

立法會
Legislative Council

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Finance Committee of the Legislative Council

**Minutes of the 4th meeting
held at the Legislative Council Chamber
on Friday, 15 December 2000, at 2:30 pm**

Members present:

Dr Hon Philip WONG Yu-hong (Chairman)
Hon NG Leung-sing (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, JP
Hon David CHU Yu-lin
Hon Cyd HO Sau-lan
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Eric LI Ka-cheung, JP
Dr Hon David LI Kwok-po, JP
Hon Fred LI Wah-ming, JP
Dr Hon LUI Ming-wah, JP
Prof Hon NG Ching-fai
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon CHEUNG Man-kwong
Hon CHAN Kwok-keung
Hon CHAN Yuen-han
Hon Bernard CHAN
Hon CHAN Kam-lam
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai
Hon Jasper TSANG Yok-sing, JP
Hon Howard YOUNG, JP
Dr Hon YEUNG Sum

Hon YEUNG Yiu-chung
Hon LAU Kong-wah
Hon Mrs Miriam LAU Kin-yee, JP
Hon Ambrose LAU Hon-chuen, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, JP
Hon Henry WU King-cheong, BBS
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Members absent:

Hon James TO Kun-sun
Hon HUI Cheung-ching
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon LAU Chin-shek, JP
Hon LAU Wong-fat, GBS, JP
Hon Timothy FOK Tsun-ting, SBS, JP

Public officers attending:

Miss Denise YUE, JP
Mr Stanley YING, JP
Mr K K LAM

Mr Alan CHU
Mr P T CHOY, IDSM, JP

Secretary for the Treasury
Deputy Secretary for the Treasury
Principal Executive Officer (General),
Finance Bureau
Principal Assistant Secretary for Security
Deputy Director of Immigration
(Administration and Operations)

Mr T P WONG, IDSM	Deputy Director of Immigration (Special Assignment)
Ms W M CHAN	Assistant Principal Immigration Officer, Immigration Department
Mr Kim SALKELD, JP	Deputy Secretary for the Environment and Food
Mr Donald TONG	Principal Assistant Secretary for the Environment and Food
Mr John COLLIER, JP	Director of Drainage Services
Mr C H LAM	Assistant Director of Drainage Services
Mr Stanley WONG	Deputy Secretary for Financial Services
Miss Clara TANG	Principal Assistant Secretary for Financial Services
Mr Norman CHAN, JP	Deputy Chief Executive, Hong Kong Monetary Authority
Ms Julia LEUNG	Executive Director (External Department), Hong Kong Monetary Authority
Ms Loretta WONG	Senior Manager (External Relations), Hong Kong Monetary Authority
Ms Eva CHENG, JP	Deputy Secretary for Information Technology and Broadcasting
Ms Gracie FOO	Principal Assistant Secretary for Information Technology and Broadcasting
Mr M H AU, JP	Senior Assistant Director of Telecommunications
Mr Ian WINGFIELD, GBS, JP	Law Officer (Civil Law)
Mr Anthony WU	Deputy Law Officer (Civil Law)
Mr Peter CHEUNG, JP	Director of Administration and Development
Mr John LEUNG	Principal Assistant Secretary for Education and Manpower (9)
Mr J D WILLIS	Controller, Student Financial Assistance Agency
Mr HO Wing-him, JP	Deputy Secretary for Health and Welfare
Miss Diane WONG	Principal Assistant Secretary for Health and Welfare
Mrs Carrie LAM, JP	Director of Social Welfare
Mrs June SHERRY	Assistant Director of Social Welfare
Mr Gordon LEUNG	Principal Assistant Secretary for Education and Manpower (6)
Miss Amy TSE	Senior Assistant Director of Education
Mrs Betty IP	Assistant Director of Education

Clerk in attendance:

Ms Pauline NG

Assistant Secretary General 1

Staff in attendance:

Miss Polly YEUNG

Chief Assistant Secretary (1)3

Ms Sarah YUEN

Senior Assistant Secretary (1)4

Item No. 1 - FCR(2000-01)52

**RECOMMENDATION OF THE ESTABLISHMENT SUBCOMMITTEE
MADE ON 22 NOVEMBER 2000**

Referring to the data privacy implications of the new identity card (ID Card) project, Miss Emily LAU asked whether the relevant legislation to be introduced in future would empower the Privacy Commissioner for Personal Data (Privacy Commissioner) to investigate into privacy-related matters either upon complaint or on his own accord. She was concerned that if necessary, the relevant legislation, including the Personal Data (Privacy) Ordinance, should be duly amended to remove any doubt on the powers of the Privacy Commissioner in this regard.

2. In response, the Deputy Director of Immigration (Special Assignment) (DD of Imm (Special Assignment)) confirmed that the Privacy Commissioner was already empowered under existing legislation to investigate into suspected breaches of personal data privacy. He assured members that the Administration had no objection to the continued exercise of such powers by the Commissioner in the implementation of the ID Card project. DD of Imm (Special Assignment) stressed that the Government would continue to work closely with the Commissioner in formulating the necessary legislative proposals to safeguard personal data privacy.

3. On the estimated funding requirement of some \$3.06 billion for the multi-function smart card project, Miss Emily LAU held the view that the Administration should seek funding in phases to enable better monitoring of the various stages of project implementation. In response, DD of Imm (Special Assignment) advised that the Administration was still studying the matter and would submit a paper to the Security Panel for members' consideration at the meeting on 18 January 2001. He nevertheless highlighted the need to specify the overall requirements of the proposed system in the tender documents to enable potential bidders to plan their production and resource commitments, including the engagement of experts. He pointed out that the Administration would be prepared to consider the feasibility of seeking funding in phases, but must also ensure security and privacy safeguards, as well as smooth project implementation.

Admin

4. Miss Emily LAU considered that the Administration should provide more comprehensive information on overseas practices and include cases in which the relevant Governments had decided not to proceed with ID Card schemes after careful study. In reply, DD of Imm (Special Assignment) informed members that some countries such as Australia had planned to introduce identity cards for their citizens but for various reasons such as privacy, political considerations and costs etc had finally abandoned such plans. He agreed to collect more information on overseas experience in this regard for members' reference.

5. The Committee approved the item.

Item No. 2 - FCR(2000-01)53

**RECOMMENDATIONS OF THE PUBLIC WORKS
SUBCOMMITTEE MADE ON 8 NOVEMBER 2000 AND 22
NOVEMBER 2000**

6. At members' request to consider and vote on PWSC(2000-01)61 separately, the Chairman put FCR(2000-01)53, except PWSC(2000-01)61, to the vote. The Committee approved the proposal.

**PWSC(2000-01)61 320DS Strategic Sewage Disposal Scheme
Stage I : completion of sewer tunnel
system from Kwai Chung to
Stonecutters Island**

7. Mr Frederick FUNG Kin-kee said he could not support this item because he disagreed fundamentally with the principle and methodology of the Strategic Sewage Disposal Scheme (SSDS). In response, the Deputy Secretary for the Environment and Food (DS(EF)) pointed out that the present item, being a part of SSDS Stage I, did not deal with disposal but the collection of sewage for treatment. Moreover, the International Review Panel (IRP) appointed to review the SSDS had also recommended that all scheduled Stage I tunnels should be completed as soon as possible so as to provide a cost-effective solution to the collection and treatment of sewage from the Kowloon area.

8. Dr Raymond HO shared Mr Frederick FUNG's view and reiterated his serious reservation expressed on many occasions about the effectiveness of the centralized sewage treatment strategy. However, in consideration that if the item was not approved to enable the Administration to proceed with the works under project 320DS, the Administration might be sued by the contractor for breach of contract and further claims would arise, Dr HO said that he would support the item.

9. Mr LAW Chi-kwong stated the view of Members of the Democratic Party (DP) that the Government should be held partly responsible for the current problems of the

SSDS. However, the Administration had not satisfactorily addressed the question of responsibility on the grounds that arbitration proceedings were in progress and that attribution of responsibility at this stage would prejudice the arbitration outcome. As such, Members of DP found it difficult to support the present item although they were aware that additional funding was needed to complete the project in question. Mr LAW said that Members of DP would abstain from voting.

10. Miss Emily LAU shared the view of Members of DP and enquired on the latest progress of the arbitration proceedings. In reply, DS(EF) reported that the Administration was awaiting the ruling of the arbitrator relating to Tranche 3. However, the Administration was aware that the contractor would appeal against the arbitration ruling in respect of Tranche 2.

11. Miss CHOY So-yuk stated that Members of the Democratic Alliance for Betterment of Hong Kong (DAB) were deeply concerned about the SSDS, and were disappointed that the Administration had not been able to guarantee that the funding presently sought could cover the costs of the remaining works under SSDS Stage I programme. Nevertheless, Members of DAB would support the present item to enable early completion of the Stage I projects as had been recommended by the IRP.

12. Mr Kenneth TING pointed out that although he did not fully agree with the overall direction of the SSDS, he would support the present item so as to enable the completion of SSDS Stage I. He also noted that if the works under project 320DS were abandoned due to a lack of funds, claims might be filed against the Government for breach of contract. Mr TING nevertheless urged the Administration to exercise greater prudence when embarking on future sewage disposal projects.

13. The Committee approved the item.

Item No. 3 - FCR(2000-01)54

HEAD 106 - MISCELLANEOUS SERVICES

New Capital Account Subhead "Contribution to the Seventh Replenishment of the Asian Development Fund"

14. Members noted that the Panel on Financial Affairs had discussed the present proposal on 4 December 2000.

15. Mr LAU Ping-cheung expressed support in principle for Hong Kong to make a contribution to the seventh replenishment of the Asian Development Fund (ADF VIII) in recognition of its worthwhile cause. He however had reservation about the amount of contribution and enquired whether Hong Kong could contribute less. In response, the Deputy Secretary for Financial Services (DS(FS)) and the Deputy Chief Executive, Hong Kong Monetary Authority (DCE, HKMA) emphasized that Hong Kong's share had been calculated according to a burden-sharing formula agreed by the

donors after detailed negotiation. As such, although donors' contributions to ADF were voluntary and failure to contribute in full would not give rise to any legal liability, it was appropriate for Hong Kong to observe the consensus burden-sharing formula.

16. As regards past cases of donors failing to make their contributions in full and the implications on Hong Kong's burden share, DCE, HKMA confirmed that so far, it had not been necessary for Hong Kong to contribute more than its fair share because, although some donors could not honour their full burden shares, the shortfall had been met by other donors who voluntarily increased their contributions.

17. Mr Howard YOUNG concurred that Hong Kong should make contributions to ADF. In response to his question, DS(FS) confirmed that Singapore had not contributed to the last replenishment.

18. Noting that a donor's subscribed capital at the Asian Development Bank (ADB) was a variable in the burden-sharing formula, Mr Henry WU sought to ascertain the relationship between Hong Kong's subscribed capital at ADB and its contributions to ADF. In reply, DS(FS) and DCE, HKMA explained that Hong Kong's subscribed shares at ADB, amounting to 0.56% of ADB's total shares, were financial obligations incurred by Hong Kong by reason of its membership in the ADB, whereas Hong Kong's burden shares to ADF were purely voluntary contributions. They were therefore two very different types of financial commitments. Members also noted that to be a Regional Director of ADB, a member state had to secure at least 8% of the total regional votes. In other words, a member holding 8% of the total shares would be able to elect a Director of its own.

19. Mr Henry WU noted that Hong Kong had only paid for 1 300 of its 19 000 subscribed shares at ADB because ADB could operate on proceeds from its bonds and had not required Hong Kong to pay for the remainder, i.e., the callable portion of its subscribed shares amounting to around US\$250 million. He was concerned about Hong Kong's ability to pay for the callable portion when required. In response, the Secretary for the Treasury (S for Tsy) advised that Hong Kong's capital subscription to the ADB had been separately approved by the Finance Committee and funding for the callable portion was already provided for and shown as a contingent liability in the Accounts of the Government.

20. Miss Emily LAU expressed strong support for the proposal in furtherance of Hong Kong's international image. She however sought confirmation that the concessional loans of ADF would serve its intended objective of reducing poverty in the Asia-Pacific region. In reply, DS(FS) assured members that a monitoring mechanism was in place. ADF loans had mostly been granted for the implementation of basic amenities projects such as clean water supply. DCE, HKMA supplemented that ADB's Board of Directors would be responsible for vetting and monitoring ADF loans on the basis of appraisal reports. Borrowers that had implemented the loan projects well would be in a better position to secure further

loans. Moreover, the ADB management would conduct an interim review of ADF VIII projects in 2003.

21. Dr YEUNG Sum stated that Members of DP would support the proposal to facilitate Hong Kong's continued participation in the worthwhile cause of ADF. He was concerned about how Hong Kong could play a role in ensuring the fair allocation of ADF loans. In response, DS(FS) said that although Hong Kong did not have its own Director, Hong Kong would nevertheless monitor the grant of the loans for worthwhile projects through Australia, its representative on the Board of Directors.

22. Mr LEE Cheuk-yan expressed support for the proposal. He however stated his view that loan applications from Myanmar should be boycotted as a form of economic sanction against its dictatorial military rule.

Admin

23. Noting that the ADF supported quite a number of Mainland projects, Mr LAU Ping-cheung requested assistance from the Administration in ensuring Hong Kong companies could bid for such projects. In response, DCE, HKMA advised that ADF-sponsored projects were normally subject to a competitive bidding process. He undertook to follow up with the ADB to see how their tender notices/information were disseminated so that interested companies in Hong Kong could bid for the projects.

24. The Committee approved the proposal.

Item No. 4 - FCR(2000-01)55

HEAD 55 - GOVERNMENT SECRETARIAT : INFORMATION TECHNOLOGY AND BROADCASTING BUREAU

◆ Subhead 700 General other non-recurrent

New Item "Consultancy Services for Licensing of Third Generation Mobile Services"

25. Members noted that the Panel on Information Technology and Broadcasting had discussed the present proposal on 17 November 2000.

26. On the progress made in identifying a consultant to advise on the licensing of third generation (3G) mobile services in Hong Kong, the Deputy Secretary for Information Technology and Broadcasting (DS(ITB)) reported that 14 multi-national companies had responded to the Administration's invitation for bids in November 2000. At present, seven shortlisted consultants had already been invited to submit their proposals.

27. Mr Howard YOUNG stressed that the consultancy contract should be awarded to the consultant with the right calibre, experience and knowledge instead of to the consultant offering the lowest bid. In response, DS(ITB) acknowledged Mr

YOUNG's concern and assured members that all relevant factors would be taken into consideration with a view to awarding the consultancy to the most suitable bidder and the bid price would not be the sole consideration.

28. In response to Miss Emily LAU's concern on whether there would be difficulty in engaging consultants with sufficient experience to advise on the hybrid method, DS(ITB) stressed that the required expertise was available in the market, as 3G auctions and spectrum auctioning had taken place in Europe and other advanced economies. In fact, all shortlisted consultants had experience in providing consultancy service to other governments in 3G licensing. As to the open network requirement, although Hong Kong seemed to be the only place explicitly requiring successful 3G licensees to open part of their network for use by other content/service providers, the requirement was not a brand-new concept because interconnection was already an important element in the provision of telecommunications services in Hong Kong. DS(ITB) further advised that in many overseas countries, the open network requirement was also part of government policy or regulatory regime. The Administration was confident that having regard to Hong Kong's experience in interconnection and through working closely with the industry, the consultant would be in a position to propose a sound open network regulatory framework for Hong Kong.

29. Mr Henry WU was concerned that the mandatory open network requirement might diminish the potential investment value of the 3G network and hence, adversely affect the revenue to be raised from auctioning Hong Kong's 3G licences. In response, DS(ITB) pointed out that in proposing the auctioning element, the Administration's key consideration was not the generation of handsome revenue but the provision of an effective method of spectrum allocation. She reiterated that the major objectives of launching 3G services in Hong Kong were to introduce the wide array of 3G services and to promote the development of the telecommunications industry in Hong Kong. The open network requirement was considered an effective approach in achieving the two aforesaid objectives. DS(ITB) added that it was important to make clear to potential licensees of the implementation of an open network requirement so as to enable them to make an informed decision on whether or not to bid for the network licence.

30. As to why the Administration had only made reference to the consultancy fees paid by the Danish Government for its consultancy service when working out the proposed level of commitment of \$55 million for engaging consultants, DS(ITB) remarked that information on the consultancy fees paid by other governments was not available. On whether the tender outturn price would differ greatly from the commitment as presently proposed, DS(ITB) assured members that the consultancy would be awarded within the commitment because the present proposal had been worked out on the basis of the bids received from the interested companies. In this connection, members noted that no detailed breakdown of the proposed commitment was given in the paper as the Administration did not want to prejudice its position in negotiating for the most favourable price.

31. Mr LEE Cheuk-yan sought information on the revenue expected to be raised by auctioning the 3G licence, so that the Administration could assess whether the expenses on the consultancy study would be worth spending. In response, DS(ITB) said that the results of the Danish auctioning exercise were not yet known. Referring to the experience in places like Singapore and Switzerland, the revenue ranged from \$0.2 to \$1 billion per licence. In this regard, she added that the industry and the financial market had currently adopted a more conservative view on the values of 3G licences.

32. Mr SIN Chung-kai enquired whether the Administration would, as in the case of the German authorities, design its own 3G licence auctioning rules instead of engaging the service of consultants. In reply, DS(ITB) clarified that the German regulator had not drafted the rules all by itself but had also enlisted assistance from the academia. She further emphasized that in view of the novel approach in question and the various problems besetting the auctioning exercises elsewhere, it was important for the Administration to commission a consultancy study to look into possible problems and clear uncertainties inherent in licence auctioning so as to guard against litigation and related financial loss. On whether a contingency reserve should be made available for litigation costs, DS(ITB) considered that if the licencing arrangements and bidding rules were sound, the likelihood of litigation and related costs would unlikely arise.

33. The Committee approved the proposal.

Item No. 5 - FCR(2000-01)56

HEAD 92 - DEPARTMENT OF JUSTICE

◆ Subhead 243 Hire of legal services and related professional fees

34. Members noted that the Panel on Administration of Justice and Legal Services had discussed the present proposal on 28 November 2000.

35. On the basis for drawing up the original estimates for the hire of legal services and related professional fees, the Law Officer (Civil Law) advised that each year, the Department of Justice (D of J) would estimate the required provision with reference to the approved provision for the past year, as well as special items likely to incur additional expenditure in the coming year. He nevertheless highlighted the difficulty in accurately predicting the amount required and the timing of incurring the expenditure. Members noted that apart from the over-expenditure in 1991-92, the other supplementary provisions required had been approved by S for Tsy under delegated authority.

36. Mr NG Leung-sing sought justification for the additional expenditure incurred in *The Government of the Hong Kong Special Administrative Region v Hyder Consulting Ltd.* In reply, the Law Officer (Civil Law) advised that the original

proceedings relating to the claim made by the Consulting Engineers against the Government had been broadened into a counter-claim by the Government in respect of the amount which it was required to pay. The increase in estimated expenditure from \$0.9 million to \$5.2 million was not directly proportionate to the extension of the hearing from two weeks to four-and-a half weeks, but also attributable to the need to engage experts to give evidence to support the Government's claim.

37. Referring to *Campenon Bernard/Maeda Corporation J.V. v The Government of the Hong Kong Special Administrative Region*, Miss Emily LAU was concerned about protracted litigation proceedings and enquired on the latest position of the case.

38. In response, the Law Officer (Civil Law) explained that the initial claim by the contractor and the Government's counter-claim on the issue of liability had been determined by the Arbitrator in respect of the three Tranches but the contractor had applied for leave to appeal to the court in respect of part of the Tranche 2 Award. The application for leave would unlikely be heard until 2001. On the quantum of the claims, the Law Officer (Civil Law) said that this would have to await the conclusion of the completion contracts because the Government's counter-claim would be based on the additional costs incurred as a result of its re-entry of the initial contracts.

39. As regards the 24 professionals involved in the aforesaid case referred to by Miss Emily LAU, the Law Officer (Civil Law) confirmed that three of them were barristers and the others included solicitors and tunnelling experts. Of the \$42.4 million estimated expenditure, about \$19 million would be paid to the lawyers while the remaining amount would be for engaging the service of the technical experts.

40. Referring to the Administration's earlier statement that all the SSDS Stage I projects could be completed within the overall approved project estimate (APE) of \$8.3 billion, Mr Henry WU was concerned that the substantial amount of claims and counter-claims as revealed under the present proposal might lead to over-expenditure in excess of the APE.

41. On the cases relating to the arbitration proceedings for the two SSDS deep tunnelling contracts, the Law Officer (Civil Law) advised that the bulk of the combined claim value of \$2.5 billion was the Government's counter-claims against the contractor. As regards the contractor's appeal against the Tranche 2 Award, the Law Officer (Civil Law) confirmed that the case in question would not give rise to any additional quantification for claims on top of the aforesaid \$2.5 billion. Notwithstanding the Administration's explanation, Mr Henry WU remained concerned that the overall APE of \$8.3 billion might be exceeded.

42. In reply to Mr Albert HO's enquiry about the need for additional funding for costs in case the Arbitrator ruled against the Government, the Law Officer (Civil Law) clarified that the expenditure incurred for costs would be provided for under another Subhead for which supplementary provision would be sought if necessary.

43. Mr Albert HO asked whether there had been cases in the past in which the Government had sought taxation of costs by the court. In reply, the Law Officer (Civil Law) assured members that the bills submitted by lawyers and consultants engaged by the Government would be vigorously scrutinized by D of J and the Treasury to ensure that they were in order before payment was effected. As far as the relevant cases under the present proposal were concerned, he was satisfied that taxation of costs by the court would not be required. As regards the costs demanded by the opposite party, the Government had from time to time sought taxation by the court.

44. Regarding the estimated expenditure in respect of the privatization of the Mass Transit Railway Corporation, the Law Officer (Civil Law) advised that the estimated expenditure was not for settling claims but was an one-off expenditure for fees and expenses in relation to briefing solicitors in providing legal advice on the international law aspects of the privatization exercise.

45. The Committee approved the proposal.

Item No. 6 - FCR(2000-01)57

HEAD 173 - STUDENT FINANCIAL ASSISTANCE AGENCY

◆ **Subhead 275 Student travel scheme**

46. The Committee approved the proposal.

Item No. 7 - FCR(2000-01)58

HEAD 170 - SOCIAL WELFARE DEPARTMENT

◆ **Subhead 411 Social welfare services (grants)**

47. Members noted that the Panel on Welfare Services had discussed the present proposal on 13 November 2000.

48. Mr WONG Sing-chi stated that Members of DP supported the provision of enhanced home and community care services for the elderly proposed in the paper. However, they would object to the funding proposal relating to the Lump Sum Grant (LSG) mode of subvention as they considered that the interests of staff employed by the Non-Governmental Organizations (NGOs) had not been adequately catered for under the LSG arrangement. As such, Mr WONG requested that the proposals relating to LSG and enhanced services for the elderly contained in the same paper be considered and voted on separately.

49. In reply to the Chairman, S for Tsy confirmed that the net supplementary funding required in 2000-01 for implementing the proposed provision of enhanced home and community care services for the elderly was below \$10 million and could be approved by her under delegated authority. Technically speaking, it was not necessary to split the proposal for the purpose of deciding separately on the funding for LSG and for services for the elderly.

50. On details of the Steering Committee to be chaired by her, the Director of Social Welfare (DSW) advised that the establishment, composition and terms of reference of the Committee had been discussed and agreed with the staff side at a former working group. The Committee would comprise representatives from the Government, NGOs, staff unions and service users and would follow up on all issues arising from the implementation of LSG, including complaints about staff benefits and the quality of services provided. In the light of operational experience, the Steering Committee would hope to formulate and recommend to NGOs the best practices to be adopted. However, the Committee would not arbitrate on labour disputes between individual NGOs and their employees.

51. Miss CHAN Yuen-han and Mr Frederick FUNG Kin-kee expressed grave concerns about the prevalent practice among NGOs of engaging their social work personnel on temporary, month-to-month terms. Mr FUNG considered that the introduction of LSG had led to a number of malpractices by NGOs which dealt a heavy blow to the social welfare sector.

52. DSW clarified that even under the existing funding arrangement, NGOs were at liberty to engage temporary staff according to their own needs without having to report to the Department. She considered that the employment of staff on contract terms was not itself a problem but was a suitable response to changing needs, as also evidenced by the recruitment of Administrative Officers into the civil service on contract terms. Nevertheless, as specified in the LSG Manual, NGOs were advised to formulate human resources strategies to provide for the career development of their staff. She pointed out that the current engagement of social work staff on short-term basis might mainly be due to uncertainty over the implementation of LSG. Where necessary, the future Steering Committee would closely monitor the situation to ensure that such employment practice would only be adopted under exceptional circumstances. In the case referred to by Mr Frederick FUNG, the Administration gathered that the staff currently on monthly contract would be offered a three-year contract by 1 April 2001 subject to satisfactory performance.

53. As regards Miss CHAN Yuen-han's concern about unfair employment terms and conditions under LSG, DSW said that the cases referred by members in the past three months had all been appropriately dealt with and there was little evidence of unreasonable treatment. She further reported that all the 95 NGOs which had decided to join LSG in 2000-01 had undertaken to honour the contractual obligations to their existing staff and had conducted the necessary staff consultations. All NGO management had also been reminded to adopt reasonable and responsible recruitment

practices in engaging new staff. As funding for Provident Fund was regarded as designated expenditure which could not be put to other uses, DSW did not see any likelihood or incentive for NGOs to evade the employer's contribution under the Mandatory Provident Fund Schemes Ordinance.

54. Mr Frederick FUNG referred to a NGO which had created a new rank of Personal Care Worker (PCW) II at a monthly wage of \$8,000 while the existing PCW rank carried a monthly wage of \$9,000. In response, DSW pointed out that the Administration had no objection in principle to the creation of new positions by NGOs to meet service needs and to improve the existing rigid staffing structure which had failed to provide the necessary flexibility. The Assistant Director of Social Welfare supplemented that the NGO concerned had not abolished the existing PCW I rank but had created the new PCW II rank with a view to motivating staff at the lower rank to work hard for advancement to the higher rank.

55. On the consequence of not approving the present funding proposal, DSW advised that in view of the enthusiastic response from NGOs, there was insufficient provision under the relevant Subhead of the Social Welfare Department to meet the recurrent subvention required to enable the 95 NGOs to implement the new LSG in the current financial year. In case the proposed supplementary provision was not approved, the NGOs concerned would not be able to implement LSG. The NGOs' savings achieved through various productivity enhancement measures during the current financial year would also have to be returned to the Treasury and this might be unfair to the NGOs concerned.

56. On behalf of Members of the Hong Kong Confederation of Trade Unions, Mr LEE Cheuk-yan objected to the present proposal and urged members not to support it. He stressed that the LSG arrangement would deal a fatal blow to the job security and morale of the 20 000-strong social work practitioners as in future, experienced staff who joined another NGO might not be entitled to any salary increment and the employer's provident fund contribution commensurate with his past experience. Mr LEE was also gravely concerned that the NGOs might pay their new recruits unreasonably low wages since staff remuneration would no longer be pegged to the relevant civil service pay scales.

57. Dr YEUNG Sum was of the view that the Administration had over-emphasized the importance of greater flexibility to the NGOs in the deployment of resources at the expense of the interests and job security of staff. He was deeply concerned about the future well-being of the staff employed by some poorly managed NGOs.

58. Miss Cyd HO shared the views of Mr LEE Cheuk-yan and Dr YEUNG Sum and suggested that the Administration should withdraw the present proposal and re-submit it in six months to allow time for NGOs in the social welfare sector to familiarize themselves with the new funding and management practices. She was concerned that staff immobility might result as staff would be unwilling to change jobs in the absence of any increments commensurate with their past years of service.

59. Mr Albert CHAN pointed out that unlike public bodies operating on a LSG basis, individual NGOs could not be held publicly accountable and unfairness in their operations could not be ruled out. He cautioned that individual NGOs might abuse the flexibility given to them and divert the bulk of the resources to enhance the remuneration and advancement of senior management staff at the expense of the junior or frontline staff.

60. DSW did not subscribe to members' criticisms about LSG and pointed out that a number of public-funded bodies such as the Legislative Council Secretariat, Hospital Authority and the Vocational Training Council were operating on a LSG basis. She was given to understand that some members also strongly supported the early implementation of LSG by The Ombudsman's Office. DSW further advised that the LSG arrangement had been in the pipeline for some six years and the original deadline of September 2000 for NGOs to opt to join LSG had been put back to allow for more refinements. As a result, the tide-over grants arrangement was extended to year 2006 and other arrangements have put in place to address the sector's concern. Given the drawbacks under the existing funding arrangements and the very favourable response from NGOs, DSW did not see any strong reason for further deferral and urged members to support early implementation of LSG as a first step to bring about reforms.

61. The Chairman put the proposal to vote. 31 members voted for the proposal, 17 voted against and 2 abstained -

For:

Mr Kenneth TING Woo-shou	Mr James TIEN Pei-chun
Mr David CHU Yu-lin	Mr Raymond HO Chung-tai
Mr Eric LI Ka-cheung	Dr LUI Ming-wah
Mr NG Leung-sing	Prof NG Ching-fai
Miss Margaret NG	Mrs Selina CHOW LIANG Shuk-ye
Mr CHAN Kwok-keung	Mr CHAN Yuen-han
Mr Bernard CHAN	Mr CHAN Kam-lam
Mrs Sophie LEUNG LAU Yau-fun	Mr Jasper TSANG Yok-sing
Mr Howard YOUNG	Mr YEUNG Yiu-chung
Mr LAU Kong-wah	Mrs Miriam LAU Kin-ye
Mr Ambrose LAU Hon-chuen	Miss CHOY So-yuk
Mr TAM Yiu-chung	Dr TANG Siu-tong
Mr Abraham SHEK Lai-him	Mr Henry WU King-cheong
Mr Tommy CHEUNG Yu-yan	Mr LEUNG Fu-wah
Dr LO Wing-lok	Mr IP Kwok-him
Ms Audrey EU Yuet-mee	
(31 members)	

Against:

Miss Cyd HO Sau-lan	Mr Albert HO Chun-yan
Mr LEE Cheuk-yan	Mr Martin LEE Chu-ming

Mr Fred LI Wah-ming
Mr LEUNG Yiu-chung
Dr YEUNG Sum
Mr Andrew CHENG Kar-foo
Mr LAW Chi-kwong
Mr Albert CHAN Wai-yip
Mr Frederick FUNG Kin-kee
(17 members)

Mr CHEUNG Man-kwong
Mr SIN Chung-kai
Miss Emily LAU Wai-hing
Mr SZETO Wah
Ms LI Fung-ying
Mr WONG Sing-chi

Abstention:

Mr Michael MAK Kwok-fung
Mr LAU Ping-cheung
(2 members)

62. The Committee approved the proposal.

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HEAD 40 - EDUCATION DEPARTMENT

◆ Subhead 106 Temporary staff

63. Mr CHEUNG Man-kwong asked whether the 290 teachers employed on non-civil service contract (NCSC) terms in government schools would be employed on civil service terms upon the Education Department (ED)'s exemption to the general freeze on civil service recruitment in the 2001-02 school year and if yes, whether their previous period of service on NCSC terms would be counted towards their future probation period.

64. In reply, the Senior Assistant Director of Education (SAD of E) advised that when ED resumed recruiting teachers on civil service terms in 2001-02, the 290 teachers would be given priority in making applications. If the vacancies could not all be filled by these experienced teachers, other candidates would be considered. As regards the probationary period, SAD of E confirmed that in accordance with the new policy on civil service appointment promulgated in June 2000, the period of service of the 290 teachers as NCSC staff would not be counted towards their three-year probationary period if they were subsequently appointed on civil service terms.

65. Mr CHEUNG Man-kwong considered the aforesaid arrangement unfair. As the teacher concerned had already been performing teaching duties in the past few years, and his ability had been duly tested and proven, Mr CHEUNG saw no reason why the teacher had to be appointed on three-year probation afresh. Mr CHEUNG highlighted the unfairness of the said policy which affected not only the 290 teachers under the present proposal but also some other staff who had served on NCSC terms for some time and who might be recruited into civil service establishment in due

course. He urged that the appointment policy in question should be critically reviewed.

66. In response, SAD of E advised that as the said policy would apply service-wide, the ED was not in a position to adopt a different set of arrangements as suggested by Mr CHEUNG. The Chairman suggested that Mr CHEUNG could follow up this policy issue with the Administration after the meeting.

67. Mr LEE Cheuk-yan recalled that where there were strong justifications, departments could be exempted from the general freeze on civil service recruitment. As there was a need to recruit government school teachers on civil service terms, he queried why ED had not sought exemption at the outset.

68. In response, SAD of E explained that the general freeze on hiring into the civil service announced by the Financial Secretary (FS) was first introduced as a temporary measure pending the review of the terms and conditions of the civil service. At that time, ED saw no reason why teachers could not be engaged on NCSC terms pending the outcome of the said review. Moreover, there was not sufficient time for ED to put up a case to seek exemption after FS's announcement of the general freeze in March 1999 as the department had to finalize the appointment of teachers in May or June in preparation for the new school term in September. Following FS's announcement in the 2000-01 Budget that the general freeze on civil service recruitment would continue, ED had without delay applied for and was granted exemption to resume recruiting teachers on civil service terms from the 2001/02 school year.

69. SAD of E further advised that if the proposed supplementary provision was not approved, ED would have problems in effecting payment of salary to the 290 teachers from January 2001 onwards.

70. The Committee approved the proposal.

71. The Committee was adjourned at 4:45 pm.