

For Discussion
on 7 May 2001

LegCo Panel on Constitutional Affairs

**Taking Up of Public Offices by
Employees of Subvented Welfare Organisations**

Purpose

This paper informs Members of the Social Welfare Department (SWD)'s plan to deal with the issues relating to employees of subvented welfare organisations taking up public offices.

Background

2 Under the present subvention policy, there are no rules governing how a subvented organisation should treat its staff in terms of their participation in public offices. When the subject was previously discussed, the Administration has advised that it would simply be not feasible to prescribe a set of standardised guidelines for compliance by all subvented bodies. In reality, the nature of public office and the demands these appointments place on appointees vary significantly from one to the other. The last thing we like to see would be rigid rules and barriers that frustrate or inhibit people taking up such public service appointments especially when we are advocating more open government, taking into account the views of professionals and the community in our work.

3 There are a total of 183 subvented organisations in the welfare sector. Against the service-wide situation as described above, SWD has not to date promulgated guidelines on the subject of staff of subvented NGOs taking up public offices. The Hong Kong Council of Social Service (HKCSS) which is the main co-ordinating body of non-governmental organisations (NGOs) in the welfare sector issued a set of guidelines, i.e. “Administrative Pointers for the Reference of Member Agencies in Respect of Staff Taking Up Public Offices” (“Administrative Pointers”) to its member agencies (Annex).

4 The HKCSS “Administrative Pointers” is an administrative guideline for the reference of member agencies in relation to staff taking up public offices. The “Administrative Pointers” set out certain broad principles, such as agencies should specify whether permission will be given to full-time and/or part-time staff to take up public office. It however does not specify whether staff’s salary and benefits would need to be adjusted upon taking up remunerated public offices.

5 During previous discussions at the Constitutional Affairs Panel, SWD undertook to consider Members’ suggestion on drawing up a set of guidelines for subvented organisations, taking reference from similar guidelines

promulgated by the Hospital Authority and tertiary education institutions. It has always been our intention that such a set of guidelines would only set out broad principles on which individual organisations would work out detailed arrangements to suit their needs.

Analysis

6 SWD sees merit in promulgating some general guidelines for reference by the management of subvented welfare NGOs, helping them to draw up their respective agency practices governing employees taking up public offices. This is because subvention money is meant for funding the delivery of welfare services set out in the Funding and Service Agreement (FSA) which sets out clearly the respective duties and responsibilities of SWD as the funder and welfare NGOs as the service provider. NGOs should satisfy themselves that the subvention money is spent in providing quality service under the FSA.

7 The introduction of the Lump Sum Grant (LSG) subvention system for welfare NGOs as from 1 January 2001 reinforces the point that while some standardised guidelines on the subject to be issued by SWD would be useful and necessary, the onus to devise the rules and ensure compliance by staff should rest with the NGOs themselves. Starting from 2001-02, 126 NGOs are

operating in LSG system and the total subvention they receive account for 90% of total subvention allocated to all NGOs. The LSG system does away with input control over NGOs' use of resources. It enables NGOs to deploy their resources in a flexible manner best suited to their needs. Under the LSG system, emphasis is placed instead on monitoring the performance of NGOs in terms of the output and outcome of their service. As NGOs which have adopted LSG are no longer required to follow detailed rules governing how resources should be spent, their role in managing their organisations and the resources therein is accentuated. They need to become proactive managers to ensure the best use of the resources at their disposal to deliver the required service at the expected standard. The LSG Manual, which governs the operation of NGOs under LSG, places importance on accountability of the Board and management and the strengthening of management through best practices. In the Manual, a whole chapter is devoted to "Best Practices" which provides advice and guidelines to NGOs in respect of good management practices and processes. NGOs are expected to take into account such advice and guidelines and their respective best practices will be taken into account on the performance evaluation of NGOs.

Proposal

8 We propose to draw up such guidelines in the context of “Best Practices”. These guidelines should strike a pragmatic balance between encouraging and enabling staff to honour their civil duties in community participation on the one hand and proper use of subvention money as public fund on the other. We will take reference from similar guidelines issued by the Hospital Authority and tertiary institutes funded by the University Grants Committee when we formulate the guideline. It would include, inter alia, the need for staff to consult their supervisor or agency head before accepting public service, and procedures of adjustment of salary/benefits for staff taking up remunerated public offices. However, unlike the guidelines issued by the Hospital Authority and tertiary institutes which are for compliance within their organisation, we are of the view that the SWD guidelines should set out the broad principles for reference by NGOs only. Each subvented NGO, being an administratively autonomous body, should be allowed the autonomy and flexibility to determine how its financial and manpower resources should be deployed and the actual course of action to take if its subvented employee takes up public office. This is particularly relevant for NGOs which have adopted LSG as arguably, as long as the NGO is delivering the requisite service output and achieving the outcome, SWD should not interfere with its HRM practices.

9 To assist NGOs to operate under LSG in an effective and accountable manner, SWD is committed to implementing a series of measures to boost and consolidate NGOs' competence in managing their organisations, be it at the agency management or Board of Director level. We have, and will continue to, issue administrative guidelines to NGOs for their reference to promote and foster best management practices. The proposed guidelines on staff taking up public offices should become part of such. We expect individual NGOs to take note of our guidelines and formulate their own detailed internal guideline on the subject. We can offer advice to them in the process if necessary. This approach has the following advantages –

- (a) it is consistent with the respective role of SWD and NGOs in the subvention system, particularly in the LSG environment;
- (b) it preserves the integrity of the employer-employee relationship between the NGO and its employees, as well as the managerial role of the NGO; and
- (c) it provides NGOs the flexibility to draw up guidelines to suit its circumstances.

10 The implementation of LSG is monitored by a Lump Sum Grant Steering Committee (LSGSC) chaired by DSW, comprising members from HKCSS, professional bodies, NGO management and the staff side. We shall consult the LSGSC on the draft guidelines before they are issued to NGOs.

Social Welfare Department
27 April 2001

The HONG KONG COUNCIL OF SOCIAL SERVICE

**Administrative Pointers for the Reference of
Member Agencies in respect of Staff Taking Public Offices**

(1) Background

At the Council's 2nd Quarterly meeting and a subsequent Agency Heads Meeting in 1988, the topic of social workers' participation in politics was discussed. There was general support for the council to develop an administrative guideline for the reference of member agencies in regard to staff taking public offices. The main objective is to facilitate mutual understanding, expectations and obligations. Having considered the available guidelines in some of the member agencies, the Council has developed a set of administrative pointers for general reference of those concerned.

(2) Preamble

2.1 Staff of voluntary agencies, as any other citizens of Hong Kong, should be allowed to exercise their civic rights to stand for election or being nominated for appointment by Government to hold public offices as members of the District Board, the Urban or Regional Council, or the Legislative Council.

2.2 On application by an agency staff elected or appointed to serve as member of a District Board, the Urban or Regional Council, or the Legislative Council, an agency may grant to him/her special permission to serve in those capacities. Agency policy should specify whether permission will be given to full-time and/or part-time staff and whether years of service in the agency is a factor for consideration.

(3) The Agency should encourage the staff concerned to observe the following

3.1 To consult his/her immediate supervisor and agency head before accepting nomination for appointment by Government.

- 3.2 To notify in writing his/her immediate supervisor and agency head before any public announcement of his/her candidacy. Any member of staff who intends to participate in any Public Elections will be required to give prior written notice to the agency head.
- 3.3 He/she must get prior consent of the agency before using the name of the Agency in his/her election campaign.
- 3.4 Not to raise campaign funds from his/her own agency clients
- 3.5 Not to campaign when he/she is on duty in his/her agency post.
- 3.6 Not to carry out his/her elected tasks and obligations while he/she is on duty in his/her agency posts.

(4) Possible Areas to be negotiated between Agency and Staff

- 4.1 Leave of absence, e.g. the type of leave for the purpose of
 - election
 - attending meetings and other duties of the Public Office during agency duty hours
- 4.2 Permission to use Agency premises to conduct the affairs of the Public Office.

(5) Undertaking

The Agency, if thinks fit, may require the staff to sign an undertaking regarding the obligations, performance and fulfillment of his/her normal duties towards the agency during his/her term of Public Office.

HKCSS

March 1988