

立法會
Legislative Council

LC Paper No. CB(2)1173/03-04
(These minutes have been seen
by the Administration)

Ref : CB2/HS/2/03

Subcommittee on juvenile justice system

**Minutes of meeting held on
Thursday, 18 December 2003 at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)
Hon Cyd HO Sau-lan
Hon Miriam LAU Kin-yee, JP
Hon Emily LAU Wai-hing, JP
Hon LI Fung-ying, JP
Hon Michael MAK Kwok-fung
Hon WONG Sing-chi
- Members absent** : Hon LEUNG Yiu-chung
Hon Audrey EU Yuet-mee, SC, JP
- Public officers attending** : Ms Winnie NG
Principal Assistant Secretary for Security (E)
Security Bureau
- Miss Angela LEE
Assistant Secretary for Security (E)
Security Bureau
- Miss Diane WONG
Principal Assistant Secretary (Welfare)
Health, Welfare and Food Bureau
- Mr CHEUNG Hing-wah
Assistant Director (Youth & Corrections)
Social Welfare Department

Mr Ian MACKNESS
Chief Superintendent (Crime) (Support)
Hong Kong Police Force

Ms Cecilia NG
Superintendent (Crime) (Support)
Hong Kong Police Force

- Attendance by invitation** : City University of Hong Kong
Dr LO Tit-wing
Associate Professor
Department of Applied Social Studies
- Clerk in attendance** : Mrs Percy MA
Chief Assistant Secretary (2)3
- Staff in attendance** : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Mr Paul WOO
Senior Assistant Secretary (2)3
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Action

I. Confirmation of minutes of meeting
(LC Paper No. CB(2)726/03-04)

The minutes of the meeting held on 26 November 2003 were confirmed.

II. Meeting with the consultant and the Administration
(LC Paper Nos. CB(2)735/03-04(01) and 812/03-04(01))

2. Dr LO Tit-wing gave a power point presentation on the Consultancy Report on Measures Alternative to Prosecution for Handling Unruly Children and Young Persons : Overseas Experiences and Options for Hong Kong (the Consultancy Report). A set of hand-outs for the presentation was tabled at the meeting and issued to the Subcommittee vide LC Paper No. CB(2)812/03-04(01)).

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3. The Subcommittee deliberated (index of proceedings attached at **Annex**).

Juvenile justice system in Singapore

4. In relation to the juvenile justice system in Singapore, Dr LO Tit-wing was requested to provide supplementary information/comments on the following issues -

- Dr LO
- (a) how measures to deal with children and young persons beyond parental control in Singapore compared with measures (e.g. Care or Protection Order) for the same group of persons in Hong Kong; and
 - (b) a comparison of the powers and functions of The Ministry of Community Development and Sports in Singapore and the Social Welfare Department in Hong Kong.

Criteria for assessing effectiveness of measures alternative to prosecution for handling unruly children and young persons

5. In response to members' questions, Dr LO advised that the part of the Consultancy Report which highlighted the effectiveness of the alternative diversionary and restorative measures introduced in the six jurisdictions studied was largely based on comments/information on research findings and empirical evidence provided by the relevant authorities in the jurisdictions concerned. He said that he did not consider that researchers in Hong Kong would be in an appropriate position to make judgment or conclusion on the effectiveness of such measures in the overseas jurisdictions.

6. Dr LO further commented that re-offending rate was one of the criteria, but not the determinant factor, for assessing the effectiveness of measures to deal with unruly children and young persons. He pointed out that an overall evaluation of the effectiveness of the various measures should have regard to, inter alia, how such measures had brought beneficial changes to the offenders and victims as well as their families.

- Dr LO
7. Dr LO was requested to advise in writing on what criteria should be used, in the context of the situation in Hong Kong, for assessing the effectiveness of any measures to deal with unruly children and young persons.

Family Group Conference (FGC) / Empowerment Programme

8. In response to Ms Cyd HO, Dr LO said that the facilitator of a FGC should preferably be a professional with adequate training and experience in the field of social work.

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9. Ms Emily LAU noted that as proposed in the Consultancy Report, the Police, in consultation with the prosecution, would decide on whether an offence case involving a young offender above the minimum age of criminal responsibility should be prosecuted or be referred to a FGC for advice on follow-up action. She opined that the Social Welfare Department (SWD) should also be involved in this process of deliberation. Ms LI Fung-ying agreed that the role of SWD should be enhanced in this regard.

10. The Chairman suggested that the Administration might consider implementing a pilot scheme to test and evaluate the effectiveness of FGC as proposed in the Consultancy Report.

11. In response to Ms LI Fung-ying, Dr LO said that the FGC and Empowerment Programme proposed in the Consultancy Report were intended to deal with relatively more serious offences. Minor cases reported by the parents or through other channels should more appropriately be handled by social workers and district community/family services centres.

Role of the Police

12. Mr Michael MAK Kwok-fung opined that it was necessary to guard against the Police having excessive power in deciding whether a particular case should be referred for prosecution or to other authorities for alternative support services.

13. Principal Assistant Secretary for Security (E) said that the role of the Police would be carefully assessed in implementing any new alternative measures. She pointed out that after the minimum age of criminal responsibility had been raised from seven to 10, children offenders within this age group could no longer be prosecuted, and the Police had no role to play in such cases. She referred to the system in Canada where the Police could investigate offences committed by children under 12 (the minimum age of criminal responsibility) and issue warning to the children and their parents. She said that the Administration had serious reservations about adopting a similar approach in Hong Kong.

Resource implications for new alternative measures

14. Ms Emily LAU asked whether the consultancy study would make recommendations on the resources needs in implementing new alternative measures for unruly children and young persons in Hong Kong.

15. Dr LO replied that he expected that additional resources would be required in view of the considerable number of cases involving young offenders within the age

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group of 10 to 17. However, it would be difficult to assess the amount of resources that would be required.

Initial response of the Administration

16. Principal Assistant Secretary (Welfare) and Assistant Director (Youth & Corrections) summarized the Administration's initial response to the findings and recommendations of the Consultancy Report as follows -

- (a) the Administration would liaise with overseas counterparts on the operation of the various measures alternative to prosecution to deal with unruly children and young offenders with a view to getting a better understanding of the effectiveness of the measures;
- (b) the Administration would take into account the nature and gravity of various offences committed by children and young persons, the statistics on the relevant offences, as well as the resource implications in considering whether certain new alternative measures should be introduced;
- (c) the Administration would examine the feasibility and effectiveness of the options proposed in the Consultancy Report including, inter alia, the FGC and Empowerment Programme of which a prominent feature was voluntary participation by the parties concerned. The Administration would consult non-government organizations providing services for children and young offenders in this regard; and
- (d) the Administration had reservations about introducing measures which might create an undesirable labelling effect on particular groups of young offenders, given that a primary objective of existing rehabilitation policy was to enhance effective reintegration of offenders into the community.

Consultation

17. The Chairman informed members that the Secretariat had invited the deputations which had previously made submissions on the Juvenile Offenders (Amendment) Bill 2001 to give written views on the Consultancy Report for the consideration of the Subcommittee by mid January 2004.

18. Members agreed that the deputations should also be invited to attend the next meeting of the Subcommittee to make oral representations on their submissions.

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Chinese version of the Consultancy Report

19. The Administration advised members that the Chinese version of the Consultancy Report was being prepared by Dr LO. It was expected to be available at the end of January 2004.

III. Date of next meeting

20. The next meeting was scheduled for 5 February 2004 at 8:30 am.

21. The meeting ended at 10:40 am.

Council Business Division 2
Legislative Council Secretariat
3 February 2004

**Proceedings of the meeting of the
Subcommittee on juvenile justice system
on Wednesday, 18 December 2003 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
000000 - 000951	Chairman Admin	Confirmation of minutes of meeting held on 26 November 2003 (LC Paper No. CB(2)726/03-04)). Introduction on the paper prepared by Admin on "Consultancy Report on Measures Alternative to Prosecution for Handling Unruly Children and Young Persons" (LC Paper No. CB(2)735/03-04(01)).	
000952 - 001605	Dr LO Tit-wing	Power-point presentation on "Consultancy Report on Measures Alternative to Prosecution for Handling Unruly Children and Young Persons : Overseas Experiences and Options for Hong Kong". Measures alternative to prosecution to deal with unruly children and young persons in Hong Kong and Singapore (Table 1.1, Figures 1.1, 2.1, 2.2 and 2.3 in the Consultancy Report).	
001606 - 001925	Chairman Dr LO Tit-wing	Measures to deal with children and young persons beyond parental control in Singapore and Hong Kong. Powers and functions of The Ministry of Community Development and Sports in Singapore and the Social Welfare Department in Hong Kong.	Dr LO Tit-wing to provide a comparison in writing.
001926 - 002522	Chairman Dr LO Tit-wing	Youth justice system in England and Wales (Figure 3.1 in the Consultancy Report). Measures to deal with children below age of criminal responsibility in England and Wales.	

Time marker	Speaker(s)	Subject(s)	Action required
002523-003429	Dr LO Tit-wing Chairman Mr. Michael MAK Ms Cyd HO	Youth justice system in Belgium (Figure 4.1 in the Consultancy Report).	
003430 - 003844	Dr LO Tit-wing Mr. Michael MAK Chairman	Youth justice system in Canada (Figures 5.1 and 5.2 in the Consultancy Report).	
003845 - 004354	Dr LO Tit-wing Chairman	Youth justice system in Queensland (Figure 6.1 in the Consultancy Report).	
004355 - 004719	Dr LO Tit-wing	Youth justice system in New Zealand (Figure 7.1 in the Consultancy Report).	
004720 - 005334	Ms Miriam LAU Dr LO Tit-wing Chairman	Criteria for assessing the effectiveness of measures alternative to prosecution in the overseas jurisdictions studied to deal with unruly children and young persons.	
005335 - 005529	Ms Cyd HO Dr LO Tit-wing	Calculation of re-offending rate with reference to the age of offenders.	
005530 - 005659	Chairman Dr LO Tit-wing	Criteria to be used for assessing the effectiveness of any measures to deal with unruly children and young persons in Hong Kong.	Dr LO Tit-wing to advise in writing.
005700 - 011415	Dr LO Tit-wing Chairman Mr Michael MAK	Recommendations in the Consultancy Report and options for Hong Kong.	
011416 - 012208	Chairman Ms Emily LAU Dr LO Tit-wing	Purpose of Family Group Conference (FGC) and Empowerment Programme and resource implications for implementing such measures.	
012209 - 012740	Ms Cyd HO Dr LO Tit-wing Chairman Ms Emily LAU	Desired composition of FGC.	
012741 - 013613	Ms Emily LAU Dr LO Tit-wing Chairman Ms Cyd HO Mr Michael MAK	Role of the Police in deciding whether a particular case should be referred for prosecution or to other authorities for alternative support services such as FGC.	

Time marker	Speaker(s)	Subject(s)	Action required
013614 - 014232	Ms LI Fung-ying Chairman Dr LO Tit-wing	Role of Social Welfare Department and welfare agencies in providing services for unruly children and young persons.	
014233 - 014744	Ms Emily LAU Dr LO Tit-wing Chairman	Proposed procedure for referring cases to FGC.	
014745 - 015405	Chairman Admin	Preparation of Chinese version of the Consultancy Report. Initial response of Admin to the findings and recommendations of the Consultancy Report.	
015406 - 020311	Chairman Admin Police Force Ms LI Fung-ying	Measures taken by Admin to enhance support services targeted at unruly children below the minimum age of criminal responsibility (paras. 9 and. 10 of LC Paper No. CB(2)735/03-04(01)). Role of the Police in handling cases involving children below the minimum age of criminal responsibility.	
020312 - 020536	Ms Cyd HO Chairman Ms Emily LAU	Consultation with interested parties on the Consultancy Report. Next meeting of the Subcommittee on 5 February 2004 to receive views from deputations.	