

立法會
Legislative Council

LC Paper No. CB(2)1741/13-14
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by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of special meeting
held on Thursday, 27 February 2014, at 2:30 pm
in Conference Room 2 of the Legislative Council Complex

Members present : Hon LEE Cheuk-yan (Chairman)
Hon WONG Kwok-kin, BBS (Deputy Chairman)
Hon Albert HO Chun-yan
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon CHAN Kin-por, BBS, JP
Hon IP Kwok-him, GBS, JP
Hon LEUNG Kwok-hung
Hon CHAN Yuen-han, SBS, JP
Dr Hon KWOK Ka-ki
Hon SIN Chung-kai, SBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Hon CHUNG Kwok-pan

Member attending : Dr Hon Fernando CHEUNG Chiu-hung

Members absent : Hon LEUNG Yiu-chung
Dr Hon LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon LEUNG Che-cheung, BBS, MH, JP
Hon KWOK Wai-keung
Hon TANG Ka-piu

**Public Officers
attending** : Item I

Mr Matthew CHEUNG Kin-chung, GBS, JP
Secretary for Labour and Welfare

Mr Byron NG Kwok-keung, JP
Acting Commissioner for Labour

Mr Nicholas CHAN Chun-tak
Assistant Commissioner for Labour (Policy Support)

Mr LAW Chun-nam
Assistant Director (Visa & Policies)
Immigration Department

Ms LUI Wai-fong
Labour Officer (Employment Agencies Administration)
Labour Department

**Attendance
by invitation** : Item I

Session 1

International Domestic Workers Federation (IDWF)

Ms IP Pui-yu
Regional Coordinator (Asia)

Hong Kong Catholic Commission for Labour Affairs

Ms LAW Pui-shan
Policy Research Officer

Amnesty International

Mr Robert Godden
Asia-Pacific Campaign Coordinator

Democratic Alliance for the Betterment and
Progress of Hong Kong

Mr NGAN Man-yu
Deputy Spokesperson on Manpower

Amnesty International Hong Kong

Ms TSUI Ka-wing
Campaigner

Helpers for Domestic Helpers

Ms Holly Allan
Manager

Foreign Domestic Helpers Concern Group

Mr Micheal LEE
Convenor

Civic Party

Mr Jeremy TAM
Executive Committee member

Support Group for Hong Kong Employers with
Foreign Domestic Helper

Ms Joan TSUI
Convenor

Liberal Party Youth Committee

Mr Harris YEUNG
Member

Liberal Party

Mr Peter SHIU
Member

Hong Kong Home Services Association Limited

Ms CHOI CHOW Ning-ning
Chairman

New People's Party

Mr KAM Man-fung
Member of Central Committee

Labour Party

Mr CHENG Sze-lut
Vice-Chairperson

Asosiasi PPTKI Hong Kong Limited

Mr TANG Wai-yeung
Director

關注外籍傭工政策小組

Mr CHAN Hing-chung
Vice Chairman

關注職業介紹所政策小組

Miss Blondy HON
Director

The Hong Kong Chamber of Employment Agencies

Mr WONG Yee-fu
Vice Chairman

Association of Hong Kong Agencies for
Migrant Workers Limited

Mr CHENG Chi-ming
Chairman

Session 2

United Filipinos in Hong Kong

Ms Dolores Balladares
Chairperson

Mission for Migrant Workers Limited

Mr Norman Uy Carnay
Programme Coordinator

Hong Kong TKI Association Ltd.

Mr LEUNG Hing-ki
Chairman

Ethnic Minorities Youth League

Mr Mohammad Aslam
Chairman

Commercial Organization & Domicile Services
Employees Association

Ms CHOW Kwai-ying
Chairman

Hong Kong Union of Employment Agencies

Mr LAU Sheung-mo
Director

Asia Pacific Mission for Migrants

Mr Aaron Ceradoy
Program Coordinator

Individual

Mr Rob Connelly

Hong Kong Employers of Domestic Helpers
Association

Mr Joseph LAW
Chairman

FDH Agency Problems Concern Group

Ms LIU Ming-chu
Member

FDH & Employers Should Be Strong

Ms Queendy CHAU
Member

FDH Agency Concerned Group

Ms Helen WONG
Member

FDH & Employers' Rights Protection Group

Ms Bronthy LEUNG
Member

FDH Policy Concern Group

Ms Lian CHAN Lai-yan
Member

Filipino Migrant Workers' Union (FMWU)

Mr Eman Villanueva
Vice Chairperson

Indonesian Migrant Workers' Union (IMWU)

Ms Sringatin
Vice Chairperson

Hong Kong Confederation of Trade Unions

Ms Fly LAM
Organizing Coordinator

Hong Kong Federation of Asian Domestic
Workers Unions

Ms Phobsuk Gasing
Vice-chairperson

Session 3

Thai Migrant Workers Union

Ms Parichat Jaroennon
Executive Committee Member

Progressive Labour Union of Domestic Workers
Hong Kong

Ms Shiella
Chairperson

Sri Lanka Hong Kong Employment Agency
Association Ltd.

Ms Yen CHEUNG

Union of Nepalese Domestic Workers in HK

Mr Leo TANG
Organizing Secretary

Open Door

Ms Doris LEE
Chairperson

Well Shine Co.

Mr Timothy LEUNG

Asian Migrants' Coordinating Body (AMCB)

Ms Bungon Tamasorn
Spokesperson

Bethune House Migrant Women's Refuge

Ms Edwina A. Santoyo
Executive Director

United Indonesians Against Overcharging (PILAR)

Ms Nurjanati
Executive Committee Member

Justice and Peace Commission of the HK Catholic
Diocese

Mr John CHUNG
Chairperson

Hong Kong Federation of Employment Agencies
Limited

Ms Wendy LAU Lai-sze
Chairman

PathFinders

Miss Luna CHAN
Chief Operations Officer

Clerk in attendance : Miss Betty MA
Chief Council Secretary (2) 1

Staff in attendance : Ms Rita LAI
Senior Council Secretary (2) 1

Miss Kay CHU
Council Secretary (2) 1

Ms CHAU Kwan-bing
Legislative Assistant (2) 8

Miss Lulu YEUNG
Clerical Assistant (2) 1

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I. Policies relating to foreign domestic helpers and regulation of employment agencies

(LC Paper Nos. CB(2)870/13-14(01) to (02) and IN07/13-14)

Secretary for Labour and Welfare ("SLW") briefly took members through the policies relating to foreign domestic helpers ("FDHs") and regulation of employment agencies ("EAs") placing FDHs, as set out in the Administration's paper.

2. Members noted the information note on "Regulation of domestic helper employment agencies in selected places" and the background brief entitled "Employment of foreign domestic helpers" prepared by the Legislative Council Secretariat.

Views of deputations

3. At the invitation of the Chairman, the following 48 deputations and one individual presented views on the subject of policies relating to FDHs and regulation of EAs.

4. Ms IP Pui-yu of International Domestic Workers Federation ("IDWF") expressed concern about several cases of FDHs being allegedly abused by their employers, which had aroused wide public concern. Ms IP drew members' attention to the long-lasting problem of FDHs being overcharged by EAs. To her knowledge, most Indonesian domestic helpers had to pay intermediary fees in the region of \$15,000 to \$21,000, which was equivalent to their five to seven months' wages, prior to working in Hong Kong. As a signatory to the International Labour Organization Convention No. 144 Tripartite Consultation (International Labour Standards) Convention, the Government should strengthen the tripartite communication i.e. the Administration, employers' associations and labour unions of FDHs, in respect of policies relating to FDHs and regulation of EAs.

5. Ms LAW Pui-shan presented the views of Hong Kong Catholic Commission for Labour Affairs ("HKCCLA") as detailed in its submission [LC Paper No. CB(2)949/13-14(01)].

6. Mr Robert Godden presented the views of Amnesty International as detailed in its submission [LC Paper No. CB(2)870/13-14(03)].

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7. Mr NGAN Man-yu of Democratic Alliance for the Betterment and Progress of Hong Kong was of the view that the existing regulation of EAs was not comprehensive. He called on the Administration to consider amending the existing legislation in respect of the rights and responsibilities of EAs, FDHs and employers, including prohibiting EAs from collecting payment from FDHs on behalf of other parties; drawing up standard contract terms between EAs and employers in respect of FDH placement to protect the rights of both parties; and providing guidelines on the services provided and fees charged by EAs. He also urged the Administration to strictly enforce the requirement of FDHs to return to their places of domicile upon completion or termination of their contracts.

8. Ms TSUI Ka-wing of Amnesty International Hong Kong expressed concern about the recent reports on abuses of Indonesian domestic helpers. She called on the Administration to enhance the regulation of EAs and to step up the investigation of deduction of FDHs' wages by their employers and withholding of FDHs' personal identification documents. Consideration should also be given to implementing the international labour conventions in relation to the policies and practices for protecting migrant workers' rights and benefits, including abolition of the "two-week rule" and the live-in requirement.

9. Ms Holly Allan presented the views of Helpers for Domestic Helpers ("HDH") as detailed in its submission [LC Paper No. CB(2)949/13-14(02)].

10. Mr Micheal LEE of Foreign Domestic Helpers Concern Group expressed the view that FDH employers were not duly protected when employing FDHs. There had been increasing complaints from FDH employers about the service quality of EAs and FDHs in recent years. Accordingly to a survey with FDH employers conducted by the deputation in September/October 2013, around 40% of the respondents indicated that their FDHs had deliberately used various tactics to make the employers terminate the employment contracts prematurely with them. According to another survey with FDH employers on service of EAs conducted by the deputation in early 2014, close to 25% of the respondent employers had been provided with false information by EAs and 67% of the respondent employers were of the view that the existing regulation of EAs was not adequate. Mr LEE called on the Administration to review the existing labour legislation relating to regulation of EAs and step up its enforcement efforts.

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11. Mr Jeremy TAM presented the views of Civic Party as detailed in its submission [LC Paper No. CB(2)949/13-14(03)].

12. Ms Joan TSUI presented the views of Support Group for Hong Kong Employers with Foreign Domestic Helper as detailed in its submission [LC Paper No. CB(2)870/13-14(04)].

13. Mr Harris YEUNG of Liberal Party Youth Committee expressed concern about the problems arising from the abolition of live-in requirement as proposed by some deputations, such as the possible risks of taking illegal part-time employment by FDHs. He considered it necessary to retain the live-in requirement as stipulated in the Standard Employment Contract for FDHs ("SEC").

14. Mr Peter SHIU of Liberal Party was of the view that FDH employers were not adequately safeguarded under the existing labour laws. With reference to his experience of being a District Council member, he had handled numerous cases of FDH employers seeking assistance, such as FDHs deliberately displaying bad working attitudes to make their employers terminate the employment contracts prematurely, FDHs taking loan from money-lending agencies which turned to employers for repayment, and FDHs taking up illegal employment.

15. Ms CHOI CHOW Ning-ning presented the views of Hong Kong Home Services Association Limited as detailed in its submission [LC Paper No. CB(2)870/13-14(05)].

16. Mr KAM Man-fung of New People's Party was of the view that the importation of more than 300 000 FDHs in Hong Kong could have created a win-win situation whereby a sizeable local workforce was released to join the labour market and FDHs could earn higher wages to work in Hong Kong than in their home countries. Mr KAM called on the Administration to improve the relevant labour legislation and conduct comprehensive review of the policies relating to FDHs and licensing conditions for EAs. It was suggested that the Administration should maintain adverse records of FDHs, FDH employers and EAs who had breached the relevant rules governing the employment of FDHs.

17. Mr CHENG Sze-lut of Labour Party expressed the view that many FDHs were put in a disadvantageous position because of their limited knowledge about their labour rights and inadequate support from EAs. The live-in requirement, long working hours and the two-week rule had imposed considerable pressure on FDHs and deterred them from lodging

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complaints against being abused by their employers. Mr CHENG was of the view that the Administration should provide FDHs with information on employment rights, and that EAs should enhance support to FDHs in case of emergency. Moreover, the Government should liaise with the relevant authorities of FDH-exporting countries to regulate the intermediaries placing FDHs in their home countries.

18. Mr TANG Wai-yeung presented the views of Asosiasi PPTKI Hong Kong Limited ("Asosiasi PPTKI HK Ltd") as detailed in its submission [LC Paper No. CB(2)870/13-14(07)].

19. Mr CHAN Hing-chung of 關注外籍傭工政策小組 expressed the view that the Administration should introduce legislation relating to employment of FDHs and amend the relevant provisions in the Employment Ordinance (Cap. 57) ("EO") accordingly. Consideration should also be given to setting up an interdepartmental task force to enhance the communication with the stakeholders, including employers, FDHs and EAs, on FDH employment matters. Mr CHAN further suggested that operation of EAs placing FDHs should be subject to a set of specific licensing conditions.

20. To enhance the service quality of EAs, Miss Blondy HON of 關注職業介紹所政策 appealed to the Administration to introduce an accreditation scheme for EAs placing FDHs, under which accredited EAs should be held responsible to verify the basic information provided by both employers and FDHs.

21. Mr WONG Yee-fu presented the views of The Hong Kong Chamber of Employment Agencies as detailed in its submission [LC Paper No. CB(2)870/13-14(08)].

22. Mr CHENG Chi-ming presented the views of Association of Hong Kong Agencies for Migrant Workers Limited ("AHKA") as detailed in its submission [LC Paper No. CB(2)870/13-14(09)].

23. Ms Dolores Balladares presented the views of United Filipinos in Hong Kong as detailed in its submission [LC Paper No. CB(2)870/13-14(10)].

24. Mr Norman Uy Carnay presented the views of Mission for Migrant Workers Limited as detailed in its submission [LC Paper No. CB(2)870/13-14(11)]. He considered that the FDH policy should be put under the purview of the Labour Department ("LD"), instead of the

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Immigration Department ("ImmD"), as the latter had meddled in the field of employment matters by enforcing the live-in requirement and two-week rule as well as screening of visa applications from FDHs with frequent change of employers.

25. Mr LEUNG Hing-ki presented the views of Hong Kong TKI Association Ltd. as detailed in its submission [LC Paper No. CB(2)894/13-14(01)]. Mr LEUNG called on the Administration to address the problem of insufficient protection of FDHs' entitlement to the long service payment as well as occupational safety while undertaking household duties.

26. Mr Mohammad Aslam of Ethnic Minorities Youth League pointed out that owing to the language barrier, some FDHs had limited channels to sound out the problems and difficulties that they encountered in their work. He affirmed the importance of EAs to assist FDHs' adaptation in the new working environment and understanding of the employment terms.

27. Ms CHOW Kwai-ying presented the views of Commercial Organization & Domicile Services Employees Association as detailed in its submission [LC Paper No. CB(2)978/13-14(01)].

28. Mr LAU Sheung-mo presented the views of Hong Kong Union of Employment Agencies ("HKUEA") as detailed in its submission and supplementary information provided at the meeting [LC Paper Nos. CB(2)870/13-14(12) and CB(2)978/13-14(02) respectively].

29. Mr Aaron Ceradoy presented the views of Asia Pacific Mission for Migrants as detailed in its submission [LC Paper No. CB(2)870/13-14(13)].

30. Mr Rob Connelly presented the views as detailed in his submission [LC Paper No. CB(2)870/13-14(14)].

31. Mr Joseph LAW of Hong Kong Employers of Domestic Helpers Association ("HKEDHA") said that HKEDHA had since several years ago called on the Administration to set up a complaints mechanism for FDHs and their employers. Moreover, a licensing scheme with demerit points system as well as a code of practice for EAs' operation should be put in place. Mr LAW further expressed the view that applications for renewal of employment contract from Indonesian domestic helpers should be undertaken by the Indonesian Consulate-General ("CG") instead of EAs accredited by the Indonesian Government.

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32. Ms LIU Ming-chu of FDH Agency Problems Concern Group expressed concern about the lack of protection of FDH employers' rights and benefits under the existing labour law. There were cases in which the ability and knowledge possessed by the newly recruited FDHs were different from the information provided by EAs to the prospective employers. Ms LIU called on the Administration to strengthen the regulation of EAs. For instance, the Administration should make it mandatory for EAs to verify the personal particulars of FDHs concerned.

33. Ms Queendy CHAU of FDH & Employers Should Be Strong ("FDH & ESBS") expressed concern about the increasing number of complaints against FDHs and EAs, including FDHs' bad working attitude and job-hopping. She urged the Administration to enhance the protection of employers' rights and benefits, including strictly enforcing the requirement of FDHs' returning to their places of domicile upon termination or expiry of employment contracts before they could submit fresh employment visa applications, and abolishing the requirement of employers' providing return passage to FDHs for their return to the places of original on termination or expiry of contracts should the FDHs merely depart for the neighbouring places and took up another employment in Hong Kong within a short period of time.

34. Ms Helen WONG of FDH Agency Concerned Group considered it unfair to FDH employers who were required to provide their FDHs with one month's wages in lieu of notice and free passage to return to their places of domicile on termination or expiry of contracts, regardless of the increasing number of FDHs deliberately seeking premature termination of employment contract by using various tactics and merely departing for Macao or the Mainland China and taking up another employment in Hong Kong within a short period of time. Moreover, given the limited supply of FDHs, there were cases in which EAs abetted FDHs to seek early termination of employment contract so as to receive placement fees for the new employment. Ms WONG called on the Administration to conduct a review of the relevant labour legislation.

35. Ms Bronthy LEUNG of FDH & Employers' Rights Protection Group expressed concern about the Administration's lax monitoring of EAs. To enhance the service quality of EAs, the Administration should put in place a licensing scheme with demerit points system and make reference to Singapore's practice in regulating EAs by requiring the industry practitioners to undergo assessment so as to attain the professional qualification, thereby enhancing the protection of the rights and benefits of FDHs and their employers.

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36. Ms Lian CHAN Lai-yan of FDH Policy Concern Group drew reference to a survey conducted by the Liberal Party on the average expense (including medical insurance, wages and provision of food) for engaging a FDH, which amounted to some \$7,000 to \$8,000 per month. To better protect the interests of FDH employers, she called on the Administration to consider stipulating a probation period for FDHs in SEC. Moreover, employers should be allowed to settle full payment of intermediary fees with EAs upon FDHs' satisfactory completion of the probation period. Consideration should also be given to providing prospective employers of FDHs with the latter's previous employment records for reference.

37. Mr Eman Villanueva presented the views of Filipino Migrant Workers' Union ("FMWU") as detailed in its submission [LC Paper No. CB(2)870/13-14(15)]. Referring to the rejection of a number of employment visa applications from Indonesian domestic helpers by ImmD because of suspect of job-hopping, he expressed the view that it was highly improbable and impractical as the financial gains from change of employers would not be sufficient to cover the placement fees so incurred.

38. Ms Sringatin presented the views of Indonesian Migrant Workers' Union ("IMWU") as detailed in its submission [LC Paper No. CB(2)870/13-14(16)].

39. Ms Fly LAM and Ms Phobsuk Gasing presented the views of Hong Kong Confederation of Trade Unions and Hong Kong Federation of Asian Domestic Workers Unions respectively as detailed in their joint submission [LC Paper No. CB(2)978/13-14(03)].

40. Ms Parichat Jaroennon presented the views of Thai Migrant Workers Union as detailed in its submission [LC Paper No. CB(2)978/13-14(04)].

41. Referring to a survey on recruitment practices and problems encountered by Filipino FDHs conducted by the deputation in 2012 and released in 2013, Ms Shiella of Progressive Labour Union of Domestic Workers Hong Kong called on the Administration to respond proactively to the proposals and recommendations therein so as to better protect the rights and benefits of FDHs and their employers.

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42. Ms Yen CHEUNG presented the views of Sri Lanka Hong Kong Employment Agency Association Ltd. as detailed in its submission [LC Paper No. CB(2)870/13-14(17)].

43. Mr Leo TANG of Union of Nepalese Domestic Workers in HK raised queries about the discrepancy between the intermediary fees actually collected by EAs from Indonesian domestic helpers and that prescribed by the Indonesian Government. He urged the Administration to strengthen its efforts in investigating cases of overcharging of intermediary charges.

44. Ms Doris LEE of Open Door was of the view that policies relating to importation of FDHs were in need of an overhaul review in view of the insufficient protection for FDHs against various kinds of abuses. Specifically, the "two-week" rule and live-in requirement, which strongly violated women workers' rights, should be abolished. The Administration should take measures to strengthen the subsidised child care and elderly care services, which were the major concerns of most FDH employers.

45. Mr Timothy LEUNG presented the views of Well Shine Co. as detailed in its submission [LC Paper No. CB(2)870/13-14(18)].

46. Ms Bungon Tamasorn presented the views of Asian Migrants' Coordinating Body as detailed in its submission [LC Paper No. CB(2)870/13-14(19)].

47. Ms Edwina A. Santoyo presented the views of Bethune House Migrant Women's Refuge as detailed in its submission [LC Paper No. CB(2)870/13-14(20)].

48. Ms Nurjanati presented the views of United Indonesians Against Overcharging (PILAR) as detailed in its submission [LC Paper No. CB(2)870/13-14(21)].

49. Mr John CHUNG presented the views of Justice and Peace Commission of the HK Catholic Diocese as detailed in its submission [LC Paper No. CB(2)998/13-14(01)].

50. Ms Wendy LAU Lai-sze presented the views of Hong Kong Federation of Employment Agencies Limited as detailed in its submission [LC Paper No. CB(2)870/13-14(22)].

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51. Miss Luna CHAN presented the views of PathFinders as detailed in its submission [LC Paper No. CB(2)870/13-14(30)].

52. Members noted that the following 10 organisations and an individual not attending the meeting had provided the Panel with written submissions -

- (a) Hong Kong Employment Agencies Association Ltd.;
- (b) 孟加拉香港專業培訓中心有限公司;
- (c) The Federation of Hong Kong & Kowloon Labour Unions;
- (d) Liga Pekerja Migran Indonesia;
- (e) Asosiasi Tenaga Kerja Indonesia;
- (f) Mr Yee Choi;
- (g) Asian Migrant Centre;
- (h) General Chamber of Hong Kong Manpower Agencies Ltd.;
- (i) HK Helpers Campaign;
- (j) Christian Action; and
- (k) 外傭政策研究組.

[To allow sufficient time for discussion, the Chairman suggested and members agreed to extend the meeting for 15 minutes.]

Discussion

53. In response to the views of deputations, SLW made the following points -

- (a) the Government was fully aware of the community's concern over the rights of and protection for FDHs following the recent reports on a few cases of alleged abuse against FDHs by their employers. FDHs enjoyed the same protection and rights under the labour laws as local employees. The

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Government took a serious view of protecting the interests of FDHs and employers, as well as ensuring EAs placing FDHs were operating in compliance with the law. The Government was planning to implement various short, medium and long-term measures in this regard;

- (b) the Government would strengthen the promotional and educational efforts to ensure that FDHs were aware of their own rights. To facilitate FDHs' easier access to the relevant information, LD would disseminate such information through different channels, such as placing advertisements in Hong Kong's Indonesian and Filipino newspapers, and staging information kiosks at the locations that FDHs usually gathered on Sundays. LD was also considering requiring those FDHs, who came to Hong Kong for the first time, to attend a briefing to facilitate their understanding of rights and benefits (including leave entitlements and channels for seeking redress) while working in Hong Kong as well as knowledge of basic occupational safety and health;
- (c) for FDH employers, LD would enhance, through announcements in the public interest on television, understanding of their obligations under EO and also appeal to them to treat FDHs well, and urge them not to withhold their FDHs' passports, which would be an offence under the Theft Ordinance (Cap. 210), nor withhold or deduct FDHs' wages for paying intermediary and training fees;
- (d) for regulation of EAs, LD was planning to increase its manpower so as to strengthen the monitoring of and inspection to EAs. LD was considering how best to strengthen the present licensing mechanism with a view to introducing appropriate licensing conditions for EAs to comply in order to better safeguard the interests of both employers and FDHs. For instance, EAs might be required to maintain contact with the newly-arrived FDHs for a certain period of time and barred from engaging in loan and financial arrangements of FDHs. The Government was working with the Department of Justice ("DoJ") on the proposals and would consult the relevant stakeholders on the implementation details;

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- (e) regarding EAs' charging FDHs huge amounts of intermediary and training fees, the Government considered that the most effective way to resolve the problem was to tackle it at its root. According to EO, EAs were only allowed to receive from FDHs for successful job placement service the prescribed commission in the Second Schedule of the Employment Agency Regulations (Cap. 57A) ("EAR"), which was no more than 10% of the latter's first month salary. The Government would continue to liaise with the relevant CGs in Hong Kong and to urge them to draw the problem to the attention of their governments and take follow-up action. Notably, it would continue to request the Indonesian authorities to adopt proactive measures to alleviate Indonesian domestic helpers of the debt burden which would result in the helpers having to pay a huge amount of intermediary and training fees before they came to Hong Kong; and
- (f) the "live-in requirement" formed the cornerstone of Hong Kong's policy of importing FDHs. Having regard to the background for the admission of FDHs to Hong Kong in the 1970s to meet the shortage of local live-in domestic helpers, FDHs were only permitted to perform full-time and live-in domestic duties. Moreover, the employers' affordability in providing separate accommodation to their FDHs, the possible increase in medical costs and other risks by allowing FDHs to live out, as well as other related issues such as the pressure on private housing and public transportation should also be taken into account. The Government considered it necessary to retain the "live-in requirement" for FDHs.

54. Assistant Director (Visa & Policies) of ImmD ("AD(V&P)") added that the "two-week rule" was necessary for maintaining effective immigration control and it helped prevent FDHs from job-hopping and taking up illegal work in Hong Kong after contract termination. Implemented since 1987, the main purpose of the "two-week rule" was to allow sufficient time for FDHs to prepare for their departure; and it was not to facilitate them to find new employers. In fact, the existing policy did not preclude FDHs from working in Hong Kong again after returning to their places of origin. Under exceptional circumstances where the employer was unable to continue with the contract, owing to, for example,

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the employer's external transfer, migration, death or economic difficulty, or where there was evidence that the FDH had been abused or exploited, FDHs could apply for change of employer in Hong Kong without first returning to their places of origin. As such, there was sufficient flexibility under the "two-week rule" to cater for deserving cases under exceptional circumstances. Moreover, ImmD would allow individual FDHs to extend their stay on a case-by-case basis should a need arise.

Overcharging of intermediary fees and regulation of EAs

55. Dr Fernando CHEUNG was concerned that a considerable number of FDHs, in particular those from Indonesia, had incurred huge debts in order to meet the high level of fees and commissions charged by EAs in their home countries and some FDHs' passports were allegedly withheld by EAs so as to make them repay the loans. He invited deputations' views on how to eradicate such malpractice.

56. In response, Mr CHENG Chi-ming of AHKA said that to his knowledge, the huge amount of intermediary and training fees were charged by EAs in FDH-exporting countries. In his view, the charges could be transferred to FDH employers if it was considered acceptable by the community.

57. Dr KWOK Ka-ki also invited views from deputations in respect of the Administration's efforts in safeguarding the labour rights of FDHs. In response, Ms IP Pui-yu of IDWF expressed the view that it was imperative that the Administration would enhance its regulation of EAs, in particular ensuring collection of commission no more than the prescribed amount from FDHs. The Administration should also collaborate with the Indonesian Government in eradicating the malpractice of EAs' overcharging FDHs of intermediary fees. Ms LAW Pui-shan of HKCCLA considered it necessary for the Administration to formulate specific measures to provide support and assistance to FDHs so as to encourage them to report their cases if they were mistreated or abused. Pointing out that overcharging of commission did not only take place in the FDH-exporting countries, Ms Holly Allan of HDH said that some Indonesian domestic helpers were forced by EAs in Hong Kong to take out loans with money lending agencies and make monthly repayment. It was incumbent upon the Administration to address the issue.

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58. Miss CHAN Yuen-han sought elaboration from Mr CHENG Chi-ming of AHKA about his earlier views on issuing separate licences for EAs placing FDHs. Mr CHENG said that under EO and EAR, all EAs were required to obtain a licence from LD for operation. Apart from providing employment services as other EAs, the scope of services of EAs placing FDHs would sometimes cover providing assistance and follow-up support services to individual FDHs. Mr CHENG appealed to the Administration to issue separate licence for EAs placing FDHs. Miss CHAN Yuen-han urged the Administration to hold tripartite meetings comprising the Administration, employers' associations and FDH labour unions on issues relating to the employment of FDHs and regulation of EAs.

59. The Chairman sought clarification from deputations in respect of media reports on the high level of intermediary fees and service charges collected by EAs and their sub-agencies from FDHs and FDH employers. Miss Blondy HON of 關注職業介紹所政策小組 and Mr CHENG Chi-ming of AHKA responded that to their understanding, the intermediary and training fees paid by individual Indonesian domestic helpers to EAs in Indonesia amounted to over \$15,000, which were equivalent to FDHs' first five to seven months' wages. Such payments would be met by deduction of wages and would be transferred to EAs in Indonesia. As such, EAs in Hong Kong would collect placement fees of about \$6,000 to \$10,000 from FDH employers. Mr LAU Sheung-mo of HKUEA referred members to a tabled document (LC Paper No. CB(2)978/13-14(02)) on the intermediary fees structure. Mr LAU pointed out that many Indonesian domestic helpers had been forced to take out loans before they came to Hong Kong and thereby local EAs were not involved in the loan arrangement. On the other hand, the placement fees collected from employers of Indonesian domestic helpers ranged from \$8,000 to \$12,000. Mr TANG Wai-yeung of Asosiasi PPTKI HK Ltd. added that it was legal for accredited EAs in Indonesia to collect placement fees from Indonesian domestic helpers.

60. The Chairman said that to his knowledge, Indonesian FDHs taking up employment in Hong Kong were in fact arranged through both accredited EAs by the Indonesian Government and unaccredited EAs, which were sub-agencies of the accredited EAs. He asked whether deputations were aware of the arrangement. Mr LAU Sheung-mo of HKUEA said that HKUEA had strongly called for the prohibition of placement services arranged by EAs without accreditation. He reiterated that the Administration should differentiate intermediaries placing FDHs from other EAs providing employment services.

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61. In response to Mr CHUNG Kwok-pun's concern about the fees charged by EAs on FDHs and their employers, SLW advised that according to the law, all EAs were only allowed to charge FDHs the commission as prescribed in the Second Schedule of EAR, which was no more than 10% of the latter's first month salary for successful job placement service. There was no restriction under Hong Kong's law on the amount of fees that could be charged by EAs on employers for services provided. Similar to other commercial transactions, the amount of fees charged was subject to the mutual agreement between the customers (i.e. FDH employers) and the service providers (i.e. EAs). Acting Commissioner for Labour ("C for L (Ag)") added that for employers who considered the services provided by EAs unsatisfactory or did not match with the service agreements, they could lodge a complaint with the Consumer Council and seek advice and assistance as appropriate. Furthermore, the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012, which prohibited specified unfair trade practices such as false trade descriptions of services or misleading omissions, applied to the services provided by EAs to FDH employers.

Inspection to EAs

62. Expressing concern about the enforcement action taken by the Administration in monitoring the operation of EAs, Mr POON Siu-ping enquired how the Administration would strengthen the inspections to EAs conducted by LD. The Chairman was concerned whether there was sufficient manpower to carry out investigation and take follow-up action in the event that EAs were found involved in the loan arrangement for FDHs.

63. C for L (Ag) said that the Employment Agencies Administration of LD regulated the operation of EAs providing FDH placement services through licensing, inspection, complaints investigation and prosecution to ensure that they were operating in compliance with the law. LD would deploy flexibly the manpower as necessary. C for L (Ag) further advised that LD would increase its manpower in 2014-2015 to strengthen the monitoring of and inspection to EAs. LD aimed to increase the number of inspections to EAs from 1 300 in 2013-2014 to 1 800 in 2014-2015. LD would arrange regular and surprise inspections to EAs, conduct investigation upon receipt of overcharging or malpractice complaints. In the past few years, there were cases of revocation and refusal for renewal of EA licences for EAs breaching the law.

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64. As regards the involvement of EAs in loan arrangement of FDHs, C for L (Ag) further said that it was understood that some FDHs had incurred debts to pay the intermediary and training fees before they came to Hong Kong. There was yet any concrete evidence that local EAs had engaged in the money lending activities of FDHs. However, where there was evidence that an EA was involved in money lending activities, which violated the Money Lenders Ordinance (Cap. 163), the case would be referred to the Police for follow-up according to the situation of the case. C for L (Ag) said that LD had all along been committed to protecting the interests of job seekers from being overcharged with placement fees.

Strengthening the licensing mechanism

65. Noting that HKEDHA had called on the Administration to strengthen the regulation of EAs for several years, Mr POON Siu-ping enquired about the specific measures proposed by HKEDHA in this respect.

66. Mr Joseph LAW of HKEDHA said that the Administration should adopt a more stringent licensing scheme for EAs and draw up a code of practice for the operation of EAs. Moreover, the Labour and Welfare Bureau and LD should strengthen communication with employers' associations, EAs and FDH labour unions on FDH-related issues.

67. Mr LEUNG Kwok-hung was concerned about how improvement could be made to the service quality of EAs. In response, Ms Queendy CHAU of FDH & ESBS expressed the view that the Administration should provide EAs with operational guidelines and strengthen the licensing scheme by introducing an assessment mechanism.

68. Noting the Administration's plan to strengthen the licensing mechanism for EAs, Mr POON Siu-ping and the Chairman enquired about the implementation timetable. Mr POON further enquired whether the Administration would make reference to Singapore's experience of regulating EAs under a licensing scheme with demerit points system.

69. SLW advised that the Government adopted an open mind on how best to strengthen the licensing mechanism for EAs and would take into account the views expressed by members and deputations. That said, the Government needed to strike a reasonable balance between protecting the interests of employers and FDHs and hindering the operation of EAs. As regards the implementation timetable, SLW said that the Government was

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working with DoJ on the proposal of introducing additional licensing conditions for EAs placing FDHs, it was expected that the Government would be able to revert to the Panel on the matter in one year. He stressed that the Government would work towards the direction of strengthening the monitoring and regulation of EAs.

Importation of FDHs

70. Miss CHAN Yuen-han declared that she had employed a FDH. Miss CHAN expressed grave concern about the problem of Indonesian domestic helpers having paid a huge amount of intermediary and training fees before they came to Hong Kong. In her view, consideration should be given to allowing the importation of FDHs from more countries with a view to lowering the intermediary fees and better protecting the interests of Indonesian domestic helpers. Referring to a "Statement letter of placement fee for potential Indonesian overseas worker (Domestic Worker) to Hong Kong SAR" provided by a deputation at the meeting, the Chairman drew members' attention to the huge amount of debts that Indonesian domestic helpers had incurred before they came to Hong Kong. He urged the Administration to meet with the FDH labour unions concerned and listen to their views on the related issues.

71. Mr LEUNG Kwok-hung shared a similar view. Pointing out that a considerable number of FDHs were on heavy debt burden while working in Hong Kong, he called on the Administration to abort the importation of FDHs from Indonesia should the Indonesian Government fail to address the problem of bonded labour.

72. SLW reiterated that the Government was considering introducing more licensing conditions for EAs so as to achieve better protection of the interest of employers and FDHs and strengthen the monitoring of EAs. It would revert to the Panel on the concrete proposals in due course. SLW further said that LD had been maintaining communication with employers' associations and FDH unions in respect of FDH-related issues. On the other hand, given that the Government did not have any jurisdiction on overseas operations of EAs, it had, through its regular contacts with the relevant CGs in Hong Kong, urged them to draw the problem of FDHs having to pay a huge amount of intermediary and training fees before they came to Hong Kong to the attention of their respective governments in capital so as to tackle the issue at source. He drew members' attention to the fact that the intermediary and training fees for Indonesian FDHs had been reduced from some \$18,000 to some \$13,000.

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The "two-week rule"

73. Dr Fernando CHEUNG declared that he was the employer of a FDH. Dr CHEUNG expressed the view that the sizeable workforce of some 323 400 FDHs in Hong Kong was largely attributed to the strong need of child care and elderly care services at home because of an insufficient provision of such subsidised services. Mr POON Siu-ping shared a similar view and acknowledged the contribution made by FDHs to releasing substantial labour force for the economic development in Hong Kong. Expressing grave concern about recent cases of alleged abuses of FDHs, Dr CHEUNG queried whether the "two-week rule" had deterred FDHs from lodging claims when they were mistreated or abused by their employers. Given that there was no such restriction on the professionals and skilled labour admitted to Hong Kong under other admission schemes, Dr CHEUNG considered that the "two-week rule" was discriminatory against FDHs.

74. AD(V&P) said that the Administration administered various admission schemes for professionals and skilled labour under the immigration policy and there were different objectives and rationale behind. Implemented since 1987, the two-week rule was necessary for maintaining effective immigration control and it helped prevent FDHs from job-hopping and taking up illegal work in Hong Kong after contract termination. AD(V&P) added that there was sufficient flexibility under the "two-week rule" to cater for exceptional circumstances and allow FDHs to apply for change of employer in Hong Kong without first returning to their places of origin.

Premature termination or expiry of employment contracts

75. Referring to some deputations' claims that there were cases of FDHs employing various tactics to make the employers terminate the employment contracts with them prematurely, the Chairman sought information on the relevant statistics relating to job-hopping.

76. AD(V&P) responded that ImmD had received some 6 600 employment visa applications from FDHs whose contracts were terminated prematurely in 2013 and some 5 800 applications had been approved. While there were various reasons for premature contract termination, the primary reasons were the employer's external transfer, migration, or economic difficulty. ImmD did not maintain such statistics by reasons for contract termination.

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77. Mr CHUNG Kwok-pun was concerned that while FDH employers were obliged to provide return passage to FDHs back to their places of domicile upon termination or expiry of contracts as stipulated in SEC, it had not been enforced strictly as some FDHs had merely departed for the neighbouring places such as Macao or Shenzhen and returned to Hong Kong to take up another employment within a short period of time. He called on the Administration to conduct a review on the relevant legislation so as to plug the loophole.

78. AD(V&P) explained that in the light of the strong demand of local families for FDHs, ImmD often received employers' requests to expedite processing of their FDHs' employment visas. On the other hand, FDHs whose previous contracts had been terminated owing to various reasons also wished to resume employment as soon as possible to make ends meet. As a measure to facilitate both parties, ImmD adopted a flexible approach in handling the requirement imposed on FDHs that they had to return to their places of domicile upon termination of their contract.

79. SLW added that while SEC did not stipulate the form of the return passage to be provided by the employer to FDH, it was suggested that the employer would provide an air ticket for travelling from Hong Kong to the FDH's place of origin to fulfil the contract requirement. Employer should keep the payment receipt of the air ticket as documentary proof.

80. In response to Mr LEUNG Kwok-hung's enquiry about abuse of premature contract termination arrangements by FDHs, AD(V&P) advised that ImmD had adopted a corresponding measure to strengthen the assessment of employment visa applications of FDHs who changed employers repeatedly. ImmD would, in processing the employment visa applications of FDHs, closely scrutinise their case details such as the number of and reasons for premature contract termination within 12 months with a view to detecting any abuse of the arrangements for premature contract termination. If ImmD suspected such abuse, the application would be refused. From the implementation of the above measure in June 2013 to January 2014, ImmD received about 40 000 employment visa applications from FDHs, of which 1 372 were suspected of "job-hopping", accounting for 3.4% of all applications. After closely scrutinising these applications, ImmD refused 170 of them. ImmD believed that this measure helped to deter abuse and would review its effectiveness from time to time.

(Members agreed to further extend the meeting by 5 minutes.)

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Provision of support to FDHs

81. The Chairman was concerned that FDHs faced considerable pressure when lodging a claim of being mistreated or abused, notably the possibility of losing their job while shouldering a heavy debt burden, the "two-week rule" requirement and the accommodation problem. The Chairman asked whether the Administration would render assistance to these FDHs.

82. SLW responded that it was understood that certain non-governmental organisations and some EAs had provided FDHs with assistance and temporary accommodation when they lodged claims. ImmD, on the other hand, would allow FDHs concerned to extend their stay on a case-by-case basis so as to facilitate them to participate in the follow-up process as appropriate. The Chairman took the view that the Administration should allocate more resources to render necessary assistance to FDHs under such circumstances.

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83. In concluding the discussion, the Chairman urged the Administration to maintain close liaison with employers' associations and FDH labour unions in respect of issues relating to employment of FDHs and regulation of EAs. To facilitate the Panel to follow up on the subject, the Chairman requested the Administration to provide a consolidated response to the issues and concerns raised by depositions on policies relating to FDHs and regulation of EAs. A list of the issues of concern would be provided to the Administration after the meeting.

84. There being no other business, the meeting ended at 5:51 pm.