

立法會

Legislative Council

LC Paper No. CB(2)2212/04-05
(These minutes have been
seen by the Administration)

Ref : CB2/PL/WS

Panel on Welfare Services

**Minutes of special meeting
held on Thursday, 2 June 2005 at 8:30 am
in the Chamber of the Legislative Council Building**

Members present	: Hon CHAN Yuen-han, JP (Chairman) Dr Hon Fernando CHEUNG Chiu-hung (Deputy Chairman) Hon James TIEN Pei-chun, GBS, JP Hon LEE Cheuk-yan Hon Fred LI Wah-ming, JP Hon Bernard CHAN, JP Dr Hon YEUNG Sum Hon TAM Yiu-chung, GBS, JP Hon LI Fung-ying, BBS, JP Hon Albert CHAN Wai-yip Hon Frederick FUNG Kin-kee, JP Hon Alan LEONG Kah-kit, SC Hon Albert Jinghan CHENG
Members absent	: Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP Hon LEUNG Kwok-hung
Public Officers attending	: <u>Item II</u> Ms Linda LAI Deputy Secretary for Health, Welfare and Food (Family and Women)

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Mr Freely CHENG
Principal Assistant Secretary for Health, Welfare and Food
(Family)

Miss Annie KONG
Assistant Secretary for Health, Welfare and Food (Family) 2

Mr Paul TANG, JP
Director of Social Welfare

Miss Ann HON
Assistant Director of Social Welfare (Subventions)

Mr FU Tsun-hung
Chief Social Work Officer (Subventions)
Social Welfare Department

**Deputations
by invitation** : The Mental Health Association of HK Staff Union

Mr LAU San-ching
Chairperson

Ms HO Yuen-ching
Vice Chairperson

Hong Kong Social Workers Association

Dr LAW Chi-kwong
Current Welfare Issues Committee Member

Ms LAW Suk-kwan
Board of Director

Community Care and Nursing Home Workers General
Union

Mr CHENG Ching-fat
Director

Ms CHUNG Wai-ling
Chairman

Staff Association of Hong Kong Young Women Christian Association

Mr TSE Sai-kit
Director of Rights and Complaints Division

Hong Kong Social Workers' General Union

Mr CHEUNG Kwok-che
President

Staff-Club of The Boys' and Girls' Clubs Association

Ms TANG Yin-ping
Chair-person

Mr CHAN Kai-pong
External-Affairs

The Hong Kong Council of Social Service

Ms Christine FANG
Chief Executive

Ms Noel YEUNG
Agency Member

Sik Sik Yuen Workers Union

Mr LEUNG Tak-yip
Chairperson

Ms TONG Yim-hung
Vice Chairperson

Staff Association of Hong Kong Federation of Youth Groups

Mr CHEUNG Chi-wai
Chairman

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Fighting for Social Welfare Alliance

Mr YUM Kwok-tung
Member

Hong Kong Confederation of Trade Unions Committee of
Public Services (Social Services)

Mr TANG Wai-wah
Convenor

Ms LAM Ying-hing
Organizing Secretary

Social Welfare Employees' Union

Mr LIU Wai-ying
Chairperson

Union of HK Rehabilitation Agencies Workshop Instructor

Mr SIN Kin-ming
Vice President

Kwun Tong Methodist Social Service Employee Association

Ms SY Chak-wai
Treasurer

Mr CHAN Hoi-hing
Chairman

Frontline Welfare Employee Union

Mr TAM Leung-ying

Clerk in attendance : Ms Doris CHAN
Chief Council Secretary (2) 4

Staff in attendance : Miss Mary SO
Senior Council Secretary (2) 8

Miss Maggie CHIU
Legislative Assistant (2) 4

I. Confirmation of minutes

(LC Paper No. CB(2)1750/04-05)

The minutes of meeting held on 9 May 2005 were confirmed.

II. Support after the tide-over grant (TOG) period to non-governmental organisations currently receiving TOG

(LC Paper Nos. CB(2)1695/04-05(01) to (12) and CB(2)1741/04-05(01) to (02))

2. Assistant Director of Social Welfare (Subventions) briefed members on the proposal to provide financial support to non-governmental organisations (NGOs) currently receiving TOG after the TOG period, details of which were set out in the Administration's paper (LC Paper No. CB(2)1695/04-05(01)). Specifically, a Special One-off Grant (SOG) was recommended to be provided to NGOs after the termination of the TOG in 2006-07. Two Schemes under the SOG were available to NGOs currently receiving TOG as follows -

Scheme A

This Scheme was aimed at providing time-defined further assistance to NGOs that were not ready to operate on the benchmark salary upon the TOG cessation. Under the Lump Sum Grant (LSG) subventions system, the benchmark salary of each NGO was determined on the basis of the mid-point salaries of the existing pay scales of its recognised establishments, i.e. all approved posts, as at 1 April 2000. Provident Fund for staff not on the snapshot as at 1 April 2004 would be provided at 6.8%.

The amount of SOG (Scheme A) would be capped at two times of TOG for each respective eligible NGO at the 2005-06 TOG level. It should only be used for the personal emolument (PE) expenditure of staff captured in the snapshot of 1 April 2000 (thereafter referred to as "snapshot staff").

Scheme B

This Scheme was aimed at providing NGOs which did not require further assistance in facing the TOG cessation with additional support to enhance their human resources practices. The SOG (Scheme B) would focus on

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initiatives that would benefit directly its staff, including both snapshot staff and all other staff in subvented services.

The SOG (Scheme B) would be provided at an amount not more than two times of the TOG provision at the 2005-06 level of the NGO applicant.

Application would be on a voluntary basis and NGOs were expected to apply for either Scheme A or B.

Views of deputations

3. Deputations presented their views on the Administration's proposal to provide financial support to NGOs currently receiving TOG after the TOG period, details of which were set out in their submissions (LC Paper Nos. CB(2)1695/04-05(03) to (12), CB(2)1741/04-05(01) to (02) and CB(2)1786/04-05(01) to (03)). All of them strongly urged the Administration to conduct a comprehensive review of the LSG subventions system which had forced some NGOs to attain financial viability through replacing their experienced staff with less experienced ones hired on less favourable contract terms which could be as short as one month. As a result, service quality was seriously undermined and injuries at work, conflicts between existing and new staff and disputes between staff and management had increased. The LSG subventions system should be reviewed and the Administration should continue to provide TOG to NGOs currently receiving TOG in meeting contractual commitments to their Snapshot Staff and immediately scrap the proposal of providing a SOG to NGOs currently receiving TOG after the cessation of TOG in 2006-07. Other major views expressed by deputations were summarised as follows -

- (a) the fact that the Administration intended to provide the SOG (Scheme A) to NGOs after the termination of the TOG was a testament that it intended to shirk its responsibility in helping agencies to honor contractual commitments to their Snapshot Staff in terms of salary increment, the effect of which was likely to set a deadline for NGOs to complete its cost-cutting exercise on staff;
- (b) in providing the time-defined SOG (Scheme A) to NGOs currently receiving TOG, the Administration had reneged on its promise made with the welfare sector during the discussion of the implementation of the LSG funding system that the Administration would consider further assistance to honour contractual obligations to Snapshot Staff if the agencies could demonstrate that, during the preceding TOG period, (i) they had already made full efforts in service reengineering, (ii) they had little or no turnover of their Snapshot Staff, (iii) they had accumulated little reserves, and (iv)

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they had been unable to obtain new services;

- (c) discontinuation of the TOG would be in breach of Article 144 of the Basic Law (BL144) which stipulated that “The Government of the Hong Kong Special Administrative Region shall maintain the policy previously practised in Hong Kong in respect of subventions for non-governmental organisations in fields such as education, medicine and health, culture, art, recreation, sports, social welfare and social work. Staff members previously serving in subvented organizations in Hong Kong may remain in their employment in accordance with the previous system”;
- (d) disagreed with the claim made by the Administration that the Lump Sum Grant Steering Committee (LSGSC) was in support of discontinuing the TOG and providing the time-defined SOG (Scheme A) to NGOs that were not yet ready to operate on the Benchmark Salary upon the cessation of TOG in 2006-07;
- (e) dissatisfied that the Director of Social Welfare paid scant regard to the views and concerns expressed by the welfare sector on support to NGOs currently receiving TOG after the TOG period;
- (f) opposed the proposal of according priority to the successful SOG (Scheme B) applicants in the allocation of new services during 2006-07 to 2007-08, as this was tantamount to awarding or encouraging NGOs for not seeking further assistance in meeting contractual obligations to their Snapshot Staff;
- (g) concerned about allowing NGOs to utilise their LSG Reserve or SOG to implement voluntary retirement (VR) scheme for their staff, as this would give a green light to NGOs to use the scheme to make ends meet; and
- (h) efficiency savings imposed upon NGOs in recent years had eaten up all the efforts made by agencies in bringing down their PE expenditure to align with the benchmark salary, the result of which had rendered it very difficult for NGOs to meet contractual commitments to their staff after the termination of the TOG in 2006-07.

Discussion

- 4. Mr Bernard CHAN declared that he was chairman of Hong Kong Council

of Social Service. Mr CHAN then asked the following questions -

- (a) whether the TOG would continue to be provided beyond 2006-07 to those NGOs which fulfilled the four criteria set out in paragraph 3(b) above; and
- (b) whether any impact assessment had been made should staff take the agencies to court for failing to honour contractual obligations to their staff.

5. Director of Social Welfare (DSW) responded that it was made clear to the welfare sector at the outset that the TOG would only be provided for five years, i.e. from 2001-02 to 2005-06. At the same time, for NGOs with their snapshot salary above the Benchmark Salary, they should come down to the Benchmark Salary by a reduction of 2% annually from 2006-07. In achieving these, NGOs were expected to carry out organisation restructuring and service reengineering within the TOG period such that they could operate their services within the LSG provision. It had been agreed with the welfare sector that the Government would only be prepared to consider further assistance for NGOs to meet contractual obligations to Snapshot Staff under "exceptional circumstances" on a case by case basis, and that all relevant factors would have to be taken into account in totality before exceptional assistance could be justified. While NGOs had the ultimate responsibility to deal with the commitment to their Snapshot Staff and that five years of financial support had already been given to NGOs through the TOG as a transitional arrangement, the Administration recognised that not all NGOs could complete the transition in 2006-07 and required more time to make the necessary adjustments. In the light of the aforesaid, the Administration therefore recommended providing a SOG to NGOs after the termination of the TOG.

6. DSW pointed out that providing a SOG to NGOs currently receiving TOG was in fact less stringent than the previously agreed arrangement of providing further assistance under "exceptional circumstances" on a case by case basis, having regard to the eligibility criteria for the TOG as set out in paragraph 11 of the Administration's paper. Moreover, the SOG was meant to give greater flexibility and more time for the NGO management in making whatever necessary adjustments to meeting their financial and/or staff commitments in the long run. It was therefore considered a more pragmatic way to assist NGOs than a mere extension of the TOG. In addition, on top of the SOG, a series of measures to facilitate NGOs concerned to achieve the financial viability more effectively, as set out in paragraph 13 of the Administration's paper, were recommended. Although the SOG was available under Scheme A or Scheme B as set out in paragraph 2 above, NGOs which opted for Scheme A should not be construed as not as well run as those which opted for Scheme B. A choice between these two Schemes was a management decision for individual NGOs taking into account of

their specific staffing and financial conditions.

7. DSW further said that no impact assessment had been made by the Administration with regard to NGO staff taking their employers to court for not honouring contractual obligations to them. In the Administration's view, honouring staff contractual obligations was a matter between employers and employees. While the TOG was meant to help NGOs on LSG meet contractual obligations to their snapshot staff in terms of salary increment, NGOs had the ultimate responsibility to deal with the commitment to their Snapshot Staff. Moreover, there were already five years of financial support to NGOs through TOG as a transitional arrangement.

8. Mr Bernard CHAN further asked whether the Administration would consider providing further assistance to those NGOs which still had difficulties in meeting contractual obligations to their staff after exhausting the SOG and met the four criteria mentioned in paragraph 3(b) above.

9. DSW responded that the circumstances of individual NGOs would be carefully reviewed before any such assistance could be considered. DSW also pointed out that such assistance did not have to be confined to financial assistance and could take the form of, say, providing advice on organisation restructuring and service reengineering.

10. Mr LEE Cheuk-yan expressed regret that NGO operators were forced to become unscrupulous employers under the LSG subventions system. Mr LEE further said that some of the proposed measures to facilitate NGOs to achieve financial viability were particularly unsavoury in that they provided an impetus/incentive to NGOs to further slash staff costs. For instance, NGOs would be allowed to keep savings above the existing 25% cap as their LSG Reserve and could utilise such Reserve to offer VR to their staff. Moreover, NGOs not seeking further financial assistance to meet contractual commitments to their staff would be accorded priority in the allocation of new welfare services. Mr LEE also asked the Administration whether it agreed that changes to the terms of employment of staff in the welfare sector, brought about by the implementation of the LSG subventions system, was in breach of BL144.

11. DSW responded as follows -

- (a) he disagreed that the LSG subventions system had forced NGO operators to become unscrupulous employers in order to attain financial viability. As resources were finite, there was a need to place emphasis on the effective use of public resources, innovation, responsiveness and performance management to meet changing community needs;

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- (b) spending on social welfare services including subventions had been on the rise in the past few years;
- (c) the main objectives of raising the 25% cap on LSG Reserve was to better enable NGOs to overcome any possible operating deficits after the TOG period through organisation restructuring and service reengineering and/or to improve their efficiency. It should be pointed out that allowing NGOs to utilise their LSG reserve to offer VR for their staff was made having regard to the requests from some NGOs which felt that such a measure could help to increase the efficiency of their organisations. The Administration had however advised that NGO boards should consult their staff before the implementation of any VR scheme. The Social Welfare Department (SWD) would provide NGOs with some guiding principles, but flexibility would be allowed for NGOs to formulate a scheme that best suited their staffing and financial conditions;
- (d) although the financial viability of an NGO would be a consideration in the allocation of new welfare services, the prime considerations remained to be knowledge, expertise and experience in the particular service and the quality of the service proposal; and
- (e) BL144 had to be read in conjunction with BL145 which stipulated that “On the basis of the previous social welfare system, the Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on the development and improvement of this system in the light of the economic conditions and social needs”. It should also be pointed out that the LSG subventions system was implemented after 1997 and joining the new system was voluntary.

Admin 12. At the request of members, DSW undertook to provide legal advice from the Department of Justice on the issue of BL144.

13. Dr Fernando CHEUNG said that although it was mentioned in the Administration’s paper that the Administration had sought the views of the management and staff sides of the NGOs, the LSGSC and the Social Welfare Advisory Committee (SWAC), the truth of the matter was that the Administration was disrespectful of these parties by releasing information on the SOG proposal first to the media. As the LSG subventions system and the competitive bidding which came on stream as part and parcel of the new arrangements had been implemented for more than four years, Dr CHEUNG requested the Administration

to conduct a comprehensive review of the LSG subventions system.

14. DSW responded that there was no question of the Administration ceasing to provide support after the TOG period to NGOs currently receiving TOG, as evidenced by the proposal of providing the SOG and other measures amounting to some \$1 billion to NGOs currently receiving TOG. As resources were finite, it was incumbent upon the Administration to see that public resources were used in a most cost-effective manner. The Administration believed that the LSG subventions system was the best vehicle to achieve such. Nevertheless, the Administration would not rule out conducting a review of the LSG subvention system in the long run to look at ways on how to further improve the system. In the meantime, focus would need to be put on addressing the financial difficulties faced by some NGOs in meeting contractual obligations to their staff after the cessation of TOG. DSW further said that there was no question of the Administration disrespecting the welfare sector, the LSGCS and the SWAC. The reason for releasing information on the SOG proposal to the media was because of the public concern on the matter. The Administration was still in the process of consulting with the sector on the SOG proposal.

15. Dr YEUNG Sum asked the Administration whether it would scrap the SOG proposal which was unanimously opposed by both the management and staff sides of the NGOs. Dr YEUNG urged the Administration to continue to provide the TOG to NGOs currently receiving the TOG beyond 2005-06 if they met the four criteria set out in paragraph 3(b) above. Dr YEUNG echoed the need to conduct a comprehensive review of the LSG subventions system, and suggested that a committee with wide representation, including both management and staff sides of the NGOs and service users, be set up to carry out the task.

16. DSW reiterated that the proposal of providing a SOG to eligible NGOs currently receiving TOG demonstrated the Administration's willingness to help NGOs to achieve financial viability after the TOG period. The SOG was meant to give greater flexibility and more time for the NGO management in making whatever necessary adjustments to meeting their financial and/or staff commitments in the long run and was considered a more pragmatic way to assist NGOs than a mere extension of the TOG. DSW further reiterated that the Administration would continue to collect views from different sectors of the community, including the welfare sector, before finalising the proposal.

17. Ms LI Fung-ying said that if the Administration was sincere in listening to the views of the welfare sector, it should hold off inviting application from NGOs for the SOG in July 2005, until it had reached an agreement with the sector on the support after the TOG period to NGOs currently receiving the TOG. Ms LI asked the Administration whether it would immediately withdraw the SOG proposal. Ms LI further asked the Administration whether it had conducted any

impact assessment of the cessation of the TOG on the delivery of welfare services.

18. DSW responded that the Administration would not withdraw the SOG proposal which was still under discussion with the sector. DSW pointed out that the application timetable for the SOG set out in the Administration's paper was yet to be firmed up, and it was made in response to some NGOs' request for the issue to be sorted out as soon as possible. DSW further said that there was no cause for concern that there would be adverse impact on the service quality of welfare services after the termination of the TOG. After the launch of the LSG, assistance was provided to NGO management to enhance their ability in terms of corporate governance. Best practices on corporate governance were also disseminated to all NGOs on LSG through experience-sharing sessions organised by SWD. Moreover, the service performance of each welfare service funded by SWD was monitored on the basis of the Funding and Service Agreements drawn up between SWD and the NGOs operating the subvented services.

19. Mr Albert CHAN expressed regret that the worries, such as laying off experienced staff and reducing salaries, expressed by members and the welfare sector during the discussion of the implementation of the LSG subventions system had now all happened. In the light of this, Mr CHAN urged the Administration to expeditiously conduct a comprehensive review of the LSG subventions system to examine its effectiveness on improving the quality, efficiency, responsiveness and planning of welfare services. In the meantime, Mr CHAN asked the Administration whether it could provide some examples of the benefits which had come out of LSG subventions system.

20. DSW reiterated that NGOs had to honour their contractual obligations to staff regardless of the termination of the TOG. The main concern of the Administration was to see that subvented welfare services would not be undermined. DSW further said that LSGSC members were placed on a roster to look at complaints relating to the implementation of the LSG. To date, several hearings had been held to hear cases referred by the staff side of the NGOs.

21. Mr Albert CHAN suggested adopting the demerit point system practised by the Housing Department to penalise outside contractors not complying with contract requirements or other agreements or NGOs which were complained by their staff for being unscrupulous employers.

22. DSW responded that the suggestion made by Mr Albert CHAN in paragraph 21 above had previously been considered by the LSGSC. The suggestion was considered not feasible, as it could not be concluded that a particular NGO was not a good employer simply on the basis of the number of staff complaints lodged against the organisation. A better approach was to encourage the NGO management as well as its board to treat each and every staff

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complaint case seriously.

Conclusion

23. In closing, the Chairman urged the Administration not to insist on implementing the SOG proposal, having regard to the views and concerns expressed by members and deputations at the meeting.

24. Dr Fernando CHEUNG moved the following motion which was supported by all members present at the meeting -

“本委員會促請政府撤回特別一次過撥款新方案，並延續過渡期的補貼。同時全面檢討現行之整筆過撥款及競投外判制度，廣泛諮詢社福界、用者及市民意見，以改善現行之撥款制度。”

(Translation)

“That this Panel requests the Government to withdraw the SOG proposal and extend the TOG period. At the same time, the Government should conduct a comprehensive review of the LSG subventions system and the competitive bidding policy by extensively consulting the welfare sector, service users and the public, so as to improve the existing funding allocation system.”

25. Ms LAM Ying-hing of the Hong Kong Confederation of Trade Unions asked the Administration whether it would retract the SOG proposal. DSW responded that the Administration would be happy to continue to discuss with the sector to iron out the differences on the support after the TOG period to NGOs currently receiving TOG. In response to Ms LAM Ying-hing's suggestion, some deputations present at the meeting proceeded to leave the room in protest of the Administration's refusal to accede to their request.

(*Post-meeting note* : At the meeting of the Panel on 13 June 2005, members agreed to discuss with the Administration on 11 July 2005 on the issues raised at the special meeting on 2 June 2005.)

26. There being no other business, the meeting ended at 10:40 am.