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**Panel on Welfare Services and
Panel on Security**

**Minutes of joint meeting
held on Friday, 30 April 2004 at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Panel on Welfare Services

Hon CHAN Yuen-han, JP (Chairman)
Dr Hon LAW Chi-kwong, JP (Deputy Chairman)
Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon Fred LI Wah-ming, JP
Hon LEUNG Yiu-chung
Hon CHOY So-yuk
Hon LI Fung-ying, JP
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee

Panel on Security

Hon James TO Kun-sun (Chairman)
Hon Albert HO Chun-yan
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHEUNG Man-kwong
Hon Howard YOUNG, SBS, JP
Hon LAU Kong-wah, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP

Members : Panel on Welfare Services
absent

Hon LEE Cheuk-yan
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Dr Hon YEUNG Sum
Hon Henry WU King-cheong, BBS, JP
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip

Panel on Security

Hon WONG Yung-kan (Deputy Chairman)
Dr Hon LUI Ming-wah, JP
Hon Andrew WONG Wang-fat, JP

(# Also member of the Panel on Security)

Member attending : Hon Miriam LAU Kin-ye, JP

Public Officers attending : Mr Paul TANG, JP
Director of Social Welfare

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

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

Mrs Loretta CHAU
District Social Welfare Officer (Yuen Long)
Social Welfare Department

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

Miss Pamela LAM
Principal Assistant Secretary for Security/E (Acting)

Mr Victor LO
Assistant Commissioner of Police (Crime)

Ms NG Suk-fun, Cecilia
Superintendent CRIME Support, Hong Kong Police Force

Mr Vincent TANG, JP
District Officer/Yuen Long, Home Affairs Department

Mr WONG Bay
Assistant Director (Estate Management) 2
Housing Department

Mr Cert Quinn LEE
Chief Manager/M (Support Services) 2, Housing Department

Dr Beatrice CHENG
Senior Executive Manager (Professional Services)
Hospital Authority

**Clerk
in attendance** : Miss Mary SO
Chief Council Secretary (2) 4

**Staff in
attendance** : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Miss Lolita SHEK
Senior Council Secretary (2) 7

I. Election of Chairman

Miss CHAN Yuen-han was elected Chairman of the joint meeting.

II. Continue discussion on strategy and measures to prevent and tackle family violence

(LC Paper Nos. CB(2)2131/03-04(01) to (03), CB(2)2210/03-04(01) to (02) and CB(2)2227/03-04(01))

Replacement of the chairman of the three-person review panel set up to review the provision and service delivery process of family services in Tin Shui Wai (the review panel)

2. The Chairman said that at the joint Panel meeting on 26 April 2004, the Administration was requested to provide a response at this meeting to a request made by some members and deputations for the replacement of Mr WAN Chi-keung, chairman of the review panel. The request was made in view of Mr WAN's comments made to "Ming Pao" on 23 April 2004 that the existing immigration and welfare policies were the main causes of family violence. These members and deputations had pointed out that such pre-conceived views of Mr WAN on the causes of family violence, including that of the tragedy case in Tin Shui Wai, had adversely undermined public confidence in the review panel to come up with impartial and credible conclusions and recommendations.

3. Director of Social Welfare (DSW) responded that Mr WAN had clarified to him that he had never said that immigration and welfare policies were the main causes of the tragedy case in Tin Shui Wai. What Mr WAN meant to say was that the problem of family violence was a complex one involving many contributory factors and immigration and welfare policies could have a bearing on the problem. Unfortunately, this had not been fully reported. DSW assured members that there was no cause for concern that the work of the review panel would be prejudiced, as its conclusions and recommendations would be subject to public scrutiny. DSW advised that the review panel had commenced work. Apart from interviewing the government departments concerned, including the Police, the review panel would also meet with non-governmental organisations (NGOs) providing welfare services and other interested parties to listen to their views on family violence.

4. Mr CHEUNG Man-kwong said that to better address public concern, a statement by Mr WAN to clarify his comments on family violence made to the press should be provided to members. Upon receipt of such statement, members could then decide on whether replacing the chairman of the review panel should continue to be pursued with the Administration. Mrs Selina CHOW, Ms LI Fung-ying and Miss Margaret NG expressed support. Mr WONG Sing-chi however was of the view that a mere statement from Mr WAN would not be sufficient to regain public confidence in the review panel. There was a need for Mr WAN to come before members to clarify his stance on family violence.

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5. The Chairman put Mr CHEUNG Man-kwong's proposal to vote. The proposal was supported by the majority of the members present at the meeting. DSW undertook to provide members with a statement from Mr WAN.

Inquiry into the circumstances surrounding the recent occurrence of the Tin Shui Wai family tragedy

6. Mr James TO called upon the setting up of a commission of inquiry chaired by a judge to inquire into the circumstances surrounding the recent occurrence of the Tin Shui Wai family tragedy. Mr TO pointed out that the review panel only focused on the review of the provision and service delivery process of family services in Tin Shui Wai, and the Police investigation on the ways the incidents related to the victimised family in the Tin Shui Wai murder had been handled.

7. DSW responded that the review panel would review the handling of the case in question and, based on the issues identified, recommend measures to strengthen the effectiveness, coordination and other aspects concerning service provision and delivery of family services in Tin Shui Wai. The Panel could also comment on any other general issues concerning the handling of family violence and recommend follow up actions. In so doing, the review panel would not restrict its review to the work of the Social Welfare Department (SWD) and the NGOs concerned on family violence, but would also review the roles of other government departments concerned, such as the Police and Housing Department (HD). All parties concerned had agreed to render full cooperation to the work of the review panel. Notwithstanding the aforesaid, it should be pointed out that nothing in the review of the review panel should affect the criminal investigation of the Tin Shui Wai family tragedy which was underway and any legal proceedings that might arise. DSW further said that the welfare sector was generally supportive of the appointment of the review panel to identify areas for improvement so that the occurrence of the tragedy case could be prevented in future.

8. Deputy Secretary for Health, Welfare and Food (Welfare) (DSHWF) supplemented that to appoint a judge to chair the review panel might turn the review into a judicial investigation. This would not be appropriate, as the objective of the review was to review various issues relating to the handling of family violence and make recommendations on improving service provision and delivery. Mr TO disagreed, and pointed out that a commission of inquiry chaired by a judge had been set up in the past to investigate matters of wide public concern which did not involve any judicial element. The commission of inquiry set up to review the Lan Kwai Fong tragedy occurred on 1 January 1993 was a case in point.

9. Mr LAU Kong-wah shared Mr TO's view that the review panel and the separate Police inquiry could not fully address public concern over the Tin Shui Wai family tragedy. This situation was aggravated by the fact that the Police at first refuted, and later admitted that one of the victims of the tragedy case did visit the Tin Shui Wai Police Station for assistance prior to her death on 11 April 2004. As the handling of family violence involved various Government departments, Mr LAU was of the view that the Administration should set up an inter-departmental committee to find out the facts related to the Tin Shui Wai family tragedy so that lessons could be learnt.

10. Referring to DSW's comments above, DSHWF said that the review panel would not restrict its review to the work of SWD and the NGOs concerned on family violence, but would also look into the case and review the work of other government departments concerned. Should the review panel identify any system failures within the Administration, the Health, Welfare and Food Bureau would take up the matters with the relevant policy bureaux for follow-up. The review panel was best placed to carry out the task.

11. Assistant Commissioner of Police (Crime) (ACP) supplemented that two investigations were being conducted by the Police in light of the recent occurrence of the Tin Shui Wai family tragedy. One was the criminal investigation of the homicide, and the other was on the ways the incidents related to the victimised family in the Tin Shui Wai murder had been handled, including whether frontline staff had strictly followed the guidelines for handling family violence and related matters. ACP assured members that the Police would render all the necessary assistance to the review panel in its work.

12. Mr LAU Kong-wah remained of his view that the review panel could not find out all the facts needed to draw up recommendations to prevent the recurrence of the Tin Shui Wai family tragedy. For instance, the review panel was not empowered to inquire into the Police's handling of the incidents related to the victimised family in the Tin Shui Wai murder, and could only rely on the findings of the Police investigations. Mr LAU further requested the Police to provide a more detailed report on its handling of the tragedy case in Tin Shui Wai.

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13. Mrs Selina CHOW said that she did not see the need for a commission of inquiry chaired by a judge or an inter-departmental committee to inquire into the Tin Shui Wai family tragedy, for the reasons given by the Administration above. Mrs CHOW further said that the question of what had led to the homicide might be answered if there was a death inquest of the tragedy case.

14. Dr LAW Chi-kwong said that as the handling of family violence involved other Government departments apart from SWD, it was questionable whether the

review panel had the capability to identify system failures beyond SWD. Dr LAW further said that to solely focus on identifying system failures would not help to draw lessons from experience, as it was not clear whether the tragedy case was also due to human failures; if so, what they were. In the light of this, Dr LAW considered it necessary to set up a commission of inquiry to inquire into the Tin Shui Wai family tragedy. Dr LAW also disagreed that a death inquest of the tragedy case would provide answers to what had led to the homicide, as the scope of such inquest was very narrow. Miss Margaret NG echoed similar views, and further said that review of the Domestic Violence Ordinance (DVO) was also necessary to see whether it was adequate to deal with family violence.

15. Mr IP Kwok-him said that the review panel should be allowed to continue its work, despite its limitations. Mr IP however urged the Administration to expeditiously respond to members' request for a more comprehensive follow-up of the tragedy case.

16. Ms Cyd HO said that notwithstanding the review panel, a commission of inquiry should be set up to inquire into the Tin Shui Wai family tragedy. Should the Administration refuse to comply, there was no ruling out that a select committee might be appointed by the Legislative Council (LegCo) in the next legislative term.

17. Mr Howard YOUNG said that expanding the terms of reference of the review panel and its membership could also achieve the objectives of identifying both human and system failures which might contribute to the Tin Shui Wai family tragedy.

18. Dr LAW Chi-kwong disagreed with Mr YOUNG's views, in view of the inherent limitations of the review panel. Dr LAW further said that he had no strong view about the review panel continuing its works, as its ambit was completely different from a commission of inquiry. Miss Margaret NG echoed similar views.

19. DSW clarified that whilst waiting for the findings of the review panel to identify areas for improvement in the handling of family violence, ongoing efforts had been made by the Administration to combat family violence. For instance, a study on child abuse and spouse battering by the University of Hong Kong (HKU) commissioned by the Administration in April 2003 would, inter alia, look at possible areas of improvements, including those that might involve legislation. In parallel, relevant statistics from the Judiciary were being collected to assess the effectiveness of the existing legal remedies provided under DVO. These would all help to shed light on the way forward.

20. The Chairman concluded that members in general did not object to the work of the review panel. Members however considered it necessary to have a full and comprehensive investigation of the Tin Shui Wai family tragedy by a commission of inquiry chaired by a judge. The Chairman urged the Administration to carefully consider such request from members, otherwise LegCo might consider appointing a select committee to inquire into the tragedy case in the next legislative term. The Chairman pointed out that the Panel on Welfare Services had discussed the issue of family violence with the Administration on two occasions on 11 March 2002 and 10 February 2003, but the strategy and measures on combating the problem had proven to be far from effective. The delay in criminalising the act of stalking as recommended by the Law Reform Commission and the delay in introducing legislative amendments to DVO to enable it to better meet present day circumstances were cases in point. There was an urgent need for an independent body to evaluate the whole system in combating family violence, having regard to the rising number of cases and the criticisms/concerns raised by NGOs at the last joint Panel meeting. DSHWF agreed to consider and revert to members as soon as possible.

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Strategy and measures to prevent and tackle family violence

21. Assistant Director of Social Welfare (Family and Child Welfare) (ADSW) briefly took members through the Administration's response to the recommendations put forward by deputations at the joint Panel meeting on 26 April 2004 (LC Paper No. CB(2)2210/03-04(01)) tabled at the meeting.

Injunction against the abuser

22. Mr CHEUNG Man-kwong sought the Administration's view on the proposal of permitting a third party to apply for an ex parte injunction for a victim provided that the victim was aware of the application or did not object to the application. Dr LAW Chi-kwong opined that as an application for an ex parte injunction was different from reporting a family violence case to the Police, the third party in this context should be the Police and social workers. Dr LAW further said that the maximum validity of injunction order should be extended up to 18 months to dovetail the corresponding matrimonial or guardianship proceedings. In response, DSW said that the proposal involved complex legal issues such as obtaining evidence and the victim's consent and would need to be carefully considered.

Procedures of handling battered spouse case

23. Mr Frederick FUNG said that at the last joint meeting, some NGOs urged SWD to abandon the philosophy of "family integrity" in handling family violence and to accord priority to protecting the personal safety of victims over achieving

family union. Mr FUNG asked whether this point would be addressed by the review panel. Ms Cyd HO raised similar concern.

24. DSW clarified that SWD did not adopt any single philosophy, such as "family integrity", in handling family violence cases. Personal safety of victims and children involved were always the prime concern. For instance, to assist battered spouses with or without dependent children on divorce proceedings in resolving their genuine and imminent housing problems, assistance in finding accommodation would be rendered as appropriate. ADSW supplemented that training on different perspectives relating to domestic violence was conducted and social worker's intervention was based on the risks and needs assessment of each individual case.

25. Assistant Director of Housing (Estate Management) 2 (ADH) referred members to the Administration's paper setting out the statistics on the splitting of household for needy public rental housing (PRH) tenants for the period from January 2001 to March 2004 (LC Paper No. CB(2)2227/03-04(01)) tabled at the meeting. Of the total number of 298 cases, 172 and 111 cases involved family disputes and divorce respectively. ADH further said that in 2003, 167 cases involving domestic violence were recommended for Conditional Tenancy (CT) and Compassionate Rehousing. Besides, under the streamlined referral mechanism between HD and SWD in handling applications for splitting of household and house transfer for needy PRH tenants, 11 cases involving domestic violence were recommended for splitting of household in 2003. As regards housing arrangements for PRH divorcees, 955 divorced households were approved for re-arrangement of their tenancies without allocation of additional PRH units, whereas separate PRH units were offered to another 91 divorced households in 2003.

26. Mr Frederick FUNG noted from the Administration's response that to facilitate accurate assessment of all the family members and persons affected by family violence, social enquiry was conducted by SWD through interviews with family members either individually or jointly, etc. In the light of this, Mr FUNG asked about the number of separate and joint interviews conducted in each family violence case handled by SWD last year.

27. Chief Social Work Officer (Domestic Violence) (CSWO) responded that the information requested by Mr FUNG in paragraph 26 above was not available. CSWO pointed out that there was no hard and fast rule on when a separate or joint interview should be conducted, as the circumstances of each family violence case were different. The social worker would only arrange joint interviews based on the needs of individual cases, taking into consideration the safety of the victim and when both parties were ready. In case of difficulty in deciding on the format of interview, the social worker could consult his/her supervisor.

Housing assistance for battered spouses

28. Ms Cyd HO pointed out that housing assistance for battered spouses was far from adequate. In 2003, the total number of newly reported battered spouse case was 3 298, whereas the number of splitting of household cases involving family violence was only 167. Ms HO further said that SWD should not only recommend CT and Compassionate Rehousing for battered spouses after they had decided to divorce from their spouses. In some cases, the victims wished to remain in their marriage and living apart from their spouses on a temporary basis would provide both sides with a much needed cooling down period to resolve their differences.

29. Chief Manager/Management (Support Services) 2 clarified that CT and Compassionate Rehousing were intended for the situation highlighted by Ms HO in paragraph 28 above. Apart from this, if the divorce proceedings were expected to be protracted ones and the aggrieved party, with or without dependent children, had genuine need for a separate PRH unit, HD would, upon recommendation by SWD, provide them with temporary accommodation in a PRH estate in the form of a CT under the Compassionate Rehousing Category. CT could be converted into a normal tenancy upon the court's award of divorce decree and the victims were granted the guardianship of dependent children. Chief Manager/Management (Support Services) 2 further said that CT would also be provided to battered spouses waiting for allocation of PRH on the recommendation of SWD. Upon divorce, the party with custody of children had the priority right to retain the original application if consent on the ownership of the application could not be reached by both parties to the divorce. If the other party, irrespective of whether he/she got the custody of any child, was still in need of PRH and could fulfil all eligibility criteria, a fresh application with the registered date equivalent to that of the original application would be accepted.

30. CSWO supplemented that other housing assistances included arranging battered spouses with genuine and imminent need to live in refuge centres and releasing emergency funds to assist the victims to rent private tenements as appropriate. Arrangements would also be made to help these victims apply for Comprehensive Social Security Assistance.

31. Noting that the revised Procedural Guidelines for Handling Battered Spouse Cases, endorsed by the Working Group on Combating Violence, had just been distributed to related professionals in April 2004, Ms Cyd HO requested SWD to provide members with copies of these Guidelines. Ms HO further requested SWD to provide information on the number of victims of marital rape and family violence who were denied housing assistance and had to live with their abusers during the past three years. CSWO undertook to provide the revised

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Guidelines to members after the meeting. As to Ms HO's second request, CSWO said that she would check if such information was available.

Multi-disciplinary collaboration in handling family violence

32. Mr WONG Sing-chi expressed concern about the lack of multi-disciplinary collaboration in handling family violence, as evidenced in the Tin Shui Wai family tragedy. For instance, despite the existence of a referral mechanism which the Police would refer family violence case to SWD for follow-up without the consent of the victims, this had not been observed.

33. DSW said that there was always room for improvement and he believed that multi-disciplinary collaboration in handling family violence would be one aspect which the review panel would look at and draw up recommendations. DSW further said that although social workers no doubt had an important role to play in combating family violence, the concerted efforts of all in the community was vital because family violence, in many instances, was a manifestation of how some individuals resorted to tackle their problems and pressure. That was why from a wider perspective, the Administration was working to enhance self-help and individuals' ability to face life's challenges.

34. ADSW supplemented that the Administration attached great importance to enhancing multi-disciplinary collaboration to combat family violence. Much headway in this regard had been made in the past two years. For instance, since implementation of the enhanced referral system such that the Police could refer certain family violence cases to SWD for follow-up even without the consent of the victim, there had been increase in the number of police referrals. The Procedural Guidelines for Handling Elder Abuse Cases, drawn up to facilitate multi-disciplinary co-operation, had been put into practice on 1 March 2004 after a six-month pilot run. The revised Procedural Guidelines for Handling Battered Spouse Cases had also included reference on the arrangement of multi-disciplinary case conference for specific cases and guidelines for various related sectors, including social welfare services units, the Hospital Authority, the Department of Health, the Police, the Legal Aid Department, the Department of Justice, schools, HD and other organisations. To prepare for the implementation of the Guidelines on 1 May 2004, a briefing session was conducted for related professionals on 21 April 2004.

35. ACP also said that apart from conducting an enquiry to examine the ways the incidents related to the victimised family of the Tin Shui Wai case had been handled, frontline Police had been reminded of the need of handling family violence cases with care. The Police would examine the existing police procedures for handling family violence cases in consultation with other related

agencies with a view to identifying any areas that required improvement. A study would also be conducted to enhance the existing information system so that frontline Police could immediately find out whether the victim had previously sought assistance from the Police. ACP further said that since January 2003, the Police had started to refer cases to SWD for follow-up support services even without the consent of the victim/alleged offender. Since then, a notable increase of referrals of family violence cases was recorded. During the year of 2002, 296 out of a total number of 1 665 family violence cases were referred to the Family and Child Protective Services Units (FCPSUs) of SWD. Whereas, 1 617 out of a total number of 2 401 family violence cases were referred to FCPSUs in 2003.

Resources for handling family violence

36. Ms LI Fung-ying queried whether the Administration's plan to re-engineer existing family services centres (FSCs)/counselling units into Integrated Family Service Centres (IFSCs) would solve all family problems. For instance, each integrated family service centre (IFSC) in generally only had 12 social workers. As family problems also consisted of, say, youth problems, it was questionable whether such staff establishment could cope with the service demand in a district with large number of family violence cases. The Chairman raised similar concern.

37. ADSW responded that although each IFSC would have a minimum of 12 social workers as recommended by the Consultant, individual IFSCs might have more social workers, say, 16 to 19, depending on factors such as the population to be served and the complexity of the problems in the district. For instance, through the re-engineering exercise, there would be a total of three IFSCs in Tin Shui Wai and the number of social workers would be increased from 28 to 41. For Tseung Kwan O, the existing two FSCs/counselling units with a total of 17 social workers would be transformed to become three IFSCs with a total of 40 social workers. ADSW further said that in light of the increasing number of family violence cases, apart from the additional provision of 42 frontline social workers to its FCPSUs since April 2000, SWD was planning to further strengthen the manpower of the specialised FCPSUs by expanding to six teams through re-deployment of manpower resources generated from re-engineering of FCSs. Moreover, IFSCs were not the only welfare units in the district, other service units (e.g. Integrated Children and Youth Services Centres) also provided services to meet district needs.

38. DSW reiterated the importance of promoting social capital to tackle family violence. To this end, a \$300 million Community Investment and Inclusion Fund was set up in 2002 to provide seed funding to support community-initiated and neighbourhood-based projects that sought to build the capabilities of individuals and groups for self-help, mutual help and support, and to mobilise cross-sectoral

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collaboration to tackle local problems.

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39. Ms LI Fung-ying requested the Administration to provide a breakdown of the allocation of resources to all IFSCs after the completion of the re-engineering exercise. DSW undertook to provide the information after the meeting.

Adoption of "zero tolerance" policy against family violence

40. Dr LAW Chi-kwong urged the Administration to make "zero tolerance" a Government policy, so as to avoid frontline staff, in particular, the Police treating family violence cases as mere family disputes.

41. DSW assured members that the Administration would not tolerate any act of violence. To prevent family violence, public education was key. Ongoing campaign aiming at enhancing public awareness of the need to strengthen family solidarity, encourage early help-seeking and prevent violence including spouse battering, had been launched. On the formulation of a "pro-arrest" policy proposed by some NGOs, DSW said that there was no objection from a general legal policy perspective to the arrest and prosecution of perpetrators of family violence where there was sufficient evidence to support a charge. DSW however pointed out that some victims might not be willing to give evidence against their spouses. There was concern that if the "pro-arrest" policy was implemented, this could deter some victims from seeking assistance for fear that the Police would put their spouses under arrest.

42. ACP supplemented that the Police would investigate any offences that might have been committed and would take firm and proactive action against the alleged offenders, including offenders of spouse battering. However, in many instances, the victims were unwilling to give evidence against their spouses, without which prosecution against the abusers could not be initiated.

43. Dr LAW Chi-kwong remarked that the "zero tolerance" did not necessarily mean that the abusers had to be put under arrest. Requiring the abusers to undergo counselling was also one way to tackle the problem.

Setting up a central database on domestic violence

44. Dr David CHU asked whether the Administration had any plan to set up a centralised information system for collecting information on family violence, such as contributing factors of the family violence incidents, which could be shared by SWD and the Police. In so doing, specialists such as psychologists and experts on family violence should be enlisted to provide input to the system development.

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45. CSWO responded that at present, statistics on battered spouse cases were captured by SWD's Central Information System on Battered Spouse Cases, which also included data such as the occupation of the victims and batterers, years of residence of the batterers etc. The feasibility of a shared database would need to be further studied in detail.

Way forward

46. The Chairman suggested and members agreed to hold another joint Panel meeting on 24 May 2004 at 10:45 am. Ms Cyd HO suggested that members of the Panel on Administration of Justice and Legal Services be invited to join the discussion on criminalising the act of stalking. Members agreed.

47. There being no other business, the meeting ended at 10:45 am.

Council Business Division 2
Legislative Council Secretariat
21 May 2004