

**立法會**  
**Legislative Council**

LC Paper No. CB(2)875/13-14  
(These minutes have been  
seen by the Administration)

Ref : CB2/PL/WS

**Panel on Welfare Services**

**Minutes of meeting**  
**held on Monday, 9 December 2013, at 9:45 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 TAM Yiu-chung, GBS, JP  
Hon Frederick FUNG Kin-kee, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Dr Hon LEUNG Ka-lau  
Hon LEUNG Kwok-hung  
Hon WONG Yuk-man  
Hon Frankie YICK Chi-ming  
Hon Gary FAN Kwok-wai  
Hon CHAN Chi-chuen  
Dr Hon KWOK Ka-ki  
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 Alan LEONG Kah-kit, SC  
Hon CHAN Han-pan  
Hon LEUNG Che-cheung, BBS, MH, JP

**Members attending** : Hon LEE Cheuk-yan  
Hon WONG Kwok-hing, BBS, MH

**Public Officers : Item III  
attending**

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

Professor Nelson CHOW, GBS, JP  
Honorary Professor  
Department of Social Work and Social Administration  
The University of Hong Kong

Dr Juanita HO  
Honorary Principal Lecturer  
Department of Social Work and Social Administration  
The University of Hong Kong

Professor CHAN Wai-sum  
Professor  
Department of Finance  
Business School  
The Chinese University of Hong Kong

Professor WONG Yu-cheung  
Associate Professor  
Department of Social Work  
The Chinese University of Hong Kong

**Items III to V**

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

**Item IV**

Ms Jane LEE  
Principal Assistant Secretary for Labour and Welfare  
(Poverty)  
Labour and Welfare Bureau

Items IV and V

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

Item V

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

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

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

Miss Maggie CHIU  
Legislative Assistant (2) 4

Action

---

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

[LC Paper Nos. CB(2)291/13-14(01), CB(2)353/13-14(01) and CB(2)439/13-14(01)]

Members noted that the following papers had been issued since the last meeting –

Action

- (a) referral from the Public Complaints Office relating to shortage of supporting staff in the social welfare sector [LC Paper No. CB(2)291/13-14(01)];
- (b) referral from the Public Complaints Office regarding problems of street sleeping [LC Paper No. CB(2)353/13-14(01)]; and
- (c) letter dated 4 December 2013 from Hon TANG Ka-piu requesting the Panel to discuss as soon as possible the converting of the temporary post of Programme Worker to a permanent post [LC Paper No. CB(2)439/13-14(01)].

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

[LC Paper Nos. CB(2)417/13-14(01) and (02)]

2. Referring to his letter dated 4 December 2013 requesting the Panel to discuss the converting of the temporary post of Programme Worker to a permanent post (LC Paper No. CB(2)439/13-14(01)), Mr TANG Ka-piu said that as the temporary posts were due to lapse in March 2014 and a large number of post holders would be affected, the Panel should discuss the matter as soon as possible.

3. The Deputy Chairman said that the Administration should brief members on the arrangements for Programme Workers at the next regular meeting scheduled for 13 January 2014. He suggested that representatives from the Hong Kong Council of Social Service and the deputation who had attended the case conference in September 2013 be invited to give views at the meeting. The Chairman said that the Panel should deal with the policy issues arising from the case and due to time constraint, the Panel could not invite more deputations to attend the meeting. Members agreed.

4. Members agreed that the Panel should discuss at the next meeting the following items –

- (a) Shortage of supporting staff (including Programme Workers) in the social welfare sector;
- (b) Ways to improve situation of mandated refugees, torture claimants and asylum seekers in Hong Kong; and
- (c) Pilot scheme on community care service voucher for the elderly.

Action

Activation of subcommittees under the Panel

5. The Chairman said that of the three subcommittees under the Panel, namely the Joint Subcommittee on Long-term Care Policy ("the Joint Subcommittee"), the Subcommittee on Retirement Protection ("the RP Subcommittee") and the Subcommittee on Strategy and Measures to Tackle Domestic Violence ("the Domestic Violence Subcommittee"), the latter two were currently on the waiting list. As the RP Subcommittee was anticipated to be activated in February 2014 and the number of subcommittees under each Panel operating at the same time should not exceed two, the Chairman suggested that the Joint Subcommittee should continue its operation until July 2014 and the Domestic Violence Subcommittee should be activated when a vacancy arose from the completion of work of the Joint Subcommittee. Members agreed.

Follow-up to matters discussed at the special meeting on 19 November 2013

6. As the Panel's discussion at the special meeting on 19 November 2013 focused on downstream issues relating to drug treatment and rehabilitation services, the Deputy Chairman suggested that the Panel on Security should follow up the upstream issues on drug testing and receive public views. Mr TANG Ka-piu said that to his understanding, the Panel on Security would soon discuss the subject matter.

*(Post-meeting note: The Panel on Security would discuss "RESCUE Drug Testing Scheme: Public Consultation" and receive views from deputations at its meeting on 7 January 2014.)*

**III. Study on retirement protection in Hong Kong**

[LC Paper Nos. CB(2)417/13-14(03) and (04)]

7. At the invitation of the Chairman, Secretary for Labour and Welfare ("SLW") briefed members on information related to the "Study on Retirement Protection in Hong Kong" ("the Study") being conducted by a consultancy team under Professor Nelson CHOW's leadership.

Work of the consultancy team

8. At the invitation of the Chairman, Professor Nelson CHOW informed members of the work of the consultancy team. He said that the Study comprised three phases. The first phase covered analysis on elderly

Action

poverty, retirement protection systems in some 20 countries and places, the ageing situation of Hong Kong in the next 30 years and the major proposals on retirement protection from different political parties and community groups. The consultancy team had completed the first phase of the Study in August 2013. The second phase of the Study would focus on collecting views from political parties and concern groups. Three public engagement forums would be organized in December 2013 to collect views on retirement protection. The consultancy team hoped to complete the collection of views by the end of 2013. It would then analyze the data collected and select the proposals which could be used for conducting 30-year actuarial projections. The consultancy team would select five to six representative proposals for the projections.

9. Professor Nelson CHOW further said that the third phase of the Study would be the drafting of the report of the Study, which would commence in early 2014. The consultancy team would try to provide a preliminary report to the Social Security and Retirement Protection Task Force of the Commission on Poverty ("the Task Force") and the final report would be submitted to the Task Force by mid-2014. Before submitting the final report to the Task Force, the consultancy team would request the proposers to confirm the consultancy team's understanding of their proposals.

Scope of the Study

*Efficacy of the three pillars in retirement protection*

10. Mr WONG Yuk-man queried the usefulness of the five studies on retirement protection conducted by the Central Policy Unit ("CPU"). He expressed concern about the efficacy of the three-pillar (social security for the elderly, Mandatory Provident Fund ("MPF") and voluntary private savings) model in protecting the retirement life of elders. In his view, the current Comprehensive Social Security Assistance ("CSSA") level was inadequate to meet the daily living needs of CSSA recipients and many people could hardly have any savings because of the rising living costs. A consensus had already been reached in the society that the MPF system should be abolished. He said that the World Bank had added two pillars to the three-pillar model in 2005, i.e. a non-contributory basic pension plan financed by the Government; and non-financial support including access to informal support (e.g. family support), other formal social security programmes (e.g. healthcare and/or housing), and other individual financial and non-financial assets (e.g. home ownership and reverse mortgages where available). Instead of examining the three-pillar model, the

Action

Administration should expand the retirement protection model by making reference to the five-pillar model.

11. Mr WONG Kwok-hing said that the labour sector and many trade unions had always criticized the offsetting arrangement under the MPF Scheme, i.e. allowing employers to use their contributions to the MPF Scheme for offsetting severance payments or long service payments. The labour sector expressed grave concern that, under such an arrangement, the MPF system could not provide employees with retirement protection. He enquired about whether the consultancy team would look into the matter and make suggestions to address the problem.

12. Mr WONG Kwok-hing further said that many men aged between 60 and 64 and women aged between 55 and 64 had difficulties in finding permanent jobs. As they could not withdraw their MPF benefits because of the age requirement and some of them were ineligible for CSSA, they were facing financial hardship. He asked whether the Study would cover this issue and the offsetting arrangement under the MPF Scheme.

13. Professor Nelson CHOW responded that the focus of the Study was to analyze the views collected and the consultancy team would draw up its observations from the analysis. The consultancy team had received many views against the offsetting arrangement under the MPF Scheme. There were also views that the eligible age for retirement protection should be lowered to 60. He said that the consultancy team would truly reflect the views collected in its report but specific recommendations should be made by the Task Force.

14. Mr TANG Ka-piu was of the view that the MPF Scheme was ineffective in providing retirement protection. He said that the Hong Kong Federation of Trade Unions ("HKFTU") had submitted its proposal to the consultancy team suggesting that the Administration should make use of the Land Fund, which had a balance of around \$210 billion, to contribute to the retirement protection scheme. HKFTU considered that the retirement protection system should be a contributory system to which the Government, employers and employees should contribute.

15. Mr TANG Ka-piu said that neither the Mandatory Provident Fund Schemes Authority ("MPFA") nor the Financial Services and the Treasury Bureau could provide information on the number of MPF scheme members who had received benefits at a level higher than their contributions when they withdrew the benefits upon retirement. He asked whether the consultancy team had conducted any survey in this regard.

Action

16. Professor Nelson CHOW said that the consultancy team would consider selecting the HKFTU's proposal as one of the proposals for making the projections. As regards the question on MPF benefits, he said that the consultancy team did not have the information. To his understanding, MPFA had conducted a survey in 2011 on the performance of MPF between 2000 and 2010. According to the survey result, the average MPF return was more than 5%.

17. In response to Dr Fernando CHEUNG and Mr TANG Ka-piu's enquiry about the consultancy team's approach in handling the proposals received, Professor Nelson CHOW said that the consultancy team would select six proposals at most for the projections. The consultancy team would not give ratings to the proposals but would list out their strengths and weaknesses for consideration by the Task Force.

18. Mr LEUNG Kwok-hung said that if employees were to contribute to the retirement protection scheme as suggested by HKFTU, they should have more take-home pay. The Administration should raise the Statutory Minimum Wage rate to \$35 per hour and impose control on property price. He enquired about whether the Administration had set any policy direction for the Study.

19. SLW responded that as set out in paragraph 6 of the Administration's paper (LC Paper No. CB(2)417/13-14(03)), the objective and direction of the Study would cover literature review on retirement protection; analysis of experiences of other places in implementing their retirement protection systems; collection and analysis of relevant data, including focus group discussions and interviews; and data analysis and projections on the major proposals put forth by the community. The result of the Study would provide a basis for future deliberations and the Administration would follow up the Task Force's recommendations.

Universal retirement protection

20. The Deputy Chairman said that according to the result of a survey conducted by a community group, about 80% of the respondents, who included young people, were in support of universal retirement protection. He asked whether the consultancy team would include universal retirement protection in the Study.

21. Mr LEUNG Yiu-chung said that the proposals selected by the consultancy team should be workable for implementing universal retirement protection. He sought information on the basis of selecting the proposals by the consultancy team.



## Action

22. In response, Professor Nelson CHOW said that the consultancy team would categorize the proposals received according to their directions such as maintaining a status quo, improving the existing three-pillar model, implementing universal retirement protection, etc. The consultant team would select proposals from each category for projections according to their representativeness. These proposals should follow the major principles set by the World Bank, i.e. there should be adequate protection for retirees and the retirement protection scheme should be sustainable and financially viable. Of the views received so far, many supported universal retirement protection but a number of political parties and community groups had reservations about it. Given the strong views on universal retirement protection, more than one proposal in this category would be selected for projections. The consultancy team would conduct the Study in an objective and prudent manner and would not have inclination towards any particular proposal.

### Retirement age

23. Noting that the consultancy team had used 65 as the retirement age for the purpose of the Study, Mr POON Siu-ping asked whether there would be any connection between the Study and the outcome of public engagement exercise on population policy as far as retirement age was concerned.

24. Professor Nelson CHOW responded that a line had to be drawn on retirement age for the purpose of analysis. As the majority of places in the world had set the retirement age at 65, the consultancy team had used the same age for the Study. The consultancy team would look at the consultation report on population policy in detail and report its findings to the Task Force. In his view, it would be more appropriate for the Chief Secretary for Administration who was the chairperson of both the Task Force and the Steering Committee on Population Policy ("SCPP") to decide how the issue of retirement age under the two studies should be handled.

### Retirement payment rate and Government's affordability

25. Pointing out that there were diverse views on the imposition of means-test on the retirement protection scheme, the Deputy Chairman asked whether the consultancy team would look into issues relating to stigmatization thus caused. He also sought information on whether the consultancy team would recommend the criteria for setting the rate of retirement payment and its assessment of the amount the Government could afford in a year.

Action

26. Professor Nelson CHOW responded that in studying the rate of retirement payment, the consultancy team would follow the principles adopted by the World Bank in its multi-pillar model. The consultancy team was studying the use of replacement ratio and would make reference to overseas practices. The consultancy team would project the amount to be contributed by different parties under the selected proposals but would not draw any conclusions about the Government's affordability.

27. In response to the Deputy Chairman's enquiry about whether seed fund would be set up for the retirement protection scheme, Professor Nelson CHOW said that the issue would be examined if the consultancy team received such a view.

28. The Deputy Chairman said that given that the rate of increase of the elderly population might start to slow down starting from 2070, making projections beyond 2070 might be useful for assessing the sustainability of the retirement protection system in future.

29. In response, Professor CHAN Wai-sum, a member of the consultancy team, said that the 30-year projections were based on the 2011 Population Census conducted by the Census and Statistics Department. Making projections beyond 30 years would require data on Hong Kong's future demographic structure, economic situation, inflation rate, etc. Given the substantial amount of work involved in compiling the data, it would be difficult for the consultancy team to make such projections. Furthermore, larger errors of estimations were expected for projections beyond 30 years.

30. The Deputy Chairman said that the purpose of making projections beyond 30 years was to convince the Administration to continue with the retirement protection scheme as its financial commitment to retirement protection would gradually reduce. Estimation errors could be presented to the Administration so that it could be aware of the limitations of the projection. Professor CHAN Wai-sum said that he would consider the Deputy Chairman's suggestion but it would be difficult to quantify estimation errors.

Upholding value of elderly persons

31. Mr Frederick FUNG and Dr Fernando CHEUNG said that retirement protection was a right rather than welfare and hence should not be studied from the poverty alleviation perspective. Mr Frederick FUNG said that

Action

there was a good universal retirement protection system in Japan to which the government, employers and employees were required to contribute. The contributions from employers and employees to the scheme had decreased because of the reduction in the working population in Japan. The Japanese government had decided to increase the sales tax for providing sufficient funds for the scheme. To his understanding, the general public in Japan accepted using government revenue to maintain the scheme as they considered that the contributions of the elderly to the society should be duly recognized. He said that in considering retirement protection for the elderly, the Administration should capitalize values of the retirement protection system in Japan which stemmed from respecting elderly persons. Pointing out that the Task Force, SCPP and the working group under the Office of the Financial Secretary ("FS") were dealing with different elderly issues, he was concerned that values of elderly persons would be neglected. He enquired whether the Administration would uphold value of elderly persons in the form of providing them with retirement payment.

32. SLW responded that the Administration was pragmatic and open-minded towards retirement protection. The Administration paid due respect to the elderly and appreciated their contributions to the society. The Administration had all along promoted caring for the elderly and on the advice of the Elderly Commission, various elderly care measures had been formulated. He believed that the consultancy team would include the views on the value of elderly persons in the Study.

33. Professor Nelson CHOW said that Japan was one of the major countries in the consultancy team's analysis. Most of the proposals received so far had emphasized that retirement protection was a fundamental right and the consultancy team would take note of it in conducting the Study.

Implementation timetable for retirement protection

34. Dr Fernando CHEUNG said that an implementation timetable for retirement protection was pivotal. He sought information on the approach the Administration would adopt in taking forward the retirement protection scheme.

35. SLW responded that given the importance of the subject, the Task Force would study carefully the proposals contained in the final report of the Study and assess their short, medium and long-term feasibility. Consultations would be conducted to receive public views. The

Action

Administration would endeavor to complete the necessary work as soon as practicable.

36. Since considerable time would be required for conducting public consultation and completing the necessary legislative procedures, Mr TANG Ka-piu expressed concern about whether the retirement protection scheme could be introduced within the current term Government as anticipated by the public.

37. SLW responded that the Government attached great importance to retirement protection. The Task Force would examine the final report of the consultancy team and deliberate the way forward. The Administration did not have a timetable and route map at this stage.

38. Dr Fernando CHEUNG and Mr LEUNG Kwok-hung criticized that notwithstanding that the subject had been discussed at length in the community, the Administration had yet to map out any conceptual framework for the retirement protection scheme. The Chairman said that the subject of retirement protection had been widely discussed and the community had high expectation that the current term Government would introduce a retirement protection scheme. She expressed dissatisfaction about the long delay in finalizing a retirement protection scheme by the Administration. They called on the Administration to draw up a concrete plan, including the period for public consultation, to follow up the final report of the Study.

39. Pointing out that CPU had been studying retirement protection for years and the working group under the FS's Office had been formed to study the impact of the ageing population on economic development of and financial strategies for Hong Kong, Dr Fernando CHEUNG asked whether there was collaboration between the two in relation to retirement protection. He was also concerned about the transparency of their work.

40. SLW responded that the Administration would discuss with the Task Force the way forward and the timetable.

41. The Deputy Chairman was doubtful about the Administration's commitment to taking forward retirement protection in the absence of a timetable. He urged the Administration to accede to the requests of members and community groups and provide a timetable.

42. Mr LEE Cheuk-yan expressed great disappointment and dissatisfaction that the Administration had no commitment to retirement

Action

protection. In his view, the problem of elderly poverty would persist if there was no protection for retirees. He called on the Administration to provide a concrete timetable and asked whether there would be public consultation on the Task Force's proposal on retirement protection.

43. Dr Fernando CHEUNG said that the elderly poverty situation in Hong Kong had worsened in the past 10 odd years despite economic growth. In his view, the Government was irresponsible. SLW and the officials concerned should reflect and work for the well-being of the elderly people. Expressing concern that the Administration might use the need for conducting further studies as an excuse to defer the implementation of retirement protection, Dr Fernando CHEUNG suggested that the consultancy team recommend one or two proposals for the public to vote on.

44. SLW responded that engaging the consultancy team to conduct the Study had signified that the Administration had attached great importance to the subject of retirement protection. He reiterated that the Task Force would seriously examine the final report of the Study and interact with the public with a view to adopting the most suitable scheme for the community. It was the Administration's hope to map out the direction of retirement protection within the current term Government. He hoped that members would give the Administration some time to discuss with the Task Force upon completion of the Study.

45. Mr Albert HO was worried that a retirement protection scheme could not be implemented within the current term Government in view of the lengthy legislative process. He enquired about whether there would be an interim report of the Study outlining the major views and arguments, complementary policies, financial implications, etc. under different proposals.

46. Professor Nelson CHOW responded that under the contract with the Administration, the consultancy team was required to provide a progress report on the Study to the Task Force by the end of December 2013. The progress report would cover the proposals received and those selected for projections.

Public access to Study report

47. In response to Mr Albert HO's enquiry about whether the progress report would be made available to the public, SLW said that he hoped that the public could have access to the report. The matter would be dealt with by the Task Force.

Action

48. Mr LEUNG Yiu-chung said that it was unnecessary to study the existing three-pillar model as it was proven ineffective. The Administration should not try to evade members' questions on the timetable for implementing retirement protection. With the concrete time frame for the Study, the Administration should immediately work out a timetable and the blueprint for the work in relation to retirement protection. The public should have the opportunity to discuss the final report of the Study. He suggested that in setting the consultation period for retirement protection, the Administration could make reference to the period of the public engagement exercise on population policy i.e. five months. He urged the Administration to provide a timetable and blueprint at the next Panel meeting.

49. Regarding the suggestion of making the final report public, Professor Nelson CHOW said that making the report public might not be the best arrangement as it might cause confusion. However, it would be up to the Administration to decide on how the final report should be handled.

50. Professor Nelson CHOW further said that the consultancy team hoped that the Study could provide an objective and scientific basis for deliberations of future development of retirement protection. It was the consultancy team's hope that the Study would be able to perfect the retirement protection system, thereby bringing about better protection for retirees. He assured members that the consultancy team would reflect the views collected honestly and faithfully.

51. The Chairman said that while she understood that a focused discussion might be difficult if the final report was made public, she urged the Administration to ensure transparency in the course of collecting public views on its final proposal. She added that the Administration should address the concerns of members and the public about the implementation timetable for retirement protection and implement proposal(s) arising from the study within the current term Government. She said that HKFTU hoped that a universal retirement protection system would be implemented as soon as possible.

Follow-up action

52. Mr TANG Ka-piu suggested that in view of the community's concern over the subject, deputations who had solid proposals on retirement protection should be invited to give their views at a Panel meeting.

Action

53. The Chairman said the matter could be followed up by the RP Subcommittee of the Panel which was expected to commence operation in February 2014.

**IV. Extension of the Principal Assistant Secretary (Poverty) post**  
[LC Paper Nos. CB(2)417/13-14(05) and (06)]

54. At the invitation of the Chairman, Permanent Secretary for Labour and Welfare ("PS(LW)") briefed members on the Administration's proposal to retain one supernumerary post of Administrative Officer Staff Grade C (D2) in the Labour and Welfare Bureau ("LWB") for a further period of around three years and three months from 10 March 2014 until 30 June 2017, to continue providing dedicated support to LWB's work on poverty alleviation.

55. Dr Fernando CHEUNG said that since the Child Development Fund ("CDF") projects and the short-term food assistance service projects had been operating for many years, the relevant work should have been absorbed by permanent staff. If the Administration considered that these projects required on-going staffing support, it should make the supernumerary post permanent. Pointing out that the proposed retention of the supernumerary post, if approved, would have been retained for nine years by June 2017, Dr Fernando CHEUNG queried its short-term nature and the justifications for its retention.

56. PS(LW) responded that due to the reinstatement of the Commission on Poverty ("CoP"), the supernumerary post, which was designated as Principal Assistant Secretary (Poverty) ("PAS(P)"), was also required to coordinate LWB's efforts in relation to the work of CoP and its task forces. While some poverty alleviation tasks had been taken up by permanent staff in LWB, policy co-ordination on LWB's poverty alleviation work, and new developments such as the pilot of school-based approach to extend the reach of CDF projects, should be handled by PAS(P). The exact duties carried out by PAS(P) had also been adjusted over time, in tandem with the Government's latest plan on poverty alleviation. The Administration would keep in view the development and review the continued need for the post in 2017, including whether it should be made permanent. In view of the long retention period of the post, Dr Fernando CHEUNG said that he was not convinced by the Administration's explanation of its proposal to retain the post.

57. Given that one of PAS(P)'s responsibilities was to support the work of CoP, Mr TANG Ka-piu expressed concern about whether the post holder

Action

had the required expertise to handle poverty-related issues and important subjects such as social security and retirement protection. He sought information on whether PAS(P) would also support the Administration in handling issues relating to the low-income working family allowance and retirement protection.

58. PS(LW) responded that the main duties of PAS(P) were to provide support to the Secretary for Labour and Welfare in carrying out poverty alleviation work as well as coordinating relevant work within LWB. PAS(P) was doing the preparatory work on the subject of providing further assistance to low-income working families.

59. Mr TAM Yiu-chung said that while the supernumerary post might be suitable for policy studies or work coordination, it might not be suitable for the on-going implementation of policies. In his view, it might be premature to make the supernumerary post permanent at this stage. With poverty alleviation measures coming on stream, he expressed support for the Administration's proposal to retain the post until 30 June 2017.

60. The Chairman said that the Administration should review the time-limited nature of the supernumerary post taking into account members' views.

61. In response to the Chairman's invitation of views, members present supported in principle the submission of the relevant staffing proposal to the Establishment Subcommittee for consideration.

**V. Amendments to the medical assessment form for Disability Allowance under the Social Security Allowance Scheme**  
[LC Paper Nos. CB(2)417/13-14(07) and (08)]

62. At the invitation of the Chairman, PS(LW) briefed members on the revisions to the medical assessment form ("MAF") for the Disability Allowance ("DA") proposed by the Inter-departmental Working Group on Review of DA ("the Review Group").

*(The Deputy Chairman took the Chair at this juncture in the absence of the Chairman.)*

Removing the applicant's ability to "work in the original occupation and performing any other kind of work" from the list of daily activities

63. Dr LEUNG Ka-lau said that the Ombudsman had not recommended, in the Direct Investigation Report on "Granting of Disability Allowance



Action

and Processing of Appeals by the Social Welfare Department" ("the Investigation Report"), to remove the applicant's ability to "work in the original occupation and performing any other kind of work for which he/she is suited" (hereunder referred to as "the condition") in the Checklist for Medical Assessment of Eligibility for Normal Disability Allowance for Disabilities other than Profound Deafness ("the Checklist"). In his view, the Review Group's proposed removal of the condition would cause great disputes because it would render those persons with severe disability (e.g. with loss of one limb), who were currently assessed by doctors as eligible for DA, become ineligible. He pointed out that the ex-DA applicant, who had lodged a judicial review case, challenged the decision of the Social Welfare Department ("SWD") and the Social Security Appeal Board but not the professional judgment of the doctor concerned.

64. Dr LEUNG Ka-lau further said that "working in the original occupation and performing any other kind of work for which he/she is suited" (從事原有的職業及擔任其適合的任何其他種類的工作) was difficult to comprehend. According to the Administration, "performing any other kind of work for which he/she is suited" (擔任其適合的任何其他種類的工作) meant that a person needed substantial help from others in performing any other kind of work for which he/she is suited because of the disability. If it was the case, the Administration should simply state so. To him "performing any other kind of work for which he/she is suited" meant that the kind of work a person could perform before he/she became disabled. Based on this understanding, an applicant with severe disability (e.g. loss of one limb) should be eligible for DA if he/she satisfied the condition. He reiterated that the condition should be retained as it was important in the assessment of the impact of an DA applicant's disability on his/her ability to work.

65. Dr LEUNG Ka-lau added that although the Ombudsman had recommended that the eligibility for DA should be assessed by a multi-disciplinary team, SWD and the Hospital Authority ("HA") had insisted that the assessment should be conducted by doctors. It, however, should not constitute a reason to remove the condition from the Checklist. Sharing Dr LEUNG's view, the Deputy Chairman said that the Administration should not remove the condition for administrative convenience. Instead of putting the burden on doctors, the Administration should establish a team for conducting the assessment of eligibility for DA.

66. Dr LEUNG Ka-lau supported the Administration's proposal to remove the reference to "100% loss of earning capacity". He said that this reference was misleading since it was stipulated in the Checklist that an

Action

applicant who had met the conditions contained therein would be eligible for DA even though they had taken up employment. In his view, the existing MAF allowed doctors to certify the eligibility for DA of an applicant with severe disability (e.g. loss of one limb) if his/her disability had affected his/her ability to work. For the benefit of these persons, the existing MAF should be used unless the Administration agreed to retain the condition in the new MAF.

67. PS(LW) responded that the Ombudsman had stated in the Investigation Report that since April 2007, HA had repeatedly urged SWD to review the eligibility criteria and MAF as doctors had difficulty in assessing whether an applicant needed substantial help in “working in the original occupation and performing any other kind of work for which he/she is suited”. The Ombudsman also opined that although doctors had expressed difficulty in making assessment in this regard, SWD maintained that doctors were fully competent to make all necessary assessments prescribed in MAF and that SWD staff were not in a position to challenge a medical assessment. This had left a void in the assessment of this eligibility criterion and raised the question whether this criterion had actually been taken into account in assessments. Having regard to the Ombudsman's observation and doctors' views collected by the Review Group, the Administration proposed to remove the condition as a criterion for assessment.

68. Chief Manager (Primary & Community Services) of HA ("CM(P&CS)") supplemented that many doctors of HA had all along requested the Administration to remove the condition from the Checklist as they found it difficult to assess an DA applicant's ability to "work in the original occupation and performing any other kind of work for which he/she is suited" because it involved social and environmental consideration. She said that as doctors should be responsible for making medical assessments rather than assessments of working ability, retaining the condition in the Checklist would cause misunderstanding, and would therefore cause disputes and result in poor relationship between patients and doctors. According to the views collected from the committees of different specialties in HA and representatives of the seven hospital clusters, doctors of HA were in support of the removal of the condition.

69. Pointing out that the condition was only one of the four activities in daily living for assessing whether a DA applicant was severely disabled within the meaning of the DA Scheme and that an applicant would be eligible for DA if he/she satisfied any of these conditions, Dr LEUNG Ka-lau considered that the condition should be retained. As the Checklist

Action

was not widely known by doctors of HA, HA should enhance doctors' understanding of the Checklist and conduct further consultation before considering removing the condition.

*(To allow sufficient time for discussion, the Deputy Chairman extended the meeting for 15 minutes beyond the appointed ending time.)*

70. Mr TANG Ka-piu said that the proposed removal of the condition, if implemented, would change the policy as the removal would result in a decrease in the number of persons eligible for DA. To avoid judicial review cases, he suggested that the Administration should adopt Dr LEUNG Ka-lau's views.

71. PS(LW) said that other doctors might not have the same interpretation of the condition as Dr LEUNG Ka-lau. The Administration would seek the view of the Department of Justice on Dr LEUNG's interpretation of the condition. She added that the proposed amendments to MAF would not involve any policy changes.

72. Mr Frankie YICK said that he had a different interpretation of the condition. To him, "any other kind of work" did not necessarily refer to the work that an applicant could perform before he/she became disabled. He was of the view that removing the condition was appropriate as doctors might not be able to judge whether a DA applicant met the condition. The removal would also not affect a doctor's assessment of whether an applicant satisfied the remaining conditions in relation to daily living listed in the Checklist. He therefore did not see the reason why the removal would render those originally eligible for DA became ineligible.

73. Mr WONG Kwok-hing criticized that the Administration had not taken forward all the recommendations of the Ombudsman and had delayed in making improvements to the assessment criteria for DA. He expressed disappointment that the Administration had not assessed the number of DA applicants who would be affected by the removal of the condition.

74. Dr Fernando CHEUNG was of the view that it was appropriate to remove the reference to "100% loss of earning capacity" as it would be difficult for doctors to make assessment in this regard. However, doctors would be able to assess whether the disabling condition of an applicant would make him/her unable to work in the original occupation and perform any other kind of work for which he/she is suited, so as to determine whether he/she was eligible for DA. The condition, if removed, would disregard the impact of the disability on DA applicants' ability to work. He therefore objected to the proposed removal of the condition.

Action

75. Dr KWOK Ka-ki expressed grave concern that many DA applicants would be affected if the Administration did not fully implement the Ombudsman's recommendations. Since the grant of DA had a bearing on an applicant's living and for the benefit of DA applicants, the Administration should adopt the Ombudsman's recommendations.

76. PS(LW) responded that for a person to be eligible for DA, he/she must be severely disabled and as a result, needed substantial help from others to cope with daily life. A person would be eligible for DA if he/she could not perform any, but not all, of the activities in daily living as listed in the Checklist. The Review Group and the Rehabilitation Advisory Committee ("RAC") were of the view that removing the condition would avoid inconsistency in assessments. The Ombudsman also pointed out that the condition could not apply to children or those who were not in employment.

77. Mr TANG Ka-piu said that while there might be different interpretations of the condition, the removal of the condition would make those DA applicants who met the condition unable to receive DA. He reiterated his concern that the proposed removal of the condition, if implemented, would change the policy.

78. PS(LW) reiterated that removing the condition did not entail changes to the policy intent of DA. She said that removing the condition would address the problem of inconsistency in assessments which was also a concern of some DA recipients and applicants.

Motion

79. Dr Fernando CHEUNG moved the following motion –

"本事務委員會贊成政府及早落實申訴專員就傷殘津貼醫療評估表格的修訂建議，刪除"喪失100%賺取收入能力"的提述；但本事務委員會反對刪除"從事原有的職業及擔任其適合的任何其他種類的工作"，以便單肢傷殘或其他情況(包括器官殘障)的殘疾人士可有機會獲醫生判斷為嚴重殘疾並符合資格領取傷殘津貼。"

Action

(Translation)

"That this Panel agrees that the Government should implement expeditiously the revisions to the Medical Assessment Form for the Disability Allowance (DA) by removing the reference to "100% loss of earning capacity" as proposed by the Ombudsman, but this Panel objects to the proposed removal of "work in the original occupation and performing any other kind of work", so that people with loss of one limb or other conditions (including visceral diseases) might have a chance to be diagnosed by doctors as severely disabled and be eligible for DA."

80. Mr WONG Kwok-hing expressed support for the motion although he could not vote as he was not a Panel member.

81. Mr Frederick FUNG expressed support for the motion and asked the actions the Administration would take if the motion was passed by the Panel. PS(LW) responded that the Review Group would further discuss the matter taking into account members' views and concerns. The Administration would also consult RAC.

82. The Deputy Chairman put the motion to vote. Members present voted in favour of the motion. The Deputy Chairman declared that the motion was carried.

*(With the consent of all members present, the Deputy Chairman extended the meeting to end at 1:10 pm.)*

Training on making assessments of eligibility for DA

83. Dr KWOK Ka-ki pointed out that many developed countries considered that assessing occupational disability and a person's ability to work in the original occupation was a complex matter and doctors should be properly trained to make the assessments. Some of these countries, the United States of America in particular, required such assessments to be conducted by doctors engaging in occupational medicine. He said that SWD and the Labour Department ("LD") should provide the relevant training for doctors of HA but they had passed the responsibility to HA. However, HA had not provided any training for doctors although many doctors were required to make medical assessments of DA applications in their first year of practice. In case of complaints about the assessment of the eligibility for DA, doctors were often put in a very difficult position. He was of the view that SWD, LD and HA were irresponsible.

Action

84. In response to Dr KWOK Ka-ki's enquiry about the training HA had provided for doctors, CM(P&CS) said that HA had not provided doctors with specific training for the purpose of assessing working ability in relation to the medical assessments for DA applications. Doctors would, according to their professional judgment, make assessments of DA applicants' functional aspects. The Deputy Chairman said that some doctors would prefer removing the condition since they lacked appropriate training and standardized criteria for assessing eligibility for DA.

85. Regarding Dr KWOK Ka-ki's enquiry about the year of services of doctors who were required to make assessments of DA applicants, CM(P&CS) responded that there was no requirement on the years of service for a doctor to conduct assessments of eligibility for DA.

**VI. Any other business**

86. There being no other business, the meeting ended at 1:07 pm.

Council Business Division 2  
Legislative Council Secretariat  
14 February 2014