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Panel on Welfare Services

**Subcommittee to study issues relating to the Comprehensive Social
Security Assistance and Social Security Allowance Schemes**

**Minutes of meeting
held on Wednesday, 26 February 2004 at 8:30 am
in the Chamber of the Legislative Council Building**

Members present : Hon LEE Cheuk-yan (Chairman)
Dr Hon LAW Chi-kwong, JP
Hon LI Fung-ying, JP
Hon Michael MAK Kwok-fung
Hon WONG Sing-chi

Members absent : Hon Cyd HO Sau-lan
Hon CHAN Yuen-han, JP
Hon LEUNG Yiu-chung

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

Mrs Agnes Allcock, JP
Deputy Director of Social Welfare (Administration)

Mrs Brenda FUNG
Principal Assistant Secretary for Health, Welfare and Food
(Elderly Services)

Mrs Rachel Cartland, JP
Assistant Director of Social Welfare (Social Security)

Mr LAI Shiu-bor
Chief Social Security Officer (Social Security) 2
Social Welfare Department

Miss Cecilla LI
Chief Social Work Officer (Family and Child Welfare) 1
Social Welfare Department

**Individual/
Deputations
by invitation**

: **Individual**

Dr Fernando CHEUNG
The Hong Kong Polytechnic University

Deputations

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

Ms LIU Ngan-fung
Chairman

Ms LEI Hiu-wan
Member

Society for Community Organization

Ms SZE Lai-shan

New Immigrants' Mutual Aid Association

Ms YAU Yik-yung

Ms BIK Yin-hung

New Arrival Women League

Ms WONG Yuk-fung
Chairman

Ms KWOK Kwan-tei
Vice Chairman

Chinese Grey Power

Mr POON Ka-mui

Ms LO Siu-lan

Mr MA Chun-kwong

Mr NG Kin-wing

Hong Kong Council of Social Service

Ms Mariana CHAN Wai-yung
Chief Officer, Policy Research and Advocacy

Social Concern Group

Ms CHAN Kit-ching

Ms LAU Wu-yin

Hong Kong Social Security Society

Mr HO Wing-chung
Committee Member

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

Staff in attendance : Ms Joanne MAK
Senior Council Secretary (2) 2

I. Residence requirements for Comprehensive Social Security Assistance and Social Security Allowance
(LC Paper Nos. CB(2)1487/03-04(01) to (05) and CB(2)1505/03-04(01) to (04))

The Chairman welcomed representatives of the deputations and Administration to the meeting.

Views of individual/deputations

Dr Fernando CHEUNG and Hong Kong Association for the Survivors of Women Abuse (Kwan Fook)
(LC Paper No. CB(2)1505/03-04(01))

2. Dr Fernando CHEUNG referred members to the joint submission (LC Paper No. CB(2)1519/03-04(01)) by himself, Office of Hon Cyd HO and Kwan Fook tabled at the meeting, which included eight case examples illustrating the refusal of the Social Welfare Department (SWD) to exercise discretion to exempt people in genuine hardship from the residence requirement for Comprehensive Social Security Assistance (CSSA). People in all these eight case examples were new arrival women who were abused or deserted by their spouses, with young children and had no income or financial resources of their own. To ensure that the guidelines for exercising the discretion were observed by staff of the Social Security Field Units (SSFUs) and well understood by applicants, Dr CHEUNG was of the view that such guidelines should be widely publicised and posted prominently in the premises of SSFUs. Representatives of Kwan Fook then took members through some of the eight case examples. In one of these cases, it was only after the new arrival concerned had held a press conference to make public her poor and unreasonable treatment by SWD staff that CSSA was provided to her. To ensure that all the cases were handled properly, they suggested that non-governmental organisations (NGOs) providing welfare services, concerned groups and service users of the social security system should be invited to share their experience with staff of SSFUs during the latter's training session.

Society for Community Organization (SOCO) and New Immigrants' Mutual Aid Association (the Association)
(LC Paper No. CB(2)1487/03-04(01))

3. Ms SZE Lai-shan of SOCO introduced the joint submission from SOCO and the Association. In particular, Ms SZE said that in addition to the seven-year residence rule, a person aged 18 or above applying for CSSA must have resided in Hong Kong continuously for at least one year immediately before the date of application. Ms SZE pointed out that the fact that this additional requirement

also applied to Hong Kong permanent residents raised doubt as to whether the right to social welfare under the Basic Law had been infringed. Ms SZE cited a case whereby an elder with meager means went to Macau to live with his elder brother. The elder returned to Hong Kong several years later after his elder brother could no longer afford to support him, and resorted to rely on CSSA. His application was rejected by SWD staff on the grounds that he had not resided in Hong Kong continuously for at least one year immediately before the date of application. SOCO was in the process of seeking judgement from the court on the legality of such residence requirement for CSSA.

4. Ms SZE further said that as the annual CSSA expenditure on new arrivals only constituted about 0.4% of the Government's annual overall public expenditure, it was not worthwhile to undermine Hong Kong's reputation as a just society by targetting the cost cutting on new arrivals. Moreover, unlike other places, CSSA was the only safety net in Hong Kong to the needy. Ms SZE also said that SOCO had recently conducted a study on the livelihood of CSSA families, and found out that the phenomenon of young children having to work to support their families had risen or being left alone at home because their parents had to go out to work had been on the rise, particularly so amongst new arrival families. This situation would worsen after the implementation of the seven-year residence requirement for CSSA.

5. Ms BIK Yin-hung of the Association then told the meeting that SSFU staff refused to exempt her from the one-year residence requirement for CSSA and insisted that she should find employment, despite her ill health and had to raise her young son alone. Ms YAU Yik-yung of the Association also said that she and her three young children were in dire financial hardship because of the gambling habit of her husband. She also fell victim to domestic violence and at one time lived in the Harmony House. Despite such experience, SSFU staff still refused to exercise discretion to exempt her from meeting the one-year residence rule and asked her to borrow money from friends or relatives.

Hong Kong Social Security Society (HKSSS)
(LC Paper No. CB(2)1505/03-04(02))

6. Mr HO Wing-chung presented the views of HKSSS as set out in its submission tabled at the meeting. HKSSS urged the Administration to rescind the new seven-year residence requirement for CSSA, as imposing such would be detrimental to the long term development of Hong Kong. Due to the growing ageing population, Hong Kong increasingly needed to rely on immigrants to maintain its labour force, the bulk of which was admitted under the One-way Permit Scheme. To meet the needs of a knowledge-based economy, the quality of the population in the years to come had to be improved. Investing in young

immigrants was thus crucial. However, the present social security policy had the opposite effect of undermining the quality of the population. The seven-year residence requirement for CSSA would not only deter Mainland parents (usually the mother) from coming to Hong Kong thereby leaving children without adequate parental care, it would also cause children to share their CSSA benefits with their Mainland parents who could not satisfy the residence rule thereby depriving children of the opportunities to become better educated. Mr HO further said that not only would the existing social security policy give rise to more social problems brought about by more split or single parent families, it would also aggravate the poverty problem in Hong Kong.

New Arrival Women League (the Women League)
(LC Paper No. CB(2)1487/03-04(02))

7. Representatives of the Women League took members through one case example illustrating that SWD had not practised its claims to exempt an applicant in genuine hardship from the residence requirement for CSSA. Another case example illustrating that SWD had deducted the amount of CSSA to a family from the income of the new arrival in the family who worked to support himself/herself and his/her family members.

Hong Kong Council of Social Service (HKCSS)
(LC Paper No. CB(2)1487/03-04(04))

8. Ms Mariana CHAN said that HKCSS had strong reservation about the new seven-year residence requirement for CSSA for the following reasons -

- (a) At present, most of the new arrival women on CSSA were here to re-unite with their husbands and children. The imposition of the seven-year residence requirement for CSSA would deter them from coming to Hong Kong, thus adversely affecting the development of their children and would force their spouses to stay home and rely on public assistance;
- (b) Imposition of a stricter eligibility for CSSA reinforced the misconception of the public that people on CSSA were lazy people, which in turn would lead to a more divisive society;
- (c) There was no evidence that new arrivals were heavy users of the social security system. According to Government statistics, CSSA recipients aged 18 or above residing in Hong Kong between one and six years only constituted 10% of the total number of CSSA recipients;

- (d) Provision of CSSA should be based on the needs and not on the length of residence in Hong Kong of the applicants, particularly so during economic downturn;
- (e) Many NGOs observed that since the implementation of the new seven-year residence requirement for CSSA on 1 January 2004, the exercising of discretion to exempt a person from meeting the requirement had become more stringent. In many instances, the applicants were advised directly or indirectly to return to their places of origin;
- (f) Strong labelling effect of the new policy had deterred needy new arrivals from coming forward to apply for CSSA; and
- (g) Many new arrivals who came to Hong Kong before 1 January 2004 were not aware of the fact that the new residence requirement for CSSA did not apply to them.

9. Ms CHAN further said that HKCSS had the following recommendations for the Administration to consider -

- (a) SWD staff should properly exercise discretion to exempt those new arrivals who needed to stay home to take care of their children and in dire financial hardship from the residence requirement;
- (b) A review of the seven-year residence requirement for CSSA should be conducted six months after its implementation, the outcome of which should be reported to the Legislative Council. During the interim period, SWD should closely follow the needs of those applicants who had not been granted CSSA because they could not satisfy the new residence rule and render them other forms of assistance where appropriate. On the other hand, SWD should assess the impact of the new residence rule on new arrivals who came to Hong Kong after the new policy had come into force; and
- (c) Provision of adult education, job training and counselling, and child care service for new arrivals should be strengthened to help them to develop their potentials and move towards self-reliance.

Chinese Grey Power

(LC Paper No. CB(2)1487/03-04(03))

10. Representatives of Chinese Grey Power opined that the Administration should not place the responsibility for the poor economy on the new arrivals and to use the labelling effect of the residence requirement to divert public dissatisfaction over the poor performance of the Administration to the new arrivals.

Social Concern Group

(LC Paper No. CB(2)1487/03-04(05))

11. Ms CHAN Kit-ching took members through three case examples illustrating the reluctance of SWD to exempt new arrivals who were in genuine hardship from the one-year residence requirement and the discourteous and unsympathetic manner of SWD staff in handling these cases.

The Administration's response

12. DSW gave a consolidated response to the views expressed by individual/deputations as follows -

- (a) The adoption of the seven-year residence rule for qualification for social security benefits was recommended by the Task Force on Population Policy (the Task Force) chaired by the Chief Secretary for Administration (CS) in its report released on 26 February 2003. The main purpose for the tightening of the above rule was to ensure that there was a rational basis for providing heavily subsidised social services, particularly in times of tight fiscal situation when available resources were increasingly limited and demand was continuously rising;
- (b) The estimated CSSA expenditure on new arrivals (i.e. those with less than seven years' residence in Hong Kong) increased significantly by 34.8% from \$1,487 million (or 10.8% of total CSSA expenditure) in 1999-2000 to \$2,031 million (or 12.6% of total CSSA expenditure) in 2002-03;
- (c) CSSA was not the only form of assistance for people in need. Other forms of assistance and support, such as employment support services, emergency relief, grants from charitable trust funds, assistance in kind, medical waivers, referrals to singleton hostels for accommodation and day relief centres for meals, were available to people who did not satisfy the residence requirement. To better

help the vulnerable groups to become self-reliant, a study would be conducted to find out how effective the existing employment assistance programmes under SWD were and what modifications, if any, were needed to achieve the desired effect. Apart from this, SWD had been stepping up its efforts to help able-bodied CSSA and near CSSA recipients to move towards self-reliance;

- (d) Children below 18 were exempted from any residence requirement. In cases of genuine hardship, discretion would be exercised to exempt the residence requirement for social security. Each case was to be considered on its merits. The main factors that would be considered included the means of the applicant's livelihood since arrival, sources of help in Hong Kong, whether other forms of assistance were available and possibility of the applicant returning to his/her place of origin;
- (e) A CSSA applicant could lodge an appeal with the Social Security Appeal Board (SSAB) if he/she was not satisfied with the decision made by SWD. The SSAB was an independent body whose members were appointed by the Chief Executive from outside the civil service;
- (f) The new residence requirements for CSSA and SSA were in conformity with the Basic Law and other international covenants applicable to Hong Kong Special Administrative Region, the reasons for which had been provided in the Administration's paper to the Subcommittee for the meeting on 2 February 2004 (LC Paper No. CB(2)1063/03-04(01)). This issue would be further discussed at the next meeting of the Subcommittee scheduled for 10 March 2004;
- (g) There was no question of any tightening of the exercise of discretion since the implementation of the seven-year residence requirement on 1 January 2004. The same approach had been used by SWD when the previous one-year residence requirement was in force. Up to the end of January 2004, no CSSA applicant had been rejected on the grounds of failing to meet the seven-year residence rule;
- (h) When a CSSA application involving any person not meeting the residence requirement was received by a SSFU, it was the responsibility of the caseworker to whom the case was assigned to obtain all relevant information and submit a report to his/her senior officers for a decision. There was no question of the frontline staff of SSFUs rejecting any CSSA applications in the first instance;

- (i) SWD was committed to providing quality customer service. Frontline staff were required to adopt a courteous, understanding and responsive attitude towards their customers and provide them with clear and accessible help. It should however be noted that the CSSA Scheme was a complex system involving huge Government expenditure and a large clientele. Despite an ever-increasing caseload, there was no corresponding increase in manpower resources. Staff of SSFUs were under extreme pressure and in an unenviable situation. On the one hand, in order to safeguard public funds, it was incumbent upon them to investigate all applications thoroughly to ensure that assistance went to people genuinely in need. The Ombudsman had asked SWD in her Investigation Report on Prevention of Abuse on CSSA released in December 2003 to step up efforts to prevent fraud and abuse, and as far as the new residence requirement for CSSA was concerned, to exercise discretion most sparingly;
- (j) SWD had been following up on the cases referred to by Kwan Fook in its submission. Some of the new arrival women concerned had already been granted CSSA. As to the other cases mentioned by other deputations in their submissions, SWD would be happy to follow up pending additional information to be provided;
- (k) It would not be appropriate for SWD to initiate a review of the seven-year residence requirement for CSSA as the adoption of such was part of the population policy put forth by the Task Force; and
- (l) Given the original one-year residence requirement, any impact of the new seven-year residence requirement on new arrivals aged 18 or above and admitted into Hong Kong on or after 1 January 2004 would not become apparent until at least one year later.

Discussion

13. Ms LI Fung-ying asked whether SWD would meet with deputations to go over the case examples provided by the deputations in their submissions and report the outcome to members. In response, DSW said that SWD would be happy to examine these case examples if additional information could be provided. DSW further said that the doors of SWD were always open for exchanging of views with the public on matters pertaining to social security, amongst others.

14. The Chairman requested SWD, in its review of the aforesaid case examples, to address the following issues raised by deputations at the meeting -

- (a) Reason(s) for granting CSSA to a number of new arrival residents of Wai On Home for Women only after one of them had held a press conference exposing her poor treatment by social workers of SWD;
- (b) Reason(s) why the income of a new arrival in a family on CSSA was included when assessing the amount of CSSA payable to the family, thereby reducing the amount of CSSA to the family; and
- (c) Reason(s) why Hong Kong permanent residents aged 18 or above were also subject to the residence requirement that they had to reside in Hong Kong continuously for one year immediately before the date of application.

15. DSW responded that there was no question of the situation mentioned by the Chairman in paragraph 14(a) above. DSW stressed that each case for exempting a person from meeting the residence requirement for CSSA was to be considered on its own merits and under no circumstances would SWD be pressurised to grant CSSA for unworthy cases. DSW pointed out that it was a coincidence that the granting of CSSA to the new arrivals residing in Wai On Home for Women was made subsequent to a press conference held by one of them to express her grievances on not being provided with CSSA. SWD staff were in the process of helping these new arrivals to process their applications for CSSA before the press conference was held. The senior officers concerned had separately met with the management and residents of the Wai On Home for Women to better understand the complaints raised by the residents and actions were being taken to address them. DSW further said that a CSSA applicant could lodge an appeal with the SSAB if he/she was not satisfied with the decision made by SWD. There were precedents whereby the decisions made by SWD were overturned by SSAB. Where an applicant was refused CSSA, SSFU staff would explain to him/her why his/her application was rejected. Where appropriate, SSFU staff would refer a rejected case to the Family Services Centres/Integrated Family Service Centres of SWD for follow-up.

16. DSW advised that it was the established practice of SWD to take into account the income of a member of a family on CSSA when assessing the amount of CSSA payable to the family regardless of whether the working member was a new arrival or otherwise. DSW however pointed out that in cases where a new arrival was working to support himself/herself and his/her family members, discretion would normally be exercised to treat him/her as an eligible member for the purpose of CSSA in recognition of the new arrival's efforts to become self-

supporting. In other words, SWD would take into account the new arrival's assessable income (i.e. his/her monthly income less any amount that might be disregarded) as well as his/her recognised needs when assessing the amount of CSSA payable to the family.

17. DSW explained that making a person to reside in Hong Kong continuously for one year immediately before the date of CSSA application as an eligibility criterion for CSSA was to discourage people who had lived outside Hong Kong for a long time from relying on CSSA as soon as they returned to Hong Kong. DSW however pointed out that absence from Hong Kong up to a maximum of 56 days within that one-year period prior to the date of application would be treated as residence in Hong Kong and that discretion would be exercised to waive such a requirement in cases of genuine hardship.

18. Referring to DSW's reply mentioned in paragraph 15 above, Dr Fernando CHEUNG said that to his knowledge all of the CSSA applications made by the new arrival residents of Wai On Home for Women were rejected by SWD prior to the holding of the press conference by one of these residents. Dr CHEUNG further said that if the exercise of discretion to waive the residence requirements under the CSSA Scheme was what DSW had said in paragraph 12(d) above, it appeared that frontline SSFU staff was not fully apprised of it. To his understanding, many new arrivals were turned away by SSFU staff once the latter knew that they could not meet the residence requirements. Ms LIU Ngan-fung supplemented that in many instances recommendations made by the Family and Child Protective Services Units of SWD for new arrivals to receive CSSA were ignored by SSFUs.

19. Mr Michael MAK asked Dr Fernando CHEUNG whether other places also required a prior period of residence as a condition for the receipt of non-contributory welfare benefits.

20. Dr Fernando CHEUNG replied that the most developed countries, such as the United States, also required a prior period of residence as a condition for the receipt of non-contributory welfare benefits, particularly those paid in cash. Dr CHEUNG however pointed out that they were distinct from Hong Kong in two aspects. Firstly, the residence rule was applied to new arrivals of other nationalities, which unlike Hong Kong was imposed on people of Chinese nationality. Secondly, apart from cash assistance akin to CSSA, places like the United States also provided food stamps, emergency relief fund and unemployment assistance to the needy regardless of their length of residence.

21. DSW pointed out that in comparing the social security system of Hong Kong with that of other places, it was important to have regard to the taxation

system of Hong Kong and those of other places. Unlike many developed economies, social security benefits in Hong Kong were non-contributory and financed entirely by public revenue.

22. Mr Michael MAK noted from the Kwan Fook's submission (LC Paper No. CB(2)1505/03-04(01)) that new arrival women in dire financial situation were asked by SSFU staff to borrow money from friends or relatives. In the light of this, Mr MAK asked the representatives of Kwan Fook about the attitude of the SSFU staff in treating CSSA applicants.

23. Ms LIU Ngan-fung responded that whilst she agreed that SSFU staff had a responsibility to obtain the necessary information from applicants, they should adopt a more understanding attitude towards the plight of the applicants and render them help and assistance instead of, say, asking them to borrow money from friends or relatives. Ms LIU further said that Kwan Fook had in the past lodged complaints with SWD regarding the poor manner of SSFU staff, but SWD often dismissed such complaints as mere communication problems.

24. DSW reiterated that SWD was committed to providing quality customer service. Frontline SSFU staff were required to adopt a courteous, understanding and responsive attitude towards their customers, and provide them with clear and accessible help and information but in order to safeguard public funds, it was incumbent upon them to investigate all applications thoroughly to ensure that assistance went to people genuinely in need.

25. Ms SZE Lai-shan asked about the justifications for the imposition of the seven-year residence requirement, and the eligibility criteria for the charitable trust funds referred to by DSW in paragraph 12(c) above. Ms SZE further said that the time taken by SSFU staff to consider whether or not to exempt a person from the residence requirement was too long and should be sped up. Given that the new seven-year residence requirement was part of the population policy formulated by the Task Force, Ms SZE questioned the usefulness of lodging an appeal to SSAB if the appellant could not satisfy the residence requirement. Referring to the statement made by DSW that so far SWD had not rejected any CSSA applicants on the grounds that they could not satisfy the seven-year residence requirement, Ms SZE said that this was not surprising as frontline staff had been turning away applicants who failed to meet the revised residence requirement. Ms SZE also urged the Administration to step up efforts to improve child care services for working parents, so as to enable new arrival single parents to find employment and move towards self-reliance.

26. DSW responded that justifications for the imposition of the seven-year residence requirement were already provided to the Subcommittee for its meeting

on 2 February 2004, details of which were set out in the Administration's paper (LC Paper No. CB(2)1063/03-04(01)). Additional information on compliance of the revised residence requirements for CSSA and the Social Security Assistance with the Basic Law and the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong were being prepared by the Administration for discussion at the next meeting of the Subcommittee on 10 March 2004. DSW further said that not only could a CSSA applicant lodge an appeal with SSAB if he/she was not satisfied with the decision made by SWD, a CSSA applicant could also do the same if the officer handling his/her case refused to process his/her request to waive the residence requirement. On the handling of CSSA cases by SSFU staff, DSW reiterated his points made in paragraphs 12(i) and 15 above. DSW hoped that members and the public would have regard to the fact that SSFU staff were not social workers. They not only had the duty to investigate all applications to ensure that assistance went to people in genuine need, but to also apprise potential applicants of the eligibility criteria for CSSA.

27. Chief Social Work Officer (Family and Child Welfare) 1 said that there were four major charitable funds, namely, Tang Shiu Kin & Ho Tim Charitable Fund, Li Po Chun Charitable Trust Fund, Brewin Trust Fund and Kwan Fong Trust Fund for the Needy, available at the service units of SWD and some subvented NGOs (applicable to Li Po Chun Charitable Trust Fund and Brewin Trust Fund). Where appropriate, these funds would be tapped to assist people in family crisis and temporary financial hardship, mainly in the form of one-off grants. Applicants for these funds were not subject to any prior residence requirement. She further said that there were other trust funds, administered by different NGOs and local organisations, providing temporary financial assistance for persons and families in need. Applicants for these funds were also not subject to any prior residence requirement. Yan Chai Emergency Assistance Relief Fund and Po Leung Kuk Tang Shiu Kin Charitable Fund were two examples.

28. The Chairman asked whether SSFU staff, in apprising potential applicants of the eligibility criteria for CSSA, would also inform them of the discretionary power given to DSW to waive a person in genuine hardship from meeting the residence requirement. DSW reiterated that SSFU staff were required to explain to the potential applicants the eligibility criteria for CSSA. The existence of his discretionary power to waive the residence requirements for CSSA was nothing new and was widely publicised through various publications of SWD and SWD's homepage.

Action

Conclusion

Admin 29. On closing, the Chairman requested SWD to provide a written response to the concerns raised by deputations for discussion at the next meeting on 10 March 2004. DSW agreed.

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

Council Business Division 2
Legislative Council Secretariat
24 March 2004