

立法會
Legislative Council

LC Paper No. CB(2)859/09-10
(These minutes have been seen
by the Administration)

Ref : CB2/PL/HA

Panel on Home Affairs

Minutes of meeting
held on Friday, 11 December 2009, at 8:30 am
in Conference Room A of the Legislative Council Building

- Members present** : Hon IP Kwok-him, GBS, JP (Chairman)
Hon CHAN Tanya (Deputy Chairman)
Hon CHEUNG Man-kwong
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Emily LAU Wai-hing, JP
Hon WONG Kwok-hing, MH
Hon CHEUNG Hok-ming, GBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Hak-kan
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon Paul TSE Wai-chun
- Member attending** : Hon Albert CHAN Wai-yip
- Members absent** : Hon James TO Kun-sun
Hon WONG Yung-kan, SBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon WONG Yuk-man

Public Officers attending : Item IV

Home Affairs Bureau

Mr TSANG Tak-sing, JP
Secretary for Home Affairs

Home Affairs Department

Ms Mimi LEE
Deputy Director of Home Affairs (1)

Mr Kesson LEE
Assistant Director of Home Affairs (1)

Item V

Home Affairs Bureau

Ms Grace LUI Kit-yuk, JP
Deputy Secretary for Home Affairs (1)

Ms Christine CHOW
Principal Assistant Secretary for Home Affairs

Mr Terence MUK
Assistant Secretary for Home Affairs

Legal Aid Department

Ms Doris LUI Wai-lan
Assistant Principal Legal Aid Counsel

Social Welfare Department

Mr LAU Kwai-chiu
Senior Social Security Officer

Clerk in attendance : Ms Betty FONG
Chief Council Secretary (2)2

Staff in attendance : Mr Watson CHAN } Agenda item VI only
Head (Research and Library Services) }

Mrs Claren MOK
Senior Council Secretary (2)2

Miss Vivien POON
Council Secretary (2)2

Miss Amy WONG
Legislative Assistant (2)2

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I. Confirmation of minutes

[LC Paper No. CB(2)411/09-10]

The minutes of the special meeting held on 5 October 2009 were confirmed.

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

2. Members noted that the following papers from the Administration had been issued since the last meeting -

LC Paper No. CB(2)319/09-10(01) -- Administration's response to questions raised by members on the mechanism for funding allocation to youth uniformed groups at the meeting on 19 October 2009

LC Paper No. CB(2)321/09-10(01) -- Administration's quarterly report on the progress of the re-location of public toilet, refuse collection point and the street sleepers' shelters adjacent to Yau Ma Tei theatre

LC Paper No. CB(2)342/09-10
LC Paper No. CB(2)408/09-10
LC Paper No. CB(2)473/09-10 -- Bulletins prepared by the Secretariat of the Sports Commission on the Hong Kong 2009 East Asian Games

LC Paper No. CB(2)490/09-10(01) -- Information paper provided by the Administration on Town Park, Indoor Velodrome-cum-Sports Centre in Area 45, Tseung Kwan O

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III. Items for discussion at the next meeting

[Appendices I and II to LC Paper No. CB(2)474/09-10]

Next regular meeting on 8 January 2010

3. Referring to the Deputy Chairman's suggestion that the Administration should be invited to brief the Panel on its review on the experience in organising the Hong Kong 2009 East Asian Games (EAG), Mr Paul TSE agreed that the item on the "Monitoring of unlicensed hotels and guesthouses", which was proposed by him and scheduled for discussion at the Panel meeting in January 2010, could be deferred to facilitate the deliberation on EAG. Secretary for Home Affairs (SHA) raised no objection to the revised arrangement. Members noted that the following items would be discussed at the next Panel meeting in January 2010 -

- (a) Review on the experience of the Hong Kong 2009 EAG; and
- (b) Promotion of sports development.

IV. Provision of an allowance for village representatives

[LC Paper Nos. CB(2)474/09-10(01) and (02)]

4. SHA briefed members on the proposal to grant an honorarium to Village Representatives (VRs) set out in the Administration's paper, which would be submitted to the Finance Committee for approval in early 2010.

Application of the arrangement to other bodies

5. The Chairman, Mr CHEUNG Hok-ming, Dr LAM Tai-fai, Professor Patrick LAU and Mr WONG Kwok-hing expressed support for the proposal to grant an honorarium to VRs, which in their views would serve as a recognition to VRs' services in the rural community. While having no objection to the proposal, Mr WONG Sing-chi, Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che considered that the Administration should also be mindful of the need to apply the arrangement to elected representatives of other bodies serving similar roles and functions as VRs for parity and consistency considerations.

6. Mr WONG Sing-chi enquired about the basis on which the Administration proposed the grant of an honorarium to VRs, and whether the same arrangement would be extended to voluntary bodies (such as Mutual Aid Committees (MACs) formed by residents of a building to promote mutual help and responsibility among residents) and statutory bodies (such as Owners' Corporations (OCs) formed under the Building Management Ordinance (Cap.344) by owners of private building to facilitate the management of a building), given that these bodies were performing duties of similar nature to those undertaken by VRs to a certain extent.

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7. Mr CHEUNG Man-kwong urged the Administration to give serious consideration to extending the arrangement to the Chairmen of some 2 800 MACs in the urban and rural areas, who were serving residents of their buildings/local communities on a voluntary basis. In his view, the functions of MACs in promoting management of private buildings/public housing estates, as well as facilitating the communication between the Government and residents on matters affecting the well-being of individuals and the community, were akin to those of VRs. He added that the application of the same arrangement to MACs would not only serve as a recognition of their contribution, but also help raise their standard of service.

8. Mr CHEUNG Kwok-che pointed out that despite serving different groups of people, the nature of services provided by VRs and elected representatives of OCs/MACs was basically similar. He cautioned that the Administration should consider the proposal in the context of the community as a whole, as failure to do so might jeopardize the harmony of the society.

9. In response, SHA explained that pursuant to the enactment of the Village Representative Election Ordinance (Cap.576), two VR elections were held in 2003 and 2007 respectively. Such elections were conducted by the Government under the supervision of the Electoral Affairs Commission according to Cap. 576 and should be distinct from the arrangements of forming OCs/MACs.

10. SHA further advised that having reviewed the arrangements for the first two rounds of election and the proposals from the rural community relating to the VR elections, the Administration had made miscellaneous amendments to the village representative election legislation to improve the arrangements for the next VR election to be held in 2011. The Administration considered it appropriate to grant an honorarium to VRs in recognition of their services to the rural community. In representing their constituencies, VRs often needed to liaise with different parties on matters affecting the villages and well being of their villages. They also served as critical contact points for the whole village in times of natural disasters and other emergencies.

11. While SHA acknowledged the services and contributions of OCs/MACs to the local community, in particular in the area of building management, he pointed out that given the different electoral basis, the method of elections, and nature/scope of their duties, issues relating to enhancing support to these bodies and their role in the promotion of social harmony, as suggested by members, should be considered separately. SHA also stressed that the Home Affairs Bureau (HAB) was committed to promoting social harmony and expressed disagreement to some members' suggestion that the proposed honorarium might bring discord to the community. He also informed the meeting that the Government had already been providing subsidy to MACs.

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12. The Chairman suggested and members agreed that issues relating to enhancing the support for MACs should be further discussed at the meeting of the Panel in April 2010.

Implementation details of the honorarium

13. Mr WONG Kwok-hing enquired about the basis for the proposed \$2,000 per VR per quarter, and whether the Administration would provide other form of non-monetary support for VRs. He also urged the Administration to enhance its support for MACs, as the current level of subsidy at \$1,000 per MAC per quarter was inadequate. Noting that the honorarium for VRs would be adjusted only once every four years after each village ordinary election, Dr LAM Tai-fai asked whether the amount could be reviewed once every two years instead. The Chairman enquired about the reason for the Administration's proposal to draw reference to the movement of Consumer Price Index (A) in making future adjustments.

14. In response, SHA and the Deputy Director of Home Affairs (1) advised that -

- (a) the proposed honorarium was intended to be a form of recognition of VRs' contribution to the rural community, instead of an allowance for reimbursing expenses incurred by VRs in discharging their duties;
- (b) the amount of \$2,000 per VR per quarter was considered appropriate having regard to the size of VRs' constituencies, scope of their work and their workload;
- (c) given the nominal nature of the honorarium, it would be granted on a non-accountable basis. Moreover, the small amount did not justify an elaborate claim procedure or more frequent adjustments; and
- (d) the movement of Consumer Price Index (A), which was also the reference point for adjusting the honorarium for DC members, would be adopted for future adjustments of the honorarium for VRs.

15. Mr WONG Sing-chi asked the Administration to explain the reasons for proposing the same amount of honorarium to Indigenous Inhabitant Representatives and Resident Representatives despite the different scope of their duties, and the full amount of honorarium to VRs with concurrent membership in the Executive Council, LegCo and/or DC.

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16. SHA advised that given the nominal nature and the small amount of the proposed honorarium, the Administration considered it appropriate to apply the same rate across the board to all VRs. Mr CHEUNG Hok-ming, who declared that he was the Vice Chairman of the Heung Yee Kuk (HYK) doubted whether "村代表金" was an appropriate Chinese term for the proposed honorarium for VRs and he suggested that terms other than "村代表金" might be considered. SHA noted.

Other issues

17. Professor Patrick LAU enquired whether the Administration would consider the provision of secretariat support for VRs, and standardize the rates of subsidies for eligible members of advisory and statutory bodies (ASBs). SHA responded that while the provision of secretariat support to individual VRs was not justified at the moment having regard to their workload, the Administration had been providing an allowance for subsidizing the operating expenses of village offices. As for the feasibility to standardize the allowances for ASBs, the arrangement would not be practical given the diversity of their work.

18. Professor LAU also urged the Administration to ensure the provision of adequate resources to village offices for the preservation of historic records on rural communities, which formed an integral part of Hong Kong's intangible cultural heritage. SHA took note.

19. Mrs Sophie LEUNG suggested that in the pursuit of a civic society, HAB should step up efforts in encouraging public participation in community service, and providing training for senior management of non-governmental organizations (NGOs) on corporate governance/civic education. SHA advised that the Committee on the Promotion of Civic Education was tasked to promote civic awareness and responsibility among all sectors of the community through partnership with NGOs, DCs and community organizations. HAB would continue to work closely with the Committee to advocate the culture of community service, especially through the promotion of social enterprises.

20. The Chairman summed up that members were in general supportive of the Administration's proposal to grant an honorarium to VRs, and issues relating to the support for MACs would be further discussed at the Panel meeting in April 2010.

V. Setting up an intermediary body for the effective enforcement of maintenance orders

[LC Paper Nos. CB(2)474/09-10(03) and (04)]

21. Deputy Secretary for Home Affairs (DS(HA)1) outlined the implementation of improvement measures for the effective enforcement of maintenance orders as set out in the Administration's paper.

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Statistics relating to maintenance payments

22. Mr WONG Kwok-hing, Ms Cyd HO and Mr CHEUNG Kowk-che expressed grave concern about the Administration's inability to provide statistics on (a) the number of applicants for maintenance orders; (b) the number of reported cases of default in maintenance payments and the reasons for the default in these cases by category; and (c) the number of default cases where legal procedures had been or were being taken for the recovery of the arrears, and the average time required for such procedures. They considered that these statistics would provide valuable insight in the magnitude of the problem concerning maintenance arrears, and reflect the effectiveness of the existing system in the enforcement of maintenance orders. Ms HO and Mr CHEUNG further opined that the absence of such crucial statistics affirmed the need for the establishment of an intermediary body, so that the relevant information could be collected and analyzed in a more timely and systematic manner.

23. DS(HA)1 and Principal Assistant Secretary for Home Affairs (PAS(HA)) explained that HAB had approached the Judiciary for the relevant statistics, which advised that a full set of the required information was unavailable at the moment. Pending the outcome of the survey currently conducted by HAB, which aimed at obtaining some indicative statistics on the enforcement of maintenance, PAS(HA) briefed members of the findings of a similar survey on maintenance payments conducted by the Census and Statistics Department in 2007. The survey indicated that among the 9 000 respondents who had not taken any legal action to recover the maintenance arrears, the most cited reason was "the ex-spouse was unable to pay maintenance" (45.9%). Other reasons included "believing that the ex-spouse would not pay maintenance" (27.6%), and "having no financial problem and no urgent need to recover the maintenance in default" (21.1%).

24. The Chairman instructed the Secretariat to follow up with the Judiciary on the statistics as requested by members in paragraph 22.

The Clerk

Improvement measures for enforcement of maintenance orders

25. Mr WONG Kwok-hing enquired about the improvement measures taken by the Administration to promote the effective enforcement of maintenance orders. PAS(HA) advised that to combat the problem of maintenance payers evading service of the judgment summons, the Administration was working on ways to streamline the related court procedures which entailed legislative amendments with a view to -

- (a) relaxing the service requirements for the judgment summons to be served personally on the maintenance payers;

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- (b) clarifying that the Court, on hearing a judgment summons, might order payment of maintenance arrears accruing due after the application for the issue of the judgment summons up to the date of the order; and
- (c) empowering the Court to make an order for the arrest of the maintenance payer pending examination, an order prohibiting him/her from leaving Hong Kong, and an order that he/she be imprisoned until the resumption of the adjourned judgment summons hearing so as to ensure the appearance of the maintenance payer at the resumption of the examination.

26. In response to Mr CHEUNG Kwok-che's enquiry on the timetable for introducing these legislative measures, DS(HA)1 advised that the Administration would report the progress to the Panel within the current LegCo session.

Admin

Assistance to maintenance payees who could not receive timely payments

27. Members in general expressed concern about the hardship faced by maintenance payees who could not receive timely payments and urged the Administration to adopt active and effective measures to assist them.

28. DS(HA)1 advised that to enhance the assistance to divorcees who were defaulted in maintenance payments, the Administration would propose legislative measures as mentioned in paragraph 24 and have implemented administrative measures, such as synchronizing the procedures for application of Comprehensive Social Security Assistance (CSSA) and legal aid to reduce the number of visits required of the applicants to the Social Welfare Department (SWD) and Legal Aid Department (LAD). Senior Social Security Officer (SSSO) supplemented that the CSSA Scheme would serve as a safety net for eligible applicants who could not support themselves financially, including divorcees who had not received alimony or whose ex-spouses had defaulted in maintenance payments. He further clarified that in processing their applications, SWD would not stop or reduce CSSA payment until the CSSA applicants had successfully recovered the alimony.

29. Ms Cyd HO expressed dissatisfaction that SHA did not join the discussion on this item which involved the welfare of some 40 000 single-parent families (viz. 11% of all CSSA applicants). She was particularly concerned about the dire situations encountered by the maintenance payees who had difficulties in maintaining a reasonable standard of living for their families or repaying their mortgage loan as a result of being defaulted in maintenance payments, and yet were ineligible for the safety net provided under the CSSA Scheme. These persons included: (a) maintenance payees, in particular single-parent payees on one-way permit, who failed to

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meet the seven-year residence requirement for CSSA; (b) those on two-way permit; and (c) those who held asset, such as properties, which exceeded the prescribed limit for CSSA.

Admin

30. Ms Cyd HO considered that there was a genuine need to establish an intermediary body with a view to assisting maintenance payees in overcoming their financial hardships (for example, by advancing the maintenance in default), and alleviating the torment suffered by these people when they collected the payments from their ex-spouse. Noting that in exceptional circumstances, CSSA might be granted on discretion to Hong Kong residents with less than seven years' residence in Hong Kong, Ms HO requested the Administration to provide information on the number of CSSA applications under this category and the number of successful cases. She further enquired whether interest incurred from loans to tide over urgent financial needs due to maintenance in arrears could be covered by CSSA.

Admin

31. SSSO responded that the Administration would exercise discretion in considering CSSA applications from Hong Kong residents with less than seven years' residence who were facing severe financial hardship. He further advised that under the existing policy, loan interest was not covered by CSSA. Upon members' request, SSSO agreed to provide the number of CSSA applications where discretion had been exercised to waive the seven years' residence requirement under the CSSA Scheme.

Role of Legal Aid Department

32. Ms Cyd HO considered that LAD should enhance its assistance to divorcees so that they could receive a more reasonable amount of maintenance payments for supporting a decent living for their families. It should also strengthen its service to those who had little knowledge about their right for maintenance payments, especially those new arrivals and holders of two-way permit.

33. Assistant Principal Legal Aid Counsel (APLAC) assured members that when conducting divorce proceedings, all in-house legal aid counsel were aware of the importance of reminding the legally aided divorcees of their right to apply for a maintenance order, including the nominal maintenance of \$1 to reserve their rights for future claims. She further added that in determining the amount of maintenance payments, the court would consider, among others, the needs of the payee, the ability of the payer to pay, the financial situations and claims of both parties, etc. To ensure fairness, the parties concerned would be given chances under the court procedures to present their cases.

Setting up of an intermediary body

34. Noting that the Administration maintained its stance that maintenance in arrears was basically a type of civil disputes between parties which involved

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private debts, and it was not appropriate for the Government to proactively interfere with such private matters by setting up an intermediary body to deal with the collection and payment of maintenance in debts, Mr Albert CHAN criticized the Administration for adopting an aloof attitude in handling the issue. He considered that the Government had a social obligation to protect needy people from financial hardship and mental stress, and setting up an intermediary body did not represent an intervention into private disputes. He also suggested that the issue should be followed up by the Panel on Welfare Services.

35. DS(HA)1 stressed that rather than being indifferent to needs of maintenance payees, the Administration was well aware of their hardships and had been addressing the issue seriously by introducing various legislative and administrative measures to facilitate the enforcement of maintenance orders and the timely collection of maintenance payments. The Administration considered that the setting up of an intermediary body would not be able to offer maintenance payees any significant benefits over and above that which could be achieved by improving the existing system through the various improvement measures.

36. Mr Paul TSE highlighted the need to strike a balance among a number of considerations in deliberating the issue, including the use of public money to deal with the collection and payment of private debts such as maintenance arrears; the observation of civic liberty of the parties concerned in the enforcement of maintenance orders; and the definition of assistance to divorcees as a statutory right or a kind of welfare benefit. To address the issue of evading maintenance payments, Mr TSE highlighted the need to strengthen the education on civic responsibility.

37. Mr CHEUNG Kwok-che and Ms Cyd HO expressed concern about the lack of a clear progress in the implementation of improvement measures for the enforcement of maintenance orders, and reiterated the need for the Administration to re-consider the option of establishing an intermediary body to collect and enforce maintenance payments, which in their view was the ultimate solution to resolving issues of default by maintenance payers. Mr CHEUNG also requested the Administration to further review the problems encountered by maintenance payees, make recommendations to resolve these problems and devise a timetable for implementing these measures. Ms HO and Mr Paul TSE suggested that the Administration should make reference to the successful experience in Australia in considering the option for the establishment of an intermediary body, as presented in LegCo Secretariat's research report (RP04/98-99).

38. The Chairman concluded the discussion by requesting the Administration to revert to the Panel on the issue in about three months. In view of time constraint, the Chairman said that the meeting should be extended for 15 minutes beyond 10:30 am in accordance with House Rule 24A(a) to allow members to discuss the next agenda item relating to the proposed

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overseas duty visit for the Panel.

VI. Proposal to undertake overseas duty visit to study the experience relating to the development of sports and cultural software
[LC Paper No. CB(2)474/09-10(05)]

39. The Chairman sought members' views on the proposed overseas duty visit to be undertaken by the Panel. He drew members' attention to the information notes on the development of sports and cultural software in Japan, South Korea and Guangdong prepared by the Research and Library Services Division of the LegCo Secretariat, and the information on sports/cultural facilities/institutions in Japan, South Korea and Singapore covered by the Administration's relevant studies in recent years.

40. Mrs Sophie LEUNG suggested that the duty visit should focus on cultural development, and consideration should be given to visiting the Mainland in view of its rich museum collections. Ms Cyd HO and Mr CHEUNG Kwok-che expressed support for a duty visit to study the development of cultural software. Ms HO suggested that apart from Japan and South Korea, the visit should also include Beijing and Shanghai, which provided useful references for Hong Kong in achieving its vision of transforming into a cultural metropolis. In view of the development of the West Kowloon Cultural District project, Mr CHEUNG considered that the scope of the visit should focus on the promotion of public interest and awareness in arts and culture, and community-driven initiatives in the development of cultural software.

41. Mr Paul TSE expressed concern on the usefulness and cost-effectiveness of overseas duty visits, as most information about a place was easily accessible from various publications and on the Internet. In his view, the visit was worth-arranging only if on-site studies or first-hand information from exchanges of views with local officials/people was required. Mr CHEUNG Man-kwong shared similar views and considered that personal experience was of prime importance in cultural study.

42. Ms Cyd HO remarked that the usefulness of a duty visit would largely depend on the quality of preparatory work. She considered that the invaluable exchanges of views with organisations/officials/residents at the place of visit would enable members to grasp the first-hand information and the latest development of various issues, and facilitate their deliberations on the issues concerned. To maximize the benefit of the proposed visit, Ms HO suggested that members' views should be sought on organizations/establishments/persons that they wished to visit/meet, as well as issues and questions that they wished to raise during the visit.

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43. After discussion, members in general supported the proposal for the Panel to pursue an overseas duty visit to study the development of cultural software during the Easter holiday break in April 2010, or shortly after the summer recess in around mid July 2010.

44. The Chairman instructed the Clerk to prepare a paper to invite further views from members on the scope and topics to be covered by the duty visit, the preferred timing of the visit, as well as the questions raised in paragraph 42.

The Clerk

VII. Any other business

45. There being no other business, the meeting ended at 10:42 am.

Council Business Division 2
Legislative Council Secretariat
1 February 2010