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February 25, 2002

Hon Andrew WONG Wang-fat, JP
Chairman
Panel on Constitutional Affairs
Legislative Council
Legislative Council Building
8 Jackson Road
Hong Kong

Dear

Employees of Subvented Welfare NGOs Taking up Public Offices

The Council wrote to the LegCo Panel on Constitutional Affairs on February 18 to express the Council's views on the captioned subject. As Panel members who were present in the meeting were concerned whether the Government should impose on subvented welfare NGOs compulsory policy guidelines related to the subject, I write here again to supplement some more points for members' consideration:

1. Government subvention is usually not the only source of funding of subvented non-governmental welfare organisations. Our Council's recent assessment shows that Government subvention only accounts for around 60% of our member agencies' total revenue. To some NGOs, Government subvention is small both in absolute term and in comparison with their total funding. For example, a subvented NGO operating a child care centre only receives 5% subsidy from SWD. Obviously, it is unreasonable for the Government to impose stringent human resources policies on such a NGO.

2. The relationship between subvented welfare NGOs and the government is multifaceted. The subvented welfare NGO sector provides the majority of public-funded welfare services, we act in partnership partner with the Government in the development of social welfare services and policies. At the level of individually subvented NGOs, it maintains a *contractual* relationship with the Social Welfare Department. Such a contractual relationship is especially obvious after the introduction of “funding and service agreement” (FSA) and “lump sum grant subvention mode” (LSG) in recent years. The funding and service agreement between an NGO and SWD acts like a contract, which specifies the level of funding the NGO receives, the quantity of services it should provide, and a set of quality standards it should satisfy. As the level of services is safeguarded by the FSA, the LSG further provides the NGO a large degree of flexibility in the use of its subvention. Management guidelines and good practices are produced by SWD and circulated to all NGOs, which we appreciate and adopt to improve practices. Hence, with such a contractual relationship and performance monitoring mechanism, it is unnecessary for the Government to intervene into a NGO’s internal policies unless it is proven necessary.
3. Similarly, NGOs which are financially supported (or “contracted”) by the Government to provide activities or services in the areas of sports, performance arts, civic education, health promotion, etc. will normally not expect Government intervention into their internal management.
4. NGOs are independent, autonomous bodies with their own self-governance and public accountability. They are not and should not be treated as a subsidiary of the Government. Individual NGO should have its own power and procedures to elect or appoint its board of governance and formulate its internal policies, save that such procedures or policies are in compliance with the NGO’s constitution / memorandum & article, the law and concerned regulations. The Government should respect the independence of NGOs and should not “over-regulate” unless it is necessary, for example, to ensure service quality or safeguard the interests of their service users or employees or the public.

We hope that members of the Panel on Constitutional Affairs will have a better understanding of the characteristics of NGOs and will appreciate our unique role as the non-governmental sector and not merely agents of the Government.

As I mentioned in the previous letter, we support that subvented welfare NGOs should have clear policies and procedures regarding their employees' taking up of public offices. To encourage our member agencies to set up such policies if they have not yet done so, we will provide necessary support to them. We understand that SWD has planned to conduct a survey amongst NGOs in this regard and we will also provide assistance whenever necessary.

Thank you for your kind attention

Your sincerely,

Virginia Chan
Business Director
(Agency Development and Liaison)

c.c. Members of LegCo Panel on Constitutional Affairs
Secretary for Health and Welfare (Attn : Mr. Robin Gill, DSHW)
Director of Social Welfare (Attn: Mr. Lee Wing Wai, ADSW)