

立法會
Legislative Council

LC Paper No. CB(2)2679/03-04

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seen by the Administration)

Ref : CB2/PS/2/03

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 Thursday, 6 May 2004 at 8:30 am
in Conference Room B of the Legislative Council Building**

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

Members absent : Hon Cyd HO Sau-lan
Hon CHAN Yuen-han, JP
Hon WONG Sing-chi

Public Officers attending : Mrs Agnes Allcock, JP
Deputy Director of Social Welfare (Administration)

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

Miss M L WONG
Assistant Secretary for Health, Welfare and Food (Elderly Services) 4

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

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

Miss Millie WONG
Senior Council Secretary (2) 4

I. Recommendations of the Subcommittee
(LC Paper No. CB(2)2246/03-04(01))

The Chairman invited the Administration to respond to the following recommendations of the Subcommittee set out in the above paper prepared by the Secretariat -

(a) Recommendation 1

Social Security Field Units (SSFUs) staff of the Social Welfare Department (SWD) should apprise all potential applicants at the outset that discretion might be exercised to waive the seven-year residence requirements under the Comprehensive Social Security Assistance (CSSA) Scheme in cases of genuine hardship;

(b) Recommendation 2

SWD should publicise a set of Frequently Asked Questions (FAQs) to make the operation of discretion to waive the seven-year residence requirement under the CSSA Scheme more transparent; and

(c) Recommendation 3

CSSA applications involving family problems should be referred to social workers of the Family Services Centres(FCSs)/Integrated Family Service Centres (IFSCs) of SWD for follow-up, instead of doing so after these applications were rejected by SSFUs.

2. Before responding to the draft FAQs, Deputy Director of Social Welfare (Administration) (DDSW(A)) said that SWD would publicise these questions once they were finalised. It was SWD's intention to update the list of FAQs where appropriate in future.

Question 1 - What are the factors to be considered for waiving the residence requirement under the CSSA Scheme

3. DDSW(A) responded that the answer to the above question had been provided to members at previous meetings. Members did not raise any query.

Question 2 - Will discretion be exercised to waive the seven-year residence requirement for CSSA for a battered spouse with no income and has young child(ren)

4. DDSW(A) responded that discretion would normally be granted under the above circumstances, provided that the person concerned had no other resources.

5. Responding to Ms LI Fung-ying's enquiry as to whether network of support from relatives would be treated as a CSSA applicant's other resources, Assistant Director of Social Welfare (Social Security) (ADSW(SS)) said that psychological support from relatives would not be treated as such. However, if the battered spouse moved in with his/her relatives, he/she would be considered to be financially fully supported by his/her relatives to whom he/she resided with.

6. Mr LEUNG Yiu-chung pointed out that not all cases in need of public assistance were battered spouse cases, as some people were forced to leave his/her spouse for reasons other than family violence, such as incompatibility. To address such, the Chairman suggested widening the scope of the question to cover people who were forced to move away from his/her spouse with his/her young children for other reasons apart from domestic violence. DDSW(A) agreed that if people were experiencing genuine hardship as a result, consideration would be given to widening the scope for this purpose.

7. Mr Michael MAK said that clear definition of spouse battering by SWD was necessary in order to avoid the recurrence of the recent Tin Shui Wai family

tragedy. In the light of this, Mr MAK asked whether there was such a definition; if so, what it was.

8. Chief Social Work Officer (Family and Child Welfare) 1 responded that there were guidelines on handling battered spouse cases for use by social workers of FSCs/IFSCs of SWD/NGOs. Generally speaking, spouse battering covered incidents of physical attack which might take the form of physical and sexual violations, such as slapping and pushing, as well as spouse being forced to be involved in sex or undesirable sexual acts, etc. It also included psychological abuse, which could consist of repeated verbal abuse, harassment, confinement and deprivation of physical, financial and personal resources, etc. She however pointed out that as the circumstances of each case were different, it was not practicable to define a battered spouse case, say, by the number of times he/she was hit by his/her spouse. Social workers would refer the case to SSFUs if the person concerned was faced with imminent violent situation and had no income or other resources irrespective of whether he/she could satisfy the residence requirements for CSSA. For instance, he/she had already left home and was residing in a refuge centre with his/her young child(ren) and had neither income or other resources. Similarly, if staff of SSFUs knew that the applicant was in such predicament, action would be taken to refer the individual concerned to the social workers of FSCs/IFSCs of SWD/NGOs as appropriate for follow-up.

9. Members noted that Recommendation 3 of the Subcommittee had been and would continue to be adopted by SWD.

Question 3 - Will money borrowed from friends/relatives or finance companies be treated as a CSSA applicant's income/resources

10. DDSW(A) responded that any loans or debts that needed to be repaid would not be treated as a CSSA applicant's income/resources.

Question 4 - Who would decide it is in the best interest of the CSSA applicant to return to his/her place of origin

11. DDSW(A) responded that the Senior Social Security Officers (SSSOs) would take that into consideration in exercising discretion but in the final analysis, it would be a decision for the CSSA applicant to make and his/her wish to stay in Hong Kong would be respected.

12. The Chairman pointed out that if a new arrival from the Mainland could not get back his/her household registration after returning to Mainland, the option of returning to his/her place of origin could not be realised.

13. ADSW(SS) pointed out that it was still a feasible alternative for some new arrivals to return to their place of origin, as not all new arrivals were from the Mainland. ADSW(SS) further said that the possibility of the applicant returning to his/her place of origin was merely a question to be asked in considering whether to exercise discretion to waive the residence requirement and was not a rule. Such a question was copied from the Canadian and the United States immigration authorities which used it on their welfare applicants.

14. Dr LAW Chi-kwong said that a uniform set of criteria should be used by all SSSOs in deciding whether it was a better option for the applicant to return to his/her place of origin, so as to avoid subjective judgement which could lead to unequal treatment. DDSW(A) responded that Dr LAW's concern could be addressed if it was clearly stated that SWD would not reject an application for CSSA made by a new arrival simply on the grounds that the applicant could return to his/her place of origin. Dr LAW said that apart from this, SWD should also spell out the criteria used to determine why it was a better option for a new arrival to return to his/her place of origin.

Question 5 - Whether there is an appeal mechanism against decisions made by SWD on the CSSA applications

15. ADSW(SS) responded that a CSSA applicant could lodge a complaint through different channels according to his or her preference if he/she was not satisfied with the decision made by SWD or any other matter. These channels included the SSFU supervisor, the District Social Welfare Officer or direct to the Social Security Appeal Board (SSAB). The SSAB was an independent body whose members were appointed by the Chief Executive from outside the civil service. If the applicant chose to lodge an appeal with SSAB, he/she had to do so within four weeks from being notified of the decision from SWD. The SSAB would normally hear the case within one month from the receipt of an appeal, and the appellant would be informed of the Board's decision in writing within three weeks after the hearing.

Question 6 - What other forms of assistance are available if waiver of the residence requirement is not granted

16. DDSW(A) responded that other forms of assistance available for needy new arrivals were those already provided to members at previous meetings. Members did not raise any query.

Question 7 - Will discretion be exercised to treat a new arrival, who works to support himself/herself and his/her family members, as an eligible member for the purpose of CSSA in recognition of the new arrival's efforts to become self-supporting

17. Chief Social Security Officer (Social Security) 2 (CSSO(SS)2) responded that discretion would normally be exercised to treat a new arrival as an eligible member for the purpose of CSSA in recognition of the new arrival's efforts to become self-supporting. If the new arrival subsequently became unemployed through no fault of his/her own, he/she would still be treated as an eligible member for the purpose of CSSA.

Question 8 - What should an applicant do if SSFU staff turn down his/her CSSA application after they know that the applicant could not satisfy the seven-year residence requirement

18. DDSW(A) responded that frontline staff of SSFUs would not automatically turn down an application for CSSA after they knew the applicant did not satisfy the seven-year residence requirement. They were required to obtain all relevant information from the applicants and submit a report to their senior officers who would then decide whether there was a case for exercising discretion to waive the residence rule.

19. Mr LEUNG Yiu-chung considered it necessary that SSFU staff must apprise all potential applicants at the outset that the Director of Social Welfare could exercise discretion to exempt a new arrival from the seven-year residence requirement under the CSSA Scheme in cases of genuine hardship. Mr LEUNG pointed out that if SSFU staff just told all potential applicants the eligibility criteria for CSSA, people who did not satisfy the residence rule would give up their pursuit for CSSA.

20. DDSW(A) assured members that frontline SSFU staff would not withhold the fact from all potential CSSA applicants that discretion would be exercised to waive the residence requirement in cases of genuine hardship. Such information would also be widely publicised through the "Guide to CSSA", the pamphlet on CSSA, the leaflet on the residence requirements for CSSA and Social Security Assistance and the SWD's homepage, etc. SSFU staff would apprise the new arrivals the factors to be considered for waiving the seven-year residence requirement under the CSSA Scheme.

Conclusion

21. The Chairman requested the Administration to submit a revised set of

Action

Admin FAQs with answers, taking into account the views expressed by members at the meeting, for the Subcommittee's consideration. DDSW(A) agreed.

(Post-meeting note : The revised FAQs have been submitted to members.)

22. As the Administration had accepted all of the recommendations of the Subcommittee, the Chairman said that there was no need to convene further meeting. A report on the work of the Subcommittee would be submitted to the Panel. Members agreed.

23. There being no other business, the meeting ended at 9:34 am.

Council Business Division 2
Legislative Council Secretariat
8 June 2004