

立法會
Legislative Council

LC Paper No. CB(2)260/09-10
(These minutes have been
seen by the Administration)

Ref : CB2/BC/6/08

Bills Committee on Domestic Violence (Amendment) Bill 2009

Minutes of the fourth meeting
held on Monday, 12 October 2009, at 10:45 am
in Conference Room A of the Legislative Council Building

- Members present** : Hon LEE Cheuk-yan (Chairman)
Dr Hon Margaret NG
Hon James TO Kun-sun
Hon Miriam LAU Kin-ye, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon LI Fung-ying, BBS, JP
Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Alan LEONG Kah-kit, SC
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king
Hon Paul CHAN Mo-po, MH, JP
Dr Hon Priscilla LEUNG Mei-fun
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon Paul TSE Wai-chun
- Member absent** : Hon LEUNG Kwok-hung
- Public Officers attending** : Miss Eliza LEE
Deputy Secretary for Labour and Welfare (Welfare)1

Mrs Alison LAU
Principal Assistant Secretary for Labour and Welfare
(Welfare)2

Miss Maria LAU
Acting Assistant Director for Social Welfare
(Family and Child Welfare)

Ms Fanny IP
Senior Assistant Law Draftsman

Clerk in attendance : Miss Betty MA
Chief Council Secretary (2) 4

Staff in attendance : Mr YICK Wing-kin
Assistant Legal Adviser 8

Miss Florence WONG
Senior Council Secretary (2)5

Miss Maggie CHIU
Legislative Assistant (2)4

Action

I. Meeting with deputations and the Administration

[The Bill, Legislative Council Brief, LC Paper Nos. CB(2)1982/08-09(01), CB(2)2293/08-09(05), CB(2)2337/08-09(01), CB(2)2444/08-09(01) CB(2)2483/08-09(01) and CB(2)2581/08-09(01)]

The Bills Committee deliberated (index of proceedings attached at **Annex**).

Admin

2. The Administration was requested to –
- (a) provide a paper on the complementary measures taken by the Police to enhance the sensitivity and capability of the frontline Police officers in handling violence cases of same-sex relationships and their knowledge on the implementation of the amended Domestic Violence Ordinance (DVO);
 - (b) provide a written response to the views made by The Law Society of Hong Kong in its submission to the Bills Committee;

Action

- (c) consider adding a reference in the proposed definition of "cohabitation relationship" to state expressly that the 2 parties to the relationship may be of the same sex or of the opposite sex;
- (d) revert on the commencement date of the amended Ordinance together with the Administration's plan on the preparatory work being undertaken by respective departments concerned to tie in with the commencement of the amended Ordinance; and
- (e) consider whether the term "關係" should be deleted from "家庭關係" in the proposed amendment to the long title of the DVO to tally with the style of the English version and the short title.

II. Date of next meeting

- 3. Members agreed that the next three meetings of the Bills Committee would be held on 23 October, 3 and 17 November 2009.
- 4. There being no other business, the meeting ended at 12:48 pm.

Council Business Division 2
Legislative Council Secretariat
12 November 2009

**Proceedings of the fourth meeting of the
Bills Committee on Domestic Violence (Amendment) Bill 2009
on Monday, 12 October 2009, at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Meeting with the Administration</i>			
000000 - 000334	Chairman	Opening remarks	
000335 - 002231	Administration Chairman	<p>The Administration's response to members' comments made on 10 September 2009 [LC Paper No. CB(2)2581/08-09(01)]</p> <p>The Administration would consider members' suggestion and review the factors set out in the new section 3B(2) to ensure that all important elements were included and that the factors were presented in a user-friendly manner. The Administration would revert to the Bills Committee with its proposed way forward during the clause-by-clause examination of the new section 3B(2)</p>	
002232 - 002752	Mr CHEUNG Kwok-che Administration Chairman	<p>Under what circumstances would the Administration consider setting up a specialised domestic violence court (SDVC)</p> <p>The Administration's response that while the Judiciary had concluded that it saw no real need for the establishment of an SDVC, special administrative arrangements had been in place to handle domestic violence (DV) cases such as fast-tracking listing of DV cases and additional resources had been allocated to the Social Welfare Department (SWD) to strengthen direct support for victims of DV and families in need. The Administration would actively consider further ways to enhance support services for victims of DV, in particular those undergoing the judicial process</p> <p>Views of the Chairman that the implementation of the enhanced support services for victims of DV could be followed up by the Panel on Welfare Services</p>	
002753 - 003322	Ms Audrey EU Chairman Administration	<p>Views of Ms Audrey EU that applications for injunction under DVO could be dealt with by the court more expeditiously if the victims were assisted by legal practitioners who were experienced and specialized in DV cases. Apart from providing one-stop services to victims of DV, SWD might consider liaising with the Hong Kong Family Law Association to enhance the legal support services for victims of DV to undergo the judicial process</p> <p>The Administration's response that it would launch a programme to enhance support services for victims of DV, particularly those undergoing the judicial process. It would also collaborate with the efforts of legal professional bodies and stakeholders to enhance support services to victims of DV</p>	

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003323 - 003641	Mr Ronny TONG Administration	<p>Suggestion of streamlining the procedures for application for injunction under DVO, such as introducing a standard application form, such that victims of DV could undergo the judicial proceedings without legal representation</p> <p>The Administration's response that while it would continue to discuss with the Judiciary the suggestion of streamlining the application procedures for injunction under DVO, the Judiciary had published a booklet on "How to Apply for Injunctions Under the Domestic Violence Ordinance (DVO)" to facilitate the application for injunction orders</p>	
003642 - 003750	Chairman	The Administration's response to the views and suggestions made by deputations and members on 30 July 2009 [Part (4) of LC Paper No. CB(2)2444/08-09(01)]	
003751 - 004619	Ms Emily LAU Administration Chairman	<p>Views of Ms Emily LAU that –</p> <ul style="list-style-type: none"> (a) the Administration should gauge views from mutual help organisations which provided support services for victims of DV, such as the Hong Kong Association for the Survivors of Women Abuse (Kwan Fook), on the package of support services; (b) the Police should strengthen education and training for frontline officers with a view to enhancing their sensitivity in handling DV cases of same-sex relationship; and (c) the Administration should step up publicity on the civil remedies available to victims of DV. For instance, it might consider displaying eye-catching posters at the entrances of residential buildings, especially in high-risk districts like Tin Shui Wai, with a view to enhancing the public awareness about DV cases and encouraging the victims to seek help <p>The Administration's response that –</p> <ul style="list-style-type: none"> (a) social workers of the Integrated Family Service Centres (IFSCs) and Family and Child Protective Services Units of SWD adopted a case management approach in supporting victims of DV and would continue to outreach to such victims. This apart, SWD had from time to time gauged views from women's organisations and mutual help groups in providing support services for victims of DV. For instance, with the assistance of the mutual-help groups, social workers and former victims would be paired up to pay home visits to victims of DV so as to enhance support for such victims; (b) over the past years, the Police had enhanced their training programmes to raise the capability and sensitivity of police officers in handling and 	

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		<p>investigating DV cases. In the light of the amendments to DVO, the Police were actively studying ways to enhance the alertness and ability of its frontline officers to handle violence cases involving same-sex cohabitants; and</p> <p>(c) SWD had continued its territory-wide publicity and district-based programmes to enhance public awareness of DV problem and encourage victims and vulnerable families to seek assistance at early stage. In addition to announcements of public interest and educational programmes, the Administration would consider displaying posters at prominent locations of residential buildings in high-risk districts</p>	Admin to consider
004620 - 005146	Mr Paul TSE Chairman Ms Cyd HO Administration	<p>Views of Mr Paul TSE that counselling services and preventive measures should be strengthened to assist the abusers having regard to the occurrence of some violence acts was due to the fact that the abusers did not know how to manage their stress and emotion</p> <p>The Administration's response that appropriate assistance and support could be sought from various hotlines and IFSCs. SWD had launched programmes for abusers involved in spouse battering behaviour as part of its counselling services. The Administration would consider enhancing the publicity programmes in districts with more cases of DV in this respect</p>	
005147 - 005319	Ms Cyd HO Chairman	Need for adopting a gender neutral approach in the publicity programmes to avoid labelling effect	
005320 - 005631	Ms Miriam LAU Administration Chairman	<p>Views of Ms Miriam LAU that the theme of publicity on DV problem should focus on prevention and the proper channels for victims of DV to seek assistance and support services</p> <p>The Administration's response that after the enactment of the Bill, a new series of publicity programmes would be launched to increase the public awareness of the expanded protection of DVO</p>	
005632 - 010159	Chairman Administration Mr Frederick FUNG	<p>Concerns about the sensitivity of the frontline Police officers in handling DV cases and the effectiveness of the referral mechanism between the Police and SWD</p> <p>The Administration's response that the coordination between SWD and the Police in handling and following up on DV cases had been strengthened over the past years. The Police had also enhanced their training programmes to raise the capability and sensitivity of Police officers in handling and investigating DV cases. Where there was a reported case of DV, the Police could retrieve relevant records from its database and decide whether the case should be referred to SWD for follow-up</p>	

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010200 - 010642	Ms Cyd HO Administration Chairman	<p>Concern about the measures in place to enhance the sensitivity of the frontline staff, in particular the Police, in handling DV cases of same-sex relationships</p> <p>The Administration's response that SWD and the Police would strengthen training for frontline social workers and Police officers to enhance their sensitivity in handling cases of same-sex relationships. The Administration would provide a paper on the complementary measures taken by the Police to enhance the sensitivity and capability of the frontline Police officers in handling violence cases of same-sex relationships and their knowledge on the implementation of the amended DVO</p>	Admin
010643 - 010856	Mr Paul TSE Chairman Administration	Suggestion of setting up a specialised team within the Police to handle violence cases of same-sex relationships	
Clause-by-clause examination of the Bill			
010857 - 012213	Chairman Administration Ms Emily LAU ALA8 Mr Paul TSE Ms Miriam LAU Ms Audrey EU Mr WONG Sing-chi Ms Cyd HO	<p><u>The Objects of the Bill</u></p> <p>The Administration's response to the concerns raised by The Law Society of Hong Kong (the Law Society) in its submission [LC Paper No. CB(2)2483/08-09(01)] that –</p> <p>(a) the <i>ejusdem generis</i> rule as cited by the Law Society concerning the proposed definition of "cohabitation relationship" was a rule of interpretation that the court would apply in the construction of the legal effect of a particular provision in a statute or legal document. The precise meaning of the word "couple" under the amended DVO should, and could only, be determined when read in context and in accordance with the legislative intent. The Administration had stated clearly that the legislative intent of the Bill was to extend protection to cohabitants of the same sex in its long title and Explanatory Memorandum as well as the Legislative Council Brief. All these served to put beyond doubt the legislative intent of the Bill; and</p> <p>(b) under the amended DVO, different categories of protected persons would be clearly delineated. As such, the Administration considered that revising the short title of DVO would help better reflect the delineation of protected persons under the amended DVO</p> <p>The Administration was requested to –</p> <p>(a) provide a written response to the views made by The Law Society of Hong Kong; and</p> <p>(b) consider adding a reference in the proposed definition of "cohabitation relationship" to state expressly that the 2 parties to the relationship may be of the same sex or of the opposite sex</p>	Admin

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012214 - 012234	Administration	<u>Clause 1 - Short title</u> Members raised no question on clause 1	
012235 - 012454	Administration Chairman Ms Emily LAU	<u>Clause 2 - Commencement</u> The Administration was requested to revert to the Bills Committee on the commencement date of the Bill together with the Administration's plan on the preparatory work being undertaken by respective departments concerned to tie in with the commencement of the amended Ordinance	Admin
012455 - 012853	Chairman Administration Mr Paul TSE Ms Audrey EU	<u>Clause 3 - Long title amended</u> Concern whether the term "關係" should be deleted from "家庭關係" in the long title to tally with the style of the English version and the short title	Admin to consider
012854 - 012913	Chairman Administration	<u>Clause 4 - Short title amended</u> Members raised no question on clause 4	
012914 - 013224	Chairman Administration Ms Emily LAU	<u>Clause 5 - Interpretation and application</u> In the light of members' views, the Administration would consider adding a reference in the proposed definition of "cohabitation relationship" to state expressly that the 2 parties to the relationship may be of the same sex or of the opposite sex	Admin
013225 - 013801	Ms Miriam LAU Chairman Administration	Concerns about the need to provide a definition of "domestic relationship" The Administration's explanation that it did not see the need to define "domestic relationship" because – (a) no definition of "domestic relationship" was provided in the principal Ordinance; (b) the term "domestic relationship" did not appear in any provisions of the principal Ordinance and the amended Ordinance; and (c) under the proposed sections 3 and 3A, spouses and former spouses and their children, immediate and extended family members were clearly defined as persons protected under the amended DVO	
013802 - 014916	Ms Audrey EU Ms Miriam LAU Administration Chairman	Whether living together was a prerequisite in considering the existence of a cohabitation relationship The Administration's response that while "living together as a couple in an intimate relationship" was a condition in determining whether two persons were in a cohabitation relationship, the amended Ordinance covered such a relationship that had come to an end	

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014917 - 015248	Ms Emily LAU Administration Chairman	Whether there was a need to include "as a couple" in the proposed definition of "cohabitation relationship" The Administration's explanation of the need to include "as a couple" in the definition in order to declare unequivocally that other "intimate relationships" (e.g. those between very good friends who were living together in such relationships such as 金蘭姊妹) would not be covered under the amended DVO	
015249 - 015441	Mr Albert CHAN Chairman Administration	Whether persons having an extramarital relationship were within the meaning of cohabitation relationship The Administration's response that in determining the existence of a cohabitation relationship, the court would have regard to all the circumstances of the relationship as spelt out in the new section 3B(2)	
015442 - 020317	Ms Audrey EU Chairman Administration Ms Miriam LAU	Suggestion of deleting paragraph (b) from the proposed definition of "cohabitation relationship", and adding "and former cohabitation relationship" after "cohabitation relationship" in the new section 3B(1) The Administration's response that it had to consider the suggestion in the light of members' views on the proposed definition of "party to a cohabitation relationship", as they were interrelated	Admin to consider
<i>Agenda item II – Date of next meeting</i>			
020318 - 020441	Chairman Ms Emily LAU Administration	Dates of future meetings	