

For discussion  
on 13 May 2004

**Bills Committee on  
Adoption (Amendment) Bill 2003**

**Outcome of Consultation with Non-Governmental Organizations on  
the Proposal to involve them in Local Adoption**

**Purpose**

This paper informs Members of the outcome of our consultation with the Non-Governmental Organizations (NGOs) on the proposal to involve them in local adoption, as well as the proposed Committee Stage Amendments (CSAs) to the Adoption (Amendment) Bill 2003 (the Amendment Bill) for implementing the proposal.

**Background**

2. At the meeting on 25 March 2004, Members examined the paper “Local Adoption : Choice for Birth and Prospective Adoptive Parents and the Participation of NGOs” (ref : LC Paper No. CB(2)1829/03-04(02)), which outlined the proposed framework for involving NGOs in the adoption of a child residing in Hong Kong by unrelated person(s) also residing in Hong Kong (hereafter called “local unrelated adoption”) through an accreditation system.

3. Members supported the proposed arrangements whereby NGOs and the Social Welfare Department (SWD) can jointly establish two common lists of children and prospective adoptive parents for local unrelated adoption. Both SWD and NGOs would contribute to the matching process<sup>1</sup>. Members agreed that this arrangement would give the widest agency choice to birth parents and prospective adoptive parents as they can approach either NGOs

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<sup>1</sup> NGOs be involved in the matching process when the adoptive parents from their lists are involved. Where a specific consent has been given by a birth parent, no matching would be required and the NGO would handle the adoption arrangements by itself.

or SWD, and the widest prospective adoptive parents choice for the children. Duly accredited NGOs will be able to participate in local adoption arrangements, if they wish to do so, on a non-profit-making and self-financing basis without government funding. Details of the proposed arrangements were also set out in that paper.

### **Consultations with NGOs**

4. We have, on the basis of the approach supported by the Bills Committee, further developed the proposed framework and prepared a consultation document at Annex A. In particular, since we have already formulated, after consultation with the relevant NGOs, a framework on the accreditation system to allow NGOs to provide intercountry adoption services as Accredited Bodies (ABs) before introduction of the Amendment Bill to LegCo in June 2003 (Annex F of the LegCo Brief), and there are synergies between local and intercountry adoption, we believe that the criteria and procedures entailed in that proposed accreditation system can be extended to cover local adoption. In other words, in future, NGOs duly accredited under that system could handle local and/or intercountry adoption cases.

5. We consulted the following five NGOs on the proposal at a meeting on 21 April 2004 on the basis the consultation document at Annex A :

- (a) Mother's Choice (MC) and International Social Service Hong Kong Branch (ISS-HK) which provide services relating to intercountry adoptions and are members of the revamped Working Group on Review of the Adoption Ordinance;
- (b) Caritas Hong Kong (Caritas) which used to provide services relating to intercountry adoption and is a member of the revamped Working Group on Review of the Adoption Ordinance;
- (c) Hong Kong Family Welfare Society (HKFWS) which has an interest in adoption matters and is a member of the revamped Working Group on the Review of the Adoption Ordinance; and
- (d) Po Leung Kuk (PLK) which should have the capacity to provide adoption services as it provides nearly all types of residential services for vulnerable children and women including place of refuge for children, women shelter, small group homes, foster care, residential crèches and nurseries, and so on.

6. They have indicated clear support to the proposal and shared our view that it would give more choices to the birth and prospective adoptive parents, which would ultimately allow for more placements to be made. This would be in the best interest of the child. Their written responses are at Annexes B to F.

7. The NGOs have also put forward some specific suggestions on the detailed operations of the system. Our response to their suggestions is set out below :

- (a) ***Specific consent to be allowed only under exceptional circumstances*** : ISS-HK has suggested at Annex B that birth parents having a designated adoptive home in mind should only be allowed under duly justified exceptional circumstances to avoid possible abuse of the system e.g. pre-matching.

We share this view and consider that SWD and ABs should ensure that specific consent for adoption of a child by unrelated person will only be considered under exceptional circumstances and that, as suggested by ISS-HK, the parental consent is freely given, without pressure or material gain;

- (b) ***Possible Expansion of Membership of the Matching Panel*** : ISS-HK has suggested at Annex B that there might be a need for an/some independent member(s) at the matching panel. MC has proposed at Annex C that a representative from each NGO involved in the case should be included in the matching panel so that the needs and wishes of birth mothers, prospective adoptive parents and adoptive children can be evaluated and advocated. In particular, MC may represent the interests of the birth mothers under their care. This is different from our proposal that ABs would only be involved in the matching process when the adoptive parents from their lists are involved.

The membership of the matching panel is an operational matter outside the scope of the Amendment Bill. This would have to be further developed together with other administrative details of the proposed system once the legislative framework is agreed. We stand ready to discuss further with them on the best composition of the matching panel to address their concerns.

- (c) ***Need for Maintaining a Central Pool for Prospective Adoptive Parents*** : Caritas has raised reservation at Annex D on the need for maintaining a central pool for prospective adoptive parents as some may not feel comfortable with their information passed around and this may also lead to duplication of efforts.

We have subsequently explained to Caritas the importance of maintaining such a central list to avoid the prospective adoptive parents “shopping around” with SWD/different ABs. Moreover, the essence of maintaining a central home pool is to match the children available for adoption to the most suitable home in the shortest time without the homes competing with each other for the same child. Moreover, as only non-identifying personal particulars will be shared in the matching panel, there should not be a concern on the privacy of the cases. Caritas has accepted our views and raised no objection to the proposal.

- (d) ***Roles of SWD*** : PLK has suggested in Annex E that some clarifications be added on the role of SWD, not just limiting to the monitoring of ABs, when other AB(s) join(s) in processing local adoption.

We have subsequently explained to the satisfaction of PLK that SWD would perform functions other than monitoring of ABs. For example, SWD would continue to provide direct adoption services, manage the central home pool and central children list, acting as the Guardian Ad Litem unless otherwise appointed and so on. Details have actually been set out in paragraphs 14 to 16 of the consultation document at Annex A. Po Leung Kuk’s confirmed satisfaction of our explanation is also at Annex E.

### **Proposed Committee Stage Amendments**

8. With the support from the NGOs concerned, subject to Members’ views, we will use the framework set out in the consultation document as the basis for our preparation of the CSAs. Specifically, we propose that CSAs be moved to the Amendment Bill for the following purposes, with the proposed details set out at Annex G :

- (a) ***Entrusting ABs with the necessary powers*** : we would need to extend certain powers of DSW in the Adoption Ordinance, as appropriate, to ABs as well, to enable ABs to carry out their

responsibilities under the proposed system for local unrelated adoption.

Such powers will only be extended to ABs in respect of local adoptions, but not intercountry adoptions (whether Convention or non-Convention adoptions). It is because while ABs will only act as the agents of the Central Authority (i.e. SWD) in our proposed arrangements for intercountry adoptions under the Hague Convention, ABs will be able to make decisions on its own in respect of local adoption, e.g. the suitability of applicants as prospective adoptive parents;

- (b) ***Accreditation principles*** : the main principles and features of the accreditation system for ABs for the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption (the Hague Convention) are stipulated in certain Articles of the Convention and enshrined as Schedule 3 under clause 32 of the Amendment Bill<sup>2</sup>. For example, the Hague Convention requires that an AB should demonstrate competency, pursue only non-profit objectives, be directed and staffed by qualified personnel and subject to supervision by the competent authorities as to its composition, operation and financial situation. We suggest localizing these principles for incorporation into the Adoption Ordinance as a schedule;
- (c) ***Register of Accredited Bodies*** : Members have previously suggested that we consider how best to inform the public of the list of ABs. We suggest following the approach of the Child Care Centre Register in accordance with section 8 of the Child Care Services Ordinance

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<sup>2</sup> Some of the relevant Articles are :

***Article 10***

Accreditation shall only be granted to and maintained by bodies demonstrating their competence to carry out properly the tasks with which they may be entrusted.

***Article 11***

An accredited body shall –

- a) pursue only non-profit objectives according to such conditions and within such limits as may be established by the competent authorities of the State of accreditation;
- b) be directed and staffed by persons qualified by their ethical standards and by training or experience to work in the field of intercountry adoption; and
- c) be subject to supervision by competent authorities of that State as to its composition, operation and financial situation.

(Cap. 243)<sup>3</sup>. Instead of having a list of ABs in the legislation, DSW will keep a register of ABs which will contain their names and addresses, and other particulars as DSW thinks fit. This register will be available for public inspection at such reasonable time and place as DSW may determine. Such arrangement would avoid frequent updating of the Adoption Ordinance and facilitate public access of the register information as well; and

- (d) ***Appeal Mechanism*** : we have proposed in the new section 30 under clause 31 of the Amendment Bill that certain decisions against DSW would be subject to appeal to be handled by the Administrative Appeals Board (AAB) in accordance with the Administrative Appeals Board Ordinance (Cap.442). These include the assessment of a person's suitability as an adoptive parent and the termination of a placement. As ABs will in future be making such decisions in respect of local unrelated adoption, an appeal mechanism should also be provided. Since SWD will be responsible for the accreditation of NGOs, and given their experience in assessment and placement arrangements, it would be reasonable for SWD to handle appeals against AB's decisions.

## **Presentation**

9. Subject to Members' views to the above, we would further refine the proposed legislative amendments at Annex G for incorporation into a master list of CSAs to be submitted to Members for consideration.

Health, Welfare and Food Bureau  
May 2004

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<sup>3</sup> Section 8 of the Child Care Services Ordinance provides that :

- “(1) The Director shall cause to be kept, in such form as he may specify, a register of registered child care centres containing-
- (a) the name and address of every person registered in respect of child care centres;
  - (b) the name and address of every registered child care centre; and
  - (c) such other particulars as the Director thinks fit.
- (2) A certificate purporting to be signed by or for the Director that a child care centre is registered or is not registered shall be evidence of the facts stated therein until the contrary is proved.
- (3) A copy of an entry in the register kept under subsection (1) purporting to be certified under the hand of the Director shall, until the contrary is proved, be admitted in evidence as proof of the facts stated therein as at the date of such certified copy.
- (4) The register may, on application in writing to the Director and on payment of the fee, if any, prescribed, be inspected at the office of the Director during office hours by any member of the public.”

## **Document for Consultation with Non-Governmental Organizations**

### **Proposed Involvement of Non-Governmental Organizations in Local Adoption**

#### **Purpose**

This paper sets out the proposed framework for involving the Non-Governmental Organizations (NGOs) in the adoption of child residing in Hong Kong by unrelated person(s) also residing in Hong Kong (hereafter called “local unrelated adoption”) through an accreditation system.

#### **Background**

2. Adoption is a legal process whereby parental rights and responsibilities over a child are transferred from the birth parents to the adoptive parents. An adoption in Hong Kong must be effected in accordance with the Adoption Ordinance, Cap. 290. The “best interests of the child” is the guiding principle in the adoption process.

3. Adoptive children in Hong Kong generally fall under two categories, i.e. wards of the Director of Social Welfare (DSW)<sup>1</sup> and non-DSW wards. Where a child is a ward of the DSW, DSW is the child’s legal guardian and has a statutory responsibility to take care of the child’s best interest. Under the existing adoption program, priority is given to placing children to local families of the same ethnic or cultural background. Only children with special needs who cannot be adopted locally are arranged for adoption overseas.

4. At present, the Social Welfare Department (SWD) makes arrangements for local adoption of DSW wards. SWD provides a full range of services including counselling service to birth parents, assessing the applicants’ suitability as adoptive parents and arranging adoptive placement for the wards. NGOs do not participate in local adoption of DSW wards.

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<sup>1</sup> A DSW ward means a child or juvenile to whom DSW has been appointed his legal guardian under section 34(1)(a) of the Protection of Children and Juveniles Ordinance (Cap. 213).

5. As for adoption of non-DSW wards by related or unrelated persons, these cases may be handled by private arrangement or referred to SWD for assistance. Again at present, NGOs do not participate in such adoption arrangements, even though there is no prohibition against it.

### **Latest Development**

6. The Administration introduced the Adoption (Amendment) Bill 2003 (the Amendment Bill) to the Legislative Council in June 2003 to improve local adoption arrangements and give effect to the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption (the Hague Convention). A Bills Committee has been formed by the Legislative Council to scrutinize the Amendment Bill.

7. The Amendment Bill proposes, among others, to prohibit private arrangements (including placement) of adoptions by local unrelated persons. This would have the effect of channelling, in unrelated adoption cases, all birth parents, adoptive parents and adoptive children to SWD for adoption arrangements.

### **Authorization of NGOs to handle adoption cases**

8. There is a view that adoption by unrelated persons should not be solely handled by SWD because more choices should be provided to birth parents and prospective adoptive parents, provided that such agencies are of a proven professional standard. It has been suggested that NGOs should also be allowed to provide such services in a non-profit-making and self-financing manner to provide more choices to birth and adoptive parents as they can then approach either SWD or an NGO. Having carefully considered the view and taking into account the local situation, we believe that NGOs having interest and capabilities in making arrangements for local adoption by unrelated persons may participate through an accreditation system.

### **Principles in arranging adoption placement for children**

9. While agency choice for birth and adoptive parents is one factor for consideration in the adoption process, the “best interests of the child” is the guiding principle, as stated in the Amendment Bill. Where the birth parent has not designated a specific adoptive home or where adoption by related persons is not an option, a crucial element of best interests of the child is to provide the child with the widest opportunity to be matched with the most suitable adoptive parent(s) in the shortest time span. In this connection, it is



prudent to take into account the following factors -

- (a) NGOs wishing to contribute to the adoption process would need to comply with the accreditation requirement and on-going conditions to ensure professionalism and quality of services; and
- (b) providing more choices for birth parents should not be at the expense of the choice of adoptive parents for the children and should not result in delay in the adoption process. Delay in the adoption process is likely to prejudice the best interests of the child, when adoption is considered the best option amongst all available options as regards the long-term welfare plan for the child.

### **Proposed Accreditation Framework**

10. To facilitate intercountry adoption arrangement upon the introduction of Hague Convention in Hong Kong, we have proposed an accreditation system to allow NGOs to provide intercountry adoption services as Accredited Bodies<sup>2</sup>. It seeks to lay down the minimum service quality and professional standards of intercountry adoption practice in Hong Kong. We believe that the criteria and procedures entailed in the proposed accreditation system can be extended to cover local adoption. We therefore propose to extend the scope of the accreditation system so that NGOs duly accredited under that system could handle local and/or intercountry adoption cases.

11. Under the Convention intercountry adoption regime, SWD would be designated as the Central Authority and will be the accrediting authority to approve and monitor the accreditation of NGOs providing intercountry adoption services. We intend to adopt a similar system for non-Convention adoption. The principles and criteria for accrediting NGOs wishing to provide intercountry adoption service are set out in the paper entitled ‘Accreditation System in respect of Intercountry Adoption in Hong Kong Special Administrative Region’ at the Annex. The principles and criteria for accrediting NGOs intending to provide local adoption service are set out below and they are similar to those in respect of intercountry adoption.

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<sup>2</sup> Including non-Convention adoption as well

### **Accreditation Principles – Local Adoption**

12. Similar to the accreditation system for intercountry adoption, the accreditation system for local adoptions aims at :

- (a) safeguarding the service quality and professional standard of local adoption practice in HKSAR;
- (b) ensuring effective and ethical adoption practices;
- (c) making prompt adoption arrangement for children when adoption is considered the best option amongst all available options as regards their long-term welfare plan; and
- (d) ensuring that adoption are only arranged according to the provisions of the Adoption Ordinance.

### **Accreditation Criteria – Local Adoption**

13. The following criteria are proposed :

- (a) the agency pursues only non-profit-making objectives and has sound financial condition to enable it to take on adoption work;
- (b) the agency has specialized experience in providing child welfare services;
- (c) the agency has a clearly-delineated organization structure, resources to make adoption arrangement for children, and a written policy and working procedures governing the work of the agency;
- (d) there is a designated section in the agency directed by persons with appropriate qualifications and staffed by registered social workers to undertake home assessment and placement tasks for the purpose of adoption;
- (e) there is a committee/board set up by the management of the agency to monitor the adoption work of the agency;
- (f) there is a good track record of the agency in providing the relevant adoption services and clear documentation on such services. In assessing the track record of an agency that has/had provided adoption services, reference will be made to the number of training programmes

conducted for adoption applicants, processing time for assessment of prospective adoptive parents, number of children placed for adoption through the agency's adoption programmes, and number of failed placement etc.;

- (g) there is no record of convictions against the agency for offences against children;
- (h) the agency follows all the requirements of the Adoption Ordinance/Rules in making the adoption arrangement; and
- (i) there is an internal mechanism in place to handle complaints arising from the adoption service provided by the agency.

### **Proposed Operational Arrangements**

14. For operational arrangement, after carefully considering certain alternative arrangements, we consider that the best arrangement is for NGOs and SWD to jointly establish two common lists of children available for adoption and prospective adoptive parents<sup>3</sup> respectively. This arrangement would give the widest agency choice to the birth and prospective adoptive parents, and the widest prospective adoptive parents choice for the children awaiting adoption. The proposed arrangement will have the following features:

- (a) an adoptive parent may either choose an NGO or SWD to apply for local adoption. Where an adoptive parent approaches an NGO, it

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<sup>3</sup> The other two alternatives considered are :

- (a) authorised NGOs and SWD would each maintain their own lists of adoptive parents and birth parents. They would conduct their own assessments, matching of those on their lists of adoptive parents and children, arrange placement procedures and process all adoption procedures. Such arrangement would give the widest agency choice to both birth and adoptive parents, since they can choose to approach NGOs instead of SWD. However, since each agency maintains its own list and conducts its own matching, adoptive parents may have a smaller pool of adoptive children to match and in the same token, adoptive children would be left with a smaller pool of parents for matching; or
- (b) as a variation of (a) above, NGOs and SWD can share their respective list of adoptive parents for matching purpose. While this may give the widest parent choice for the adoptive child, it may also give rise to the possibility of the same adoptive parent(s) being matched with different children handled by different agencies at the same time. Unwinding such double matching would likely require an arbitration mechanism and result in delay in the adoption process.

would provide screening, assessment, home study and recommendation of the adoptive parents to be placed in common home pool. Along the same vein, if the adoptive parent approaches SWD, the Department would conduct the screening etc.;

- (b) birth parents who want to make an adoption plan for their children may approach either NGOs or SWD for assistance. Should the birth parent(s) has/have a designated adoptive home in mind and approach(es) an NGO, the case will be handled solely by the relevant NGO. No matching is required;
- (c) if the birth parents have no designated adoptive home in mind, the NGOs will refer the case to SWD for the relinquishment procedures for freeing the child for adoption. These children will be made wards of DSW;
- (d) both NGOs and SWD will be involved in the matching process<sup>4</sup>; and
- (e) if a child is matched with the prospective adoptive parents recruited by an NGO, the case will be passed to that NGO. DSW, being the guardian ad litem of the child, may, upon the agreement with that NGO, appoint that NGO as his agent for the purpose of carrying out the duties under Rule 13(b) of the Adoption Rules.

15. Specifically, NGOs duly accredited will perform the following functions :

- (a) recruit prospective adoptive parents, conduct suitability assessment on them, and make recommendation for them to be placed in a common home pool<sup>5</sup>;
- (b) conduct counselling sessions for prospective adoptive parents;

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<sup>4</sup> NGOs will be involved in the matching process when the adoptive parents from their lists are involved. Where a specific consent has been given by a birth parent, no matching would be required and the NGO would handle the adoption arrangements by itself.

<sup>5</sup> As the NGOs will be involved making decisions in respect of the person's suitability to be prospective adopters, persons aggrieved by the NGO's decision may appeal against the NGO under an appeal mechanism to be sorted out separately.

- (c) participate in the matching process;
- (d) provide counselling and support to the child/prospective adoptive family during the adoption placement period; and
- (e) prepare progress report(s) on a child placed in the adoptive home during the placement period.

16. While the Accredited Bodies will be involved in the above functions, DSW shall assume guardianship of the child who is a ward of DSW, act as his/her guardian ad litem in the adoption proceedings with a view to safeguarding the interests of the child in the proposed adoption and make a report to the Court for that purpose. SWD will also be responsible for liaising with the Police for administering the requirement of criminal record check on prospective adoptive parents, and establishing the child's eligibility for adoption, etc.

### **Application/Approval for Accreditation and Monitoring of Accredited Bodies**

17. The application, assessment and monitoring procedures will follow those stated in the accreditation system of intercountry adoption under the Hague Convention. Application for an accreditation certificate or application for its renewal must be made to DSW in a specified form and accompanied by such information as DSW may require. An accreditation certificate will be valid for 4 years, but the accreditation may be suspended or revoked by DSW at any time if it appears to DSW that the agency has failed to meet the criteria stated in paragraph 13 above.

18. For applicants not providing adoption service at the time of application but wishing to commence such service in the near future, DSW reserves the right, where he decides to give accreditation, to shorten the accreditation period to 24 months. Within the 24-month accreditation period, the applicant should demonstrate its ability to recruit prospective adoptive parents and assess their suitability, to provide counselling and support to the child/prospective adoptive family during the adoption placement period and to prepare progress report(s) in that connection. The period of accreditation can be extended by DSW up to 36 months where it is considered appropriate.

19. An application for renewal of accreditation shall be made to DSW not less than 4 months prior to the expiration of accreditation. During the period of accreditation, DSW will assess and monitor the performance of the

NGO concerned to see if accreditation certificate is to be renewed.

20. We will consider how best to inform the public of the list of accredited bodies and its changes from time to time.

### **Appeal**

21. Agency aggrieved by the following decisions of DSW under the accreditation system may lodge an appeal to the Administrative Appeals Board:

- (a) DSW's decision to approve a new or renewal application for accreditation;
- (b) DSW's decision to suspend or revoke an accreditation.

The Administrative Appeals Board will hear and determine appeals against a decision in accordance with the Administrative Appeals Board Ordinance (Cap. 442).

### **Advice Sought**

22. Views on the proposed principles and broad arrangements are most welcomed. Subject to general agreement to the approach set out above, we would develop further details in consultation with the relevant parties.

Health, Welfare and Food Bureau  
April 2004



香港公益金會員機構  
A MEMBER AGENCY OF THE COMMUNITY CHEST



General Secretariat, Geneva, Switzerland  
Consultative status with the Economic  
and Social Council of the United Nations

### 香港國際社會服務社 International Social Service Hong Kong Branch

贊助人：董超洪姆女士，太平紳士  
Patron : Mrs. Betty Tung, J.P.

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Chief Executive  
Mr. Stephen Yau, J.P.

Via fax: 2543 0486

Ms. Susie S. Y. Ho  
Deputy Secretary (Welfare)  
Health, Welfare and Food Bureau  
20/F, Murray Building  
Garden Road  
Hong Kong

*Dear Susie,*

Re: Proposed involvement of NGOs in Local Adoption

Further to our discussion on the captioned subject on April 21, 2004, I am writing to reiterate our views on the operational arrangements of the proposed system as follows:

1. Birth parents having a designated adoptive home in mind:  
Only duly justified exceptional cases of this nature should be considered in order to avoid the possible abuse of the system where pre-matching has taken place or adoptive parents have actively looked around for birth parents. In fact, in all cases it must be checked that parental consent is freely given, without pressure or material gain.
2. The matching process:  
The formation of the matching panel should be carefully considered and there might be a need of having an/some independent member(s). Reference should be drawn from other countries.

Thank you for your attention.

Yours sincerely,

Stephen Yau  
Chief Executive

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*Annex C*

**Mother's Choice  
Overseas Adoption Service**

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Hong Kong**

**Tel: (852) 2537-4122**

**Fax: (852) 2537-7681**

**Date:** April 28, 2004  
**To:** Health Welfare and Food Bureau, Government Secretariat  
**Fax No.:** 2543-0486  
**Attention:** Miss Susie S.Y. Ho JP  
**From:** Vivian Ip  
**No. Of Pages (Including This Page):** 3  
**Subject:** Draft Paper of April 13, 2004

**MESSAGE**

Dear Susie:

Greetings from Mother's Choice. Attached please find our letter for your review.

Please feel free to contact us if you have any questions or concerns.

Regards,  
Vivian Ip  
Supervisor  
Overseas Adoption Service



## CHILDREN'S SERVICES

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# Mother's Choice

## 母親的抉擇

April 22, 2004

Ms. Susie S.Y. Ho  
Deputy Secretary  
Health, Welfare and Food Bureau  
Government Secretariat  
20/F., Murray Building  
Garden Road, Hong Kong

Dear Ms. Ho:

In response to the draft paper of April 13, 2004, we would like to express our gratitude for your consideration of NGO involvement in the local adoption process. After reviewing the "Proposed Involvement of Non-Governmental Organizations in Local Adoption," we find the proposed framework not only workable but also agreeable to Mother's Choice and our mission. As we have expressed at meetings and through correspondence, Mother's Choice believes that allowing NGO involvement in local adoption will provide birth parents and prospective adoptive parents with more choices, ultimately allowing for more placements in "the best interests of the child".

We would like to also clarify and address some comments raised at the April 21, 2004 meeting. Regarding footnote 4 on page 6 of the draft paper, we expressed our concern over its potential limitation of NGO participation in matching panels. Because NGOs are in the best position to evaluate and advocate the needs and wishes of birth mothers, prospective adoptive parents, and adoptive children, we believe that a representative from each NGO involved should be included on the matching panel. For example, if Mother's Choice represents the birth mother, it is in the best position to advocate for her needs and wishes on the matching panel. By knowing that they have a trusted representative advocating for theirs and their child's interests, this will provide reassurance and confidence that they have made the best choice for their child. The same holds true for those NGOs representing adoptive parents, as they have had the greatest opportunity to get to know and assess the prospective parents. We feel that continued involvement of NGOs on the matching panel would put all involved parties at ease and ensure successful matching of available children to prospective parents.

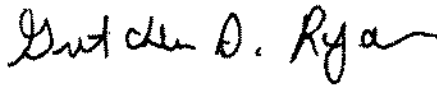


香港公益金資助機構  
A BENEFICIARY OF THE COMMUNITY CHEST

Finally, we wish to express again our appreciation for the creation of the Revamped Working Group and the opportunity for Mother's Choice to play a role in amending the current Adoption Ordinance. We have found the Health, Welfare and Food Bureau to be most receptive and open-minded in inviting NGOs and others involved in adoption in Hong Kong to express views on the Ordinance. This involvement and active participation will ensure the successful implementation of the Ordinance once it is passed.

Should you have any questions or concerns you wish to discuss, please do not hesitate to contact me at 2537-7633.

With sincerest regards,  
For and on behalf of Mother's Choice,



Mrs. Gretchen D. Ryan  
Managing Director

Annex D



香港明愛  
CARITAS - HONG KONG

THE OFFICIAL SOCIAL SERVICE AGENCY OF THE ROMAN CATHOLIC CHURCH IN HONG KONG  
天主教香港教區社會服務機構

**BY HAND**

Our Ltr. Ref. CSW/G/0179/2004

28 April 2004

Deputy Secretary (Welfare)  
Government of the HKSAR  
19/F, Murray Building  
Garden Road, Central, Hong Kong

(Attention: Ms. Susie Ho)

Dear Madam,

Thank you for sharing the Proposed Involvement of Non-Governmental Organizations in Local Adoption.

We agree with the proposal's view that in future NGOs can also participate in local adoption of DSW wards as such that this will naturally provide more agency choices to birth and adoptive parents. Indeed we believe some prospective clients may feel more at ease working with voluntary organizations. We strongly support however that when this responsibility is opened up to the non-government sector, an accreditation system must be in place to ensure quality of service, accountability and professionalism. It is our belief also that such service if undertaken by the NGOs should be done in a non-profit-making and self-financing manner.

On the proposed operational arrangements, we have a different point of view which we would like to share. While we agree with the need to establish a common list of children to be shared by all parties concerned to acquire maximum exposure and thus expedite the speed of placement of the children. The establishment of a list of prospective adoptive parents may need to be further deliberated. At this juncture, we do not see any rationale that justifies the latter's list.

When the proposed new system comes into effect, the prospective adoptive parents would either approach the SWD or a NGO for adoption service. Their choice of agency would be motivated by different needs and indeed such clients may not feel comfortable to have their information and initiative passed around. We think that the prospective adoptive parent on the list should automatically be the one who is

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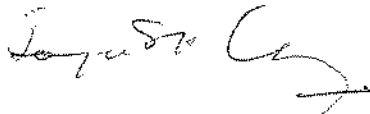


responsible to follow up on the client, therefore we do not see how the list would expand on either the children's or parents' choices. With a common list of children on hand, appropriate matching should be just a matter of time. Neither the SWD nor other NGOs would or should make approaches to such clients or there will be an overlapping of effort, not to mention administrative entanglements. The list thus appears to serve no great purpose. Should we have misinterpreted your intention, please enlighten us.

All in all, we feel that the proposed changes in the Local Adoption Service is a big step forward between Government and NGO partnership. We look forward to being able to contribute to this meaningful service when the new system is in place soon.

Thank you for your attention.

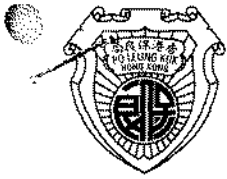
Yours sincerely,



Dr. Joyce S.H. Chang, JP  
Director  
Social Work Services

BK/cl

c.c. Mr. Fung Pak Yan of SWD



保良局

PO LEUNG KUK

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Annex E

Our Ref: PLK 19 (SSD)  
Tel No.: 2277 8157  
Fax No.: 2890 2097

April 27, 2004

Ms. Wendy CHEUNG  
Health, Welfare and Food Bureau  
Mezzanine Floor, 19, 21/F, Murray Bldg.  
Garden Road, Central  
Hong Kong

Dear Ms. Cheung,

Revamped Working Group on the Review of the Adoption Ordinance

I refer to your letter of 16.4.2004 on the captioned subject and the meeting held on 21.4.2004 on the Involvement of Non-Governmental Organizations in Local Adoption.

Regarding the discussion on the involvement of non-governmental organizations in local adoption, I would like to suggest some clarifications be added on the role of SWD, not just limiting to the monitoring of ABs, when other AB(s) joins in processing local adoption.

Yours sincerely,

Ms YUE Mui-ying  
Principal Social Services Secretary  
Social Services Department

c.c. Director of Social Welfare  
(Attn.: Mr. Peter Ng and Ms. Grace Wong)

MYY/mcl



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POLICE SOCIAL SERVICES DEPARTMENT

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Our Ref: PLK 42 (SSD)  
Tel No.: 2277 8157  
Fax No.: 2890 2097

May 11, 2004

Ms. Wendy CHEUNG  
Health, Welfare and Food Bureau  
Mezzanine Floor, 19, 21/F, Murray Bldg.  
Garden Road, Central  
Hong Kong

Dear Ms. Cheung,

Revamped Working Group on the Review of the Adoption Ordinance

I refer to my letter of 27.4.2004 on the captioned subject and my subsequent discussion with Mr. Peter Ng of the Social Welfare Department.

I was given to understand by Mr. Ng that when other AB(s) join(s) in processing local adoption, SWD would, in addition to monitoring the ABs, continue to provide direct adoption services, manage the central home pool and central children list and acting as the Guardian Ad Litem unless otherwise appointed.

I am in agreement with Mr. Ng's clarification.

Yours sincerely,

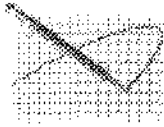
Ms YUE Mui-ying  
Principal Social Services Secretary  
Social Services Department

c.c. Director of Social Welfare  
(Attn.: Mr. Peter Ng and Ms. Grace Wong)

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周年  
Anniversary  
1878-2003



Susie SY HO/HWFB/HKSARG

24/04/2004 10:06

- Urgent
- Return Receipt

To:  
 cc: &HWFB/PSI/DS[W]  
 Subject: Revamped Working Group on the Review of the Adoption Ordinance



"Cecilia Kwan"  
 <ckwan@hkfws.org.hk>

23/04/2004 19:02

- Urgent
- Return Receipt

To: <ssyho@hwfb.gov.hk>  
 cc: <adfcw@swd.org.hk>  
 <cfcw2@swd.gov.hk>  
 Subject: Revamped Working Group on the Review of the Adoption Ordinance

[IMAGE]

Attn. Ms. Susie Ho

23rd April 2004

Dear Ms. Ho,

Referring to our meeting of the Revamped Working Group on the Review of the Adoption Ordinance held on 21-4-2004, here I like to express our positive support to the Bill. We agreed with the direction of involving the non-profit-making / non-government organizations in local adoption; based on the principle of "the best interest of the child". While working on the accreditation mechanism and logistics, it is necessary to have SWD, as the Accreditation Body, to take up the role as co-ordinator and mentor, to make sure that all accredited NGOs will provide quality service to a common standard. In addition to the concern of the child, the emotional needs and adjustment issues of both the adoptive parents and the birth parents should be addressed and managed. We believe that the improvement should aim at making the adoptive process a delightful journey to all relevant parties.

Thank you for your attention.

Cecilia Kwan (Mrs.)  
 Executive Director  
 Hong Kong Family Welfare Society

c.c.  
 Mr. Fung Pak-yan, AD, SWD  
 Mr. Peter Ng, SWD



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**Proposed Legislative Amendments to give legislative effect to the  
Proposed Involvement of NGOs in Local Unrelated Adoption**

Clause	Section	Purpose of the Section	Proposed Legislative Amendments
-	5A(4)(b)	Placement after infant free for adoption	To authorize Accredited Bodies (ABs) to place a child in the home of a prospective adoptive parent <sup>1</sup> after the Court has made an order declaring an infant free for adoption.
10	5B(2)	No placing of infant for adoption without Court's leave while an application for revocation of freeing order is pending.	To extend to ABs the current restriction on DSW not to place an infant without a Court's leave when an application for revoking an order which declares that an infant is free for adoption is pending. It is because ABs will also be involved in placing of infant for adoption.

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<sup>1</sup> Detailed procedures in respect of local adoption placement and termination of local adoption placement will be worked out administratively under the accreditation system to facilitate working between AB and DSW (as legal guardian of the child) where the child is a ward of DSW.



Clause	Section	Purpose of the Section	Proposed Legislative Amendments
13	8(1A)	The Court to decide whether to disclose the original identity of an adopted person when making an adoption order having regard to, among others, the opinion of the Director	As ABs would have been involved in the assessment of the suitability of the prospective applicants and monitoring the placement by the time an adoption application is considered by the Court, they should be in a position to offer useful comments to the Court, directly or indirectly through recommendation to SWD, as to whether it would be in the interest of the prospective adoptive child to know his/her original identity.
29	23A(1)	Restriction on arranging adoption or placing infant for adoption, unless the prospective adopter is a parent or relative, or pursuant to order of Court.	To make it clear that ABs may handle unrelated adoption.

Clause	Section	Purpose of the Section	Proposed Legislative Amendments
31	26	DSW may approve accredited bodies.	(1) For clarity, to make it explicit in this provision that ABs are allowed to make arrangements for local adoption as well. (2) To localise the accreditation principles set out in Articles 10 and 11 of the Hague Convention <sup>2</sup> (incorporated in Schedule 3 of the Amendment Bill already).
31	27	Application for assessment of suitability to be an adoptive parent	To give the necessary powers to ABs to assess the suitability of applicants as prospective adoptive parents on its own in respect of local adoptions, instead of just making recommendations to SWD as in the case of intercountry adoptions.
31	29	Director's assessment, prospective adoptive parent and placement	To empower ABs to make placement and, if necessary, to terminate the placement <sup>3</sup> . The powers to be provided would be for the purpose of local (unrelated) adoptions only.

<sup>2</sup> Article 10 of the Hague Convention provides that "Accreditation shall only be granted to and maintained by bodies demonstrating their competence to carry out properly the tasks with which they may be entrusted."

Article 11 of the same Convention provides that "An accredited body shall –

- a) pursue only non-profit objectives according to such conditions and within such limits as may be established by the competent authorities of the State of accreditation;
- b) be directed and staffed by persons qualified by their ethical standards and by training or experience to work in the field of intercountry adoption; and
- c) be subject to supervision by competent authorities of that State as to its composition, operation and financial situation."

<sup>3</sup> Detailed procedures in respect of local adoption placement and termination of local adoption placement will be worked out administratively under the accreditation system

Clause	Section	Purpose of the Section	Proposed Legislative Amendments
New	New	Register for ABs	<p>To model on section 8 of the Child Care Services Ordinance (Cap. 243) to provide that :</p> <ol style="list-style-type: none"> <li>(1) DSW shall cause to be kept, in such form as he may specify, a register of accredited bodies containing-               <ol style="list-style-type: none"> <li>(a) the name and address of every accredited body; and</li> <li>(b) such other particulars as DSW thinks fit.</li> </ol> </li> <li>(2) A certificate purporting to be signed by or for DSW that a body of persons (corporate or unincorporated) is an accredited body shall be evidence of the facts stated therein until the contrary is proved.</li> <li>(3) A copy of an entry in the register kept under subsection (1) purporting to be certified under the hand of DSW shall, until the contrary is proved, be admitted in evidence as proof of the facts stated therein as at the date of such certified copy.</li> <li>(4) The register may, on application in writing to DSW and on payment of the fee, if any, prescribed, be inspected at the office of SWD during office hours by any member of the public.</li> </ol>

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to facilitate working between AB and DSW (as legal guardian of the child) where the child is a ward of DSW.

<b>Clause</b>	<b>Section</b>	<b>Purpose of the Section</b>	<b>Proposed Legislative Amendments</b>
31	30	Appeals	<p>Legislative amendments would be required to allow SWD to handle appeals against decisions made by Accredited Bodies on :</p> <p>(a) assessment of the suitability of applicants as prospective adoptive parents; and</p> <p>(b) termination of a placement.</p>