

ITEM FOR FINANCE COMMITTEE

HEAD 170 – SOCIAL WELFARE DEPARTMENT

Subhead 700 General other non-recurrent

New Item “Trust Fund for Severe Acute Respiratory Syndrome”

Members are invited to approve the creation of a new commitment of \$150 million for the setting up of a Trust Fund for Severe Acute Respiratory Syndrome.

PROBLEM

In the outbreak of Severe Acute Respiratory Syndrome (SARS) in Hong Kong from March to June 2003, 1 755 persons were infected with SARS, with 1 456 recovered and 299 died. Many deceased SARS patients have left behind dependent family members. Some recovered SARS patients may suffer from longer term effects, attributable to SARS (including the effects of medication received for SARS, if any), which may result in some degree of bodily dysfunction. Some “suspected” SARS patients treated with steroids as medication for SARS are worried that they may suffer from longer term effects, attributable to the effects of steroids received (if any), which may result in some degree of physical dysfunction. In the light of the unique and unprecedented circumstances, the Government should be providing support to these three groups of persons.

PROPOSAL

2. The Secretary for Health, Welfare and Food proposes to create a new commitment of \$150 million to create a Trust Fund for SARS to provide -

- (a) special ex-gratia relief payments to families with deceased SARS patients;

/(b)

- (b) assistance, including special ex-gratia financial assistance, for recovered SARS patients suffering from longer term effects, attributable to SARS (including the effects of medication received for SARS, if any), which may result in some degree of bodily dysfunction, subject to medical proof and financial need (hereinafter called recovered SARS patients); and
- (c) assistance, including special ex-gratia financial assistance, for patients who were clinically diagnosed as having SARS on admission, treated with steroids as medication for SARS, but turned out subsequently not to have SARS, suffering from longer term effects, attributable to the effects of steroids received (if any), which may result in some degree of physical dysfunction, subject to medical proof and financial need, in case this happens (hereinafter called “suspected” SARS patients treated with steroids).

The purview of the proposed Trust Fund would be confined to families of deceased SARS patients and those recovered SARS patients who contracted SARS during the outbreak in Hong Kong from March to June 2003, and those “suspected” SARS patients with presumptive clinical diagnosis of SARS and subsequently found not to have SARS, treated with steroids as medication for SARS, during the outbreak in Hong Kong in the same period¹.

JUSTIFICATION

3. The SARS outbreak from March to June 2003 was unique and unprecedented. This was a major epidemic caused by a new and potentially deadly virus and of a proportion not seen in modern Hong Kong history. The risk and threat, posed by this disease at the time when there was little knowledge locally and internationally about its nature and cause, generated widespread fear in the community.

4. Many deceased SARS patients have left behind dependent family members who need special help to overcome their trauma and support their maintenance. Some recovered SARS patients may suffer from longer term effects, attributable to SARS (including the effects of medication received for SARS, if any), which may result in some degree of bodily dysfunction. Some “suspected” SARS patients treated with steroids as medication for SARS are worried that they may suffer from longer term effects, attributable to the effects of steroids received (if any), which may result in some degree of physical dysfunction, though there is no definitive indication that this is the case, according to medical knowledge available to-date.

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¹ All the patients in question should be Hong Kong residents.

5. As SARS was new and its impact profound, the community was caught unprepared. Notwithstanding the continuous support that we have been providing to families of the deceased SARS patients, those recovered from SARS, and those “suspected” SARS patients treated with steroids, there are circumstances where the existing channels of support cannot fully address their needs. These unprecedented circumstances and the situation of the three groups mentioned call for a more direct and visible form of ex-gratia assistance for them.

6. We note that there was a similar arrangement in the 1990s in the context of providing special assistance to patients contracting AIDS through transfusion of contaminated blood products prior to August 1985. There was no safe blood product alternative available in Hong Kong prior to August 1985 and the blood products used (screened or treated in accordance with the prevailing international standards) were the best treatment available at that time. According to legal advice, the Government was not liable to pay compensation to such patients. However, in view of their situation, the Government considered that special assistance should be given to them on compassionate grounds. In 1993, a Trust Fund for AIDS was established. Under this Trust Fund (as in the case of another administrative scheme like the Criminal and Law Enforcement Injuries Compensation Scheme), recipients of special assistance are required to reimburse to the Fund their special assistance received, in case they succeed in obtaining common law damages subsequently.

7. Given SARS was new and never encountered before, it is inevitable that the understanding, locally and internationally, of its causes, its nature and the treatment remains limited. More scientific research is required, before more effective medication unfolds.

8. We are mindful that medical knowledge available to-date shows that -
- (a) the observed effects of Ribavirin have generally been short term and reversible; and
 - (b) the effects of steroids require further observation, and medical experts are also not sure whether the reported effects thus far are due to SARS, the treatment or the predisposing conditions of the patients themselves.

9. In relation to “suspected” SARS patients treated with steroids, they were diagnosed on admission according to the prevailing definition for SARS as specified by the World Health Organization. Such definition comprised, amongst others, the clinical symptoms but did not include laboratory findings, as laboratory tests were still evolving at the time. This group satisfied the then prevailing definition, and appropriate medication was initiated.

10. According to medical knowledge available to-date, there is no definitive indication that those “suspected” SARS patients treated with steroids would suffer from longer term effects. It is also not certain whether such effects, if any, would be great, and about the possible number of such patients involved.

11. That said, given the concern of the Legislative Council Members as expressed during the joint meetings of the Legislative Council Panel on Health Services and Legislative Council Panel on Welfare Services on 20 and 29 October 2003, we consider it appropriate to extend our ex-gratia assistance to cover those “suspected” SARS patients treated with steroids, who are medically proved to suffer from physical dysfunction, and financially with income reduction or loss.

12. The Department of Justice has also advised that since the financial assistance is special and ex-gratia in nature and on a without admission of liability basis and is to be administered by an independent Committee, expanding its scope to cover those “suspected” SARS patients treated with steroids, would not carry any legal implication that the Government acknowledges any legal liability on the part of the Government or HA vis-à-vis such patients, which is a matter for the court in civil litigation, provided the ex-gratia nature of the financial assistance is clearly explained to the public/ parties concerned.

Proposal

13. In the light of the recommendations in the SARS Expert Committee Report issued on 2 October 2003 and having regard to the situation of the above three groups of persons, we propose to set up a Trust Fund for SARS (the proposed Trust Fund) under the Director of Social Welfare Incorporated Ordinance (Cap. 1096), to provide on compassionate grounds, special ex-gratia relief payment or financial assistance to the three categories of eligible applicants, as detailed in paragraph 2 above. This is a unique measure to address an unprecedented distressful situation. The establishment of the Trust Fund would not set a precedent for patients of other diseases and future SARS cases, if any. The proposed details are set out in Enclosure 1.

Encl. 1

/Special

Special ex-gratia relief payments for families with deceased SARS patients

14. For the deceased SARS patient cases, special ex-gratia relief payments will be made to their families with surviving spouse (\$200,000), dependent child(ren) (\$500,000 each for those under 18, and \$300,000 each for those between 18 and below 21 in full time studies), dependent parent(s) (\$300,000 for each dependent parent); and those not falling into the above category (\$100,000 for each family). No financial eligibility test would be imposed. Proposed detailed eligibility criteria are set out at Enclosure 2.

Encl. 2

Special ex-gratia financial assistance for the recovered SARS patients and the "suspected" SARS patients treated with steroids

15. For recovered SARS patients suffering from longer term effects, attributable to SARS (including the effects of medication received for SARS, if any), which may result in some degree of bodily dysfunction, assistance, including special ex-gratia financial assistance, will be given, subject to medical proof and financial need. For those "suspected" SARS patients treated with steroids, who suffer from longer term effects, attributable to the effects of steroids received (if any), which may result in some degree of physical dysfunction, similar assistance will also be given, subject to medical proof and financial need, in case this happens. Such special ex-gratia financial assistance serves to provide tide-over assistance for these two groups of persons.

16. We will consider applications on a case-by-case basis on individual merit, adopting the following principles -

- (a) there must be some degree of relevant dysfunction as applicable to the recovered SARS patient or the "suspected" SARS patient treated with steroids, on the basis of the attending doctor's assessment; and
- (b) there must be a loss or reduction in income or increase in expenditure (for example temporary childcare expenses) of the patient in question as a result of the SARS infection, on the basis of the medical social worker's advice.

17. The total financial assistance will be capped at \$500,000 for each patient and Social Welfare Department (SWD) will assess the individual circumstances of each case to recommend the level of assistance. The proposed assistance and eligibility criteria and factors for determining the level of assistance are set out at Enclosure 3.

Encl. 3

18. Given that this is intended to be a tide-over arrangement, the financial assistance for each patient will be determined on a need basis and be of a limited duration, and details would be determined by the Committee for the proposed Trust Fund. We hope that the patients would recover gradually and would resume normal life in time. We intend to conduct medical assessment on the recovered SARS patients and the “suspected” SARS patients treated with steroids, every six months to monitor their progress and review their need for assistance. In the event that there are cases that require long term support which runs beyond the cap, assistance would be rendered by the present social welfare network and social security system. SWD and the Hospital Authority (HA) would monitor such cases, if any, closely to ensure that timely and appropriate support would be provided.

19. As it will take HA some more time to observe the recovered SARS patients and the “suspected” SARS patients treated with steroids, to identify the likely type(s) of longer term effects and relevant dysfunctions, if any, it is not possible to work out precisely the number of such patients with medical needs. It is also difficult to estimate the amount of financial assistance for individual applicants. Very much would depend on the medical and economic needs of the individuals concerned. Our best assessment at this stage is to estimate approximately a sum of \$70 million for these two groups, to provide a buffer which may be invoked to cater for contingency as medical knowledge unveils.

Administration of the proposed Trust Fund

20. We will make the application and processing procedures simple as far as possible. A Committee will be set up to advise the Administration on the operation of the proposed Trust Fund, and approve the applications. It will be chaired by a non-official and comprise a balanced mix of non-official members with relevant background and some official members. We are making the necessary preparations to ensure that the Committee would be able to commence operation as soon as possible following the approval of funding, work out the more detailed criteria and parameters, and approve the applications, so that the Administration can make the ex-gratia assistance in the first instance.

21. A mechanism will also be put in place to consider appeals by applicants aggrieved by the decisions of the Committee. In the light of the interest of the public in the work of the Committee, we would make the arrangements as transparent as possible, while observing the privacy principles.

/Interface

Interface with other Financial Assistance Schemes

22. We have considered carefully the interface between the proposed Trust Fund and other Schemes. Under the financial assistance scheme for family members of those who sacrifice their lives to save others (the heroic death scheme), a number of families, with members being health care professionals died of SARS contacted at work or in the course of their professional practice, have already been given financial assistance (\$3 million each in six cases and \$3.6 million in one case). We are of the view that under the above circumstances, such cases having received financial assistance under the heroic death scheme would not be covered under the proposed Trust Fund.

23. Such ex-gratia assistance would be taken into account in determining the eligibility for the Comprehensive Social Security Assistance (CSSA), should recipients of such assistance apply for CSSA.

24. Where recipients of ex-gratia assistance succeed in obtaining common law damages by pursuing civil claims against any party (e.g., HA, the Government, or private hospitals) subsequently, they would be required to make reimbursement² to the proposed Trust Fund. In the context of pursuing civil claims for the SARS cause, where an applicant applies for legal aid, the Legal Aid Department would not take into account the ex-gratia assistance received by the applicant in assessing his/her means.

FINANCIAL IMPLICATIONS

25. As indicated in paragraph 19 above, we are unable to provide a precise estimate on the financial implications of the proposal for the recovered SARS patients and the “suspected” SARS patients treated with steroids. This would depend on the number of such patients with medical proof and financial needs and the nature of their disabling conditions. As for families with deceased SARS patients, the actual expenditure would also depend on the number of applications to be received. But, for the purpose of budgeting, we propose a non-recurrent sum of \$150 million, based on a rough estimate as follows -

/(a)

² Ex-gratia assistance or common law damages, whichever is the lower. Other statutory entitlements, such as those under the Employees' Compensation Ordinance, serve different purposes and are not subject to this reimbursement requirement.

	2003-04	2004-05	2005-06	2006-07	Total
	\$'million	\$'million	\$'million	\$'million	\$'million
(a) Special ex-gratia relief payments to families with deceased SARS patients	85	-	-	-	85
(b) Special ex-gratia financial assistance for those set out in paragraph 2 (b) and (c) above	10.37	31.11	28.52	-	70
Total	<u>95.37</u>	<u>31.11</u>	<u>28.52</u>	<u>-</u>	<u>155</u> (say 150)

26. While we expect that almost all the disbursements for families with deceased SARS patients can be made in 2003-04, the cashflow for the financial assistance for the recovered SARS patients and the “suspected” SARS patients treated with steroids cannot be projected with certainty³. But, the proposed rough estimate above serves to show Members that the assistance for the latter two groups may be disbursed beyond 2003-04.

BACKGROUND INFORMATION

27. The SARS outbreak from March to June 2003 was a sad incident. A total of 1 755 individuals were infected, including 299 deaths. We fully sympathize with the plight of the patients and their family members, and the Government and the community have spared no effort in providing support and assistance to them.

/28.

³ Since we expect that payments can be made as early as December 2003, we have assumed that 15% of the \$70 million will be spent in 2003-04, 44% in 2004-05 and the remaining in 2005-06.

28. Since the start of the outbreak, SWD and HA, in conjunction with other Government Departments and Non-Governmental Organizations, have been rendering support and assistance to the patients and their families. SWD and HA have also contacted SARS patients and their families. Continuous assistance is being rendered, including enhanced support in the form of detailed medical check-up, rehabilitation programmes and developing a checklist to ensure comprehensive assessment of needs and timely referral for appropriate assistance.

29. We consulted the Legislative Council Panel on Health Services and Legislative Council Panel on Welfare Services at their joint meetings on 20 and 29 October 2003, as well as the Legislative Council Panel on Health Services on 3 November 2003. Members supported the proposed Trust Fund.

Health, Welfare and Food Bureau
November 2003

Enclosure 1 to FCR(2003-04)44

(Revised)

Proposed Ex-Gratia Assistance Schedule and Financial Implications for the Trust Fund for SARS

Category	Propose Rate	No. of Cases¹ (where information is known to the Administration at this stage)	Estimated Total Amount
<i>Deceased SARS patients – special ex-gratia relief payment</i>			
Surviving dependent children	\$500,000 for each child aged below 18 at the time of the parent's death	74 ²	\$37 million
	\$300,000 for each child aged between 18 and below 21 in full time studies at the time of the parent's death	10 ³	\$3 million
Surviving spouses	\$200,000 regardless of age	160 ⁴	\$32 million
Surviving dependent parents ⁵	\$300,000 for each dependent parent	19	\$5.7 million
Other families not eligible for any of the above	\$100,000 for each family	76 ⁶	\$7.6 million
		<i>Sub-Total</i>	<i>\$85 million</i>

¹ Families that have received financial assistance under the Financial Assistance Scheme for Family Members of those who Sacrifice their Lives to Save Others (7 heroic death cases in question approved so far) are not eligible, and have been so excluded from the respective categories.

² This is ascertained from beneficiaries of the We Care Education Fund who are children aged below 18 whose parent(s) has(ve) died of SARS, excluding one child from a heroic death case.

³ This is only an estimate based on a few known cases handled by SWD (through processing or referral) for a few community sources of funding for SARS affected families.

⁴ There is one child with both parents died of SARS. It is proposed that in addition to the payment receivable as a surviving dependent child, the child should be given the payment of \$200,000 for surviving spouse.

⁵ Dependent parents will be defined as those who are living with the deceased and have been relying solely on the deceased for financial support. Other justified cases will be considered on a discretionary basis subject to the advice of the Committee.

⁶ This is an estimate based on the number of deceased aged 80 and above.

Category	Propose Rate	No. of Cases ¹ (where information is known to the Administration at this stage)	Estimated Total Amount
<i>Recovered SARS patients, and “suspected” SARS patients treated with steroids as medication for SARS – assistance, including special ex-gratia financial assistance</i>			
<p>(i) For recovered SARS patients suffering from longer term effects, attributable to SARS (including the effects of medication received for SARS, if any), which may result in some degree of bodily⁷ dysfunction; and</p> <p>(ii) For “suspected” SARS patients treated with steroids as medication for SARS, suffering from longer term effects, attributable to the effects of steroids received (if any), which may result in some degree of physical dysfunction</p>	<p>On a need basis, with cumulative financial assistance receivable by a patient capped at \$500,000 per patient</p>	<p>Not available at this stage, pending medical knowledge to unveil.</p>	<p>\$70 million</p>
		Total	<p>\$155 million (say ~ \$150 million)</p>

⁷ “Bodily” is taken to mean the whole body, covering physical or psychological.

Trust Fund for SARS

**Proposed Eligibility Criteria for Applications
from Families with Deceased SARS Patients**

1. Surviving dependent child(ren)

- (a) Child(ren) who were aged below 18 at the time of death of the deceased SARS patient; or
- (b) Child(ren) who were aged at or over 18 and below 21 but in full time studies at the time of death of the deceased SARS patient.

2. Surviving Spouses

Surviving husband or wife of the deceased SARS patient, lawfully married before his/her death.

3. Surviving Dependent Parents

Parents who were living with the deceased and had been relying solely on the deceased SARS patient for financial support. Other justified cases will be considered by the Committee on a discretionary basis.

4. Other families not eligible for any of the above

On a family basis (a family member can be a child, a parent, a sibling or a relative). Reference would be made by the Committee for the proposed Trust Fund to financial dependency and any other special considerations.

Trust Fund for SARS

**Proposed Eligibility Criteria for Applications,
Parameters for Assessment of Applications,
and Determining the Level of Assistance: for
Recovered SARS Patients and “Suspected” Patients treated with Steroids**

Eligibility Criteria

We will consider applications on a case-by-case basis on individual merit, adopting the following principles -

- (a) There must be some degree of relevant dysfunction as applicable to the recovered SARS patient or the “suspected” SARS patient treated with steroids, on the basis of the attending doctor’s assessment. The medical assessment will first be carried out six months after discharge from hospital when, according to HA, their medical conditions should have stabilized. Confirmation by a medical officer designated by HA is required.
- (b) There must be a loss or reduction in income or increase in expenditure (for example temporary childcare expenses) of the recovered SARS patients or the “suspected” SARS patients treated with steroids, on the basis of the medical social worker’s advice.
- (c) In relation to eligibility for monthly financial assistance, the total value of the assets owned by the recovered SARS patient or the “suspected” SARS patient treated with steroids, excluding any owner-occupier property (i.e. live-in flat) and vehicle(s), should not exceed the prescribed asset limits which have been drawn up by reference to the limits set out for waiving of medical charges (as set out in Appendix I).
- (d) In relation to eligibility for medical expenditure covered, no financial eligibility test would be imposed.

App I

/Level

Level of Assistance

2. The total cumulative financial assistance will be capped at \$500,000 for each patient and the exact level will be determined by the Committee for the proposed Trust Fund on a case-by-case basis, subject to medical assessment every six months to monitor their progress and review their need for assistance. We will take into account the factors below in determining the level of assistance which will comprise two aspects, namely, monthly financial assistance and medical expenditure covered.

(a) Monthly Financial Assistance

3. Monthly financial assistance will be determined having regard to the loss or reduction in the income of the recovered SARS patient or the “suspected” SARS patient treated with steroids, arising from SARS, by reference to the prevailing Median Monthly Domestic Household Income (MMDHI) for a family with a similar number of members who are solely dependent on the patient in question, and taking account of any justifiable special needs determined by the Committee for the proposed Trust Fund on a case-by-case basis. The details are set out in Appendix II.

App II

(b) Medical Expenditure Covered

4. Medical expenditure relating to the relevant dysfunction as applicable to the recovered SARS patient or the “suspected” SARS patient treated with steroids will be covered. This includes in-patient and out-patient services in public hospitals/clinics, drugs, essential medical/rehabilitation equipment and treatment, including diagnostic procedures, not normally available in public hospitals/clinics or are chargeable by HA (to be certified and prescribed to be essential by public hospitals/clinics), as well as any other special exceptional medical expenditure to be approved by the Committee for the proposed Trust Fund on a discretionary basis. The amount will be net of claims for the same purpose, if any, covered by other sources, for example by employers (say in the case of civil servants) or medical insurance.

Effective Date and Half-Yearly Review

5. Subject to the approval by the Finance Committee of the Legislative Council, the Scheme will take effect on 8 November 2003. We intend to conduct medical assessment on successful applicants every six months to monitor their progress. Financial assistance will only continue if the medical need remains and the asset value remains below the prescribed limits.

**Prescribed Asset limits for Application
of Monthly Financial Assistance**

No. of family members	Asset limit* (for families with one patient in question)	Asset limit** (for families with two patients in question)
1	\$150,000	-
2	\$180,000	\$300,000
3	\$210,000	\$330,000
4	\$240,000	\$360,000
5 or above	\$270,000	\$390,000

* The asset limits are equivalent to those for assessment of applications for medical waivers by patients with 1 elderly member and will be adjusted according to any changes of the latter.

** The asset limits are equivalent to those for assessment of applications for medical waivers by patients with 2 elderly members and will be adjusted according to any changes of the latter.

Appendix II

Prevailing Median Monthly Domestic Household Income

No. of Family Members	Prevailing Median Monthly Domestic Household Income*
1	\$5,600
2	\$12,000
3	\$15,000
4	\$18,000
5	\$23,000
6	\$25,000
7	\$29,200
8	\$36,800

* MMDHI is subject to regular updating by the Census and Statistics Department. The prevailing MMDHI (newly released in the second quarter of 2003) is set out in the table.

Note

On paragraph 3 of Enclosure 3, the monthly financial assistance will be determined having regard to the loss or reduction in the income arising from SARS, by reference to the prevailing MMDHI for a family with a similar number of members [we expect that no more than a few exceptional cases would reach the cap (i.e. 200% of the prevailing MMDHI for a family with a similar number of members)], and taking account of any justifiable special needs. The actual amount will be determined on a case-by-case basis.