

立法會
Legislative Council

LC Paper No. CB(2)2495/11-12
(These minutes have been seen
by the Administration)

Ref : CB2/PS/4/10

Panel on Transport and Panel on Financial Affairs

**Joint Subcommittee on Issues Relating to
Insurance Coverage for the Transport Sector**

**Minutes of meeting
held on Thursday, 12 April 2012, at 2:30 pm
in Conference Room 2A of the Legislative Council Complex**

- Members present** : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon James TO Kun-sun
Hon Ronny TONG Ka-wah, SC
Hon CHAN Kin-por, JP
Hon IP Wai-ming, MH
- Member absent** : Hon CHEUNG Hok-ming, GBS, JP
- Public Officers attending** : Item I
Miss Carrie CHANG
Principal Assistant Secretary for Transport and Housing
(Transport) 1
Ms Jennifer CHAN
Principal Assistant Secretary for Financial Services and the
Treasury (Financial Services)
Mr Dannis LEUNG
Chief Transport Officer/Planning/Taxi
Transport Department

Mr WONG Yiu-ming
Superintendent (Law Revision and Projects) (Traffic Branch
Headquarters)
Hong Kong Police Force

Mr CHAN Sung-shing
Senior Superintendent (Fraud, Counterfeit and Support)
(Commercial Crime Bureau)
Hong Kong Police Force

Mr CHU Man-lung
Chief Inspector (Law Revision and Projects) (Traffic Branch
Headquarters)
Hong Kong Police Force

Mr SIU Wai-sing
Chief Inspector (Fraud Division) (Commercial Crime Bureau)
Hong Kong Police Force

Mr Ros LAM, JP
Assistant Commissioner of Insurance (General Business Division)
Office of the Commissioner of Insurance

Mr James LEUNG
Insurance Officer (General Business Division)
Office of the Commissioner of Insurance

Mr Harry WONG
Governing Committee Member
The Hong Kong Federation of Insurers

Miss Kelly MOK
Deputy Chairman of Accident Insurance Association
The Hong Kong Federation of Insurers

**Clerk in
attendance** : Mrs Sharon TONG
Principal Council Secretary (2)

**Staff in
attendance** : Ms Mina CHAN
Council Secretary (2) 7

Ms Michelle LEE
Legislative Assistant (2) 7

I. Meeting with the Administration

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

2. The Chairman said that in considering whether it would be feasible for Hong Kong to make reference to a recommendation made in the United Kingdom to introduce an Independent Assessment Service for individuals with persistent sickness absence, the Joint Subcommittee agreed at the meeting on 13 February 2012 that the Secretary for Food and Health ("SFH") and the Secretary for Labour and Welfare ("SLW") be invited to discuss the issue with members at this meeting. However, both of them had replied that the issue fell outside their policy remits, and hence would not send representatives to attend this meeting. In this connection, the Chairman suggested that the Joint Subcommittee would further study this issue at another meeting. Members agreed.

3. Mr CHAN Kin-por was strongly dissatisfied with the refusals of SFH and SLW to attend the Joint Subcommittee's meeting, and suggested that their decisions to decline the invitation be recorded in the Joint Subcommittee's report. Members agreed.

High taxi and public light bus ("PLB") insurance premiums

4. Mr Harry WONG, Governing Committee Member of the Hong Kong Federation of Insurers ("HKFI"), was of the view that huge claims payments had resulted in the soaring taxi and PLB insurance premiums. He pointed out that the right of the aided person to select his own solicitor under the Legal Aid Ordinance (Cap. 91) might indirectly give rise to the activity of champerty. To encourage the public to seek proper legal advice when pursuing their claims for personal injuries ("PI"), he suggested that the aided person be only allowed to choose his own solicitor whose name was on the Legal Aid Panel. In this regard, he considered it necessary to discuss the issue with the Legal Aid Department. Members agreed to invite the Director of Legal Aid and/or his representatives to the next meeting of the Joint Subcommittee.

5. The Chairman urged the Police to step up its publicity efforts in raising the public awareness of insurance fraud. Senior Superintendent (Fraud, Counterfeit and Support) (Commercial Crime Bureau) of the Hong Kong Police Force advised the Joint Subcommittee that a television series on various types of fraud cases, including insurance fraud, would be broadcasted soon in the "Police Magazine". The Chairman requested the Police to keep

the Joint Subcommittee informed of the release time of the television series.

No claim discount ("NCD")

6. Mr Harry WONG advised that a meeting was conducted on 11 April 2012 with the key insurance players writing taxi and PLB insurance. All the insurance companies attending the above meeting confirmed that they would not deduct NCD for the whole fleet of vehicles if only one of them whose driver was ultimately found at fault in a traffic accident. He said that other than NCD, a further reduction in the premium for a fleet of vehicles called "fleet discount" might be provided by some insurers. Such offer should be distinguished from NCD, and might be affected if one of the vehicles in the fleet was involved in a traffic accident. He indicated that if there were any such cases happening in the future, HKFI was willing to look into the matter.

7. Mr Harry WONG further said that a "Market Understanding on Reinstating NCD for Taxi and PLB" had been in place since November 2010. The insurance sector could discuss with the transport sector in this regard, if necessary. Assistant Commissioner of Insurance (General Business Division) of the Office of the Commissioner of Insurance also indicated that the Administration was willing to coordinate a meeting again, if required, for further discussion between the insurance sector and the transport sector on matters relating to NCD.

8. The Joint Subcommittee requested HKFI to provide information on how NCD could be restored and how the extra premium that the taxi/PLB owner had paid could be refunded when the driver involved in the traffic accident was eventually found not at fault.

Private settlement and late reporting of traffic accident

9. Mr Harry WONG said that the insurance sector was not opposed to the private settlement of traffic accident where there were no PI and damages were minor, but had strong reservations about regularizing such a mutual agreement. The insurance sector was worried that drivers would abuse the use of reconciliation agreements in traffic accidents, and thus materially impairing the interests of both the insured and the insurer. Miss Kelly MOK, Deputy Chairman of Accident Insurance Association of HKFI, pointed out that it was difficult for an insurance company to handle a motor accident claim case where a private settlement agreement had been made, particularly if the driver involved was not the vehicle owner. If one of the parties concerned decided to lodge a claim some time, say one year, after the

accident, it would be difficult for the insurer to gather evidence for the case. Late reporting of an accident would also foster fraudulent claims. She stressed that insurance companies were required by the law to handle PI claims notwithstanding that private settlement agreements had been made between drivers. However, the insurer would reserve its right of recovery in such circumstances.

10. Regarding the views of the Police on the private settlement of traffic accident, Superintendent (Law Revision and Projects) (Traffic Branch Headquarters) of the Hong Kong Police Force ("SP(LR&P)(TBH)/HKPF") said that the enforcement action taken by the Police against a driver involved in a traffic accident was in accordance with the Road Traffic Ordinance (Cap. 374). When receiving a report of a traffic accident, the Police would arrive at the scene to assess the situation and gather evidence. In the event of a minor traffic accident in which no report was made, the Police might not be able to conduct investigation. He explained that the Road Traffic Ordinance did not require a report to be made to the Police on a traffic accident without PI nor damage to third party property. However, for the case where private settlement between drivers had been made, the Police would still proceed with the investigation and thus prosecution if evidence was available.

11. Mr Harry WONG advised the Joint Subcommittee that failure to report to an insurer within a prescribed period of time after an accident might not necessarily result in its refusal to process a claim. He pointed out that some motor insurance policies did not even specify the expiry of the period for policyholders to report any accidents in which they were involved though 14 days was a common practice. A motor insurance claim where there was late reporting of accident would be considered by the insurer on a case-by-case basis subject to the availability of sound reasons. Policyholders were recommended to contact their insurers if they had any enquiries.

12. The Chairman pointed out that in the event of a traffic accident involving a rentee-driver, the policyholder, usually the vehicle owner, was not always notified until quite some time after the accident. In accordance with the Motor Vehicles Insurance (Third Party Risks) Ordinance (Cap. 272), insurance companies had to take up a PI claim case even when there was a reconciliation agreement and late reporting of the accident, but the insurer reserved its right to later deny indemnity and recover from a policyholder any loss or payment of a claim. She called on the insurance sector to consider whether such right could be waived in the event of a traffic accident involving a rentee-driver.

13. To address the concern of taxi and PLB business about denied PI claim resulting from private settlement and late reporting of traffic accident, the Joint Subcommittee requested HKFI to provide information explaining the issues raised in paragraphs 9 and 11, and a response to the view given in paragraph 12 above.

Notification of the vehicle owner in the event of a traffic accident involving a rentee-driver

14. On whether the Police could notify the taxi/PLB owner simultaneously when issuing a notice of intended prosecution to the driver who was alleged to have committed a traffic offence, SP(LR&P)(TBH)/HKPF explained that the Police was conferred with the power to take enforcement action against traffic offences by the Road Traffic Ordinance. In investigating a traffic accident, the Police would only focus on whether the driver(s) involved had breached any traffic regulations, and take appropriate and necessary actions required by the Ordinance accordingly.

II. Any other business

15. There being no other business, the meeting ended at 4:10 pm.

**Proceedings of meeting of the Joint Subcommittee on
Issues Relating to Insurance Coverage for the Transport Sector
held on Thursday, 12 April 2012, at 2:30 pm
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action Required
000201 - 000433	Chairman	Opening remarks	
000434 - 001922	Chairman Admin Mr IP Wai-ming The Hong Kong Federation of Insurers	High taxi and public light bus ("PLB") insurance premiums due to the lack of competition in the taxi and PLB insurance business; and Limited number of insurers willing to underwrite taxi and PLB insurance	
001923 - 004059	Chairman Mr James TO The Hong Kong Federation of Insurers Mr IP Wai-ming Mr CHAN Kin-por	The right of the aided person to select his own solicitor under the Legal Aid Ordinance (Cap. 91); and Invitation for the Legal Aid Department to attend the next meeting	
004100 - 005029	Chairman The Hong Kong Federation of Insurers Admin Mr CHAN Kin-por	Factors contributing to the high taxi and PLB insurance premiums; and Publicity efforts made by the Police in raising the public awareness of insurance fraud	
005030 - 010136	Chairman The Hong Kong Federation of Insurers Admin Mr CHAN Kin-por	Clarifications on the circumstances under which the no claim discounts ("NCD") on taxi/PLB insurance premiums would be deducted	The Hong Kong Federation of Insurers ("HKFI") to provide information on how NCD could be restored and how the extra premium that the taxi/PLB owner had paid could be refunded when the driver involved in the traffic accident was eventually found not at fault
010137 - 012154	Chairman The Hong Kong Federation of Insurers Mr CHAN Kin-por Admin	Difficulties of the insurer in handling a traffic accident claim where private settlement agreement was made; and The Police's view on the private settlement of traffic accident	HKFI to provide information explaining the insurer's handling of a traffic accident where private settlement agreement was made; and The Police to keep the Joint Subcommittee informed of the release time of the television series in respect of fraudulent activities

Time marker	Speaker	Subject(s)	Action Required
012155 - 013239	Chairman The Hong Kong Federation of Insurers	The insurer's handling of a traffic accident claim where there was late reporting	HKFI to provide information explaining the insurer's handling of a traffic accident claim where there was late reporting, and a response to the view on waiver of the insurer's right to later deny indemnity and recover from a policyholder any loss or payment of a claim
013240 - 014009	Chairman The Hong Kong Federation of Insurers Admin	The Police's view on notification of the vehicle owner in the event of a traffic accident involving a rentee-driver	
014010 - 014022	Chairman	Closing remarks	

Council Business Division 2
Legislative Council Secretariat
29 June 2012