

立法會
Legislative Council

LC Paper No. CB(2)2635/05-06
(These minutes have been
seen by the Administration)

Ref : CB2/PL/WS

Panel on Welfare Services

**Minutes of special meeting
held on Thursday, 30 March 2006 at 4:45 pm
in the Chamber of the Legislative Council Building**

Members present : Dr Hon Fernando CHEUNG Chiu-hung (Chairman)
Hon CHAN Yuen-han, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon LEE Cheuk-yan
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon LI Fung-ying, BBS, JP
Hon Albert CHAN Wai-yip
Hon Alan LEONG Kah-kit, SC

Members absent : Hon Albert HO Chun-yan
Hon Bernard CHAN, JP
Dr Hon YEUNG Sum
Hon Frederick FUNG Kin-kee, JP
Hon LEUNG Kwok-hung

Member attending : Dr Hon KWOK Ka-ki

**Public Officers : Items I and II
attending**

Mr Freely CHENG
Principal Assistant Secretary for Health, Welfare and Food
(Family)

Miss Annie KONG
Assistant Secretary for Health, Welfare and Food (Family) 2

Mr Paul TANG, JP
Director of Social Welfare

Miss Ann HON
Assistant Director of Social Welfare (Subventions)

Mr FU Tsun-hung
Chief Social Work Officer (Subventions)
Social Welfare Department

**Deputations : Item II
by invitation**

Staff Union of Mental Health Association of Hong Kong

Mr LUI Kwan-chung
Contact Officer

Mr CHENG Wai-kin
Clerk

The Hong Kong Social Workers Association

Dr LAW Chi-kwong

Hong Kong Social Workers' General Union

Mr CHEUNG Kwok-che
President

Mr YUM Kwok-tung
Secretary for Membership Liaison

Community Care and Nursing Home Workers General Union

Mr CHENG Ching-fat
Exco Member

Ms CHEUNG Wai-lin
Chairperson

Hong Kong Confederation of Trade Unions Committee of Public Services (Social Services)

Ms LAM Ying-hing
Organizing Secretary

Mr TANG Wai-wah
Convenor

Social Welfare Organizations Employees Union

Mr LIU Wai-ying
Chairperson

Mr CHUNG Pui-ching
Exco Members

The Hong Kong Council of Social Service

Mr Cliff CHOI
Business Director

Staff Association of Hong Kong Young Women Christian Association

Mr TSE Sai-kit
President

Ms SAU Lin-mui
President

The Church of United Brethren in Christ Social Service
Division

Mr LEE Chak-man
Centre-in-charge

Mr HO Siu-kei
Social Worker

Chung Shak-hei (Cheung Chau) Home for the Aged, Ltd.
Employees General Union

Mr LEUNG King-chuen
Chairman

Union of HK Rehabilitation Agencies Workshop Instructor

Mr YU Chi-ming
President

Mr SIN Kin-ming
Vice President

Clerk in attendance : Ms Doris CHAN
Chief Council Secretary (2) 4

Staff in attendance : Miss Mary SO
Senior Council Secretary (2) 8

Miss Maggie CHIU
Legislative Assistant (2) 4

I. Proposed motion on “Assistance to patients of Severe Acute Respiratory Syndrome and their families”
(LC Paper No. CB(2)1566/05-06(01))

The Chairman sought members’ view on the proposal that the Panel should seek the agreement of the House Committee (HC) for allocation of a debate slot to him, in his capacity as the Chairman of the Panel, to move a motion on “Assistance to patients of Severe Acute Respiratory Syndrome and their families”

for debate at the Council meeting on 17 May 2006, details of which were set out in the above paper prepared by the Secretariat.

2. Mr TAM Yiu-chung said that he was in support of the wording of the proposed motion, but expressed concern about the proposal setting a precedent for holding three debates on Members' motions at a Council meeting. Mr TAM asked whether the Chairman had considered the option of moving the proposed motion himself, albeit the debate slot would be counted towards the Chairman's own slot.

3. The Chairman pointed out that there were previous cases of the HC acceding to a committee's request for allocation of a debate slot and that the slot would not be counted towards the mover's own slot.

4. Mr LEE Cheuk-yan suggested to leave the proposal to the HC to decide. Members agreed.

II. Support after the tide-over grant (TOG) period to non-governmental organisations currently receiving TOG - special one-off grant
(LC Paper Nos. CB(2)1566/05-06(02) to (03) and CB(2)1631/05-06(01) to (08))

5. At the invitation of the Chairman, Assistant Director of Social Welfare (Subventions) (ADSW(Subventions)) briefed members on the Administration's paper (LC Paper No. CB(2)1566/05-06(02)) which set out the latest position regarding the Special One-off Grant (SOG) applications from non-governmental organisations (NGOs) currently receiving TOG.

Deputations' views

6. Representatives from the following organisations presented their views as set out in their respective written submissions -

- (a) Hong Kong Social Workers Association (LC Paper No. CB(2)1631/05-06(02));
- (b) Hong Kong Council of Social Service (LC Paper No. CB(2)1631/05-06(08));
- (c) Hong Kong Social Workers' General Union (LC Paper No. CB(2)1631/05-06(07));

- (d) Hong Kong Confederation of Trade Unions Committee of Public Services (Social Services) (LC Paper No. CB(2)1631/05-06(04)) and
- (e) Staff Union of Mental Health Association of Hong Kong (LC Paper No. CB(2)1566/05-06(03)).

7. Mr HO Siu-kei of the Social Service Division of the Church of United Brethren in Christ said that the lump sum grant (LSG) subventions system needed to be expeditiously reviewed to address the poor staff morale caused by unscrupulous acts by the management of some NGOs to cut costs to make ends meet.

The Administration's response

8. Director of Social Welfare (DSW) responded as follows -

- (a) the Social Welfare Department (SWD) had not unilaterally deducted 9.3% from the Benchmark Salary of NGOs on LSG over the years as a result of Enhanced Productivity Programme (EPP) and Efficiency Savings (ES) as raised by members at the special meeting held on 8 November 2005, for the reasons given in Appendix I to the Administration's paper (LC Paper No. CB(2) 1631/05-06(01)) tabled at the meeting. Notably, SWD had informed all NGOs through briefing sessions and letters, and thereafter had also highlighted the adjustments to LSG resulting from EPP and ES in the subventions allocation letters in each of the concerned financial year. All NGOs concerned had noted the adjustments and signed to indicate their acceptance of the arrangements. Besides, EPP and ES were across-the-board exercises in the whole Government, which should be applied to all Government departments, including SWD and subsidised bodies and NGOs. In this regard, there was no question of SWD violating any contractual obligation to the subvented NGOs by deducting 9.3% from the LSG to NGOs over the years as a result of EPP and ES as advised by the Department of Justice (DoJ);
- (b) SWD had never advised NGOs to reduce the salary of their Snapshot Staff to attain financial viability. Rather, SWD had reminded NGOs that they had to first consult their staff before making any changes to the terms and conditions of service, honour their contractual commitment to staff and act in compliance with the labour legislation. All NGOs had made declaration that they had

sought the views of their staff before making any changes to their terms and conditions of service;

- (c) although the Administration would not support NGOs unilaterally dismissing staff who refused to accept changes to their employment contracts, it was necessary to consider the circumstances of each case before a view could be formed as to whether the staff concerned had been treated unfairly;
- (d) the Administration was confident that with the provision of the SOG and the re-engineering and restructuring measures undertaken by the NGOs which had previously received TOG, these NGOs should be able to attain financial viability. As the provision of the SOG was made based on the fact that there was no EPP and/or ES in 2006-07, if any NGOs, with the provision of SOG, should face financial problems because of future ES, if any, the Administration was prepared to work with NGOs to find a solution;
- (e) the Administration did not consider it necessary to conduct a comprehensive review of the LSG subventions system, having regard to the positive impacts of the system on the development of social welfare services and the wide acceptance of the system by NGOs. The Administration would however see if there were specific aspects which might be improved after the SOG arrangement was settled; and
- (f) the Administration also did not consider the LSG subventions system was the cause for the heavy work pressure of frontline social workers of NGOs on LSG, as social workers, regardless of whether they worked in the public or private sector, all faced increased work pressure because of the economic situation during the past few years as well as rising expectations of their clients.

Discussion

9. Dr LAW Chi-kwong of the Hong Kong Social Workers Association asked whether the views expressed by the Administration that the deduction of 9.3% from the Benchmark Salary of NGOs on LSG did not amount to a breach of contractual obligation was cleared with the DoJ, as there was nothing in the paper provided by the Administration indicating that the DoJ had confirmed this point. Dr LAW further said that it was illogical for the Administration to say that EPP and ES had no effect on the Benchmark Salary, as the Benchmark Salary was an integral part of the LSG allocation and it was admitted by the Administration that

EPP and ES had an effect on the LSG allocation.

10. DSW pointed out that the statement in the minutes of the 13th LSG Steering Committee (LSGSC) meeting held on 21 October 2003 that EPP and ES would have no effect on the Benchmark Salary was made in the context of considering the discussion paper presented in that meeting illustrating how NGOs with Snapshot Salary above the Benchmark Salary could come down by 2% per annum to reach the Benchmark. Hence, this statement should not be taken to mean that the Benchmark Salary would not be subject to EPP and ES adjustments. In fact, it was mentioned in paragraphs 53 and 54 of the minutes of meeting that NGOs should all try to achieve ES. DSW further said that the LSG allocation was based on the Government policy on resource allocation and the financial situation of the Government in the year under consideration, which was stipulated in the LSG Manual (Edition 2).

11. Mr Albert CHAN urged the Administration to expeditiously review the LSG subventions system, which was marred with problems, such as replacing experienced staff with less experienced ones and making one staff do the work of two in order to save cost.

12. DSW reiterated that the Administration did not see the need to conduct a review of the LSG subventions system. It would however see if there were aspects which could be improved to make the LSG subventions system work better after the SOG arrangement was settled. DSW further said that joining the LSG subventions system was voluntary. To date, 11 NGOs were still funded by the conventional mode of subventions.

13. Mr Albert CHAN said that joining the LSG subventions system was decided by the NGO management and not their staff. Mr CHAN called upon all frontline staff of NGOs on LSG to take to the street to protest against the Administration's refusal to conduct a comprehensive review of the LSG subventions system.

Admin 14. Mr LEE Cheuk-yan said that the Administration should provide to members the legal opinions from the DoJ on the effect of EPP and ES on the Benchmark Salary of NGOs on LSG. Mr LEE further said that representatives from the DoJ should come before members to answer questions at a future meeting to further discuss the matter. Mr LEE then asked ADSW(Subventions) whether she had requested NGOs on LSG to reduce the number of their Snapshot Staff and/or reduce their salaries in order to attain financial viability. Mr LEE also asked DSW to respond to the complaint made by the Staff Association of the Hong Kong Young Women Christian Association (YWCA) in its submission tabled at the meeting (LC Paper No. CB(2)1631/05-06(05)) that prior to applying for the SOG,

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the management had already requested staff to accept the new arrangement of reducing their salaries by 8% as well as freezing their salaries for two years. To his knowledge, YWCA had already fired one staff who refused to accept the new employment terms.

15. ADSW(Subventions) responded that she had not requested NGOs on LSG to reduce the number of their Snapshot Staff and/or reduce their salaries in order to attain financial viability. In the processing of the applications from the NGOs, SWD noted the various reengineering and restructuring measures to be taken by the NGOs to attain financial viability. Although which measure(s) to take were entirely up to the NGOs, SWD had reminded the management of the need to respect the spirit of contract in making any changes to the terms and conditions of staff. ADSW(Subventions) however pointed out that SWD had advised the NGOs that they could review the starting salaries of those new staff under contract whom they hired to deliver new services.

16. DSW said that it was not appropriate for him to comment on the YWCA case in the absence of all relevant information.

17. Mr LEE Cheuk-yan asked DSW whether he could give an undertaking that no NGO on LSG would be allowed to dismiss staff on the grounds of refusing to accept revised terms and conditions of service.

18. DSW responded that SWD had all along advised NGOs to adhere to two principles when making changes to terms and conditions of staff. First, they had to consult their staff before introducing any changes. Second, they must try their best effort in reaching reasonable agreements with the affected staff. DSW further said that he saw no reason for the NGOs to dismiss their staff just to save money, as the nature of their operation was not profit-making. Moreover, staff was the greatest asset of the NGOs as they were totally dependent on staff to deliver services.

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19. Mr Albert CHAN requested SWD to provide a paper setting out the remuneration package of different levels of senior staff and junior/frontline staff in NGOs before and after their organisations joined the LSG subventions system. DSW responded that SWD did not have all the requested information in hand.

20. Mr TSE Sai-kit of YWCA said that the Panel should reprimand DSW at the HC for repeatedly ignoring the Panel's request to review the LSG subventions system. Mr TSE then asked SWD how it could ensure that NGOs on LSG would not dismiss staff who refused to accept the unilaterally revised terms and conditions of service.

21. ADSW(Subventions) responded that the Administration could not answer the question raised by Mr TSE, as the content of each employment contract varied. Even within the same NGOs, there were different types of employment contracts.

22. Mr TSE Sai-kit asked whether it was acceptable for the NGOs to dismiss staff who refused to accept the new terms and conditions of service in accordance with the labour legislation.

23. ADSW(Subventions) responded that NGOs would have to comply with the labour legislation and conditions in the employment contract.

(At this juncture, the Panel played an audio tape provided by the Hong Kong Confederation of Trade Unions Committee of Public Services (Social Services) of a meeting attended by the Secretary for Health, Welfare and Food about the need of the NGOs to honour contractual obligation to staff.)

24. Mr CHENG Ching-fat of the Community Care and Nursing Home Workers General Union said that under the employment contract, staff would only be dismissed if they failed to perform their duties. Nothing in the employment contract of NGO staff, to his understanding, had a provision which stipulated that the management could dismiss staff who refused to enter into a new contract with revised terms and conditions. If the NGOs were obliged to consult staff before implementing any measures to attain financial viability, Mr CHENG asked SWD whether it could provide proof that all NGOs did consult staff before implementing the VR scheme for the staff.

25. ADSW(Subventions) responded that all NGOs applying SOG were required to consult their staff on their plan and taking the case of YWCA as an example, the management of YWCA did declare in their application for the SOG that they had consulted their staff on the proposed changes to the existing terms and conditions of service.

26. Mr LEE Cheuk-yan asked whether there was a mechanism in place to ensure that NGOs on LSG would honour the employment contract entered with staff and would not dismiss staff for refusing to enter into an employment contract unilaterally introduced by the management.

27. DSW responded that the LSGSC would look into cases that had violated the LSG regulations. To ensure the SOG was spent in a proper manner by the NGOs, DSW said that the use of the SOG would be monitored through the Annual Progress Report to be submitted by the NGOs each year till the exhaustion of the SOG allocated. The NGOs would be required to substantiate the use of the SOG allocated, in particular the Personal Emolument expenditure of the Snapshot Staff,

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VR scheme of individual staff, etc. in the Annual Progress Report, for monitoring and assessment by SWD. The NGOs would also be required to report the amount of the SOG used and the unspent balance each year in their Annual Financial Statement for SWD's scrutiny. If the SOG was not used in accordance with the approved purposes, it would be subject to clawing back by SWD.

28. Mr TSE Sai-kit said that to his understanding, cases whereby staff were dismissed for refusing to accept the new terms and conditions of service would not be referred to the LSGSC for consideration by SWD, if the NGOs concerned had taken the action to consult staff.

29. Mr YUM Kwok-tung of the Hong Kong Social Workers' General Union said that the number of Snapshot Staff at NGOs on LSG had decreased drastically by one-third from about 21 500 in 2000 to 14 300 by 1 April 2005. Mr YUM asked whether similar rate of decrease in the number of substantive staff also occurred in SWD.

30. DSW responded that a drop in the number of Snapshot Staff over a period of five years was not surprising. ADSW(Subventions) supplemented that the drop in the number of Snapshot Staff could be attributed to promotion, taking up different posts and retirement, etc. To better help members understand the reasons for the drastic drop in the number of Snapshot Staff, the Chairman requested SWD to provide a detailed breakdown of the reasons for such a drop, as well as the comparison with the drop in the number of staff in SWD.

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31. Ms LAM Ying-hing of the Hong Kong Confederation of Trade Unions Committee of Public Services (Social Services) said that although SWD required NGOs to incorporate the views of their staff in their applications for the SOG, such an requirement was not adhered to by the NGOs. The case of the YWCA was a case in point. In the light of this, the Chairman asked whether SWD had any guidelines on staff consultation for NGOs on LSG to follow.

32. DSW responded that the LSG Manual had set out under what circumstances the NGOs should consult their staff, the format of which was however left to the agencies concerned to decide. DSW further said that should an NGO fail to honour their contractual agreement with their staff, the matter could be taken up by the LSGSC.

33. Noting that the Administration would look at ways to further improve the LSG subventions system after the SOG arrangement was settled, the Chairman requested SWD to provide a paper setting out its plan and timetable on further improving the system, including ways to better enable stakeholders to reflect their views on the LSG implementation.

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Conclusion

Admin 34. In closing, the Chairman said that the Panel needed to follow up on the validity of the 9.3% reduction from the Benchmark Salary. In the light of this, the Chairman requested SWD to provide the legal opinions of the DoJ on the matter. The Chairman further requested SWD to provide a Chinese version of LC Paper No. CB(2) 1631/05-06(01).

Admin 35. Mr LEE Cheuk-yan also requested SWD to provide the following -

- (a) a paper on how it ensured that NGOs on LSG would honour their contractual obligation to staff; and
- (b) a paper on the impact of the LSG implementation on the NGOs concerned, such as their staffing structure, reasons for their staff attrition and the number of staff suffering injuries at work.

36. There being no other business, the meeting ended at 6:50 pm.

Council Business Division 2
Legislative Council Secretariat
3 July 2006