

立法會
Legislative Council

LC Paper No. CB(2)2478/10-11
(These minutes have been seen
by the Administration)

Ref : CB2/SS/3/10

Subcommittee on Minimum Wage (Criteria for Approved Assessors)
Notice and Minimum Wage (Assessment Methods) Notice

Minutes of meeting
held on Friday, 28 January 2011, at 10:45 am
in the Chamber of the Legislative Council Building

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon LEUNG Yiu-chung
Hon LI Fung-ying, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon Cyd HO Sau-lan
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon IP Wai-ming, MH

Member attending : Hon WONG Kwok-kin, BBS

Members absent : Hon LEE Cheuk-yan
Hon Audrey EU Yuet-mee, SC, JP
Hon IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Yuk-man

Public Officers attending : Item I

Miss Mabel LI Po-yi
Assistant Commissioner for Labour (Development)

Mr Charles HUI Pak-kwan
Chief Labour Officer (Statutory Minimum Wage)
Labour Department

Miss Cindy YIM Lai-kwan
Senior Labour Officer (Statutory Minimum Wage)
Labour Department

Attendance : Item I
by invitation

Direction Association for the Handicapped

Mr LAW Wai-cheung
Vice-Chairman

The Parents' Association of Pre-school Handicapped Children

Ms LAU Chu-lai
Committee Member

Neighbourhood & Workers Service Centre

Mr WONG Yun-tat
Representative

Individual

Mr CHAN Chung-yau

Rehabilitation Alliance Hong Kong

Mr LAU Kwok-lam
Project Officer

Union of Hong Kong Rehabilitation Agencies
Workshop Instructors

Mr YU Chi-ming
Chairman

Tung Wah Group of Hospitals

Ms ONG Man-chi
Assistant Superintendent TWGHs Jockey Club
Rehabilitation Complex

New Life Psychiatric Rehabilitation Association

Mr CHU Sai-ming
Professional Service Manager

Individual

Miss Deborah WAN Lai-yau

The Mental Health Association of Hong Kong

Mr CHUNG Wai-shing
Chief Officer (Education)

The Chronically-ill Patient Minimum Wage Concern Group

Mr CHEUNG Chi-wan
Member

Hong Kong Occupational Therapy Association

Professor Chetwyn CHAN Che-hin
Immediate Past Vice Chair-person

The Hong Kong Joint Council for People with Disabilities

Ms Rebecca WONG
Representative

Clerk in attendance : Mr Raymond LAM
Chief Council Secretary (2) 1

Staff in attendance : Mr Bonny LOO
Assistant Legal Adviser 3

Ms Alice LEUNG
Senior Council Secretary (2) 2

Ms Camy YOONG
Clerical Assistant (2) 1

I. Meeting with the Administration

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

2. A total of 13 organizations/individuals made oral representations to the Subcommittee. Written submissions were also received from five organizations/individual which/who did not send representatives to attend the meeting.

II. Date of next meeting

3. The Subcommittee noted that the next meeting would be held on 14 February 2011 at 2:30 pm.

4. There being no other business, the meeting ended at 12:45 pm.

Council Business Division 2
Legislative Council Secretariat
4 August 2011

**Proceedings of meeting of the
Subcommittee on Minimum Wage (Criteria for Approved Assessors) Notice and
Minimum Wage (Assessment Methods) Notice
held on Friday, 28 January 2011, at 10:45 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000726	Chairman	Opening remarks	
000727 - 001102	The Parents' Association of Pre-school Handicapped Children	Presentation of views (LC Paper No. CB(2)915/10-11(02))	
001103 - 001357	Neighbourhood & Workers Service Centre	Presentation of views (LC Paper No. CB(2)915/10-11(03))	
001358 - 001435	Mr CHAN Chung-yau	Mr CHAN Chung-yau raised concern about the employment protection for persons with disabilities and whether there would be any measures to protect their employment	
001436 - 001817	Rehabilitation Alliance Hong Kong	Presentation of views (LC Paper No. CB(2)919/10-11(03))	
001818 - 002111	Union of Hong Kong Rehabilitation Agencies Workshop Instructors	Presentation of views (LC Paper No. CB(2)919/10-11(04))	
002112 - 002504	Tung Wah Group of Hospitals	Presentation of views (LC Paper No. CB(2)919/10-11(05))	
002505 - 002713	New Life Psychiatric Rehabilitation Association	Presentation of views (LC Paper No. CB(2)919/10-11(06))	
002714 - 002907	Miss Deborah WAN Lai-yau	Presentation of views (LC Paper No. CB(2)919/10-11(07))	
002908 - 003143	The Mental Health Association of Hong Kong	Presentation of views (LC Paper No. CB(2)919/10-11(08))	
003144 - 003333	The Chronically-ill Patient Minimum Wage Concern Group	Presentation of views (LC Paper No. CB(2)919/10-11(09))	
003334 - 003736	Hong Kong Occupational Therapy Association	Presentation of views (LC Paper No. CB(2)919/10-11(10))	
003737 - 004030	The Hong Kong Joint Council for People with Disabilities	Presentation of views (LC Paper No. CB(2)922/10-11(01))	

Time marker	Speaker	Subject(s)	Action Required
004031 - 004642	Direction Association for the Handicapped	<p>Presentation of the following views -</p> <p>(a) workshop instructors, being one of the professions under the vocational rehabilitation practitioner category of approved assessors, had relevant work experience and were also in frequent contact with persons with disabilities;</p> <p>(b) the Association was concerned about the protection available to a person with disabilities if the employer disagreed with the assessment result as determined by the approved assessor and terminated the contract of employment with the employee; and</p> <p>(c) the Administration should consider providing wage subsidy to persons with disabilities</p>	
004643 - 005522	<p>Hon LI Fung-ying The Mental Health Association of Hong Kong Hong Kong Occupational Therapy Association The Parents' Association of Pre-school Handicapped Children</p>	<p>Requirement of approved assessors under the vocational rehabilitation practitioner category to obtain recommendation from recognized organizations and the issue of conflict of interest</p> <p>The Mental Health Association of Hong Kong, Hong Kong Occupational Therapy Association, and the Parents' Association of Pre-school Handicapped Children gave similar views as follows -</p> <p>(a) to avoid any possible conflict of interest, approved assessors were not allowed to conduct assessments for persons with disabilities who worked for the same employers of the assessors;</p> <p>(b) apart from professional qualifications, approved assessors under the first three categories of persons who might become approved assessors were also required to have relevant work experience in vocational rehabilitation or other services in relation to the employment of persons with disabilities; and</p> <p>(c) given the wide variety of background of approved assessors under the vocational rehabilitation practitioner category, the requirement for an approved assessor under this category</p>	

Time marker	Speaker	Subject(s)	Action Required
		to obtain a recommendation from recognized organizations could help ensure the quality of productivity assessments conducted under the statutory minimum wage regime	
005523 - 010450	Hon CHEUNG Kwok-che Miss Deborah WAN Lai-yau	Hon CHEUNG Kwok-che considered that the requirement of a vocational rehabilitation practitioner to obtain a recommendation should be abolished and it would suffice for the applicant assessor to obtain a certification of his years of relevant work experience by the recognized organizations Miss Deborah WAN considered that apart from professional qualifications, it was equally important that approved assessors should also have relevant work experience in providing vocational rehabilitation or other services in relation to the employment of persons with disabilities	
010451 - 012457	Hon LEUNG Yiu-chung Hong Kong Occupational Therapy Association The Mental Health Association of Hong Kong Miss Deborah WAN Lai-yau New Life Psychiatric Rehabilitation Association Tung Wah Group of Hospitals The Parents' Association of Pre-school Handicapped Children Union of Hong Kong Rehabilitation Agencies Workshop Instructors	(a) whether it would suffice to require an applicant assessor to obtain a certification of his years of relevant work experience by the recognized organizations; (b) whether there was a need for allowing re-assessment by another approved assessor in the event of dispute on the assessment result between the employer and person with disabilities; and (c) whether the assessed degree of productivity should be expressed in terms of grades instead of percentage in the certificate of assessment	
012458 - 014829	Hon Cyd HO Miss Deborah WAN Lai-yau The Chronically-ill Patient Minimum Wage Concern Group Direction Association for the Handicapped Hong Kong Occupational Therapy Association The Mental Health Association of Hong	(a) whether it was desirable to have two approved assessors to conduct the same productivity assessment for a person with disabilities; (b) whether the requirement for an approved assessor under the vocational rehabilitation practitioner category to obtain a recommendation from the recognized organizations should be abolished; and	

Time marker	Speaker	Subject(s)	Action Required
	<p>Kong Tung Wah Group of Hospitals The Parents' Association of Pre-school Handicapped Children</p>	<p>(c) whether an appeal mechanism should be put in place for productivity assessments conducted under the Minimum Wage Ordinance (Cap. 608) ("MWO")</p>	
<p>014830 - 015644</p>	<p>Hon CHEUNG Kwok-che Hon Cyd HO The Mental Health Association of Hong Kong</p>	<p>Hon CHEUNG Kwok-che suggested that the Administration should consider narrowing down the scope of eligible applicant assessors under the vocational rehabilitation practitioner category to workshop instructors and abolishing the requirement for approved assessors under this category to obtain a recommendation from the recognized organizations</p> <p>Hon Cyd HO supported Hon CHEUNG Kwok-che's views</p> <p>The Mental Health Association of Hong Kong held a different view that the suggestion of allowing a vocational rehabilitation practitioner to use his performance appraisal reports issued by the recognized organizations would not be acceptable to the organizations concerned. He pointed out that the performance appraisal reports usually contained a lot of personal data which might not be relevant for considering the applicants' suitability to become approved assessors and might have implications on the human resources policy of the organizations concerned</p>	
<p>015645 - 020136</p>	<p>Admin</p>	<p>The Administration's responses to the views and concerns raised by members and the deputations -</p> <p>(a) an approved assessor under the vocational rehabilitation practitioner category should have relevant work experience in the organizations recognized by the Labour Department that provided vocational rehabilitation or other services in relation to the employment of persons with disabilities and have the recommendation of a recognized organization which needed not be his current employer;</p> <p>(b) the administrative guidelines would provide information on the methods and procedures of productivity assessment;</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>(c) the administrative guidelines would highlight that approved assessors should provide suggestion to employers and persons with disabilities concerned, if appropriate, on auxiliary aids and facilities to facilitate persons with disabilities to demonstrate their full potential in the assessment;</p> <p>(d) it was not the policy intent of MWO to provide wage subsidy; and</p> <p>(e) the exemption from the Disability Discrimination Ordinance (Cap. 487) ("DDO") relating to dismissal under MWO was limited to the situation where the dismissal was on account of the outcome of the productivity assessment. If the employee was dismissed on the ground of his disability rather than his failure to satisfy the inherent requirements of the particular employment, MWO did not affect his claim under DDO</p>	
020137 - 020217	Chairman	Date of next meeting	