

**立法會**  
***Legislative Council***

LC Paper No. CB(2)1507/15-16  
(These minutes have been  
seen by the Administration)

Ref : CB2/PL/WS

**Panel on Welfare Services**

**Minutes of special meeting**  
**held on Monday, 22 February 2016, at 10:45 am**  
**in Conference Room 3 of the Legislative Council Complex**

- Members present** : Hon CHEUNG Kwok-che (Chairman)  
Hon CHAN Yuen-han, SBS, JP (Deputy Chairman)  
Hon Albert HO Chun-yan  
Hon Frederick FUNG Kin-kee, SBS, JP  
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  
Dr Hon Fernando CHEUNG Chiu-hung  
Dr Hon Helena WONG Pik-wan  
Hon POON Siu-ping, BBS, MH  
Hon TANG Ka-piu, JP
- Members absent** : Hon LEUNG Yiu-chung  
Dr Hon LEUNG Ka-lau  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon CHUNG Kwok-pan

**Public Officers  
attending** : Item I

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 Kenneth CHENG  
Principal Assistant Secretary for Labour and Welfare  
(Welfare) 1  
Labour and Welfare Bureau

Ms Karyn CHAN  
Principal Assistant Secretary for Home Affairs (Civic  
Affairs)2  
Home Affairs Bureau

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

Ms Mary HO  
Government Counsel (Civil Advisory)  
Department of Justice

**Attendance by  
invitation** : Item I

The Hong Kong Council of Social Service

Mr Moses MUI  
Chief Officer (Family and Community Service)

The Law Society of Hong Kong

Mr Dennis HO  
Chairman of Family Law Committee

Liberal Party

Mr Alan HOO  
Executive Committee

PathFinders

Ms Janet McAlpine  
Access to Justice Programme Manager

Hong Kong Young Women's Christian Association

Ms SO Ka-yi  
Unit In Charge

Christian Family Service Centre

Ms PANG Shuk-ling  
Programme Director

Hong Kong Federation of Women's Centres

Miss TSOI Sin-man  
Advocacy Officer

Peers Counselor

Miss Portia WONG Lai-yin  
Member

Democratic Alliance for the Betterment and Progress of  
Hong Kong

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Ms CHEUNG Fan-lan  
Deputy Spokesperson

Ms Amy LEUNG Yuen-yam

Ms MAK Kam-yam

HK Catholic Marriage Advisory Council

Ms Angela CHUI Yuen-fun  
Executive Director

The Boys' and Girls' Clubs Association of Hong Kong

Ms FU Shuk-yin  
Supervisor

Hong Kong Social Workers' General Union

Mr NG Hung-fai  
Convenor of Integrated Family Services Concern Group

港島單親互助社

Ms HO Chun-lai

Gall Solicitors

Ms Caroline Jane MCNALLY  
Partner

Hong Kong Single Parents Association

Ms Jessie YU  
Chief Executive

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

**Staff in attendance** : Miss Kay CHU  
Council Secretary (2) 4

Miss Maggie CHIU  
Legislative Assistant (2) 4

Ms Ada TANG  
Clerical Assistant (2) 4

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**I. The proposed legislation to implement the Law Reform Commission Report on Child Custody and Access**

[LC Paper Nos. CB(2)338/15-16(01), CB(2)421/15-16(03), CB(2)892/15-16(01) to (02), CB(2)922/15-16(01) to (02), CB(2)930/15-16(01) to (04), CB(2)979/15-16(01) and CB(2)1030/15-16(01) to (02)]

At the invitation of the Chairman, Secretary for Labour and Welfare ("SLW") informed members that the Labour and Welfare Bureau had launched a public consultation on the proposed legislation to implement the recommendations of the Law Reform Commission Report on Child Custody and Access since 25 November 2015, which would last until 25 March 2016. After giving a succinct brief on the proposed legislation set out in the consultation paper [Annex to LC Paper No. CB(2)338/15-16(01)], he said that the Administration would refine the draft Children Proceedings (Parental Responsibility) Bill ("the draft Bill") as appropriate in the light of views received during the consultation period.

2. The Chairman invited deputations/individuals to present their views. A total of 17 deputations/individuals expressed their views which were summarized in the **Appendix**.

The Administration's response to deputations' views

3. SLW thanked the deputations/individuals for their views, and reiterated that the Administration would take into account views received during the consultation period and refine the draft Bill as appropriate. He said that new measures would be implemented to address public concerns on the need to strengthen support for separated/divorced families and on the promotion of the concept of parental responsibility. The Administration intended to launch a pilot project on children contact service ("the Pilot Project") in September 2016, which aimed to provide a safe environment with social workers' support to facilitate the arrangement of children contact with the non-residing parent. Besides, "dedicated help service" would be provided to handle enquiries and requests for assistance from parents and the public during the initial one to two years after the Children Proceedings (Parental Responsibility) Bill ("the Bill") had come into effect. In addition to the new measures, the 65 Integrated Family Service Centres ("IFSCs"), two Integrated Services Centres ("ISCs") and the Family and Child Protective Services Units ("FCPSUs") as well as the non-governmental organizations concerned would continue providing services under their respective purviews to support separated/divorced families.

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4. Permanent Secretary for Labour and Welfare ("PS(LW)") gave a briefing on the salient provisions of the proposed legislation. She stressed that the Family Court had already been making joint custody orders if and when deemed appropriate. The proposed legislation would mark a step forward by clearly setting out the concept of the "parental responsibility model" ("the Model") and the principle that the best interests of children should guide all court proceedings concerning children ("the best interests principle"). Noting that some deputations were worried that child arrangements orders might cause nuisance and inconvenience to the parties concerned, she advised that the option of "no order" was available for those cases where both parties consented to no order being made by the court and the court considered that making no order would be in the best interests of the child. She added that under the proposed legislation, a court might make an order for the independent representation of a child's interests. The cost involved should be borne by the divorced parents concerned, who could apply for legal aid if necessary. She reassured members that the Administration would not hastily put in place the Model through legislation. A four-month public consultation was underway to gauge views on the draft Bill and the relevant support measures. The Administration would take into account the aforesaid views to refine the draft Bill, as appropriate, for subsequent introduction to the Legislative Council at a suitable time.

5. Assistant Director of Social Welfare (Family & Child Welfare) responded that a total of 11 FCPSUs, which were manned by experienced social workers, would continue providing specific services for divorced families with risk of domestic violence and for high-conflict families. Given that many divorced cases required social workers' assistance in arranging for children contact, the Social Welfare Department ("SWD") would strive to (a) enhance support services in this regard by gaining experience from the Pilot Project, which would be implemented irrespective of whether the proposed legislation would be introduced, and (b) strengthen training for the frontline staff of IFSCs/ISCs and FCPSUs.

6. In response to some deputations' suggestion of setting up a maintenance board to assist in collecting maintenance payments, Principal Assistant Secretary for Home Affairs (Civic Affairs)<sup>2</sup> ("PAS(CA)") said that the Administration had carefully examined the suggestion before and considered that the proposal on setting up a maintenance board would unlikely bring, to either the maintenance payees or taxpayers, any significant benefits over and above those which could be achieved by improving the existing system. Measures taken to improve the system of maintenance included: (i) relaxing the requirement for the court to make Attachment of Income Orders to make the issuance procedure more flexible; (ii) imposing

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interest or even surcharge against defaulting maintenance payers; (iii) upon request from legal professionals who could provide sufficient information, allowing designated government departments (i.e. Immigration Department, Transport Department and Housing Department) to disclose the addresses of maintenance payers against whom legal actions would be taken to sue for arrears in maintenance free-of-charge; and (iv) launching publicity and education programmes to strengthen public understanding of the responsibilities of maintenance payers, rights of maintenance payees and services available to them when they were unable to receive maintenance payments. The Administration would continue to keep in view the enforcement situation of maintenance orders, and consider strengthening support for maintenance payees through legislative and administrative means as appropriate.

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7. The Chairman requested the Home Affairs Bureau ("HAB") to provide a paper on the enforcement situation of maintenance orders in the past five years.

Discussion

8. Whilst supporting the concept of the Model, Mr Albert HO was wary about the impact of introducing the proposed legislation on different aspects, such as divorced families and the manpower requirement of the Family Court of which the workload was already very heavy. He urged the Administration to conduct an impact assessment on the introduction of the proposed legislation and put in place adequate support measures for divorced parents and their children before the Bill came into effect.

9. Noting that divorced parents frequently encountered difficulties and disputes in coordinating arrangements for their children, Mr Frederick FUNG asked if "dedicated help service" to be provided by SWD would address the problem. He also sought information on the caseload of each staff member providing "dedicated help service".

10. SLW reiterated his reply in paragraph 3 above on the launch of the Pilot Project and the provision of "dedicated help service". PS(LW) added that there was a "no order" option as explained in paragraph 4 above. As to whether the introduction of the proposed legislation would give rise to more litigation, the Administration would keep in view in this regard, and consider providing mediation service and legal assistance for divorced parents subject to their needs.

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11. In response to Mr POON Siu-ping's question about what public education work would be carried out by the Administration to facilitate the implementation of the Model, SLW advised that SWD had been undertaking publicity measures and public education work relating to the Model in the past few years. For example, the broadcasting of announcements in the public interest entitled "Marriage may end but parenthood goes on" and distribution of a set of handbooks which provided more detailed information and guidance for separated/divorced parents and their children on co-parenting issues. He further said that the 65 IFSCs and two ISCs would continue to provide support and counselling services for separated/divorced families. The Administration would strive to strengthen its efforts in public education to tie in with the introduction of the proposed legislation.

12. Mr CHAN Chi-chuen noted with concern that the majority of the deputations expressed great reservations about the Administration's proposal of implementing the Model by legislative means although they supported the concept of the Model and the best interests principle. Having regard to the undesirable enforcement situation of maintenance orders, he doubted whether the enactment of the proposed legislation could drive the Administration to enhance the provision of support services for separated/divorced families.

13. Mr LEUNG Kwok-hung was of the view that the Administration should consider deputations' views and take effective measures to improve the system of maintenance.

14. Dr Fernando CHEUNG said that the ineffective system of maintenance had defeated the purpose of enforcing maintenance orders in helping divorced parents collect maintenance payments. Similarly, implementing the Model by legislative means without adequate support measures would not benefit divorced families. Supporting the concept of the Model and the best interests principle, he urged the Administration to seriously consider deputations' views on how to strengthen support measures, such as providing specific services for divorced families, setting up a maintenance board and setting up child focused centres in all the 18 districts, to ensure that the provision of social welfare services could tie in with the introduction of the proposed legislation. SLW reiterated again his reply in paragraph 3 above on the support measures which had been and would be put in place by the Administration. He undertook to relay the suggestion of setting up a maintenance board to HAB for consideration.

*(At 12:44 pm, the Chairman extended the meeting for 15 minutes beyond the appointed ending time to allow sufficient time for discussion.)*



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15. Dr Fernando CHEUNG moved a motion:

"本委員會認同「父母責任模式」的理念應以子女的最佳利益為基礎。但目前沒有父母離異後的專門服務，沒有贍養費局協助追討贍養費，此模式對高危及有家暴背景的離異父母帶來很大威脅和憂慮。在未有足夠配套服務前，實不宜草率立法，本委員會反對在現階段立法。"

(Translation)

"That, this Panel agrees that the concept of 'parental responsibility model' should adopt the best interests of children as the basis; but as there is currently a lack of specific services for parents after divorce and an alimony council to assist them in recovering alimony payments, the model has caused great threats and worries to divorced parents from high-risk families with history of domestic violence; coupled with the absence of sufficient complementary services, it is not advisable to legislate hastily; this Panel objects to making legislation at this stage."

16. The Chairman put the motion to vote. All members present voted for the motion. The Chairman declared that the motion was carried. He said that although members supported the implementation of the Model by legislative means, they decided to vote for the motion as the existing and new support measures were considered inadequate for tying in with the introduction of the proposed legislation. He urged the Administration to further strengthen the support measures before the Bill came into effect, and requested PAS(CA) to relay the suggestion of setting up a maintenance board to HAB for consideration.

**II. Any other business**

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

## Panel on Welfare Services

Special Meeting on Monday, 22 February 2016 at 10:45 am

**The proposed legislation to implement  
the Law Reform Commission Report on Child Custody and Access**

**Summary of views and concerns expressed by deputations/individuals**

No.	Deputation/individual	Views
1.	The Hong Kong Council of Social Service	<ul style="list-style-type: none"> <li>Supported the concept of the "parental responsibility model" ("the Model").</li> <li>Before implementing the Model by legislative means, the Administration should consider providing specific services for divorced families and setting up a maintenance board.</li> </ul>
2.	The Law Society of Hong Kong	<p>[LC Paper No. CB(2)922/15-16(01)]</p> <ul style="list-style-type: none"> <li>The existing system of maintenance had failed to facilitate the collection of maintenance payments.</li> <li>The Administration should examine afresh the suggestion of setting up a maintenance board.</li> </ul>
3.	Liberal Party	<ul style="list-style-type: none"> <li>To tie in with the introduction of the Children Proceedings (Parental Responsibility) Bill ("the Bill"), the Administration should allocate resources to provide mediation service and social welfare services for divorced parents to help minimizing disputes arising from making arrangements for the custody of and access to their children.</li> </ul>
4.	PathFinders	<ul style="list-style-type: none"> <li>Supported the principle that the best interests of children should guide all proceedings concerning children ("the best interests principle").</li> <li>The Administration should consider including in the proposed legislation protection for "public child", who was not taken care of by divorcing parents but instead was alone or abandoned, unrepresented and voiceless.</li> <li>Support measures to be introduced alongside the implementation of the Bill should cater for the children born to Hong Kong's migrant population as well as ethnic minority community by being culturally sensitive and language appropriate.</li> </ul>
5.	Hong Kong Young Women's Christian Association	<p>[LC Paper No. CB(2)922/15-16(02)]</p>

No.	Deputation/individual	Views
6.	Christian Family Service Centre	[LC Paper No. CB(2)930/15-16(01)]
7.	Hong Kong Federation of Women's Centres	[LC Paper Nos. CB(2)1030/15-16(01) and (02)]
8.	Peers Counselor	[LC Paper No. CB(2)1030/15-16(02)]
9.	Democratic Alliance for the Betterment and Progress of Hong Kong	<ul style="list-style-type: none"> <li>Supported the best interests principle.</li> <li>Before implementing the Model by legislative means, the Administration should consider taking steps to strengthen support for divorced families, such as setting up dedicated service centres for divorced families and strengthening staff training for Integrated Family Service Centres.</li> </ul>
10.	Ms Amy LEUNG Yuen-yam	<ul style="list-style-type: none"> <li>Supported the best interests principle.</li> <li>Before implementing the Model by legislative means, the Administration should provide adequate support services for divorced families, especially those with a history of domestic violence.</li> <li>Some provisions of the proposed legislation required divorced parents to disclose their residential addresses, which might create threats to divorced women who were victims of domestic violence.</li> </ul>
11.	Ms MAK Kam-yam	<ul style="list-style-type: none"> <li>Before implementing the Model by legislative means, the Administration should consider putting efforts in educating divorced women to accept a paradigm shift in parenting concept; providing continuous support for divorced women who had suffered from domestic violence; evaluating and enhancing the effectiveness of the support services provided by non-governmental organizations.</li> </ul>
12.	HK Catholic Marriage Advisory Council	<p>[LC Paper No. CB(2)930/15-16(02)]</p> <ul style="list-style-type: none"> <li>The Administration should establish a mechanism to help divorced families by making reference to Singapore, where divorced parents were required to attend mandatory parenting courses and provided with mediation and co-parenting services.</li> </ul>
13.	The Boys' and Girls' Clubs Association of Hong Kong	<p>[LC Paper No. CB(2)892/15-16(01)]</p> <ul style="list-style-type: none"> <li>The social welfare sector did not have sufficient resources to provide adequate support for divorced families.</li> </ul>
14.	Hong Kong Social Workers' General Union	<p>[LC Paper No. CB(2)930/15-16(03)]</p> <ul style="list-style-type: none"> <li>The Integrated Family Service Centres did not have sufficient resources to provide adequate support for divorced families.</li> <li>The introduction of new court orders under the proposed</li> </ul>

No.	Deputation/individual	Views
		legislation would become a burden of grassroot parents with low education level.
15.	港島單親互助社	<ul style="list-style-type: none"> <li>• Most of its members objected to the implementation of the Model by legislative means as they were worried that divorced parents would be forced to see each other for matters relating to their children under the proposed legislative regime. Besides, these members considered that the existing and new support measures were not able to solve the problems encountered by divorced families.</li> <li>• The Administration should consider setting up a maintenance board to help collect maintenance payments.</li> </ul>
16.	Gall Solicitors	<ul style="list-style-type: none"> <li>• Supported the implementation of the Model by legislative means.</li> <li>• The Administration should take steps to strengthen public education on the concept of the Model and the Bill. Otherwise, the Family Court would have to take up the role to educate divorced parents in the course of proceedings.</li> </ul>
17.	Hong Kong Single Parents Association	<p>[LC Paper No. CB(2)930/15-16(04)]</p> <ul style="list-style-type: none"> <li>• The Administration should adopt a three-pronged strategy to implement the Model, including enacting legislation, promoting the concept of the Model and providing support services for divorced families. It was believed that support services for divorced families would be gradually enhanced after the introduction of the Bill.</li> <li>• The Administration should consider setting up single parents centres to provide support and assistance for children in need from divorced families.</li> </ul>