

Chapter 10

Independent Commission Against Corruption

Overview

Role of Independent Commission Against Corruption

10.1 Established in 1974, the Independent Commission Against Corruption is committed to fighting corruption by a three-pronged approach of law enforcement, corruption prevention and community education to help keep Hong Kong fair, just, stable and prosperous. Deriving its charter from the ICAC Ordinance (Cap. 204), the ICAC functions as an independent agency separated from the civil service, and is given the legal powers to investigate and bring the corrupt to book under three Ordinances, namely, the ICAC Ordinance, the Prevention of Bribery Ordinance and the Elections (Corrupt and Illegal Conduct) Ordinance. Attributed to the unwavering hard work of the ICAC, Hong Kong has transformed itself from a place where corruption was serious in the 1960s and 1970s, to a world-class city acclaimed as one of the cleanest places in the world³⁰. The ICAC will continue to play a pivotal role in maintaining Hong Kong's competitiveness. To this end, it needs to recruit and retain a strong cadre of staff with high integrity, professionalism and commitment.

Organisation Structure

10.2 The ICAC is headed by a Commissioner appointed by, and directly accountable to, the Chief Executive. The Commission delivers its anti-corruption mission through the following three executive arms supported by an Administration Branch –

- (a) *the Operations Department (OpsD)* is the investigative arm responsible for receiving and

³⁰ Hong Kong is the second cleanest city in Asia and is globally ranked 12th among 180 places surveyed in the Berlin-based Transparency International's Corruption Perception Index announced in September 2008.

investigating alleged corruption offences. It is the largest department of the ICAC and its Head is also the Deputy Commissioner of the ICAC;

- (b) *the Corruption Prevention Department (CPD)* minimises opportunities for corruption inherent in practices and procedures of Government departments and public bodies through assignment duties and consultation service. The services are also extended to private organisations or individuals on requests; and
- (c) *the Community Relations Department (CRD)* focuses on educating the public on the evils of corruption and enlisting public support for the ICAC. Its seven Regional Offices reach out to local communities and serve as focal points for receiving corruption complaints and enquiries.

Staffing

10.3 Upon its establishment in 1974, the ICAC was provided with two main categories of staff –

- (a) the Commission Against Corruption Officer (CACO) grade created specifically to undertake anti-corruption duties. The grade was later “split” in 1976 to create a further grade of staff peculiar to the Commission as a specialist Surveillance grade, formally known as the Commission Against Corruption Investigator (CACI) grade, to undertake surveillance duties; and
- (b) grades and ranks with counterparts existing elsewhere in the Government but with the suffix Commission Against Corruption (CAC) added to the rank and grade title (e.g. Executive Officer (CAC), Motor Driver (CAC)). This group of staff was paid on the same scales as their civilian counterparts in the civil service.

10.4 Excluding the post of the Commissioner, the ICAC had 14 directorate posts, 912 posts in the CACO grade and 116 posts in

the CACI grade as at 1 January 2008. Distribution of these posts is summarised in *Table 10.1*, showing that the OpsD commands 80% of the CACO grade and the entire CACI grade.

Table 10.1: Distribution of disciplined services posts in the ICAC as at 1 January 2008

| Grade | OpsD | | CRD | | CPD | | Admin | | Total |
|--------------|------------|--------------|------------|--------------|-----------|-------------|-----------|-------------|--------------|
| CACO | 729 | (80%) | 127 | (14%) | 43 | (5%) | 13 | (1%) | 912 |
| CACI | 116 | (100%) | - | | - | | - | | 116 |
| Sub-total | 845 | (82%) | 127 | (12%) | 43 | (4%) | 13 | (1%) | 1 028 |
| Directorate | 7 | (50%) | 3 | (22%) | 3 | (22%) | 1 | (7%) | 14 |
| Total | 852 | (82%) | 130 | (13%) | 46 | (4%) | 14 | (1%) | 1 042 |

(Note: The percentages do not add up to 100% due to rounding.)

Terms of Employment

10.5 The ICAC staff are public officers, not civil servants. Their conditioned hours of work are 44 per week. Over 99% of the staff are employed on agreement terms (each tour currently of 2.5 years in duration) and about 66% are serving on “linked agreement” under which an officer is offered an agreement comprising two tours³¹, with a gratuity payable upon satisfactory completion of the full agreement period. The gratuity, when added to the Government’s contribution to the Mandatory Provident Fund Scheme (MPFS), equals to 25% of the total basic salary drawn during the period of the agreement.

10.6 The agreement terms provide the ICAC with flexibility in employment to meet operational needs. The Commissioner is empowered under the law to employ any staff, or terminate the appointment of an officer if he is satisfied that it is in the interests of the Commission to do so. That said, the special termination power has been exercised only three times in the past ten years. At present, over 60% of the staff have been serving in the ICAC for ten years or more.

³¹ The second tour will commence subject to the performance and conduct being satisfactory in the first tour. New appointees (about 18%) are not eligible for linked agreement.

Grade and Rank Structure

10.7 Excluding the ICAC Commissioner who is directly appointed by the Chief Executive, the ICAC disciplined services grades have six ranks at the directorate level, five ranks in the CACO grade and five ranks in the CACI grade. Details of their rank structure and existing pay scales are set out at **Appendix 23**. Unlike most other grades in the Disciplined Services, the CACO and CACI grades are not distinctly structured into the Rank and File and the Officer grades. Generally speaking, the first tier of the CACO and CACI grades are broadly comparable to the Rank and File cadre and the higher ranks are on the Officer cadre in terms of the pay ranges.

The ICAC Pay Scale

10.8 In line with the recommendations of a special review conducted by Mr Rennie³², a separate ICAC Pay Scale (IPS) was created in 1989 to recognise the special status of the ICAC and underline its independence from the civil service. Prior to that, the ICAC grades used to be remunerated on the Master Pay Scale at rates broadly related to those for the Hong Kong Police Force because of their similarities in work and the fact that the Police Force was hitherto responsible for enforcing the laws on corruption. A loose relationship of pay between the ICAC and the Police grades has largely been maintained since then.

10.9 Whilst the ICAC is independent from the civil service, the IPS has all along been adjusted in line with changes in the civil service pay scales, including the adjustments of entry pay after the 1999 and 2006 Starting Salaries Surveys, the civil service pay cuts in 2002-05, and the annual civil service adjustments based on the Pay Trend Surveys.

³² In 1988, the Rennie Committee conducted a comprehensive review on the pay and conditions of service of the Correctional Services, Customs and Excise, Fire Services, Immigration and Police Force. Afterwards, the Administration invited Mr Rennie to conduct a special review on the ICAC.

10.10 Some 544 CACO and 85 CACI grade members, as at 1 April 2008, were still receiving the monthly ICAC Post Allowance³³. The rates of the Allowance have been “frozen” at \$400, \$700 or \$1,000 per month (according to rank) since 1974, and the Allowance was ceased for new recruits who were offered appointment on or after 1 April 2000.

Relevant Considerations

Job Factors and Special Factors

10.11 In their submissions to the GSR, the ICAC management and staff provided a host of information on their work and highlighted challenges inherent in their responsibilities. Some key points are highlighted below –

- (a) Corruption is a secret, borderless crime between consenting parties without obvious crime scene. Investigation is complex and often necessitates covert surveillance and undercover operations, which are associated with high risks, hardship, stress and social segregation. Public sector corruption may involve suspects familiar with investigation and surveillance practices, hence rendering such investigation more difficult.
- (b) Investigation and subsequent prosecution processes involve intricate legal issues, more so for those relating to complex operation in the business sectors, big corporations or sophisticated corruption facilitated frauds. The staff are experiencing stress and hardship in work with increasing caseload against tight manpower, short deadlines of pre-trial preparation and court orders, burden of possible legal consequences of their action, testifying in courts and powerful defence teams.

³³ The ICAC Post Allowance was introduced when the ICAC was set up in 1974 “as a means of attracting people of the right calibre and with experience in different fields into a new, somewhat isolated, and developing organisation”. The Allowance is neither pensionable nor gratuity bearing.

- (c) The ICAC has stringent requirements on the conduct and integrity of all staff in respect of confidentiality, restrictions on personal act including investment and financing, departure from Hong Kong, political affiliation and social contacts. They have to sustain integrity and professionalism of a high order at all times and keep absolute confidentiality even on the nature of their work.

Changes Since Last Reviews

10.12 The ICAC management and staff emphasise that many changes in the past two decades have important impact on their role and mode of operation, which further heightened the level of responsibilities, workload and pressure on the staff. Some of the more significant observations are summarised below –

- (a) *New legislation and developments in law* : Changes in the legal landscape, including judgment from the appellate court and the new Interception of Communications and Surveillance Ordinance enacted in 2006, have added substantially to the demands on the ICAC's work. Also, Hong Kong has been able to uphold its culture of clean elections, and the ICAC's portfolio has grown to cover all elections from Village Representatives to the Chief Executive level.
- (b) *Changing nature and pattern in corruption* : While public sector corruption reports continue to fall, private sector cases are on the rise. Investigations of the latter demand in particular high intellectual capacity, strong analytical power and an inquisitive mind. Breadth and depth of knowledge in a diversified range of subjects is essential for handling corruption cases in any sector, trade or profession. More corruption incidents have manifested as misconduct in public office rather than simple bribery. Furthermore, corruption cases often involve dealings outside the territory, creating additional hurdles for investigators.

- (c) *Increasing sophistication with technological advancement and globalisation* : With rapid socio-economic advancement, corruption and related crimes have become increasingly complex and global in nature. Various challenges have emerged such as higher awareness on covert surveillance and investigation, more corruption complaints involving complicated transactions of public listed companies or corruption facilitated frauds, manipulation of rules and practices by professionals, high quality legal teams employed by defendants etc.
- (d) *International and Mainland collaboration* : Cross-territory anti-corruption activities have grown significantly and Hong Kong’s participation through the ICAC plays a pivotal role in the Mainland, regional and international context. Requests for mutual legal assistance³⁴ and extradition have increased. International agencies such as APEC and INTERPOL have launched more joint efforts against money laundering, terrorist financing, etc.

10.13 As shown in some workload statistics of the ICAC at **Appendix 24**, there is a gradual decline in public sector corruption cases and increase in private sector corruption complaints. In 2007, private sector corruption reports constituted 66% of the total with the remaining 34% being public sector cases. Election complaints increased by ten times over the last two decades to 913 cases in 2007. Work relating to corruption prevention and community education has been on a steady trend.

One-Commission Approach

10.14 The ICAC all along emphasises a “One-Commission, Three-pronged” approach. In response to some varied opinions received in the GSR, we have taken the opportunity to revisit the matter. We note that the three ICAC departments are inseparable and

³⁴ Under the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525), the Secretary for Justice may authorise ICAC investigators to conduct formal corruption-related enquiries in response to requests from overseas law enforcement organisations and judicial authorities. These include interviewing witnesses and suspects, examining bank accounts and documents, and restraining assets.

integral parts of a total strategy, and unity and team spirit among the three inter-dependent departments is crucial. According to the ICAC, it has since 2007 adopted common recruitment for the three departments at entry ranks, and reinforced its cross-posting arrangement to complement the policy and enable all-round development of the staff. In this light, we consider it important to continue to respect the long established “One-Commission” approach of the ICAC and reflect this in its grade and pay structures.

Recruitment

10.15 With agreement terms, the ICAC can flexibly deploy open recruitment and/or in-service appointment for filling vacancies at various levels to meet operational needs while maintaining reasonable opportunities for staff advancement. In practice, recruitment to the CACO grade is mainly conducted in the Assistant Commission Against Corruption Officer (ACACO) and CACO(Lower) (CACO(L)) ranks, with the former also being eligible for promotion to the latter. Specialist posts in the senior ranks are open to recruitment and/or in-service appointment. For the CACI grade, only the basic ranks of CACI(Main Stream) (CACI(M)) and CACI(Attendant Stream) (CACI(A)) are filled by open recruitment.

10.16 Statistics from the ICAC reflect no recruitment difficulty in the CACO or CACI grades. For instance, 1 193 and 1 853 applications were received for selecting 118 and 31 target recruits of ACACO and CACO(L) respectively based on aggregate recruitment figures in 2007. The ICAC also encountered no difficulty in recruiting specialist posts in the higher ranks.

Retention

10.17 The CACO grade has relatively high wastage and vacancy figures for some years (*Table 10.2*), particularly in the ACACO and CACO(Middle/Lower) (CACO(M/L)³⁵) ranks. In 2007, 48 ACACO (14.2%) and 19 CACO(M/L) (5.7%) left the ICAC other than natural wastage (e.g. retirement). The grade’s overall non-directorate vacancies reached 147 or 15.9% as at 1 January 2008. For the higher ranks, their wastage is considered not unreasonable

³⁵ CACO(M/L) is on through scale.

given the nature of agreement employment. For instance, four CACO(Upper) (CACO(U)) (4.3%) left the ICAC in 2007 other than natural wastage.

Table 10.2: Wastage in ACACO and CACO(M/L) ranks in the past five years

| | | 2003 | 2004 | 2005 | 2006 | 2007 |
|-----------|------------------|------|------|------|------|-------|
| ACACO | Wastage | 19 | 18 | 28 | 24 | 48 |
| | As % of strength | 4.6% | 4.8% | 7.3% | 6.4% | 14.2% |
| CACO(M/L) | Wastage | 12 | 17 | 19 | 17 | 19 |
| | As % of strength | 3.6% | 5.2% | 6.2% | 5.4% | 5.7% |

(Note: Natural wastage is excluded)

10.18 Based on the staff profile, roughly one third of the serving ACACO and CACO(L) officers are relatively “young” with three years of service or less in the ICAC, while about 44% of the ACACO and 37% CACO(L) officers have served in the Commission for ten years or more. The ICAC points out that its staff are highly sought after by the commercial sector given the latter’s increasing demand for experienced hands with proven ability and integrity to take up responsibilities on corporate governance and compliance work in the finance, insurance and banking sectors. According to the Commission, at least 70 (62%) of the 113 CACO grade officers who left the OpsD (other than natural wastage) between 2005 and 2007 were because of better offers from the private sector or other public bodies.

10.19 For the CACI grade, three CACI(M) (5%) left in 2007 other than retirement and there was only one vacancy in the CACI(M) rank (1.4%) as at 1 January 2008 with altogether two vacancies (1.7%) in the grade. Similar vacancy figures in the past few years were slightly higher but still within a reasonable range. For instance, there were eight CACI(M) vacancies (11.3%) on 1 January 2004, dropping to six vacancies (8.5%) on 1 January 2007.

Career Progression

10.20 Career progression carries lesser weight under agreement terms as this type of appointment generally implies a more flexible career structure. Nonetheless, the following features are noteworthy –

- (a) The ACACO rank, which is more akin to the Rank and File in terms of entry qualification and pay level, is eligible for promotion³⁶ to the Officer cadre of CACO(L)³⁷. Similarly, CACI(M) has direct promotion avenues to higher ranks in the CACI grade having pay levels comparable to that of the Officer cadre.
- (b) The CACO(M) and CACO(L) ranks are on through scale under which a CACO(L) can advance to the CACO(M) rank upon meeting the prescribed service criterion of four years (or exceptionally three years) and passing the necessary advancement qualifying examination.
- (c) The ICAC may flexibly launch open recruitment and/or in-service appointment in filling vacancies at higher ranks in the CACO grade. Certain CACO(U) posts in the OpsD are open to promotion from Chief Commission Against Corruption Controller (CCACC) in the same section for operational reasons.

10.21 We have looked into promotion prospects of staff in the ICAC. In very broad terms, staff profile of the CACO and CACI grades shows generally satisfactory career progression as reflected in their average length of in-rank service before promotion to next higher rank. Also, about 51% of the staff as at 1 January 2008 had yet to reach the maximum pay point in their ranks. Ratio of posts in promotion ranks are reasonable, although actual promotion opportunities are inevitably restricted by the small size of some ranks. In this respect, we have to emphasise once again the fundamental principle that promotion is not a right and is subject to a range of factors, such as availability of vacancies, operational need, age profile of staff and merit of individual contenders.

³⁶ Promotion pre-requisites include two years of service in the ACACO rank and the passing of specific promotion qualifying examination.

³⁷ The CACO(L) rank is also a recruitment rank. During 2002 to 2007, a total of 115 ACACO officers were promoted to CACO(L) rank, while there were 217 intake from recruitment in the same period.

Analysis and Recommendations

Commission Against Corruption Officer Grade

Qualifications and Related Matters

10.22 As explained in Chapter 3 (paragraphs 3.6 to 3.17), the present entry qualifications for the ACACO and CACO(L) ranks should remain unchanged. Nevertheless, we have no objection to the request for removing the sub-entry below five passes in HKCEE for the ACACO rank. The existing entry to the ACACO rank on five passes in HKCEE (on IPS 4) should remain unchanged. **(Recommendation 10.1)**

10.23 We support the ICAC management's proposal of tightening advancement of ACACO to CACO(L) by using an internal channel for appointment in place of direct promotion. This is conducive to further promoting meritocracy and is considered reasonable in view of the increasing complexity and breadth of functions of the CACO grade. We trust the management will introduce the change carefully giving due regard to possible implications on incumbent staff aspiring to progress beyond the ACACO level. Looking to the future, the management may wish to promulgate the requirement during the recruitment stage, and offer more comprehensive training for the ACACO rank to develop competent staff with potential for advancement. **(Recommendation 10.2)**

10.24 CACO(M/L) is on through scale with a relatively long pay scale from IPS 16 for entry at matriculation level to maximum pay at IPS 34. As mentioned in Chapter 3 (paragraphs 3.29 to 3.37), we welcome the ICAC's proposal to only allow those CACO(L) who passed the CACO(M) advancement qualifying examination to advance to the CACO(M) pay scale. The proposal is consistent with the general civil service practice adopted in combined establishment. We commend the ICAC in taking forward this initiative as part of its ongoing efforts to upgrade the quality of its cadre and further promote a merit-based culture. We render our full support. **(Recommendation 10.3)**

Incremental Jump

10.25 The ACACO rank has rather serious wastage problems (*Table 10.2*). The majority of those departed were due to resignation, non-renewal of contract despite offer or resolution of agreement. Staff turnover is naturally higher under agreement terms, and the wastage could have been partly attributed to recruits with higher qualifications. For instance, some 85% (41) of the ACACO who left in 2007 (natural wastage excluded) were degree-holders. That said, we see the need to contain the retention problems in the ACACO rank.

10.26 Wastage figures of CACO(M/L) (*Table 10.2*) are also on the high side in the past years. Excluding the small number of natural wastage (such as retirement), nine CACO(M) and eight CACO(L) left the ICAC in 2006, and eight CACO(M) and 11 CACO(L) left in 2007.

10.27 To improve retention, we have looked into the case for introducing incremental jumps, which have been granted to certain basic recruitment ranks in other Disciplined Services primarily to tackle retention difficulties. We are mindful of the previous deliberations of the Standing Committee back in 1991 and 2001 in not supporting proposals from the ICAC for introducing incremental jumps. The Committee was then concerned that the high wastage rate was partly attributed to the recruitment of over-qualified candidates and had reservation on the effectiveness of incremental jumps for officers on agreement terms.

10.28 In the prevailing situation, given the persistent and increasing wastage and taking into account the success of incremental jumps in alleviating early wastage in other Disciplined Services, we on balance recommend introducing one incremental jump in the second agreement in the ACACO rank and the CACO(L) rank respectively to contain the acute wastage problem in early years of their career. We believe the incremental jump will help attract quality talents and encourage contract renewals. We do not support extending incremental jump to further agreements of CACO(L) or to the CACO(M) rank, in view of the through scale and the overall favourable long term progression and prospects in the grade. **(Recommendation 10.4)**

Pay Scales

10.29 We note sophistication of the jobs and responsibilities in the CACO cadre as a result of developments in the operating environment of anti-corruption work. Having regard to the job and special factors and the other relevant considerations, we recommend enhancing the pay scales of the various ranks as follows (**Recommendation 10.5**) –

| Rank | Existing Pay Scale | Recommended Pay Scale |
|---|--------------------|---|
| Assistant Commission Against Corruption Officer | IPS 2–12 | IPS 4*–14 (*sub-entry deleted) |
| Commission Against Corruption Officer (Lower) | IPS 12–34 | IPS 12–28# (#through scale modified) |
| Commission Against Corruption Officer (Middle) | IPS 28–34 | IPS 29–35 |
| Commission Against Corruption Officer (Upper) | IPS 35–41 | IPS 36–42 |
| Senior Commission Against Corruption Officer | IPS 42–44 | IPS 43–44a |

Commission Against Corruption Investigator Grade

Qualification and Related Matters

10.30 Similar to the ACACO rank, we have no objection to the request of removing the sub-entry below five passes in HKCEE for CACI(M) rank. The existing entry requirement to the CACI(M) rank on five passes in HKCEE (on IPS 4) will remain unchanged. (**Recommendation 10.6**)

10.31 We note that the ICAC has not made any request to change the entry qualifications of the CACI(A) and Commission Against Corruption Controller (CACC) ranks. The CACI(A) rank is a small group of five officers providing back-end support for the surveillance teams. As for the CACC rank, the ICAC has been filling vacancies through direct promotion from the CACI(M) rank because of unique operational need in surveillance duties.

Incremental Jump

10.32 There is no recruitment, wastage or retention problem in the CACI grade. Nonetheless, the ICAC will need to maintain the competitiveness of the CACI(M) rank in recruitment and retention vis-à-vis the ACACO rank as well as other Rank and File grades in the Disciplined Services, upkeep morale and maintain surveillance experience. We therefore recommend introducing one incremental jump in the second agreement in the CACI(M) rank. **(Recommendation 10.7)**

Pay Scales

10.33 The CACI grade specialises on surveillance duties. Having considered the job factors and special factors as well as the increasing complexity of surveillance responsibilities, we recommend enhancing the pay scales of the various ranks as follows – **(Recommendation 10.8)**

| Rank | Existing Pay Scale | Recommended Pay Scale |
|---|--------------------|-----------------------------------|
| Commission Against Corruption Investigator (Attendant Stream) | IPS 2–7 | IPS 2–8 |
| Commission Against Corruption Investigator (Main Stream) | IPS 2–12 | IPS 4*–14 (*sub-entry deleted) |
| Commission Against Corruption Controller | IPS 12–20 | IPS 12–21 |
| Senior Commission Against Corruption Controller | IPS 22–27 | IPS 23–28 |
| Chief Commission Against Corruption Controller | IPS 28–34 | IPS 29–35 |

The Directorate

10.34 We have received proposals for creating a new Chief CACO (CCACO) rank on IPS 45 (equivalent to D1 of the Directorate Pay Scale) as the first tier directorate in the ICAC to meet operational needs. At present, the ICAC does not have any rank on IPS 45, whilst all other Disciplined Services have directorate ranks comparable to this pay level, e.g. Chief Superintendent of Police, Chief Superintendent of Customs and Excise. With changes in the

ICAC's operating environment, we see a strong case for a new CCACO rank to be created to cope with functional requirements arising from the growing complexity and responsibilities at the directorate level, including, among other things, supervision of the use of covert surveillance and interception in ICAC investigations. We will give positive consideration to the creation of the new CCACO rank and post(s) when detailed proposals and justifications are provided by the ICAC. (**Recommendation 10.9**)

10.35 We will set out our recommendations on the ICAC directorate pay scales in Chapter 11 (paragraph 11.10).

New Forensic Accountant Grade

Operational Need

10.36 Hong Kong has seen an increasing trend in private sector corruption complaints and corruption-related fraud cases, many of which involve complex transactions in financial markets, global flow of funds and cross-border money laundering. In 2007, the ICAC processed 185 such cases, a notable 23% increase from 150 cases in 2006, involving 344 target persons and companies with 6 776 transactions at an aggregate value of \$4.91 billion. The ICAC has been able to crack down on offences committed or concealed by accounting professionals and financial controllers, leading to successful prosecution of senior executives of a number of public listed companies in recent years. As forensic accounting will continue to be a major anti-corruption priority, the ICAC has proposed to establish a new grade of Forensic Accountant (FA).

Current Arrangement

10.37 At present, the ICAC has two Financial Investigation Sections (FIS) in the OpsD specialising in financial investigations and providing independent expert testimony. The two FIS are staffed by officers in the CACO grade appointed by way of informal "streaming" arrangement. Altogether, the two FIS have two CACO(U) and eight CACO(M/L) posts, plus 12 ACACO posts at supporting level. According to the ICAC, incumbents of these CACO(U) and CACO(M/L) posts are mainly Certified Public Accountants (CPA) performing forensic accounting role by integrating knowledge and

skills on accounting, auditing and investigation. They have to give evidence in court on financial and accountancy related matters and to provide expert opinions in their field.

10.38 Past statistics do not show significant recruitment difficulties in the FIS. However, the ICAC explained that they have lost five officers since 2000 and there are grave concerns on the Commission's competitiveness in attracting and retaining quality forensic accounting personnel amidst keen demand for accounting professionals, particularly those with compliance and law enforcement experience.

Our Advice

10.39 We fully recognise the need for the ICAC to develop a special professional cadre of FA by offering a reasonably attractive package and establishing a clear career path for these experts. We are also aware that the Police Force's Commercial Crime Bureau and the Customs and Excise Department also carry out financial investigations and prosecution on commercial crimes and smuggling-related money laundering respectively. At present, they rely on the Government Treasury in arranging members of the Treasury Accountant grade to provide support for their frontline investigators.

10.40 We have considered various options and concluded that establishing a dedicated grade of FA in the ICAC will openly manifest the Commission's determination and efforts in fighting commercial corruption. With a specialist FA grade of its own, the ICAC will have the flexibility to adjust its pay and requirements to meet dynamic operational need and having regard to those prevailing for comparable professionals in the public and private sectors. We also share the view that a formal grade and rank title of FA will serve as a form of non-cash recognition.

10.41 In this light, we fully support the ICAC's request for a new FA grade. We see merit in enhancing the role of FA at the directorate level, in view of the strategic role of forensic accounting. In principle, we are agreeable to the proposed three-rank structure to be headed by a directorate FA comparable to the new CCACO rank, i.e. on IPS 45 (Chief FA) and supported by a senior professional rank

(Senior FA) and a professional rank (FA). In its preliminary proposal, the ICAC plans to create 11 posts in the new grade, comprising one Chief, two Senior and eight FA posts, to be offset by deletion of two existing posts of CACO(U) and eight posts of CACO(M/L). We will further examine the rank and pay structure appropriate for the new grade and favourably consider formal creation of the grade and posts subject to detailed proposals and justifications to be submitted by the ICAC. (**Recommendation 10.10**)

Medical and Dental Benefits for ICAC Retirees

10.42 We have looked into the requests from both the ICAC management and staff that ICAC staff should continue to be eligible for civil service medical and dental benefits after retirement³⁸. Their arguments include boosting staff morale, bringing the Commission in line with the benefits package for pensionable civil servants, and enhancing the retirement protection particularly for staff at junior levels.

10.43 In 1991, the Standing Committee considered a similar request from the ICAC and found the request unjustified. We have examined the issue taking into account previous deliberations of the Standing Committee as well as other relevant factors. The following considerations are pertinent –

- (a) *Agreement terms of employment* : Only retired civil servants in receipt of a pension are accepted as post-retirement eligible persons for civil service medical and dental benefits. Although 60% of the ICAC staff have served in the Commission for over ten years, the crux remains that they are agreement officers and not appointed on permanent terms.
- (b) *Gratuity* : The 25% gratuity payable upon completion of every contract serves to “compensate for”, among others, retirement benefits including post-retirement medical and dental benefits. The 25% gratuity rate is much higher than the general 15% top rate for civil service gratuities, and is also

³⁸ The ICAC management’s proposal covers those ICAC officers recruited before 1 June 2000, i.e. those appointed prior to the introduction of the Civil Service Provident Fund Scheme.

more favourable than the Government's voluntary contribution to the Civil Service Provident Fund.

- (c) *Read-across implications* : Extending the benefits to retired ICAC officers (and their dependents) would give rise to considerable pressure of potential claims for similar treatment from other civil servants employed on agreement terms, even from ex-staff and possibly from the pools of non-civil service contract staff employed by the Government.

10.44 We have re-considered the matter but found no legitimate ground to support the extension of civil service medical and dental benefits to agreement officers retiring from the ICAC. **(Recommendation 10.11)**

10.45 We appreciate the ICAC's concerns on post-retirement welfare of the staff against a background of longer life expectancy, rising medical costs and inflation. Indeed, health care financing is an issue with far-reaching implications concerning the entire Hong Kong population as a whole, not just the public service or the ICAC alone.

10.46 On a positive direction, we encourage the ICAC to take a broader perspective and approach its concern creatively and innovatively. For instance, the ICAC as an independent agency may explore the feasibility of setting up, with staff contribution and in partnership with commercial insurance agencies, a medical insurance scheme for the ICAC that is extendable to post-retirement years. Such a scheme is more akin to those offered by some private sector enterprises, and is likely to allow greater flexibility in terms of choices and coverage.

Unifying Fringe Benefits Package

10.47 There is also request from the staff that all ICAC staff should be allowed to enjoy the same package of fringe benefits and allowances, specifically for those that are only applicable to officers appointed before 1 October 1990.

10.48 We note the Administration has been taking steps over the years to modernise and rationalise the provision and administration of fringe benefit type of civil service allowances. As a result of various reforms, new entrants joining the service are no longer eligible for certain fringe benefit type of allowances (e.g. education allowance, sea passage) and the scope and rate of other allowances (e.g. housing allowance) have been adjusted for new recruits.

10.49 It is reasonable and understandable for the Government, as an employer, to keep its employment terms under review and introduce new terms in the light of changing circumstances without affecting the entitlements of the incumbents. We do not see any new factors or circumstances that justify any change to the present practice.

Summary of Key Recommendations

10.50 We recommend that –

- (a) the pay scales of the non-directorate ranks should be enhanced as detailed in **Appendix 25**;
- (b) the proposal to create a CCACO rank on IPS 45 at the directorate level should be supported in principle;
- (c) the proposal to create a new Forensic Accountant grade on a three-rank structure headed by a directorate rank on IPS 45 should be supported in principle; and
- (d) the proposal to extend civil service medical and dental benefits to agreement officers on retirement from the ICAC should not be supported.

