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Panel on Welfare Services

Background brief prepared by the Legislative Council Secretariat

Tide-over grant

Purpose

This paper gives an account of the background of the tide-over grant (TOG) for welfare non-governmental organisations (NGOs) in receipt of Government subvention and the past discussions by the Panel on Welfare Services (the Panel) on TOG, including the special meeting on 2 June 2005.

Background

2. In 1994, the Administration appointed Consultants to review the social welfare subvention system which had been criticised as inflexible, complex and bureaucratic. It was no longer meeting in full the needs of present day social welfare development which should place emphasis on the effective use of public resources, innovation, responsiveness and performance management to meet the changing community needs in a timely manner.

3. The review was concluded in 1998. The recommendation of introducing a Service Performance Monitoring System received general support from the sector and was implemented by three phases between 1999-2000 and 2001-2002 through Funding and Service Agreements (FSAs) and Service Quality Standards with the joint efforts of the Social Welfare Department (SWD) and NGOs. However, the proposal on fixed funding arrangements was not accepted by the sector. As a result, the Administration continued to explore new options to improve the existing subvention system.

4. In October 1999, the Administration presented to the Social Welfare Advisory Committee initial proposals to introduce a new funding arrangement in the form of a Lump Sum Grant (LSG). To address the sector's concern that the LSG might not provide sufficient funds to meet their contractual commitments to existing staff, the Administration proposed the introduction of

a TOG Scheme to address any possible problems in the first three years, arising from meeting contractual obligations to serving staff for salary creep and Provident Fund (PF) contributions. The intention was to allow NGOs to have sufficient time to adjust to the changes. Taking into consideration comments received at the end of the consultation period in May 2000, revisions to the proposed LSG package were made by the Administration to ensure that sufficient funds would be provided for NGOs to honour the contractual commitment to staff, including extending the TOG period from three years to five years.

5. Details of the development of the implementation of the LSG subventions system and major concerns of the Panel and recent development with regard to TOG are given in **Appendix I**.

One-off Grant

6. The Panel held a special meeting on 2 June 2005 to listen to the views of a total of 15 deputations on the Administration's proposal to provide a Special One-off Grant (SOG) to NGOs currently receiving TOG after the termination of the TOG period in 2006-07.

<u>Purpose</u>

7. According to the Administration, SOG is meant to provide greater flexibility and more time for the NGO management in making whatever necessary adjustments to meet their financial and/or staff commitments in the long run and is considered a more pragmatic way to assist NGOs than a mere extension of TOG. Two Schemes, A and B, under SOG are available to NGOs currently receiving TOG.. Application would be on a voluntary basis and NGOs are expected to apply for either Scheme A or B.

8. Scheme A is aimed at providing time-defined further assistance to NGOs that are not ready to operate on the benchmark salary upon the TOG cessation. Under the LSG subventions system, the benchmark salary of each NGO is determined on the basis of the mid-point salaries of the existing pay scales of its recognised establishments, i.e. all approved posts, as at 1 April 2000. PF for staff not on the snapshot as at 1 April 2004 would be provided at 6.8%. The amount of SOG under this Scheme would be capped at two times of TOG for each respective eligible NGO at the 2005-06 TOG level. It should only be used for the personal emolument expenditure of staff captured in the snapshot of 1 April 2000 ("Snapshot Staff").

9. Scheme B is aimed at providing NGOs which do not require further assistance in facing the TOG cessation with additional support to enhance their human resources practices. It would focus on initiatives that would benefit

directly its staff, including both snapshot staff and all other staff in subvented services. SOG under this Scheme would be provided at an amount not more than two times of the TOG provision at the 2005-06 level of the NGO applicant.

Other facilitating measures for NGOs

10. On top of SOG, the Administration recommends implementing the following measures to facilitate NGOs concerned to achieve the financial viability more effectively -

(a) to withhold the clawback of LSG Reserve above the 25% cap for three years for the financial years from 2004-05 to 2006-07;

(b) to allow NGOs to utilise their own resources or LSG Reserve or SOG to implement voluntary retirement (VR) scheme for their staff to increase the efficiency of the organisation; and

(c) for NGOs with their salary portion above the benchmark salary, to postpone the planned annual 2% reduction of the salary portion of the LSG to the Benchmark Salary for two years to 2008-09.

Major views/concerns raised by the Panel and deputations

Views of deputations

11. All deputations strongly urged the Administration to conduct a comprehensive review of the LSG subventions system which had forced some NGOs to attain financial viability through replacing their experienced staff with less experienced ones hired on less favourable contract terms which could be as short as one month. As a result, service quality was seriously undermined and injuries at work, conflicts between existing and new staff and disputes between staff and management had increased. The Administration should continue to provide TOG to NGOs currently receiving TOG in meeting contractual commitments to their Snapshot Staff and immediately scrap the proposal of providing a SOG to NGOs currently receiving TOG after the cessation of TOG in 2006-07.

12. Other major views expressed by deputations are summarised as follows -

(a) the fact that the Administration intended to provide SOG (Scheme A) to NGOs after the termination of TOG was a testament that it intended to shirk its responsibility in helping agencies to honor contractual commitments to their Snapshot

Staff in terms of salary increment, the effect of which was likely to set a deadline for NGOs to complete its cost-cutting exercise on staff;

(b) in providing the time-defined SOG (Scheme A) to NGOs currently receiving TOG, the Administration had reneged on its promise made with the welfare sector during the discussion of the implementation of the LSG funding system that the Administration would consider further assistance to honour contractual obligations to Snapshot Staff if the agencies could demonstrate that, during the preceding TOG period, first, they had already made full efforts in service reengineering, second, they had little or no turnover of their Snapshot Staff, third, they had accumulated little reserves, and fourth, they had been unable to obtain new services;

(c) discontinuation of TOG would be in breach of Article 144 of the Basic Law (BL144) which stipulated that "The Government of the Hong Kong Special Administrative Region shall maintain the policy previously practised in Hong Kong in respect of subventions for non-governmental organisations in fields such as education, medicine and health, culture, art, recreation, sports, social welfare and social work. Staff members previously serving in subvented organizations in Hong Kong may remain in their employment in accordance with the previous system";

(d) they disagreed with the claim made by the Administration that the Lump Sum Grant Steering Committee (LSGSC) was in support of discontinuing TOG and providing the time-defined SOG (Scheme A) to NGOs that were not yet ready to operate on the Benchmark Salary upon the cessation of TOG in 2006-07;

(e) they were dissatisfied that the Director of Social Welfare paid scant regard to the views and concerns expressed by the welfare sector on support to NGOs currently receiving TOG after the TOG period;

(f) they opposed the proposal of according priority to the successful SOG (Scheme B) applicants in the allocation of new services during 2006-07 to 2007-08, as this was tantamount to awarding or encouraging NGOs for not seeking further assistance in meeting contractual obligations to their Snapshot Staff;

(g) they were concerned about allowing NGOs to utilise their LSG Reserve or SOG to implement VR scheme for their staff, as this would give a green light to NGOs to use the scheme to make ends meet; and

(h) efficiency savings imposed upon NGOs in recent years had eaten up all the efforts made by agencies in bringing down their PE expenditure to align with the benchmark salary, the result of which had rendered it very difficult for NGOs to meet contractual commitments to their staff after the termination of TOG in 2006-07.

Views of members

13. Members shared the views/concerns expressed by deputations. A member asked the Administration whether TOG would continue to be provided beyond 2006-07 to those NGOs which fulfilled the four criteria set out in paragraph 12(b) above. Another member expressed regret that NGO operators were forced to become unscrupulous employers under the LSG subventions system. Other members requested the Administration to scrap the SOG proposal, including holding off inviting applications from NGOs for SOG in July 2005, until it had reached an agreement with the welfare sector on the support after the TOG period to NGOs currently receiving TOG.

The Administration's response

14. The Administration's response is summarised as follows -

(a) it was made clear to the welfare sector at the outset that TOG would only be provided for five years, i.e. from 2001-02 to 2005-06. At the same time, for NGOs with their snapshot salary above the Benchmark Salary, they should come down to the Benchmark Salary by a reduction of 2% annually from 2006-07. In achieving these, NGOs were expected to carry out organisation restructuring and service reengineering within the TOG period such that they could operate their services within the LSG provision. It had been agreed with the welfare sector that the Government would only be prepared to consider further assistance for NGOs to meet contractual obligations to Snapshot Staff under exceptional circumstances on a case by case basis, and that all relevant factors would have to be taken into account in totality before exceptional assistance could be justified;

(b) providing a SOG to NGOs currently receiving TOG was in fact less stringent than the previously agreed arrangement of providing further assistance under exceptional circumstances on a case by case basis;

(c) NGOs had to honour their contractual obligations to staff regardless of the termination of TOG. The main concern of the Administration was to ensure that subvented welfare services would not be undermined;

(d) there was no cause for concern that there would be adverse impact on the service quality of welfare services after the termination of TOG. After the launch of LSG, assistance was provided to NGO management to enhance their ability in terms of corporate governance. Best practices on corporate governance were also disseminated to all NGOs on LSG through experience-sharing sessions organised by SWD. Moreover, the service performance of each welfare service funded by SWD was monitored on the basis of the FSAs drawn up between SWD and the NGOs operating the subvented services;

(e) circumstances of individual NGOs would be carefully reviewed before any further assistance would be provided to those NGOs which still had difficulties in meeting their contractual obligations to staff after exhausting SOG. Such assistance did not have to be confined to financial assistance and could take the form of, say, providing advice on organisation restructuring and service reengineering;

(f) the Administration disagreed that the LSG subventions system had forced NGO operators to become unscrupulous employers in order to attain financial viability. As resources were finite, there was a need to place emphasis on the effective use of public resources, innovation, responsiveness and performance management to meet changing community needs;

(g) there was no question of the Administration adopting the LSG subventions system in order to save money, as evidenced by the fact that spending on social welfare services including subventions had been on the rise in the past few years;

(h) the main objectives of raising the 25% cap on LSG Reserve was to better enable NGOs to overcome any possible operating deficits after the TOG period through organisation restructuring and service reengineering and/or to improve their efficiency. It should be pointed out that allowing NGOs to utilise their LSG reserve to offer VR for their staff was made having regard to the requests from some NGOs which felt that such a measure could help to increase the efficiency of their organisations. The Administration had however advised that NGO boards should consult their staff before the implementation of any VR scheme.

SWD would provide NGOs with some guiding principles, but flexibility would be allowed for NGOs to formulate a scheme that best suited their staffing and financial conditions;

(i) although the financial viability of an NGO would be a consideration in the allocation of new welfare services, the prime considerations remained to be knowledge, expertise and experience in the particular service and the quality of the service proposal;

(j) BL144 had to be read in conjunction with BL145 which stipulated that "On the basis of the previous social welfare system, the Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on the development and improvement of this system in the light of the economic conditions and social needs". It should also be pointed out that the LSG subventions system was implemented after 1997 and joining the new system was voluntary;

(k) as resources were finite, it was incumbent upon the Administration to see that public resources were used in a most cost-effective manner. The Administration believed that the LSG subventions system was the best vehicle to achieve such. Nevertheless, the Administration would not rule out conducting a review of the LSG subventions system in the long run to look at ways on how to further improve the system. In the meantime, focus would need to be put on addressing the financial difficulties faced by some NGOs in meeting contractual obligations to their staff after the cessation of TOG; and

(l) the Administration would continue to collect views from different sectors of the community, including the welfare sector, before finalising the proposal. The application timetable for the SOG was yet to be firmed up, and it was made in response to some NGOs' request for the issue to be sorted out as soon as possible.

Member's motion

15. At the meeting, the following motion was moved by Dr Fernando CHEUNG and supported by all members present at the meeting -

"That this Panel requests the Government to withdraw the SOG proposal and extend the TOG period. At the same time, the Government should conduct a comprehensive review of the LSG subventions system and the competitive bidding policy by extensively consulting the welfare sector, service users and the public, so as to improve the existing funding allocation system."

16. Members are invited to note the deliberations of competitive bidding for new elderly residential units at the meeting of the Panel held on 5 March 2001, a summary of which is given in **Appendix II**.

Relevant papers

17. Members are invited to access the LegCo website (http://www.legco.gov.hk) to view the minutes of the meetings held on 13 March 2000, 20 June 2000, 13 November 2000, 5 March 2001, 9 February 2004, 8 March 2004 and 13 December 2004, the papers provided by the Administration and the submissions from the deputations.

Council Business Division 2
Legislative Council Secretariat
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Appendix I

Development and implementation of the Lump Sum Grant subventions system

<u>October 1999 to May 2000 : consultation on initial proposals</u>

In October 1999, the Administration presented to the Social Welfare Advisory Committee initial proposals to introduce a new funding arrangement in the form of a LSG. The welfare sector was consulted on these initial proposals. Taking into consideration comments received, the Administration released the Lump Sum Grant (LSG) proposals for consultation in February 2000.

2. Under the proposed LSG package, funding for the personal emoluments (PE) of NGOs was calculated on the following basis -

(a) first of all, the benchmark LSG of each NGO would be determined on the basis of the mid-point salaries of the existing pay scales of its recognised establishment, i.e. all approved posts, as at 1 April 2000 plus the sector-wide average Provident Fund (PF) employer's contribution of 6.8%;

(b) secondly, a snapshot of staff strength of each NGO as at 1 April 2000 and its PE subvention for 2000-2001 under the existing subvention mode would be taken and projected respectively;

(c) comparison would then be made between this projected PE subvention with the benchmark -

(i) for agencies with snapshot <u>above</u> the benchmark, they would receive the snapshot as the LSG. There would be no top-up or clawback in the course of the financial year except for adjustment in line with the annual civil service pay award. Their LSG would be reduced annually to reach the benchmark in steps of 2% per annum starting from 2003-2004; and

(ii) for agencies with snapshot <u>below</u> the benchmark, they would receive the LSG in one stop, i.e. on day one, provided that their service was already fully commissioned. Likewise, there would be no top-up or clawback in the course of the financial year except for adjustment in line with the annual civil service pay award.

3. To address the sector's concern that the LSG might not provide sufficient funds to meet their contractual commitments to existing staff, the Administration proposed the introduction of a TOG Scheme to address any possible problems in the first three years, arising from meeting contractual obligations to serving staff for salary creep and PF contributions. The intention was to allow NGOs to have sufficient time to adjust to the changes. Under this Scheme, NGOs who could demonstrate that they had insufficient funds to meet their salary creep and PF contributions for service who were on their payroll as at 1 April 2000 might apply to SWD for a one-off grant during this period. A set of criteria for the TOG would be worked out and a vetting committee would be set up to consider the applications.

<u>June 2000 to August 2000 : revised LSG package</u>

4. Having regard to the views and suggestions collected at the end of the consultation period in May 2000, revisions to the proposed LSG package were made by the Administration to ensure that sufficient funds would be provided for NGOs to honour the contractual commitments with their staff. The main improvements made were as follows -

(a) in respect of PF, the Social Welfare Department (SWD) would adopt the arrangement to reimburse the employer's PF contribuation in respect of the existing staff on an actual basis. All PF funding provision for both existing and new staff would be kept in a separate designated account solely for PF purposes, and PF funding calculation for new staff would be raised from 5% to 6.8% of the mid-point salary;

(b) the TOG period would be extended from three to five years; and

(c) NGOs would be required to start to come down to the benchmark at the end of the TOG period, i.e. NGOs should achieve the benchmark in 2005-2006 instead of 2003-2004 as original proposed.

Moreover, there was no mandatory timetable requiring all NGOs to move on to LSG on a compulsory basis.

<u>August 2000 to October 2000 : improvements to LSG implementation</u>

5. In response to the sector's concern over certain operational aspects and uncertainty about protection of existing staff working in "unvetted units" under the then subventions system, further revisions were made to the LSG package. Concerning NGO staff, TOG and PF arrangements were extended to all existing staff in unvetted units under a set of prescribed conditions for

regularization. Unvetted unit is a form of recognised system under the Modified Standard Cost system in social welfare subventions accepted over the years. Under such system, NGOs have the flexibility in the employment of staff, in terms of both numbers and grade/rank, within the standard funding provision calculated at mid-point salary of the notional establishment and a 4.5% PF. NGOs with unvetted units may seek regularisation as they see fit but upon regularisation, full matching of staff members and grade/rank will be required and full compliance with staff qualifications has to be assured.

6. With the Legislative Council Finance Committee's approval on 15 December 2000, the LSG subventions system was formally put in place as from 1 January 2001.

Major concerns raised by the Panel

7. At the meeting on 13 March 2000, the Panel was informed of the details of the proposed LSG package (see paragraphs 2 and 3 above). In response to members' concern, the Administration advised that if, after the expiration of three-year TOG period, some NGOs still had difficulty in meeting their commitments to existing staff, the Administration was prepared to work with them and considered how it would continue to help. Three members' motions, carrying the same votes, were passed at the meeting. The wordings of these motions are as follows -

First motion

"That this Panel urges the Government to restrict the scope of implementation of the LSG funding package to "Other Charges" first, in order to ensure that the PE and benefits will remain unchanged and to allow NGOs flexibility in the use of resources. The package should be further discussed only after SPMS has been fully implemented and reviewed";

Second motion

"That this Panel urges the Administration to provide resources to NGOs to enable them to maintain the current remuneration and benefit packages for existing staff"; and

Third motion

"That this Panel urges the Administration to defer implementation of the new funding proposal until it has the support of the welfare sector".

8. The Panel was briefed by the Administration on the details of the

improved LSG package on 20 June 2000 (see paragraph 4 above) and again on 13 November 2000 on the implementation of the LSG subventions system (see paragraph 5 above). Despite the various improvements made, members remained concerned that the implementation of the new funding arrangements would give rise to NGO management replacing experienced staff with lower-paid new staff, not filling the vacant posts and/or discontinue linkage with the civil service pay scale. A question was also raised as to whether consideration could be given to extending the TOG to those NGOs which had difficulty in meeting their contractual commitments to existing staff.

9. The Administration replied that for NGOs opting to join the LSG, it was up to the NGOs to decide how they wished to remunerate their staff. If the Administration forced the NGOs to follow a prescribed set of conditions of services, it would defeat the purpose for implementing the new funding arrangement in the first place.

10. As regards extending the TOG period, the Administration considered such a move not necessary. The Administration was confident that the formula for the calculation of the LSG, coupled with the TOG, should provide NGOs with sufficient funds to meet their contractual commitments to existing staff.

Recent development

11. The issue of the impact of the cessation of the TOG on NGOs was raised at the meetings of the Panel on 9 February 2004, 8 March 2004 and 13 December 2004. Members pointed out that with the more than 10% cutback implemented during the past five years to achieve efficiency savings under the Enhanced Productivity Programme, the welfare sector would not be able to absorb any further cut in funding without adversely affecting their services, not to mention that the sector had to achieve a further across-the-board 1% savings in 2005-2006.

12. The Administration advised that a survey was being conducted by SWD to find out the impact of the expiry of TOG on the operation of NGOs, and see what assistance could be provided to NGOs in need. A motion urging the Administration to extend the TOG to ensure the quality of social welfare services and to better meet the needs of the public for such services was also passed by the Panel on 13 December 2004 by all but one member present at the meeting.

Appendix II

Competitive bidding for new elderly residential units

Background

The Panel on Welfare Services (the Panel) was briefed by the Administration on 5 March 2001 about its plan to adopt competitive bidding based on quality and cost-effectiveness for new elderly residential units, with the exception of those new units already allocated or required for service rationalisation purposes, among others.

Major views/concerns raised by the Panel and deputations

2. The majority of members and all deputations attending the meeting strongly opposed to the tendering of new elderly residential units being opened up to both non-governmental organisations (NGOs) and the private sector for the following reasons -

(a) the prime objective of the private firms was to make profits, and the only way they could win a bid to operate a residential home for the elderly (RCHE) which placed a 20% weighting on price and make a profit in the end was to exploit their staff by offering them low salaries and making them worked long hours. Given that residential care service for the elderly was a labour-intensive and personalised service, it was difficult to see why the quality of such service would not suffer;

(b) there was no need to include the private sector in the bidding of new elderly residential units in order to have open and fair competition, as NGOs could compete among themselves on the same basis;

(c) many overseas jurisdictions which practised competitive bidding of welfare services had found that the demerits of implementing such an approach outweighed the merits;

(d) there was no reason to open up the bidding of new elderly residential units to the private sector unless there was evidence that such service run by the NGOs was not cost-effective and of unsatisfactory quality; and

(e) a review should be conducted on the operation of private RCHEs under the Bought Place Scheme (BPS) and Enhanced Bought Place Scheme (EBPS) before deciding whether competitive bidding in elderly residential care service should be introduced.

The Administration's response

3. The Administration responded that it was unfair to say that private firms would exploit their staff and deliver an inferior service simply because their primary objective was to make profits, having regard to the fact that Hong Kong had all along prided itself on an enterprising private sector and that the overwhelming majority of services in Hong Kong were provided by the private sector. The flexibility and responsiveness of the private sector in coping with and reacting to the rapid changing needs of the community could never be equalled by the public sector. In view of this and having regard to the fact that resources were finite, it was incumbent upon the Administration to implement competitive bidding in welfare services in order to maximise the number of people being provided with the services.

4. Responding to the comments that there was no need to introduce competitive bidding because NGOs could improve their cost-effectiveness through streamlining of work, the Administration advised that the room for improvement on cost-effectiveness in NGOs was limited as NGOs were confined by their staffing and organisation structures. The Administration further advised that the reason why it considered competitive bidding for RCHEs viable even though some RCHEs operated by NGOs on a self-financing basis were encountering financial difficulties was because the existing staffing and organisation structure had made it very difficult for the NGOs to come up with a competitive price to attract people to use their service. This was illustrated by the current significant cost differential between a quality place under the EBPS and a NGO home.

Member's motion

5. Members disagreed with the Administration's response. A motion proposed by Dr YEUNG Sum opposing the participation of profit-making organisations in the provision of elderly subsidised care services was passed by the majority of members present at the meeting.