

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1324/11-12  
(These minutes have been  
seen by the Administration)

Ref : CB2/PL/WS

**Panel on Welfare Services**

**Minutes of meeting**  
**held on Monday, 9 January 2012, at 10:45 am**  
**in Conference Room 3 of the Legislative Council Complex**

**Members present** : Hon CHEUNG Kwok-che (Chairman)  
Hon WONG Sing-chi (Deputy Chairman)  
Hon Albert HO Chun-yan  
Hon LEE Cheuk-yan  
Hon CHAN Kam-lam, SBS, JP  
Hon LEUNG Yiu-chung  
Hon TAM Yiu-chung, GBS, JP  
Hon LI Fung-ying, SBS, JP  
Hon Frederick FUNG Kin-kee, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Dr Hon LEUNG Ka-lau  
Hon WONG Kwok-kin, BBS  
Hon IP Wai-ming, MH  
Dr Hon PAN Pey-chyou  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung

**Members absent** : Hon Paul CHAN Mo-po, MH, JP  
Dr Hon Samson TAM Wai-ho, JP

**Public Officers attending** : Item IV

Mr Paul TANG, JP  
Permanent Secretary for Labour and Welfare  
Labour and Welfare Bureau

Ms Doris CHEUNG  
Deputy Secretary for Labour and Welfare (Welfare)1  
Labour and Welfare Bureau

Mrs Anna MAK  
Deputy Director of Social Welfare (Services)  
Social Welfare Department

Ms Wendy LEUNG  
Principal Assistant Secretary for Labour and Welfare  
(Welfare)1  
Labour and Welfare Bureau

Item V

Ms Florence HUI, JP  
Under Secretary for Home Affairs  
Home Affairs Bureau

Mr CHENG Yan-chee, JP  
Deputy Secretary for Home Affairs(1)  
Home Affairs Bureau

Miss Winnie TSE  
Principal Assistant Secretary for Home Affairs  
(Civic Affairs)3  
Home Affairs Bureau

Mr Eric HUI, JP  
Assistant Director of Home Affairs(2)  
Home Affairs Department

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

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

Ms Candice LAM  
Senior Council Secretary (2) 4

Ms Ivy CHENG  
Research Officer (2) 2

Miss Karen LAI  
Council Secretary (2) 4

Miss Maggie CHIU  
Legislative Assistant (2) 4

Action

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**I. Confirmation of minutes**

[LC Paper No. CB(2)715/11-12]

The minutes of the meeting held on 14 November 2011 were confirmed.

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

[LC Paper No. CB(2)680/11-12(01)]

2. Members noted that a referral from the Public Complaints Office on policy issues relating to support services, welfare and housing for street sleepers had been issued since the last meeting.

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

3. Members agreed to discuss the following items proposed by the Administration at the next meeting to be held on 13 February 2012 at 10:45 am -

(a) Comprehensive child development service; and

(b) Pilot scheme on community care service voucher for the elderly.

**IV. Report on Custody and Access by the Law Reform Commission**

[LC Paper No. CB(2)717/11-12(03) and IN02/11-12]

4. Permanent Secretary for Labour and Welfare ("PSLW") briefed members on the consultation paper entitled "Child Custody and Access: Whether to Implement the 'Joint Parental Responsibility Model' by Legislative Means". PSLW said that the Law Reform Commission of Hong Kong ("LRC") published the Report on Child Custody and Access in March 2005. The main thrust of its recommendations was that the "joint

Action

parental responsibility model" should be implemented by legislative means to replace the existing custody and access arrangements under the family law. PSLW elaborated that the joint parental responsibility model was a new approach for dealing with the arrangements for children after the divorce of their parents, and would bring about fundamental changes in the existing arrangements under the family law. PSLW further said that the Administration had held informal meetings with stakeholders to gauge their views on the LRC's recommendations. Having regard to the diverse views expressed, the Administration considered it prudent to launch a four-month public consultation to gauge the views of the public before mapping out the way forward.

5. Ms LI Fung-ying agreed to the launch of a public consultation given the LRC's recommendations were controversial and the fact that the divorce rate had increased remarkably from 6 000 cases in 1991 to 13 000 cases in 2001 and 18 000 cases in 2010. However, she expressed reservations about the introduction of the joint parental responsibility model by legislative means at this stage. She was concerned that the consent and notification requirements might be used by hostile parents to obstruct and harass their former spouses after divorce. This would also lead to legal disputes and cause distress to their children and eventually impede the development of these children. Ms LI enquired about the Administration's stance on the LRC's recommendations in the event that diverse views were received during the consultation period.

6. PSLW advised that the divorce rate stood at 2.57 per 1 000 registered marriages in 2010. He added that the Administration had not established a position on the LRC's recommendations and was open-minded on how to take forward the recommendations.

7. Mr Albert HO said that the family law in Hong Kong was a winner/loser scenario, which was far lagged behind the international trend of shifting towards the concept of parental responsibilities. This apart, the views of the family court on custody and access arrangements had shown that the court had called for reform in that area of law for making orders from the perspective of children. In his view, joint parental responsibility should be introduced and promoted. The Administration should step up public education on the understanding of the principles of joint parental responsibility. Mr HO commented that the Administration had unduly delayed the follow-up on the LRC's recommendations given that the LRC Report on Child Custody and Access was published in 2005. He

Action

wondered why the Administration had to conduct a fresh public consultation on the LRC's recommendations and whether resources implication was a consideration factor for mapping out the way forward.

8. PSLW advised that with reference to some overseas common law jurisdictions, it was observed that in England and Wales and Australia, which had implemented the joint parental responsibility model by legislative means, the mindset of some parents remained unchanged and the number of court disputes in relation to child custody and access cases had increased. Singapore had not implemented the model through legislative means. As pointed out earlier, diverse views on the LRC's recommendations were gauged during the informal meetings with the stakeholders. Notably, concerns about the model's implications on the number of litigation cases, as well as possible abuse by trouble-making parents, were raised. The Administration therefore considered a full and targeted public consultation was necessary. He stressed that resource implications for taking forward the LRC's recommendations was not a primary consideration. PSLW added that LRC published a series of four reports on the subject of guardianship and custody of children from 2002 to 2005. The Labour and Welfare Bureau was responsible for taking forward three of the four reports. Apart from launching the public consultation on the joint parental responsibility model, the bill for implementing the recommendations of the Report on Guardianship of Children had been enacted recently, and the legislative proposals for implementing the recommendations of the Report on International Parental Child Abduction were also being prepared.

9. Mr TAM Yiu-chung cast doubt as to whether the introduction of joint parental responsibility model by legislative means could adequately deal with the disagreements and settle the parental arrangements for the child during divorce proceedings. He pointed out that the court would normally grant custody orders to divorced mothers with children. Most of these divorced women did not wish to continue the relationship and contact with their former spouses. The introduction of the model by legislative means would cause distress to those families whose divorced parents did not wish to retain any relationship. In his view, the concept of joint parental responsibility could be further promoted by enhancing public education and providing more support services to the divorced families without legislative changes.

10. Mr Ronny TONG said that issues relating to child custody

Action

arrangements had been an issue of concern of the court for many years. In his view, joint parenting was conducive to the healthy upbringing and development of children. While understanding the concerns about implementing the joint responsibility model by legislative means to achieve joint parenting, he considered that the proposal would merely provide the court with express power to deal with child custody and access arrangements having regard to the best interests and well-being of the child in each individual case. Mr TONG further said that as shown from overseas experience in implementing the joint parental responsibility model, there was no evidence of more tragedies resulted from disputes and hostilities of divorced families. Mr TONG did not see the need for conducting the current public consultation on the LRC's recommendations and he urged the Administration to take forward the legislative proposals without further delay.

11. PSLW said that as noted from the custody orders which required assessment from the Social Welfare Department ("SWD"), the number of joint orders had increased notwithstanding that sole orders remained the majority. The concept of joint parental responsibility would be promoted, irrespective of whether the model would be implemented by legislative means. He hoped that during the four-month public consultation, the Administration would gauge the views of the public as well as enhance their understanding of the concept. The Administration would then map out the way forward on whether and how best the LRC's recommendations should be taken forward.

12. Mr WONG Sing-chi took the view that the implementation of the model by legislative means alone could not adequately deal with the problems relating to arrangements for children after the divorce of their parents. The Administration should enhance parent education on their parental rights and responsibilities of taking care of their children even after divorce.

13. PSLW pointed out that the joint parental responsibility model emphasised the continuing responsibilities of both parents towards the children. The Administration would, having regard to the views collected during the public consultation, formulate its work plan for taking forward the relevant proposals and public education programmes.

14. Deputy Director of Social Welfare (Services) added that SWD had launched public education and publicity programmes to promote the

Action

concept of continuous parental responsibility after divorce as well as provided counselling and support services to divorced families through the Family and Child Protective Services Units and the Integrated Family Service Centres ("IFSCs").

15. Dr PAN Pey-chyou pointed out that some overseas countries had implemented the joint parental responsibility model through legislative reforms because of the relatively higher juvenile suicidal rate resulted from family problems. While he was open-minded on the need to implement the model by legislative means, Dr PAN asked whether the Administration had studied the effectiveness of such legislative reforms in bringing about healthier and happier development of the children. The Administration should consider conducting similar studies in respect of the local context before introducing the legislative proposals.

16. Principal Assistant Secretary for Labour and Welfare (Welfare)1 advised that LRC had studied the legislative reforms undertaken in England and Wales, Scotland, Australia and New Zealand in its Report. Evaluation of the law reforms in England and Wales and Australia showed that there was no dispute on the fundamental merits of implementing the principles of joint parental responsibility by legislative means, but some problems were identified in meeting the objectives of the model, including increasing court disputes and abuse by trouble-making parents. Both England and Wales and Australia further amended their respective family law in 2006 to address the problems identified. In addition to the cases of the four western common law jurisdictions above, the consultation paper had also covered the experience of Singapore which had decided to promote the model by non-legislative means. PSLW assured members that the Administration would take into consideration the unique circumstances of Hong Kong when deciding whether the model should be implemented by legislative means.

17. Mr Alan LEONG said that in the light of the evaluation of the law reforms in England and Wales and Australia, it was noteworthy that the implementation of the joint parental responsibility model had yet to change the mindset of parents on joint parenting after divorce. Instead, the number of parental conflicts and litigation as well as abuse by trouble-making parents had increased. Similar concerns had been raised by the social welfare sector during the informal meetings convened by the Administration. While supporting continued shared parenting after divorce, Mr LEONG was uncertain whether the promotion of the concept

Action

through legislative means was the best way to change the mindset of parents given that the decision to divorce was a private affair. In his view, the Administration should allocate more resources for family support services. Mr LEONG further asked about the Administration's policy inclination on the matter.

18. PSLW said that the Administration agreed to the principles of joint parental responsibility. Since the major stakeholders expressed divided views on whether the joint parental responsibility model should be implemented by legislative means, the Administration would map out the way forward after the public consultation.

19. The Chairman said that he was given the impression that the Administration was not in favour of implementing the model by legislative means as it had highlighted numerous problems identified from overseas experience. The Chairman further said that he did not oppose to the concept of joint parental responsibility. However, in the absence of complementary support services, such as mediation and counselling services, to facilitate cooperate and continued parental responsibility, he expressed reservations about the smooth implementation of the model. The Administration should provide more resources in this respect and enhance publicity on the availability of support services to divorced parents, irrespective of whether the model would be implemented by legislative means.

20. PSLW said that IFSCs had been providing one-stop and integrated services to families in need. This would eliminate the labeling effect on service users. In addition, the Judiciary had been promoting and encouraging the resolution of disputes by mediation.

21. Mr LEUNG Kwok-hung took the view that, as a result of insufficient resources and manpower, IFSCs would accord low priority to preventive services, including providing support services to divorced families. He asked whether the Administration had collated statistics on the manpower requirement of social workers to provide support services for divorced families. PSLW said that the Administration did not keep separate statistics on this.

22. The Chairman said that as the consultation period would expire by 30 April 2012, the Panel would hold a special meeting in late February or early March 2012 to receive views of the public on the consultation paper.

Action

**V. Development of social enterprises**

[LC Paper Nos. CB(2)717/11-12(04) to (05)]

23. Under Secretary for Home Affairs ("USHA") briefed members on the new initiatives and ongoing efforts of the Government in promoting the development of social enterprises ("SEs"), details of which were set out in the Administration's paper.

Discussions

24. Mr LEE Cheuk-yan pointed out that some SE practitioners had been committed to developing SE businesses without funding support from the Government. He enquired whether the Administration had any plan to assist these SE practitioners and make reference to their experience to further promote SE development.

25. USHA advised that new initiatives for promoting the sustainable growth of SEs were drawn up having regard to the views of the Social Enterprise Advisory Committee ("SEAC") which represented a mix of stakeholders, including SE practitioners and members from the business and academic sectors. Notably, taking into the advice of SEAC, starting from 2011, the Enhancing Self-Reliance Through District Partnership Programme ("ESR Programme") accepted, on a trial basis, applications from non-profit-making organisations not registered under section 88 of the Inland Revenue Ordinance (Cap. 112) to encourage more SE practitioners to apply for grants under the programme.

26. Noting that around 75% of the approved projects funded by the ESR Programme had been able to achieve or even exceed their targets in respect of business turnover or profit and loss, Mr LEE Cheuk-yan enquired about the status of the remaining approved projects.

27. Expressing a similar concern, Mr IP Wai-ming asked about the specific targets of SEs under the ESR Programme and whether support and assistance would be provided to those SEs under the ESR Programme after the funding period had expired. Mr IP added that the Administration should provide more information on the operational experience of individual SEs to facilitate members' better understanding of the difficulties faced by SEs.

28. USHA explained that around 75% of the approved projects under the

Action

ESR Programme were able to achieve its targets in respect of the business turnover as set out in their business proposals when they applied for grants under the programme. Specifically, the targets of most SEs were to achieve self-financing in two to three years. Given that around 75% of the approved projects achieved their own specified targets, the results were considered encouraging.

29. USHA advised that as at early December 2011, the funding period of 85 SEs under the ESR Programme had expired. Of them, 66 planned to continue to operate while the remainder ceased to operate owing to various consideration factors, such as rental and staff costs. Like any other commercial enterprises, SEs had to adapt to the market changes and operating environment in running businesses.

30. USHA further advised that the Administration fully understood that SEs faced two major challenges in running sustainable business, viz. lack of relevant experience and knowledge in running business and support of the community for caring consumption. To foster the development of SEs, the Administration had been promoting cross-sectoral collaboration between the business sector and SEs through the matching forum i.e. the Social Enterprises Partnership Programme and the Social Enterprises Mentorship Scheme. Moreover, the Home Affairs Department from time to time conducted workshops for SE operators and business professionals to share experience on the operation of enterprises. This apart, the Administration had stepped up publicity programmes to enhance public understanding of SEs and promote caring consumption. As regards information on the mode of operation of individual SEs under the ESR Programme, the Administration would provide the requisite information after the meeting, if available.

31. Regarding the pilot scheme to give eligible SEs priority in bidding Government service contracts, Mr LEE Cheuk-yan noted with concern that out of the 132 contracts made available for priority bidding by SEs, only 75 Government service contracts were awarded to SEs. He appealed to the Administration to offer "restricted tenders" exclusively for those SEs which primarily aimed to achieve social objectives such as enhancing employment of the socially disadvantaged.

32. USHA said that only SEs would be invited to bid the service contracts under the pilot scheme. If no SEs expressed interests or met the service requirements for the contracts, the Administration would conduct

Action

open tender exercise for these Government service contracts. USHA further said that despite the Government service contracts were tailored made for SEs, it did not necessarily mean that all SEs would be able to meet the service requirements as stipulated in the respective contracts. Individual SEs might bid the contracts having regard to their own capability, such as the possession of relevant job skills and the availability of adequate manpower to meet the service requirements.

33. Mr IP Wai-ming expressed grave concern that almost one-half of the Government service contracts made available for priority bidding by SEs had not been awarded to SEs. He took a strong view that the Administration should critically examine the underlying reasons why SEs had not bid these service contracts if they were tailored made for SEs.

34. USHA clarified that the Government service contracts which were made available for priority bidding by SEs were tailor-made for SEs in the sense that only contracts which were generally considered suitable to be carried out by SEs were selected for the pilot scheme. Nonetheless, like any other commercial enterprises, it would be a business decision for individual SEs as to whether they would bid specific Government service contracts.

35. Mr Frederick FUNG declared interest as the Chairman of a non-governmental organisation ("NGO") which had run three SE projects. Mr FUNG said that while the Administration had introduced four new initiatives to promote the sustainable growth of SEs, he cast doubt about the effectiveness of these initiatives. He drew members' attention to the fact that most SEs were small businesses and therefore it was beyond their capability to assume large scale service contracts. Moreover, the funding ceiling of \$3 million per project for a three-year period under the ESR Programme would mean a monthly grant of about \$40,000 for an SE. In his view, the majority of the grant would be used by SEs to meet the rental cost. Hence, upon the expiry of the funding period, it would be extremely difficult for SEs to meet the high rentals and continue operation.

36. USHA responded that the Administration endeavoured to promote the sustainable growth and development of SEs. It had, in the light of the advice of SEAC, launched the SE Award Scheme and "Be a Friend to SE" Campaign to give recognition to outstanding SEs and their partners. The two schemes were proven effective to provide a platform for SEs to share their operational experiences and showcase the best practices of SEs for the

Action

SE sector's reference. As regards the ESR Programme, USHA pointed out that the funding period of the programme had been extended from two years to three years in response to calls from the SE sector.

37. Mr Frederick FUNG took the view that SEs could be broadly categorised into welfare SEs and profit-making SEs. For the welfare SEs, they would have to rely on Government funding to support their business which aimed to achieve social objectives of providing employment opportunities for those socially disadvantaged who were incapable of entering the open labour market. On the contrary, profit-making SEs would aim to be operating on a self-financing mode. To foster the further development of SEs, Mr FUNG urged the Administration to consider the following -

- (a) taking into account the scale and capability of SEs in identifying suitable Government services contracts for priority bidding by SEs such that not only large SEs could meet the service requirements. Moreover, the Administration should identify some minor maintenance works and repairs in the public housing estates for priority bidding by SEs;
- (b) taking the lead to support SEs through purchasing SE products and services and offering SEs with tax concession; and
- (c) setting up an SE corporation to facilitate small SEs to join their efforts in bidding certain Government service contracts.

Mr FUNG then enquired about the work progress of SEAC, in particular whether SEAC had formulated its stance and made recommendations for consideration by the Administration in respect of the long-term strategies to promote the sustainable growth of SEs.

38. USHA made the following responses -

- (a) to strengthen support for SEs, the ESR Programme accepted, on a trial basis, applications from non-profit-making organisations not registered under section 88 of Cap. 112. Moreover, the funding period for SE projects under the ESR Programme had been extended from two years to three years to enhance the sustainability of SEs under the programme. The Administration would assess the effectiveness of the

Action

extension of the funding period. That said, diverse views had been received in respect of the provision of further grants to SEs after the funding period had expired, bearing in mind that some SEs were unable to continue operation because of their own operational problems;

- (b) notwithstanding that 132 Government service contracts were made available for priority bidding by SEs, it remained a business decision for SEs to bid these service contracts having regard to individual circumstances. Most of the service contracts were cleansing services for Government premises simply because most SEs were engaged in this field. More varieties of Government service contracts would be identified in the light of the development of the SE sector;
- (c) while the Administration would take the lead to procure and use SE products and services when opportunities arose, it was more important for the community at large to support caring consumption in order to enable the sustainable growth of SEs. The Administration would strive to publicise and solicit public support for caring consumption;
- (d) the Administration had studied the proposal of setting up an SE corporation to facilitate the collaboration of SEs to run businesses. Given that SEs should operate like a business and needed to be sustainable and self-financing eventually, the Administration considered it appropriate to dedicate its work in promoting and creating an enabling environment for the sustainable growth of SEs; and
- (e) since its establishment in January 2010, SEAC had held six meetings and offered valuable advice on promoting the further development of SEs, notably, the improvement measures to the ESR Programme. The Administration would make periodic progress reports to the Panel on new initiatives and ongoing efforts for promoting the sustainable growth of SEs.

39. Mr LEUNG Kwok-hung was of the view that the Administration should take heed of the difficulties encountered by SEs such as rising inflation and high rental, and draw up specific measures to support SE development through the provision of financial assistance and assist SEs to

Action

develop new market niches in the service sector, such as food waste treatment and environmental protection services.

*[To allow sufficient time for discussion, the Chairman suggested and members agreed to extend the meeting for five minutes.]*

40. USHA advised that since the launch of the ESR Programme in 2006, the Government had injected two rounds of funding amounted to \$300 million in total. So far, \$125 million had been approved and funding was available to meet prospective applications. As regards the development of new market niches for SEs, USHA said that the Administration had all along encouraged innovative ideas for the further development of SEs from the business, NGOs as well as the academic sectors. It was noteworthy that one of the contestants in the business plan writing competition had put forward a business proposal relating to food waste treatment, and a university had put the business proposal into practice.

41. The Chairman took the view that in addition to promoting caring consumption in the community, the Administration should take the lead to purchase and use SE products and services. To facilitate better understanding of the overall development of SEs, the Chairman requested the Administration to provide the following information -

Admin

- (a) the nature of organisations running SE projects (i.e. NGOs or private business enterprises);
- (b) a breakdown of the 2 000 job opportunities created by SEs under the ESR Programme according to their business types, together with the profile of the employees (i.e. whether they were socially disadvantaged, their qualifications and work experience);
- (c) the operational experiences of SEs, in particular the reasons attributed to the successful operation of some SEs and why some others were unable to continue operation; and
- (d) whether the Administration would earmark specific locations in Government premises for priority allocation to SEs at concessionary rental.

Action

**VI. Any other business**

42. There being no other business, the meeting ended at 12:52 pm.

Council Business Division 2  
Legislative Council Secretariat  
9 March 2012