

Urgent By Fax

7 February 2002

Clerk to the LegCo Panel on Constitutional Affairs
(Attn: Mrs Percy Ma)
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central, Hong Kong

Dear Mrs Ma

LegCo Constitutional Affairs Panel Meeting on 18 February 2002

I refer to your letter of 22 January 2002, enquiring about progress since discussion at the meeting on 9 July 2001 and proposing that the item be discussed at the meeting on 18 February 2002.

2. At the meeting on 9 July 2001, the Administration agreed to consult the Lump Sum Grant Steering Committee before issuing the guidelines and said that it would report progress to the Panel. The guidelines were then put to the Lump Sum Grant Steering Committee. Members of the Steering Committee, comprising representatives of the HKCSS, NGO management and staff, agreed about the importance of striking a balance between encouraging and enabling staff to take up civil

duties in community participation on the one hand and the proper use of public subvention on the other. Some Members also said that NGOs receiving government subvention for the provision of welfare services could also have a mission to be involved in other non-welfare public services, such as participation in district affairs, advocacy work etc. It could well be in line with the NGOs' mission to encourage their employees to take part in public service on a non-remunerated basis. Taking into account the views expressed, the Director of Social Welfare has issued a set of guidelines on the subject for reference by the NGOs in the context of "Good Practices". A copy of the guidelines is at [Annex A](#). We will be happy to assist NGOs to draw up their own standards on the basis on these guidelines.

3. The question of whether there should be a policy stipulating mandatory compliance with these guidelines has service-wide implications, given that organisations receiving Government subvention cover a wide range of services (e.g. aided schools), not just welfare services. Having confirmed with the Finance Bureau, we are of the view that this is not appropriate as Government's subvention policy acknowledges that subvented organisations operate independently of the Government and need a degree of flexibility in setting their own terms and conditions of employment. Insofar as terms of service are concerned, the fundamental principle is that the terms of service for subvented posts are not superior to those offered by the Government to comparable grades in the civil service. The question of whether employees of subvented bodies should be permitted to take up public offices, whether their taking up such offices would impact on their work and whether their remuneration should be reduced as a result, are matters between the management of the subvented bodies and their employees. Of course, the subvented organisations must bear in mind their obligations in service delivery when making management decisions. As the former Chief Secretary for Administration has explained in her letter of 25 February 2000 ([Annex B](#)), individual organisations, as autonomous subvented bodies, and as direct employers, must retain the flexibility to decide on the arrangements for their staff engaged in public offices that best suit their needs. This is not a matter that the Government should seek to direct from the centre.

4. As a matter of fact, the Government is not the sole provider of

funds for welfare NGOs, as many of them receive subvention for delivering welfare services required by the Government and, at the same time, receive funding from sources outside the Government.

5 As far as NGOs receiving welfare subvention are concerned, HWB/SWD's position is clearly outlined above. We, however, understand that the Hong Kong Council of Social Service representing a large number of NGOs receiving welfare subvention may wish to express their views on the matter to the Panel direct. Grateful if in the light of the information provided, you could confirm whether our attendance at the Panel meeting on 18 February 2002 is still required.

Yours sincerely,

(Robin C Gill)
for Secretary for Health and Welfare

c.c. D of Adm (Attn: Mr David Leung)
SCA (Attn: Ms Doris Ho)
S for Tsy (Attn: Ms Bernadette Linn)
SEM (Attn: Mr Clement Leung)
DSW (Attn: Mrs Carrie Lam, Mr Lee Wing-wai)
Miss Christine Fang, Chief Executive, HKCSS

**Guidelines for NGOs receiving welfare subventions on
Employees taking up Public Offices**

Purpose

These guidelines are promulgated for reference by NGOs receiving welfare subventions regarding the issues relating to their employees taking up public offices.

Background

2. Under the present subvention policy, there is no rule governing how a subvented organisation should treat its staff in terms of their participation in public offices. In response to concerns expressed by LegCo Members, the Social Welfare Department (SWD) sees the merit in promulgating some general guidelines for reference by the management of subvented welfare NGOs. These guidelines will help NGOs draw up their respective agency practices governing their employees taking up public offices.

3. With the introduction of the Lump Sum Grant (LSG) subvention system for welfare NGOs as from 1 January 2001, it is recognised that some general guidelines on the subject to be issued by SWD would be useful and necessary. While encouraging flexibility in using resources to meet community needs, the LSG mode of operation continues to lay emphasis on the proper use of subvention money, i.e. to fund the delivery of welfare services stipulated in the Funding and Services Agreement (FSA) which sets out clearly the respective duties and responsibilities of SWD as the funder and NGO as the service provider. NGOs have to satisfy the requirement that subvention money is spent in providing quality service, and meeting the performance standards as stipulated in the FSAs. That said, the Guidelines contained herein are intended for reference by all NGOs receiving welfare subventions, not only those operating on LSG.

4. The Department understands that it would not be practicable to

prescribe a set of standardized guidelines for compliance by all NGOs receiving government subventions. In reality, the nature of public office and the demands of these appointments put on the appointees vary significantly from one to the other. The Department would not wish to see rigid rules and barrier that frustrate or inhibit people taking up public services appointments especially at a time we are advocating a more open government and value the advice and input from professionals and stakeholders in our work.

5. The guidelines are meant to strike a pragmatic balance between encouraging and enabling staff to take up civil duties in community participation on the one hand and proper use of subvention money on the other.

6. Each NGO, being an independent entity, should be allowed the autonomy and flexibility to determine how its financial and manpower resources be deployed and the actual course of action to take when employee occupying subvented positions takes up a public office. The proposed guidelines on staff taking up public offices should become part of the administrative procedures to promote and foster best management and human resource management practices. Individual NGOs are expected to formulate their own internal procedures on the subject based on these guidelines. SWD can offer advice to them in the process if necessary.

Guidelines for employees of NGOs receiving welfare subventions

7. As a general rule, an employee of a NGO receiving welfare subventions who wishes to take up public office should consult the Board Chairman/Agency Head in writing and obtain their consent before accepting the public office.

8. The employee should seek to understand and be sure that his/her involvement in the public office would not bring forth any negative effect to his/her service and performance in his/her post in the NGO before putting up the request.

9. In his/her written request for approval, the employee has to

provide details of the tasks and responsibilities in the public office, including the expected workload, time involvement, constituency to be served, etc. to facilitate the management's assessment on his/her application. Details regarding the proportion of normal working hours and after-office hours to be spent in the public office should be clearly stated.

10. If there is any change in the duties/working condition of the public office which affects or may affect his/her service in the NGO, the employee should notify the Board Chairman/Agency Head in writing and obtain their consent to continue with the public office.

11. The employee should refrain from raising/campaigning for funds from his/her Agency clients, advertise or perform election activities and obligations while on duty in the subvented organisation.

Guidelines for Board Chairman/Agency Head

12. While considering an employee's request for taking up a public office appointment, Board Chairman/Agency Head should consider if the employee's role and duties in the public office would have conflict of interest with the Agency and its service recipients. Besides, the extent of negative effects that may possibly be brought about by the employee's involvement in the public office to the normal discharge of his/her duties in the subvented service should be taken into account.

13. After granting approval to an employee to take up public office, Board Chairman/Agency Head should keep a clear and complete record of an employee's involvement in public office. The employee's performance should be reviewed during the regular staff appraisal exercise to ensure that his/her commitment in the public office has not caused any adverse effect to his/her normal duties. If the employee is found failing to fulfill his/her role or have deteriorated in performance, the Board Chairman/Agency Head should take appropriate measures to reconsider the approval for him/her to continue with the public office.

14. If an employee has to perform duties related to his public office in normal office hours, the Board Chairman/Agency Head may consider

approval for the employee to take leave and/or to reshuffle his /her normal working hours to facilitate such activities. If an employee has to perform his public office duties in his office hours, there should be a proper record for the Board Chairman/Agency Head's information.

15. The Board Chairman /Agency Head is strongly advised to put in place a procedure of adjustment of salary/benefits for employees taking up remunerated public office after taking into consideration the proportion of normal working hours to be spent in taking up the public office.

16. Board Chairman/Agency Head should consult the staff and the Board of Directors when developing the Guidelines/Procedures for internal reference.

Enquiries

17. Should you have any enquiries regarding this circular, please contact Mr FU Tsun-hung, Chief Social Work Officer (Help Centre) at 2832 4307.

SWD/HC 601/2
Social Welfare Department
February 2002

25 February 2000

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

Issue of Employees of Public-funded Bodies
Taking up Public Offices

Thank you for bringing to my attention members' concern with the different arrangements adopted by subvented organization in the welfare sector, primary and secondary schools, tertiary institutes funded by the University Grants Committee and the Hospital Authority with regard to their staff taking up public offices.

The Administration appreciated Members' concern and has carefully considered Members' suggestion of having a set of standardized guidelines for such engagements for all public-funded bodies.

Members would appreciate that no two organizations are alike, given their different roles and management styles. Each organization is an autonomous body, which decides for itself how its subvention is to be best utilized. The arrangement for staff engaged in public offices should therefore be determined between the organization and its staff as employer and employee respectively taking into account the nature of work involved and all other relevant considerations. Thus the Hospital Authority has guidelines on engagement of Hospital Authority staff in public offices, and each tertiary institution funded by the UGC draws up arrangement applicable to its own staff.

As explained by the Director of Administration at the Panel meeting on 25 October 1999, to have a set of standardized guidelines across the board would be difficult to implement and unlikely to be feasible, given the different roles of the organizations, the nature of the employees' work and the public offices in question. On 20 December 1999, relevant bureaux and departments having policy responsibility over subvented organizations in the welfare sector, primary and secondary schools, tertiary institutes funded by the UGC and the Hospital Authority also attended the Constitutional Affairs Panel meeting and explained in detail the arrangement adopted by organizations under their purview in respect of staff engaged in public offices

In view of Members' concern, we have once again looked into the matter. Having reviewed the matter, we remain of the view that individual organizations, as autonomous subvent bodies, and as the direct employers, must retain the flexibility to decide on the arrangements for their staff engaged in public offices that best suit their needs. This is not a matter that Government should seek to direct from the centre.

(Mrs Anson Chan)
Chief Secretary of Administration

cc Secretary for Education and Manpower
Secretary for Health and Welfare

bcc D of Adm