

立法會
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Subcommittee to Study Issues Relating to Mainland-HKSAR Families

Minutes of the 15th meeting
held on Tuesday, 26 October 2010, at 2:30 pm
in the Chamber of the Legislative Council Building

- Members present** : Hon LEE Cheuk-yan (Chairman)
Hon Albert HO Chun-yan
Hon Miriam LAU Kin-ye, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon WONG Yuk-man
- Members absent** : Hon LEUNG Yiu-chung (Deputy Chairman)
Hon Abraham SHEK Lai-him, SBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
- Public Officers attending** : Item I

Ms Maggie WONG
Principal Assistant Secretary (Security) C

Mr CHAN Man-lang
Assistant Director of Immigration (Visa & Policies)

Attendance by : Item I
invitation

New Women Arrivals League

Ms YEUNG Mei
Executive Director

同根同天空

Ms LONG Xiaohui
Member

Mainland-Hong Kong Families Rights Association -
Sisters Network

Ms YANG Lian-chun
Member

Ms LU Luxia
Member

Mainland-Hong Kong Families Rights Association

Ms FAN Fei-quan
Member

Hong Kong Christian Institution

Mr Andrew SHUM Wai-nam
Programme Secretary (Social Concern)

Justice and Peace Commission of the Hong Kong
Catholic Diocese

Miss Jackie HUNG
Project Officer

爭取子女居港權家長協會

Mr LIM Tao-shing
Chairman

Christian Action

Ms Carol LEE Wing-chong
Manager, Social Services Department

關注中港家庭權利聯席

Mr TSANG Koon-wing
Member

Association for Family Reunions Ltd.

Mr TSANG Kwong-yu
1st Vice President

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

Staff in Attendance : Ms Yvonne YU
Senior Council Secretary (2) 5

Miss Maggie CHIU
Legislative Assistant (2) 4

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I. Immigration arrangements relating to Mainland-HKSAR families
[LC Paper Nos. CB(2)81/10-11(01) to (02) and CB(2)160/10-11(01) to (04)]

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

2. The Subcommittee received views from 10 deputations on the immigration arrangements relating to Mainland-HKSAR families. Major views of the deputations are summarized as follows -

- (a) noting that the Administration was still in discussion with the relevant Mainland authorities on the implementation arrangements pertinent to Mainland "overage children" of Hong

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Kong residents applying for One Way Permit ("OWP") for settlement in Hong Kong, the deputations strongly urged the Administration to expedite the discussions and make announcement on the concrete implementation timetable and plan as early as practicable;

- (b) the Administration should exercise discretion to extend the limits of stay of Mainland single mothers visiting Hong Kong on the strength of Two Way Permit ("TWP") with "visiting relatives" exit endorsement to, say, tie in with the school holidays, so as to enable them to take care of their children attending schools in Hong Kong;
- (c) the Administration should follow up the proposal of setting up a joint liaison working group comprising representatives from the Mainland authorities and the HKSAR Government to review the immigration arrangements and deal with complaints and appeals relating to the issue of OWP and TWP;
- (d) the Administration should follow up with the relevant Mainland authorities on the proposal to open a channel for Mainland single mothers to apply for OWP for settlement in Hong Kong on compassionate grounds; and
- (e) the Administration should actively reflect to the Mainland relevant authorities the difficulties faced by Mainland single mothers in the course of applying for "one-year multiple" exit endorsement for visiting relatives to take care of their young children in Hong Kong.

3. Members were dissatisfied at the slow progress made in respect of the implementation arrangements for eligible Mainland "overage children" to apply for OWP. Members took a strong view that the Administration should actively follow up the matter with the relevant Mainland authorities and make available the new arrangements as early as practicable.

4. Members were gravely concerned about the hardship faced by those Mainland single mothers, who entered Hong Kong on the strength of TWP, if they were required to return to the Mainland to apply for exit endorsement and left their young children unattended in Hong Kong. While recognising that the processing and issue of OWP fell outside the remit of the HKSAR

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Government, members considered that the Immigration Department ("ImmD") should reflect to the relevant Mainland authorities the special circumstances of these single mothers in supporting their OWP application, including those who were divorced or whose Hong Kong spouses were deceased or missing. In this connection, some members urged the Administration to actively discuss with the Mainland authorities the proposal of opening a channel for Mainland single mothers to settle in Hong Kong who had minor Hong Kong resident children.

5. In the meantime, members strongly urged ImmD to take into account the special circumstances of these families and exercise discretion within its remit to extend the limits of stay of these Mainland single mothers concerned till the commencement of school holidays so that they could bring their children along and return to the Mainland to renew their exit endorsement.

6. In response to the views of members and deputations, Principal Assistant Secretary (Security) C ("PAS(S)") advised that the Central Government announced in late 2009 the implementation of a new policy measure with effect from December 2009 to process applications of Mainland "overage children" of Macao residents for settlement in the Macao Special Administrative Region. At the same time, the Central Government made it clear that the new policy would largely apply to Hong Kong, but the implementation date would be separately promulgated. The HKSAR Government and the relevant Mainland authorities had been actively discussing the arrangements for eligible persons to apply for OWP, including studying carefully the implementation details, with a view to optimising the utilisation of the unused OWP quota and formulating a sound and fair plan to facilitate the orderly entry of eligible applicants in an objective and transparent manner.

7. PAS(S) further advised that although the Administration was not in a position to pre-empt the Mainland authorities to commit to any detailed application arrangements or timetable, it believed that the discussions on the relevant arrangements were already at the final stage. Subject to the Mainland authorities' confirmation of the concrete details, eligible Mainland "overage children" of Hong Kong residents could start applying for OWP for settlement in Hong Kong in accordance with the arrangements to be promulgated by the Mainland public security authorities.

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8. Assistant Director of Immigration (Visa & Policies) assured members that ImmD would continue to reflect to the relevant Mainland authorities the exceptional circumstances of individual cases, such as OWP applicant whose Hong Kong spouse was deceased and had young children, for their active consideration. The Administration had from time to time exercised discretion to allow TWP holders to extend their limits of stay having regard to individual circumstances. Each case was considered on its own merits.

Admin

9. The Administration was requested to provide information on the considerations and circumstances under which Director of Immigration would exercise discretion to allow TWP holders to extend their limits of stay, in particular Mainland single mothers who entered Hong Kong on the strength of TWP to take care of their young children in Hong Kong, together with the number of such cases.

10. Members were concerned about the well-being and welfare of those Hong Kong children born to Mainland single mothers who entered Hong Kong on the strength of TWP, in particular their educational needs. Ms Cyd HO and Ms Audrey EU considered that the Subcommittee should follow up the matter and invite representatives of the Social Welfare Department and the Education Bureau to join the discussion of the meeting. Ms HO added that the Administration should consider studying the feasibility of the proposal for the Director of Social Welfare to act as the legal guardian of Hong Kong resident children of these families in the event that issues relating to the well-being and welfare of these children were concerned, and provide a written response in this regard. The Chairman advised that members might wish to follow up the matter at a future meeting of the Subcommittee and the Administration was requested to provide the requisite information when the subject was discussed.

Admin

11. In concluding the discussion, the Chairman suggested and members agreed that the Chairman would on behalf of the Subcommittee write to the Hong Kong and Macao Affairs Office of the State Council requesting it to assist in expediting the discussions between the HKSAR Government and the Mainland relevant authorities on the implementation arrangements pertinent to Mainland "overage children" of Hong Kong residents applying for OWP for settlement in Hong Kong, with a view to commencing the OWP application procedure by 1 January 2011. The Chairman added that the Administration should strive to conclude the discussions with the Mainland relevant authorities such that eligible Mainland "overage children" could

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start OWP applications according to the established procedures by 1 January 2011. The Administration was requested to revert to the Subcommittee on the latest developments in mid-December 2010, and members would be informed of the meeting date in due course.

(Post-meeting note: The next Subcommittee meeting would be held on 21 December 2010 at 2:30 pm).

II. Any other business

12. There being no other business, the meeting ended at 4:33 pm.

Council Business Division 2
Legislative Council Secretariat
13 December 2010

**Proceedings of the 15th meeting of the
Subcommittee to Study Issues Relating to Mainland-HKSAR Families
on Tuesday, 26 October 2010, at 2:30 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Immigration arrangements relating to Mainland-HKSAR families</i>			
000000 - 000737	Chairman Administration	Briefing by the Administration on the arrangements pertinent to Mainland "overage children" of Hong Kong residents applying for One Way Permit ("OWP") for settlement in Hong Kong [LC Paper No. CB(2)81/10-11(01)]	
000738 - 001306	Chairman Mr WONG Kwok-hing Administration	<p>Concerns raised by Mr WONG Kwok-hing -</p> <p>(a) the concrete implementation date of the new arrangements; and</p> <p>(b) whether OWP applicant who was divorced or whose Hong Kong spouse was missing would be regarded as exceptional circumstances under which the Immigration Department ("ImmD") would reflect to the relevant Mainland authorities for consideration</p> <p>The Administration's advice that the discussions with the Mainland authorities were at the final stage. On (b) above, ImmD would continue to reflect to the relevant Mainland authorities for their active consideration</p>	
001307 - 001636	Chairman New Women Arrivals League	<p>Presentation of views as detailed in the submission [LC Paper No. CB(2)160/10-11(01)]</p> <p>Request for extending the limits of stay of Mainland single mothers visiting Hong Kong on the strength of a Two Way Permit ("TWP") with "visiting relatives" exit endorsement, so as to enable them to take care of their children attending schools in Hong Kong</p>	
001637 - 001936	同根同天空 Chairman	Concern about the difficulties faced by Mainland single mothers in the course of applying for "one-year multiple" exit endorsement for visiting relatives to take care of their young children in Hong Kong in the event that their Hong Kong spouses were deceased. In some cases, the validity of the exit endorsement was as short as 14 days	

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001937 - 002336	Mainland-Hong Kong Families Rights Association - Sisters Network	<p>Presentation of views as detailed in the submission [LC Paper No. CB(2)160/10-11(02)]</p> <p>Request for -</p> <ul style="list-style-type: none"> (a) further shortening the waiting time for separated spouses under the OWP Scheme to facilitate family reunion; (b) rendering assistance to Mainland single mothers who had difficulties in applying for "one-year multiple" exit endorsement for visiting relatives to take care of their young Hong Kong resident children; and (c) setting up a joint liaison working group comprising representatives of the HKSAR Government and the Mainland authorities to review the immigration arrangements and deal with complaints and appeals relating to the issue of OWP and TWP 	
002337 - 002731	Mainland-Hong Kong Families Rights Association	<p>Presentation of views as detailed in the submission [LC Paper No. CB(2)160/10-11(03)]</p> <p>Request for follow-up with the relevant Mainland authorities on the proposal to open a channel for Mainland single mothers to apply for OWP for settlement in Hong Kong on compassionate grounds</p>	
002732 - 003022	Hong Kong Christian Institution	<p>View that -</p> <ul style="list-style-type: none"> (a) family reunion should be a priority area of the population policy; and (b) the Administration should liaise with the Mainland authorities to expedite the reunion of cross-boundary families in order to safeguard the rights of children of these families 	
003023 - 003352	Justice and Peace Commission of the Hong Kong Catholic Diocese	<p>Presentation of views as detailed in the submission [LC Paper No. CB(2)160/10-11(04)]</p> <ul style="list-style-type: none"> (a) dissatisfaction at the slow progress in respect of the discussions with the Mainland authorities on the arrangements pertinent to Mainland "overage children" of Hong Kong residents applying for OWP for settlement in Hong Kong and request for a concrete implementation timetable; and (b) the Administration should rectify the errors in estimating that about 1.67 million Mainland "overage children" of Hong Kong residents 	

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		would be eligible for OWP application following the handing down of court ruling on the right of abode case in 1999	
003353 - 003856	爭取子女居港權家長協會	The Administration should expedite the discussion with the Mainland authorities on the implementation arrangements pertinent to Mainland "overage children" of Hong Kong residents applying for OWP and make public announcement on the concrete plan for effecting an orderly entry of eligible applicants	
003857 - 004208	Christian Action	View that - (a) the limits of stay of most Mainland single mothers who visited Hong Kong on the strength of TWP in the beginning of school year would soon expire in November, the Administration should consider extending their limits of stay until the forthcoming school break for Christmas holidays such that they could take care of their children attending schools in Hong Kong; and (b) the relevant authorities should expedite the lead time taken for verifying the status of Mainland children born to Hong Kong parents in processing OWP application	
004209 - 004547	關注中港家庭權利聯席	View that the Administration should - (a) actively discuss with the relevant Mainland authorities the proposal to open a channel for Mainland single mothers to apply for OWP for settlement in Hong Kong; and (b) set up a joint liaison working group comprising representatives of the HKSAR Government and the Mainland authorities to review the immigration arrangements and deal with complaints and appeals relating to the issue of OWP and TWP	
004548 - 004942	Association for Family Reunions Ltd.	Concern about the negative impacts on the waiting time of eligible overage children to apply for OWP if exceptional consideration was given to an OWP applicant whose Hong Kong spouse was deceased and had young children; priority should be given to the former category of applicants	

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004943 - 005543	Chairman Administration	<p>The Administration's response -</p> <ul style="list-style-type: none"> (a) the Central Government had made clear the applicability of new policy measure of OWP application of "overage children" to Hong Kong; (b) the HKSAR Government and the relevant Mainland authorities had been actively discussing the arrangements for eligible persons to apply for OWP. Although the Administration was not in a position to pre-empt the Mainland authorities to commit to any detailed application arrangements or timetable, it believed that the discussions on the relevant arrangements were already at the final stage. Subject to the Mainland authorities' confirmation of the concrete details, eligible Mainland "overage children" of Hong Kong residents could start applying for OWP for settlement in Hong Kong in accordance with the arrangements to be promulgated by the Mainland public security authorities; (c) ImmD would continue to reflect to the relevant Mainland authorities the exceptional circumstances of individual cases, such as OWP applicant whose Hong Kong spouse was deceased and had young children, for their active consideration. Each case was considered on its own merits; and (d) the suggestion of allowing Mainland residents who did not meet the eligibility criteria for "reunion with spouses" but had young children in Hong Kong to apply for OWP involved various considerations and must be handled very carefully. For example, it might have negative impacts on the waiting time of those currently eligible for the application of OWP. This would also give rise to the concern as to whether Mainland parents of Hong Kong born children would be eligible for OWP application on grounds of family reunion 	
005544 - 010208	Mr CHEUNG Kwok-che Chairman Administration	<p>Enquiries of Mr CHEUNG Kwok-che -</p> <ul style="list-style-type: none"> (a) why it took four to six months to verify a DNA test result in supporting an OWP application as cited by a deputation; and (b) the number of Mainland "overage children" of Hong Kong residents involved and whether it 	

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		<p>constituted a hurdle for the slow progress in implementing the new arrangements for OWP application for Mainland "overage children"</p> <p>The Administration's response that -</p> <p>(a) the DNA tests for Hong Kong residents and their Mainland children were conducted at the Government Laboratory in Hong Kong and on the Mainland respectively, and it needed time for both side to verify the test results. The Administration would follow up individual cases cited by the deputation after the meeting as appropriate; and</p> <p>(b) the estimated number of eligible Mainland "overage children" of Hong Kong residents would be around tens of thousands. The HKSAR Government and Mainland authorities were discussing the implementation details with a view to formulating a fair plan to facilitate the orderly entry of eligible applicants</p>	
010209 - 010815	Mr Albert HO Chairman Administration	<p>Mr Albert HO's request for the Administration to exercise discretion to allow Mainland single mothers visiting Hong Kong on the strength of TWP with "visiting relatives" exit endorsement to extend their limits of stay to tie in with school holidays, so as to enable them to take care of their children attending schools in Hong Kong</p> <p>The Administration's advice that it had from time to time exercised discretion to allow TWP holders to extend their limits of stay having regard to individual circumstances. Each case was considered on its own merits. The Administration was requested to provide a written response in this respect</p>	Admin
010816 - 011351	Chairman Mr WONG Sing-chi Administration	<p>Views of Mr WONG Sing-chi that the Family Council, which was chaired by the Chief Secretary for Administration ("CS"), should be invited to review whether the policy and arrangements for cross-boundary families had departed from the objective of the Family Council to promote and foster an environment conducive to harmonious family relationships</p> <p>The Chairman's advice that the Subcommittee would invite CS to attend a future meeting to discuss the population policy in the light of an increasing number of cross-boundary families</p>	

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011352 - 011932	Mr WONG Yuk-man Chairman	Calling on ImmD to follow up closely and continue reflect to the relevant Mainland authorities the exceptional circumstances of individual cases, such as OWP applicant whose Hong Kong spouse was deceased and had young children, for their active consideration	
011933 - 012622	Ms Cyd HO Chairman Administration	Views of Ms Cyd HO - (a) in the light of difficulties faced by Mainland single mothers in taking care of their young children in Hong Kong, the Administration should exercise discretion to extend their limits of stay bearing in mind that it was obliged to observe the Convention on the Rights of the Child and provide equal opportunities for Hong Kong children to receive education, irrespective of whether their parents were Hong Kong residents; and (b) the Administration should issue temporary permits for children of HKSAR-Mainland families to stay and attend schools in Hong Kong	
012623 - 013242	Mr CHEUNG Kwok-che Chairman Administration	Mr CHEUNG Kwok-che's request for the Administration to actively discuss with the relevant Mainland authorities the proposal to open a channel for Mainland single mothers to apply for OWP for settlement in Hong Kong The Chairman's suggestion of allocating the unused daily OWP quota to Mainland spouses of Hong Kong residents who had applied for OWP but became ineligible due to the passing away of their spouses or divorce, with priority given to those with young children in Hong Kong The Administration's advice that the suggestion required careful consideration in the light of its negative impacts on the waiting time of other eligible OWP applicants	
013243 - 013809	Chairman Mr Albert HO Administration	Calling on the Administration to exercise discretion, within its remit, to extend the limits of stay of Mainland single mothers who entered Hong Kong on TWP so as to provide timely and appropriate care to their young children. Consideration should also be given to opening a channel for OWP applicant whose marital status had changed subsequent to death of spouse or divorce without the need to ask her ex-spouse to verify the relevant OWP application	

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		<p>The Administration's response that it would continue to reflect to the relevant Mainland authorities the exceptional circumstances of individual cases, such as OWP applicant whose Hong Kong spouse was deceased and had young children, for their active consideration. The Administration did not have statistics on the number of such successful cases</p>	
013810 - 014206	<p>Chairman Mr TAM Yiu-chung Administration</p>	<p>Concerns raised by Mr TAM Yiu-chung -</p> <ul style="list-style-type: none"> (a) the Administration should actively discuss with the Mainland authorities the optimal use of daily OWP quota of 150 places; and (b) the number of cases in which the Director of Immigration had exercised discretion to extend the limits of stay of TWP holders <p>The Administration's responses -</p> <ul style="list-style-type: none"> (a) the cumulative unused daily OWP places was some 70 000. It was discussing with the Mainland authorities the arrangements for eligible Mainland "overage children" of Hong Kong residents to apply for OWP to optimise the utilisation of the unused OWP quota; and (b) on (b) above, the Administration would provide the requisite statistics after the meeting 	<p>Admin</p>
014207 - 014423	<p>Ms Cyd HO Chairman</p>	<p>Ms Cyd HO's request for the Administration to study the feasibility of the proposal for the Director of Social Welfare to act as the legal guardian of Hong Kong resident children of Mainland single mothers who were TWP holders to safeguard the interests and welfare of these children</p>	<p>Admin</p>
014424 - 014901	<p>Chairman 關注中港家庭權利聯席</p>	<p>Issues raised by deputation for follow-up of the Administration -</p> <ul style="list-style-type: none"> (a) arrangements for those children whose parents were Mainlanders had obtained the Hong Kong permanent resident status upon birth in Hong Kong; (b) expediting discussion with the Mainland authorities on the arrangements pertinent to Mainland "overage children" of Hong Kong residents applying for OWP for settlement in Hong Kong; and (c) arrangement for OWP applicant who became ineligible because of divorce or whose Hong Kong spouse was deceased 	

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014902 - 015133	New Women Arrivals League	Calling for follow-up action of ImmD in respect of a few individual OWP applications	
015134 - 015424	Mainland-Hong Kong Families Rights Association	Concern about the stress faced by Mainland single mothers who were not eligible for applying for OWP due to the fact that their Hong Kong spouses were either dead or divorced	
015425 - 015655	Administration Chairman	The Administration's reiteration that it would continue to discuss with the relevant Mainland authorities the arrangements pertinent to Mainland "overage children" of Hong Kong residents applying for OWP and to reflect to the relevant Mainland authorities the exceptional circumstances of individual cases for their active consideration	
015656 - 015836	Mr Albert HO Chairman Ms Audrey EU	Concern about the well-being and welfare of Hong Kong children born to Mainland single mothers who entered Hong Kong on the strength of TWP to take care of them Proposal of Mr Albert HO and Ms Audrey EU to invite representatives of the Social Welfare Department and the Education Bureau to attend a future Subcommittee meeting to discuss the matter and to provide a paper on the relevant policy when the subject was discussed	
015837 - 020151	Chairman Mr CHEUNG Kwok-che	The Chairman's suggestion for the Subcommittee to write the Hong Kong and Macao Affairs Office of the State Council requesting it to assist and expedite the discussions between the HKSAR Government and the Mainland relevant authorities on the implementation arrangements pertinent to Mainland "overage children" of Hong Kong residents applying for OWP for settlement in Hong Kong, such that the OWP application procedure could commence by 1 January 2011 The Administration was requested to provide members with an update on the latest developments in mid December 2010	Clerk Admin
020152 - 020250	Chairman Administration	Date of and item for discussion for next meeting	