

立法會
Legislative Council

LC Paper No. ESC154/16-17
(These minutes have been
seen by the Administration)

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Establishment Subcommittee of the Finance Committee

Minutes of the 16th meeting
held in Conference Room 1 of Legislative Council Complex
on Wednesday, 14 June 2017, at 8:30 am

Members present:

Hon Mrs Regina IP LAU Suk-yee, GBS, JP (Chairman)
Hon Alvin YEUNG (Deputy Chairman)
Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon Steven HO Chun-yin, BBS
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHU Hoi-dick

Hon Jimmy NG Wing-ka, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Hon CHAN Chun-ying
Hon Tanya CHAN
Hon LUK Chung-hung
Hon LAU Kwok-fan, MH
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Nathan LAW Kwun-chung
Dr Hon YIU Chung-yim

Members absent:

Hon CHUNG Kwok-pan
Hon SHIU Ka-chun

[According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.]

Public Officers attending:

Ms Carol YUEN Siu-wai, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) 1
Mr Eddie MAK Tak-wai, JP	Deputy Secretary for the Civil Service 1
Mr Laurie LO, JP	Deputy Secretary for Home Affairs (1)
Mr Nick AU YEUNG	Principle Assistant Secretary for Home Affairs (Community Care Fund)
Mr Joseph LAI, JP	Permanent Secretary for Transport and Housing (Transport)
Mr Wallace LAU	Deputy Secretary for Transport and Housing (Transport) 4

Captain Victor LIU, JP	Deputy Director-General of Civil Aviation (1)
Mr Alan SHUM	Assistant Director-General of Civil Aviation (Air Services and Safety Management)

Clerk in attendance:

Ms Connie SZETO	Chief Council Secretary (1)4
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Staff in attendance:

Mr Hugo CHIU	Senior Council Secretary (1)4
Ms Alice CHEUNG	Senior Legislative Assistant (1)1
Miss Yannes HO	Legislative Assistant (1)6
Ms Haley CHEUNG	Legislative Assistant (1)9

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At 8:30, the Clerk said that she was informed that both the Chairman and the Deputy Chairman might not be able to attend the meeting on time. She pointed out that according to paragraph 11 of the Establishment Subcommittee Procedure, if both the Chairman and the Deputy Chairman were unable to chair the meeting, the members present shall elect one from among themselves to chair the meeting.

2. Mr WONG Ting-kwong was nominated by Mr YIU Si-wing, and the nomination was seconded by Mr SHIU Ka-fai. Mr WONG Ting-kwong accepted the nomination. As there was no other nomination, Mr WONG Ting-kwong chaired the meeting.

3. At 8:38, the Chairman arrived at Conference Room 1 and took over the chair.

4. The Chairman said that the Administration wrote to the Subcommittee on 13 June 2017 to request the withdrawal of the paper on agenda item 7 (i.e. EC(2017-18)7), the Administration's letter explaining the matter and the revised agenda were tabled at the meeting.

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5. The Chairman drew members' attention to the information paper ECI(2017-18)4, which set out the latest changes in the directorate establishment approved since 2002 and the changes to the directorate establishment in relation to the nine items on the original agenda. She then reminded members that in accordance with Rule 83A of the Rules of Procedure ("RoP"), they should disclose the nature of any direct or indirect pecuniary interest relating to the funding proposal under discussion at the meeting before they spoke on the item. She also drew members' attention to RoP 84 on voting in case of direct pecuniary interest.

EC(2017-18)1 Proposed retention of one supernumerary post of Administrative Officer Staff Grade C (D2) in the Community Care Fund (CCF) Secretariat under the Home Affairs Bureau for five years from 1 July 2017 to 30 June 2022 to continue to provide dedicated directorate support to the CCF to ensure its smooth operation

6. The Chairman remarked that the staffing proposal was to retain one supernumerary post of Administrative Officer Staff Grade C (D2) in the Community Care Fund ("CCF") Secretariat under the Home Affairs Bureau ("HAB") for five years from 1 July 2017 to 30 June 2022 to continue to provide dedicated directorate support to CCF to ensure its smooth operation. She pointed out that discussion of the item was carried over from the meeting on 6 June 2017.

7. The Chairman advised that the Subcommittee had received Mr CHU Hoi-dick's letter dated 14 June 2017 in which questions were raised on the staffing proposal, and the letter had been tabled at the meeting. She invited the Administration to provide written response to Mr CHU's questions.

[Post-meeting note: Mr CHU's letter was circulated to members on 15 June 2017 vide LC Paper No. ESC126/16-17. The information provided by the Administration was circulated to members on 11 July 2017 vide LC Paper No. ESC147/16-17(01).]

Operation of the Community Care Fund

8. Dr Helena WONG commented that CCF had been established for six years, and the Administration should conduct a comprehensive review of its operation before considering whether the post of Principal Assistant

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Secretary (Community Care Fund) ("PAS(CCF)") should be retained. She requested the Administration to provide the following information:

- (a) details of the 11 assistance programmes once implemented by CCF and subsequently incorporated into the Government's regular assistance programmes (including the reasons for their incorporation into the Government's regular assistance programmes and the amount of recurrent expenditure involved); and
- (b) details of the assistance programmes once implemented by CCF and subsequently discontinued (including the reasons for their discontinuation and the amount of expenditure involved).

Deputy Secretary for Home Affairs (1) ("DSHA(1)") undertook to provide relevant information.

[Post-meeting note: The information provided by the Administration was circulated to members on 10 July 2017 vide LC Paper No. ESC146/16-17(01).]

9. Mr LEUNG Kwok-hung said that he did not support the staffing proposal. He pointed out that CCF was intended to provide assistance to groups of people who could not benefit from the existing social safety net or the Government's short-term relief measures, and to foster the involvement of the business sector in offering assistance to the underprivileged through matching. However, he opined that CCF was proven to be ineffective since it commenced operation. There was a lack of communication between CCF and the Labour and Welfare Bureau as well as serious shortfall in the amount of donation from the business sector. Mr LEUNG suggested that the Administration should consider introducing poverty relief tax. Dr KWOK Ka-ki concurred that CCF failed to achieve its intended objectives and was mainly used to plug the gaps in the Government's poverty alleviation efforts at present. He urged the Government to review its poverty alleviation efforts. Dr KWOK and Mr LEUNG were concerned that CCF was mostly funded by the Government but its operation had circumvented the scrutiny of the Legislative Council ("LegCo").

10. In response, DSHA(1) remarked that CCF implemented assistance programmes and launched some pilot schemes on a trial basis. Upon completion of an assistance programme, relevant policy bureaux or departments would conduct a review and submit a report for the Community Care Fund Task Force ("CCF Task Force") to discuss whether

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the programme should be incorporated into the Government's regular assistance programmes. Eleven pilot programmes under CCF had been incorporated as regular ones since the establishment of CCF.

11. Mr LUK Chung-hung was concerned that the disparity between the rich and the poor in Hong Kong was getting increasingly serious and the Gini coefficient was soaring to new highs recently. He enquired whether the Government would consider including into the calculation formula for the Gini coefficient the factor of the middle class not being taxed on their investment gains, such that the Gini coefficient would better reflect the disparity between the rich and the poor in Hong Kong. The Chairman reminded Mr LUK that the calculation of the Gini coefficient involved a broad policy issue and was not directly related to the staffing proposal.

12. In response, DSHA(1) said that CCF had since 2013 been integrated into the work of the Commission on Poverty ("CoP"). Generally speaking, CoP was responsible for handling poverty alleviation and conducting studies on matters related to poverty alleviation (including the calculation of the Gini coefficient), whereas CCF implemented assistance programmes and pilot schemes to help the groups in need. CCF would tie in with CoP's work instead of conducting studies on poverty alleviation policies on its own.

13. Mr LEUNG Kwok-hung enquired about the arrangement for the holder of the proposed post should CCF cease its operation before the expiry of the proposed post (i.e. 30 June 2022). He also enquired about the impact on the operation of CCF if the proposed post was not extended.

14. DSHA(1) pointed out that the existing assistance programmes under CCF would at least be operated until 2020. In addition, CCF still had a balance of around \$19.7 billion. The Government believed that CCF would still be in operation for the next five years. He also pointed out that if the proposed post could not be retained, there would be serious implications on CCF's coordination efforts with policy bureaux and departments, and HAB would have no manpower to absorb relevant work. Such situation would be utterly undesirable.

Fund raising initiatives of the Community Care Fund

15. Mr CHAN Chi-chuen noted from the supplementary information provided by the Administration (i.e. LC Paper No. ESC122/16-17(01)) that the amount of donation received by CCF had drastically reduced since 2015-2016. He enquired whether the responsibilities of PAS(CCF) included raising fund for CCF or making suggestions on fund raising

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matters. He opined that CCF should strengthen its fund raising initiatives, and PAS should also be involved in such matters. Mr YIU Si-wing expressed similar concerns and commented that fund raising promotion for CCF should be included as part of the responsibilities of the post.

16. In response, DSHA(1) said that the holder of the proposed post would help CCF Task Force and CoP to oversee CCF's financial management, which did not include fund raising initiatives for CCF. He explained that during the initial stage of CCF's establishment, the business sector had pledged substantial sums of donation to be made over several years. Thus, the annual amount of donation received by CCF in its early years was higher. Despite the lower amount of donation received in recent years, CCF still had a balance of some \$20 billion at present and did not take any further initiative to raise fund. DSHA(1) also advised that members' views would be relayed to the CCF Task Force.

Consultation work of the Community Care Fund

17. Mr LAU Kwok-fan expressed support for the staffing proposal. He noted that CoP decided on the assistance programmes of CCF, whereas CCF was responsible for relevant consultation efforts. Mr LAU enquired about the assistance programmes introduced by CCF that were formulated in the light of the views collected from consultations; the indicators used for deciding whether the views collected should be adopted when the CCF Task Force assistance programmes were formulated; details of public consultations held by CCF; and whether CCF would take the initiative to collect public views and adopt different consultation approaches. Mr LAU stressed that CCF should strengthen its consultation efforts and enhance its understanding of the multifarious aspirations in the community.

18. Dr Fernando CHEUNG was concerned that the work of PAS(CCF) was only to relay public views to the CCF Task Force and there was not much concrete work indeed. He also criticized that it was utterly inadequate for CCF to conduct only two consultations a year; and relevant consultation efforts were unsatisfactory. For instance, there had been calls in the community for an allowance for low-income carers of persons with disabilities over the years, yet CCF only introduced recently the relevant assistance programme. Dr CHEUNG enquired how CCF would improve its consultation efforts in the future.

19. DSHA(1) advised that CCF would collect views from different parties of the community through various channels (including its website, email and letters from the public) and would conduct two public consultation sessions a year. CCF would relay the views collected to the

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CCF Task Force, which would then consider how assistance programmes (such as the Pilot Scheme on Living Allowance for Low-income Carers of Persons with Disabilities) should be formulated in the light of such views for consideration by CoP. As regards CCF's public consultations, Principle Assistant Secretary for Home Affairs (Community Care Fund) ("PAS(CCF)") advised that CCF would engage its collaborators in the past (such as non-governmental organizations) as appropriate, and arrange publicity on newspapers as well as its website. DSHA(1) added that CCF would review whether more public consultations would be necessary.

20. On the adoption of public views, DSHA(1) pointed out that the CCF Task Force would discuss the views and suggestions collected from the consultations and would discuss the feasibility of the suggestions with relevant government departments as necessary. He also advised that the CCF Task Force comprised members of various backgrounds, and some of them were familiar with the situation and needs of the underprivileged and had all along been in touch with relevant stakeholders. In addition, CCF would collect views through different consultation approaches, such as focus group meetings.

21. Dr Fernando CHEUNG enquired about the details of the focus group meetings held by CCF to consult public views over the past year, including the number of focus group meetings held and the topics discussed. DSHA(1) said that relevant information would be provided after the meeting.

[Post-meeting note: The information provided by the Administration was circulated to members on 10 July 2017 vide LC Paper No. ESC146/16-17(01).]

Implementation of individual assistance programmes under the Community Care Fund

22. Dr KWOK Ka-ki was concerned that the Government's dental services for the elderly and the underprivileged were inadequate. Despite the introduction of the Elderly Dental Assistance Programme under CCF, the Audit Commission pointed out that the administrative fee of the programme was too high. He enquired how PAS(CCF) would improve the programme and seek to strengthen the dental services for the elderly and the underprivileged. Dr KWOK reiterated that publicly funded assistance programmes should be subject to the scrutiny of LegCo.

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23. DSHA(1) responded that the Elderly Dental Assistance Programme involved some cost in respect of its establishment. As the initial number of users of the programme was low, its average cost would invariably be on the high side. He believed that with rising number of users, there would be improvement to the problem of high administrative fee. He also pointed out that the numbers of dentists and dental clinics involved in the programme were limited. Thus, more restrictions were imposed on applications. The age limit on applicants had been lowered to 70 since 3 July 2017. CCF would consider lowering the age limit of the programme in stages having regard to the progress of its implementation and the overall manpower supply of the dental profession. DSHA(1) also advised that policy bureaux would make reference to the implementation experience of relevant CCF pilot schemes when formulating the long-term policy on dental services.

24. Dr KWOK Ka-ki was concerned that some patients could not afford expensive drugs. Despite the relevant assistance programmes to be introduced by CCF, the Administration and the Hospital Authority ("HA") should expand the Formulary on subsidized drugs so as to tackle the problem effectively. He enquired whether CCF would discuss the matter with the Administration. Mr LEUNG Kwok-hung expressed disappointment at CCF's reluctance to take the initiative to offer assistance to patients who could not afford expensive drugs.

25. DSHA(1) pointed out that CCF was expected to launch the assistance programme "Subsidy for eligible patients to purchase ultra-expensive drugs" in August 2017, and HA would examine the feasibility of bringing relevant drugs into the safety net of the Samaritan Fund or other funds when the programme was subject to evaluation.

26. Mr CHU Hoi-dick pointed out that CCF published respective evaluation reports in 2013 on the Elderly Dental Assistance Programme and the "Special Care Subsidy for the Severely Disabled" programme, and enquired whether CCF would update the evaluation reports on the programmes concerned. Mr CHU also said that it was suggested in the evaluation report on the "Special Care Subsidy for the Severely Disabled" programme that the eligibility criteria for severely disabled persons should be relaxed, and enquired about the progress of evaluation and the relevant proposal on improvement. Mr CHU also enquired whether CCF would, in the event that a mid-term evaluation was conducted on an individual assistance programme, make improvement to the programme concerned in the light of the suggestions raised in the mid-term evaluation before the conclusion of the programme.

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27. DSHA(1) responded that the "Special Care Subsidy for the Severely Disabled" programme was extended in 2016. CCF would conduct evaluation upon completion of an assistance programme in accordance with established procedures and upload the evaluation report onto its website. He undertook to provide the information after the meeting to address Mr CHU Hoi-dick's concerns about the programme. DSHA(1) supplemented that as many assistance programmes of CCF were pilot schemes, CCF would conduct mid-term evaluations on individual programmes where necessary, and the CCF Task Force would discuss the suggestions raised in the mid-term evaluations and implement them as far as practicable.

[Post-meeting note: The information provided by the Administration was circulated to members on 10 July 2017 vide LC Paper No. ESC146/16-17(01).]

28. In response to Dr Fernando CHEUNG's enquiry, PAS(CCF) said that CCF had set the age requirement of the "Special Care Subsidy for the Severely Disabled" assistance programme at below 60 as severely disabled persons aged 60 or above could receive support from the existing support services of the Social Welfare Department ("SWD"). The Government would provide relevant information (including measures in respect of cash subsidy) after the meeting.

[Post-meeting note: The information provided by the Administration was circulated to members on 10 July 2017 vide LC Paper No. ESC146/16-17(01).]

29. Dr Helena WONG enquired about the numbers of beneficiaries under the six new CCF assistance programmes endorsed by CoP in 2016.

30. PAS(CCF) highlighted the numbers of beneficiaries under the six assistance programmes as below:

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Assistance programme	Number of beneficiaries (as at April 2017)
Provision of a one-off grant for school-related expenses to kindergarten students	41 159
Free cervical cancer vaccination pilot scheme	7 118 (7 880 in terms of enrolment)
Pilot scheme on raising the maximum level of disregarded earnings for recipients with disabilities under the Comprehensive Social Security Assistance ("CSSA") Scheme	3 342
Pilot scheme on providing subsidy for Higher Disability Allowance recipients in paid employment to hire carers	23
Pilot scheme on living allowance for low-income carers of persons with disabilities	1 042
Dementia Community Support Scheme	74

He added that there were fewer beneficiaries under some of the programmes as many applications were being processed. For instance, the "Pilot scheme on providing subsidy for Higher Disability Allowance recipients in paid employment to hire carers" assistance programme was projected to have 100 beneficiaries, yet the number stood at merely 23 as at April 2017. He also advised that the assistance programme was aimed at encouraging severely disabled persons who were able to work to engage in employment, and the programme was promoted by SWD.

Assistance measures for low-income households not living in public housing and not receiving Comprehensive Social Security Assistance (i.e. "N have-nots")

31. Mr LAU Kwok-fan pointed out that it was the community's general expectation that CCF would regularize the "One-off living subsidy for low-income households not living in public housing and not receiving CSSA" programme ("subsidy for "N have-nots"), which had been discontinued. He hoped that CCF would take such views into account in its consultation efforts. Mr LUK Chung-hung said that relevant LegCo panels had passed motions on helping the "N have-nots", and enquired why CCF discontinued the subsidy for "N have-nots".

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32. Dr Fernando CHEUNG said that the community had different views on the abolition of the subsidy for "N have-nots". He enquired about the reasons for CCF to abolish the programme without holding any public consultation, as well as the roles of PAS(CCF) in the matter. Mr LEUNG Kwok-hung concurred that the subsidy for "N have-nots" should be preserved.

33. DSHA(1) responded that the Panel on Home Affairs and the Panel on Welfare Services of LegCo had discussed the provision of subsidy to the "N have-nots", but the CCF Task Force considered it more appropriate to provide other forms of assistance for the "N have-nots". He also clarified that CCF did not "abolish" the subsidy for "N have-nots". He explained that the subsidy for "N have-nots" was a short-term relief measure proposed by CCF in the light of the past Budgets to provide one-off subsidy to the "N have-nots" who could not benefit from the Budgets. No extension was sought for the subsidy in the Budgets of recent years.

34. Dr KWOK Ka-ki enquired about the measures taken by the Administration to help the "N have-nots" since the discontinuation of the subsidy for them.

35. In response, DSHA(1) remarked that the CCF Task Force did not consider the provision of one-off subsidy to the "N have-nots" an effective way to address their needs, and would formulate other forms of assistance. CCF also offered subsidies tailored for different low-income groups. The Government would provide relevant information after the meeting.

[Post-meeting note: The information provided by the Administration was circulated to members on 10 July 2017 vide LC Paper No. ESC146/16-17(01).]

Voting on the item

36. The Chairman put the item to vote. No member claimed a division. The Chairman was of the view that the majority of the members voting were in favour of the item. She declared that members of the Subcommittee agreed to recommend the item to the Finance Committee ("FC") for approval. Mr LEUNG Kwok-hung requested that the item be voted on separately at the relevant FC meeting.

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EC(2016-17)2 Proposed creation of one non-civil service position of Chief Inspector of Accidents (equivalent to the rank of D2) in the Transport Branch of the Transport and Housing Bureau for about three years with immediate effect upon approval of the Finance Committee up to 31 March 2020 to lead an independent air accident investigation authority

37. The Chairman remarked that the staffing proposal was to create one non-civil service position of Chief Inspector of Accidents ("CIA") (equivalent to the rank of D2) in the Transport Branch of the Transport and Housing Bureau ("THB") for about three years with immediate effect upon approval of the Finance Committee ("FC") up to 31 March 2020 to lead an independent air accident investigation authority ("independent investigation authority").

38. The Chairman pointed out that the Administration consulted the Panel on Economic Development on the proposal on 27 March 2017. Panel members generally supported the establishment of the independent investigation authority but one of them questioned its necessity. As there were few civil aviation accidents, some members were concerned about whether the workload of the authority could justify the proposed manpower establishment arrangement. Some other members opined that in view of the spasmodic nature of civil aviation accidents, it would be difficult to estimate the workload of the authority. Panel members requested the Administration to further consider the manpower establishment arrangement for the authority.

39. The Chairman advised that the Subcommittee had received Mr CHU Hoi-dick's letter dated 14 June 2017 raising questions on the staffing proposal, which was tabled at the meeting. She asked the Administration to provide written responses to Mr CHU's questions.

[Post-meeting note: The information provided by the Administration was issued to members on 4 July 2017 vide LC Paper No. ESC143/16-17(01).]

Establishment of an independent air accident investigation authority

40. Mr LAU Kwok-fan noted that the purpose of establishing the independent investigation authority was to enable Hong Kong to comply with the relevant new standard laid down by the International Civil Aviation Organization ("ICAO") in recent years. Noting that both the

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independent investigation authority and the Civil Aviation Department ("CAD") were under the purview of THB, he enquired how the differences between the independent investigation authority and CAD in conducting civil aviation accident investigations. Mr LAU also asked whether the establishment of an independent air accident investigation authority was a common practice internationally; whether the proposed independent investigation authority would put forward improvement proposals in addition to conducting investigations into civil aviation accidents, and whether the Administration had considered the feasibility of setting up an ad hoc investigation authority following the occurrence of a civil aviation accident.

41. Permanent Secretary for Transport and Housing (Transport) ("PSTH(T)") confirmed that the main purpose of the proposal was to enable Hong Kong to comply with the relevant requirement of ICAO. CAD was a service provider and had been conducting civil aviation accident investigations in an impartial manner. Having said that, as such investigations might involve the work of CAD, the existing arrangement whereby investigations of civil aviation accidents were handled by CAD might be perceived to affect the impartiality of the investigations and give rise to conflict of interest, the Government therefore proposed to establish the independent investigation authority. He explained that apart from being the requirement of ICAO, the establishment of independent investigation authorities was also an international trend and quite a number of countries (including the United Kingdom and France) had established such authorities. He added that according to the requirements of ICAO and international practice, the objective of civil aviation accident investigation was to identify the causes of accidents or serious incidents involving civil aircraft, so as to facilitate lesson learning and improvement of mechanism to prevent similar event from happening again. The purpose of investigation was not to apportion blame or liability. Regarding the feasibility of an ad hoc set up of an investigation authority, PSTH(T) pointed out that the independent investigation authority had to ensure its readiness for accident investigations. When an accident or serious incident occurred, the authority must be able to attend to the scene immediately to collect evidence and conduct other investigation-related tasks. Thus, the Government considered a permanent set-up essential. It would review the set-up before the expiry of the three-year period for the post in the light of actual experience.

42. Mr CHU Hoi-dick asked whether conferring the necessary statutory powers on the independent investigation authority would require amendment to the Hong Kong Civil Aviation (Investigation of Accidents) Regulations (Cap. 448B) ("Regulations"); and whether the powers (such as

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the power to remove aircraft wreckage) conferred by the Regulations on the Director-General of Civil Aviation ("DGCA") at present would be transferred to the person who would assume the proposed post after the establishment of the independent investigation authority. Moreover, Mr CHU noted that section 15 of the Regulations stipulated that "The Chief Executive shall, unless in his opinion there are good reasons to the contrary, cause the Inspector's report ... to be made public wholly or in part in such manner as he thinks fit". He said that the Chief Executive's power to refuse the release of the contents of investigation reports should be restricted and all investigation reports should be made public.

43. PSTH(T) replied that the Government would need to amend the Regulations and the relevant subsidiary legislation (i.e. the Hong Kong Civil Aviation (Investigation of Accidents) (Amendment) Regulations 2017) would be tabled to the Legislative Council on 14 June 2017. He said that the powers of DGCA relating to investigation of accidents currently prescribed in the Regulations would be transferred to the post of CIA to be created. Regarding the Chief Executive's power to refuse to make public the contents of investigation reports, PSTH(T) stressed that investigation reports would normally be made public and the Chief Executive must have substantial grounds if he were to refuse to make public wholly or in part the contents of investigation reports. There had never been any precedents where the Chief Executive had refused to make public investigation reports. He pointed out that Members could discuss the relevant issues during the scrutiny of the Hong Kong Civil Aviation (Investigation of Accidents) (Amendment) Regulations 2017.

Work of the independent air accident investigation authority

44. Dr KWOK Ka-ki expressed support for the staffing proposal. He was concerned about the recent spate of problems with the new Air Traffic Control ("ATC") System and considered that some of the recent civil aviation accidents might be partially attributed to the construction of the three-runway system at Hong Kong International Airport ("the three-runway system"). He asked whether the independent investigation authority would review the safety issues of both the new ATC System and the three-runway system and come up with forward-looking improvement proposals.

45. PSTH(T) replied that it was CAD's responsibility to investigate civil aviation accidents at present. After the establishment of the independent investigation authority, CAD's unfinished investigations would be handed over to the authority for continued actions. As stated in paragraph 10 of EC(2017-18)2, apart from determining the cause(s) of

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accidents and publishing investigation reports, the primary functions of the independent investigation authority included proposing safety recommendations to prevent recurrence of similar events. Should accidents involve the new ATC System or of the airport design, the investigations conducted by the independent investigation authority would cover such areas and relevant recommendations would be made. Moreover, the independent investigation authority would also make general civil aviation safety recommendations to CAD on a need basis.

46. Mr Jeremy TAM expressed support for the staffing proposal and the establishment of the independent investigation authority. He asked whether the independent investigation authority would be able to obtain mandatory occurrence reports made by the relevant organizations to CAD at present and to decide on its own accord to launch investigations into civil aviation accidents and incidents. He stressed that the independent investigation authority should be able to obtain all mandatory occurrence reports.

47. PSTH(T) said that after the establishment of the independent investigation authority, CAD would still be responsible for receiving mandatory occurrence reports, but CAD would put in place a mechanism to enable the independent investigation authority to have access to the relevant documents.

48. Mr Nathan LAW welcomed the staffing proposal. He enquired about the expected improvement in the time for conducting civil aviation accident investigations after the establishment of the independent investigation authority. Deputy Secretary for Transport and Housing (Transport) 4 ("DSTH(T)4") replied that CAD currently required an average of 26 weeks to complete a civil aviation accident investigation. The Government expected that the time for investigation would be shortened after the establishment of the independent investigation authority. Given the difference in nature and complexity of each civil aviation accident, it would be difficult at the present stage to estimate the specific shortening in investigation time.

Manpower arrangement of the independent air accident investigation authority

49. Mr Nathan LAW enquired about the organizational structure of the independent investigation authority, including whether the six professionals to be recruited to support CIA would be investigators, the proportion of these professionals who would be deployed from CAD to those who would be recruited through open recruitment. He opined that CAD should avoid

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deploying its staff to fill all the six professional supporting positions, in order to increase the credibility of the investigation authority. Dr KWOK Ka-ki concurred with Mr LAW's view.

50. PSTH(T) explained that the independent investigation authority would be composed of CIA, six professionals and one supporting staff member. All of the six professionals were investigators, and two of them would be deployed from CAD to enable the independent investigation authority to commence operation expeditiously. Upon assuming duty, CIA would decide how to recruit the remaining four professionals of the independent investigation authority.

51. Mr Jeremy TAM asked whether overseas recruitment exercise would be conducted for the proposed post. He opined that should the independent investigation authority decide to conduct open recruitment exercise for the remaining four professional support staff members, overseas recruitment exercise should also be conducted if no suitable candidates were identified in Hong Kong.

52. PSTH(T) confirmed that global recruitment exercise would be conducted for the proposed post. DSTH(T)4 added that the independent investigation authority would conduct overseas recruitment exercise for the remaining four professional support staff members if necessary.

53. Noting that the independent investigation authority would be a permanent set-up, Mr Martin LIAO asked why the post of CIA was not a permanent one.

54. PSTH(T) confirmed that the independent investigation authority would be a permanent set-up. He explained that the proposal for the creation of the post up to 31 March 2020 was to allow flexibility for the Government to review whether the manpower establishment of the independent investigation authority suited the actual operational needs and determine the long-term staff establishment of the authority, including whether the proposed post should continue to be created on non-civil service terms.

55. Ir Dr LO Wai-kwok expressed support for the staffing proposal. He opined that as an important aviation centre, Hong Kong must comply with the relevant requirement of ICAO. He also remarked that the Administration should carefully examine the manpower establishment and workload of the independent investigation authority.

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Application of the Convention on International Civil Aviation to the laws of Hong Kong

56. Mr Jeremy TAM pointed out that the supplementary information provided by the Administration (i.e. Annex 2 to LC Paper No. CB(4)927/16-17(01)) set out the definitions of "Accident" and "Serious incident" in "Annex 13 to the Convention on International Civil Aviation-Aircraft Accident and Incident Investigation". He noted that in the Chinese version of the Annex, "Accident" and "Serious incident" were rendered as "事故" and "嚴重事故徵候" respectively, which were different from "意外" and "嚴重事故" used in the discussion paper (i.e. paragraph 2 of EC(2016-17)2). This might lead to misunderstanding. He asked whether the definitions of "Accident" and "Serious incident" in the laws of Hong Kong were the same as those adopted in the Convention on International Civil Aviation.

57. PSTH(T) replied that "事故" and "嚴重事故徵候" were the official Chinese renditions for "Accident" and "Serious incident" adopted in the Convention on International Civil Aviation. PSTH(T) and DSTH(T)4 said that the definitions of "Accident" and "Serious incident" in the laws of Hong Kong were basically the same as those adopted in the Convention on International Civil Aviation. The only difference was that "Accident" and "Serious incident" were rendered in the relevant legislation in Hong Kong as "意外" and "嚴重事故" respectively, which were more commonly used in the territory.

(At 10:29 am, the Chairman suggested that the meeting be extended for 15 minutes. No members raised objection.)

Voting on the item

58. The Chairman put the item to vote. No member claimed a division. The Chairman was of the view that the majority of the members present and voting were in favour of the item and she declared that the Subcommittee agreed to recommend the item to FC for approval. Mr Jeremy TAM requested separate voting on the item at the relevant FC meeting.

[Post-meeting note: Mr Jeremy TAM informed the Secretariat on 14 June 2017 vide Lotus Notes e-mail that he would withdraw his request for separate voting on the item at the relevant FC meeting.]

Action

59. The meeting ended at 10:39 am.

Council Business Division 1
Legislative Council Secretariat
24 July 2017