

**立法會**  
***Legislative Council***

LC Paper No. CB(2)1553/15-16

(These minutes have been  
seen by the Administration)

Ref : CB2/PL/WS

**Panel on Welfare Services**

**Minutes of meeting**  
**held on Monday, 15 February 2016, at 10:45 am**  
**in Conference Room 1 of the Legislative Council Complex**

**Members present** : Hon CHEUNG Kwok-che (Chairman)  
Hon CHAN Yuen-han, SBS, JP (Deputy Chairman)  
Hon Frederick FUNG Kin-kee, SBS, JP  
Dr Hon LEUNG Ka-lau  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon Frankie YICK Chi-ming, JP  
Hon YIU Si-wing, BBS  
Hon Gary FAN Kwok-wai  
Hon CHAN Chi-chuen  
Hon LEUNG Che-cheung, BBS, MH, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Dr Hon Helena WONG Pik-wan  
Hon TANG Ka-piu, JP  
Hon CHUNG Kwok-pan

**Members absent** : Hon Albert HO Chun-yan  
Hon LEUNG Yiu-chung  
Hon POON Siu-ping, BBS, MH

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

**Public Officers : Item III  
attending**

Mr LAM Ka-tai, JP  
Deputy Director of Social Welfare (Services)  
Social Welfare Department

Ms PANG Kit-ling  
Assistant Director of Social Welfare (Elderly)  
Social Welfare Department

**Items III and IV**

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

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

**Item IV**

Mr David LEUNG, JP  
Commissioner for Rehabilitation  
Labour and Welfare Bureau

Mr Gordon CHONG  
Principal Assistant Secretary for Labour and Welfare  
(Welfare) 4  
Labour and Welfare Bureau

Miss Cecilla LI  
Deputy Director of Social Welfare (Administration)  
Social Welfare Department

Mr Charles HUI, JP  
Assistant Commissioner (Employment Services)  
Labour Department

Dr Christina MAW  
Chief Manager (Primary and Community Services)  
Hospital Authority

Professor Terry LUM  
Associate Director  
Sau Po Centre on Ageing  
The University of Hong Kong

Ms Ada CHEUNG  
Senior Statistician (Social)<sup>1</sup> (Acting)  
Census and Statistics Department

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

**Staff in attendance** : Item IV  
  
Mr Kari CHU  
Chief Research Officer (Research)<sup>2</sup>  
  
Ms Catherina YU  
Senior Council Secretary (2) 4  
  
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)695/15-16(01) and CB(2)697/15-16(01)]

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

- (a) Referral from the Public Complaints Office on policies relating to street sleepers [LC Paper No. CB(2)695/15-16(01)]; and
- (b) Referral from the Public Complaints Office relating to employment support for grassroots women [LC Paper No. CB(2)697/15-16(01)].

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

[LC Paper Nos. CB(2)826/15-16(01) and CB(2)826/15-16(02)]

2. Members noted that the Administration had proposed to discuss, at the next meeting scheduled for 14 March 2016, the following items:

- (a) Implementation of the pilot project on child care training for grandparents; and
- (b) Elderly Services Programme Plan.

3. The Deputy Chairman said that deep-rooted social conflicts were probably some of the causes of the Mongkok Riot occurred on 8 February 2016. She suggested that the Panel should discuss some of the problems faced by young people. Dr Fernando CHEUNG said that the Panel might discuss the matters from the welfare perspective. Mr LEUNG Che-cheung said that according to some media reports, many people who were arrested because of the Mongkok Riot were young people and some of them were unemployed. He suggested that the Panel should discuss issues relating to employment support for young people. Mr LEUNG Kwok-hung said that the Council should request the Administration to appoint an independent body to find out the causes of the Mongkok Riot.

4. The Chairman said that problems relating to employment, education and development of young people might trigger deep-rooted social conflicts. As these issues straddled the purview of different policy bureaux, he suggested that views of the Chairmen of the Panel on Education, the Panel on Home Affairs and the Panel on Manpower should be sought on holding a joint meeting with the Panel to discuss the causes of the Mongkok Riot. Dr Fernando CHEUNG expressed support for the Chairman's suggestion and said that if the joint meeting was not forthcoming, the Panel should consider holding a special meeting to discuss the subject matter. Mr Alan LEONG expressed support for the Chairman's suggestion and said that Members belonging to the pro-democratic camp had requested the Chief Executive ("CE") to set up an independent commission of inquiry headed by a judge or a retired judge to inquire into the causes of the Mongkok Riot as soon as possible. If CE refused to set up such an independent commission of inquiry, the Council should follow up the matter.

5. The Panel agreed to explore holding a joint meeting with the other three Panels to discuss "Exploring a way out for young people in respect of welfare, education and employment, etc. under deep-rooted social conflicts

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in light of the Mongkok Riot occurred on 8 February 2016". If the joint meeting was not forthcoming, the Panel would consider whether to discuss the subject and invite members of the other three Panels to join the discussion.

**III. Pilot Scheme on Living Allowance for Carers of the Elderly Persons from Low Income Families**

[LC Paper Nos. CB(2)826/15-16(03) to (04)]

6. At the invitation of the Chairman, Secretary for Labour and Welfare ("SLW") briefed members on the progress of implementing the Pilot Scheme on Living Allowance for Carers of the Elderly Persons from Low Income Families ("the Pilot Scheme") and the Administration's proposal to invite the Community Care Fund ("CCF") to extend the Pilot Scheme.

Eligibility criteria for the Pilot Scheme

7. Mr LEUNG Che-cheung said that some elderly persons who did not have any relatives or family members in Hong Kong might wish to be taken care of by their relatives or family members who were not living in Hong Kong. He asked whether the Administration would consider including carers who were not Hong Kong residents in the Pilot Scheme. SLW responded that to be eligible for the living allowance, the carer must be a Hong Kong resident and was living in Hong Kong. Otherwise it would be very difficult to control the situation. Permanent Secretary for Labour and Welfare ("PS(LW)") supplemented that while carers who were not Hong Kong residents were not eligible for the living allowance, support services such as training and counselling services were available for them and respite services were available for elderly persons which would enable carers to take a short break when needed.

8. Mr LEUNG Che-cheung enquired whether the Administration would consider allowing recipients of living allowance under the Pilot Scheme to receive Comprehensive Social Security Assistance ("CSSA") at the same time so as to encourage them to take care of elderly persons. SLW responded that the Pilot Scheme sought to encourage carers to take care of elderly persons without weakening the sense of family obligation nor diminishing the virtue of filial piety. PS(LW) said that the living allowance was a form of financial assistance aiming to supplement the living expenses of carers and carers on CSSA were already receiving financial assistance. As such, carer allowance would not be given to a CSSA recipient.

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9. Dr Fernando CHEUNG said that to achieve the objective of "ageing in place as the core, institutional care as backup", there should be adequate provision of home-based care services, centre-based day care services and support for carers of persons who were in need of long-term care ("LTC"). As the Pilot Scheme would facilitate achieving the objective, the Administration should provide carers with the necessary support and should not impose income or asset limits for any carer allowance schemes. Given the great demand for carers, the Administration should lower the eligibility threshold such as relaxing the income limit or removing the income assessment requirement in the long run and increase the quota of the Pilot Scheme. The Administration should have a clear policy objective and aim to regularize the Pilot Scheme.

10. The Chairman said that the Administration should consider relaxing the income limit for carers whose monthly household income was between 75% and 100% of the relevant Median Monthly Domestic Household Income. Mr Frankie YICK said that in determining the eligibility for the living allowance, the Administration should take into account a carer's capability of taking up the care-giving role rather than his/her income. He took the view that the income requirement under the Pilot Scheme should be removed.

11. SLW responded that the policy objective was to promote the well-being of the elderly in all aspects of their life by providing them with services that would enable them to remain members of the community for as long as possible. The Administration would continue to strengthen home-based care services, centre-based day care services and support for carers. To allow more eligible carers of elderly persons to benefit from the Pilot Scheme, there would be an additional 2 000 places in the second phase, providing a total of 4 000 places through the two phases. The 2 000 additional places to be provided for the second phase of the Pilot Scheme were expected to be rolled out in October 2016. As CCF's programmes aimed to provide assistance for the needy who fell outside or were not covered by the safety net, carers under the Pilot Scheme should be subject to income test so as to enable effective use of limited public resources. That said, the Administration would take into account members' views on the evaluation study of the Pilot Scheme ("the Evaluation Study") conducted by the Sau Po Centre on Ageing of The University of Hong Kong ("COA"). The evaluation report would assist the Administration in considering the future direction of the Scheme and the Administration was open-minded towards regularizing the Pilot Scheme.

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12. The Chairman enquired whether there was any requirement in relation to the period for which an elderly person had stopped using residential care services ("RCS") in order that his/her carer would be eligible for the living allowance. Deputy Director of Social Welfare (Services) ("DDSW(S)") responded that the Social Welfare Department ("SWD") had issued letters in phases to about 20 300 elderly persons who were not using any RCS and had been waiting for subsidized LTC services on the Central Waiting List for subsidized LTC services ("CWL") on or before the "specified date", inviting their respective potentially eligible carers to submit applications under the Pilot Scheme. All the 20 300 odd elderly persons had been on the waiting list by or before 31 December 2013. The invitation was made in the order of priority of the dates of application and the "specified date" was earlier than the implementation date of the Pilot Scheme so that more carers could apply for participating in the Pilot Scheme.

13. In response to the Chairman's enquiry about the reasons why carers who were eligible for the living allowance had withdrawn from the Pilot Scheme, DDSW(S) said that there were only a very small number of withdrawals and the reasons for withdrawal were that the carers had joined the labour market, the elderly persons had left Hong Kong, etc.

Monitoring of carers' performance

14. Mr Frankie YICK and the Chairman said that a mechanism should be put in place to monitor and evaluate whether carers' performance met the requirements under the Pilot Scheme. PS(LW) responded that the conditions proposed for the Pilot Scheme were more lenient than those applicable to the carer allowance schemes adopted by some other jurisdictions. Under normal circumstances, a carer would be invited to keep a brief record of his/her care services and hours in a form to be prescribed by SWD and such a written record should be certified correct by the carer concerned and that the elderly person under his/her care was not required to additionally certify the record. Approved service providers ("ASPs") under the Pilot Scheme might seek clarifications from the elderly person under his/her care if it was deemed necessary. The Administration would review the implementation of the Pilot Scheme having regard to the findings and recommendations of the Evaluation Study.

15. The Chairman took the view that the Administration should conduct random checks on the care given to the elderly persons. DDSW(S) responded that SWD had authorized 33 non-governmental organizations operating District Elderly Community Centres or Neighbourhood Elderly Centres as ASPs under the Pilot Scheme, involving a total of 125 service

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units located in all districts throughout the territory. ASPs were required to conduct home visits or meet carers and the elderly persons concerned at least once a month in the first six months of the two-year service agreement, and at least once a quarter in the remaining 18 months of the service agreement. Of the 1 997 eligible cases, random checks had been conducted on an average of one out of five cases. These measures would enable the Administration to find out whether the elderly persons had received the required care services and the support required by carers.

Expanding the target beneficiaries of carer living allowance

16. The Chairman enquired whether elderly persons on CWL who had not been invited to participate in the first phase would be invited to participate in the second phase of the Pilot Scheme. He also asked whether the Administration would consider allowing elderly persons who were not on CWL to participate in the second phase of the Pilot Scheme if the places had not been fully taken up.

17. DDSW(S) responded that SWD would issue letters to elderly persons who had been on CWL by or before 31 December 2013 but had not responded to SWD's invitation in the first phase as well as those who were on CWL after 31 December 2013, inviting their carers to apply for participating in the second phase of the Pilot Scheme. Given the pilot nature of the Scheme, the elderly persons being taken care of must be living in Hong Kong, had been assessed under SWD's Standardized Care Need Assessment Mechanism for Elderly Services as having moderate or severe level of impairment, and had been on CWL.

18. The Chairman said that some elderly persons with LTC needs preferred to be taken care of at home and thus were not on CWL. In his view, carers of these elderly persons were among those who were most in need of the living allowance. In considering the regularization of the Scheme, the Administration should consider including in the Scheme these carers and elderly persons who were not on CWL but required occasional hospitalization treatment. In this connection, the Administration should set, as an eligibility criterion, a reasonable period under which these elderly persons had ceased undergoing hospitalization for treatment, so that they could participate in the Pilot Scheme.

Establishing a case management system for care services

19. Dr Fernando CHEUNG said that an elderly person who was using different kinds of care services might be followed up by different social workers. He considered it important to establish a better case management

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system under which a case manager would be responsible for coordinating the provision of care services for elderly persons and persons with disabilities with LTC needs as well as deploying resources for the provision of such services. The Administration should also strengthen the support services for carers by providing them with the required support throughout the territory.

20. SLW responded that the Integrated Discharge Support Programme for Elderly Patients had already adopted a multi-disciplinary approach in managing cases. The development of a case management system for care services was worth pursuing and the Administration would take this into account in conducting the review of the Pilot Scheme. He said that recurrent funding had been granted for elderly centres to provide training for carers of elderly persons. The Administration was also considering the provision of carer training for foreign domestic helpers.

**IV. Review of Disability Allowance**

[LC Paper Nos. CB(2)420/15-16(01), CB(2)826/15-16(05) to (06), CB(2)929/15-16(01) and FS06/15-16]

21. The Chairman said that given that some deputations had expressed interest in participating in the discussion of disability allowance ("DA"), a special meeting would be held in end-March 2016, as far as practicable, to receive deputations' views on the subject matter. Dr Fernando CHEUNG said that in view of the large amount of information contained in the Administration's paper (LC Paper No. CB(2)826/15-16(05)), it would be more fruitful for the Panel to focus the discussion on DA at the special meeting. The Panel might also consider discussing the proposed Pilot Scheme on Raising the Maximum Level of Disregarded Earnings for Recipients with Disabilities under the CSSA Scheme at the special meeting.

*(Post-meeting note: A special meeting to receive deputation's views on review on DA had been held on 3 May 2016.)*

22. At the invitation of the Chairman, SLW and PS(LW) briefed members on the observations, findings and recommendations of the Inter-departmental Working Group on Review of the Disability Allowance ("the Working Group").

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Timetable for implementing the Working Group's recommendations

23. Mr WONG Kwok-hing asked whether amendments to the relevant legislation were required for adoption of the revised medical assessment form for DA ("MAF") and standardization of the arrangements for the use of rehabilitation and mechanical devices in medical assessments. Mr WONG Kwok-hing and Mr TANG Ka-piu sought information on the timetable for implementing these recommendations and the estimated number of people with loss of one lower limb who would be eligible for DA following the adoption of the revised MAF.

24. SLW responded that the aforesaid recommendations would be implemented through administrative measures and no legislative amendments were required. The Administration aimed to adopt the revised MAF by the third or fourth quarter of 2016 and implement the recommendation on the use of rehabilitation and mechanical devices two months after the approval of the Appropriation Bill 2016. He said that it was difficult at this stage to estimate the number of people with loss of one lower limb who would become eligible for DA after the adoption of the revised MAF. PS(LW) supplemented that the number of new recipients arising from the implementation of the recommendation depended on whether persons with such a condition would apply for DA, and SWD would closely monitor the situation and consider the cost implications accordingly. Chief Manager (Primary and Community Services) ("CM(P&CS)") of the Hospital Authority ("HA") supplemented that according to HA's estimate, the number of patients who had their lower limbs amputated were in the thousands, rather than in tens of thousands. There were other people who had not lost their lower limb but lost the functions of their lower limb. It would not be possible to estimate how many of these people would apply for DA.

Impact on existing recipients of disability allowance with adoption of the revised medical assessment form

25. Dr Fernando CHEUNG said that financial assistance programmes for persons with disabilities in places covered by the Consultancy Study on the Practice outside Hong Kong on Financial Assistance for Persons with Disabilities ("the Consultancy Study") conducted by COA were either non-means-tested or subject to a means test which was based on household income. When compared with those places, CSSA for persons with disabilities was more stringent as it was subject to a means test based on individual income. Expressing concern that the proposed removal of the assessment criterion of "working in the original occupation and performing any other kind of work for which he/she is suited" ("work-related criterion")

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would result in the ineligibility for DA for some persons with disabilities, he sought the views of Professor Terry LUM, Associate Director of COA, in this regard.

26. SLW said that a DA applicant would be eligible for DA if his/her disabling condition had resulted in a significant restriction or lack of ability or volition to perform any of the remaining three activities in daily living which were mentioned in paragraphs 5 (b), (c) and (d) of the Administration's paper ("the prescribed daily living activities"), to the extent that substantial help from others was required.

27. PS(LW) said that as there was no linkage between an individual's eligibility for DA and his/her employment status or ability to work, the Administration considered it logical to remove both the reference to "100% loss of earning capacity" and the work-related criterion from MAF. To evaluate whether the removal of the work-related criterion would have an adverse impact on DA applicants, the Administration had carefully studied the prescribed daily living activities and considered that it would be comprehensive enough having regard to the DA's intention to help persons who were severely disabled and as a result needed substantial help from others to cope with their daily life. Having consulted stakeholders, including some of the Panel members, the Administration could not think of any situation where a person could satisfy the work-related criterion but could not meet any of the criteria under the prescribed daily living activities.

28. Professor Terry LUM said that he had not been involved in the design of the revised MAF but agreed that a person should be able to satisfy the work-related criterion if he/she could meet any of the criteria relating to the prescribed daily living activities. However, as he was not a doctor, he could not tell whether there would be exceptional cases. He suggested that it might be better for the Administration to adopt administrative measures to deal with exceptional cases, if any, after the implementation of the revised MAF.

Arrangements for the use of rehabilitation and mechanical devices in medical assessments

29. Dr Fernando CHEUNG asked whether partly implanted rehabilitation or mechanical devices, e.g. artificial cochlea and stoma, would be taken into account by doctors in making assessments on the functionality of DA applicants using such devices. PS(LW) responded that under the proposed arrangements, external devices included partly implanted devices. In the case of applicants using artificial cochlea, doctors would make medical assessment on the basis of their condition without using artificial cochlea.

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30. Dr Fernando CHEUNG said that rehabilitation and mechanical devices which would be considered in medical assessments should be clearly defined. He requested the Administration to provide a list of rehabilitation or mechanical devices which would be taken into account by doctors in making assessments on the functionality of DA applicants using such devices and advise whether doctors were required to refer to the Department of Health's classification system for medical devices in conducting medical assessments of DA applicants who used rehabilitation or mechanical devices. PS(LW) undertook to provide the required information.

*(Post-meeting note: The Administration had provided the required information for the Panel's discussion at its meeting on 3 May 2016 vide LC Paper No. CB(2)1379/15-16(01) issued on 29 April 2016.)*

31. Dr LEUNG Ka-lau asked whether the assessment of a DA applicant who was seriously short-sighted would be made according to his/her condition when wearing glasses. In response, PS(LW) referred to the Working Group's recommendation set out in paragraph 23 of the Administration's paper. SLW supplemented that the devices for rehabilitation purposes would be disregarded. Dr LEUNG Ka-lau said that some devices, e.g. prosthesis, were to compensate for loss of functionality rather than for rehabilitation. CM(P&CS) said that according to the above-mentioned principle, the assessment would be made when the applicant was not wearing glasses but the applicant did not necessarily meet the eligibility for DA. Dr LEUNG Ka-lau took the view that a substantial amount of DA would be incurred if devices which could be conveniently used (e.g. glasses) were disregarded under the assessment mechanism. In this connection, he suggested that the Administration should revisit the proposed arrangements for the use of rehabilitation and mechanical devices.

Assessments of eligibility for disability allowance

32. Noting that assessments of applicants' eligibility for DA would continue to be made by one doctor rather than by a team of doctors, health professionals and social workers as previously suggested by some members, Mr LEUNG Che-cheung asked the reasons for not adopting the suggestion. PS(LW) responded that as most of the DA applicants were being followed up by doctors, usually the doctors concerned were familiar with the applicants' medical conditions. Given that engaging other professional bodies in the assessment would incur extra costs and time, the Working Group considered it more suitable to maintain the current arrangement. The Working Group had, however, recommended improving the existing MAF to enhance the consistency and objectiveness of assessments.

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33. In response to Dr Fernando CHEUNG's enquiry about whether doctors of HA would find it easier to assess the functionality of DA applicants when using the revised MAF, CM(P&CS) said that HA had consulted representatives of specialist doctors and representatives of different clusters of HA who were responsible for completing MAF. According to these representatives, the revised MAF could improve the consistency of medical assessment for DA. She further said that under current arrangement, HA doctors had difficulties in performing DA medical assessment, in particular making assessments on the work-related criterion as it involved social and environmental consideration. As such, the revised MAF was welcomed by doctors of HA.

34. Dr LEUNG Ka-lau said that he objected to bundle the removal of the reference to "100% loss of earning capacity" with the removal of the work-related criterion. He hoped that the Panel would support his view. He opined that whether a doctor considered it easy to assess the ability of a DA applicant to perform a kind of daily living activity over the other would depend on his/her expertise but all doctors found it easy to make assessments on the work-related criterion. The reference to "100% loss of earning capacity" did not mean that a person who had taken up any employment would not be eligible for DA. As doctors did not have a clear understanding of the meaning of the reference, they considered that a DA applicant would be ineligible for DA as long as he/she had taken up employment. He further said that he had went through the Ombudsman's Direct Investigation Report on "Granting of Disability Allowance and Processing of Appeals by SWD" and the judgment of a judicial review case lodged by an ex-DA applicant with loss of one lower limb who challenged the decision of SWD and the Social Security Appeal Board ("SSAB"). While the Ombudsman and the court had expressed concern about the reference to "100% loss of earning capacity", they had not recommended that the work-related criterion should be removed. It was the Administration's recommendation, rather than that of the Ombudsman or the court, to remove the work-related criterion. In his view, the information contained in paragraph 20 of the Administration's paper was misleading.

35. Dr LEUNG Ka-lau said that under the existing arrangement, an applicant would be eligible for DA if he/she satisfied one, but not all, of the four activities stated in MAF. The proposal to remove the work-related criterion would impose a higher threshold for DA and would, in logic, result in less people eligible for DA. Many people with loss of one limb who only satisfied the work-related criterion but could perform any of the prescribed daily living activities would no longer be eligible for DA if the work-related criterion was removed.

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36. PS(LW) responded that the Administration had carefully studied the prescribed daily living activities, and considered that a person who needed substantial help from others to perform any of the prescribed daily living activities would fit in with the definition of DA and be eligible for DA. Having consulted stakeholders, including some of the Panel members, the Administration could not think of any situation where a person could satisfy the work-related criterion but could not meet any of the criteria under the prescribed daily living activities. Under the work-related criterion, an applicant would be considered severely disabled if his/her disabling condition had resulted in a significant restriction or lack of ability or volition to the extent that substantial help from others was required in "working in the original occupation and performing any other kind of work for which he/she was suited". She emphasized that "and" was used in this formulation.

37. Dr LEUNG Ka-lau said that there was no mention in the judgment of the judicial review case that the ex-DA applicant was unsuccessful in applying for DA because he could not satisfy the conditions regarding his ability to perform the four daily living activities. The court took the view that SWD should not challenge the professional judgment of the doctor concerned. According to the Administration, "working in the original occupation and performing any other kind of work for which he/she is suited" meant the original occupation and any kind of work for which he/she is suited. He said that the Administration's interpretation, which he disagreed, in effect, meant that an applicant would not be considered severely disabled if he/she could perform any work. He took the view that "any other kind of work for which he/she is suited" referred to any other job, similar to the original occupation, that a person would have been able to do before he/she became disabled (any other kind of work similar to the original occupation). He was of the view that the purpose of adding the word "and" was just to include those kinds of work which were similar to the original occupation, and therefore an applicant who was then unable to work in the original occupation or do any other kind of work similar to the original occupation to the extent that substantial help from others was required would fall into the situation described in Part (II)(1) of the Checklist for Medical Assessment of Eligibility for Normal Disability Allowance for Disabilities other than Profound Deafness ("the Checklist"), even if he/she could perform other kind of work that was not similar to the original occupation. He gave an example of the situation that an applicant was then not able to work in his/her original occupation as manual labourer or perform other physical work after he/she had become disabled, but was able to work as a security guard. He considered that the work of security guard was not physical work similar to the applicant's original occupation and therefore the applicant in this example should be considered not able to

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perform the activities in Part (II)(1) of the Checklist and therefore eligible for Normal DA. He requested the Legal Adviser to the Panel to give her views on the meaning of "working in the original occupation and performing any other kind of work for which he/she is suited". The Chairman said that Dr LEUNG Ka-lau's concerns should be further discussed and the Legal Adviser would be requested to provide her response to the Panel in writing.

*(Post-meeting note: The response of the Legal Service Division of the Legislative Council Secretariat had been issued to members vide LC Paper No. CB(2)1392/15-16(01) on 29 April 2016.)*

38. Mr LEUNG Kwok-hung said that the work-related criterion was only one of the four activities for assessing whether a DA applicant was severely disabled within the meaning of the DA Scheme. As an applicant would be eligible for DA if he/she satisfied any of these conditions, it was not necessary for a doctor to make assessment on all of these activities. He enquired about the advantages of removing the work-related criterion.

39. PS(LW) responded that the Ombudsman took the view that the design of the present MAF did not facilitate consistency and verification, as the doctor was not required to state whether he/she had taken into account the work criterion and the prescribed living activities, whether they applied to DA or not and why. In proposing to remove the work-related criterion, the Administration had considered the policy and implementation aspects, the Ombudsman's observations and doctors' views.

40. Mr LEUNG Kwok-hung said that the Administration had attempted to categorize certain types of disabilities which were considered as severe disabilities in some places into non-severe disabilities so as to reduce the expenses for DA. Given that Hong Kong was an affluent city, persons with disabilities should be provided with the required assistance and hurdles should not be imposed on them for receiving DA.

41. Noting that the Administration's paper did not cover financial assistance for persons with disabilities, the Chairman said that the Administration should aim to regularize the assistance programmes for persons with severe disabilities under CCF.

42. Mr TANG Ka-piu was worried that there were different interpretations on the meaning of the assessment criteria between the Administration and doctors as well as among doctors. He called on the Administration to establish effective communication with doctors to ensure that they understood and concurred with the Administration's proposed amendments to MAF. He urged the Administration to implement the Working Group's recommendations as early as possible.

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43. SLW responded that members of the Working Group comprised representatives from the Department of Health and HA who had given professional advice on the review of DA. The Working Group had conducted the review of DA from a multi-dimensional perspective which included the perspectives of doctors and DA applicants.

44. Expressing concern that some persons who were currently eligible for DA would become ineligible with the adoption of the revised MAF, Mr TANG Ka-piu enquired whether the Administration could ensure that it would not happen. SLW said that the Working Group's recommendations would bring about improvements to the existing assessment mechanism for DA and he did not see any reasons for those people who were currently on DA would become ineligible after the implementation of the Working Group's recommendations, unless there were changes to their conditions.

Implementation of the International Classification of Functioning, Disability and Health

45. Noting that the Working Group had recommended to invite the Rehabilitation Advisory Committee to continue monitoring the adoption of the International Classification of Functioning, Disability and Health ("ICF") in neighbouring places with a view to exploring how to devise a set of comprehensive and widely accepted definition of disabilities and the level of disabilities, the Chairman enquired about the spectrum of work to be involved in and the time required for working out a well-articulated and well-accepted definition of disabilities. Professor Terry LUM said that ICF was a classification system instead of an assessment tool. ICF only provided a classification framework but it had not suggested an assessment mechanism for such classification. Places adopting ICF as the disability classification system were required to establish an appropriate assessment tool. In his view, the exercise could not be completed in one or two years.

46. Dr Fernando CHEUNG said that as a person had to be assessed as severely disabled in order to receive DA, "Disability Allowance" should be renamed "Severe Disability Allowance".

Appeal mechanism for disability allowance

47. Dr Fernando CHEUNG opined that when compared with other places covered by the Consultancy Study, the appeal mechanism for DA in Hong Kong was less strict and its legal basis was less solid. He called on the Administration to review and improve the appeal mechanism for DA so as to better safeguard the appellants.

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48. PS(LW) responded that having regard to the Ombudsman's view on the appeal mechanism for DA, SWD's Working Group on Review of the Mechanism for Implementing the DA Scheme had reviewed and fine-tuned the appeal mechanism which included improving internal communications and guidelines for processing appeals. Deputy Director of Social Welfare (Administration) supplemented that to enhance objectivity, consistency and transparency of medical assessments, applicants who were assessed as ineligible for DA would be informed in writing of the results of their applications. MAF had been revised by adding space for doctors to record their assessment in greater detail. When cases involving medical assessment were considered by SSAB, medical doctors would be consulted, and SSAB would handle all appeal cases carefully. The Administration would brief SSAB on the revised MAF.

**V. Any other business**

Special meetings

49. The Chairman said that two special meetings would be held on 22 February 2016 to receive deputations' views on "The proposed legislation to implement the Law Reform Commission Report on Child Custody and Access" and "Relationship between current social security and retirement protection" respectively.

50. There being no other business, the meeting ended at 12:58 pm.

Council Business Division 2  
Legislative Council Secretariat  
23 May 2016