

**立法會**  
***Legislative Council***

Ref : CB2/PL/MP/1

LC Paper No. CB(2) 3209/03-04

(These minutes have been seen by the  
Administration)

**Panel on Manpower**

**Minutes of meeting  
held on Thursday, 17 June 2004 at 2:30 pm  
in Conference Room A of the Legislative Council Building**

**Members present** : Hon LAU Chin-shek, JP (Chairman)  
Hon CHAN Kwok-keung, JP (Deputy Chairman)  
Hon LEE Cheuk-yan  
Dr Hon LUI Ming-wah, JP  
Hon CHAN Yuen-han, JP  
Hon LEUNG Yiu-chung  
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 Michael MAK Kwok-fung  
Hon Frederick FUNG Kin-kee

**Members absent** : Hon Kenneth TING Woo-shou, JP  
Hon Cyd HO Sau-lan  
Hon LEUNG Fu-wah, MH, JP

**Public Officers attending** : Item IV

Mr Matthew CHEUNG Kin-chung, JP  
Permanent Secretary for Economic Development and Labour  
(Labour)

Mrs Jenny CHAN  
Assistant Commissioner (Employees' Rights and Benefits)  
Labour Department

Miss Carrie CHANG  
Assistant Commissioner (Policy Support and Strategic  
Planning) (Acting)  
Labour Department

Mr Mark SIU Ming-pak  
Principal Executive Officer (Tender)  
Financial Services and the Treasury Bureau

Mr LO Fu-wai  
Assistant Director (Grade Management and Development)  
Food and Environmental Hygiene Department

Mr MOK Kam-kwan  
Deputy Government Property Administrator  
Government Property Agency

Mr Ricky CHUI Kin-ming  
Assistant Director (Finance)  
Leisure and Cultural Services Department

Mr Richard WONG Tat-ming  
Chief Leisure Manager (Management)  
Leisure and Cultural Services Department

Mr LEUNG Sai-chi  
Chief Manager/Management  
Housing Department

Item V

Mr Matthew CHEUNG Kin-chung, JP  
Permanent Secretary for Economic Development and Labour  
(Labour)

Mr Patrick CHOW  
Assistant Commissioner for Labour (Employment Services)  
(Acting)

Miss Susie HO  
Deputy Secretary for Health, Welfare and Food (Welfare)

Miss Ophelia CHAN  
Assistant Director of Social Welfare (Rehabilitation and  
Medical Social Services)

Mr Patrick LI  
Assistant Director of Home Affairs (2)

Item VI

Mr Matthew CHEUNG Kin-chung, JP  
Permanent Secretary for Economic Development and Labour  
(Labour)

Mrs Jenny CHAN  
Assistant Commissioner (Employees' Rights and Benefits)  
Labour Department

Miss CHAN Wing-han  
Senior Labour Officer (Labour Inspection)  
Labour Department

Mr David PAO  
Head, Efficiency Unit (Acting)

**Attendance by : Item V  
invitation**

Alliance on the Employment Quota System for Person with  
Disability

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Ms YEUNG Sze-man  
Representative

Ms CHOW Ping-kuen  
Representative

Mr Kaiser LO  
Representative

Dr Fernando CHEUNG  
Representative

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

**Staff in : Ms Amy WONG  
attendance Senior Council Secretary (2) 1**

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**I. Confirmation of minutes of previous meeting**  
(LC Paper No. CB(2)2752/03-04)

The minutes of the meeting held on 22 April 2004 were confirmed.

**II. Date of next meeting and items for discussion**  
(LC Paper Nos. CB(2)2750/03-04(01) and (02))

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2. Members agreed that the meeting originally scheduled for 15 July 2004 be cancelled. The Chairman asked the Administration to provide information papers on the following items :

- (a) Voluntary rehabilitation programme for work injuries; and
- (b) Youth employment and training programmes offered by the Labour Department.

**III. Draft report of the Panel on Manpower for submission to the Legislative Council**  
(LC Paper No. CB(2)2750/03-04(03))

3. Members endorsed the draft Report which gave an account of the work of the Panel during the 2003-2004 legislative session. Members noted that the Report would be tabled at the Council meeting on 7 July 2004.

**IV. Implementation of the new guidelines on employment terms for non-skilled workers engaged in projects on services contracted out by the Government**  
(LC Paper No. CB(2)2750/03-04(04))

4. The Chairman left the meeting and Mr CHAN Kwok-keung, Deputy Chairman, took the chair.

5. Permanent Secretary for Economic Development and Labour (Labour) (PSL) pointed out that the newly promulgated tender arrangements for the procurement of government services was not a guideline, but a mandatory requirement that had to be complied with by all government departments. It was a prompt response of the Administration to the concern about the need to protect the rights and benefits of non-skilled workers of government service contractors.

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6. Principal Executive Officer (Tender) Financial Services and the Treasury Bureau (PEO(T)) briefed members on the content and the implementation of the new mandatory requirement for assessing tenders for government service contracts invited after 6 May 2004. He informed members that under the new requirement, a tender offer would not be considered if the monthly wage rates offered by tenderers to their non-skilled workers were less than the average monthly wages for the relevant industry/occupation as published in the Census and Statistics Department's (C&SD) Quarterly Report of Wage and Payroll Statistics at the time the tender documents were issued.

7. Mr LEE Cheuk-yan expressed concern that the average wage information of security guards as published by C&SD might not reflect the real market situation. He pointed out that security guards were normally working on a 12-hour shift. By simply converting the wages for 12 hours into that for eight hours, the average monthly wages of security guards would be brought down. He suggested that when conducting surveys in future, specific information on wages for 12 hours and eight hours in respect of security guards should be collected. PSL agreed to convey the suggestion to C&SD.

8. Mr LEE Cheuk-yan asked how fraudulent acts, such as falsifying pay records, would be dealt with under the demerit point system.

9. PSL responded that such an act was not a technical default but a criminal offence. Any cases with criminal element would be referred to the Independent Commission Against Corruption or the Police for follow-up. The Administration would not tolerate such blatant abuse.

10. PEO(T) said that the demerit point system was an additional sanction measure. Serious breaches of contractual obligations could lead to immediate termination of government service contracts.

11. Mr LEE Cheuk-yan asked about the progress of a case in Jordan Valley where a number of workers were forced to sign falsified pay slips.

12. Assistant Director (Finance) Leisure and Cultural Services Department (AD(F)) said that the Leisure and Cultural Services Department (LCSD) had completed the collection of evidence and was seeking the advice of the Department of Justice before deciding on the next step.

13. Mr LEE Cheuk-yan expressed concern about the slow progress made in the case concerned, and urged the Administration to expedite the process.

14. Ms LI Fung-ying considered it too lenient towards the tenderers if the Administration would not consider a tender offer only after they had had three or more convictions under the Employment Ordinance (EO), Employees' Compensation Ordinance (ECO) and the Immigration Ordinance (IO) during the 12-month period

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prior to the tender closing date. Ms LI queried the difference between a conviction under these Ordinances and a serious breach that could lead to immediate termination of the service contract. She asked whether the Administration kept a name list of companies or employers bidding for tenders and records of convictions of these companies or employers under the three Ordinances.

15. PEO(T) said that relevant enforcement and major procurement departments had been consulted on using three convictions, i.e. three summonses resulted in conviction, as the standard for disqualifying the tenderers. He explained that any violation under the relevant sections of the three Ordinances would be counted, and both government and private sector contracts would be covered. There could be more than one summonses in a conviction. As a starting point, the standard was considered not too lenient. The Administration might, in the light of operational experience, tighten up this requirement. PEO(T) further said that in considering a tender, past experience or performance of the company would be assessed. A company which had conviction record changed to a new name would not have proven record of experience. Thus, it would lose a significant number of points under the marking scheme.

16. Ms LI Fung-ying asked whether a contractor whose service contract was terminated for serious breaches or who had a conviction under EO, ECO or IO was allowed to submit tender in the future. She said that one conviction under EO could be a very serious violation of the law.

17. The Deputy Chairman asked whether an employer who was convicted for employing illegal workers would be eligible to submit tender for government service contracts.

18. PEO(T) said serious breaches against the EO, ECO and IO might lead to immediate termination of government service contracts, and would also affect the concerned contractors' chance of success in their future bids for government service contracts. Based on their respective marking schemes, the major procuring departments would take into account in their tender assessment past records of conviction under the three Ordinances and breaches of contractual obligations in respect of employment conditions for the non-skilled workers. The criteria concerned carried a significant weight. In any case, a tender offer would not be considered if the tenderer had had three or more convictions against any of these Ordinances in the 12 months' period before the tender closing date.

19. AD(F) said that under the marking scheme of LCSD, a contractor who had a bad track record, for instance, one whose contract had been terminated immediately for serious breaches under the three Ordinances, would not be able to get a passing mark in the assessment criterion on its past performance. Since past performance of tenderers was allocated a heavy weighting, such record would adversely affect the contractor's chance of success in his future bids for government service contracts.

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20. Assistant Director (Grade Management and Development), Food and Environmental Hygiene Department (FEHD) said that FEHD attached great importance to tenderers' compliance with the provisions in the three Ordinances under the new marking scheme of FEHD, past performance and compliance with the Ordinances were given a weighting of about 28%.

21. Deputy Government Property Administrator said that the Government Property Agency (GPA) engaged professional property management companies which might employ cleaners and security guards through their subsidiary companies or contract out such services. As such, there would not be an assessment on wage levels and employment terms for these workers under GPA's marking scheme. However, if a subsidiary company or subcontractor of the property management company concerned was found in breach of the contractual obligations, deductions from the payment to the property management company might be made. Serious breaches could also result in immediate termination of the property management service contract.

22. Chief Manager/Management, Housing Department said that about one-third of the total marks was allocated to the past performance of tenderers in the Department's marking scheme. A tenderer would not be allowed to submit a tender if its performance score was in the lowest band.

23. PSL stressed that the disqualification requirement of three convictions referred to three summonses resulted in conviction. Such summonses in private sector contracts would also be covered. In addition, a serious breach, such as falsifying pay records, could lead to immediate termination of contracts. He believed that a tenderer who did not have any track record would not stand a high chance of being awarded a contract. He assured members that the Administration would closely monitor the situation.

24. Mr LEUNG Yiu-chung said that people with disabilities employed by government service contractors, e.g. for performing cleansing work, were usually paid lower wages in view of their working ability. He expressed concern that the imposition of the new mandatory requirement for assessing government service contracts might discourage contractors from hiring people with disabilities. To protect the interests of this disadvantaged group, he suggested that a provision be added in tender documents, requiring tenderers to employ a certain percentage of people with disabilities.

25. PEO(T) said that the new mandatory requirement was drawn up on the basis of the average monthly wages published by C&SD, not the working ability of individual workers. It would not be practicable to set different wage levels for different working abilities. Contractors might select their workers irrespective of the implementation of the new mandatory requirement. If persons with disabilities were employed on the full duties of the same job as able-bodied workers, they should be paid the same wage. This was also the advocated practice.

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26. Mr LEUNG Yiu-chung considered it unrealistic to expect employers paying their workers with disabilities the same wages as their able-bodied workers. He wondered whether the Administration could consider some flexibility in allowing lower wages offered to disabled workers hired under government service contracts. PEO(T) said the Administration would consider if members had other views. However, he said he saw difficulty with setting different wage levels for different working abilities for the reasons mentioned earlier.

27. Mr LEE Cheuk-yan pointed out that under the Disability Discrimination Ordinance, people with disabilities should be paid the same wages as the able-bodied workers for the same type of work. He said that a quota system for employing people with disabilities was implemented in some countries. For example, a corporation with over 100 staff had to allocate 2 to 3% of its establishment to disabled persons. In addition, tax incentives were offered to employers who employed people with disabilities. He suggested that the Administration could consider including in its outsourced contract a guideline on the number of people with disabilities that needed to be employed.

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28. The Deputy Chairman asked the Administration to take note of Mr LEE's suggestion.

**V. Measures to promote employment opportunities for people with disabilities**

(LC Paper No. CB(2)2750/03-04(05))

Briefing by the Administration

29. PSL said that the Administration had adopted a multi-pronged approach in helping the disabled to get employment. A Sub-committee on Employment had been set up under the Rehabilitation Advisory Committee to advise the Government on all matters concerning employment for people with disabilities.

30. PSL highlighted the measures taken by the Labour Department (LD) to enhance the employment opportunities for the disabled.

31. Assistant Director of Social Welfare (Rehabilitation and Medical Social Services) (AD/SW) gave a briefing on the employment programmes and services provided by the Social Welfare Department (SWD) for people with disabilities.

32. Deputy Secretary for Health, Welfare and Food (Welfare) (DSHWF) briefed members on the provision of vocational training for people with disabilities. She added that the Vocational Training Council had earmarked about \$110 million in the coming year in providing the vocational training programmes for the disabled.



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33. Assistant Director of Home Affairs (AD/HA) briefed members on the role of the Home Affairs Department (HAD) in promoting the employment opportunities of the disabled through local community economy.

Meeting with the Alliance on Employment Quota System for Person with Disability (LC Paper Nos. CB(2)2807/03-04(01) and CB(2)2852/03-04(01))

34. Mr Kaiser LO and Ms CHOW Ping-kuen presented the views of the Alliance on Employment Quota System for Person with Disability (the Alliance), as detailed in the Alliance's submission.

35. Ms YEUNG Sze Man said that the Alliance concluded that -

- (a) the Government, subvented organisations and public bodies should formulate policies, measures and procedures to increase the employment opportunities of people with disabilities;
- (b) a committee with representatives from various sectors should be formed to oversee the implementation of such policies, measures and procedures;
- (c) the progress of the existing programmes for helping the disabled to find employment and the new measures to be adopted should be announced on a regular basis;
- (d) of the newly created jobs by the Government, about 3% to 5% should be allocated to people with disabilities;
- (e) a committee with representatives from various sectors should be formed to study the feasibility and implementation of a quota system for the employment of people with disabilities; and
- (f) a quota system for the employment of people with disabilities should be implemented within a specific time frame.

36. Dr Fernando CHEUNG added that the Alliance urged the Government to conduct surveys on the employment of people with disabilities on a regular basis and make public the unemployment rate of the disabled.

Discussions

37. Ms CHAN Yuen-han said that the measures currently adopted by the Administration fell short of the needs of the people with disabilities. With the unemployment rate of the disabled stood at about 17%, the Administration should consider long-term measures to help the disabled to find employment. She suggested

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that the Administration should consider the implementation of a quota system for the employment of people with disabilities. Regarding the promotion of employment opportunities for the disabled through local community economy, Miss CHAN suggested that specific projects for them could be devised.

38. DSHWF said that there were divergent views on a quota system for the employment of people with disabilities. The Administration was of the view that it would be more effective to enhance the employability of the disabled, rather than giving special treatment, such as adopting a quota system, in helping the disabled find employment. She pointed out that the United Kingdom had abolished its quota system because it could not solve the problem. According to a report of the International Labour Organisation, there was also a trend in the European Union countries in giving up such a quota system. She further said that in a survey on the employment of the disabled conducted in conjunction with non-governmental organisations (NGOs) in the end of 2002, it was found that about 1.6% of the employees in these NGOs were people with disabilities, while in the civil service, about 2% of the total strength were disabled persons. She stressed that it was more important to strengthen educational publicity in providing equal employment opportunities for the disabled.

39. AD/HA said that in the promotion of employment opportunities for the disabled through local community economy, HAD would remove the obstacles and restrictions to facilitate their employment. HAD welcomed Miss CHAN's views on improving the employment of the disabled through operation in flea markets.

40. AD/SW said that SWD had worked closely with NGOs and big corporations in enhancing the employment of the disabled. Some 30 exhibitions at shopping malls and universities were organised each year with a view to increasing the employment opportunities of the disabled. Assistance had been rendered to NGOs to secure service contracts in restaurants and snack shops under the management of LCSD. Regarding the employment of the blind, under the "Enhancing Employment of people with Disabilities through Small Enterprise Project", a vehicle was provided for a mobile massage team of the blind and funding for a team to produce braille material for the vision impaired was secured. Funding was also granted to help 24 blind persons to purchase computer hardware and software so that they could work at home.

41. Ms CHAN Yuen-han said that when the issue of a quota system was discussed, there was no objection in implementing it in the public sector. She urged the Administration to seriously consider implementing a quota system in the public sector first. DSHWF agreed to consider.

42. Ms LI Fung-ying requested the Administration to provide further information on the employment of the disabled, such as the job types of the successfully employed disabled, their wages and the type of organisation employing them. PSL agreed.

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43. Ms LI Fung-ying disagreed that the implementation of a quota system would result in labelling of the disabled. She said that if the quota system was considered not feasible, the Administration should propose viable measures to increase the employment of the disabled.

44. DSHWF said that the Administration had been exploring viable measures in helping people with disabilities to find employment. For example, appropriate training was provided to enhance their employability. Employers could also apply for funding to improve workplace facilities for the disabled. The Administration would take note of members' views and adjust the relevant policies where necessary.

45. In response to Mr Kaiser LO's concern that the new mandatory requirement for government service contracts would impact on the employment opportunities of the disabled, PSL said that clarifications had been made to government departments that the requirement was not applicable to persons with disabilities attending service units in respect of subvented NGOs which provided rehabilitation services as trainees, as there would be no employer-employee relationship between these persons and the NGOs.

46. AD/SW said that SWD would follow up with relevant government departments on each case of individual NGO's query on contractual matters. SWD would also take the opportunity of the annual briefing on job services to be attended by government departments and NGOs in end June/early July to explain the employment of the disabled under the new mandatory requirement. SWD had undertaken to certify whether the employment of the disabled as declared in NGO's bid for the government service contracts was under the SWD subvented/recognised employment programmes, if in doubt.

47. Mr LEE Cheuk-yan considered that the 17% unemployment rate of the disabled was on the low side. He urged the Administration to publish the unemployment rate of the disabled regularly so that the seriousness of the problem could be revealed. After all, the unemployment rate would be an assessment of the effectiveness of the measures undertaken by the Government in promoting the employment opportunities for the disabled. He also urged the Administration to consider implementing a quota system for the employment of the disabled in large corporations, and offering tax deduction incentive for employers employing people with disabilities. He suggested that guidelines be included in government service contracts that certain percentage of the jobs be allocated to disabled workers or trainees, and bonus points be awarded to the contractors who employed disabled trainees in tender assessments.

48. DSHWF said that she would discuss with C&SD on advancing the thematic survey on the employment of the disabled which was scheduled to be conducted in 2007. She undertook to follow up on the suggestion of giving bonus point for the employment of disabled trainees in tender assessments. As regards the suggestion on

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tax deduction incentive, she said that the Administration would review the matter in the light of development.

**VI. Enhancements to the telephone enquiry service on labour matters**  
(LC Paper No. CB(2)2750/03-04(06))

49. The Chairman resumed the chair.

50. PSL said that the Administration's initiative to enhance the Labour Department's telephone enquiry service (TES) would be a significant step forward in providing service to the public on labour matters. Hong Kong would be the only city in the Asian Pacific region providing a 24-hour hot-line service on labour matters.

51. Ms LI Fung-ying said that she could not agree that the enhancement incentive would be a big step forward, as the average number of agents attending to labour matters would be less upon fusing TES into the Integrated Call Centre (ICC) operated by the Efficiency Unit. She pointed out that at present, there was 22 TES officers answering calls on labour matters. However, ICC would only have 142 agents handling inquiries of 12 government departments and labour matters.

52. PSL assured members that it would definitely be an improvement. He pointed out that the service hours of call centre agents would be extended by half an hour a day and the number of agents assigned to answer calls on labour matters would rise to 30, representing an increase of 36%.

53. Head, Efficiency Unit (Acting) clarified that 30 agents would be dedicated to handling calls on labour matters and they would not need to handle enquiries of other government departments. He informed members that over 80% of the calls currently handled by ICC were answered within 12 seconds, and the successful connection rate was over 90%. The service standards were much higher than those under TES at present.

**V. Any other business**

54. The Chairman thanked members and the Administration for their contribution to the work of the Panel during the session, and the Secretariat's staff for their service.

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

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Council Business Division 2  
Legislative Council Secretariat  
9 August 2004