

立法會
Legislative Council

LC Paper No. CB(2)138/13-14
(These minutes have been
seen by the Administration)

Ref : CB2/PL/WS

Panel on Welfare Services

Minutes of meeting
held on Monday, 8 July 2013, at 10:00 am
in Conference Room 3 of the Legislative Council Complex

Members present : Hon CHAN Yuen-han, SBS, JP (Chairman)
Hon CHEUNG Kwok-che (Deputy Chairman)
Hon Albert HO Chun-yan
Hon LEUNG Yiu-chung
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Ronny TONG Ka-wah, SC
Dr Hon LEUNG Ka-lau
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Frankie YICK Chi-ming
Hon CHAN Chi-chuen
Hon CHAN Han-pan
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu

Members absent : Hon TAM Yiu-chung, GBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Alice MAK Mei-kuen, JP

Member attending : Hon WONG Kwok-hing, BBS, MH

**Public Officers : Item II
attending**

Mr Matthew CHEUNG, GBS, JP
Secretary for Labour and Welfare
Labour and Welfare Bureau

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

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

Mr KOK Che-leung
Assistant Director of Social Welfare (Subventions)
Social Welfare Department

Item III

Mr Matthew CHEUNG, GBS, JP
Secretary for Labour and Welfare
Labour and Welfare Bureau

Miss Annie TAM, JP
Permanent Secretary for Labour and Welfare
Labour and Welfare Bureau

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

Mr Stephen WONG
Secretary, Law Reform Commission
Department of Justice

Ms Mary HO
Assistant Law Officer (Advisory)
Department of Justice

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

Mr FUNG Man-chung
Assistant Director of Social Welfare (Family and Child
Welfare)
Social Welfare Department

Item IV

Miss Annie TAM, JP
Permanent Secretary for Labour and Welfare
Labour and Welfare Bureau

Mr Donald CHEN
Deputy Secretary for Labour and Welfare (Welfare) 2
Labour and Welfare Bureau

Mr Stephen SUI
Commissioner for Rehabilitation
Labour and Welfare Bureau

Mr FUNG Pak-yan
Deputy Director of Social Welfare (Administration)
Social Welfare Department

Mr LAM Ka-tai
Assistant Director of Social Welfare (Rehabilitation &
Medical Social Services)
Social Welfare Department

Mr NG Wai-kuen
Chief Social Security Officer (Social Security)1
Social Welfare Department

Dr Daisy DAI
Chief Manager (Primary & Community Services)
Hospital Authority

Dr Christina MAW
Senior Manager (Elderly & Community Care)
Hospital Authority

Mr Stephen LEUNG
Assistant Commissioner for Census and Statistics
(Social)
Census and Statistics Department

Clerk in attendance : Mr Colin CHUI
Chief Council Secretary (2) 4

Staff in attendance : Ms Catherina YU
Senior Council Secretary (2) 4

Ms Judy TING
Council Secretary (2) 6

Miss Maggie CHIU
Legislative Assistant (2) 4

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

[LC Paper Nos. CB(2)1350/12-13(01), CB(2)1351/12-13(01), CB(2)1352/12-13(01), CB(2)1353/12-13(01), CB(2)1425/12-13(01), CB(2)1444/12-13(01) and CB(2)1509/12-13(01)]

Members noted that the papers listed above had been issued since the last meeting.

2. Regarding the referral from the Public Complaints Office regarding "Ageing in place" and community care services for the elderly [LC Paper No. CB(2)1352/12-13(01)], the Chairman suggested referring the subject matter to the Joint Subcommittee on Long-Care Policy for follow-up, given that issues relating to ageing in place and community care services for the elderly fell within the terms of reference of the Joint Subcommittee, and the planning for provision of community care services for the elderly and the quality of such services had been discussed by the Joint Subcommittee. Members agreed.

3. Regarding his letter dated 21 June 2013 requesting for the Panel to hold a special meeting to discuss and receive views of refugees and concern groups on how to improve the situation of refugees and torture

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claimants in Hong Kong [LC Paper No. CB(2)1509/12-13(01)], Dr Fernando CHEUNG stressed that it was necessary to hold that special meeting as soon as practicable. He pointed out the difficulties being faced by these people included substandard living condition and limited opportunities for minors of refugees and torture claimants to receive education.

4. Mr LEUNG Kwok-hung also considered the current living condition of some refugees unacceptable. Mr Albert HO shared Mr Alan LEONG's view that it was necessary to discuss the subject matter.

5. Members agreed that a special meeting should be held to discuss how to improve the situation of refugees and torture claimants in Hong Kong.

(Post-meeting note: the Panel held a special meeting on 22 July 2013 to discuss "Way to improve situation of refugees, torture claimants and asylum seekers in Hong Kong".)

6. The Chairman referred members to the joint letter dated 5 July 2013 from Mr TANG Ka-piu and Miss Alice MAK, which was tabled at the meeting, requesting the Panel to discuss the progress of the study on retirement protection conducted by Professor Nelson CHOW, who was commissioned by the Social Security and Retirement Protection Task Force under the Committee on Poverty ("CoP").

7. Mr TANG Ka-piu said that the relevant study had been carried out for quite some time and it might be necessary for the Panel to hold a special meeting inviting the Administration to brief members on the latest progress of the study. Both Mr TANG and Mr Alan LEONG considered it important to invite Professor Nelson CHOW to attend the special meeting as he had been commissioned to undertake the study.

8. The Chairman sought the view of Secretary for Labour and Welfare ("SLW") on inviting Professor Nelson CHOW to update members on the progress of the study of retirement protection at a special meeting. She said that members were concerned that Professor CHOW might have already formed his opinions on retirement protection without listening to the views expressed in the community.

9. SLW said that Professor CHOW had been commissioned to conduct a study on the future direction of retirement protection in March 2013. The study commenced in May 2013 and Professor CHOW's team was

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expected to complete the study report in mid-2014. He was concerned that Professor CHOW might not have any concrete proposal to share with members at this very early stage of the study.

10. Mr TANG Ka-piu informed members that some organizations/individuals had already made public their proposals on retirement protection, and a meeting should therefore be held to facilitate the exchange of views between Professor Nelson CHOW and these organizations/individuals.

11. The Deputy Chairman stressed that it would be helpful for Professor Nelson CHOW to listen to the views of the public in forming his opinions about the future direction of retirement protection.

12. In the view of Mr LEUNG Kwok-hung, Professor Nelson CHOW had already put together a preliminary proposal for retirement protection. The issue at stake was the Administration's willingness to implement a retirement protection scheme that answered the needs of the community.

13. SLW undertook to reflect members' views to Professor Nelson CHOW.

II. Medium and long-term social welfare planning

[LC Paper Nos. CB(2)620/12-13(07) and CB(2)1483/12-13(01)]

14. At the invitation of the Chairman, SLW briefed members on the progress regarding medium to long-term social welfare planning, details of which were set out in the Administration's paper. He highlighted that the Labour and Welfare Bureau ("LWB") had, since 2012, implemented the enhanced mechanism as proposed by the Social Welfare Advisory Committee after consultation with the social welfare sector. The mechanism provided an annual platform for consultation and planning for the future development and delivery of welfare services at district level, central level, and advisory committees level on a regular basis. Although this was an annual mechanism, the policies and measures concerned were not to be implemented for one year only. Rather, they were mostly meant for long-term implementation on an ongoing basis and complement the Administration's medium or even long-term planning.

Setting targets for development and delivery of welfare services

15. Mr Albert HO stressed the importance of the setting of concrete

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targets for the development and delivery of welfare services as well as quantification of such targets. He explained that, for instance, it was necessary for the Administration to set clearly the target number of people who would escape from poverty after the setting of the poverty line by CoP. Similarly, the Administration should set the target numbers of care workers to be trained and subsidized residential care places to be provided in subsequent years.

16. SLW said that while it was important to set target numbers for the development and delivery of welfare services, it was equally important to ascertain the availability of resources, such as suitable sites for social welfare facilities. The Administration had been discussing with the Hong Kong Council of Social Service and social welfare organizations ways to make better use of the land owned by the non-governmental organizations ("NGOs"), through in-situ expansion or redevelopment, to provide diversified social welfare facilities to meet the needs of welfare services. The Administration would proactively consider using the Lotteries Fund more flexibly and work out ways to provide targeted assistance to NGOs during the planning or development process.

17. Mr Frankie YICK shared the view that it was important to formulate concrete targets for the development and delivery of welfare services. He explained that the Administration should first set objective targets, work out ways to meet these targets and then allocate the necessary resources.

18. SLW stressed that the Administration had been taking stock of the provision of social welfare facilities, in particular suitable sites for further development/redevelopment. The information on suitable sites would help the Administration formulate target numbers for the development and delivery of welfare services in a realistic and pragmatic manner.

19. Mr TANG Ka-piu expressed disappointment with the Administration's failure to set specific targets for elderly services in the face of the ageing population. Given that there were some 240,000 elderly persons who had been assessed by the Standardised Care Need Assessment Mechanism for Elderly Service waiting for subsidized community care and/or residential care services, it was incumbent upon the Administration to provide a comprehensive assessment of the service needs of these elderly people.

20. SLW pointed out that one of the Administration's priorities of welfare services was to increase the supply of elderly care services. To help elderly people age in place, the Administration would roll out the First

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Phase of the Pilot Scheme on Community Care Service Voucher for the Elderly ("the Pilot Scheme") in September 2013. He stressed that it was important to have a grasp of the availability of resources for the provision of social welfare facilities so that the Administration could plan for the future development and delivery of welfare services realistically.

21. Mr CHAN Chi-chuen said that in developing welfare services, the Administration should first measure the service needs of needy people and then set targets for the delivery of services. Mr LEUNG Kwok-hung was of the view that the Administration should set performance pledges to ensure delivery of services to needy people.

22. The Chairman said that the Administration should first set concrete targets for the development and delivery of social welfare services, work out the shortfall of such services on the basis of the targets and then allocate the required resources.

23. SLW said that to increase the supply of elderly care services, the Administration had earmarked some \$5.575 billion in the 2013-2014 financial year, representing an increase of 12% over the 2012-2013 financial year.

Long-term social welfare planning

24. The Deputy Chairman stressed the importance of long-term social welfare planning to facilitate the assessment of the existing and future needs of people who required elderly and rehabilitation services. Given that the Administration had set down the guiding principles of "ageing in the community as the core, institutional care as back-up" and "integration between the able-bodied and the disabled" for elderly and rehabilitation care services, it should make specific projections to assess the needs for such services in the form of medium to long-term planning. He further said that it was important for the Administration and the community to exchange views on long-term social welfare planning.

25. SLW explained that the Administration would take into account the views from all parties including relevant advisory bodies in formulating policies and measures for the delivery of welfare services. He pointed out that the policies and measures concerned were not to be implemented for a short period. Rather, they were mostly meant for long-term implementation on an ongoing basis and complement the Administration's medium or even long-term planning.

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26. In response to Dr Helena WONG's request for the Administration to set out its philosophy and planning of welfare services in the form of a consultation paper for public discussion, SLW said that the Administration was focusing on increasing the supply of elderly and rehabilitation service and related facilities and did not consider it necessary to provide a five- or ten-year blueprint for the development of welfare services at this stage.

27. Dr Helena WONG further requested for a comprehensive and holistic planning of welfare services. SLW responded that while one of the priorities of the current Government was on increasing the supply of elderly and rehabilitation services and facilities, the Administration would not lose sight of the need for the relevant planning. He further pointed out that a contributory factor affecting the waiting time for subsidized residential care homes for the elderly ("RCHE") was that elderly people were allowed to select a particular RCHE or district where RCHEs were located that suited them best. He assured members that their views would be taken into consideration in the planning of welfare services.

28. Dr Fernando CHEUNG considered it important for the Administration to carry out planning of the service needs of the elderly and persons with disabilities ("PWDs"). He expressed disappointment that the supply of elderly and rehabilitation services had all along been inadequate to meet the demand.

29. SLW assured members that the Administration was well aware of the acute demand for elderly and rehabilitation services. He also pointed out that to address the demand of the elderly for residential care places, it was necessary to improve community care services with a view to helping elderly people age at home rather than resorting to residential institution. As such, the Social Welfare Department ("SWD") would roll out the First Phase of the Pilot Scheme in September 2013, and then conduct evaluation on outcome measurement, as well as feedback from service providers and users before launching the Second Phase of the Pilot Scheme.

30. Mr LEUNG Yiu-chung expressed strong dissatisfaction with the repeated emphasis by SLW that elderly care was one of the priorities of the current Government. In Mr LEUNG's view, SLW delivered a message to the public that the Government of the previous term had not put in any effort to improve elderly care. If that was the case, SLW should bear responsibility for it because he was also SLW in the Government of the previous term.

31. SLW explained that the current Government accorded priority to

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elderly care services and was committed to allocating additional resources to launch new initiatives such as the Old Age Living Allowance. The Government had also pledged to strengthen subsidized community and residential care services for needy elderly.

Sites for social welfare facilities

32. On the identification of suitable sites for social welfare facilities, Mr CHAN Chi-chuen said that the Administration should adopt new strategies such as retrieving the land that had been previously granted to private clubs. Mr LEUNG Kwok-hung held the view that SWD should collaborate with other Government departments and bureaux to identify suitable sites for the provision of social welfare facilities.

33. SLW said that the Administration had introduced new strategies in respect of site planning, which included encouraging NGOs to make better use of the land they owned through in-situ expansion or redevelopment. Furthermore, SWD was studying the feasibility of redeveloping the former sites of Siu Lam Hospital in Tuen Mun and Kai Nang Sheltered Workshop and Hostel in Kwun Tong with a view to constructing integrated rehabilitation services centres at the two sites.

34. Mr POON Siu-ping requested the Administration to provide information, in tabular form, on the sites that had been identified including the time when these sites were ready for the provision of welfare services.

35. SLW would brief members on the results of the Administration's efforts in making better use of the land owned by NGOs, through in-situ expansion or redevelopment, for the provision of diversified social welfare facilities in due course. SLW added that from now till 2015-2016, some 1 200 new subsidized residential care places would be provided. The Administration was also exploring the possibility of reserving land or premises in new development or redevelopment projects as well as public rental housing development projects for setting up social welfare facilities.

36. Mr Frederick FUNG requested the Administration to seriously consider building subsidized residential care homes for the elderly and PWDs in Government premises such as public housing, Home Ownership Scheme buildings and Government office buildings. Consideration should also be given to specifying in the land sale conditions the requirement of providing residential care home in future private housing development. Sharing Mr FUNG's view, the Chairman, Mr LEUNG Yiu-chung, and Mr LEUNG Kwok-hung requested the Administration to

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provide specific timetable and roadmap for the provision of additional residential care places to meet the acute demand.

Follow-up action

37. The Chairman suggested that the Panel should further discuss the subject matter of medium and long-term social welfare planning at a meeting to be held in October 2013 when the new Legislative Council ("LegCo") session commenced. Mr Frederick FUNG suggested inviting the Secretary for Development and the Secretary for Transport and Housing to attend the meeting.

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38. Dr Fernando CHEUNG requested SLW to provide written information on the needs for elderly and rehabilitation services in the next five years at the meeting to be held in October 2013.

[To allow sufficient time for discussion, the Chairman extended the meeting for 15 minutes beyond the appointed ending time.]

III. Hong Kong Law Reform Commission Report on Child Custody and Access

[LC Paper Nos. CB(2)1483/12-13(02) to (03) and CB(2)1548/12-13(01) to (02)]

39. At the invitation of the Chairman, SLW briefed members on the results of the public consultation on recommendations of the Law Reform Commission of Hong Kong ("LRC") in relation to its Report on Child Custody and Access ("the Report") and on the way forward, details of which were set out in the Administration's paper. He highlighted that the main thrust of the Report related to the introduction of the new "parental responsibility model" ("the Model") into Hong Kong's family law, emphasizing the continuing responsibilities of both parents towards their children rather than their individual parental rights even after divorce. Underlying the new approach was the principle that the "best interests" of children ("best interest principle") should guide all proceedings concerning children.

40. Permanent Secretary for Labour and Welfare ("PS(LW)") informed members that the Chinese rendition of "parental responsibility model" in paragraph 5 of the Administration's paper should be changed from "共同父母責任模式" to "父母責任模式". She pointed out that both the Hong Kong Bar Association and the Law Society of Hong Kong ("the Law

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Society") considered that the concept of the Model should be better termed as "parental responsibility" rather than "joint parental responsibility" to better reflect Recommendation 12 of the Report, i.e. "the adoption of a provision on the lines of section 2(7) of the Children Act 1989 enabling persons with parental responsibility to act independently, but restricted to the day-to-day care and best interests of the child".

41. PS(LW) apologized for the late provision of the submissions of the Law Society and the Hong Kong Family Law Association ("HKFLA") as annexes to the paper. She explained that these two organizations had all along been advocating for the implementation of the Model, and had requested LWB to forward their submissions for members' reference after her recent meeting with them.

Implementation of the Model by legislative means

42. Mr Albert HO expressed support for the implementation of the Model which, in his view, helped foster the continuing responsibilities of both parents toward their children rather than their individual parental rights even after divorce. Noting that the Report had already been released in March 2005, Mr HO expressed concern about the slow progress of LWB in implementing the Model, and asked the Administration whether it would introduce the relevant bill to LegCo within the current term of the Government. SLW answered in the affirmative.

43. Dr Helena WONG expressed reservations about the introduction of the Model by legislative means, considering that hostile parents might make use of the new consent and notification requirements to obstruct or harass ex-spouses.

44. Dr Fernando CHEUNG pointed out the concerns of women's groups and welfare NGOs, including the Hong Kong Council of Social Service, about the implementation of the Model by legislative means. In their view, implementation of the Model without sufficient support services would inflict further harm on divorced parents who could no longer co-operate with each other, in particular those parents who were victims of family violence.

45. PS(LW) said that LRC had put forward a set of supplementary recommendations in Part C (Recommendation 33 to 41) in response to the concerns by some respondents that the Model could be used by perpetrators of domestic violence to further harass and abuse the ex-spouse and children. For example, the LRC had recommended that the court would have express

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power to make the most appropriate orders/directions upon considering factors affecting the children and taking into account the circumstances of individual cases. The court would also have the express power to vary or dispense with any of the consent or notification requirements where necessary.

46. Mr TANG Ka-piu said that he had reservations about the implementation of the Model by legislative means.

Support services for needy families

47. Mr Albert HO sought information on the provision of complementary support services, such as the availability of social workers and mediators to deal with the disagreements between hostile parents, to ensure the smooth implementation of the Model. In response, SLW said that the Family Council had launched a two-year pilot scheme on family mediation and was currently providing sponsorship to four NGOs to operate mediation services.

48. The Deputy Chairman considered it inadequate to deploy existing support services, such as those provided by Integrated Family Service Centres, to meet the needs of divorced families. He held the view that additional support, including mediation services, should be provided for needy families before and after the divorce proceedings.

49. PS(LW) said that LWB would work with the Law Society, HKFLA and other stakeholders to explore the support services required by needy families.

50. Dr Fernando CHEUNG opined that, in the absence of enhanced support services for divorced families, the implementation of the Model by legislative means was impractical and would give rise to the increase in litigation cases, since the consent and notification requirements might prolong the hostility between divorced parents.

51. SLW responded that the Administration was committed to improving the existing support services and continuing the efforts on the publicity and education front to promote the concept of parental responsibility.

52. Mr TANG Ka-piu pointed out that there was a need to provide specific support services for single fathers to help them overcome problems such as the collection of maintenance payments as well as visitation and access arrangements. He also asked about whether LRC had

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recommended a penalty regime for parents who failed to comply with orders/directions made by the court.

53. PS(LW) replied in the negative. In view of the difficulties encountered by some separated/divorced parents with history of family violence in meeting with their children, Deputy Director of Social Welfare (Services) said that child visitation service for admission to refuge centres/multi-purpose crisis intervention and support centre had been provided since August 2012 under the Victim Support Programme for Victims of Family Violence. With effect from 1 July 2013, the child visitation service had been extended to families with domestic violence living outside the aforesaid centres.

54. Mr LEUNG Kwok-hung said that it was inappropriate to force divorced parents who could no longer co-operate with each other to be jointly involved in the lives of their children. He stressed the importance of rendering protection to needy mothers and children of broken families, and improving the enforcement of maintenance orders and child visitation service.

55. SLW stressed that the best interest of children was the fundamental principle underlying the Model. PS(LW) added that the LRC Report recommended that children should be able to express their views if they so wished. In recent years, the courts had recognized the importance of maintaining direct involvement of both parents in their children's lives as far as possible, and made joint custody orders more frequently than before. She further said that LWB would commence the initial stage of the follow-up work of the Report by, among others, drawing up legislative proposals and implementation arrangements. In the process, LWB would further engage the stakeholders and interested parties.

IV. Review of Disability Allowance

[LC Paper Nos. CB(2)290/12-13(08), CB(2)1483/12-13(04) and CB(2)1548/12-13(03)]

56. At the invitation of the Chairman, PS(LW) briefed members on the development of the review of the Disability Allowance ("DA"), details of which were set out in the Administration's paper. She said that the review was being conducted by the Inter-departmental Working Group on Review of the DA ("the Working Group") set up by LWB to follow up the issue of "allowing people with loss of one limb to apply for DA" as stated by the Chief Executive ("CE") in his Manifesto and Policy Address. The major

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considerations of the Working Group included, among others, ways to address disability levels comparable with or more severe than "loss of one limb" (but not yet severely disabled).

57. PS(LW) added that the Working Group did not have sufficient and the latest statistical data to assess the number of beneficiaries and relevant financial implications of relaxing the eligibility criteria for DA. Nevertheless, a new round of survey of PWDs had been commenced by the Census and Statistics Department ("C&SD"). The survey findings were expected to be available in late 2014. Furthermore, to give a more thorough consideration to the experience of places outside Hong Kong, the Working Group had invited the Central Policy Unit ("CPU") to commission a consultancy to study practices of other places in respect of disability allowances. The study was expected to be completed around early 2014.

Relaxing the eligibility criteria for DA

58. Mr WONG Kwok-hing expressed strong dissatisfaction with the slow progress of LWB in reviewing the eligibility criteria for DA to include people with disability levels comparable with or more severe than loss of one limb. He also criticized LWB for failing to respond to the recommendations put forward in The Ombudsman's 2009 Direct Investigation Report concerning the granting of DA and processing of appeals by SWD. He said according to the Ombudsman, social and environmental considerations should be taken into account in the vetting and approval process, rather than relying solely on doctors to determine applicants' eligibility. The eligibility criteria for DA should be relaxed so that the level of functional disability of the applicant, rather than his/her total loss of earning capacity, would be considered. He further requested LWB to set a timetable for the Working Group's review.

59. Mr WONG Kwok-hing also suggested relaxing the eligibility criteria for the Public Transport Fare Concession Scheme for the Elderly and Eligible Persons with Disabilities ("the Concession Scheme") to include people with loss of one limb.

60. PS(LW) said that the Working Group would wish to take account of the new round of survey on PWDs conducted by C&SD and CPU's consultancy study. The Working Group would endeavour to complete its review before the end of 2014. She added that the proposal to relax the eligibility criteria for the Concession Scheme to cover people with loss of one limb was being considered by the Working Group in that context.

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61. Mr Frederick FUNG cited the experience of the government of Spain in providing support for PWDs. Under the social welfare regime of Spain, PWDs were categorized according to their levels of disability, i.e. 30%, 60% or 100%. On the employment front, to help people with 30% disability to get employed, the Spanish government provided financial incentives for employers, who employed PWDs, to pay wages and procure assistive equipment. As for people with 60% disability with working capacity, a social worker was arranged to provide specific services for a group of five to six disabled people, for about one to two years, to help them get employed. Mr FUNG strongly requested the Administration to make reference to the Spanish practice in reviewing the definition of "severely disabled". He said that while LWB might not go so far as to categorize level of disability as 30%, 60% and 100%, it should at least divide it in two categories, i.e. 50% and 100%. PS(LW) undertook to liaise with the consultant to be commissioned by CPU to include in its study the Spanish practice.

62. Mr Alan LEONG expressed disappointment that the issue of "allowing people with loss of one limb to apply for DA" remained unresolved, although it was clearly stated in CE's Manifesto and Policy Address. To strengthen the protection of PWDs, he considered it necessary to make structural change to the existing eligibility criteria for DA and conduct comprehensive review of the definition of "severely disabled" under DA.

63. PS(LW) assured members that the Working Group would continue to press ahead with the review at full steam, and explore whether to relax the eligibility criteria for DA to disability levels comparable with or more severe than loss of one limb.

64. Dr Fernando CHEUNG pointed out that in its 2009 Direct Investigation Report, The Ombudsman put forward the views that, among others, the reference of "100% loss of earning capacity" in the eligibility criteria for DA was misleading and quite irrelevant, and the eligibility criteria for DA should be refined to facilitate objective medical assessment. He was concerned that LWB had yet to take on board the recommendation of The Ombudsman.

65. Mr LEUNG Kwok-hung and Mr Frankie YICK also considered it important to comprehensively review the definition of "severely disabled" under DA.

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Survey on PWDs

66. Mr TANG Ka-piu asked about the rationale for the Working Group, in its review of the eligibility criteria for DA, to make reference to the findings of the new round of survey of PWDs by C&SD, given that the findings would not be available until late 2014. He further asked whether LWB was concerned about the financial implications to be brought about by the large number of PWDs if it relaxed the eligibility criteria for DA to include people with disability levels comparable with or more severe than loss of one limb.

67. Mr LEUNG Yiu-chung asked LWB about the reason for not compiling its own statistical data for assessing the number of PWDs in its review of the eligibility criteria for DA, but relied on those provided by C&SD. PS(LW) said that the new round of survey by C&SD would provide updated information on the number of people with different levels of disability in broad terms. LWB would report to the Panel on the latest development in due course.

68. Mr POON Siu-ping sought information on whether the findings to be released in the new round of survey by C&SD would be sufficient for LWB to assess the number of beneficiaries and financial implications of the relaxation of eligibility criteria for DA to disability levels comparable with or more severe than loss of one limb.

69. Assistant Commissioner for Census and Statistics (Social), C&SD said that although a survey of PWDs had been carried out in 2006-2007, it did not include information on the various levels of disability of respondents. C&SD had commenced a new round of survey of PWDs, collecting additional information on the respondents' severity of disability in broad terms for selected types of disabilities, the results of which, although still with limitations, could facilitate LWB in conducting a more effective review of the eligibility criteria for DA.

Consultancy study commissioned by CPU

70. Mr LEUNG Yiu-chung expressed grave concern about the role played by CPU in the review. He did not see the point of inviting CPU to commission the consultancy study for LWB, since it had been the Government practice that individual bureaux/departments might directly commission consultants to carry out study on policy issues when necessary. He was concerned that it was a Government order that all consultancy studies should be centrally arranged by CPU.

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71. Mr Frankie YICK expressed the view that LWB should not involve CPU in commissioning a consultant to study practices of other places in respect of disability allowances.

72. PS(LW) responded that CPU was invited to commission the consultancy on behalf of LWB and CPU was no more than an agent for LWB in dealing with the commissioning matters. She clarified that CPU was not a member of the Working Group and had no role to play in policy making. Having regard to members' views, she would explore whether LWB could take over the commissioning work to avoid misunderstanding.

The Medical Assessment Form and medical assessment

73. Chief Manager (Primary & Community Services), Hospital Authority said that the main duties of doctors were to perform diagnosis and give treatment to patients, but not the assessment of degree of disability. She explained that under the established practices, doctors of the Department of Health ("DH") or the Hospital Authority ("HA") assessed the eligibility of DA applicants based on the definition and a set of criteria prescribed under the DA's Medical Assessment Form ("MAF") to certify whether the applicants are severely disabled by ticking the box(es) in the MAF that best described the disabling condition of applicants. The completed MAF would then be forwarded to SWD for consideration in its vetting and approval process. She added that it was possible for doctors to assess the disability condition of people with loss of one limb as long as the relevant criteria were well defined and definition of loss of one limb was clearly stated in MAF.

74. Dr LEUNG Ka-lau expressed the view that doctors' assessment was purely medical, and doctors should not assess other factors affecting DA applications. According to the existing practices, doctors of DH and HA indicated the disabling condition of DA applicants by completing the MAF. If an applicant's disabling condition did not fall into the categories listed on MAF which had been defined as in a position broadly equivalent to 100% loss of earning capacity, e.g. loss of functions of two limbs, the doctor concerned would then assess whether the applicant was "severely disabled" within the meaning of DA by making reference to the guidelines listed on the Checklist for Medical Assessment of Eligibility for Normal Disability Allowance for Disabilities other than Profound Deafness ("the Checklist").

75. Dr LEUNG Ka-lau suggested that to enable clear documentation of all factors considered by doctors in their assessment and to facilitate

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doctors' systematic consideration of all relevant eligible criteria, the guidelines listed on the Checklist should be moved to MAF, including the specification that an applicant was considered in a position broadly equivalent to 100% loss of earning capacity and thus eligible for Normal DA if his/her physical or mental impairment or other medical conditions had resulted in a significant restriction or lack of ability or volition to perform the activities in daily living listed on the Checklist to the extent that substantial help from others were required.

76. Dr LEUNG Ka-lau further suggested that another criterion should be added to the effect that an applicant should be considered eligible for DA if his/her physical or mental impairment had caused him/her to incur additional medical expenses. Dr LEUNG stressed that his suggestions would not in any way affect the established eligibility criteria for DA. PS(LW) noted Dr LEUNG's suggestions.

[To allow sufficient time for discussion, the Chairman suggested and members agreed that the meeting should be further extended for 10 minutes beyond its appointed ending time.]

77. Mr LEUNG Yiu-chung requested LWB to address the difficulties faced by doctors in assessing the disabling condition of DA applicants by openly discussing the matter with doctors.

78. Deputy Director of Social Welfare (Administration) ("DDSW(A)") responded that to follow up on The Ombudsman's recommendations, SWD had set up a Working Group on Review of the Mechanism for Implementing the DA Scheme ("the Review Group") in November 2009. The Review Group had refined and updated the guidelines, including the work flow of relevant departments/organizations, MAF and the Checklist used in medical assessments, in order to achieve better consistency and enhance objectiveness in conducting medical assessments, while meeting the existing policy intent of DA. The recommendations were reported to the Panel on Welfare Services.

79. Both Dr Fernando CHEUNG and Mr TANG Ka-piu considered that some of The Ombudsman's recommendations could be implemented immediately, such as the review of the reference to "100% loss of earning capacity", and revising the content and format of MAF.

80. PS(LW) replied that the layout and content of the proposed MAF had been revised by SWD's Working Group as referred to by DDSW(A) earlier on to improve the entry and presentation of information. Mr TANG Ka-piu

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however pointed out that the reference to "100% loss of earning capacity" still appeared as a footnote in the new MAF.

81. DDSW(A) said that the policy intent of DA was to offer financial assistance for the severely disabled. He added that issues relating to the relaxation of the eligibility criteria for DA to disability levels comparable with or more severe than loss of one limb were being considered by the Working Group. PS(LW) agreed to consider the views and concerns of members over the reference to "100% loss of earning capacity" in MAF, and revert to members before the end of 2013.

82. In concluding the discussion, the Chairman said that the Panel should follow up the subject matter of review of DA at the first regular meeting of the next LegCo session. The Administration should revert to members on its follow-up on The Ombudsman's recommendations put forward in its 2009 Direct Investigation Report at the meeting, including the review of the content and layout of MAF. The Administration should also provide information on its consideration of relaxing the Concession Scheme to include people with loss of one limb, and the involvement of CPU in commissioning the consultancy study for LWB.

83. The Chairman informed members that Mr TANG Ka-piu had requested to move a motion on the subject matter under discussion. She said that the motion could not be dealt with at the meeting as it was presented to her after the appointed ending time of the meeting, i.e. after 12:45 pm.

V. Any other business

84. There being no other business, the meeting ended at 1:09 pm.