

7.55 We noted that although the existing rates of pension enhancement permitted disciplined service staff to draw a slightly smaller pension than he/she would have received had he/she continued to work until the age of 60, the amount would be considerably more than he/she would have obtained on voluntary retirement at the age of 55. Considering that no service was involved and that the enhanced pension would be payable earlier (and therefore the pensioner received up to five more years of pension), we considered the existing rates to be reasonable.

7.56 It was argued that the retirement of disciplined service staff on operational grounds should be compared with redundancy. We considered this argument unsound. We noted that disciplined service staff are required to retire at a prescribed age because it had been decided within the service itself that, after that age, staff might have difficulty maintaining the physical fitness and mental alertness required of the job. The disciplined service staff are aware of this and, therefore, they did not expect to work beyond the prescribed age of retirement. In the case of redundancy, staff are compulsorily retired from the service, notwithstanding the fact that they are still fully capable of discharging their duties and are physically fit and mentally alert. These staff have a case for more generous compensation because their expectation to work up to retirement age has not been met through no fault of their own.

7.57 We considered that, if any comparison were to be made, the closest analogy would be that of "invaliding", where officers invalided from the service are retired on medical grounds. We noted that with the existing enhancement rate, unless an officer joined the service after the age of 34, the enhanced pension benefits payable to disciplined service staff on retirement on operational grounds are much better than those payable to an officer who is invalided from the service. This reinforced our view that the existing pension enhancement rates for disciplined service staff are adequate and further improvement is not justified.

7.58 From the representations made to us, we concluded that staff in the disciplined services were under the impression that they are worse off in terms of pension benefits when compared with their general civil service counterparts. Having examined the enhanced pension payable, we were satisfied that this is not the case. However, to clear up any possible misunderstanding about their situation, we concluded that the disciplined service managements and/or the Administration should explain to the staff how they fare in comparison with their civilian counterparts, with particular emphasis on the effect of the pension enhancement factors.

7.59 We also considered the question of compensation for loss of salary and fringe benefits. We concluded that, as a matter of principle, salary and benefits related to

employment should cease when employment ceased. There is, therefore, no justification for paying disciplined service staff who are required to retire before the age of 60 any compensation for the loss of salary and fringe benefits which they might otherwise have earned had they continued to work until 60.

7.60 It was proposed that compensation should be based on the Limited Compensation Scheme. We considered that the circumstances under which disciplined service staff are required to retire on operational grounds are different from those under the Limited Compensation Scheme. In the case of the former, the officer is required to retire because the service had decided that he/she could no longer meet the physical and mental requirements of the job; in the case of the latter, the officer is required to retire because of localisation or constitutional changes, notwithstanding the continuing need for his/her post and that he/she remains fully capable of discharging his/her duties. We, therefore, did not consider that disciplined service staff having to retire on operational grounds had the same claim as officers retiring under the Limited Compensation Scheme.

7.61 We also did not see any justification for compensation for loss of benefits. Proposals that special arrangements should be made to enable disciplined service staff to enjoy housing benefits and education allowances even after they had retired were, therefore, not justified.

7.62 We noted that disciplined service staff felt that they were not fairly treated when compared to the rest of the civil service, because they were required to retire early on operational grounds. We also noted that disciplined services elsewhere seemed to allow staff to retire later, sometimes even beyond 65 for some services or for certain ranks; they appeared to provide more flexibility. In view of the feelings voiced both by departmental managements and staff as to the unfair implications of early retirement, we considered that there might be scope for reviewing the prescribed retirement ages. With the disciplined services experiencing both recruitment and retention problems, we considered that there is justification for reviewing the retirement age in the disciplined services with a view to introducing a degree of flexibility.

7.63 We were informed that some of the disciplined services already provided special counselling for officers prior to their retirement and that this service is very well received. We considered that more could be done by the managements of the disciplined services in this area to prepare staff for retirement. We considered that the Administration should encourage the managements of all of the disciplined services to adopt, formalise or improve present procedures for staff counselling prior to retirement.

7.64 We noted that some disciplined services complained that they are unable to take full advantage of the Home Purchase Scheme as a result of their having to retire at 55, and are, in effect, forced to compete unfairly with the rest of the civil service. We were in sympathy with this complaint. In view of the complex resource and policy implications, which extended beyond the disciplined services, we decided that the complaint should be referred to the Administration for consideration.

7.65 We concluded that special retirement or pension arrangements for the disciplined services involved complex issues which had ramifications for the pension rights and arrangements for the civil service as a whole and had some important public policy implications. They should, therefore, be examined by the Administration in the context of an overall review of pension safeguards which it was then conducting.

7.66 We also noted the deep and serious concern amongst staff in the disciplined services about the security of their pensions. Since proposals on this issue, too, had wide-ranging implications for public policy, the Administration should consider the serious morale implications of these concerns.

7.67 We considered that, in general, a case did not exist for improving pension and other benefits for disciplined service staff who are required to retire earlier on operational grounds. Accordingly, the need for the appointment of an independent expert to look into the matter did not arise.

7.68 In June, 1990, we concluded our deliberations and advised the Governor that -

- (a) the request for improved pension and other benefits submitted by the disciplined services should not be supported;
- (b) the disciplined service managements and/or the Administration should explain to the disciplined service staff how they fare in comparison with their civilian counterparts, with particular emphasis on the effect of the pension enhancement factors;
- (c) the Administration, in conjunction with the heads of the disciplined services, should be asked to review the present retirement ages prescribed for disciplined service staff with a view to introducing more flexibility;
- (d) the disciplined services managements should consider ways of formalising or improving counselling procedures for retiring officers with a view to assisting them to plan and prepare for their retirement;

- (e) the Administration should look into the complaint from disciplined service staff that, since they have to join the Home Purchase Scheme at the age of 45 in order to enjoy their full ten-year benefit, they are forced to compete unfairly with older applicants from the rest of the civil service who could afford to accumulate five more years' service until aged 50;
- (f) the Administration should be asked to note the deep anxiety expressed by the disciplined services over the security and value of their pensions beyond 1997 and the detrimental effect this might have on morale; and
- (g) in view of (a), the request for the appointment of an independent expert to consider pension benefits did not arise.

7.69 The Administration requested that we defer notifying the disciplined services of our advice to enable follow-up action to be taken. The disciplined services were informed of our advice to the Governor in February, 1991.

#### **Enhanced Injury and Death Compensation Benefits for Operational Staff in the Fire Services Department**

7.70 In August, 1989, the Director of Fire Services submitted a request for the introduction of a separate pension scheme with enhanced pension benefits for operational staff who die in the course of duty or who are invalidated as a result of injury incurred while on duty. The Director considered that fire fighting is a dangerous profession and it is the responsibility of the employer to provide adequate insurance for an employee engaged in such a dangerous job. He considered that it is inappropriate for operational staff to be treated in the same way as other civil servants employed in sedentary jobs and referred to the practice in other countries where the risk associated with a fireman's work is recognised by special compensation schemes.

7.71 We accepted that there are indeed risks in a fireman's job. However, the risk is already taken into account in the pay scales for firemen. Since pension and other compensation benefits are calculated by reference to an officer's salary, the danger element is, to this extent, reflected in those benefits.

7.72 We also considered whether compensation should be greater because the risk of injury is greater. We noted that compensation for civil servants injured or killed in the line of duty is intended to recompense for the

consequences of the injury or death; payments, therefore, are related more to these consequences than to the probability of an incident occurring, which should be, and is taken into account in the pay for the job. We considered, therefore, that the danger of a fireman's job should not be reflected in pension benefits (as opposed to pay) to any greater extent than it is for the rest of the civil service.

7.73 We considered that the argument that other countries had separate compensation schemes for firemen did not necessarily constitute a valid reason for introducing similar arrangements in Hong Kong. We were informed that the provisions of the United Kingdom Firemen's Pension Scheme are basically similar to the United Kingdom Principal Civil Service Pension Scheme. Firemen in the United Kingdom are, in substance, treated on a par with their civilian counterparts. We, therefore, were not satisfied that a case had been made to treat firemen differently. We examined the information on existing benefits provided by the Director and concluded that the benefits available to Fire Services staff are no less favourable than those provided in the United Kingdom.

7.74 The Director requested higher compensation for younger invalidees because they would be deprived of a longer working life. However, we noted that more compensation already is payable to younger invalidees under the Employees Compensation Scheme.

7.75 The Director was concerned that there are inadequacies in the existing scheme. We considered that if this were the case, then they should be rectified and should apply to the civil service as a whole. We were informed that the Administration was conducting a comprehensive review of dependent pensions and related benefits for the Civil Service. We considered that, since aspects of the Director's proposals had service-wide implications, they should be considered as part of this comprehensive review.

7.76 We advised the Governor in July, 1990, that the Director's proposal should be rejected. However, we recommended that the Administration should consider the adequacy of existing pension benefits for staff who die in the course of duty or are invalided as a result of injury incurred while on duty and whether the compensation granted to younger invalidees should be improved. We also advised that any changes arising from the review should apply equally to the disciplined services.

7.77 The Administration requested that we defer notifying the Director of Fire Services until it had had an opportunity to complete its reviews. The Director of Fire Services was informed of our advice to the Governor in February, 1991.

**Medical and Dental Benefits  
for the Disciplined Services**

7.78 In September, 1990, the Commissioner, ICAC, submitted a request to us for staff in the disciplined services, including ICAC staff, to have preferential access to medical and dental benefits and an annual medical examination for all staff aged 40 and above.

7.79 The Commissioner pointed out that no special arrangements are made for disciplined service staff attending medical or dental clinics. He felt that the location of some medical and dental clinics, within the compounds of Police stations and Police married quarters, discourages other civil servants from using them. Whilst accepting that the establishment of a clinic solely for disciplined service staff, though ideal, would be very costly, he proposed that the Government should take into account the special circumstances of disciplined service staff in its current review of the provision of medical and dental facilities for civil servants.

7.80 The Commissioner proposed that, in the meantime, disciplined service staff should be given preferential access to medical and dental benefits by -

- (a) assigning a medical officer at each of the two Government Families Clinics to serve only disciplined service staff;
- (b) allocating two dental appointments to disciplined service staff in order that they can attend the second appointment if they are prevented from attending the first one because of operational commitments; and
- (c) extending the provision of annual medical examinations for directorate officers aged 40 and above to all disciplined service staff aged 40 and above.

7.81 In support of his proposals, the Commissioner emphasised that disciplined service staff have to work irregular hours and have to perform on-call duties beyond normal working hours. They cannot enjoy, to the same degree, the medical and dental services available to the general civil service, which are provided during normal office hours. They are called upon to perform urgent and unexpected operational duties and, therefore, very often cannot attend pre-arranged appointments. The Commissioner also pointed out that since all disciplined service staff have to work under great stress, the need for officers aged 40 and above to have annual medical check-ups is no less than for directorate officers.

7.82 We were informed that, although disciplined service staff work irregular hours, Civil Service

Regulations require management to grant staff time-off to attend medical and dental appointments. We also noted that some staff in the general civil service are also required to work irregular hours and called upon to perform urgent and unexpected operational duties. We, therefore, did not accept that irregular working hours would prevent disciplined service staff from enjoying the same level of medical and dental benefits available to other civil servants.

7.83 We were informed that the increasing demand for medical and dental services has meant that the most frustrating feature of the current system is the difficulty in securing an appointment. We noted that this difficulty is experienced by everyone in the civil service. We also noted that due to manpower and financial constraints, medical and dental services for civil servants and the general public are already overstretched and that this situation has persisted for some years, despite efforts to improve services. We concluded, therefore, that any improvement in the medical or dental benefits for a particular group of civil servants would have to be met at the expense of the rest of the civil service or the general public and that this could not be justified.

7.84 We were informed that, although some of the clinics are located within Police compounds, these facilities are available to all civil servants and their dependants and the appointment booking system is the same as that in other non-public clinics, i.e. on a first-come-first-served basis. We noted that staff would generally seek appointments at a clinic near to their residence or to their place of work. We considered that personal convenience is the criterion and that the geographical link to the Police Force is of secondary importance.

7.85 We concluded that the provision of medical or dental officers exclusively for disciplined service staff would not help those who cannot attend pre-arranged appointments due to urgent and unexpected operational duties.

7.86 We had advised in December, 1989 that all directorate officers aged 40 and above should be eligible for an annual medical examination if they wished, in line with private sector practice, and we did not accept that there is case to extend this provision to all disciplined service staff aged 40 and above.

7.87 We, therefore, advised the Governor in April, 1991 that the Commissioner, ICAC's proposals for preferential access to medical and dental benefits and the provision of annual medical examinations for all disciplined service staff aged 40 and above should not be supported.

7.88 However, we noted the strong feelings expressed

by staff representatives over what they termed the inadequate provision of medical and dental services for civil servants. They felt that the Government is not meeting its contractual obligations to provide civil servants with reasonable access to adequate medical and dental services. We were sympathetic to the frustration voiced by the ICAC staff representatives, which we noted applies also to the rest of the civil service. We, therefore, drew this concern to the Governor's attention. We advised that the Administration should follow up the strong feelings expressed so that they are taken into account when recommendations for improvements are put to the Standing Committee on Medical and Dental Facilities for Civil Servants.

7.89 The Commissioner, ICAC was informed of our advice to the Governor in May, 1991.

**Extension of Pensionable Officer Benefits  
to Agreement Officers in the  
Independent Commission Against Corruption**

7.90 In September, 1990, the Commissioner, ICAC, submitted a request to us to extend to officers on agreement terms of service in the ICAC benefits at present available only to pensionable officers, namely -

- (a) medical and dental benefits after retirement;
- (b) a downpayment loan under the Civil Service Home Purchase and Home Financing Schemes; and
- (c) Government training scholarships.

7.91 In support of his proposals, the Commissioner emphasised the special position of the ICAC and the need to be able to dispense with an officer's service quickly if circumstances should warrant. Consequently appointments are normally offered on agreement terms. Since the majority of his staff serve on agreements which are rolled forward, the Commissioner considered that ICAC staff should be regarded as long-term career officers, committed to public service in the same way as pensionable officers. Approximately 50% of the serving officers on agreement terms in the ICAC have over ten years' service and the Commissioner argued that these staff should also enjoy the same benefits available to pensionable officers.

7.92 The Commissioner acknowledged that it would be unjustified to allow all officers "retiring" from the ICAC to be eligible for medical and dental benefits but, by limiting eligibility to those aged 55 or above and who have completed ten years' service or more, ICAC retirees would not add an undue burden to the Government's existing medical and dental services for pensioners.



7.93 The Commissioner considered that a basic reason for not providing the downpayment loan to ICAC staff on agreement terms is the problem of security for the loan. He proposed that the following alternatives could be considered to overcome this problem -

- (a) securing the downpayment loan against future gratuities;
- (b) restricting the repayment period to two and a half years, with a higher rate of monthly instalment (the loan can then be held against the current contract gratuity); or
- (c) securing the loan against the property itself, or another means of security such as a second legal charge on the property in favour of the Government.

7.94 The Commissioner pointed out that since successful applicants under the Government Training Scholarship Scheme, are required to sign an undertaking agreeing to continue in the public service for a specified number of years, there is no reason to bar agreement officers from these scholarships if they sign a similar undertaking.

7.95 We noted that, although about half of the serving officers on agreement terms in the ICAC have over 10 years' service, the fact remains that these officers are contract staff and receive a gratuity after each agreement which compensates them for benefits available only to pensionable officers; these benefits include not only the pension itself, but also pension benefits, such as medical and dental services after retirement. We noted that there are finite resources available for medical and dental services provided for the general public and civil servants and that there is an increasing demand for such services; any extension of the existing eligibility criteria would result in increased costs and longer waiting time for treatment, and would exacerbate the problems encountered by the general public and civil servants in an already overstretched service. We concluded, therefore, that this proposal should not be supported.

7.96 We noted that the HFS is a condition of service entitlement for both pensionable officers and agreement officers, but agreement officers are not eligible for the downpayment loan which is a crucial element in this entitlement. We considered it inappropriate in principle for agreement officers not to be able to utilize this condition of service to the full. We considered that the problem of cashflow, a concern raised by the Administration, could be overcome, for example, by a Government guarantee to financial institutions which could be invited to provide the loan, secured against the officer's current gratuity.

7.97 We noted that, under both the HPS and HFS, a pensionable officer who is within ten years of his statutory age of retirement and has at least ten years' continuous service may apply to repay, by monthly instalments, only the interest on the loan, with repayment of the principal to be recovered in full from his commuted pension gratuity, salary or monies due to him when he retires. We considered that this arrangement could be extended to agreement officers. For example, they could be eligible to apply for a downpayment loan not exceeding the maximum of their current gratuity, calculated, perhaps, on the basis of their current salary; their monthly repayments could cover only the interest on the downpayment loan; the principal would then be recovered in full from their gratuity. To ensure that agreement officers would not be seen to receive double benefits, the interest on the loan could be charged at the market rate, instead of the preferential rate offered to pensionable civil servants.

7.98 Having regard to the existing policy on the HPS and HFS, the complexity and financial implications of this proposal, we concluded that the Administration should devise arrangements along these or other appropriate lines so that agreement officers could receive downpayment loan facilities, without receiving double benefits.

7.99 We noted that, although the ICAC is considered to be outside the main body of the civil service, staff of the ICAC enjoy generally the same conditions of service and benefits as other civil servants. However, we were informed that serving local civil servants on pensionable terms are given preference for selection under the Government Training Scholarship Scheme. When a pensionable officer is not available, the scholarship is then open to members of the public; serving agreement officers who apply have to compete with members of the public.

7.100 We also noted that, whereas appointments in the general civil service may be made on agreement or pensionable terms, this element of choice is not available to ICAC officers because of operational considerations. It seemed to us to be unfair, therefore, to prevent local ICAC officers from benefitting from the Government Training Scholarship Scheme simply because they are employed on agreement terms, when they have no opportunity to seek permanent terms. We were, therefore, sympathetic with the Commissioner's proposal that his local staff should be eligible for the Government Training Scholarship Scheme.

7.101 We were informed that, if selected for a Government Training Scholarship, an officer must leave his own department and return to fill a post in another department for which he undertook the training. We concluded, therefore, that there would be no loss to the Government if deserving local agreement officers in the ICAC were allowed to compete equally with pensionable officers under the Government Training Scholarship Scheme. We noted that the undertaking signed by recipients of

Government training scholarships might have to be altered for ICAC local agreement officers, but we considered that this should not present insurmountable difficulties.

7.102 We advised the Governor in April, 1991 that the Commissioner's proposal -

- (a) to extend medical and dental benefits to ICAC agreement officers aged 55 and above who have completed ten years of service or more should not be supported;
- (b) to allow ICAC agreement officers to be eligible for the downpayment loan under the Home Financing and Home Purchase Schemes should be supported in principle and the Administration should be asked to review its existing policy with a view to devising appropriate arrangements for providing the loan to agreement officers; and
- (c) to allow ICAC local agreement officers to be eligible for the Government Training Scholarship Scheme in the same way as pensionable officers should be considered sympathetically, with a view to applying the existing rules more flexibly for deserving ICAC local agreement officers.

7.103 We also advised that any revised arrangements to extend the downpayment loan facility to ICAC agreement officers should, as a matter of principle, apply equally to all agreement officers in the other disciplined services (and the general civil service).



**Visit to the Operations Department of the Independent Commission Against Corruption in January, 1990.**

7.104           The Administration is still considering this matter and, accordingly, the Commissioner has not yet been informed of our advice to the Governor.