

立法會
Legislative Council

LC Paper No. CB(2)1490/01-02
(These minutes have been
seen by the Administration)

Ref : CB2/PL/WS

LegCo Panel on Welfare Services

Minutes of meeting
held on Monday, 11 March 2002 at 10:45 am
in Conference Room A of the Legislative Council Building

Members Present : Hon CHAN Yuen-han, JP (Chairman)
Hon LAW Chi-kwong, JP (Deputy Chairman)
Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon LEE Cheuk-yan
Hon Fred LI Wah-ming, JP
Hon Bernard CHAN
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 WONG Sing-chi
Hon Frederick FUNG Kin-kee

Public Officers Attending : All Items

Mrs Carrie LAM, JP
Director of Social Welfare

Items IV and VI

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

Action

Items II, IV and V

Mr Patrick NIP
Deputy Secretary for Health and Welfare 2

Item IV

Mr FUNG Man-lok
Chief Social Work Officer (Strategic Planning)
Social Welfare Department

Mr Kenneth NG Wing-cheung
Senior Statistician, Social Welfare Department

Item V

Ms Annette LEE
Principal Assistant Secretary for Health and Welfare
(Elderly Services) 1

Mr Parrish NG
Principal Assistant Secretary for Planning and Lands (Buildings)

Mr K M MO
Assistant Director of Buildings (New Buildings) 1

Mr Herbert LEUNG
Assistant Director of Lands (Headquarters)

Mrs NG MA Kam-han, Kathy
Assistant Director of Social Welfare (Elderly)

Item VI

Mr FUNG Pak-yan
Assistant Director of Social Welfare (Family & Child Welfare)

Dr Regina CHING
Assistant Director of Health (Personal Health Services)

Dr WONG Tai-wai
Consultant, Department of Accident & Emergency
Pamela Youde Nethersole Eastern Hospital

Action

Mr Ian Robert MACKNESS
Chief Superintendent Crime Support
Hong Kong Police Force

Miss CHU Ming-po, Shirley
Superintendent Crime Support
Hong Kong Police Force

Mrs SO WONG Wei-yee
Chief Social Work Officer (Domestic Violence)
Social Welfare Department

Dr Cynthia LEUNG
Chief Project Officer (Parent Education)
Education Department

**Deputations by : Item VI
Invitation**

Harmony House

Miss Margaret WONG Fung-yee
Director

Miss IP Cheung-sau
Coordinator

Hong Kong Family Welfare Society

Mr Thomas J. Mulvey
Director

Mr Otto LAU
Principal Social Worker

Mrs Shirley TANG
Senior Social Work Practitioner

Hong Kong Association for the Survivors of Women Abuse (Kwan Fook)

Ms LIU Ngan-fung
Organiser

Caritas Family Crisis Support Centre

Ms Paulina KWOK
Supervisor of FCSC

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

Staff in Attendance : Miss Mary SO
Senior Assistant Secretary (2) 8

I. Confirmation of minutes of meetings held on 14 January and 4 February 2002

(LC Paper Nos. CB(2)1148/01-02 and CB(2)1251/01-02)

The above two sets of minutes were confirmed.

II. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)1265/01-02(01) and (02))

2. Responding to members' enquiry as to whether the Administration would be in a position to discuss the issue of Old Age Allowance (OAA) in April 2002, Deputy Secretary for Health and Welfare 2 (DSHW2) said that this was not possible as the Administration was still working on the development of a sustainable financial support system for older persons in Hong Kong. In reply to Dr YEUNG Sum's enquiry as to whether the Administration would be in a position to discuss the issue of OAA in the next legislative session, DSHW2 said that the Administration could not give a timetable at this juncture. Nevertheless, the Administration would strive to complete the review on financial support for older persons as soon as possible. In view of the large number of needy elders, Mr LEE Cheuk-yan was of the view that the Administration should at least brief members on the various options for providing financial support for elders at the next Panel meeting. DSHW2 responded that Mr LEE's request could not be acceded to as work on the development of a sustainable financial support system for older persons was still underway. He assured members that the Administration would seek members' views on the financial support system for older persons once more concrete proposals had been drawn up.

3. Members agreed to discuss the following items at the next meeting to be held on 8 April 2002 at 10:45 am -

Action

- (a) Review of integrated neighbourhood projects;
- (b) Enhanced functions of District Social Welfare Officers; and
- (c) Provision of medical social services.

III. Information paper issued since the last meeting

(LC Paper No. CB(2)1268/01-02(01))

4. Members noted the above information paper entitled "Exploratory study on withdrawn CSSA recipients and potential CSSA applicants" prepared by the Administration, and raised no queries.

IV. Implications of 2001 population census on the provision of social welfare services

(LC Paper No. CB(2)1265/01-02(03))

5. At the invitation of the Chairman, Director of Social Welfare (DSW) briefed members on the salient points of the Administration's paper which highlighted the summary results of the 2001 Population Census available to date that were relevant to social welfare, and attempts made to assess their implications on the planning and provision of social welfare services.

6. Dr YEUNG Sum enquired whether the Administration would re-consider the implementation of a contributory old age pension scheme (OPS), in view of the trend of an inverted population and the Administration's plan to reduce the share of public expenditure to 20% of Gross Domestic Product (GDP) or below by 2006-07. Dr YEUNG expressed concern that social welfare expenditure would be reduced to enable the Government to keep its expenditure growth below the trend growth of the economy.

7. DSW responded that the community might wish to debate on the introduction of a contributory OPS in the context of further deliberation on financial protection for elders. Despite the Administration's plan to reduce the share of public expenditure to 20% of GDP or below by 2006-07, DSW assured members that the Administration would continue to take care of the basic needs of those who were disadvantaged or in hardship. This was evidenced by the fact that the Administration intended to increase social welfare expenditure by 9% in real terms in 2002-03, which would bring social welfare to 15.7% of the total recurrent government expenditure in 2002-03 as opposed to 14.9% this year. DSW further said that spending on new welfare services would have an increase exceeding 9% in real terms in 2002-03.

8. DSHW2 supplemented that in view of the fiscal constraint and having regard to the growing ageing population, it was of paramount importance for the Administration

Action

to come up with a sustainable financial support system for older persons in Hong Kong. To this end, a three-pillar approach for old age retirement protection recommended by the World Bank was adopted by the Administration. DSHW2 explained that the first pillar called for a compulsory public plan for poverty alleviation and prevention, the second pillar for a privately managed compulsory pension plan for income maintenance, and the third pillar for a voluntary savings-annuity plan to supplement the first and second pillars.

9. Noting that the real growth in government expenditure would be reduced to an average of 1.5% each year from 2003-04 to 2006-07, Ms Cyd HO was concerned whether there would be adequate money to meet varying welfare needs of the population in the coming five years assuming no changes and improvements would be made to the delivery of welfare services. In the light of this, Ms HO enquired whether the Social Welfare Department (SWD) would conduct any assessment on the expenditure required to meet service needs beyond 2002-03, say, in the coming 10 to 20 years.

10. DSW responded that the estimated \$32.1 billion earmarked for welfare services in 2002-03 should be adequate to meet service demand for next year. As regards the estimated amount of money required to meet the varying welfare needs of the population beyond 2002-03, DSW said that she intended to make some rough estimates and drew these to Finance Bureau's attention in due course. DSW further said that although the growth in social welfare expenditure in real terms was likely to be reduced in future to restore fiscal balance, it was envisaged that through optimal use of available resources achieved by better rationalisation of services, the quality and level of provision of welfare services would not be undermined.

11. Ms Cyd HO expressed concern that the provision of welfare services would fall short of meeting the welfare needs of the community after 2002-03, given the significant drop in real growth in social welfare expenditure, i.e. from 9% in 2002-03 to an average of 1.5% each year from 2003-04 to 2006-07. DSW clarified that the 1.5% expenditure growth in real terms meant growth in overall government spending, and did not translate that all policy areas, such as social welfare, would be contained by an average of 1.5% real growth each year from 2003-04 to 2006-07. DSW further said that as it was the Administration's stance to continue to take care of the basic needs of those who were disadvantaged or in hardship, social welfare spending might have a real growth exceeding 1.5% each year from 2003-04 to 2006-07.

12. Miss CHOY So-yuk said that SWD should set up a working group to work out the provision of welfare services in the short, medium and long terms, having regard to the significant demographic and population changes revealed in the results of the 2001 Population Census.

13. DSW responded that there was no need to set up such a working group suggested by Miss CHOY in paragraph 12 above, as SWD regularly reviewed its services to see that they could meet the varying welfare needs of the population in the

Action

future. For example, in order to reduce the demand for long term care (LTC) services arising from the growing ageing population, a Healthy Ageing Campaign had been launched by the Elderly Commission last year to promote a life-course approach in attaining optimal physical and psychosocial well-being. A proposal to encourage private developers to incorporate purpose-built residential care home for the elderly (RCHE) premises in their new developments, to be discussed later at the meeting, was another example. Likewise, adjustments would need to be made to the provision of child welfare and youth services as a result of the fast declining young population. As regards how resources should be re-deployed and services rationalised to ensure the optimal use of available resources to suit the varying welfare needs of the population in the future, DSW said that such works were carried out centrally by herself and other senior staff of SWD.

14. Miss CHOY So-yuk was of the view that SWD should set targets for providing its social welfare services, say, in the next five, 10, 15 and 20 years. The existing relevant legislation should also be reviewed to see whether any amendments were necessary to meet the needs of the changing circumstances. DSW agreed to give further thoughts to Miss CHOY's suggestion.

15. Mr WONG Sing-chi said that in view of the trend of declining young population and growing ageing population, some young people would in future need to take care of several old family members. In the light of this, Mr WONG was of the view that SWD should strengthen its youth services, perhaps in collaboration with other government departments such as the Education Department, to better prepare young people to take up such daunting responsibility instead of concentrating on providing remedial services to youth as at present. DSW shared Mr WONG's views, and said that to this end, SWD had been engaged in active discussions with other government departments concerned on respective roles in ensuring that young people would grow up to be responsible adults. DSW further said that SWD would not drastically change its delivery of welfare services merely on the basis of demographic and population changes. This was because it was no longer adequate to decide on the provision of a certain welfare service on the basis of the number of a certain group of people in a district. Rather, emphasis had been shifted from quantity to ensuring that the best quality of services could be provided to the client groups through integration, revamping or re-engineering of services.

16. Noting that the number of households earning less than \$10,000 a month had increased from 441 680 to 493 502, or 11.7%, from 1996 to 2001, Mr LEE Cheuk-yan enquired whether any assessment had been made to find out how these low-income families would impact on the demand for assistance under the Comprehensive Social Security Assistance (CSSA) Scheme.

17. Mrs Sophie LEUNG opined that extending the retirement age of the working population could be one way to reduce the heavy financial burden on the community in meeting the welfare needs of the elderly in the future.

Action

18. Mr LAW Chi-kwong sought clarification of the meaning of the phrase "the population's need for welfare services was shifting away from subsistency services to affordable professional services based on choice and that corresponding shift in social policy along this direction needed to be considered" in paragraph 20 of the Administration's paper. Referring to paragraph 21 of the same paper which stated that the care capacity of the family system for its members would be weakened by the continual trimming of household size and expansion of nuclear families, Mr LAW hoped that more emphasis would be placed on strengthening support for people who had to take care of their vulnerable family members, instead of focusing on enhancing existing services and/or introducing new services to meet the welfare needs brought about by the changes in household characteristics.

19. Ms LI Fung-ying enquired about the action(s) which would be taken by SWD to strengthen support for families in distress/crisis, having regard to the rising trend of family problems brought about by the weakening of family solidarity and marriages.

20. Responding to Ms LI's question, DSW said that SWD intended to spend over \$1.8 billion on family and child welfare services in 2002-03, an increase of 4.7% over this year, to address concerns about the rising trend of family problems. DSW pointed out that the bulk of the additional money would be deployed to areas most in need. For examples, to prevent and tackle family violence/tragedies, a total of 17 social workers would be added to the five regional-based Family and Child Protection Services Units before end March 2002 to strengthen the manpower, and 15 pilot projects would be implemented to set up Integrated Family Services Centres in selected districts in April 2002.

21. As regards Mr LAW's question on the meaning of the phrase "the population's need for welfare services was shifting away from subsistency services to affordable professional services based on choice and that corresponding shift in social policy along this direction needed to be considered" in paragraph 20 of the Administration's paper, DSW explained that to ensure sustainability of existing system, people who could afford to pay should pay for using certain welfare services. This was in line with the users' pay principle. DSW however pointed out that SWD had no intention to charge people, who were usually the socially disadvantaged, for using welfare services, nor was it appropriate to charge people for professional intervention or remedial services even though they were not financially vulnerable. The only area which SWD felt that there was scope for some form of co-payment was LTC services, including residential care services. SWD hoped to seek members' views on the matter later, before deciding on the way forward.

22. DSW concurred with Mr LAW that it was not sound to plan the provision of welfare services rigidly on the basis of demographic and population changes. A case in point was that SWD had abandoned the approach of providing certain number of RCHE places based on a certain number of elderly population in a district, which was not only not cost-effective but could not meet the elders' preference to age at home. To address such, greater emphasis had been put on home and community care

Action

services. For example, a package of enhanced home and community care services (EHCCS) had been introduced in April last year as an alternative to institutional care for frail elders. A critical evaluation of the EHCCS was now underway to assess its effectiveness. DSW further said that future directions on the issue of long term care for frail elders would be discussed in the Panel within the current legislative session.

23. As to Mr LEE's question whether SWD had conducted any assessment on the demand for assistance under the CSSA Scheme in the longer term, DSW said that this had not been done as it was very difficult to assess such demand, particularly in the unemployment, low earnings and single parent family categories. Under these circumstances, it had always been the practice of SWD to assess the demand for assistance under the CSSA Scheme for the purpose of making financial provision on a yearly basis taking account of the latest trend. However, as the Financial Secretary planned to contain the real growth in government expenditure to an average of 1.5% each year from 2003-04 to 2006-07, SWD would endeavour to come up a projection on the demand for assistance under the CSSA Scheme in the medium term.

24. Due to time constraint, the Chairman said that members wishing to raise more questions on the subject could do so at the forthcoming special Finance Committee meetings.

V. Provision of Residential Care Services for Elders
(LC Paper No. CB(2)1265/01-02(04))

25. DSHW2 gave a powerpoint presentation on the Administration's strategy for the provision of LTC services for elders, including residential care services, and the proposal to grant gross floor area (GFA) and premium concessions to encourage private developers to incorporate RCHEs in their new private developments, which were detailed in the Administration's paper. Subject to members' views, the Administration planned to introduce amendments to the Building (Planning) Regulations to confer a discretionary power on the Building Authority to disregard RCHE from GFA calculation in new developments and to impose sanctions for unauthorised change of use of the RCHE.

26. Dr YEUNG Sum said that as private developers would be given GFA and premium concessions for operating RCHEs in their new private developments on a commercial basis, they should be required to turn over some of their RCHE places for allocation by SWD. Dr YEUNG further said that in order to avoid the need for elders to move to other types of residential homes located elsewhere as their health deteriorated, RCHE premises should provide a comprehensive range of residential care services. Dr YEUNG also enquired whether SWD would buy RCHE places from private developers under the Enhanced Bought Place Scheme (EBPS).

27. DSHW2 responded that a major constraint in development of quality residential care services was availability of suitable premises. To address this problem, a two-

Action

pronged premises-led approach had been adopted by the Administration. The first prong was for Government to build, or to pay developers to build on Government's behalf on an entrustment basis, RCHE premises. The other prong of the premises-led approach was to encourage the private sector to provide quality RCHE premises. However, the development of quality and affordable RCHEs in the private sector had so far been hindered by the shortage of quality premises at suitable locations, the high cost of such premises, and the short tenancy normally available to RCHE operators for commercial leases. Moreover, the service quality of private residential care homes varied. In the light of these, the Administration had therefore come up with the proposed scheme to grant GFA and premium concessions to private developers to incorporate RCHEs in their new private developments. As the RCHEs under the proposed scheme would be operated on a commercial basis targeting at elders and their families who were prepared to pay market determined rates, it was hoped that such an arrangement would encourage private developers to provide quality RCHEs in their new private developments, thereby increasing the overall supply of purpose-built premises in the market that would be used for the operation of RCHEs.

28. DSHW2 further said that although private developers would be granted GFA and premium concessions under the proposed scheme, they would have to pay the full cost of constructing the RCHE premises with basic provisions such as fire installation, external wall openings/louvers, and electricity, utility, drainage and water supply connections suitable for use as a RCHE. These RCHE premises, once built, would become the properties of the developers but remain for the exclusive use as RCHEs only. Developers would be given the flexibility to lease, sell or operate these premises themselves or through agents so long as they remained as RCHEs. The operation of these premises would be regulated by SWD under the existing licensing regime. Adequate safeguards would be built in to ensure the premises built would be used solely for RCHE purposes. DSHW2 added that a balance needed to be struck between the granting of concessions and the imposition of necessary controls. The Administration would continue to review the controls to be imposed to ensure that they would not be excessive.

29. DSHW2 shared Dr YEUNG's view that RCHE premises should provide a "Continuum of Care" services for elders, and this was the objective which the Administration was striving to achieve in the long run. On the question of buying RCHE places from private developers, DSHW2 said that places to be provided by private developers in their new private developments were targetted at elders and their families who were prepared and able to pay market determined rates. Nevertheless, any applications for places under the EBPS would be considered separately in accordance with the stipulated criteria under the EBPS.

30. Mr Fred LI expressed support for Dr YEUNG's suggestion that private developers should turn over some of their RCHE places for allocation by SWD as subsidised places, having regard to the varied quality of private residential care homes. Mr LI further said that the Administration should have regard to the difficulties faced

Action

by some self-care hostels for the elderly in converting their premises into care and attention homes to meet the need arising from deteriorating health of their residents.

31. Mr LEE Cheuk-yan noted that over 70% of elders on public assistance were residing in private/self-financing RCHEs, the quality of many of which was far from satisfactory. Mr LEE considered it unfair that these elders should be subjected to living in a substandard environment just because they were on public assistance, and urged that expeditious action be taken to improve the quality of RCHEs they were living in. Mr LEE further said that SWD should set up a committee along the lines of the Steering Committee on Skills Upgrading set up by the Education and Manpower Bureau to provide better guidance and advice on the provision of training for care staff in elderly services. In addition, consideration should be given to increasing the number of training places for care staff in elderly services.

32. Mr WONG Sing-chi said that he had no objection to the proposed scheme, but considered that the Administration should take possession of premises once built by the private developers, so as to ensure that they would be used as RCHE premises or other welfare purposes. Mr WONG explained that the reason for doing so was because there was a possibility that the private developers might leave the premises vacant if their RCHEs turned out to be losing money.

33. Mr Henry WU enquired about the facilities which private developers would be required to provide for their RCHEs, apart from those mentioned by DSHW2 in paragraph 28 above.

34. DSHW2 responded that the Administration was also very concerned about the varied quality of private residential care homes, and was pursuing a number of measures and exploring others to further improve the quality of private RCHEs beyond licensing standard. DSHW2 considered that the chance of private developers leaving the premises intended as RCHE premises vacant was remote, as no developer would join the proposed scheme unless he was confident that the RCHE business was commercially viable. DSHW2 further said that as the RCHEs to be provided by private developers under the proposed scheme would be operated on a commercial basis, the Administration considered it best to leave it to the developers to decide how their RCHEs should be provisioned in order to attract their target clients.

35. Responding to Mr LI's comments about the lack of assistance to operators of self-care hostel for the elderly in conversion of their premises into care and attention homes, DSW said that there was no question of such a situation as the conversion of such was co-ordinated centrally by SWD. Moreover, funding for carrying out such conversion work could be obtained from the Lotteries Fund. DSW, however, pointed out that only a certain number of self-care hostels for the elderly would be earmarked for conversion into care and attention homes each year, as it was only desirable to do so if most or all of the residents thereat needed more intensive care. DSW added that SWD had stopped creating self-care hostels for the elderly several years ago, as the housing and caring needs of this group of elders could be adequately met by other

Action

measures already in place. The implementation of home and community care services was a case in point.

36. As to the suggestion of providing more training places for care staff in elderly services, DSW said that the Administration would continue to increase training. The fact was two-thirds of the care workers who had attended the training course did not stay on their jobs. She felt that the causes for the high drop-out rate should be tackled, lest it was questionable whether public money should be spent on providing free or heavily subsidised training when there was such a high wastage rate of care workers. DSW further said that the shortage of care staff in elderly services was a long-standing problem, as evidenced by the fact about 460 care workers still were imported under the Supplementary Labour Scheme. In the light of this, SWD was presently examining how the terms of employment and working conditions of care worker could be improved to attract more local people to become care workers in RCHEs, as evidenced in the homes put out for an open tender.

37. DSW said that the proposed scheme was intended to provide another way to increase the supply of quality RCHEs. DSW further said that the granting of GFA and premium concession to private developers was not new, as such an arrangement had long been provided to developers to encourage them to build hotels and to incorporate more environmentally-friendly features in their new developments. DSW assured members that the introduction of the proposed scheme would not have any bearing on the Administration's commitment to increase the supply of purpose-built RCHE premises and subsidised places. SWD would continue to pursue with the Housing Authority, the Urban Renewal Authority and other concerned bodies on the proposed incorporation of purpose-built RCHE premises in their new developments.

VI. Strategy and Measures to Prevent and Tackle Family Violence

(LC Paper No. CB(2)1265/01-02(05)) - paper provided by the Administration

(LC Paper Nos. CB(2)1033/01-02(03) - submissions from Harmony House
and CB(2)1265/01-02(11))

(LC Paper No. CB(2)1265/01-02(07)) - submission from Hong Kong Family
Welfare Society

(LC Paper No. CB(2)1265/01-02(08)) - submission from Hong Kong
Association for the Survivors of
Women Abuse

(LC Paper No. CB(2)1265/01-02(09)) - submission from Caritas Family
Crisis Support Centre

(LC Paper No. CB(2)1265/01-02(06)) - submission from Mr LAW Chi-
kwong

38. DSW introduced the Administration's paper which set out its existing strategy and measures in place to prevent and tackle family violence, and addressed the concerns raised by the Harmony House in its position paper "Zero Tolerance of Family Violence".

Action

39. At the invitation of the Chairman, representatives of Harmony House, Hong Kong Family Welfare Society, Hong Kong Association for the Survivors of Women Abuse (Kwan Fook), Caritas Family Crisis Support Centre and Mr LAW Chi-kwong each made a brief presentation of their views on the issue of family violence as detailed in their submissions.

Discussion

40. Mr LEE Cheuk-yan suggested that the difficulties encountered by battered women in securing a housing unit from the Housing Department (HD) as highlighted in the Kwan Fook's submission be referred to the Panel on Housing for consideration. Ms Cyd HO echoed Mr LEE's views and further said that the Panel on Housing should request HD to provide a response to the concerns raised by Kwan Fook in its submission. Members agreed. Referring to the concerns raised by deputations that the Police often treated family violence as an internal dispute within a family without making referral to SWD for timely intervention, Mr LEE enquired whether this was due to the fact that the Police was constrained by the Personal Data (Privacy) Ordinance.

41. Chief Superintendent Crime Support responded in the positive to Mr LEE's question. He explained that in normal circumstances, if no consent to referral was given by the victim or abuser, the Police would have to respect the rights of the victim or abuser although they would try their best to persuade them to receive professional assistance.

42. Miss Margaret WONG of the Harmony House said that if the Police would deal with domestic violence cases from the angle of safeguarding the personal safety of victims, the existing problem of them being constrained by the Personal Data (Privacy) Ordinance should not arise.

43. Mr LAW Chi-kwong said that under section 59 of the Personal Data (Privacy) Ordinance, the Police should be allowed to refer domestic violence cases to SWD for follow-up even if no consent to referral was given by the victim or abuser, as section 59 provided that disclosure of personal data could be exempted from the provisions of data protection principles if the non-disclosure of such would cause serious harm to the physical or mental health of the data subject. Mr LAW further said that the constraints felt by the Police in handling domestic violence were self-created. This was because if the handling of domestic violence was regarded as a matter of safeguarding the personal safety or health of victims, the need for consent to referral would not arise as safeguarding a person's safety or health was a matter which warranted involvement from the Police, social workers and health care personnel.

44. Superintendent Crime Support responded that the purpose of data collection of the Police in handling domestic violence incidents was for investigation, prevention and detection of crime, and not for any health reasons. The Police had sought legal

Action

advice on whether the Police could only refer domestic violence cases to SWD or other non-governmental organisations without the consent from the victim or abuser. The legal advice opined that exemption from Data Protection Principle 3 (Use of Personal Data) could be applied if there were reasonable grounds to believe that failure to disclose the personal data to SWD would be likely to prejudice the prevention or detection of crime. In considering this aspect, the Police would take into consideration whether such an incident was very likely to recur and seriousness of the case etc. Superintendent Crime Support further said that the Police always reviewed the internal procedures with a view to giving the best possible service to the public. The Police was reviewing the referral requirements and the relevant guidelines, taking into consideration the legal advice.

45. The Chairman hoped that the Police would review the whole issue of handling of domestic violence, as well as how it could handle people with psychotic illness without causing harm to themselves and others. Superintendent Crime Support agreed to consider the Chairman's suggestions.

46. Miss CHOY So-yuk was of the view that Administration should review and, as appropriate, amend the Domestic Violence Ordinance and the Protection of Children and Juveniles Ordinance to remove those provisions which no longer suited the present day circumstances. Miss CHOY also enquired whether consideration would be given to the implementation of mandatory treatment for abusers as an alternative to imprisonment.

47. Deputy Secretary for Health and Welfare 3 (DSHW3) responded that the Administration would decide whether, and if so, how the Domestic Violence Ordinance and the Protection of Children and Juveniles Ordinance should be amended after studying the submissions in detail. As to the suggestion of mandatory treatment for abusers as an alternative to imprisonment, DSHW3 said that the Administration also needed to study overseas experience in this area before deciding on the way forward. DSHW3, however, pointed out that mandatory treatment of the abusers was available in Hong Kong if the abusers were put under the supervision of probation officers. DSHW3 further said that the Sub-committee on Guardianship and Custody of the Law Reform Commission (the Sub-committee) in its 1998 consultation paper proposed, amongst others, to move towards a concept of parental responsibility rather than guardianship, except that the concept of guardianship would be retained in respect of a third party's responsibilities for a child after the death of a parent. As the overall effect of the recommendations in the Sub-committee's consultation paper would be to encourage a less divisive approach, it was hoped that family tragedies arising from disputes concerning parental rights could be minimised. It was envisaged that the Sub-committee would finalise its proposals on guardianship and custody of children later in the year.

48. Dr YEUNG Sum welcomed the Sub-committee's proposals on guardianship and custody of children and hoped that it could complete its work as soon as possible.

Action

Dr YEUNG also expressed support for the implementation of mandatory treatment for abusers as an alternative to imprisonment.

49. Ms Cyd HO said that, given the far-reaching effects of domestic violence on the affected family members, research in this area should be conducted. DSHW3 agreed to refer Ms HO's view to the Working Group on Combating Violence for consideration. Ms HO was also of the view that the issue of family violence should be discussed by the Panel every six months.

Admin
Clerk

50. In summing up the discussion, the Chairman said that the Administration should brief members on the Sub-committee's finalised proposals on guardianship and custody of children once they became available. The Chairman further said that a copy of the submission from Kwan Fook regarding housing problems encountered by victims of domestic violence should be forwarded to the Panel on Housing for following up with the relevant policy bureaux/government departments.

51. There being no other business, the meeting ended at 1:15 pm.

Council Business Division 2
Legislative Council Secretariat
4 April 2002