

立法會
Legislative Council

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Finance Committee of the Legislative Council

Minutes of the 18th meeting
held at Conference Room 1 of the Legislative Council Complex
on Friday, 7 December 2012, at 4:00 pm

Members present:

Hon Tommy CHEUNG Yu-yan, SBS, JP (Chairman)

Hon Emily LAU Wai-hing, JP (Deputy Chairman)

Hon Albert HO Chun-yan

Hon LEE Cheuk-yan

Hon James TO Kun-sun

Hon LEUNG Yiu-chung

Dr Hon LAU Wong-fat, GBM, GBS, JP

Hon TAM Yiu-chung, GBS, JP

Hon Abraham SHEK Lai-him, SBS, JP

Hon Frederick FUNG Kin-kee, SBS, JP

Hon Vincent FANG Kang, SBS, JP

Hon WONG Kwok-hing, MH

Dr Hon Joseph LEE Kok-long, SBS, JP

Hon Jeffrey LAM Kin-fung, GBS, JP

Hon Andrew LEUNG Kwan-yuen, GBS, JP

Hon WONG Ting-kwong, SBS, JP

Hon Ronny TONG Ka-wah, SC

Hon Cyd HO Sau-lan

Hon Starry LEE Wai-king, JP

Dr Hon LAM Tai-fai, SBS, JP

Hon CHAN Hak-kan, JP

Hon CHAN Kin-por, BBS, JP

Dr Hon Priscilla LEUNG Mei-fun, JP

Hon CHEUNG Kwok-che
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
Hon Michael TIEN Puk-sun, BBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon YIU Si-wing
Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Hon CHAN Han-pan
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon CHUNG Kwok-pan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen

Members absent:

Hon CHAN Kam-lam, SBS, JP
Dr Hon LEUNG Ka-lau
Hon Mrs Regina IP LAU Suk-yea, GBS, JP
Hon Albert CHAN Wai-yip
Hon Claudia MO

Public officers attending:

Ms Elizabeth TSE Man-yea, JP	Permanent Secretary for Financial Services and the Treasury (Treasury)
Ms Esther LEUNG, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) 1
Ms Elsie YUEN	Principal Executive Officer (General), Financial Services and the Treasury Bureau (The Treasury Branch)
Mr Matthew CHEUNG Kin-chung, GBS, JP	Secretary for Labour and Welfare
Ms Irene YOUNG, JP	Deputy Secretary for Labour and Welfare (Welfare) 2
Mr FUNG Pak-yan, JP	Deputy Director of Social Welfare (Administration)

Clerk in attendance:

Mr Andy LAU	Assistant Secretary General 1
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Staff in attendance:

Mr Jimmy Y T MA, JP	Legal Adviser
Mr Derek LO	Chief Council Secretary (1)5
Mr Daniel SIN	Senior Council Secretary (1)7
Mr Ken WOO	Council Secretary (1)5
Miss Queenie LAM	Senior Legislative Assistant (1)2
Mr Frankie WOO	Senior Legislative Assistant (1)3
Ms Christy YAU	Legislative Assistant (1)7

Item No. 1 – FCR(2012-13)54
HEAD 170 – SOCIAL WELFARE DEPARTMENT
Subhead 000 Operational expenses
Subhead 180 Social security allowance scheme

The meeting continued the deliberation on item FCR(2012-13)54 relating to the funding and establishment proposals on the Old Age Living Allowance (OALA) which was carried over from the meeting held on 23 November 2012.

Dealing with FCR(2012-13)54A

2. The Chairman briefed members on the meeting arrangements. He said that the Finance Committee (FC) had not voted on the item FCR(2012-13)54 at the last meeting held on 30 November 2012, and that unlike the arrangements for the meeting on 9 November 2012, the Administration had not submitted a new paper to reflect the latest financial implications of the OALA scheme for FC's consideration at the meeting. Instead, the Administration handed in a paper purportedly as supplementary paper FCR(2012-13)54A only two minutes after the appointed time for the commencement of the meeting. The paper was tabled for members' perusal. The Chairman invited the Administration to explain the purpose and contents of the supplementary note.

3. Secretary for Labour and Welfare (SLW) and Permanent Secretary for Financial Services and the Treasury (Treasury) (PS(Tsy)) explained that FCR(2012-13)54A invited members to note that part (a) of the funding proposal in FCR(2012-13)54 relating to the provision of a supplementary provision for the Social Welfare Department (SWD) for the year 2012-13 to undertake OALA, was no longer required, and that part (b) of the proposal relating to an increase in the ceiling on the total notional annual mid-point salary value of all the non-directorate posts in the permanent establishment of SWD in 2012-13 for the implementation of OALA remained valid.

4. The Chairman invited members' views on how the Administration's supplementary note should be dealt with. He suggested that each member should speak once for not more than three minutes.

5. Mr LEUNG Kwok-hung said that, notwithstanding the Administration's explanation, removing the part of the funding application for \$2.5 billion of supplementary provision from the item FCR(2012-13)54 should be regarded as a substantial amendment to the original proposal. He might move a motion to adjourn further discussion on the item.

6. Mr LEUNG Kwok-hung said that two senior government officials had approached him recently and asked whether he would still block the funding proposal if the Administration would move forward other agenda items that followed the OALA item. He expressed dissatisfaction that the Administration had now reneged its position by keeping OALA as the first item on the agenda.

7. Mr LEE Cheuk-yan said that to be pragmatic, the Administration should move forward other items on the agenda to the Committee for deliberation. If the Administration disagreed, he would move a motion to adjourn discussion of the item. Ms Emily LAU Wai-hing concurred with Mr LEE Cheuk-yan's views.

8. As the Administration had now dropped the application for supplementary provision in 2012-13, Mr LEE Cheuk-yan asked how the Administration would pay out OALA to eligible recipients if the proposal was approved. Mr LEE Cheuk-yan said that a new paper should be issued to reflect the change in the funding proposal by removing the part of the application on supplementary provision. Ms Emily LAU Wai-hing shared Mr LEE's suggestion and commented that it had all along been the Government's practice to resubmit a funding application if there were material changes to the original proposal. She said that civil servants should maintain political neutrality and should not deviate from this long established principle for a political end.

9. SLW and PS(Tsy) clarified that the proposed changes to the paper FCR(2012-13)54 were technical in nature. If FC approved the OALA proposal at the current meeting, the scheme could only be rolled out in the next financial year. No payment would be issued before the end of March 2013, and supplementary provision for SWD to implement OALA in 2012-13 was not necessary. PS(Tsy) added that, subject to FC's approval of OALA, sufficient provision would be reflected in the 2013-14 Estimates of Expenditure. She added that the Government had always handled financial proposals in a politically neutral and professional manner. As regards members' suggestion of re-ordering the agenda items, PS(Tsy) responded that, after having carefully considered members' views, and the relative urgency of the funding applications on the agenda, the Administration maintained its position that the Committee should be asked to deliberate on the OALA proposal first.

10. Mr WONG Kwok-hing commented that it was unfair to the eligible OALA applicants if they received less payment as a result of the Administration's deletion of the \$2.5 billion supplementary provision from the funding application. SLW clarified that the Administration was not reducing the financial commitment on OALA. He explained that, even if FC approved

the funding proposal at the current meeting, given the lead time required for the necessary preparatory work, OALA could not be rolled out until the next financial year. The allowance would be paid from funding appropriated under next year's Estimates of Expenditure. The proposed supplementary provision as indicated in part (a) of the funding proposal as set out in paper FCR(2012-13)54, which would only affect the Estimates of Expenditure of the current financial year, was therefore not necessary.

11. Mr WONG Kwok-hing said that rather than presenting a new paper, the Administration should make an effort to secure the Committee's approval of the funding proposal as early as possible. SLW concurred with Mr WONG's views.

12. Dr Fernando CHEUNG Chiu-hung criticized the Administration for being contemptuous to the Legislative Council (LegCo). He said that the Administration tried to exert pressure on the FC to expedite approval of the OALA funding proposal by slotting in many livelihood-related funding applications after the OALA proposal on the FC agenda. He also commented that the reason for the Administration's refusal to issue a new paper on OALA was to prevent members from moving a motion under paragraph 39 of the FC Procedure to adjourn discussion of the item. Dr CHEUNG further criticized the Administration's self-contradictory position when, on the one hand, it denied members' suggestion to backdate the OALA scheme to 1 October 2012 on ground of financial discipline, while, on the other hand, proposed that the OALA payment should cover the period between December 2012 and March 2013 if the scheme was approved at the current meeting when the scheme commenced implementation in April 2013. Dr Kwok Ka-ki echoed Dr Fernando CHEUNG's views. Mr James TIEN Pei-chun also queried why the Administration could not backdate the OALA payment to October 2012.

13. SLW clarified that the Administration would have been able to start paying OALA in March 2013 had the Committee approved the item in October or November 2012. As the deliberation had dragged on, the Administration assessed that, taking into account the lead time, OALA could not be rolled out until the next financial year. The funding allocation for OALA between December 2012 and March 2013 would be made available from the Estimates of Expenditure of the coming financial year. The Administration had made it clear that the effective date of OALA payment would be the first day of the month on which FC approved the funding application. The Administration had not sought FC's approval to backdate the OALA payment.

14. PS(Tsy) explained that a distinction should be made between two dates - the date from which OALA payments would start to accrue and the date when the allowance could be paid out to recipients. There had not been any change to the former – OALA would be effective as from the first day of the month on which FC approved the funding application, i.e. 1 December 2012 if FC approved the item at the current sitting. As for the latter – the date of first payment, the timing would now fall within the 2013-14 financial year.

15. Mr IP Kwok-him said that, from his understanding of the discussion so far, if FC approved the item, eligible applicants would start receiving payment from April 2013 onward, and the required funding that covered the payment period between December 2012 and March 2013 would be included in the Estimates of Expenditure of the coming financial year. SLW confirmed that Mr IP Kwok-him's understanding was correct.

16. Mr IP Kwok-him urged members to expedite deliberation so that the item could be put to vote as early as possible. Dr Priscilla LEUNG Mei-fun made a similar appeal.

17. Mr WU Chi-wai sought clarification on whether the Committee was only asked to approve part (b) of the proposal in FCR(2012-13)54 regarding the creation of posts in SWD. Mr WU Chi-wai queried, if the funding for OALA was to be included in the Estimates of Expenditure of the coming financial year, and if Members managed to amend the Estimates of Expenditure, whether OALA would be implemented according to the Estimates of Expenditure as amended by LegCo. PS(Tsy) responded that Members could express views on the Estimates of Expenditure during the special meetings of FC to scrutinize the Estimates of Expenditure. Members could also move amendments to the Appropriation Bill which would affect the funding provisions to the Estimates of Expenditure.

18. Mr Michael TIEN Puk-sun asked how much allocation the Administration would need to earmark in the coming Estimates of Expenditure for implementation of OALA if the Administration was uncertain when FC would approve the funding application. PS(Tsy) advised that no provision would be included in SWD's portfolio if FC still could not approve the funding application by the time the draft Estimates was sent for printing. Under such circumstances, the Administration would have to seek supplementary provision from FC in the next financial year to cover payment on OALA from the month FC approved the scheme to the end of the next financial year.

19. Mr Vincent FANG Kang and Mr CHUNG Kwok-pan queried the need for the proposed additional 90 posts in SWD to implement OALA when the Administration could not implement the scheme in the current financial year. Mr James TIEN Pei-chun echoed Mr FANG's views and said that Members belonging to the Liberal Party supported Mr LEE Cheuk-yan's motion to adjourn discussion of the item.

20. PS(Tsy) explained that FC's approval of the establishment proposal in FCR(2012-13)54 would signify its endorsement of OALA so that suitable resources could be earmarked for the following financial year. Deputy Director of Social Welfare (Administration) advised that the additional posts were required at the current stage for carrying out necessary preparation for implementation of OALA once the financial provision was available.

21. PS(Tsy) and SLW supplemented that the current proposal sought FC's approval to increase the establishment ceiling so that SWD could start recruitment of staff for the implementation of OALA.

22. Dr Priscilla LEUNG Mei-fun asked why the Administration would need to incur \$8 billion in 2013-14 for implementation of OALA. SLW explained that the full-year implication for implementation of OALA would be around \$6.2 billion. If the Committee approved the funding application at the current meeting, an additional \$2 billion would be required to cover the payment for the period between December 2012 and March 2013. A total allocation of about \$8 billion would therefore be required for 2013-14.

23. Mr WONG Kwok-kin recapitulated the discussion on the funding application so far, and PS(Tsy) confirmed that his understanding was consistent with the Administration's position.

24. Mr LEUNG Kwok-hung handed in 189 motions under paragraph 37A of the FC Procedure relating to FCR(2012-13)54 to the Chairman through the Secretariat.

25. After listening to members' views and the Administration's replies, the Chairman explained how he would deal with FCR(2012-13)54A. He said that if he regarded FCR(2012-13)54A as a supplementary paper with no significant and material change to FCR(2012-13)54 ("the original paper") on the agenda, then he would proceed to deal with the 113 motions submitted by Mr LEUNG Kwok-hung which had already been ruled as directly related to FCR(2012-13)54 plus the 189 motions which Mr LEUNG had just handed in at the meeting and if they were ruled as directly related to FCR(2012-13)54 as well. However, if he considered that FCR(2012-13)54A carried significant and

material change to the original paper, he would treat it as a new paper. In such circumstance, discussion of a new paper at the meeting would require him to dispense with the notice requirement under paragraphs 21 and 22 of the FC Procedure. If the new paper were admitted, members would then be entitled to ask questions in the usual manner. Members could also move a motion to adjourn the discussion of it pursuant to paragraph 39 of the FC Procedure.

26. The Chairman continued to say that having considered the fact that the Administration was proposing to delete part (a) of FCR(2012-13)54 from the funding proposal under consideration by the Committee through submission of FCR(2012-2013)54A, the Administration's explanation and members' views given at the meeting, he would incline to rule that FCR(2012-13)54A together with FCR(2012-13)54 formed a new agenda item. If the Administration wished to have the Committee to consider the new agenda item at the meeting, the Administration would have to withdraw agenda item as represented by FCR(2012-13)54, and he would then consider if he should dispense with the necessary notice requirement to include the new agenda item into the agenda for the meeting.

27. PS(Tsy) clarified that the Administration did not consider that the additional information presented in FCR(2012-13)54A would alter the OALA proposal in any material way; the Administration had removed the request for supplementary provision for 2012-13 simply because the OALA cash flow was no longer needed in 2012-13.

28. At 5:10 pm, the Chairman adjourned the meeting to enable the Administration to consider its position.

Deliberation on FCR(2012-13)54 and 54A

29. The meeting resumed at 5:25 pm.

30. Deputy Secretary for Financial Services and the Treasury (Treasury) 1 (DS(Tsy)1) said that while the Administration did not regard FCR(2012-13)54A to be a new paper, the Administration respected the Chairman's views. She said that the Administration would withdraw FCR(2012-13)54 from the agenda and put forward instead FCR(2012-13)54 plus 54A as a new item for FC's deliberation at the meeting. DS(Tsy)1 then sought the Chairman's permission to waive the notice requirement for submitting the new paper and placing it as the first item for discussion at the meeting.

31. The Chairman advised members that he agreed to dispense with the necessary notice requirement under paragraphs 21 and 22 of the FC Procedure, and ordered that the meeting should proceed to deliberate the new paper.

32. When deliberation commenced, Mr WONG Kwok-hing sought clarification on how the meeting would be conducted. The Chairman advised that as FCR(2012-13) 54 and 54A was a new paper, he would allow members to ask questions in the usual manner. For the first round of questions, a time limit of five minutes would be set, including the time for the Administration to reply. In the second and subsequent rounds, he would reduce the speaking time in accordance with previous practice. He also advised the Committee that a member's motions submitted earlier in relation to FCR(2012-13)54 under paragraph 37A of the FC Procedure would be removed from the proceedings of the Committee as the said paper which formed the agenda item had been withdrawn by the Administration. Members were also advised that these motions would need to be resubmitted if they wished to use them to express views under paragraph 37A on the new agenda item.

Deliberation on the motion to adjourn discussion

33. Following WONG Kwok-hing's question having been dealt with, Mr LEE Cheuk-yan proposed a motion to adjourn the discussion of FCR(2012-13)54 plus 54A pursuant to paragraph 39 of the FC Procedure. The Chairman said that each member could speak once on the motion for not more than three minutes.

34. Mr LEE Cheuk-yan explained that the purpose of moving the motion to adjourn discussion on the OALA funding proposal was to allow the Committee to deal with other pending items on the agenda including elderly health care voucher, injection into the Supplementary Legal Aid Fund, improvement to the Examination Fee Remission Scheme fees for non-Chinese speaking senior secondary students, etc.

35. Dr Fernando CHEUNG Chiu-hung, Ms Emily LAU Wai-hing and Mr Frederick FUNG Kin-kee supported Mr LEE's motion. They commented that adjourning the item would allow the Committee to proceed to deliberate on the other four outstanding items on the agenda which were equally pressing in improving people's livelihood or improving the salary and conditions of service of judicial officers. They considered it unacceptable that the Administration was adamant in scheduling the OALA item on top of the agenda knowing that discussion would likely drag on and would delay decision on other issues. Ms Emily LAU suggested that the Administration should explore different ways to address members' concerns.

36. Mr LEUNG Yiu-chung supported Mr LEE Cheuk-yan's motion. He criticized that the Administration was unreasonable by going against members' views and refusing to compromise while expecting members to give in and approve the OALA funding application as proposed. Mr LEUNG urged the Administration to adopt a pragmatic approach in dealing with the matter. He appealed to other members for support of Mr LEE Cheuk-yan's motion.

37. Mr WONG Kwok-hing noted that as the Chairman had ruled that the combined paper FCR(2012-13)54 and FCR(2012-13)54A represented a new item, the whole cycle of debate on the updated OALA proposal would repeat as allowed by the FC Procedure. He criticized the Administration for its blunder in handling members' objections that led to the procrastination, and, as a result, eligible elderly recipients of OALA would have to be disappointed yet again for losing another month's payment under OALA.

38. Mr WONG Kwok-hing said that there was no point in supporting Mr LEE Cheuk-yan's motion. If the motion was passed, it would be uncertain when the deliberation on the item would resume. For that reason, Mr WONG Kwok-hing said that Members belonging to the Federation of Trade Unions would not support Mr LEE Cheuk-yan's motion.

39. Mr TAM Yiu-chung criticized that the sole purpose of adjourning discussion on the item was to procrastinate the decision on the OALA proposal. Supporting Mr LEE Cheuk-yan's motion would send a wrong message to the community that the Committee did not care about the welfare of elderly members of the community. Mr TAM did not subscribe to the argument that other livelihood-related funding application should be taken out of the agenda order and be deliberated ahead of the OALA proposal. He said that Members had made the strong views at a Council meeting in the previous session against reshuffling of agenda items to expedite decision on the proposed reorganization of the Government Secretariat. He appealed to members to end the filibuster and to take a decision on the OALA proposal at the earliest opportunity.

40. Mr LEUNG Kwok-hung said that Members belonging to FTU had previously suggested that declaration of income and assets under OALA should not apply to elderly applicants aged 70 or above and that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong had suggested that the asset ceiling of those applicants should be raised to \$300,000. He commented that, if these members supported the OALA proposal as it currently stood, they would be responsible for depriving those elderly applicants of the OALA payment. Mr WONG Yuk-man expressed a similar view. He also commented that the right to move an adjournment debate was provided for in the Rules of Procedure, and he would continue to deploy filibustering and

delaying tactics to fight for the interests of the elderly members of the community.

41. The Chairman reminded members that they should restrict their observations to the subject under discussion and should not introduce matters irrelevant to that subject. He also reminded members that it would be out of order to use offensive and insulting language about Members of the Council.

42. A member of the public shouted slogans at the public gallery. The Chairman asked him to stop shouting but he continued to shout. The Chairman suspended the meeting for a while and ordered the removal of the person concerned from the public gallery. The Chairman then resumed the meeting.

43. Mr James TIEN said that as the Administration had already indicated that the OALA scheme could only be launched in the next financial year, he did not see the urgency of approving the related staffing proposal at the meeting. From a practical approach, he was of the view that other items in the agenda should first be dealt with. As such, he would support the adjournment motion moved by Mr LEE Cheuk-yan.

44. Mr Michael TIEN Puk-sun said that he did not support the motion to adjourn discussion on the item. He commented that it was important that the Committee should vote and approve the OALA proposal to enable 400 000 eligible elderly people receive the allowance. If the item was adjourned, there was no guarantee that other members would not try to delay a decision on the OALA proposal was resumed.

45. At 6:00 pm, the Chairman ordered that the meeting be adjourned and that the next meeting would start at 6:10 pm.

46. The meeting was adjourned at 6:00 pm