded" with a common pay scale, irrespective of the particular type of qualification associated with individual grades. Details are set out in paragraphs 4.82 to 4.84, Standing Commission Report No. 23: First Report on 1989 Salary Structure Review.

2.4 We invited written submissions from the relevant Heads of Grades and Heads of Departments, and received a total of 12 submissions (as listed in **Appendix C**). We also organised four visits to departments, during which the Commission had meetings with departmental management and staff associations/representatives of the grades under review (as listed in **Appendix D**).

2.5 We invited the Senior Civil Service Council and the Model Scale 1 Staff Consultative Council to express their views. The Commission held an informal meeting with the Senior Civil Service Council to listen to its views and suggestions on the GSR.

2.6 In our deliberations, we have taken full account of the views of management and staff associations/representatives, and have, as required by our terms of reference, also given due weight to wider community interest. We would like to stress that all the representations received by us have been carefully considered, although it is not possible to record in our report each and every point raised.

Chapter 3

Veterinary Officer Grade

Overview

The Veterinary Officer grade

3.1 The Veterinary Officer (VO) grade is a professional grade under the management of the Agriculture, Fisheries and Conservation Department (AFCD). The Director of Agriculture, Fisheries and Conservation is the Head of Grade.

3.2 The duties of the VO in the AFCD include prevention and control of animal diseases, as well as enforcement of legislation concerning the import of livestock, the protection of wild birds and mammals, the prevention of cruelty to animals and the prevention of rabies, avian influenza and zoonotic diseases in Hong Kong. The AFCD also deploys VO to serve in the Food and Environmental Hygiene Department (FEHD) and the Leisure and Cultural Services Department (LCSD) to provide veterinary services in the areas of food safety and animal management in parks respectively.

Pay and rank structure

3.3 The VO grade consists of two ranks: the VO rank and the Senior Veterinary Officer (SVO) rank. As at 1 April 2008, the VO grade had an establishment of 26 posts (nine SVO and 17 VO posts), and a strength of two SVO and 15 VO, primarily in the AFCD but also in the FEHD and the LCSD.

3.4 The VO grade is classified under Qualification Group (QG) 8: Professional and Related Grades (Group I)². The current pay scale for the VO rank is Master Pay Scale (MPS) 29 – 44 with omitted points at MPS 31, 35 and 38. The pay scale of the SVO rank is MPS 45 – 49. In the past decades, the VO grade has not experienced any major changes in

² This group comprises grades which normally require the membership of a relevant professional institution or qualifications traditionally accepted as comparable.

pay scale and rank structure. In the 1989 Salary Structure Review, the Commission recommended no change to the pay scales for the VO grade. Following the 1999 Civil Service Starting Salaries Review, the starting pay point of the VO rank was adjusted from MPS 29 to MPS 24. The entry pay was subsequently revised to MPS 29 after the 2006 Starting Salaries Survey.

Relevant Considerations

Major changes since the last review

3.5 Over the past two decades, the work of the VO and SVO ranks has increased in terms of scope, workload and complexity. A strong public veterinary service is critical to the provision of high level professional advice in the areas of food safety, public health, animal welfare and management. Some key factors contributing to the increasing challenges are highlighted below –

- (a) Food safety – There has been an increasing emphasis on “farm to table” food safety, resulting in a greater need for closer liaison and co-operation with the Mainland authorities and overseas food producers and exporters. It is also increasingly prevalent to have animal parts in food and consumer products for import and export. Consequently, the workload in licensing and control of animal products has increased tremendously.
- (b) Public health – In view of the fact that avian influenza outbreak and other international public health crises affect Hong Kong and the Mainland, prevention and control of emerging infectious diseases are accorded high priority. The globalisation of trade has also increased the risks of trans-boundary movements of exotic and emerging disease agents. With these developments, the VO grade has to play an increasingly important role in managing animal disease outbreak, providing accurate and timely information on animal diseases and ensuring rapid diagnosis and effective prevention of emerging infectious diseases with public health implications.

- (c) Animal management and animal welfare – With the increasing pet population in Hong Kong, there is a growing demand for government veterinary services, particularly in regulating the pet trade, stepping up urban animal management, safeguarding animal welfare and promoting public education on responsible pet ownership.
- (d) Higher quality and professional standards – With the advent of science and technology, veterinary science has become increasingly sophisticated with more specialisation (e.g. laboratory-based activities) using advanced techniques and requiring higher standards in compliance with the quality management and accreditation regulation by the Veterinary Surgeons Board of Hong Kong.

3.6 Having considered the submissions and discussed with the management and staff members, we have reached the view that the scope of the work and responsibilities of the VO grade has indeed increased. We note that the increasing demand for government veterinary service is recognised and reflected in the additional resources, expanding the total establishment of the VO grade from 17 posts (six SVO and 11 VO posts) as at 1 April 2006 to 26 posts (nine SVO and 17 VO posts) as at 1 April 2008. However, the recruitment has not kept up with the expansion, as elaborated in the ensuing paragraphs.

Recruitment

3.7 The AFCD is facing recruitment difficulties, partly attributable to the increased local demand for veterinary service for the vastly expanded pet population in Hong Kong³ and the competition for veterinarians from overseas countries. To cast a wider net in recruitment, the AFCD has made efforts to relax the permanent residency and language proficiency requirements. Notwithstanding these efforts, the Department has not been able to identify sufficient candidates to meet its target. Figures for the three recent recruitment exercises are shown in the following table.

³ The number of dog licences (valid for three years) issued by the AFCD increased by 76% from 28 400 in 1997 to 50 053 in 2007. According to a Thematic Household Survey conducted by the Census and Statistics Department, it was estimated that about 198 000 dogs and 99 000 cats were kept as pets in Hong Kong in 2005.

Year of Recruitment	Target Number of Recruits	Number of Applications	Number of Offers Made	Number of Offers Declined	Candidates Reported for Duty
2005	5	28	6	1	5
2007 (May)	16	24	5	0	3
2007 (Sept)	11	50	8	Pending #	Pending #

Position as at 19.10.2008

3.8 We note that, similar to governments in other jurisdictions, the AFCD has to face great challenges in recruitment. The AFCD is competing in a global market for a small pool of suitable candidates because of the absence of veterinary education in Hong Kong and the high international mobility of veterinarians. Furthermore, most veterinary training programmes in universities focus on preparing students for private practice in small animals and large animals, with relatively little emphasis on public health and regulatory role. This further reduces the pool of graduates having the commitment and skills to take up public sector employment. In addition, there are significant differences in the nature of veterinary work in the private sector as compared with the public sector. Members of the VO grade consider that the work nature of the VO grade is uniquely multi-faceted and strenuous, and involves long and irregular working hours. Whilst most veterinarians in private practice tend to focus on clinical practice on small animals, those in government departments play a critical regulatory role in safeguarding public health in Hong Kong through prevention, surveillance and enforcement.

Retention

3.9 Based on the figures from the AFCD, the unnatural wastage rates⁴ of the VO grade were 17.6%, 7.7% and 11.8% in the three years from 2005-06 to 2007-08. Because of the relatively small size of the VO grade and the absence of veterinary courses in Hong Kong, any loss of VO staff has a serious impact on the total strength of staff available to cope with the duties and responsibilities expected of the VO grade, resulting in a heavier burden on the VO grade members who continue their service.

⁴ "Unnatural wastage rate" refers to the total number of officers of a specific rank/grade resigning from the civil service plus those leaving the civil service following completion of contract in a particular period (e.g. 1 April 2005 to 31 March 2006), divided by the total strength of that rank/grade at the beginning of the period (i.e. 1 April 2005).

Career progression

3.10 On average, it takes a VO about eight years to be promoted to the SVO rank. Out of the 15 serving VO, six are remunerated at or below the mid-point, and nine are above the mid-point of the pay scale of VO rank (including four who have reached the maximum point of MPS 44). With the creation of two SVO posts in the AFCD and one SVO post in the FEHD in 2007-08, and the retirement/completion of contract of three SVO in 2005-06 and in 2007-08, six VO are currently acting in SVO vacancies. We have the impression that the existing VO grade staff are over-stretched, partly due to the persistent recruitment difficulties and high unnatural wastage, potentially resulting in a vicious cycle for the grade. The staff representatives are concerned that the present pay scale and the staffing situation may not be sufficiently attractive to trawl new recruits to share the responsibilities of the grade.

Analysis and Recommendations

3.11 We have received two submissions from the AFCD management and the VO grade members. They have both proposed to increase the starting salary and the number of omitted points. The management has also suggested that the maximum pay should be raised.

The VO rank

General principle

3.12 As mentioned in paragraph 3.4, the VO grade is classified under Group I of Qualification Group (QG) 8: Professional and Related Grades, which normally requires the membership of a professional institution for appointment. MPS 27 is the nominal benchmark starting pay for this group. In determining the starting pay, the Commission has due regard to the level of professional accountability, complexity of work and other relevant considerations.⁵ At present, the starting pay for the entry rank of different grades varies, taking into account the length of

⁵ Standing Commission Report No. 23: First Report on 1989 Salary Structure Review, paragraphs 4.46 to 4.47

training or experience required to obtain the relevant professional qualification.⁶

Starting pay point

3.13 The AFCD management has proposed to raise the starting point of the VO rank by three points from MPS 29 to MPS 32. The staff representatives have also made similar proposals to increase the starting salary of the VO rank.

3.14 Having regard to the Department's justifications that the major changes in the work nature, job duties and responsibilities have brought about a significant increase in the complexity of work and level of responsibilities of the VO rank, and that the persistent recruitment difficulties of the VO grade have affected the efficient and effective delivery of government veterinary services, we **recommend** that the starting point of the VO rank be raised by two points from MPS 29 to MPS 31. The proposed new starting point (MPS 31) takes into account the relativity with other professional grades in the same QG, having due regard to their training routes and post-qualification requirements. The increase is justified in recognition of the persistent recruitment difficulties faced by the VO rank and the enhanced role of the VO rank in terms of workload, scope and complexity.

Omitted points

3.15 To address the retention issue, the AFCD management has proposed that the number of omitted points available to the VO rank be increased from three to four.

3.16 The VO rank already has three omitted points and we do not see any strong justifications to introduce additional omitted points. In view of the proposed change of the starting point, we **recommend** that the existing omitted points at MPS 31, 35 and 38 be repositioned to MPS 33, 37 and 40 accordingly. With the higher entry pay, coupled with repositioned omitted points, a newly recruited VO will be eligible for housing allowances after two years of service upon reaching MPS 34.

⁶ Standing Commission Report No. 25: Second Report on 1989 Salary Structure Review, paragraphs 4.46 to 4.47

This will go some way to enhancing recruitment and containing wastage in early years.

Maximum pay point

3.17 As another measure to address the retention issue, the management has requested that the pay scale of the VO rank be extended by two additional points (MPS 44A and 44B), along the lines of the pay scale for the Medical and Health Officer (M&HO) rank. It should be noted that the arrangements for the M&HO rank stemmed from unique circumstances that do not prevail in the VO rank. According to the data provided by the AFCD, it takes a VO about eight years to be promoted to the SVO rank. This is not considered unfavourable when compared with other professional grades. We note that the increase in establishment of the VO grade has been justified on functional grounds. In line with the broadbanding principle and the pay structure for all professional ranks (with the only exception of the M&HO rank), we **recommend** that the maximum point for the VO rank should remain unchanged at MPS 44.

Conversion arrangements

3.18 In implementing any proposals to increase entry pay, there is a need to consider the conversion arrangements for incumbent staff at the relevant ranks. The overriding principle is that no one should receive less pay on conversion to the new scale. In line with the established practice, we **recommend** that normal conversion be adopted. Under normal conversion, where a civil servant's pay is less than the minimum of the revised scale, he/she should receive the new minimum; where a civil servant's pay is equivalent to or above the new minimum, he/she should advance to the next point of the revised scale, subject to this not being above the scale maximum. In implementing the proposal to reposition omitted points, the Administration should draw up the conversion arrangement for serving staff, having regard to the established practice as appropriate.

The SVO rank

3.19 As outlined in paragraph 2.2, one of the pay principles adopted in previous reviews is the broadbanding principle. Under this principle, the major criterion for setting the pay scales of higher ranks in a grade is the level of responsibility exercised by officers of those ranks. In

these ranks, the managerial, administrative or professional responsibilities are the most important aspects of the duties performed and they tend to outweigh other features of individual grades. For the highest ranks of the non-directorate civil service, the particular type of qualification associated with an individual grade is of little relevance in pay determination. All senior professional ranks are therefore broadbanded with a common pay scale. In line with this principle, the existing pay scale for the SVO rank (MPS 45 – 49) is broadbanded with, and hence identical to, that of all other senior professional ranks in the group. We **recommend** that the pay scale for the SVO rank should remain unchanged.

Other Issues

3.20 During the course of the GSR for the VO grade, we have come across a few issues that, whilst may not be directly related to the grade structure per se, but nevertheless could be explored to help alleviate the recruitment and retention problems facing the VO grade. We set out these issues in the ensuing paragraphs and **recommend** that the Administration explore them in the appropriate channel.

To offer bonded traineeships to veterinary students

3.21 Until 1994, the Government offered bonded training scholarships to selected students aspiring to pursue approved veterinary science degree programmes in overseas universities with a view to taking up permanent employment in the VO rank after graduation. The training scholarship programme was ceased in view of the difficulties for a small VO grade in planning and reserving posts for trainees for five years. There were also the risks that trainees might decide not to join the Government by refunding the costs. We understand that the AFCD is exploring the possibility of introducing a bonded traineeship targeting veterinary students studying in their third to fifth years. Given that veterinary science courses are not available in local universities and global competition for talent is intense, we support the AFCD's initiatives to be more proactive in attracting potential graduates for recruitment to the VO rank. We encourage the AFCD, in consultation with relevant departments, to work out the implementation details for the bonded traineeships.

Lists of registrable qualifications

3.22 The recruitment difficulties of the VO grade partly stem from the limited pool of registered veterinary surgeons in Hong Kong. As at 1 April 2008, the total number of registered veterinary surgeons in Hong Kong was 460. In this connection, a review of the lists of registrable veterinary qualifications may be timely. Under section 5(b) of the Veterinary Surgeons Registration Ordinance (Chapter 529), the Veterinary Surgeons Board of Hong Kong shall set and review the qualification standards for registration as a veterinary surgeon. If the qualification obtained by an applicant is not one of the veterinary qualifications recognised by the Board⁷ for registration purpose, the applicant may request for an individual assessment by the Hong Kong Council for Academic Accreditation and Vocational Qualifications. We note that of the 25 applications for individual assessment received since 1998, 19 (76%) were approved. This high percentage may be an indication of possible scope for expansion of the lists of registrable qualifications.

3.23 The current lists of registrable qualifications were drawn up following a review of the veterinary qualifications of selected universities by the then Hong Kong Council for Academic Accreditation in 1998. It may be opportune for the Administration, in consultation with the Veterinary Surgeons Board of Hong Kong, to consider the possibility of expanding the lists of registrable veterinary qualifications.

3.24 There seems to be increasing local demand for VO in recent years as evidenced by the increasing pet population in Hong Kong. In the long term, the Administration may wish to explore with local universities the desirability and feasibility of introducing veterinary training in Hong Kong.

To create a new rank of Principal Veterinary Officer (PVO) (D1) and to create three new PVO posts

3.25 In view of the ongoing need to provide high-level professional advice to guide the development of policies and implement appropriate measures in the areas of food safety, emerging animal disease, animal disease diagnosis, animal welfare and urban animal management, the

⁷ The lists of veterinary qualifications registrable in Hong Kong include qualifications awarded by a number of universities in the United Kingdom, USA, Canada, Australia, New Zealand, South Africa and Taiwan.

Director of Agriculture, Fisheries and Conservation has proposed to create a new rank of PVO (D1) and to create three new PVO posts (including two for the AFCD and one for the FEHD).

3.26 The Commission holds the view that the need for a new rank must be justified on functional grounds. Both the grade management and the staff representatives have highlighted the absence of a rank at the directorate level to oversee the entire VO grade. They have advised that the creation of a rank beyond the senior professional level in the VO grade would be in line with the ranking structure in overseas countries. The creation of the PVO rank would enable the AFCD to engage more experienced veterinarians as mentors for the VO grade. In the long run, the additional posts would also provide a better career path and promotion prospect for the VO grade.

3.27 Given the important role of the VO grade in public health and food safety, we consider that there is a need for more senior and well-experienced members to lead the grade and represent Hong Kong in liaison and coordination with senior members of the profession in other jurisdictions. There seems to be a prima facie case to review whether it is functionally justified to establish another tier beyond the SVO level to provide high-level professional advice to guide the development of the relevant policies and implement the appropriate measures. Whilst noting that the creation of a directorate rank is outside the ambit of the Commission, we **recommend** that the Administration conduct an early review in consultation with the Standing Committee on Directorate Salaries and Conditions of Service in this regard.

Better human resource planning

3.28 Given the small size of the VO grade and the high mobility of the grade, it is intrinsically difficult to have seamless human resource management. However, the mismatch of the demand and supply of suitable candidates for the VO grade has highlighted the importance of human resource planning. It is the responsibility of the departmental management to monitor closely the manpower needs in the light of its commitments as well as the long-term market supply and demand of qualified veterinary practitioners. Where a lack of qualified candidates for appointment is anticipated, the departmental management should assess their manpower needs and plan the training and recruitment of new staff correspondingly.

3.29 As a separate but related issue, it is up to the AFCD to evaluate whether any of the VO posts should be upgraded having regard to the additional responsibilities and complexity of the functions of the post-holders. Should such proposals materialise, it will give more recognition to the experienced VO and go some way to addressing the retention issue of the VO grade.

Professional development and advanced training

3.30 Views have been expressed that the lack of local or off-shore advanced training opportunities and the absence of training reserve for the VO grade have constrained the opportunity for them to acquire higher veterinary qualifications, hampering their career development and capacity to play a better role as regulator of public health. The staff representatives have advised that the governments of some jurisdictions provide opportunities for government veterinarians to acquire further training after five years' service.

3.31 We consider these concerns legitimate. With increasing complexity and importance of the VO's role, it is reasonable to consider providing or sponsoring advanced training to enhance the professional skills and knowledge of the VO grade. Better training opportunities will create a win-win situation for the staff concerned, the department and the community at large. Such training opportunities will not only enhance the professionalism of the staff and the department but also boost the morale and instil a sense of achievement and recognition among the VO grade, and potentially alleviate wastage. We therefore encourage the AFCD to take active steps in planning and launching advanced training programmes to enrich the career and professional development of the VO grade, as soon as the staffing position allows, by providing training reserve and funding support.

Chapter 4

Government Counsel Grade and the Related Legal Aid Counsel Grade and Solicitor Grade

Overview

The Government Counsel grade

4.1 The Government Counsel (GC) grade is the legal professional grade in the Department of Justice (DoJ). The Secretary for Justice is the Head of the GC Grade. The GC grade members work in one of the five distinct legal divisions: Civil, International Law, Law Drafting, Legal Policy and Prosecutions Divisions. They perform a wide range of duties in support of the DoJ's mission, including –

- (a) serving as the Government's principal legal adviser;
- (b) having ultimate responsibility for decisions to prosecute criminal offences in Hong Kong;
- (c) acting as the defendant in all civil actions brought against the Government;
- (d) drafting all legislation proposed by the Government and vetting all non-government legislation submitted by non-government bodies;
- (e) advising the Government on whether proposed legislation and policies are compatible with the Basic Law, international human rights standards and established legal principles;
- (f) advising on, and promoting understanding of, the law on the Mainland;
- (g) playing an active role in law reform; and

- (h) providing legal advice and support on public international law and matters in relation to legal co-operation between Hong Kong and other jurisdictions.

The DoJ also deploys GC to serve in the Legal Advisory Division in the Development Bureau.

Two related legal professional grades

4.2 The Legal Aid Counsel (LAC) and the Solicitor grades perform specialised functions. The LAC grade provides legal aid services to the public in legal proceedings by processing legal aid applications, providing litigation service to the aided persons, monitoring the assigned-out cases and supporting an independent Official Solicitor's Office. The Director of Legal Aid is the Head of Grade.

4.3 The Solicitor grade is broadly classified into two streams: those who belong to the Unified Solicitor Grade (USG) and those who work in the Intellectual Property Department (IPD). The USG comprises legal officers in four departments, namely the Official Receiver's Office (ORO), the Companies Registry, the Land Registry and the Legal Advisory and Conveyancing Office in the Lands Department. The Official Receiver is the Head of the USG whereas the Director of Intellectual Property is the Head of the Solicitor Grade in the IPD.

4.4 The Solicitor grade in the IPD specialises in intellectual property (IP) law. The grade undertakes advisory and quasi-judicial functions. Since 1998, the IPD has taken over IP-related legal advisory matters from the DoJ, and has played an important role in safeguarding IP rights in Government contracts, conducting major reviews of IP-related legislation, maintaining the protection of IP rights to the highest international standards and handling an increasing number of IP-related hearings.

Pay and rank structure

4.5 The GC and the two related LAC and Solicitor grades are classified under Qualification Group (QG) 8: Professional and Related Grades (Group I). These grades have similar rank and pay structure. At the non-directorate level, there are two ranks: the GC and SGC ranks for the GC grade; the LAC and Senior LAC (SLAC) ranks for the LAC grade;

and the Solicitor and Senior Solicitor ranks for the Solicitor grade. The distribution of responsibilities and line of command differ among the grades –

- (a) For the GC grade, the job descriptions of SGC and GC are similar in scope, although SGC are assigned with more important and complicated tasks. SGC do not supervise GC.
- (b) Similar to the GC grade, the job descriptions of the LAC and SLAC ranks of the LAC grade are similar but SLAC are deployed to deal with more complicated and important cases. Although SLAC do not directly supervise LAC, many of them are team leaders who assist section heads in managing their teams.
- (c) For the Solicitor grade, Senior Solicitors have a bigger and more complex portfolio than that of Solicitors, and have supervisory role over Solicitors.

4.6 The current pay scale for the GC rank is Master Pay Scale (MPS) 32 – 44 with omitted points at MPS 34, 37 and 38. The pay scale for the SGC rank is MPS 45 – 49. In the 1989 Salary Structure Review, having regard to the increase in the scope and complexity of the duties performed by the then “Crown Counsel” (now known as GC) rank and in view of its persistent problems in recruitment and retention, the Commission recommended two measures that gave the GC rank pay advantages over other grades and ranks in the same QG8 (Group I) –

- (a) the entry pay was increased by one pay point, resulting in its being five points higher than the benchmark salary of QG8; and
- (b) one additional omitted point was given, increasing the number of omitted points to three.

The same changes were applied to the LAC and Solicitor ranks.

4.7 Following the 1999 Civil Service Starting Salaries Review, the starting pay point of the GC rank was adjusted downwards from MPS 32 to

MPS 27. It was subsequently revised to MPS 32 after the 2006 Starting Salaries Survey.

Establishment and strength

4.8 The establishment and strength of the three legal grades as at 1 April 2008 are as follows –

Grade		Rank	Establishment	Strength	Vacancy	
					No.	%
Government Counsel (GC)		GC	84	71	13	15
		SGC	194	171	23	12
		<i>Subtotal</i>	278	242	36	13
Legal Aid Counsel (LAC)		LAC	33	33	0	0
		SLAC	25	25	0	0
		<i>Subtotal</i>	58	58	0	0
Solicitor	Unified Solicitor Grade (USG)	Solicitor	14	16	-2	-14
		Senior Solicitor	32	30	2	6
		<i>Subtotal</i>	46	46	0	0
	IPD	Solicitor	10	9	1	10
		Senior Solicitor	8	4	4	50
		<i>Subtotal</i>	18	13	5	28
Total			400	359	41	10

The GC Grade – Relevant Considerations

4.9 In conducting the GSR for the GC grade, we have looked into a host of factors including major changes since the 1989 Salary Structure Review in the work nature, job duties and responsibilities of the grade, as well as the recruitment, retention and career progression situation.

Major changes since the last review

4.10 In its submission, the DoJ has highlighted the significant changes since the last review in the landscape within which the DoJ operates and renders its services. The GC grade has encountered new

challenges arising from the return of sovereignty to China, the implementation of the Basic Law and ancillary constitutional issues, bilingual drafting of legislation, the increasing number of complex civil cases (e.g. Initial Public Offerings of government-owned corporations), the emergence of new complex legislation requiring advice on criminal investigation and prosecution, etc. Some key factors contributing to the increasing diversity and complexity of the Department's work are highlighted below –

- (a) In the past decade, large projects have grown not just in quantity and size but also in complexity. Examples include the reform of banking and securities and futures legislation and major public works projects. Some of these tasks are precedent setting in nature, giving rise to new and complex legal issues not previously visited.
- (b) Members of the public are becoming more aware of their rights and are turning to the Courts to resolve political, economic and social problems. The DoJ has been placed under immense pressure amidst the controversies and judicial challenges surrounding the legality of Government's actions. There has been a significant increase in public law litigation. Statutory appeals have grown both in number and in scale.
- (c) In the area of constitutional law, there are growing numbers of controversial litigation cases requiring substantial legal input to consider the Basic Law and human rights implications. The implementation of the Basic Law and its interpretation by the Courts also give rise to a large number of novel and complex issues particularly in relation to human rights and political development.
- (d) Prosecutorial work has also increased in volume, diversity and complexity. In the past decade, the number of criminal cases in the Court of Final Appeal increased substantially as compared to the number of criminal cases in the Privy Council in the previous decade. The emergence of sophisticated and complex crimes, coupled with the more stringent rules and guidelines on various

prosecution matters, require prosecutors to devote extra time and effort in providing legal support to law enforcement agencies, and in handling trials and appeals.

4.11 Having evaluated the submissions and discussed with the management and staff members, we share the view that the role and responsibilities of the GC grade have increased in scope and complexity, although we note that some of these underlying changes are also prevalent in the public and private sectors, having significant implications on Hong Kong as a whole. We understand that the DoJ has attempted to cope with it through an expansion of the establishment. The total establishment of the GC grade has increased from 239 posts (162 SGC and 77 GC posts) as at 1 April 2005 to 278 posts (194 SGC and 84 GC posts) as at 1 April 2008. However, the Department has encountered recruitment difficulties.

Recruitment

4.12 The DoJ has advised that it has experienced persistent recruitment difficulties in filling vacancies at the entry rank. First, it could not identify sufficient suitable candidates to meet its target. Secondly, in the past eight recruitment exercises (except the one in 2001), between 7% and 26% of candidates declined the offer of appointment. Figures for the recent three recruitment exercises are set out in the following table.

Year of Recruitment Exercise	Target Number of Recruits	Applications Received/ Applicants Interviewed	Number of Offers Made	Number of Offers Declined	Candidates Reported for Duty
2005	26	272 / 266	22	4	18
2006	44	279 / 270	36	7	29
2007	33	237 / 209	26	3	14 [#]

[#] Position as at 19.10.2008

Retention

4.13 Based on the figures from the DoJ, the unnatural wastage rate of the non-directorate GC ranks is higher than the service-wide unnatural wastage rate for non-directorate officers. As shown in the following table,

the unnatural wastage rate of the SGC rank ranged from 0% in 2004-05 to 3.8% in 2006-07. The corresponding rate for the GC rank increased from 0% in 2003-04, peaked at 5.3% in 2004-05, then steadily declined to 1.4% in 2007-08.

Year	Resignations				Unnatural Wastage Rate	
	GC Rank		SGC Rank		GC Grade	Civil Service
	No.	%	No.	%		
2004-05	4	5.3	0	0	1.7%	0.5%
2005-06	3	4.2	2	1.3	2.2%	0.5%
2006-07	2	3.2	6	3.8	3.6%	0.5%
2007-08	1	1.4	2	1.3	1.4%	0.6%
Total	10	-	10	-	-	-

4.14 We observe that of the 20 GC/SGC who resigned from the DoJ from 2004-05 to 2007-08, eight (40%) remained in the public sector, including three who joined the Judiciary, one who switched to a related grade in another department and four who left for public organisations. It appears that the DoJ has been a source of talent for the Judiciary and public organisations. If this emerging trend continues, the DoJ may wish to take this into account in its human resource planning.

Career progression

4.15 The GC grade has more SGC (194) than GC (84) at a rank ratio of 0.43 GC : 1 SGC. As a result, the career progression of GC compares favourably with that of other related legal grades. On average, it takes a GC between five and seven years to be promoted to the SGC rank. At the SGC rank, a large proportion (64%) has remained at the maximum pay point for three years or more. For those promoted to Deputy Principal Government Counsel (DPGC) rank (DL2) between 2004-05 and 2006-07, their average length of service since appointment to the basic rank was 12 years. The DoJ has advised that the slower progression at the SGC rank and beyond was due to limited directorate counsel vacancies.

Pay survey for the legal sector

4.16 In conducting the current GSR, we have considered the need for conducting a pay level survey for the legal sector. In the 1989 Salary Structure Review, the Commission engaged the Pay Survey and Research Unit of the Commission Secretariat to carry out a survey to compare civil service and private sector pay. However, the situation is different from that in 1989. The Administration has recently implemented an improved pay adjustment mechanism for the civil service, with a six-yearly Pay Level Survey (PLS) as the cornerstone, to ensure broad comparability in pay between the civil service and the private sector as a whole. The last PLS was conducted in 2006, and the SGC and GC ranks were among the benchmark ranks covered by the survey. The 2006 PLS confirmed the broad comparability of pay between non-directorate civilian grades and their counterparts in the private sector. Given that such broad comparability has been established, it is not appropriate to attempt to match the pay level of a particular grade with that of its private sector counterpart. Against this background, we do not see the need for conducting a separate survey for the legal professionals in the context of the GSR. Nevertheless, we have noted the various surveys on the remuneration of legal practitioners, including those enclosed in the submissions received.

The GC Grade – Analysis and Recommendations

4.17 We have received five submissions from the DoJ management and the GC grade members as listed in **Appendix C**. We have carefully considered these proposals and views expressed at the Commission meetings. Our views are set out in the following paragraphs.

Proposal to introduce a separate legal pay scale

4.18 We have received proposals from the departmental management and the staff representatives to introduce a separate legal pay scale, modelled on the Judicial Service Pay Scale (JSPS)⁸, for the GC grade and related legal grades. It has been suggested that a separate legal pay scale would give more flexibility in dealing with staff retention and other related problems. With a separate pay scale, the starting pay, increments and pay scale could be set with reference to the remuneration of the private

⁸ The JSPS is a pay scale for judges and judicial officers.

sector legal practitioners and judicial officers with similar years of professional standing. It would go some way to benchmarking with the private sector in attracting and retaining counsel of high calibre. The scale could also be lengthened to give recognition to the contribution of experienced GC and to attract experienced lawyers to join the GC grade despite the less promising promotion prospects.

4.19 The proposal to introduce separate pay scales for individual grades is not a novel concept. In the 1989 Salary Structure Review, the Commission also received proposals for separate pay scales for grades facing recruitment and retention problems. The Commission noted that any move to introduce pay scales separate from the common structure of individual grades or groups of grades would have serious repercussions on the rest of the civil service, and would give rise to great confusion and arguments about relativities between grades and could result in disintegration of the entire system. The Commission therefore decided to preserve the common structure whilst considering each case on its merits and exercising flexibility, where warranted, within the system to deal with particular situations.⁹

4.20 The Commission's concerns and arguments against the introduction of separate pay scales for individual grades remain valid today. At present, most civilian grades and ranks are remunerated according to the MPS. Founded on the qualification benchmark system and broadbanding principles, the MPS represents a broad framework which has stood the test of time. It also strikes a fine balance, giving due weight to external relativities or broad comparability with the private sector and internal relativities within the civil service.

4.21 References to the JSPS should be viewed with caution, as the JSPS was introduced in recognition of judicial independence, the constitutional role and responsibilities of judges and judicial officers and the unique feature that judges are prohibited from returning to private practice in Hong Kong. By contrast, the GC grade is an integral part of the civil service having similarities with other civilian professional grades remunerated under the MPS.

⁹ Standing Commission Report No. 23: First Report on 1989 Salary Structure Review, paragraph 4.17

4.22 In view of the foregoing considerations, we do not support the introduction of a separate pay scale for the legal grades. We consider it appropriate to tackle the problem within the existing framework.

The GC grade

4.23 At the outset, we wish to confirm our support for the DoJ's view that the Government needs lawyers of high calibre in order to provide high quality legal support to the Government in handling matters involving significant legal, policy, financial and constitutional repercussions. In this connection, we note a relatively large number of applicants for the GC rank but a small number of offers made. Viewing from a positive light, the large number of candidates suggests that the GC position remains attractive to many applicants, particularly those who aspire to pursue a meaningful career in the public service. We are, however, mindful that the DoJ is unable to identify a sufficient number of suitable candidates for appointment.

4.24 To attract and retain lawyers of high calibre, we consider it necessary to adopt a holistic approach. The remuneration for the GC grade must be structured in such a way as to offer sufficient incentives, commensurate with the quality of legal advice and degree of responsibility expected of the GC grade. However, the recruitment and retention problems of the GC grade cannot be solved by pay adjustment alone, given the high pay levels enjoyed by some of the top lawyers in the private sector and the limitation of the current civil service pay structure to match such levels. We note that such pay levels in the private sector may also fluctuate significantly from time to time depending on the economic cycle. We believe that, apart from remuneration, the grade structure should provide a reasonable career path for aspiring and competent lawyers who are interested in serving the community through Government service. This should enable them to progress through the ranks and develop a rewarding public service career. We will highlight later in this chapter other recruitment and management measures which may help in this regard.

The GC rank

Starting pay point

4.25 The DoJ management has proposed to raise the starting point of GC by two points to MPS 34 so that all new recruits upon first

appointment would be entitled to receive a Non-accountable Cash Allowance¹⁰. The staff representatives have also made similar proposals to increase the starting salary of the GC rank.

4.26 Whilst recognising the challenges facing the GC and related grades, it is noteworthy that out of 34 grades in QG8 (Group I), the GC, LAC and Solicitor ranks, alongside the Medical and Health Officer (M&HO) rank, are among the professional grades with the highest starting salary (MPS 32)¹¹. The current entry pay is five points above the benchmark of MPS 27 for professional and related grades. In examining the salary scales of the Professional and Related Grades in the 1989 Salary Structure Review, the Commission had regard to the training and experience required to acquire the full professional status as well as other relevant factors such as overall job weight, working conditions, scope and level of responsibilities, recruitment and retention problems. Similar to the M&HO rank, the GC and related ranks take a total of six years of training and experience to acquire the full professional status. Additional pay points were added to the starting salary in the past in recognition of the recruitment and retention difficulties. The present entry level has already struck a fine balance, having due regard to the relativities among the professional grades within this qualification group and other relevant considerations. We therefore find it difficult to justify any further increase beyond the current level.

Omitted points

4.27 The provision of omitted points for certain ranks reduces the length of time needed to reach the scale maximum and help to recruit and retain those staff. In the 1989 Salary Structure Review, the Commission considered that the provision of omitted points should be retained as it was useful in tackling recruitment and retention problems.¹² Following the

¹⁰ Non-accountable Cash Allowance is a housing benefit for new appointees to the civil service who are offered appointment on or after 1 June 2000.

¹¹ The only exception is the Surveyor of Ships with a pay scale of MPS 34 – 44, with an omitted point at MPS 36. The starting pay for Surveyors of Ships is much higher than the benchmark, given the length of time necessary to obtain the qualification (Master, Chief Officer or Chief Engineer) and post-qualification experience as well as the high level of responsibility involved. The Surveyor of Ships grade comprises the Nautical Stream and the Ship Stream. For the Nautical Stream, candidates are required to have two years' experience at the rank of Chief Officer or above on sea going ships, in addition to the prescribed degree in Nautical Studies or equivalent. For the Ship Stream, candidates should have four years' relevant experience after obtaining corporate membership of a naval architect institution acceptable to the Director of Marine.

¹² Standing Commission Report No. 23: First Report on 1989 Salary Structure Review, paragraph 4.90

Review, the number of omitted points for the GC rank and the related LAC and Solicitor ranks was increased from two to three, positioned at MPS 34, 37 and 38. The additional omitted point was specifically introduced on account of recruitment and retention difficulties of the GC rank.

4.28 The DoJ management has proposed, on the basis of a proposed new entry pay of MPS 34, to reposition the first omitted point from MPS 34 to MPS 35 and to introduce one additional omitted point at MPS 43 so that GC with six years of post-qualification experience would be rewarded with a higher pay point (i.e. MPS 44). We have also received proposals to provide five omitted points at MPS 35, 37, 39, 41 and 43 so that incremental pay levels would be better aligned with the private legal sector.

4.29 Out of a total of 781 ranks in 291 non-directorate civilian grades, only 74 ranks are provided with omitted points in their pay scales. Having examined the rationale and the general pattern of 51 ranks provided with omitted points in QG8, we observe that the present allocation of three omitted points in the GC rank is already one of the more generous arrangements among the professional grades.

4.30 To address the recruitment and retention difficulties, we consider that attracting capable lawyers interested in developing a career in the public service to join the GC rank is the most important first step. We consider it justified to use omitted points as a tool to enhance the attractiveness of the pay scale of the GC rank. We therefore **recommend** that the existing omitted point at MPS 37 be advanced to MPS 36 to help alleviate wastage in the early years. We further **recommend** the introduction of an extra omitted point at MPS 40 as an additional incentive to retain experienced GC.

4.31 The introduction of omitted points is intended to address recruitment and retention difficulties, and the situation may change over time. We **recommend** that in the case of the GC rank, the need for the additional omitted point be reviewed three years after implementation. We further **recommend** that as a general point, the continued need for omitted points in other grades should be kept under regular review having regard to the changing recruitment and retention situation of individual grades.

Maximum pay point

4.32 The DoJ management has proposed to extend the maximum pay point of GC from MPS 44 to MPS 44B. With a longer pay scale, the Department would be in a better position to tap experienced lawyers from the private sector for appointment as GC, particularly in areas that require more experienced counsel. With less promising promotion prospect for GC, the long pay scale with annual increments may ease the pressure for promotion. We have also received proposal from the staff representatives to increase the maximum pay for the GC rank by at least 10% so as to bring the GC pay scale closer to the pay range in the market sector.

4.33 In line with the broadbanding principle, the maximum pay point for the professional rank is set at MPS 44. The only exception is the M&HO rank with MPS 44B as its maximum pay point. The exceptional arrangement was recommended in the 1989 Salary Structure Review to address an unprecedented wastage problem encountered by the rank at that time. In 1988-89, around 140 M&HO left the grade, resulting in a wastage rate of about 11%. There were more M&HO than Senior M&HO. The M&HO to Senior M&HO ratio was 2.96 : 1 as at 1 November 1989. The unique circumstances of the M&HO rank do not prevail in the GC rank.

4.34 We have reviewed whether there is a case for extending the pay scale by additional pay points as incentives to retain experienced officers in the GC rank. Consistent with the observation in the 1989 Salary Structure Review, we do not see convincing grounds, in the case of civilian grades, to grant additional increments purely to reward long service and loyalty. The fundamental principle is to pay for the job. Should there be functional justifications to upgrade certain posts to the next higher level, the promotion opportunities will be enhanced correspondingly.

4.35 In the case of the GC grade, it is noteworthy that there are more SGC than GC. Hence, there is no lack of promotion opportunities for meritorious GC to gain promotion to SGC level within a reasonable period of time. The DoJ also has the liberty to conduct direct recruitment of suitably qualified lawyers to the SGC rank. Out of 71 GC rank officers, only ten (14%) are at the maximum pay point of MPS 44. The percentage for the GC rank is significantly lower than the civil service average: out of 90 952 staff on the MPS, a total of 73 335, or 80.6%, were

on the maximum point as at 31 December 2007. Given that sufficient avenues are available to attract, retain and motivate meritorious GC, we **recommend**, on balance, that the maximum pay point of the GC rank should remain unchanged at MPS 44.

The SGC rank

4.36 The DoJ management has proposed that the pay scale of the SGC rank should be extended beyond MPS 49 until it reaches the bottom of the Directorate (Legal) Pay Scale (DL1) pay points.

4.37 We appreciate the tremendous challenges facing the DoJ in retaining some members of the SGC rank. The current SGC rank has a short five-point scale. In line with the arrangement for other senior professional ranks, there is no omitted point. Many of the grade members would have exhausted the ten-year entitlement to housing allowances. A large proportion of SGC (64%) remain at the SGC rank after reaching the maximum pay for three years or more. Their promotion opportunities are limited.

4.38 We have considered the case for extending the pay scale of the SGC rank beyond MPS 49 on an exceptional basis. In this connection, we note that the work of the GC grade covers a wide range of duties, many of which are unique to the public service. The SGC is the core rank in the GC grade, accounting for about 70% of the total non-directorate establishment of the grade. Many serving SGC staff have accumulated a wealth of valuable legal experience in very specialised fields, and are highly sought after by the private sector. To address the retention issue, extending the pay range for SGC will go some way to improving the remuneration package of the experienced SGC and potentially alleviating the wastage situation.

4.39 Notwithstanding the above considerations, we note that the unnatural wastage rate of the SGC rank has been kept within a reasonable range. More importantly, we are mindful that the GC grade is an integral part of the civil service. At present, the maximum point of the SGC pay scale is also the maximum point of the MPS, which is the pay scale applicable to most civilian grades. Extending beyond the maximum point will alter the configuration of the whole MPS. Furthermore, the pay at the senior professional level is broadbanded because the managerial, administrative or professional responsibilities are the most important

aspects of the duties performed and they tend to outweigh other features of individual grades. Under the broadbanding principle, all the senior professional ranks have an identical pay scale of MPS 45 – 49. It may be difficult to justify an extension of the pay scale exclusively for the SGC rank and related ranks, whilst leaving all other senior professional ranks at MPS 45 – 49. The internal relativities between grades are important in maintaining the stability of the civil service. A fundamental change to the MPS and a departure from the broadbanding principle would create far-reaching repercussions for other grades and the civil service as a whole. We therefore have grave reservation about the proposal to extend the pay scale of the SGC rank beyond MPS 49.

4.40 Indeed, given that there is only a 11.5% differential between the MPS and the Directorate Pay Scale, the room for introducing additional pay points beyond MPS 49 is limited, and such a proposal would be unlikely to bring any material improvement to the retention situation of the SGC rank. The far-reaching repercussions of the fundamental departure from the established system outweigh the likely benefit of the proposal to introduce extra pay points exclusively for the SGC rank.

4.41 When we take a closer look at the role and responsibilities of the SGC rank, we consider that there is scope for exploring the possibility of addressing the retention issue from a holistic and longer-term perspective by re-examining the grade structure of the GC grade. As evident from the written submissions and briefings for the Commission, the role and responsibilities of the GC grade have increased substantially in terms of scope and complexity over the past two decades. As the core rank of the GC grade, the SGC rank bears the brunt and is expected to rise to the new challenges with competence and confidence. We notice that the SGC rank is invariably the focal point in rendering advice on civil, constitutional and international law matters, handling prosecution and civil litigation cases, providing support to policy bureaux at the meetings of the Executive Council and the Legislative Council Panels and Bills Committees. There seems to be a prima facie case for reviewing some of the SGC posts to determine whether they are functionally justified to be upgraded to the next higher rank beyond the senior professional rank. We believe that the creation of such a higher rank for those appropriate positions will help the DoJ retain experienced and capable officers to handle the more important and complicated tasks required of the GC grade.

4.42 We understand that there used to be an Assistant Principal Government Counsel (APGC) rank at DL1 on the Directorate (Legal) Pay Scale (DL1) with a small number of posts in the DoJ. On the recommendation of the DoJ, the Legislative Council approved the deletion of the rank in January 2000. However, DL1 rank is maintained for the other two related LAC and Solicitor grades, and the post-holders play a pivotal role in handling complex cases and providing professional leadership. Subject to the view of the Standing Committee on Directorate Salaries and Conditions of Service, one option is to re-create a rank at DL1 level in the GC grade to accommodate those SGC positions considered functionally justified for upgrading. Such an option, if pursued, would also have the incidental benefit of enhancing the avenue for the DoJ to retain and motivate meritorious and experienced SGC.

Proposal to allow overlapping pay scales across ranks

4.43 The DoJ has proposed that the pay scale of the SGC rank should be allowed to overlap with the first pay point of the DPGC rank, and that the pay scale of the GC rank should overlap with that of the SGC rank.

4.44 Overlapping of pay points between two successive ranks does exist in certain grades but it is an exception rather than the rule in the civilian grades. This arrangement acknowledges that an experienced officer doing a good job can be of more value than a newcomer to a job in the rank above.¹³ In the case of the GC and SGC ranks, we do not see any strong justifications for overlapping because ample avenues are available for meritorious GC to gain promotion to the SGC rank.

4.45 In the case of the SGC rank and DPGC rank (which is pitched at DL2), the read-across implications of overlapping pay points between the directorate and non-directorate ranks should be considered carefully having regard to the functional roles of successive ranks, the implications for other professional grades, and the demarcation of non-directorate and directorate ranks.

Summary of recommendations on the GC and SGC ranks

4.46 In summary, we **recommend** that the GC pay scale should be a nine-point scale from MPS 32 (\$46,230) to MPS 44 (\$77,675), with four

¹³ Standing Commission Report No. 23: First Report on 1989 Salary Structure Review, paragraph 4.85

omitted points at MPS 34, 36, 38 and 40. The Administration should draw up the conversion arrangement for the repositioned and additional omitted points for serving staff, having regard to the established practice as appropriate.

4.47 As regards the SGC rank, we **recommend** that the pay should be maintained at the current level. We further propose that the challenges facing the SGC rank be examined using a holistic approach taking into account the long-term development of the grade. There is a prima facie case for reviewing some of the SGC posts to determine whether they are functionally justified to be upgraded to the next higher rank beyond the senior professional level. We **recommend** that the DoJ, in conjunction with the Administration, should actively explore options in this direction.

Two Related LAC and Solicitor Grades

4.48 Consistent with the approach for the GC grade, we have also examined the LAC grade and Solicitor grade by looking at the major changes since the 1989 Salary Structure Review in the work nature, job duties and responsibilities of the grade, as well as the recruitment, retention and career progression situation.

The LAC grade

4.49 The functions of the Legal Aid Department (LAD) have remained broadly the same in the past two decades. However, the LAD has to face increasing caseload, more demanding clients who are well aware of their rights, the inquisitive and critical media, as well as tight control on their budget and establishment due to the civil service-wide efficiency savings drive.

4.50 Figures show that the LAC grade has not encountered any recruitment difficulties. The LAC grade was one of the grades included in the Voluntary Retirement Scheme II and was subject to a recruitment freeze from March 2003 to March 2008. In an open recruitment exercise conducted in October 2007, the LAD aimed to fill 13 LAC vacancies. Among the 86 applicants, 50 fulfilled the requirements stipulated in the recruitment advertisement. After interviews and written examinations, offers were made to nine candidates. Among them, six were in fact non-civil service counsel already working in the LAD. In the recruitment

exercise conducted in May 2008 to fill nine vacancies, 68 applications were received, and seven candidates were found suitable.

4.51 The LAC grade has not encountered any retention difficulties at the non-directorate level. As shown in the following table, two SLAC left in 2005-06. According to the grade management, the challenges to handle more demanding clients are the main causes for the resignation of some experienced staff.

Year	Resignations		Unnatural Wastage Rate	
	LAC Rank	SLAC Rank	LAC Grade	Civil Service
2004-05	0	0	0%	0.5%
2005-06	0	2	3.5%	0.5%
2006-07	0	0	0%	0.5%
2007-08	0	0	0%	0.6%

4.52 The LAC grade has a reasonable career progression. The LAC to SLAC ratio is 1.32 : 1. The LAD has advised that on average it takes about six years and nine months for an LAC to be promoted to the SLAC rank, and it takes an SLAC about ten years and three months to be promoted to the directorate rank.

The Solicitor grade

The Unified Solicitor Grade (USG)

4.53 Over the past decade, the functions of the USG have remained broadly the same, although the ORO has experienced fluctuations in workload in tandem with the economic development.

4.54 The USG has not encountered any recruitment or retention difficulties. The ORO has conducted three recruitment exercises since 1995, and has been able to meet the target number of recruits in all three exercises (7, 9 and 14 in 1995, 1997 and 2006 respectively). From 2004-05 to 2007-08, only one Senior Solicitor resigned. No Solicitor rank officer resigned during these four years.

4.55 Like the GC grade, the USG has more Senior Solicitors than Solicitors. The Solicitor to Senior Solicitor ratio is 0.4 : 1 in the USG. It

takes about seven and a half years for a Solicitor to be promoted to the Senior Solicitor rank, and about 11 years for a Senior Solicitor to be promoted to the directorate rank. Career progression is considered reasonable.

The Solicitor grade in the IPD

4.56 The Solicitor grade in the IPD is a core professional grade in the IPD. Over the past decade, the IP law and related issues have increased in scope and complexity. IP law is a fast emerging specialty, and its IP lawyers are highly sought after by the market in Hong Kong, the Mainland and overseas. The Solicitor grade in the IPD plays a pivotal role in handling complicated legal and technical issues that require extensive research into and comparative analysis of the systems in other jurisdictions. Along with the popularity of the Internet, copyright protection in the digital environment is an important issue which demands a high degree of professional input from the Solicitor grade in the IPD.

4.57 The IPD has encountered recruitment difficulties in recent years. As shown in the following table, the IPD could not always identify sufficient suitable candidates to meet its target. This is further aggravated by the fact that some offers have been declined, resulting in a relatively high vacancy rate and heavier workload for other colleagues.

Year of Recruitment Exercise	Target Number of Recruits	Number of Offers Made	Number of Offers Declined	Candidates Reported for Duty
2005	6	3	1	2
2006	7	7	1	6
2007	5	4	1	3
2008	6	Pending [#]	Pending [#]	Pending [#]

[#] Position as at 19.10.2008

4.58 We note from some serving IPD staff that they are attracted to the job because they find the job meaningful and an ideal platform to develop expertise in the IP field.

4.59 The IPD is losing talent. Despite the small number of resignations, the unnatural wastage rates were high given the small size of the grade. Figures are shown in the following table.

Year	Resignations		Unnatural Wastage Rate	
	Solicitor Rank	Senior Solicitor Rank	Solicitor Grade	Civil Service
2004-05	1	0	11.1%	0.5%
2005-06	0	0	0%	0.5%
2006-07	1	0	14.3%	0.5%
2007-08	2 [#]	0	14.3%	0.6%

[#] Exclude one staff on transfer to other bureau/department

4.60 The Solicitor (IPD) to Senior Solicitor (IPD) ratio is 1.25 : 1. The IPD has advised that on average it takes about three and a half years for a Solicitor to be promoted to the Senior Solicitor rank, and it takes a Senior Solicitor about eight years to be promoted to the directorate rank. The situation will change depending on the profile of the incumbent members and openings at senior levels.

Analysis and recommendations

4.61 We have considered whether the changes proposed for the GC grade should be applicable to the related grades. On the basis of information provided above, the problems faced by the LAC and Solicitor grades (except the Solicitor grade in the IPD) do not appear to be serious. However, we are also mindful of the similarities among the legal grades –

- (a) The entry qualifications for the GC, LAC and Solicitor ranks are virtually identical. A qualified legal practitioner can in fact apply for the three ranks using the same set of qualifications.
- (b) There are similarities in the work responsibilities between the GC rank and the LAC and Solicitor ranks.
- (c) If the improvement were to be introduced to the GC rank but not the LAC and Solicitor ranks, the problems currently faced by the GC rank could be shifted to the LAC and Solicitor ranks over time.

4.62 On balance, we **recommend** that the proposed changes to the pay scale of the GC rank should also be applicable to the LAC and

Solicitor ranks. The proposals at the SGC rank do not apply to the LAC and Solicitor grades. We understand that the Solicitor grade already has a DL1 rank, with eight posts in the USG stream but no post in the IPD. We are advised that the Senior Solicitor rank and the Solicitor rank in the IPD have since 2000 been handling some substantive hearings¹⁴ and registrability hearings hitherto handled by an Assistant Director and Senior Solicitors respectively. Subject to the view of the Standing Committee on Directorate Salaries and Conditions of Service, there seems to be a prima facie case for the department to review whether certain Senior Solicitor posts in the IPD are functionally justified for upgrading to the next higher rank beyond the senior professional level. We **recommend** that the IPD, in conjunction with relevant bureaux and departments, should actively explore options in this direction.

Other Issues

4.63 As mentioned in the beginning of our report, we firmly believe that pay and conditions of service could not, and should not, be the only solution to tackle recruitment and retention problems. In the course of our review, we have received representations on issues that may not be directly related to the grade structure per se, but are nevertheless relevant in attracting, retaining and motivating the staff. We highlight the key aspects for the Administration to consider what, if any, follow-up action is appropriate.

Better manpower planning

4.64 Both the management and staff representatives of the legal grades have expressed their concern about poor promotion prospect and suggested creating more posts to improve the situation. In the case of the GC grade, there is a suggestion for fixing the ratio of SGC to DPGC at 4 : 1 to ensure a reasonable level of supervision and a realistic promotion prospect.

4.65 It has always been our position that the creation of posts must be justified on functional grounds. In the 1989 Salary Structure Review, the Commission reviewed the representations on promotion prospects, and

¹⁴ Substantive hearings are inter-parte hearings involving complex legal and IP issues. Registrability hearings are ex-parte hearings called by trademark applicants if they are not able to overcome the Registrar's objection to the registrability of their trademarks.

advised against setting a common or standard ratio between the numbers of posts of consecutive ranks in the civil service because of the disparate functional and operational requirements of different grades. The Commission pointed out that only the grade management concerned could properly assess the staffing requirements and seek the necessary provision.¹⁵ Indeed, we observe that the rank ratios vary considerably among the legal grades. The ratios of GC : SGC and Solicitor : Senior Solicitor in the USG are both about 0.4 : 1, whereas the corresponding ratios in the LAC grade and the Solicitor (IPD) grade are about 1.32 : 1 and 1.25 : 1 respectively.

4.66 It is the responsibility of the grade and departmental management to conduct regular establishment reviews. We understand that there is already well-established mechanism for conducting stocktaking exercises at regular intervals. We encourage all relevant grades and departments to keep their grades under reviews to meet the changing developments.

Other human resource issues

4.67 In the course of the GSR, we have received views from the management and staff on various issues that have an impact on staff morale. The issues include housing benefits, leave and working environment. The Home Financing Allowance and Non-accountable Cash Allowance are subject to a ten-year limit. Officers who have exhausted their entitlement are faced with a reduction in take-home pay. As to the leave entitlement, officers employed under the new civil service terms are entitled to 18 days of annual leave, which is much shorter than those appointed before June 2000. Some officers have also suggested that the management should take positive steps to improve the working environment (e.g. by providing air conditioning during weekends, if necessary) so that staff can feel that their service and well-being are valued.

4.68 Some of the above issues such as housing benefits and leave entitlement are part and parcel of the terms of appointment, and changes would entail service-wide implications that require careful consideration. Other issues such as working environment, which may be peculiar to individual departments, are worthy of consideration. We encourage the grade and departmental management to be more responsive to staff

¹⁵ Standing Commission Report No. 23: First Report on 1989 Salary Structure Review, paragraph 6.45

concerns, for instance, by providing air conditioning if work after office hours or during weekends becomes inevitable. A healthier working environment is conducive to improving staff morale and enhancing the efficiency and effectiveness of service.

4.69 Indeed, we consider it necessary to adopt a holistic approach to attract and retain lawyers of high calibre in the civil service. Apart from pay and conditions of service, an efficient recruitment process will also put the Government in a stronger position in the competition with the private sector for talent. We note that in the past few years, the recruitment of legal officers took about five to nine months from placement of an advertisement to making the first offer. This may have put the Government in a disadvantageous position in competing for talents. As candidates of high calibre may apply for a number of jobs concurrently and receive multiple offers, it is important for the Government to make offers more expeditiously in order to secure the appointment. The recruitment process should therefore be well timed, scheduled and completed within a reasonable duration. We note that the DoJ and the civil service in general are taking steps to streamline and expedite the recruitment process.

4.70 The staff representatives have suggested that the Administration should improve their training opportunities and provide attachment arrangements with other legal departments, policy bureaux and overseas organisations. Continuing professional development is key to a rewarding and fulfilling career which we believe is an important factor for retaining competent lawyers who are interested in serving the community through Government service. We consider it important for members of the GC and SGC ranks to have opportunities to visit related organisations in other jurisdictions, attend seminars and training courses, participate in international legal conferences to develop their expertise, further broaden their horizon and help build a network with their overseas counterparts. We trust that these measures would boost the morale of the staff, encourage them to develop a fulfilling career in the civil service, and better equip them to meet future challenges in the administration of justice.

Standing Commission on Civil Service Salaries and Conditions of Service

Terms of Reference

- I. To advise and make recommendations to the Chief Executive in respect of the non-Directorate Civil Service, other than the Judiciary and the Disciplined Services, on –
- (a) the principles and practices governing grade, rank and salary structure;
 - (b) the salary and structure of individual grades;
 - (c) whether overall reviews of pay scales (as opposed to reviews of the salary of individual grades) should continue to be based on surveys of pay trends in the private sector conducted by the Pay Survey and Research Unit, or whether some other mechanisms should be substituted;
 - (d) the methodology for surveys of pay trends in the private sector conducted by the Pay Survey and Research Unit, subject to advice under I(c) and having regard to the advice of the Pay Trend Survey Committee;
 - (e) matters relating to those benefits, other than salary, which the Commission advises as being relevant to the determination of the civil service remuneration package, including the introduction of new benefits or proposed changes to existing benefits;
 - (f) suitable procedures and machinery to enable staff associations and staff to discuss with management their views on matters within the terms of reference of the Commission;
 - (g) the circumstances in which it would be appropriate for the Commission itself to consider any issue, and how staff associations and management might present their views to the Commission in such circumstances; and
 - (h) such matters as the Chief Executive may refer to the Commission.

II. The Commission shall keep the matters within its terms of reference under continuing review, and recommend to the Chief Executive any necessary changes.

III. The Commission shall give due weight to any wider community interest, including financial and economic considerations, which in its view are relevant.

IV. The Commission shall give due weight to the need for good staff relations within the Civil Service, and in tendering its advice shall be free to make any recommendations which would contribute to this end.

V. In considering its recommendations and advice, the Commission shall not prejudice the 1968 Agreement between the Government of the Hong Kong Special Administrative Region and the Main Staff Associations (1998 Adapted Version).

VI. The staff associations making up the Staff Side of the Senior Civil Service Council and the Model Scale 1 Staff Consultative Council may jointly or individually refer matters relating to civil service salaries or conditions of service to the Commission.

VII. The heads of departments may refer matters relating to the structure, salaries or conditions of service of individual grades to the Commission.

VIII. The Commission shall not consider cases of individual officers.

IX. The Commission may wish to consider in the light of experience whether changes in its composition or role are desirable.

X. In carrying out its terms of reference, the Commission should ensure that adequate opportunities are provided for staff associations and management to express their views. The Commission may also receive views from other bodies which in its view have a direct interest.

Membership of the Commission

Chairman

Mr Nicky Lo Kar-chun, JP

Members

Mr Owen Chan Shui-shing (since 1.8.2008)

Mr Barry Cheung Chun-yuen, JP (since 1.1.2008)

Professor the Honourable Anthony Cheung Bing-leung, BBS, JP (until 31.12.2007)

Ms Virginia Choi Wai-kam

Dr Miranda Chung Chan Lai-foon (since 1.1.2008)

Professor Ho Lok-sang

The Honourable Jeffrey Lam Kin-fung, SBS, JP (since 1.1.2008)

Mr Mark Lettenbichler (until 1.1.2008)

Mrs Eleanor Ling Lee Ching-man, SBS, JP (until 31.3.2008)

Mr Andy Lo Kwong-shing

Mr Mak Ping-on (until 31.12.2007)

Mr Pang Yiu-kai, SBS, JP (since 1.4.2008)

Mr Howard Young, SBS, JP (until 31.12.2007)

List of Submissions Received

Grade / Departmental Management

Director of Administration and Development, Department of Justice

Director of Agriculture, Fisheries and Conservation

Director of Intellectual Property

Director of Legal Aid

Official Receiver

Staff Associations / Grade Representatives

Departmental Consultative Committee Representative for Government Counsel, Civil Division of the Department of Justice

Departmental Consultative Committee Representative for Government Counsel and Senior Government Counsel in Law Drafting Division of the Department of Justice

Intellectual Property Department Departmental Consultative Committee

Legal Aid Counsel Association

Local Government Counsel Association

Others

One submission on behalf of 72 counsel appointed since 2000

One submission on behalf of some Veterinary Officer grade members

**List of Departments Visited and Staff Consultative Council /
Grade Representatives Met by the Commission**

Departments	Date
Agriculture, Fisheries and Conservation Department	14 March 2008
Department of Justice	28 April 2008
Intellectual Property Department	7 April 2008
Legal Aid Department	14 April 2008
Staff Consultative Council / Grade Representatives	Date
Senior Civil Service Council	29 May 2008
Staff representatives of the Veterinary Officer grade	14 March 2008
Staff representatives of the Government Counsel grade	28 April 2008 and 27 October 2008
Staff representatives of the Solicitor grade in the Intellectual Property Department	7 April 2008
Staff representatives of the Legal Aid Counsel grade	14 April 2008

Master Pay Scale

(w.e.f. 1 April 2008)

Point	\$	Point	\$
49	92,720	24	32,055
48	89,505	23	30,615
47	86,395	22	29,235
46 (44B)	83,370	21	27,910
45 (44A)	80,485	20	26,585
44	77,675	19	25,320
43	74,970	18	24,120
42	71,880	17	22,985
41	68,915	16	21,880
40	66,060	15	20,835
39	63,335	14	19,835
38	60,535	13	18,885
37	57,875	12	17,805
36 (33C)	55,265	11	16,760
35 (33B)	52,815	10	15,785
34 (33A)	50,475	9	14,890
33	48,400	8	13,985
32	46,230	7	13,120
31	44,155	6	12,310
30	42,175	5	11,580
29	40,290	4	10,845
28	38,470	3	10,190
27	36,740	2	9,565
26	35,095	1	8,985
25	33,520	0	8,455

