

**立法會**  
**Legislative Council**

LC Paper No. CB(2)770/05-06  
(These minutes have been  
seen by the Administration)

Ref : CB2/PL/WS

**Panel on Welfare Services**

**Minutes of meeting**  
**held on Monday, 12 December 2005 at 10:45 am**  
**in Conference Room A 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 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 LEUNG Kwok-hung

**Members absent** : Hon LEE Cheuk-yan  
Hon Bernard CHAN, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Dr Hon YEUNG Sum

**Member attending** : Dr Hon KWOK Ka-ki

**Public Officers : Item IV  
attending**

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

Ms Wendy CHEUNG  
Assistant Secretary for Health, Welfare and Food (Family) 3

Mr Peter NG  
Chief Social Work Officer (Family & Child Welfare) 2  
Social Welfare Department

Ms Grace WONG  
Senior Social Work Officer (Child Welfare)  
Social Welfare Department

Mr James DING  
Government Counsel (Treaties & Law)1  
Department of Justice

Ms Francoise LAM  
Senior Government Counsel  
Department of Justice

Item V

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

Mr D C CHEUNG  
Principal Assistant Secretary for Health, Welfare and Food  
(Elderly Services and Social Security) 2

Mrs Mary MA  
Commissioner for Rehabilitation  
Health, Welfare and Food Bureau

Mr Albert AU  
Assistant Secretary for Health, Welfare and Food  
(Elderly Services and Social Security) 3

Miss Nancy LAW, 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

**Deputations  
by invitation**

: Item V

Trail Walker Vocational & Educational Resource Centre

Ms SUN Mun-wan

Ms Eva CHAN Bun-hei

Hong Kong Blind Union

Mr CHAN Kwok-kwong  
Social Worker

關注傷殘津貼聯席

Ms HO Bo-ching  
Manager

Ms CHEUNG Mei-yung  
Manager

Alliance of Renal Mutual Help Association

Ms HO Oi-ying

Ms LAI

Wang Tau Hom Centre, Community Rehabilitation  
Network Hong Kong Society for Rehabilitation

Mr KU Wing

Ms KOO Shuk-ching

Patient Mutual Support Division, Community  
Rehabilitation Network Hong Kong Society for  
Rehabilitation

Mr TAI Kin-kai

Ms CHENG Yuk-yin

器官殘障傷殘津貼關注小組

Ms HO  
Social Worker

Hong Kong Lupus Association

Ms WONG Siu-wan

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

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

All items

Miss Mary SO  
Senior Council Secretary (2) 8

Miss Maggie CHIU  
Legislative Assistant (2) 4

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**I. Confirmation of minutes**

(LC Paper No. CB(2)605/05-06)

The minutes of the meeting held on 14 November 2005 were confirmed.

**II. Information paper(s) issued since the last meeting**

2. There was no information paper issued since the last meeting.

**III. Items for discussion at the next meeting**

(LC Paper Nos. CB(2)606/05-06(01) and (02))

3. Members agreed to discuss the following items at the next regular meeting on 9 January 2006 -

- (a) Draft design manual - barrier free access and facilities for person with a disability and for the elderly; and
- (b) Measures to address the transport needs of persons with disabilities and their carers.

**IV. Proposed amendments to the subsidiary legislation of the Adoption Ordinance**

(LC Paper No. CB(2)606/05-06(03))

4. At the invitation of the Chairman, Principal Secretary for Health, Welfare and Food (Family) (PAS/HWF(F)) briefed members on the background on and the latest developments of the proposed amendments to the subsidiary legislation of the Adoption Ordinance (Cap. 290) (the Ordinance), details of which were set out in paragraphs 2 to 10 of the Administration's paper. Assistant Secretary for Health, Welfare and Food (Family) 3 then briefed members, with the aid of a powerpoint, on the salient features of the draft provisions for the Adoption (Amendment) Rules 2005, the Convention Adoption Rules, the Convention Adoption (Exclusion) Order and the Intercountry Adoption (Contracting States) Order, details of which were set out in paragraphs 11 to 16 of the same paper. PAS/HWF(H) added that subject to any views that members might have on the draft provisions, the Administration intended to table the subsidiary legislation at the Legislative Council (LegCo) for negative vetting on 21 December 2005. To allow time for Members to examine the draft provisions in greater detail, the subsidiary legislation, together with the Adoption (Amendment) Ordinance 2004

(the Amendment Ordinance), would commence on 25 January 2006.

5. Miss CHAN Yuen-han noted that one of the main purposes for amending the Ordinance was to implement the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption (the Convention), signed by the Central People's Government (CPG) in 2000, in Hong Kong. The CPG ratified the Convention on 16 September 2005 and the Convention would take effect in Hong Kong on 1 January 2006. In the light of this, Miss CHAN asked the Administration whether Hong Kong had been consulted on the application of the Convention to Hong Kong.

6. PAS/HWF(F) responded that under Article 153 of the Basic Law, the application to the Hong Kong Special Administrative Region (HKSAR) of international agreements to which the People's Republic of China was or became a party should be decided by the CPG, in accordance with the circumstances and needs of the HKSAR and after seeking the views of the Government of the HKSAR. In this connection, the CPG had consulted the HKSAR Government on the application of the Hague Convention. In response, the HKSAR had indicated to the CPG its wish for the Hague Convention to be applied to the HKSAR in principle, subject to the Ordinance being amended to meet the requirements of the Hague Convention, and hence the making of the Amendment Ordinance.

7. Miss CHAN Yuen-han said that the reason she asked the question as to whether the CPG had consulted the HKSAR Government on the application of the Convention before applying it to the HKSAR was because she was of the view that the Administration had the obligation to first consult the people of Hong Kong before signing any international convention or applying any international convention to Hong Kong of which the CPG was the contracting state. The Chairman concurred, and further said that it was regrettable that the Administration had not done so before agreeing to apply the Convention to Hong Kong and urged the Administration to first consult LegCo before applying any international convention to Hong Kong in future.

8. PAS/HWF(F) responded that the Administration had consulted this Panel and other relevant parties before introducing the Amendment Ordinance into LegCo to give effect to the Convention, among others.

9. Mr Albert CHAN asked whether the implementation of the Amendment Ordinance would allow the adoption of a child in Hong Kong by his/her relative residing overseas. Mr CHAN further asked whether the Amendment Ordinance covered adoption arrangements between the HKSAR and the Mainland.

10. Responding to Mr CHAN's first question, Chief Social Work Officer

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(Family & Child Welfare) 2 (CSWO(FCW)2)) said that the Amendment Ordinance made no changes to the existing adoption arrangements by related persons. At present, persons, regardless of whether they resided in Hong Kong or overseas, could approach the Adoption Unit of the Social Welfare Department (SWD), or the overseas adoption agencies as appropriate, to arrange for adoption of local children related to them. These persons, however, could make use of other means, such as applying to become the guardian of those children to take them under their custody under the existing law.

11. As to Mr CHAN's second question, PAS/HWF(H) pointed out that adoption arrangements between the HKSAR and the Mainland, which were intracountry adoptions, were outside the scope of the Amendment Ordinance. Although there were no explicit provisions in local legislation for adoption arrangements between the HKSAR and the Mainland, there were procedures under the Mainland legislation for Chinese citizens residing in the HKSAR intending to adopt Mainland children to follow. In the case of an adoption in the HKSAR of a HKSAR child by a Mainlander, the Mainlander would have to go through the existing arrangements for local adoptions. PAS/HWF(F) further said that although intracountry adoption was outside the ambit of the Amendment Ordinance, the Administration agreed that there was a need to establish formal arrangements on adoption with the Mainland, and the Administration was exploring the issue with the Mainland authorities. To better facilitate members' understanding of the existing adoption arrangements between the HKSAR and the Mainland, PAS/HWF(F) referred members to a background paper on the subject, prepared for the Bills Committee on Adoption (Amendment) Bill 2003.

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*(Post-meeting note : The information paper on adoption arrangements between the HKSAR and the Mainland was issued to members vide LC Paper No. CB(2)796/05-06 on 6 January 2006.)*

12. Mr Albert CHAN asked whether the Amendment Ordinance would make adoption arrangements by related persons more difficult, having regard to the fact that one of the objectives of the Amendment Ordinance was to outlaw private arrangements for adoptions between unrelated persons.

13. CSWO(FCW)2 responded that apart from implementing the Convention to Hong Kong, the Amendment Ordinance also sought to improve the existing local adoption arrangements. In respect of the latter, for instance, a step-parent would, in future, be able to apply as a sole applicant if his/her spouse was the birth parent of the child. Moreover, the birth parent married to the step-parent would still retain all original parental rights after adoption. CSWO(FCW)2 assured members that the existing adoption arrangements would not be undermined after the implementation of the Amendment Ordinance, as many of the improvements

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to be made to the local adoption arrangements were the results of many years of discussion since the early 1990s with the non-governmental organisations (NGOs) and other concerned groups.

14. Mr Albert HO noted that an adoption made overseas in places not covered by the Convention would still be recognised by Hong Kong, if such an adoption met the requirements in section 17 of the Ordinance which provided for recognition of non-Convention adoptions. Given the low threshold of section 17, Mr HO pointed out that it would encourage some people to adopt children from places outside Hong Kong which had very lax or low requirements for overseas adoption. To ensure that an adoption was in the best interests of the child, Mr HO was of the view that section 17 should be amended to make the requirements for recognition of non-Convention adoptions more stringent. Furthermore, the Administration should raise at the Hague Conference on Private International Law the need to lay down a set of minimum requirements which all contracting states must comply in issuing an adoption order. PAS/HWF(F) agreed to reflect Mr HO's views to the Secretariat of the Convention in the Hague.

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15. Mr James TIEN said that with the implementation of the Closer Economic Partnership Arrangement (CEPA), more and more Mainlanders came to Hong Kong to work. In the light of this, Mr TIEN asked whether the Basic Law had any bearing on these Mainlanders bringing their adopted children to reside in Hong Kong.

16. PAS/HWF(F) responded that once a child was adopted, the child would normally be regarded as the birth child of his/her adoptive parents. Hence, the question of the Basic Law did not come into play should a Mainlander wish to bring his/her adopted child(ren) to reside in Hong Kong under the CEPA, which essentially involved the immigration policy of Hong Kong.

**V. Further discussion on review of the disability allowance under the Social Security Allowance Scheme**

(LC Paper Nos. CB(2)298/05-06(05) and (07), CB(2)606/05-06(04), CB(2)636/05-06(01) to (04) and CB(2)650/05-06(01))

17. The Chairman invited deputations to give their views on the disability allowance (DA) under the Social Security Allowance (SSA) Scheme.



*Views of deputations*

Trail Walker Vocational & Educational Resource Centre

18. Ms SUN Mun-wan said that it was unreasonable for SWD to demand her to pay back the overpaid DA by installments, when the responsibility for such overpayment was yet to be determined. Although one of the eligibility criteria for Higher DA (HDA) was that the recipient must not be receiving care in a Government or subvented residential institution, Ms SUN pointed out that she had never hidden from SWD that her blind daughter was boarding at a subvented school for the blind from 1992 to 2004 during which time her daughter was receiving a monthly allowance of HDA.

19. Ms Eva CHAN told the meeting that she was also required to pay back the overpaid DA by installments for the reason that her visually-impaired daughter had been receiving HDA while she was boarding at the same subvented school for the blind. Although she had been paying back SWD the overpaid DA since 2001, Ms CHAN said that she did not know how much money she still owed SWD despite repeated call for SWD staff to answer her question. Ms CHAN pointed out that SWD had ceased to provide her disabled daughter with DA since 2001. As a result, she had strived to find work to support her disabled daughter. However, given the poor economic situation of Hong Kong in the past several years and the fact that her disabled daughter had to stay home every weekend from Friday to Sunday during the school session, Miss CHAN said that she finally had to resort to the Comprehensive Social Security Assistance (CSSA) in 2004.

Hong Kong Blind Union

20. Mr CHAN Kwok-kwong presented the views of the Hong Kong Blind Union as set out in its submission (LC Paper No. CB(2)650/05-06(01)). In particular, the Hong Kong Blind Union made the following suggestions -

- (a) SWD should refrain from recovering the overpaid DA from the recipients concerned or their families, when it was yet to be determined whose responsibility it was for causing such overpayment in the first place;
- (b) before coming to a conclusion on who was responsible for the overpayment of DA, SWD should continue to provide DA to the recipients concerned;
- (c) SWD should immediately conduct a study to find out how many HDA recipients were overpaid while receiving care in a Government

or subvented residential institution, so as to know the extent of the problem and come up with a solution to address the problem; and

- (d) in the long run, SWD should conduct a comprehensive review of the DA arrangements, including the approving and reviewing procedures.

關注傷殘津貼聯席

21. Representatives of “關注傷殘津貼聯席” presented their submission (LC Paper No. CB(2)696/05-06(01)) tabled at the meeting. Specifically, they hoped that severely-disabled children living with their families not on CSSA could be eligible for adult disabled CSSA, so that these children would not have their DA changed from HDA to Normal DA (NDA) when they needed to be hospitalised for a prolonged period of time.

Alliance of Renal Mutual Help Association

22. Ms HO Oi-ying said that the fact that some renal patients needed to undergo peritoneal dialysis every six to eight hours a day had rendered it difficult, if not possible for them, to hold down a full-time job. Moreover, the medical costs arising from the peritoneal dialysis amounted to at least a couple of thousand dollars per month. In the light of this, Ms HO hoped that DA could be provided to renal patients whose loss of total earning capacity might not be apparent.

Network Hong Kong Society for Rehabilitation

23. Ms KOO Shuk-ching told the meeting of the unreasonable experience encountered by her brother when undergoing his medical re-assessment for continued payment of DA, details of which were set out in the Network Hong Kong Society for Rehabilitation’s submission (LC Paper No. CB(2)636/05-06(02)).

Patient Mutual Support Division, Community Rehabilitation Network Hong Kong Society for Rehabilitation

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24. Mr TAI Kin-kai told the meeting of the unsuccessful attempts made by his wife, a rheumatoid arthritis patient, in getting DA, despite the fact that his wife was assessed to have severe impairment in the movement of her limbs by various NGOs providing services to the disabled, details of which were set out in the submission of the Patient Mutual Support Division of the Community Rehabilitation Network Hong Kong Society for Rehabilitation (LC Paper No. CB(2)636/05-06(01)).

器官殘障傷殘津貼關注小組

25. Ms HO introduced the submission from the “器官殘障傷殘津貼關注小組” (LC Paper No. CB(2)636/05-06(04)), which proposed the following -

- (a) a new category of disability due to visceral diseases should be created in the assessment for DA eligibility; and
- (b) subject to other eligibility criteria being met, an applicant suffering from a visceral disease should not be considered as being in a position broadly equivalent to 100% loss of earning in order to be eligible for DA. Rather, he/she should be considered eligible for DA if his/her impairment or other medical conditions had resulted in a significant restriction or lack of ability or volition to perform the following activities in daily life to the extent that substantial help from others was required in any one of the following areas -
  - (i) working in the original occupation and performing any other kind of work for which he/she was suited;
  - (ii) coping with self-care and personal hygiene, including feeding, dressing, grooming, toileting and bathing;
  - (iii) maintaining one’s posture and dynamic balance while standing or sitting, for daily activities, managing indoor transfer, travelling to clinic, school, place and work; and
  - (iv) expressing oneself, communicating and interacting with others, including writing, speaking, utilising social resources, seeking help from others and participating in recreational and social activities.

Hong Kong Lupus Association

26. Ms WONG Siu-wan presented the views of the Hong Kong Lupus Association as set out in its submission (LC Paper No. CB(2)636/05-06(03)), which proposed the following, in addition to the those mentioned by “器官殘障傷殘津貼關注小組” in paragraph 25 above -

- (a) DA applicants should be entitled to have a second opinion from another public medical doctor should their applications be refused;

- (b) SWD should explain to the applicants in writing why their applications for DA were unsuccessful; and
- (c) doctors, nurses and medical social workers should step up their communications with patients with disabilities, so that the latter could become better informed of their eligibility for DA and other necessary information, such as application and appeal procedures.

*The Administration's response*

27. Deputy Secretary for Health, Welfare and Food (Elderly Services and Social Security) (DSHWF(ES&SS)) briefed the meeting on the background and the objective of DA, as well as the Administration's need to recover overpayment of DA, details of which were set out in paragraphs 4 to 13 of the Administration's paper (LC Paper No. CB(2)606/05-06(04)). DSHWF(ES&SS) further said that the Administration would carefully consider the views and suggestions expressed by deputations to see whether, and if so, how these views and suggestions could be taken forward to further improve the existing DA arrangements.

*Discussion*

28. Mr Albert HO suggested that -

- (a) SWD should not withhold payment to the DA recipients concerned if they had lodged an appeal against the result of the medical re-assessment for continued payment. Alternatively, a maximum time period should be fixed for the Social Security Appeal Board to hear a case from the receipt of an appeal and revert its decision to the appellant;
- (b) persons who were certified by public doctors to be in need of constant attendance from others in their daily life, in addition to meeting the eligibility criteria for NDA, should still be qualified for HDA if they were boarding at a subvented special school for the reason that these individuals had to return home for the weekend when the school was in session and during the summer holidays. In the light of this, SWD should abandon its action to recover the overpaid DA from those recipients who had received or were receiving care in a subvented special school;
- (c) the medical assessment form for DA lacked clarity and objectivity and should be reviewed, so as to avoid inconsistencies in assessment when conducted by different public doctors over time; and

- (d) to make one of the eligibility of the allowance as being in a position broadly equivalent to 100% loss of earning capacity was overly stringent and should be relaxed. In the current highly competitive environment, even persons who had lost a fraction of earning capacity were encountering great difficulty in securing employment.
29. Mr Frederick FUNG expressed that -
- (a) SWD should abandon its pursuit in recovering the overpaid DA from those recipients who had received or were receiving care in a subvented special school;
  - (b) SWD should request detailed explanation from the certifying doctor on why he/she considered a particular recipient was no longer qualified for continued payment or that his/her allowance should be downgraded from HDA to NDA. If in doubt, SWD should seek opinion from another public doctor before changing the entitlement of the recipients concerned;
  - (c) the suggestion of creating a new category of disability due to visceral diseases in the assessment for DA eligibility was worthy of support; and
  - (d) deputations should bring up as many aggrieved cases as possible to SWD for their attention, so as to enable the Department to have a better grasp of the extent of problems in the existing DA arrangements. Where necessary, LegCo Members would be happy to hold case conferences with the Administration to resolve the problems concerned.
30. Mr Albert CHAN was of the view that -
- (a) public doctors should provide detailed explanation in writing to the applicants why they were not qualified for DA and to the recipients why they were not qualified for continued payment or no longer eligible for HDA;
  - (b) social workers, in addition to public doctors, should be engaged in assessing the eligibility for DA by applicants, having regard to the hardship brought about by the disability to the applicant's family; and
  - (c) the definition of "severely disabled" under the DA Scheme as being

in a position broadly equivalent to 100% loss of earning capacity was too stringent, and should be made more lenient.

31. DSHWF(ES&SS) responded as follows -

- (a) DA, which was non-contributory and non-means-tested, was intended to encourage families to take care of family members with severe disabilities in coping with their special needs; and enable the beneficiary to make some contribution to the family budget. Hence, unlike the CSSA Scheme, DA was not directly related to the financial position of the applicant or the actual amount of medical and other expenses arising from a particular disability;
- (b) if a disabled person was in dire financial situation, he/she could apply for CSSA which was means-tested. In addition to standard rates, disabled CSSA recipients could receive a wide range of special grants to address their needs arising from disability, including rehabilitation, surgical and medical needs. CSSA recipients could also have free medical service at public hospitals/clinics;
- (c) the Administration was willing to review the policy intent of DA mentioned in paragraph 31(a) above to see how disabled persons not eligible for CSSA could best be served in an equitable, reasonable and viable manner;
- (d) to ensure uniformity in assessing the eligibility of DA applicants, including chronically ill persons such as those suffering from visceral diseases, if they were medically certified to be "severely disabled" within the meaning of the DA under the SSA Scheme (i.e. in a position broadly equivalent to a person with a 100% loss of earning capacity according to the First Schedule of the Employees Compensation Ordinance (Cap. 282)) for the allowance, a reference checklist was provided in the medical assessment form. To address the concern that persons suffering from chronic diseases (including visceral diseases) were sometimes refused DA because of their less obvious disabling conditions, the Administration would discuss with the Hospital Authority (HA) on ways to improve the existing medical assessment form, including the associated checklist, to remove any ambiguities;
- (e) to replace the use of 100% loss of earning capacity according to the criteria in the First Schedule of Cap. 282 as the basis for determining the meaning of severely disabled under the DA Scheme with different

percentages of loss of earning capacity or other means would undoubtedly give rise to a range of complicated questions, such as the criteria of different percentages of loss of earning capacity and the different amount of allowance which should be accorded to them;

- (f) to ensure consistency and objectivity of medical assessment of eligibility for DA, the Administration had exchanged views with HA on the benefit of placing the onus of deciding whether an applicant met the medical assessment of eligibility for DA from one single doctor to a group of doctors. One major concern of this arrangement was that it might delay the medical assessment process. Discussion was being made with HA to see how this problem could be addressed; and
- (g) the implication of involving social workers in the medical assessment of eligibility for DA needed to be looked into carefully, as this might not be in line with the original intent of the DA of being a non-contributory and non-means-tested allowance.

32. Assistant Director of Social Welfare (Social Security) (ADSW(SS)) supplemented as follows -

- (a) SWD would look into the suggestion of continuing paying the recipients until the appeal against the decision to pay back the overpaid DA was completed;
- (b) there was sound legal basis for SWD to recover the overpaid DA from the recipients concerned, not to mention that it was incumbent upon the Department to do so. The Director of Audit and the Public Accounts Committee of this Council had previously called upon SWD to be vigilant against any abuse of social security which was financed entirely by public funds;
- (c) in recovering the overpaid DA from the recipients concerned, due regard had been given to the financial situation of the individuals, and hence, the usually very long repayment period;
- (d) the case of a recipient not knowing how much and how long he/she still needed to pay back SWD for the overpaid DA was unheard of prior to this meeting. Nevertheless, action would be taken to see whether this was an isolated case or a widespread problem. If the latter was the case, action would be taken to put it right; and

- (e) to involve SWD staff in assessing the medical eligibility for DA would inevitably result in delay of services in other social security services, as the whole social security system was under extreme pressure due to the economic downturn several years ago.

33. Miss CHAN Yuen-han urged the Administration to expeditiously conduct a comprehensive review of the DA Scheme, including providing assistance to those applicants who were refused DA, to better meet the present day circumstances. DSHWF(ES&SS) reiterated that a review of the existing DA arrangements would be made in tandem with HA, taking into account views expressed by members and deputations. She, however, was not in a position at this stage to provide a timetable on when such a review would be completed.

34. Mr Alan LEONG hoped that the Administration could expeditiously revise the medical assessment form to make it clear that persons suffering from diseases which failed to display obvious disabling conditions could be qualified for DA if they met section (II) of the existing checklist for medical assessment of eligibility for DA for disabilities other than profound deafness. Mr LEONG further said that if there was no legislation requiring SWD to recover the overpaid DA from the recipients concerned, SWD should consider not doing so. Mr LEONG surmised that such humanitarian act should be supported by the general public.

35. The Chairman hoped that the Administration would not cease to provide DA to those recipients who were asked to pay back the overpaid DA when the responsibility of the overpayment was yet to be determined. Mr LEUNG Kwok-hung concurred. Responding to the Chairman's enquiry on whether there was legislation requiring SWD to recover the overpaid DA from the recipients concerned, ADSW(SS) said that although there was no specific legislation governing the social security system, the operation of such, including the recovery of overpayment, relied on the general principles of administrative law. To arbitrarily decide not to recover certain overpayment cases would threaten the foundation of the entire social security system. ADSW(SS) further said that SWD had sought legal advice on Ms SUN Mun-wan's case and would be happy to discuss it further in a more suitable forum, such as a case conference. Mr LEUNG Kwok-hung disagreed that the social security system would collapse as a result of SWD writing off certain overpayment cases.

#### *Conclusion*

36. Ms LI Fung-ying requested the Administration to provide in writing its response to the views and suggestions raised by members and deputations at this meeting and the last meeting held on 14 November 2005, as well as to provide a preliminary timetable on the measures to be implemented to improve the existing



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DA arrangements. The Chairman also urged the Administration to set up a working group comprising people from outside the civil service, such as the users, to conduct the review. DSHWF(ES&SS) responded that in view of the complexity of the issues involved in the review of the DA Scheme, it would be very difficult for the Administration to come up with any meaningful response in the short term. Nevertheless, she would strive to provide a response as far as practicable.

37. There being no other business, the meeting ended at 1:20 pm.

Council Business Division 2  
Legislative Council Secretariat  
20 January 2006