

立法會
Legislative Council

LC Paper No. CB(2)717/05-06
(These minutes have been
seen by the Administration)

Ref : CB2/PL/WS

Panel on Welfare Services

Minutes of special meeting
held on Tuesday, 8 November 2005 at 4:30 pm
in the Chamber of the Legislative Council Building

- Members present** : Dr Hon Fernando CHEUNG Chiu-hung (Chairman)
Hon CHAN Yuen-han, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon Bernard CHAN, JP
Hon TAM Yiu-chung, GBS, JP
Hon LI Fung-ying, BBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
- Members absent** : Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Dr Hon YEUNG Sum
Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee, JP
- Member attending** : Hon WONG Ting-kwong, BBS
- Public Officers attending** : 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** : Hong Kong Social Workers' General Union

Mr CHEUNG Kwok-che
President

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

Ms LAM Ying-hing
Organizing Secretary

Mr TANG Wai-wah
Convenor

Staff Union of the Mental Health Association of Hong Kong

Mr LAU San-ching
Chairman

Mr LUI Kwan-chung
Co-ordinator

Hong Kong Social Workers Association

Mr CHUA Hoi-wai
President

Dr LAW Chi-kwong
Member of the Current Welfare Issues Committee

Social Welfare Organizations Employees Union

Mr WONG Kwai-wah
Vice-chairperson

Mr CHUNG Chi-hung
ExCo Member

Staff Association of Hong Kong Young Women Christian
Association

Mr TSE Sai-kit
Director of Rights and Complaints Division

Mr HO King-cheung
Social Affairs

The Hong Kong Council of Social Service

Mr Cliff CHOI
Business Director

Community Care & Nursing Home Workers General Union

Ms CHEUNG Wai-lin
Chairperson

Mr WONG To-hung
Exco Member

Sik Sik Yuen Workers Union

Mr LIU Wai-ying
Exco Member

Frontline Welfare Employee Union

Mr TAM Leung-ying
Secretary

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. Support after the tide-over grant (TOG) period to non-governmental organisations currently receiving TOG - special one-off grant and other support measures

(LC Paper Nos. CB(2)296/05-06(01) to (06) and CB(2)308/05-06(01))

At the invitation of the Chairman, Director of Social Welfare (DSW) updated members on the latest position of the Special One-off Grant (SOG) applications, details of which were set out in paragraphs 5 to 6 of the Administration's paper (LC Paper No. CB(2)296/05-06(01)).

2. In response to Mr LEE Cheuk-yan's enquiry on the number of applications for the SOG (Scheme B), DSW said that it was about 60% to date.

Views of deputations

Hong Kong Social Workers' General Union

3. Mr CHEUNG Kwok-che introduced the submission of the Hong Kong Social Workers' General Union (LC Paper No. CB(2)296/05-06(03)) which suggested the following -

- (a) there was a need for the Lump Sum Grant Steering Committee (LSGSC) to meet expeditiously to deal with matters arising from the SOG applications, such as staff's concern about the implementation of a voluntary retirement (VR) scheme for staff, having regard to the fact that there was at present no channel for affected staff to appeal against the reforms to be carried out by their employers to make ends meet after the cessation of the TOG period;

- (b) a three-party working group on LSG, comprising representatives from the Social Welfare Department (SWD) and the management and staff side of NGOs, should be set up to deal with labour disputes, such as unfair dismissal of staff;
- (c) SWD should formulate a penalty system to sanction those NGOs which treated staff badly within the bounds of the labour legislation; and
- (d) a comprehensive review of the LSG subventions system should be conducted, in view of the numerous problems which had cropped up since its implementation five years ago. Such a review should best be conducted by the Legislative Council (LegCo) to ensure objectivity and fairness.

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

4. Ms LAM Ying-hing presented the submission of HKCTU (LC Paper No. CB(2)296/05-06(04)) which pointed out that many NGOs planned to implement various cost-saving measures, including a VR scheme, to save costs, arising from the cessation of the TOG period next year despite the fact that they had reserve. Although the SWD had urged NGOs to fully consult their staff in making the final decision to apply for the SOG, many NGOs merely paid lip-service to such a call. In the light of this, HKCTU strongly requested the SWD to withdraw the SOG proposal and extend the TOG period to enable NGOs currently receiving the TOG to meet staff commitments in the long run. For those NGOs which had already submitted applications for the SOG, the SWD should cease to process their applications if it received complaints from staff that they had not been fully consulted on the matter.

Staff Union of the Mental Health Association of Hong Kong

5. Mr LUI Kwan-chung presented the views of the Staff Union of the Mental Health Association of Hong Kong as detailed in its submission ((LC Paper No. CB(2)296/05-06(05)). Notably, in view of the unfair treatment of staff under the LSG subventions system, the Staff Union of the Mental Health Association of Hong Kong requested the LegCo to form a subcommittee to look into the problems which had cropped up during the implementation of the LSG subventions system and come up with solutions, so as to improve Hong Kong's social welfare system.

Hong Kong Social Workers Association (HKSWA)

6. Dr LAW Chi-kwong highlighted paragraphs 4 to 5 of HKSWA's submission (LC Paper No. CB(2)296/05-06(06)) which pointed out that the SWD had violated the contractual obligation by unilaterally deducting 9.3% from the benchmark salary of NGOs on LSG over the years as a result of the Enhanced Productivity Programme (EPP) and the Efficiency Savings (ES). HKSWA urged the Administration to reimburse the money deducted from the benchmark salary to NGOs on LSG and reinstate the subvention of the benchmark salary to the level laid down in the LSG Manual, so as to ensure that welfare services would not be compromised.

Social Welfare Organizations Employees Union

7. Mr WONG Kwai-wah told the meeting that junior staff of NGOs had poor morale, as they were often the targets of the management to slash costs. Mr WONG hoped that SWD would monitor how NGOs treated their staff, as staff who were worried about their job security and had financial worries would inevitably have an adverse impact on their services to the users. Mr WONG pointed out that to only require NGOs to act in compliance with labour legislation was not enough to prevent staff from being unfairly treated, as the management could always serve staff with the requisite notice requirement under the law to lay them off and replace them with ones who were paid less.

Staff Association of Hong Kong Young Women Christian Association

8. Mr TSE Sai-kit made the following points -

- (a) the introduction of the SOG was a ploy of the Administration to wash its hands of the responsibility of honouring the contractual obligations to staff captured in the snapshot of 1 April 2000 (hereafter referred to as "snapshot staff");
- (b) it was regrettable that no monitoring had been carried out by the SWD to ensure that NGOs on LSG had honoured the contractual obligations to their snapshot staff in the course of undergoing organisation restructuring and service reengineering within the TOG period such that they could operate their services within the LSG provision;
- (c) staff and service users should be involved in the organisation restructuring and service reengineering to ensure that their interests would not be compromised;

- (d) the LSGSC should have the power to adjudicate problems arising from the implementation of the LSG subventions system and that its decision made should be binding on the NGOs and staff; and
- (e) the LegCo should set up a dedicated task force to review the LSG subventions system.

Frontline Welfare Employee Union

9. Mr TAM Leung-ying made the following points -

- (a) the objective of the LSG subventions system was to put a ceiling on social welfare spending;
- (b) although public spending on social welfare spending had increased in recent years, money spent by NGOs on LSG on service delivery had actually dropped generally. This was because many NGOs, for fear of the need to overcome possible operating deficits in future, had resorted to reduce staff salaries and/or lay off staff to save costs and put the money thus saved in a reserve;
- (c) the LSGSC often treated labour disputes as management problems which should best be resolved by NGOs themselves. This was not surprising, as the LSGSC was chaired by DSW and staff representation on the LSGSC was in the minority. To address such, the LSGSC should be re-constituted to be chaired by a person independent of the Government, such as a LegCo Member, and comprised more representatives from staff and service users; and
- (d) LegCo should set up a dedicated task force to find out whether NGOs on LSG had honoured their contractual commitments to snapshot staff.

Sik Sik Yuen Workers Union

10. Mr LIU Wai-ying expressed dissatisfaction with the SWD treating Sik Sik Yuen's failure to fully consult staff prior to applying for the SOG as an internal administrative matter of Sik Sik Yuen. Mr LIU further said that staff were very worried that they would be forced to accept VR after the cessation of the TOG period in 2006-07.

Community Care & Nursing Home Workers General Union

11. Ms CHEUNG Wai-lin told the meeting that many community care and nursing home workers were required by their NGO employers to work unreasonably long hours. Given the free rein given to NGOs on LSG to do as they saw fit to their staff, these workers were afraid to say no for fear of losing their jobs.

Hong Kong Council of Social Service (HKCSS)

12. Mr Cliff CHOI presented the views of HKCSS as set out in its submission (LC Paper No. CB(2)308/05-06(01)). In particular, HKCSS requested the Administration to give an undertaking that it would not reduce funding and to restore subvention on personal emolument to the benchmark level before implementing the SOG scheme.

Discussion

13. Mr LEE Cheuk-yan pointed out that the following three mistakes had been committed under the implementation of the LSG subventions system -

- (a) failure of the SWD to provide subvention on personal emolument according to the benchmark laid down in the LSG Manual, as a result of which NOGs were forced to become unscrupulous employers;
- (b) NGOs were allowed to implement the VR scheme despite having a reserve and no idle staff; and
- (c) the SWD did nothing to ensure that NGOs honoured their contractual commitments to snapshot staff and that NGOs would not unilaterally change the terms of employment and dismiss those staff who refused to accept the new terms.

14. DSW responded as follows -

- (a) it was not the intention of the Administration to put a ceiling on social welfare spending by implementing the LSG subventions system, as evidenced by the fact that spending on such had increased from some \$390 million to some \$740 million in the past decade;
- (b) subvention to NGOs was provided taking into account any adjustment due to EPP and ES that would affect all Government and publicly-funded organisations. NGOs entered into agreement with

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SWD on the subventions allocation annually according to the Funding and Service Agreement (FSA);

- (c) the reason for introducing the SOG was to assist those NGOs currently receiving the TOG which might still have difficulty in attaining financial viability under the LSG provision after the cessation of the TOG period, having regard to the EPP and ES they contributed in the last few years;
- (d) as mentioned in the previous meetings, it was not the intention of the Administration to use the SOG to encourage NGOs to implement VR to reduce the number of their staff. The reason for allowing NGOs to utilise the SOG to implement VR for their staff, which was a request put forth by a number of NGOs, was to provide NGOs with greater flexibility in formulating a human resources system that best suited their staffing and financial conditions. Before the implementation of any VR scheme, NGOs should consult their staff; and
- (e) NGOs were obliged to honour their contractual commitment to staff and act in compliance with the labour legislation.

15. Mr LEE Cheuk-yan remarked that if the SOG was not provided to NGOs, they would not have the resources to implement the VR scheme. Mr LEE then asked the Administration when it would reimburse the 9.3% deducted subventions allocation to NGOs on LSG, as the Financial Secretary had recently announced that there would be additional money for allocation to policy bureaux in the next financial year. Mr Albert HO expressed concern whether the 9.3% deduction of subventions allocation to NGOs on LSG was a breach of its contractual obligation to NGOs on LSG.

16. DSW responded that any new money would be used on implementing new services. DSW further said that he had nothing to add to what he had already said earlier with regard to subventions to NGOs on LSG. As to whether the Administration had breached the contractual obligation to NGOs on LSG in adjusting the subventions allocation, DSW agreed to provide a response after the meeting.

Admin

17. Mr CHUA Hoi-wai of HKSWA referred to paragraph 52 of the minutes of the meeting of LSGSC held on 21 October 2003 which read as follows : “She (the Chairperson) reiterated that the Benchmark would take into account the price adjustment factors effected after 2000-01, i.e. salary increases and decreases, based on civil service adjustments, but other across-the-board adjustments to the

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Admin subvention allocations, such as EPP and ES, would have no effect on the Benchmark". Mr CHUA said that he had raised the same question on the calculation of the benchmark twice at the LSGSC this year. The Administration had repeatedly replied that such calculation was based on the statement made at the meeting on 21 October 2003. Noting DSW's reply in paragraph 14(b) above was the exact opposite to what was said in the LSGSC, Mr CHUA asked which version was correct. DSW responded that he would address the question raised by Mr CHUA in writing after the meeting.

Admin 18. Miss CHAN Yuen-han said that members in fact had reservation in supporting the implementation of the LSG subventions system back in 2000. Unfortunately, many problems which they feared would occur had happened. It was particularly worrying that NGOs had failed to consult their staff in making decisions affecting their employment. To facilitate members' understanding of the problems highlighted by deputations about the implementation of the LSG subventions system, Miss CHAN requested the Administration to provide all relevant papers, including the minutes of meetings. DSW said that the Administration would liaise with the LegCo Secretariat after the meeting to sort out the types of information required. Mr Albert HO said that NGOs on LSG should also be invited to provide any papers which they felt could assist the Panel in understanding the problems, including how the 9.3% deduction of the benchmark had impacted on their operation. The Chairman suggested to invite the HKCSS to obtain the information requested by Mr HO from NGOs. Mr Alan LEONG expressed support for Miss CHAN and the Chairman's suggestions.

Clerk

19. All deputations urged the Administration to respond to their views, concerns and questions about the LSG subventions system which were recapped below -

- (a) there was a need to review the LSG subventions system;
- (b) the prevalence of NGOs using reducing staff salaries or similar ploys to meet ends meet and the Administration's stance on such;
- (c) the lack of monitoring by the LSGSC or the SWD to see that NGOs honoured their contractual commitments to staff; and
- (d) the lack of consultation by NGOs in making decisions on matters which had staff implication.

20. DSW responded as follows -

- (a) the Administration would not go back to the previous subventions

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system with its emphasis on input control, which had been criticised for creating inflexibility for NGOs to deploy resources, entrenching disincentives for efficiency, stifling innovation and being administratively cumbersome to operate. The Administration would look at areas to further improve the LSG subventions system after the SOG arrangement was settled, probably in the next financial year;

- (b) NGOs were obliged to honour their contractual commitment to staff and act in compliance with the labour legislation, in the course of carrying out organisation restructuring and service reengineering; and
- (c) given the unique circumstances of each NGO on LSG, it was not possible for the Administration to set down how NGOs currently receiving the TOG should go about consulting their staff on the applications for the SOG. However, these NGOs had been advised to fully consult their staff and then present staff feedback to their respective board before submitting their applications for the SOG. In considering the applications, due consideration would be given to the staff implication on the measures to be adopted under the SOG. Should it be brought to the attention of the SWD that a particular NGO had not consulted its staff before submitting application for the SOG, the SWD would follow up with the NGO concerned.

21. The Chairman asked the Administration whether it would consider setting up a committee, comprising representatives from the Administration, NGOs, staff and service users, to adjudicate disputes between NGOs and staff.

22. DSW responded that there was no such need. Moreover, the membership of the LSGSC already consisted of representatives from NGO staff and service users. Apart from the LSGSC, staff aggrieved by the decisions made by their employers could seek recourse from the Labour Tribunal.

23. Miss CHAN Yuen-han said that she was pessimistic about the effectiveness of the LSGSC in settling labour disputes arising from the implementation of the LSG. She suggested that staff aggrieved by the decisions made by their employers to lodge their cases with the Complaints Division of the LegCo, so that appropriate follow-up actions could be taken by Members where justified.

Conclusion

24. Mr LEUNG Kwok-hung moved the following motion, as amended by

Mr LEE Cheuk-yan, which was supported by all members present at the meeting -

“本委員會責成政府立即擱置特別一次過撥款並延長過渡期補貼及監察非政府機構尊重員工合約，並成立由政府、機構、員工、受助人四方組成委員會檢討整筆過撥款制度。”

(Translation)

“That this Panel demands the Administration to immediately scrap the SOG, extend the TOG and monitor whether NGOs honour their contractual commitment to staff; as well as setting up a four-party committee, comprising the Administration, NGOs, staff and users, to review the LSG subventions system.”

25. There being no other business, the meeting ended at 6:35 pm.

Council Business Division 2
Legislative Council Secretariat
15 December 2005