

立法會
Legislative Council

LC Paper No. CB(2)1019/00-01
(These minutes have been
seen by the Administration)

Ref : CB2/PL/WS

LegCo Panel on Welfare Services

Minutes of meeting
held on Monday, 12 February 2001 at 10:45 am
in Conference Room A of the Legislative Council Building

Members Present : Hon LAW Chi-kwong, JP (Chairman)
Hon CHAN Yuen-han (Deputy Chairman)
Hon Cyd HO Sau-lan
Hon Fred LI Wah-ming, JP
Hon CHEUNG Man-kwong
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Dr Hon YEUNG Sum
Hon CHOY So-yuk
Hon LI Fung-ying, JP
Hon Henry WU King-cheong, BBS
Hon Michael MAK Kwok-fung
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee

Members Absent : Hon David CHU Yu-lin
Hon LEE Cheuk-yan

Member Attending : Hon Eric LI Ka-cheung, JP

Public Officers Attending : Item III
Mrs Carrie LAM, JP
Director of Social Welfare

Action

Mr Robin GILL, JP
Deputy Secretary for Health and Welfare 3

Ms LEUNG Kwai-ling
Chief Social Work Officer (Information Systems and Technology)
Social Welfare Department

Item IV

Mr Robin GILL, JP
Deputy Secretary for Health and Welfare 3

Mrs Patricia CHU, BBS, JP
Deputy Director of Social Welfare (Services)

Miss Diane WONG
Principal Assistant Secretary for Health and Welfare (Welfare) 2

Item V

Mrs Carrie LAM, JP
Director of Social Welfare

Mr HO Wing-him, JP
Deputy Secretary for Health and Welfare 2

Miss Angela CHEONG Sau-kuen
Acting Senior Statistician, Social Welfare Department

Clerk in Attendance : Ms Doris CHAN
Chief Assistant Secretary (2) 4

Staff in Attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser (Item IV only)

Miss Mary SO
Senior Assistant Secretary (2) 8

I. Confirmation of minutes of meeting on 8 January 2001

(LC Paper No. CB(2)772/00-01)

The minutes of the above meeting were confirmed.

II. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)774/00-01(01), (02) and CB(2)786/00-01(01))

2. Members agreed to hold a special meeting on 5 March 2001 at 8:30 am to discuss the issue of policy/procedures for allocating new social welfare service, and to invite deputations to give views on the matter. Members further agreed to discuss the following items at the next regular meeting to be held on 12 March 2001 at 10:45 am -

- (a) Services for young night drifters;
- (b) Support for families in crises; and
- (c) Review of family welfare services.

3. Mr CHEUNG Man-kwong proposed to discuss the issue of regulation of private residential care homes for the elderly and the recent upsurge in the number of street sleepers at a future meeting. Members expressed support. The Chairman undertook to liaise with the Administration on the timing for the discussion of the aforesaid two issues.

4. Director of Social Welfare (DSW) said that the Administration was very concerned about the recent upsurge of street sleepers. In this connection, work had commenced several months ago on formulating a three-year strategic plan to address the problem. The Administration planned to brief members on the three-year strategic plan after its discussion with the Subventions and Lotteries Fund Advisory Committee on the same in March 2001. Regarding the regulation of private residential care homes for the elderly, DSW said that the licensing of all these homes should be completed by the end of March 2001. The Administration would be happy to brief members on the issue after March 2001 if members so wished.

5. The Chairman reminded members that a joint meeting would be held with the Panel on Manpower on 27 February 2001 at 5:00 pm to discuss the various forms of assistance to help the unemployed find employment.

III. Information technology development in the social welfare sector

(LC Paper No. CB(2)774/00-01(03))

6. At the invitation of the Chairman, DSW briefed members on the Administration's paper which detailed the proposed role of Social Welfare Department (SWD) in helping the welfare sector to catch up in the use of information technology (IT) together with an initial IT strategy for achieving such.

7. Mr CHEUNG Man-kwong said that IT accessibility to the elders should be increased. Mr CHEUNG further said that there were complaints that many Government web sites on the Internet were still inaccessible to the blind and the visually impaired, and enquired about the actions to be taken by the Administration to address the problem.

8. DSW said that it was the Administration's aim to increase IT accessibility to the elders, as this would broaden their horizon in their retirement years. To this end, SWD had worked with the Information Technology Services Department (ITSD) to launch an IT awareness programme for the elderly during the period from November 2000 and March 2001. The programme was targeted at a total of 3 000 elderly persons with an aim to provide the participants with hands-on experience in basic computer operations and surfing on the Internet. In 2001-02, SWD would continue to provide IT awareness training for another 5 000 elders, and install personal computers with Internet facilities in all multi-service centres and social centres for elders. Concerning the complaints that many Government web sites were still inaccessible to the blind and the visually impaired, DSW agreed to take the matter up with the relevant Government bureaux and departments.

9. Mr CHEUNG further enquired whether a timetable had been set for SWD and non-government organisations (NGOs) involved in the provision of social services to revamp their web sites so that they would be accessible to the blind and the visually impaired. DSW responded that it was not possible nor fair to set a target date requiring NGOs to revamp their web sites so that they would be accessible to the blind and the visually impaired, as the use of IT in many NGOs was still at a very elementary stage. Nevertheless, she agreed to put Mr CHEUNG's suggestion on the agenda of the soon to be set up Joint Committee on IT in the Welfare Sector for consideration.

10. Deputy Secretary for Health and Welfare 3 (DSHW(3)) said that the Government had a programme for reviewing all Government Homepages to make sure that all Government web sites were accessible to people with disabilities. A number of Government bureaux/departments, namely, ITSD, Information Technology and Broadcasting Bureau, Health and Welfare Bureau, Information Services Department and Home Affairs Bureau, had already started work on this and the Government had set a target for all bureaux and departments to complete work by the end of 2002.

Action

Mr CHEUNG Man-kwong hoped that SWD, in implementing its IT strategy for the welfare sector, could consider adopting the same target for NGOs providing social services.

11. The Chairman informed members that a recent survey on Web accessibility conducted by the Equal Opportunities Commission revealed that out of 163 public sector web sites in Hong Kong, only 20% passed the Bobby test, which was an on-line accessibility checker accepted by many countries and organisations as international norms and standards for ensuring Web accessibility for persons with a disability. In this connection, he mentioned that the matter would soon be discussed by the Panel on Information Technology and Broadcasting.

(Post-meeting note : The Panel on Information Technology and Broadcasting would discuss the issue of Web access by disabled persons at its meeting to be held on 12 March 2001 at 2:30 pm.)

12. Mr WONG Sing-chi enquired whether SWD would consider providing funding to enable NGOs to hire short-term staff so that their permanent staff could be released to receive IT training. Mr WONG further said that IT training should be made an integral part of social service education, and enquired whether action had been made to pursue such with the tertiary institutions concerned.

13. Responding to Mr WONG's first question, DSW said that there was no strong justification for providing funding to enable NGOs to hire short-term staff so that their permanent staff could be released to receive IT training. In her view, NGOs should be able to release their staff to receive IT training through staff re-deployment, without adversely affecting their operation and quality of service. She also pointed out that receiving IT training during working hours should not be regarded as a must, as, under the lifelong learning campaign advocated by the Administration, all members of the community should constantly update themselves with the latest knowledge and skills in order to compete in a rapidly changing world. DSW further said that although no additional funding would be allocated to NGOs for upgrading the IT knowledge and skills of their staff, indirect subsidy in this regard was provided through the Social Working Training Fund Committee which presently provided an extra 10% of fund to the amount of fund originally requested by NGOs for staff training purpose. Responding to Mr WONG's second question, DSW agreed to discuss with the five tertiary institutions providing social work training on the possibility of including IT training in their curricula in her regular meetings with them. She added that, in order to better prepare students of social work to meet with the demands of the welfare sector, she was of the view that the social work curricula should be more multi-faceted, such as by including subjects on marketing and economics.

14. The Chairman said that no mention was made in the Administration's paper about the initiatives to make IT accessible to the socially vulnerable, and enquired

Action

whether why this was the case. DSW responded that it was the Administration's aim that all members of the community should have access to use IT. She clarified that although no mention was made in the Administration's paper about the initiatives to make IT accessible to the socially vulnerable, this did not mean that no assistance would be provided to the socially vulnerable in this regard. For example, under the Support for Self-reliance Scheme operated by SWD, training on the use of IT was provided to single-parent Comprehensive Social Security Assistance (CSSA) recipients to increase their employability, thereby helping them to become independent of public assistance.

IV. Proposed amendments to the Adoption Ordinance
(LC Paper No. CB(2)774/00-01(04))

15. DSHW(3) introduced the Administration's paper which set out the proposed legislative amendments to the Adoption Ordinance. The proposed amendments were the outcome of the public consultation exercise on the Review of the Adoption Ordinance and the views expressed by the revamped Working Group set up to examine the proposals. DSHW(3) then highlighted the following three major legislative proposals -

- (a) It would be unlawful for a person, or an organisation other than SWD (or an adoption agency authorised by SWD) to make arrangements for the adoption of a child by unrelated persons. The reasons for the proposal were twofold. Firstly, without pre-adoption counselling, the success of an adoption arrangement could be seriously undermined as the birth parents might change their mind about relinquishing the child subsequently, and the child, if he/she was old enough, might experience adjustment problems settling into a new environment. Secondly, to reduce the likelihood of monetary transactions, which might take place in the course of private adoption arrangements;
- (b) New provisions to stipulate the procedures for overseas adoption would be added. The intent of which was to ensure that the interests of the children sent overseas for adoption were protected; and
- (c) There was a need to update provisions requiring Hong Kong to automatically recognise adoption orders made in places outside Hong Kong, as stipulated in section 17 of the Adoption Ordinance, in light of new circumstances, e.g. following the return of sovereignty to China.

In respect of paragraph 15(c) above, DSHW(3) said that arising from the signing of the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption by China on 30 November 2000, the Administration was

Action

currently considering whether to apply the Convention to Hong Kong. Appropriate references to the Convention would be made in the Adoption Ordinance if it was decided that the Convention should apply to Hong Kong.

16. Mr CHEUNG Man-kwong enquired whether birth parents could reclaim the child they had signed off for adoption. Deputy Director of Social Welfare (Services) (DDSW(S)) responded that once the court had granted an adoption order to the adoptive parents, it would not be possible for birth parents to reclaim the child.

17. Noting the proposal that a birth parent who remarried would no longer have to adopt his/her children from a previous marriage when his/her spouse wished to adopt such children, the Chairman enquired about the implications on such a new arrangement if the existing relevant legislation were to be amended to repeal the custody order and replace it by a residence order, contact order, specific issues order and prohibited steps order which focussed more on the practical arrangements for the child, as recommended by the Law Reform Commission (LRC) in its Consultation Paper on Guardianship and Custody published in December 1998.

18. DDSW(S) responded that in any adoptions, including step-parent adoption, the consent of both of the birth parents, regardless of whether they were non-custodial or residential parent, had to be obtained in order for the adoption arrangements to proceed. DSHW(3) supplemented that under all circumstances, it was ultimately for the court to decide whether an adoption order should be granted. Principal Assistant Secretary for Health and Welfare (PAS/HW) also said that the Department of Justice (D of J) had been consulted in the past; notwithstanding, the Administration would double-check with D of J again to ensure that the proposal on step-parent adoption in question was not inconsistent with the recommendation made by LRC in its Consultation Paper on Guardianship and Custody regarding the substantive law of guardianship and custody.

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19. Mr Henry WU enquired whether provisions governing overseas adoption applied to the Mainland and Macau. Referring to the proposal to reduce the minimum age requirement for a child to be relinquished by his/her birth mother for adoption from six to four weeks, Mr WU enquired about the reason(s) for the change.

20. DDSW(S) replied in the negative to Mr WU's first question. Regarding Mr WU's second question, DDSW(S) said that the Working Group on Review of the Adoption Ordinance (the Working Group) was of the view that if the birth mother had decided to relinquish the parental rights of the child, it was in the best interests of the child if he/she could be placed in a potential adoptive home as early as possible. Moreover, early completion of the procedures could reduce the emotional stress on birth mothers who were rape/incest victims. DDSW(S) further said that the proposed change would not exert pressure on the birth mother to make a quicker decision, as she could always take longer than the proposed statutory minimum of four weeks to

Action

decide. DDSW(S) added that the reason why the existing minimum period of consent to place a child for adoption was six weeks could not be traced, as such a requirement was laid down many years ago.

21. Noting the view that early placement of a child for adoption was in the best interests of the child, Mr WU asked the Administration why it did not propose to further reduce the minimum period of consent to place a child for adoption to two weeks. DDSW(S) responded that as relinquishing a child for adoption was a very important decision for the birth mother to make, a four weeks minimum period was considered reasonable and appropriate in order to ensure that the birth mother had sufficient time to think carefully about the implication of relinquishing one's right over the child and for SWD to provide the necessary counselling.

22. Miss LI Fung-ying enquired whether the Working Group, when reviewing the Adoption Ordinance, had considered the need to respect the wish of the child being put up for adoption. PAS/HW responded that the court would take into account the wish of the child when deciding whether an adoption order should be granted. This was clearly set out in section 8(1)(b) of the Adoption Ordinance which stipulated "that the order if made will be for the welfare of the infant, due consideration being for this purpose given to the wishes of the infant, having regard to the age and understanding of the infant". Miss LI further enquired whether the child had the final say in whether he/she would like to be adopted by the adoption applicants, i.e. the court would not make an adoption order if the child raised objection to the adoption. PAS/HW responded that the court would consider all relevant factors, including the wish of the child, before granting an adoption order to the adoption applicants.

23. DDSW(S) supplemented that although it was not specified in the Adoption Ordinance that the child had the final say in whether he/she would like to be adopted by the adoption applicants, it should be noted that the court would not grant an adoption unless it was satisfied that the adoption was in the best interests of the child. She further said that under section 5(7) of the Adoption Ordinance, an adoption order would not be made unless the child had been continuously in the actual custody of the adoptive parents for at least six consecutive months preceding the date of the order, or where either of the applicants was a natural parent, 13 weeks. During the six-month period, the adoption caseworker would maintain close contact with and conduct regular visits to the adoptive family, prepare legal papers and report to the court. The focus of the initial two to three months was on the adjustment of the child after he/she had been placed in an adoptive home. In the following three months, the adoption caseworker would make a more in-depth assessment as to the relationship and bonding which had developed between the child, the proposed adopters and other family members. Towards the end of the period, the adoption caseworker would review the placement and if appropriate, would make preparation for finalising the adoption proceedings. The court, having reviewed all the information presented to it, would

Action

also interview the child, if he/she was old enough to respond to questions, before deciding whether an adoption order should be granted.

24. Mr CHEUNG Man-kwong enquired whether a child could refuse to be adopted by the spouse of his/her birth parent, and whether a person, if he/she wished to adopt the child of his/her spouse from a previous marriage, would be subject to criminal record check. Responding to Mr CHEUNG's first question, DDSW(S) said that the court would consider all relevant factors, including the wish of the child, before granting an adoption order to the adoption applicants. As regards Mr CHEUNG's second question, DSHW(3) replied in the positive.

25. Mr WONG Sing-chi enquired whether the rights of the adoptive parents would prevail over that of the birth mother who had given consent to put her child up for adoption soon after her child was born. DDSW(S) responded that the situation depicted by Mr WONG should not arise, as the adoptive parents had not yet appeared at this point in time. The adoptive parents would only appear after an exercise to match prospective adopters to the child, which would take place at a later time. Moreover, no adoption procedure would be finalised until the court had granted an adoption order. PAS/HW supplemented that under the Adoption Ordinance, a birth parent might revoke the consent to give up his/her child for adoption by notifying DSW in writing within three months of the execution of the form of consent. After the three-month period and before any adoption order was made, the birth parent might still apply to the court to revoke that consent.

26. Miss Cyd HO was of the view that the minimum age for adopted persons to access to their adoption records should be reduced from 18 to 16, having regard to the fact that under the Human Reproductive Technology Ordinance, the minimum age for people to access to information to ascertain whether they were born as a result of reproductive technology (RT) procedures was set at 16. As the Human Reproductive Technology Ordinance had provision to allow a person upon reaching the age of 16 to access to information to ascertain whether he/she and his/her proposed spouse was related in order to reduce the danger of accidental incest, Miss HO enquired whether similar provision was or would be provided in the Adoption Ordinance. Noting that as at December 2000, the number of DSW wards available for local and overseas adoptions was seven and 118 respectively, Miss HO enquired about the reason(s) for the wide discrepancy.

27. PAS/HW said that under the Human Reproductive Technology Ordinance, one could not have access to information on identity of gamete donor unless the consent of the gamete donor had been given. However, one should be able to have information concerning his/her parentage (non-identifying information) as might be kept by the Council on Human Reproductive Technology, thus providing safeguards against unintentional incest. Under the proposal for adopted children, those under 18 (with the consent of adoptive parents) and over 18 would have access to their birth

Action

Adm

information (including the names of the birth parents, if available). The veto against disclosure referred to the addresses of the birth parents. Therefore, the scenarios for children born of RT procedure and adopted children were different. With access to information on the names of the birth parents by the adopted children, it was unlikely that unintentional incest between an adopted person and his/her proposed spouse would occur. As regards Miss HO's suggestion to reduce the minimum age for adopted persons to access to their adoption records from the existing 18 to 16 in the drafting of the Amendment Bill, PAS/HW agreed to check the rationale behind the setting of the age of 16 under the Human Reproductive Technology Ordinance and consider whether there was a need to align the two.

28. Responding to Miss HO's second question, DDSW(S) said that the fact that the number of DSW wards available for local adoption was only seven did not mean that there were very few local adoptions. On the contrary, many normal and healthy children were successfully adopted by local families. However, there were difficulties to match children with special needs and/or from a relatively uncomplicated family background to local families which preferred healthy children. Under the circumstances, a great majority of DSW wards was therefore available for overseas adoption. This arrangement was in line with the United Nations Convention on the Rights of the Child which stipulated that no child should be placed for overseas adoption until all efforts to place him/her for adoption locally had been exhausted. In assessing the suitability of an overseas adoptive family, every effort would be made to ensure that the adoptive family would respect the ethnic and cultural background of the child as far as possible. DDSW(S) further said that the court had to be satisfied that the aforesaid arrangements had been made before granting an order authorising departure of the child for overseas adoption.

29. Responding to Miss HO's further enquiry as to whether a childminder who wished to adopt the child under his/her care would also be required to apply for an adoption order, DDSW(S) said that it was necessary in order to ensure that the child was placed in the best available adoptive home.

30. The Chairman hoped that the Administration, when drafting the Amendment Bill, could also look into ways to safeguard the privacy of the adopted persons, having regard to the fact that nowadays many personal details regarding the adopted persons in other countries, e.g. USA could be found on the Internet.

31. Noting the proposal that, upon request from an adopted person, the Administration would disclose the birth and adoptive records, except for the addresses of the birth parents if the birth parents had exercised their right of veto on disclosure, Mr CHEUNG Man-kwong enquired whether, under the existing legislation, the birth parents could request the Administration to provide information on the whereabouts of the child they had signed off for adoption.

Action

32. DDSW(S) responded that the existing legislation was silent on whether the birth parents could or could not request the Administration to provide information on the whereabouts of the child they had signed off for adoption. However, in practice, if a birth parent came to SWD to trace the child he/she had given up for adoption many years ago, SWD would try to facilitate such by seeking the views of the adoptive parents and the child as to whether they wished to meet the birth parent.

33. Referring to paragraphs 13 and 14 of the Administration's paper, Miss CHAN Yuen-han enquired what were the majority and minority views of the Working Group on adoption of child by unrelated persons. DSHW(3) responded that the majority view of the Working Group was that there was no place for private adoption by unrelated persons. They believed that, in order to ensure that the best interests of the child were fully protected, persons who wished to adopt a child unrelated to them should go through the necessary adoption procedures so that SWD could provide counselling to them and verify that consent had been given by the birth parents. In addition, SWD could ascertain that there had been no manipulation of adoption for monetary gain and that the birth parents had not been compelled to make decisions on the basis of limited/incorrect information or persuasion from people not professionally competent to advise. A minority of members of the Working Group, however, held a different view that the adoption procedures could be circumvented at the moment without violating the law by somebody agreeing to look after the child in an informal way. The majority of members of the Working Group, however, felt that although it was technically feasible to do so, it was not the right approach. Moreover, there would inevitably be practical difficulties in such an informal arrangement. For example, the childminder would not be able to present the proper documents to the authorities when applying for a Hong Kong Identity Card for the child.

34. Responding to Miss CHAN's further enquiry as to whether there would be penalty for people circumventing the Adoption Ordinance through long-term childminding in future, DSHW(3) said that the Administration would examine this during the drafting of the Amendment Bill.

35. Senior Assistant Legal Adviser said that he would follow-up on the issues and concerns raised by members when the Amendment Bill was submitted to the Legislative Council.

V. Supplementary provisions for social security allowance
(LC Paper No. CB(2)774/00-01(05))

36. DSW briefed members on the Administration's paper which set out the justification for proposing a supplementary provision of \$55 million under Subhead 180 Social Security Allowance (SSA) Scheme. The Administration intended to seek

Action

the approval of the Finance Committee (FC) for the supplementary provisions at the meeting on 23 February 2001.

37. Mr Fred LI queried whether the reason for the significant increase in the amount of Higher Old Age Allowance (HOAA), i.e. 10%, was because elders living with their families were no longer eligible for applying for CSSA payments.

Adm 38. DSW responded that she had not conducted any analysis on the reason for the increase in HOAA payments, but pointed out that the pattern of the amount of HOAA payments varied from year to year. Nevertheless, she agreed to find out the reasons as far as possible after the meeting. She doubted if any correlation could be established between the increase and the enforcement of the "one household" rule. DSW further said that it was the established policy that all CSSA applicants were required to apply on a household basis. Acting Senior Statistician, SWD clarified that the net increase in HOAA caseload for 2000-01 was projected to be 6% as compared to the original estimate of 4%, i.e. a deviation of 2%.

39. Miss Cyd HO was of the view that in order to avoid the need to seek supplementary provisions for SSA Scheme payments when 1 April happened to be a public holiday, the Administration should advance the SSA payment date for the month of April to 31 March. DSW explained that only 12% of recipients received their payments on the first day of each month as payments for others were staggered throughout the month. As not all SSA Scheme payments were due on 1 April and that a public holiday falling on the first day of April only occurred once in a while, there was no need for changing the payment date. Moreover, with the improved computer system, advancing the payment date for a portion of the recipients would not cause a problem.

40. In conclusion, the Chairman said that members had no objection to the Administration seeking the approval of FC for the supplementary provisions of \$55 million at the meeting on 23 February 2001.

VI. Any other business

41. There being no other business, the meeting ended at 12:25 pm.

Legislative Council Secretariat

9 March 2001