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Panel on Welfare Services

**Subcommittee on Review of the
Comprehensive Social Security Assistance Scheme**

**Minutes of the 4th meeting
held on Friday, 8 April 2005 at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Dr Hon Fernando CHEUNG Chiu-hung (Chairman)
Hon LEE Cheuk-yan
Hon Fred LI Wah-ming, JP
Hon CHAN Yuen-han, JP
Hon TAM Yiu-chung, GBS, JP
Hon LI Fung-ying, BBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung

Member absent : Hon Frederick FUNG Kin-kee, JP

Public Officers attending : All items

Ms Salina YAN
Deputy Secretary for Health, Welfare and Food
(Elderly Services and Social Security)

Mrs Brenda FUNG
Principal Assistant Secretary for Health, Welfare and Food
(Elderly Services and Social Security) 2

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Mr Paul TANG, JP
Director of Social Welfare

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

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

Mr CHENG Chok-man
Chief Social Security Officer (Social Security) 1
Social Welfare Department

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

**Deputations
by invitation** : Item II

Hong Kong Social Security Society

Mr HO Wing-chung

Concerning CSSA Review Alliance

Mr CHU Kong-wai
Representative

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

Anna
Representative

亞芝
Representative

Ms LUI Lok-man
Representative

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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. Date of next meeting and items for discussion

Members agreed to discuss the results of the Administration's review of existing Comprehensive Social Security Assistance (CSSA) arrangements and related services for single parent families on CSSA at the next meeting to be held on 24 May 2005 at 8:30 am. Members further agreed to discuss the findings of the evaluative study of the intensive employment assistance projects implemented since October 2003 to help employable CSSA recipients and the "near-CSSA" unemployed move into work in June 2005.

II. The seven-year residence requirement for Comprehensive Social Security Assistance

(LC Paper Nos. CB(2)2998/03-04, CB(2)1185/04-05(01), CB(2)1194/04-05(01) and CB(2)1208/04-05(01))

Deputations' views

2. Mr HO Wing-chung from the Hong Kong Social Security Society and representatives from Kwan Fook presented their views on the implementation of the seven-year residence requirement for CSSA, details of which were set out in their respective submissions (LC Paper Nos. CB(2)1194/04-05(01) and CB(2)1208/04-05(01)).

3. Mr CHU Kong-wai of the Concerning CSSA Review Alliance said that needy new arrival single mothers with young child(ren) were particularly hard hit by the implementation of the seven-year residence requirement for CSSA which took effect from 1 January 2004. Mr CHU pointed out that as these single mothers had to stay home to look after their young child(ren), they were forced to rely on the CSSA payments of their young child(ren) for survival. Such a

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phenomenon not only demonstrated that the Social Welfare Department (SWD) had failed to live up to its promise that it would waive the residence requirement to persons genuinely in need but unable to meet the prescribed residence requirement, it also raised query about the adequacy of the waiver system in providing cash assistance to the financially vulnerable individuals to meet their basic needs.

The Administration's response

4. Director of Social Welfare (DSW) referred the meeting to the rationale for the seven-year residence requirement for CSSA detailed in paragraph 5 of the Administration's paper (LC Paper No. CB(2)1185/04-05(01)). DSW pointed out that reducing CSSA expenditure was not the prime reason for changing the residence requirement for CSSA from one year to seven years, as evidenced by the fact that persons aged below 18 were now exempted from any prior residence requirement. Prior to 1 January 2004, persons aged below 18 were required to reside in Hong Kong for one year before they became eligible for CSSA. The requirement was meant to encourage potential new arrivals to make plans before coming to Hong Kong.

5. DSW further referred the meeting to the operation of discretion under the CSSA Scheme to waive the seven-year residence requirement, details of which were set out in paragraphs 7-9 of the Administration's paper.

6. DSW also said that CSSA was not the only form of assistance for new arrivals. Other forms of assistance and support were also available to new arrivals regardless of their length of stay in Hong Kong, details of which were set out in paragraphs 10-12 of the Administration's paper. In addition to this, the Home Affairs Bureau was tasked with the responsibility to facilitate the early integration of new arrivals into the local community. For instance, a Service Handbook for New Arrivals providing information on the various services and activities provided by Districts Offices and non-governmental organisations (NGOs) were given to new arrivals upon their entry into Hong Kong. Public education would continue to be stepped up to encourage Hong Kong people to accept new arrivals into the community.

Issues discussed

Operation of discretion under the CSSA Scheme to waive the seven-year residence requirement

7. Mr LEE Cheuk-yan said that if the Administration was intent on eradicating inter-generational poverty, it should not apply the seven-year residence requirement for CSSA to those single parents who could prove that they had to stay home to take care of their young child(ren), say, under the age of 16, in order

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to prevent these children from having to share their CSSA payments with their single parents. Mr LEE pointed out that the operation of discretion for cases of genuine hardship by SWD had not worked as intended. As mentioned by the deputations, in many instances, SWD only granted CSSA to single parents in genuine financial hardship after these cases were brought to the attention of Members of the Legislative Council (LegCo) and/or NGOs.

8. DSW disagreed that the operation of discretion under the CSSA Scheme to waive the seven-year residence requirement had not worked as intended. DSW stressed that staff of the Social Security Field Units (SSFUs) of SWD had all along been adopting the practices mentioned in paragraph 7 of the Administration's paper regarding waiving the residence requirement for CSSA. This was evidenced by the fact that as at the end of February 2005, the number of cases involving persons aged 18 and above who were admitted into Hong Kong on or after 1 January 2004, which were approved with discretion, was higher than the number of cases which were rejected.

9. DSW further said that having the discretionary power to waive the residence requirement for CSSA was necessary, in view of the varying circumstances of needy people who could not satisfy the residence requirement. In considering whether discretion should be exercised to waive the residence requirement for CSSA for single parent applicants, other factors, such as the resources available to the applicants and possible sources of help in Hong Kong and the possibility of the applicant returning to his/her place of origin, would also be taken into account to establish whether there was genuine hardship. Frontline SSFU staff would let applicants know of DSW's discretionary power to waive the seven-year residence requirement for genuine hardship cases. Moreover, since October 2004, it had also been the standard practice of SSFUs to give a copy of the pamphlet on residence requirements for CSSA and Social Security Allowance (SSA) to each and every CSSA applicant who did not meet the seven-year residence requirement. The pamphlet explained the residence requirements for CSSA and SSA with the aid of Frequently Asked Questions. If the applicants wished to seek waiver of residence requirement, frontline SSFU staff would obtain all relevant information and submit a report to their senior officers for a decision. Whether the application was approved or rejected, the applicants would be informed in writing of the results of their applications as well as their right to lodge an appeal with the Social Security Appeal Board (SSAB) if they were not satisfied with the decisions made by SWD. The SSAB was an independent body whose members were all appointed by the Chief Executive from outside the civil service.

10. DSW also said that if SWD decided not to waive the seven-year residence requirement for a new arrival applying for CSSA, frontline SSFU staff would, where necessary, refer the applicant to other service units, such as the Family and

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Child Protective Services Units (FCPSUs) of SWD, or other Government departments for appropriate services. Chief Social Work Officer (Family and Child Welfare) 1 supplemented that social workers of FCPSUs would also refer cases to SSFUs for follow-up if the persons concerned were faced with imminent violent situation and had no income or other resources irrespective of whether they met the residence requirement for CSSA.

11. Mr LEE Cheuk-yan disagreed with the statement made by DSW in paragraph 8 above that as at the end of February 2005, the number of cases involving persons aged 18 and above who were admitted into Hong Kong on or after 1 January 2004, which were approved with discretion, was higher than the number of cases which were rejected. Mr LEE pointed out that of a total of 1 582 CSSA applicants involving persons aged 18 and above who were admitted into Hong Kong on or after 1 January 2004 received by SSFUs during the period from 1 January 2004 to 28 February 2005, 1 230 had in fact withdrawn their applications. However, DSW had disregarded these withdrawn cases in making the claim that the number of cases, which had been approved with discretion, was higher than the number of cases which had been rejected.

12. Mr LEE Cheuk-yan asked SWD whether it had taken any action to find out why the 1 230 applicants, referred to in paragraph 11 above, withdrew their applications and the present situation of these applicants, such as whether they had returned to their place of origin or living on the CSSA payments of their child(ren). DSW said that SWD had no information on the reasons for the withdrawal and had not followed up on the cases. DSW stressed that there was no question of frontline SSFU staff turning away CSSA applicants simply on ground that the latter did not meet the seven-year residence requirement having regard to the standing practices on processing CSSA applications mentioned in paragraph 9 above. But staff had to advise applicants of the requirement and other related information.

13. Mr LEE Cheuk-yan said that SWD should take the initiative to see what assistance could be rendered to the adult family members of those persons aged below 18 who were on CSSA for a long time, in order to prevent inter-generational poverty.

14. DSW responded that as CSSA was intended to be a safety net of last resort, efforts had been and would continue to be stepped up to help new arrivals who could work to try their best to be self-reliant. The current review on the intensive employment assistance projects implemented since October 2003 to help employable CSSA recipients and the “near-CSSA” unemployed move into work should help to shed light on how better to help the able-bodied unemployed to be self-supporting.

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15. Mr Fred LI noted from the report of the Panel's Subcommittee to Study Issues relating to the CSSA and SSA Schemes (LC Paper No. CB(2)2998/03-04) that the discretionary power to waive the seven-year residence requirement under the CSSA Scheme was delegated to seven Senior Social Security Officers (SSSOs). Mr LI expressed concern about placing such an onerous task solely on seven SSSOs, having regard to the varied, and sometimes complex nature, of the applications. Although persons who were not satisfied with the decisions of the SSSOs could lodge their complaints with the SSAB, Mr LI considered it better if senior officers of the SSSOs were also involved in the operation of discretion so as to make the whole decision-making process more vigorous and avoid putting undue pressure on the SSSOs.

16. DSW responded that there was no cause for concern that delegating the discretionary power to waive the seven-year residence requirement under the CSSA Scheme to the SSSOs would put undue pressure on the SSSOs. If SSSOs were in doubt as to whether CSSA should be granted to persons not meeting the residence requirement, they would confer with their senior officers such as the Chief Social Security Officers (CSSOs) and the District Social Welfare Officers (DSWOs). Where necessary, DSWOs would in turn confer with Assistant Director of Social Welfare (Social Security) (ADSW(SS)). DSW further said that in order to ensure that the exercising of discretion under the CSSA Scheme to waive the residence requirement was fairly, sensibly and consistently applied, all seven SSSOs met regularly to share experience on the operation of such.

17. As regards the appeal channel, DSW pointed out that since the final decisions made by the SSSOs were representative of the stance of SWD, there was no need for another formal channel within SWD for the aggrieved persons to seek a review of the decisions. Instead, they could lodge an appeal with the SSAB. ADSW(SS) supplemented that if an applicant wished to lodge an appeal with the SSAB, he/she had to do so within four weeks from being notified of the decision by 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. ADSW(SS) further said that apart from the SSAB, a CSSA applicant could also ask to see the supervisor of the SSFU if he/she was not satisfied with the attitude of the officer handling his/her case or the way his/her case was being handled. He/she could also lodge a complaint with the DSWO, whose name and contact telephone number were displayed at the reception area of the SSFU. All complaints, whether written or oral, would be dealt with expeditiously and impartially.

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18. At the request of Mr Fred LI, DSW undertook to provide information on the numbers of applications approved and rejected for waiver of residence requirement which SSSOs had conferred with their senior officers.

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19. Mr Alan LEONG agreed that CSSA should be a safety net of last resort, and he had no strong views about the factors to be considered for exempting a person from meeting the seven-year rule for CSSA outlined in paragraph 7 of the Administration's paper. Mr LEONG however was of the view that if the exercising of discretion under the CSSA Scheme to waive the seven-year residence requirement was mechanical, the original intention of the waiver mechanism to help needy people not able to satisfy the residence requirement could not be achieved. Mr LEONG wondered whether it might be better if the exercising of discretionary power to waive the residence requirement for CSSA was made by DSW, instead of delegating such to the SSSOs who might be inhibited by the waiver guidelines and precedent cases to exercise the discretion flexibly.

20. ADSW(SS) responded that SSSOs were very experienced officers with many years of experience as SSFU supervisors before they were promoted to their present post. So far, the operation of the discretion to waive the residence requirement for CSSA appeared to be working quite well. A review on the existing arrangements would certainly be carried out if it was found that the operation of discretion was not working well. As agreed with the Subcommittee to Study Issues relating to the CSSA and SSA Schemes last year, training for SSFU staff had been stepped up to ensure as far as possible that all the case were handled properly.

21. On the question of what level of staff should be delegated with the power to exercise discretion to waive the seven-year residence requirement for CSSA, ADSW(SS) said that a lot of thoughts had been put in by SWD to strike a right balance. If the exercising of discretion was at too high a level, it would create unnecessary delay for the approval of straightforward cases. On the other hand, if the exercising of discretion was set at too junior a level, cases might be handled too rigidly. Deputy Director of Social Welfare (Administration) (DDSW(A)) supplemented that she herself also met with the 13 DSWOs on a regular basis, and where necessary, to exchange views and share experience on the operation of the CSSA and SSA Schemes, including the operation of discretion under the CSSA Scheme to waive the seven-year residence requirement.

22. The Chairman disagreed that the operation of discretion to waive the residence requirement for CSSA was working well. If that was the case, there would not be cases where SWD finally waived the residence requirement after these cases were taken up by LegCo Members or NGOs. DDSW(A) said that experience in the past had shown that in many such cases, the applicants failed to provide all relevant information to frontline SSFU staff in the first place or it was due to miscommunication between the two sides.

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Latest development and trend since introduction of the seven-year residence requirement

23. Ms LI Fung-ying noted from paragraph 14 of the Administration's paper that during the year ending 31 December 2003, CSSA was approved under DSW's discretionary power to 731 persons aged below 18 with less than one year's residence in Hong Kong. During the year ending 31 December 2004, CSSA was approved to 2 766 persons aged below 18 with less than one year's residence in Hong Kong, representing an increase of 278%. In the light of this, Ms LI asked for the reason(s) for such a sharp increase in the number of persons aged below 18 approved with CSSA since the implementation of the seven-year residence requirement for CSSA on 1 January 2004.

24. DSW responded that the rise in the number of persons aged below 18 being granted CSSA in 2004 was expected, given that this group of new arrivals no longer needed to meet any prior residence requirement. More time however was needed to tell whether the situation in 2004 would be the trend in the long run.

25. Mr Fred LI noted from paragraph 13 of the Administration's paper that during the 14-month period from 1 January 2004 to 28 February 2005, SWD had received a total of 1 582 applications involving persons aged 18 and above who were admitted into Hong Kong on or after 1 January 2004 and therefore unable to meet the seven-year residence requirement. As at the end of February 2005, of these applications, 198 had been approved with discretion and 17 rejected. Of the remaining applications, 1 230 had been withdrawn by the applicants and 137 were being processed. In the light of this, Mr LI requested SWD to provide information on the circumstances justifying the approval with discretion of the 198 cases, the reasons for rejecting the 17 cases as well as the reason(s) causing the 1 230 applicants to withdraw their applications.

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26. DSW agreed to provide information on the circumstances justifying the approval with discretion of the 198 cases and the reasons for rejecting the 17 cases referred to in paragraph 13 of the Administration's paper after the meeting. DSW said that about 34% and 25% of the 198 cases approved with discretion were single parents and low wage earners respectively. As to the reasons why the 1 230 applicants withdrew their CSSA applications, DSW reiterated that SWD did not have the information as the withdrawals were made on the applicants' own volition.

27. To better understand the impact of the seven-year residence requirement for CSSA on the new arrivals who were admitted into Hong Kong on or after 1 January 2004, Mr LEE Cheuk-yan requested SWD to provide information on the background of the 2 766 persons aged below 18 with less than one year's residence in Hong Kong who were granted CSSA during the 14-month period from 1

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Admin January 2004 to 28 February 2005. Such a background should include whether the parents of these 2 766 persons had been denied CSSA on grounds of not meeting the seven-year residence requirement and hence had to use their CSSA payments for livelihood and the reason(s) for these 2 766 to apply for CSSA. In response, DSW said that he would endeavour to provide the requested information as far as possible.

Review of the seven-year residence requirement for CSSA

28. Mr LEE Cheuk-yan asked SWD whether it had conducted any study to find out whether, and if so, how the implementation of the seven-year residence requirement for CSSA had impacted on the number of new arrivals aged 18 or above from the Mainland.

29. DSW responded that since the new residence requirement for CSSA only took effect on 1 January 2004, SWD needed to look at the relevant figures for another year in order to draw any meaningful conclusion on whether, and how, the seven-year residence requirement for CSSA had impacted on the number of new arrivals aged 18 or above from the Mainland.

30. Ms LI Fung-ying expressed disappointment that despite numerous discussions held with the Administration in the last legislative session on the operation of discretion under the CSSA Scheme to waive the seven-year residence requirement, the problems of the lack of transparency and consistency about the operation of discretion remained unsolved as pointed out by deputations at the meeting. In order not to aggravate the problem of inter-generational poverty, Ms LI asked whether consideration could be given to ceasing to apply the seven-year residence requirement for CSSA.

31. Deputy Secretary for Health, Welfare and Food (DSHWF) responded that the adoption of a seven-year residence requirement for CSSA was in line with one of the recommendations of the Task Force on Population Policy to ensure a rational basis on which public resources were allocated and the long-term sustainability of heavily subsidized public services. As mentioned by DSW earlier at the meeting, CSSA was not the only form of assistance for people in need. Other forms of assistance and support were available to new arrivals regardless of their length of stay in Hong Kong. In respect of the new arrivals aged 18 and above, assistance was provided to this group of people to seek employment so as to equip them to be self-reliant. CSSA was intended to serve as a safety net of last resort to people in need, and she hoped that the public at large would view CSSA in the same light.

32. DSHWF also pointed out that some NGOs were providing service to advise potential immigrants from the Guangdong and Fukien Provinces to plan carefully

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before emigrating to Hong Kong, and be aware of the need to have sufficient means to support themselves in Hong Kong. DSW supplemented that in cases where a new arrival was working to support himself/herself and his/her family members, discretion was normally exercised to treat him/her as an eligible member of the family for the purpose of CSSA in recognition of the new arrival's efforts to become self-supporting.

33. Responding to the Chairman's enquiry as to whether there was any plan for a review to be conducted on the application of the "principle of seven-year residence requirement" for residence requirement for CSSA, DSHWF said that while SWD would monitor the situation, there was no plan to change this policy. The overall population policy would be a concern for the Task Force on Population Policy.

Reinstating household registration to new arrivals who opted to return to the Mainland

34. Ms LI Fung-ying and Miss CHAN Yuen-han were of the view that no matter how careful potential immigrants had planned before settling in Hong Kong, their means of livelihood in Hong Kong could still be badly affected due to the occurrence of sudden and unforeseen tragic events, such as the death of their spouses who were the breadwinners of the family. In the light of this, they urged the Administration to take up with the Mainland authorities concerned about the possibility of giving back the household registration to those new arrivals who wished to return to their place of origin.

35. DSW responded that the Security Bureau was in discussion with the Mainland authorities concerned on the possibility of allowing new arrivals from the Mainland to retain their household registration for a certain period of time after they had settled in Hong Kong. DSW further said that to his understanding, Mainlanders who gave up their household registration as a result of them emigrating to other places could apply to the Mainland authorities concerned for getting back their household registration if they decided to return to their place of origin to reside, albeit the approval of such applications could not be taken as a matter of course.

36. Ms LI Fung-ying requested SWD to provide more details about the application for getting back household registration, such as the eligibility criteria, time required, number of successful applications and reasons for rejection. In response, DSW said that the Administration was not in a position to provide such information as this was outside the jurisdiction of Hong Kong. DSW further said that although one of the considerations to exempt a person from the seven-year residence requirement for CSSA was the possibility of the applicant returning to his/her place of origin, the wish of the applicant to stay in Hong Kong would be

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respected even though it might be a better option for the applicant to return to his/her place of origin. DSW assured members that SWD would not reject a CSSA application by a new arrival simply on grounds that the applicant could return to his/her place of origin.

37. ADSW(SS) supplemented that the reason for including the possibility of the applicant returning to his/her place of origin as one of the considerations for exempting a person from meeting the seven-year residence requirement for CSSA was because 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. SWD Management was well aware that, in current circumstances, it was not normally a viable option for people to return to the Mainland and had explicitly advised frontline staff along these lines.

Conclusion

38. In closing, the Chairman said that the existing operation of discretion under the CSSA Scheme to waive the seven-year residence requirement still had a lot of room for improvement. The Chairman urged SWD to examine the existing operation so that applicants did not have to resort to seeking assistance from LegCo Members before they were granted CSSA. The Chairman also hoped that SSFU and FCPSU staff would be more forthcoming in understanding the difficulties encountered by the new arrivals, so that timely and appropriate social services could be provided to them. SSFU staff should also trace and contact those new arrival applicants who had withdrawn their applications as far as possible to find out why they had decided to do so, instead of leaving them to fend for themselves in a new environment.

39. There being no other business, the meeting ended at 10:43 am.