

立法會
Legislative Council

LC Paper No. CB(2) 1887/01-02
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP/1

LegCo Panel on Manpower

**Minutes of meeting
held on Thursday, 18 April 2002 at 2:30 pm
in the Chamber of the Legislative Council Building**

Members present : Hon LAU Chin-shek, JP (Chairman)
Hon CHAN Kwok-keung (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, GBS, JP
Hon Cyd HO Sau-lan
Hon LEE Cheuk-yan
Hon CHAN Yuen-han, JP
Hon LEUNG Yiu-chung
Hon YEUNG Yiu-chung, BBS
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Hon LI Fung-ying, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, JP
Hon Frederick FUNG Kin-kee

Member attending : Hon WONG Sing-chi

Members absent : Dr Hon LUI Ming-wah, JP
Hon Michael MAK Kwok-fung

Public Officers attending : Item III
Mr Philip K F CHOK, JP
Deputy Secretary for Education and Manpower

Mrs Pamela TAN, JP
Commissioner for Labour

Mrs DO PANG Wai-yee
Principal Assistant Secretary for Education and Manpower

Mr Stanley NG
Senior Labour Officer
Labour Department

Item IV

Mr Philip K F CHOK, JP
Deputy Secretary for Education and Manpower

Mrs DO PANG Wai-yee
Principal Assistant Secretary for Education and Manpower

Mrs Jenny CHAN
Assistant Commissioner for Labour (Rights and Benefits)

Mr YIP Hak-kwong
Director, Policy 21 Ltd
The University of Hong Kong

Clerk in attendance : Mrs Sharon TONG
Chief Assistant Secretary (2) 1

Staff in attendance : Ms Dora WAI
Senior Assistant Secretary (2) 4

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I. Confirmation of minutes of previous meetings and matters arising
(LC Paper Nos. CB(2)1464/01-02, CB(2)1586/01-02 and CB(2)1577/01-02(01))

The minutes of the meetings held on 28 February 2002 and 21 March 2002 were confirmed.

2. Members noted the list of follow-up actions.

Work progress of the proposed establishment of a Manpower Development Committee

3. Deputy Secretary for Education and Manpower (DSEM) informed members that as the work relating to occupational safety and health under the purview of the Education and Manpower Bureau (EMB) had been taken up by the Labour Department (LD), EMB staff formerly responsible for the work had been redeployed to take on the work of establishing a

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Manpower Development Committee (MDC). He said that the Preparatory Committee for the establishment of MDC (the Preparatory Committee) would be established in mid 2002. To facilitate the Preparatory Committee, EMB was conducting research and studies on the functions of the Preparatory Committee and MDC, covering the following areas -

- (a) organisational set-up, establishment and budget of MDC;
- (b) criteria and process for developing a qualifications framework;
- (c) mechanism, standards and process for developing a framework to monitor service quality;
- (d) review existing retraining policy;
- (e) review the Vocational Training Council Ordinance (Cap. 1130) and Employees Retraining Ordinance (Cap. 423) to identify the necessary legislative amendments in preparation for the establishment of MDC;
- (f) organisational set-up of the Vocational Training Council (VTC) and Employees Retraining Board (ERB) and transitional arrangements of VTC and ERB staff in preparation for the establishment of MDC; and
- (g) improvement to the approach of study of manpower demand.

4. Mr LEE Cheuk-yan suggested and members agreed that the progress of the Administration's work on the proposals be discussed by the Panel before the Preparatory Committee was established. Members also agreed that the Administration should provide an information paper in advance on details of its work on the proposals.

5. Mr LEE Cheuk-yan pointed out that after the review on the organisation of vocational training and retraining, the Institute for Vocational Education under VTC, which organised a lot of higher diploma courses, might be required to compete in an open market in future. As this would involve a significant change in policy in the provision of education and training, he suggested that the proposed arrangement should be jointly discussed with the Panel on Education. The Chairman said that the suggestion should be conveyed to the Chairman of the Panel on Education.

II. Date of next meeting and items for discussion
(LC Paper No. CB(2)1577/01-02(02))

6. Members agreed that the following items be discussed at the next meeting to be held on Thursday, 16 May 2002 at 2:30 pm -

- (a) Employment terms for persons engaged in projects or services contracted out by the Government;
- (b) Consultation on legislation relating to the application of International Labour

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Convention No. 182 to Hong Kong; and

- (c) Recognition of Chinese medicine for entitlement to employee benefits under the Employment Ordinance, Employees' Compensation Ordinance, Pneumoconiosis (Compensation) Ordinance and Pneumoconiosis Ex Gratia Scheme.

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7. With regard to the Administration's plan to report the progress of the Skills Upgrading Scheme to members at the next meeting, the Chairman suggested and members agreed that the Administration should provide a progress report on the Scheme for circulation to members. Members would then decide whether or not the progress of the Scheme should be discussed at a future meeting.

8. Members noted that the House Committee would discuss the follow-up work to examine the Administration's proposed accountability system for principal officials at its meeting on 19 April 2002. The Chairman suggested that depending on the decision of the House Committee, the proposal of grouping the manpower portfolio with commerce and industry portfolio under the proposed system might be discussed by the Panel at the meeting in May or June 2002.

(Post-meeting note : At the House Committee meeting on 19 April 2002, a subcommittee was formed to study the proposed accountability system for principal officials.)

III. Youth Work Experience and Training Scheme

(LC Paper Nos. CB(2)1577/01-02(03), CB(2)1449/01-02(01) and CB(2)1609/01-02(01))

9. DSEM briefed members on the proposed Youth Work Experience and Training Scheme (the Scheme) to address the rising unemployment rate of young people aged between 15 and 24 as set out in the Administration's paper.

10. Ms LI Fung-ying noted that the on-the-job training component of the Youth Pre-employment Training Programme (the Programme) would be suspended for two years when the Scheme was in place. She enquired about the amount that would be saved from this proposed arrangement. She also enquired about the possible impact on the trainees of the Programme after the introduction of the Scheme and whether the Administration had assessed the number of trainees under the Programme who would join the Scheme.

11. DSEM responded that there would be a saving of around \$12 million per annum under the Programme if the proposed arrangement was implemented. The money thus saved would be returned to the Government. He said that the number of trainees under the Programme who had joined the on-the-job training component of the Programme was around 900 to 1 000 per year. As Programme trainees could also join the Scheme, they could still receive on-the-job training under the Scheme. Apart from the places taken up by trainees under the Programme, there should still be sufficient training vacancies available to other young people in need.

12. Senior Labour Officer (SLO) supplemented that a study of the effectiveness of the

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Programme had been conducted by consultants of The Hong Kong Polytechnic University. The results of the study suggested that on-the-job training was most effective in helping young people enhance their employability. In view of this, the Administration proposed to launch the Scheme to provide young people with on-the-job training and work experience in a broader scope. Trainees of the Programme and all other young people aged between 15 and 24 would be covered under the Scheme.

13. Ms LI Fung-ying expressed concern about the possible impact of the Scheme on the Apprenticeship Scheme. She pointed out that the Government had not been providing subsidy to employers participating in the Apprenticeship Scheme and given that there might be an overlap between the two schemes to a certain extent, she enquired whether the Administration would consider merging the two schemes.

14. Mr Andrew CHENG considered that the extra work and additional cost involved in providing training vacancies might discourage employers from joining the Scheme. He asked whether it was possible for the Scheme to complement the Apprenticeship Scheme in order to create a win-win situation.

15. DSEM said that the nature of the Apprenticeship Scheme and the Scheme was different. He explained that the training provided under the Apprenticeship Scheme was an actual job vacancy. An employer who participated in the Apprenticeship Scheme had a practical need to employ someone to carry out a job requiring higher level of skills. A person employed under the Apprenticeship Scheme would be provided with systematic skills training over a three-year period. He said that the participation rate of employers in the Apprenticeship Scheme had been encouraging. The employment rate of apprentices after receiving the training had been very high, and their levels of wages had also been satisfactory. He added that the Administration was conducting a review on the Apprenticeship Scheme with a view to expanding the scope of industries to be covered and examining the appropriateness of the length of the training period. He assured members that the Administration would continue to improve the Apprenticeship Scheme and encourage more employers to join the Apprenticeship Scheme.

16. DSEM further said that the training provided under the Scheme was a training vacancy rather than an actual job vacancy. The objective of the Scheme was to enhance the employability of young people through on-the-job training. Employers would be encouraged to provide young people with work experience and job-related training lasting for six months to one year.

17. DSEM said that in view of the difference in nature between the two schemes, it was not appropriate to merge the Apprenticeship Scheme with the Scheme. Moreover, it would be undesirable if employers currently participating in the Apprenticeship Scheme subsequently chose to offer training vacancies under the Scheme, instead of job vacancies under the Apprenticeship Scheme. He considered that the co-existence of the two schemes would be able to benefit more young people. He added that LD would pay close attention in examining proposals submitted by employers of designated trades stipulated in the Apprenticeship Ordinance (Cap. 47) for joining the Scheme. LD would ensure that skills training which was more suitable to be offered under the Apprenticeship Scheme would not be provided under the Scheme.

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18. Mr LEE Cheuk-yan pointed out that employers participating in the Apprenticeship Scheme would regard their employment of apprentices as a form of training for them. In his view, the Administration should explore ways to achieve an effective interface between the Apprenticeship Scheme and the Scheme in the long run.

19. Miss CHAN Yuen-han said that The Hong Kong Federation of Trade Unions was in support of the Scheme. However, the Administration should ensure effective use of resources earmarked for different schemes targeted to help young people. She considered that it was important for the Administration to ensure that employers participating in these schemes would offer useful training to trainees. In her view, the Administration should, instead of implementing various schemes on a piece meal basis, explore the possibility of introducing a comprehensive scheme to address the problems encountered by young people who were neither engaged in any studies nor work.

20. DSEM said that the Secretary for Education and Manpower (SEM) was very concerned about the problems encountered by young people, and was examining ways to tackle the problems. As the matter was not under his purview, he was not able to give further details. He assured members that the Administration would ensure that employers participating in the Scheme would provide useful training to trainees. To achieve the purpose, employers would be required to set out the content of the training programme they intended to offer and the skills trainees were expected to develop during the training period. LD would monitor closely in this regard.

21. Mr Kenneth TING expressed support for the Scheme. However, he commented that the funding provisions for administration, staffing and general expenses, promotion and publicity, and contingency were too high. Mr Tommy CHEUNG shared Mr TING's comment.

22. SLO said that the proposed funding provisions had been made having regard to the complexity involved in the implementation of the Scheme. He informed members that the tasks to be performed in implementing the Scheme would include examining the proposals submitted by employers for joining the Scheme, liaising with employers on a regular basis in respect of the training vacancies provided, visiting schools to introduce the Scheme to students, liaising with non-government organisations to develop service standards and implementation details of the Scheme, and monitoring the implementation of the Scheme, etc. He added that in addition to LD staff, some contract staff would have to be engaged to help perform part of the tasks.

23. DSEM supplemented that the provision of 10 000 training places was a projection in the light of the experience drawn from the Programme. The funding provision for contingency would be used to provide more training places should the demand exceed 10 000. He said that the Administration would endeavour to cater for the needs of all young people who wished to join the Scheme by flexibly redeploying the resources under the Scheme where necessary.

24. Mr Andrew CHENG expressed support for the Scheme. He, however, questioned how the Administration could ensure that trainees would receive reasonable salaries for their work and be granted study leave during the training period. He also asked about the consequence if employers failed to do the above.

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25. Commissioner for Labour (C for L) said that it was hoped that employers participating in the Scheme would pay a monthly salary of around \$4,000 to trainees. Employers would be encouraged to pay trainees a salary commensurate with the level of work and nature of training. It might be unreasonable to expect employers to pay a salary at the market rate because trainees might not be able to fully perform the duties of a job owing to their lack of experience or knowledge. Moreover, trainees might not be working full time for the employers as trainees might be granted study leave to attend vocational training courses. She added that wages below \$4,000 would also be acceptable if adequate and useful training would be offered and the trainees concerned agreed to the proposed arrangements. C for L considered that if the salaries offered by employers were far below the market rates, they might not be able to attract trainees to take up the training vacancies. She assured members that each training vacancy would be carefully examined by LD. She added that to better protect the interests of both parties, trainees and employers would be required to sign an employment contract before the commencement of the training.

26. Mr LEE Cheuk-yan was in support of the Scheme. He suggested that the maximum working hours of trainees should be set at around 35 per week so as to enable them to attend suitable training courses. In his view, such arrangement should be clearly stated in the employment contract in order to avoid the situation where trainees would be treated as full-time employees and not be provided with appropriate and adequate training.

27. DSEM pointed out that the Administration would not compulsorily require trainees to attend training courses leading to vocational qualifications during the training period, but would encourage them to attend suitable courses in order to enhance their employability. Under the Scheme, employers would be required to grant study leave to trainees if they were interested to attend training courses.

28. C for L supplemented that as there would be a mechanism to examine each training vacancy offered by employers under the Scheme, it would be unlikely that trainees would not be provided with adequate training during the training period.

29. In response to the enquiry from Mr LEE Cheuk-yan, DSEM confirmed that each employer participating in the Scheme would need to provide an undertaking that they would not replace existing staff with trainees during the training period. Mr LEUNG Yiu-chung asked whether there would be an effective monitoring mechanism to ensure that no existing staff would be displaced by trainees of the Scheme.

30. C for L considered that the possibility of employers making use of the Scheme to employ trainees to replace existing staff should be remote because employers joining the Scheme had to spend some time to work out a proposal of the training to be provided to trainees as well as to appoint a mentor to guide the trainees throughout the training period. Moreover, trainees might not be able to fully perform the duties of a job owing to reasons like lack of experience or knowledge. Nevertheless, employers would be required to report the number of employees, the number of mentors appointed for guiding the trainees and the training facilities in order to minimise the possibility of employers replacing existing staff with trainees of the Scheme.

31. Mr LEUNG Yiu-chung said that there was insufficient post-training employment

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service for trainees under the Scheme. He asked whether the Administration could provide more assistance to trainees in this regard.

32. DSEM pointed out that at a time of economic downturn, it would be unrealistic to expect that there would be enough jobs in the market to absorb all the 10 000 trainees under the Scheme. He believed that equipping young people with better skills and knowledge would certainly help enhance their employability, thus enabling them to be more competitive in finding jobs in future when more opportunities arose after the recovery of the economy. C for L supplemented that LD's employment service would offer assistance to trainees in seeking employment.

33. Mr Tommy CHEUNG opined that imposing too many conditions, such as minimum salary and maximum working hours of trainees and employers' undertaking that no existing staff would be displaced by trainees, under the Scheme would discourage employers from joining the Scheme. He also considered it unreasonable that the training under the Scheme would be regarded as employment within the scope of the Employment Ordinance (EO). He enquired whether the provisions under EO and the statutory requirements in respect of Mandatory Provident Fund (MPF) contributions would be applicable to employers participating in the Scheme.

34. C for L responded that in order to provide protection to employers and trainees, the provisions under EO would be applicable to both parties under the Scheme. Similarly, the provisions under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) would also apply. This meant that both employers and trainees had to make MPF contributions during the training period in the manner as stipulated in the Ordinance.

35. Mr WONG Sing-chi opined that the Administration should adopt a more focused approach in determining the category of young people to be covered under the Scheme. He pointed out that the Administration lacked an overall plan in tackling the problem of youth unemployment, and suggested that a comprehensive study be conducted to address the problem.

36. DSEM responded that the Scheme was targeted to help young people aged between 15 and 24 with educational attainment below degree level and who were currently unemployed. He said that the number of young people who were not engaged in any studies or work between the period of November 2001 and January 2002 amounted to 79 700. The Administration would endeavour to enable this group of young people to be able to benefit from the Scheme.

IV. Results of the opinion survey on the public's views on age discrimination in recruitment

(LC Paper No. CB(2)1577/01-02(04))

37. Director, Policy 21 Ltd, The University of Hong Kong (D of Policy 21) gave a Power Point presentation on the results of the opinion survey on the public's views on age discrimination in recruitment. A copy of the contents of the presentation was tabled at the meeting.

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(*Post-meeting note* : The contents of the Power Point presentation tabled at the meeting were circulated to absent members vide LC Paper No. CB(2)1661/01-02 on 19 April 2002.)

38. Mr Andrew CHENG expressed disappointment that the Administration did not intend to introduce legislation against age discrimination in recruitment on the ground that there was no consensus in the community on the issue, despite the fact that there were 82% of household respondents and 73% of employer respondents who considered that age discrimination in recruitment existed. He considered that the Administration took sides with employers in the need to legislate in this area. While he appreciated the efforts of the Administration in promoting equal employment opportunities through basic education, he expressed doubt about the effectiveness of such measure in eliminating the public's preconceived view on age discrimination. He questioned why legislative measures could not be implemented in conjunction with public education measures in order to enhance the effectiveness in tackling age discrimination in recruitment.

39. Mr Albert CHAN expressed similar views of Mr Andrew CHENG. Mr CHAN considered that the problem of age discrimination in recruitment would never be solved in the absence of the necessary legislation. He asked how and when the Administration would consider introducing legislation to tackle the problem.

40. DSEM pointed out that although an overwhelming majority of the public considered that age discrimination in recruitment existed, there was also a sizeable gap between people's perception on the extent of age discrimination and their actual experience. Whilst 82% of household respondents considered that age discrimination in recruitment existed, only 13% claimed to have actual experience. Out of these 13%, 5% indicated that their failure in job application was also due to other reasons, such as the lack of necessary educational qualifications or skills and working experience. This discrepancy was also found in the employer survey. 8.4% of employers reported that their companies had incidents where an applicant considered that he was not employed because of his age, but 7.9% of employers pointed out that there were actually other reasons for the rejection.

41. DSEM further pointed out that in considering whether a piece of legislation should be introduced, the Administration had to critically examine the following -

- (a) whether there was a genuine need to introduce the legislation;
- (b) whether it would be in the public interest to introduce the legislation;
- (c) whether the introduction of the legislation would be the most effective way in achieving the intended purpose; and
- (d) whether the Government would be able to enforce the legislation effectively.

42. DSEM said that if the Administration were to introduce legislation against age discrimination in recruitment, the possible impact on the economy had to be carefully examined, especially during the present economic downturn. Given that there had been divergent views on the effectiveness of legislation in eliminating age discrimination in

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recruitment and a great majority of people regarded public education measures to be more effective, the Administration considered that it might not be an appropriate time to introduce the legislation at this stage. He further said that it would be very difficult in practice to prove that failure in job application had solely been attributed to age. The enforcement difficulties had also to be taken into account when deciding on the introduction of the legislation.

43. Mr LEUNG Yiu-chung said that the Equal Opportunities Commission (EOC) might also encounter similar difficulties in enforcing the Sex Discrimination Ordinance (Cap. 480). He asked the Administration to discuss with EOC to identify viable solutions to overcome the anticipated enforcement problems.

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44. Mr Andrew CHENG requested the Administration to provide an information paper explaining the possible impact on the economy and the enforcement difficulties anticipated if legislation was introduced. In his view, the Administration should conduct a comprehensive study of the issue with a view to identifying a better and longer-term solution to address the problem of age discrimination in recruitment.

45. Mr LEE Cheuk-yan pointed out that as age discrimination in recruitment was more commonly found in a number of industries, such as retail and personal services, the survey result of 13% of the respondents considered that their failure in job application amounted to age discrimination was in fact very high. He further pointed out that complaints against age discrimination accounted for the largest proportion amongst the complaints received by EOC which were not within the purview of EOC. In his view, tackling the problem of age discrimination in recruitment through basic education would not be as effective as legislation. He cited the case of the Cathay Pacific Airways as an example that it had lowered the retirement age of some categories of employees, despite the public education efforts on anti-age discrimination in recruitment by the Government.

46. DSEM pointed out that a great majority of respondents attributed the cause of age discrimination in recruitment to the genuine need of some industries to recruit employees of certain age groups and that many of the respondents considered it acceptable. DSEM considered that it should be up to individual industries to decide on the retirement age of their employees, and it was not appropriate for the Administration to intervene in these matters. However, it was important that employees should be notified of and accepted the retirement arrangement before the commencement of the employment. Mr Tommy CHEUNG shared the view of the Administration. He added that the Liberal Party opposed the introduction of legislation on age discrimination in recruitment.

47. Mr LEE Cheuk-yan considered that if age discrimination in recruitment were to be eliminated, the issue of retirement age should also be looked into as this was one of the components of an employment. He pointed out that the underlying principle in eliminating age discrimination in recruitment was that the performance of employees should not be judged by their age.

48. Mr LEUNG Yiu-chung said that although some people considered that legislation might not be the most effective measure to deal with age discrimination in recruitment, it might not imply that they would not support the introduction of legislation. He questioned why respondents of the survey had not been asked whether or not they supported the introduction of

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legislation.

49. D of Policy 21 said that from a researcher point of view, all the questions asked in a survey must be objective and neutral. In conducting the survey on age discrimination in recruitment, respondents had been asked whether they considered the introduction of legislation effective, instead of whether they supported the introduction of legislation. He pointed out that the survey result on the former could provide a useful reference on the public's view on the effectiveness of legislation.

50. Ms LI Fung-ying expressed doubt about the effectiveness of basic education in the elimination of age discrimination in recruitment. She questioned why the enactment of the three pieces of legislation dealing with elimination of discrimination, viz Sex Discrimination Ordinance (Cap. 480), Disability Discrimination Ordinance (Cap. 487) and Family Status Discrimination Ordinance (Cap. 527), was feasible whereas legislation against age discrimination in recruitment could not be enacted.

51. DSEM pointed out that there had been a marked improvement in recruitment advertisements when compared with the situation two years ago. Moreover, the survey showed that organisations which had been exposed to more publicity materials tended to be less inclined to link age with work performance. These situations demonstrated that public education was effective in eliminating age discrimination to a certain extent. As regards the three pieces of legislation dealing with discrimination, he said that he had no details of how they had been legislated. He reiterated that the Administration would have regard to the factors stated in paragraph 41 above when deciding whether legislation against age discrimination in recruitment should be introduced.

52. Miss CHAN Yuen-han said that 13% of respondents considered that their failure in job application amounted to age discrimination, this might imply that some 400 000 people had experienced age discrimination in recruitment. She asked whether the situation was serious from an academic perspective.

53. D of Policy 21 said that it was difficult to make an objective comment by referring to a single figure. He considered that whether the situation was serious much depended on the attitude and confidence of this group of people. If they accepted age discrimination as a fact of life and lacked confidence in themselves, the situation could be regarded as serious.

V. Any other business

54. There being no other business, the meeting ended at 4:30 pm.

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13 May 2002