

立法會
Legislative Council

LC Paper No. CB(2)773/13-14
(These minutes have been seen
by the Administration)

Ref : CB2/PL/SE

Panel on Security

Minutes of meeting
held on Tuesday, 7 January 2014, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon IP Kwok-him, GBS, JP (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon CHAN Kam-lam, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, SBS, JP
Hon CHAN Kin-por, BBS, JP
Hon WONG Kwok-kin, BBS
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon NG Leung-sing, SBS, JP
Hon Frankie YICK Chi-ming
Hon YIU Si-wing
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Kenneth LEUNG
Hon KWOK Wai-keung
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Dr Hon Elizabeth QUAT, JP
Hon CHUNG Kwok-pan

Members attending : Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon CHEUNG Kwok-che
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan

Member absent : Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Public Officers attending : Item IV

Action Committee Against Narcotics

Professor Daniel SHEK, SBS, BBS, JP
Chairman

Dr Ben CHEUNG, MH, JP
Chairman, Sub-committee on
Treatment and Rehabilitation

Dr TIK Chi-yuen, SBS, BBS, JP
Chairman, Sub-committee on
Preventive Education and Publicity

The Administration

Mrs Erika HUI, JP
Commissioner for Narcotics

Miss Mandy WONG
Principal Assistant Secretary for Security (Narcotics) 2

Item V

The Administration

Mr LAI Tung-kwok, SBS, IDSM, JP
Secretary for Security

Mr Billy WOO
Principal Assistant Secretary for Security D

Mr David CHIU Wai-kai, IDSM
Assistant Director (Personal Documentation)
Immigration Department

**Attendance
by invitation**

: Item IV

Hong Kong Public Doctors' Association

Dr Pierre CHAN
Vice President

Dr MAK Siu-king
Council Member

The Hong Kong College of Psychiatrists

Dr CHEUNG Wai-him
Associate Consultant, Kwai Chung Hospital

Dr Ronnie SY PAO
Associate Consultant, Kwai Chung Hospital

Hong Kong Bar Association

Mr Michael Blanchflower SC

Mr LO Pui-yin

The Hong Kong Medical Association

Dr TSE Hung-hing
President

**Clerk in
attendance**

: Miss Betty MA
Chief Council Secretary (2) 1

**Staff in
attendance**

: Mr Stephen LAM
Assistant Legal Adviser 11

Mr Raymond LAM
Senior Council Secretary (2) 7

Miss Lulu YEUNG
Clerical Assistant (2) 1

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)586/13-14)

The minutes of the meeting held on 3 December 2013 were confirmed.

II. Information paper(s) issued since the last meeting

2. Members noted that no information paper had been issued since the last meeting.

III. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)588/13-14(01) and (02))

Regular meeting on 7 February 2014

3. Members agreed that the following items proposed by the Administration would be discussed at the next regular meeting on 7 February 2014 at 10:45 am -

- (a) Immigration arrangements for entry of Mainland residents for family reunion;
- (b) Installation of electric locks security system at Tai Lam Centre for Women;
- (c) Replacement of a Crash Fire Tender for the Airport Fire Contingent; and
- (d) Proposal to write off a judgment debt.

(Post-meeting note: At the request of the Administration and with the concurrence of the Chairman, the item "Replacement of a Crash Fire Tender for the Airport Fire Contingent" was subsequently deferred to a future meeting.)

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4. The Deputy Chairman said that there might not be a need to discuss a financial proposal in which the financial commitment involved was small. He suggested that the use of body-worn video cameras by the Police be discussed at the next regular meeting. The Chairman said that he would consider whether the subject could be arranged for discussion at the next regular meeting.

5. Mr LEUNG Che-cheung suggested that the progress of implementation of the Household Policing Plan, which was introduced in Tin Shui Wai in 2010, be discussed at a future meeting.

Special meeting on 20 January 2014

6. The Chairman reminded members that a special meeting would be held on 20 January 2014 at 8:30 am to receive briefings by the Secretary for Security and the Commissioner, Independent Commission Against Corruption on the Chief Executive's 2014 Policy Address.

Special meeting on 28 January 2014

7. Members noted that a special meeting had originally been scheduled for 28 January 2014 from 2:30 pm to 4:30 pm to receive a briefing by the Commissioner of Police on the crime situation in 2013. To avoid a clash with a meeting of the Panel on Development to be held at the same time slot, members agreed that the special meeting would be rescheduled to be held from 12:30 pm to 2:30 pm on 28 January 2014.

IV. RESCUE Drug Testing Scheme: Public Consultation

(LC Paper Nos. CB(2)184/13-14(03), CB(2)294/13-14(01), CB(2)588/13-14(03) and (04))

8. The Chairman said that as agreed at the last meeting on 3 December 2013, six professional bodies had been invited to give views on the subject at this meeting. Representatives of four of the professional bodies were attending this meeting. Among the two professional bodies which had not sent representatives to attend this meeting, one had provided a written submission.

9. Ms Cyd HO, Mr CHAN Chi-chuen and Dr Fernando CHEUNG expressed concern that a group of social workers who wished to express views on the subject at this meeting was not given the opportunity to do so. Ms HO said that social workers were also professionals and should be

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allowed to attend the meeting. The Chairman said that the Panel on Welfare Services had received public views on related issues at its meeting on 19 November 2013, which was attended by a number of social worker groups and associations related to social service, representatives of the Security Bureau and the Action Committee Against Narcotics ("ACAN"). To avoid duplication of the work of different Panels, the Panel had agreed at the last meeting on the list of six professional bodies to be invited. At the last meeting, he had also suggested members who wished to propose inviting other professional organizations to inform the Clerk.

10. Members noted the Administration's paper on the progress of the ongoing public consultation exercise on the RESCUE Drug Testing Scheme ("RDT") led by ACAN and the background brief entitled "RESCUE Drug Testing Scheme" prepared by the Legislative Council ("LegCo") Secretariat.

11. The Chairman reminded the deputations attending the meeting that they were not protected by the privileges and immunities provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) when addressing the Panel.

Views of deputations

Hong Kong Public Doctors' Association
[LC Paper No. CB(2)612/13-14(01)]

12. Dr Pierre CHAN and Dr MAK Siu-king presented the views of Hong Kong Public Doctors' Association ("HKPDA") as detailed in the submission.

The Hong Kong College of Psychiatrists
[LC Paper No. CB(2)595/13-14(01)]

13. Dr CHEUNG Wai-him presented the views of The Hong Kong College of Psychiatrists as detailed in the submission.

Hong Kong Bar Association
[LC Paper No. CB(2)588/13-14(05)]

14. Mr P Y LO presented the views of Hong Kong Bar Association ("the Bar") as detailed in the submission.

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*The Hong Kong Medical Association
[LC Paper No. CB(2)588/13-14(06)]*

15. Dr TSE Hung-hing presented the views of Hong Kong Medical Association ("HKMA") as detailed in the submission.

Discussion

16. In response to the views of deputations, Chairman, ACAN ("C/ACAN") made the following points -

- (a) consumption of dangerous drugs was an offence under the laws of Hong Kong;
- (b) some medical professionals who had first-hand experience of treating drug abusers had recently formed a coalition and expressed support for RDT;
- (c) a balance should be struck between human rights, security and public health;
- (d) existing legislation allowed a police officer to carry out drug testing, on reasonable suspicion, on a person suspected of drug driving;
- (e) the proposed threshold for drug testing under RDT was high and measures had been proposed for preventing abuse of power by police officers under RDT; and
- (f) a survey conducted by the Tuen Mun Substance Abuse Clinic in Castle Peak Hospital indicated that the casualties arising from drug abuse in this clinic alone were significantly more than the total casualties arising from drug driving in the past two years.

How drug abuse should be tackled

17. Mr KWOK Wai-keung expressed concern about the serious problem of hidden drug abuse, the irreversible harm to the body caused by abuse of psychotropic substances and the long-term medical as well as social cost arising from drug abuse. He expressed support for RDT. Noting that many drugs had side effects, he asked why HKMA could not

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tolerate any possible side effect of RDT. Dr TSE Hung-hing of HKMA responded that if RDT was expected to be ineffective, it should not be pursued.

18. Dr Helena WONG queried the effectiveness of RDT. She considered that even if drug abusers were identified under the proposed RDT, it was questionable whether these drug abusers could eventually rehabilitate under a compulsory scheme, as determination on the part of the drug abuser was the key to successful rehabilitation.

19. Mr CHAN Kin-por sought information on the success rate of voluntary drug treatment and rehabilitation. Chairman, Subcommittee on Treatment and Rehabilitation of ACAN responded that according to overseas literature, the success rate at most was about 30% to 40%. Referring to the submission from Hong Kong College of Psychiatrists, he pointed out that the Arrest Referral Service ("ARS") in the United Kingdom had been found effective where drug abusers were compelled to receive treatment. RDT represented a step forward in that it was not confined to arrested persons. It was one of the views under RDT that a drug abuser identified could be diverted away from the judicial path but to receive mandatory drug treatment.

20. Mr Alan LEONG considered that as drug abuse was mainly a public health issue and not a purely law and order issue, the Administration should focus its work on the rehabilitation of drug abusers.

21. Dr Elizabeth QUAT asked whether HKPDA considered RDT to be effective in tackling the drug abuse problem. Dr MAK Siu-king of HKPDA elaborated that a Crisis Accommodation Centre was set up in North District Hospital in 2012. Within a one-year period, the Centre had received over 500 bookings from social workers. 360 medical consultations had been provided to drug abusers and 84 drug abusers had been recruited to join a hospital treatment programme. On completion of the treatment programme, about 70% of the participants showed improved motivation for receiving treatment. Two weeks after discharge from hospital, about 60% of the participants still showed improved motivation for receiving treatment. About 28% of the participants had abstained from drug abuse for at least three months after receiving counselling and more than 80% of the ketamine abusers had reduced the amount of drug abused. This indicated that a combination of drug testing and structured drug treatment and rehabilitation service would effectively assist drug abusers to rehabilitate.

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22. Mr CHAN Chi-chuen said that the People Power opposed RDT since it was not viable, ineffective and open to abuse. Ms Cyd HO considered that drug abuse was a kind of pathological and self-harm behaviour.

23. Mr CHAN Kin-por disagreed with the view that drug abuse was a kind of self-harm behaviour. He pointed out that many drug abusers had caused harm to the body and property of others under the influence of drug. He expressed concern about the high long-term medical and social cost associated with disability arising from drug abuse.

24. Mr Frankie YICK considered that drug abuse was not an individual's problem but a social problem and should be tackled at an early stage. He said that according to a survey conducted by the Liberal Party, 79% of the respondents agreed or fully agreed with the introduction of RDT. The views of respondents were equally divided on whether RDT would have impact on a person's privacy. He expressed support for RDT, which sought for the early identification and rehabilitation of drug abusers. He pointed out that many representatives of frontline social worker groups who expressed views at the special meeting of the Panel on Welfare Services on 19 November 2013 had expressed support for RDT.

25. Mr CHUNG Kwok-pan considered that drug abuse was a social problem with high social cost and should not be examined from a purely legal or medical perspective. He expressed concern that before a drug abuser decided to receive drug treatment and rehabilitation voluntarily, irreversible damage might already have been caused to the body of the drug abuser. He considered that ACAN should examine the various issues and queries raised by deputations and improve the proposals under RDT.

26. Mr LEUNG Che-cheung asked whether drug abusers could first be arranged for assessment by social workers before referred to the Police for follow-up when necessary. C/ACAN said that the Police had been working closely with social workers under the Police Superintendent Discretion Scheme for many years without problems. Police officers authorized to conduct testing for drug driving were required to have successfully completed some intensive training and passed an examination accredited by a relevant international professional body. Law enforcement officers who had received relevant professional training should be able to distinguish drug abusers effectively. A literature in the US showed that about 94% of police officers in Oregon could successfully identify drug abusers after receiving proper training.

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27. Dr Fernando CHEUNG declared that he was working for the same education institute as C/ACAN. He objected to RDT and expressed concern about the possibility of RDT being used to expand the power of the Police. He said that although social workers involved in residential drug treatment were generally supportive of RDT, outreach social workers generally objected to RDT.

Protection of human rights under RDT

28. Dr Helena WONG expressed concern that RDT might be open to abuse by police officers, who were already empowered to stop and search people on the street.

29. C/ACAN responded that to his knowledge, between 2008 and 2012, 2.17 million stop and searches on the street conducted by police officers had resulted in the detection of 22 500 cases, which amounted to one-quarter of the total number of cases. The number of complaints relating to stop and search only amounted to 0.01 % of the total number of complaints against police officers.

30. Mr WONG Yuk-man said that RDT might be open to abuse by police officers, as HKMA had pointed out that it was difficult to determine whether a person had abused drug. He was fundamentally opposed to the proposed RDT, which was inconsistent with the common law principle of presumption of innocence and Article 28 of the Basic Law which prohibited arbitrary or unlawful search of the body of any resident of Hong Kong. He considered that existing legislation on drug driving might also be inconsistent with the common law principle of presumption of innocence, although it had not so far been subject to any challenge in court. He said that the Administration should reconsider the constitutionality of RDT. He considered that RDT would not resolve the problem of hidden drug abuse, but would convey the false message that drugs could be abused once.

31. Mr Dennis KWOK noted the Bar's view that RDT, if implemented, would lead to serious intrusion into the freedom and privacy of a person. Referring to paragraphs 8 and 9 of the Bar's submission, he asked whether there were relevant case laws of other jurisdictions besides Canada indicating that a compulsory drug testing scheme was in contravention of human rights.

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32. Mr P Y LO of the Bar responded that information on relevant case laws of the United States of America, the United Kingdom and the European Court of Human Rights had been provided in pages 3 to 8 of the Annex to the Bar's submission.

33. Mr Paul TSE said that according to his experience in handling criminal cases, some persons with criminal record or drug abuse record had complained of abuse of power by frontline police officers. As there were concerns about the effectiveness of RDT and the proposals under RDT might increase the powers of the Police, he was not inclined to support RDT at this stage.

34. Mr LEUNG Kwok-hung considered that the Administration should not introduce RDT, which would increase the power of the Police. Instead, the Administration should focus its efforts on combating the supply and trafficking of drugs.

Drug abuse and drug driving

35. Noting that the Bar was concerned about the possible abuse of police power under RDT, Mr KWOK Wai-keung queried why the Bar did not have similar concern about existing legislation against drug driving, on which RDT was modelled.

36. Mr P Y LO said that a drug test under RDT differed from that under drug driving in that RDT applied to any person on the street. Mr Michael Blanchflower considered that it was inappropriate to draw analogy between RDT and drug driving, as the latter would pose an immediate threat to people on the street.

37. Mr Alan LEONG asked whether existing legislation on drug driving was proportionate since drug driving posed an immediate threat to property and safety of persons on the street. He sought the Bar's view on whether the proposals under RDT were necessary and proportionate to its aim.

38. Mr P Y LO said that the proportionality test applied by court was set out in paragraph 9 of the Bar's submission. Mr Michael Blanchflower added that the enactment of legislation must be fully backed up by compelling evidence and clear justifications.

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39. C/ACAN said that there was strong and compelling evidence pointing to the need for RDT. A recent survey conducted by a gospel-based drug treatment and rehabilitation centre indicated that over 80% of young people receiving drug treatment and rehabilitation service had been compelled to receive such service. 70% of them had responded that they had been lucky to have been compelled to do so. The Hong Kong Substance Abuse Medical Alliance had also expressed concern in its press conference that many drug abusers were suffering from serious kidney and urinary bladder impairments as a result of drug abuse. Commissioner for Narcotics ("C for N") stressed that drug abuse had caused irreversible damage to the body of many drug abusers. The purpose of RDT was to facilitate the early identification of drug abusers for referring them to social workers or healthcare professionals to receive treatment and rehabilitation programmes before drugs inflicted serious harms on their health.

40. Mr CHAN Chi-chuen sought the views of HKMA on whether it was appropriate to compare RDT and existing legislation on drug driving. Dr TSE Hung-hing responded that drug testing for drug driving differed from RDT in that it was triggered off by the driving attitude displayed by the drivers concerned whereas drug testing under RDT was triggered off by clinical symptoms of the suspected persons.

41. Mr CHAN Kin-por said that the harm caused to other persons by drug abuse was no less than that caused by drug driving. He had noticed that many drug abusers had assaulted others, committed arson or threw objects from height under the influence of drugs.

42. Mr LEUNG Che-cheung said that he was aware of many cases in Tin Shui Wai in which drug abusers had inflicted harm on their family members under the influence of drugs. He sought information on the effect of drug abuse on a person's mental health. Dr CHEUNG Wai-him of the College of Psychiatrists explained that most of the drugs abused were psychotropic substances which could cause auditory hallucination and delusion.

43. The Chairman asked why the Bar considered RDT not acceptable, whereas legislation against drug driving, on which RDT was modelled, was acceptable, given that drug abusers could also pose an immediate threat to other persons and property under the influence of drugs.

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44. Mr Michael Blanchflower said that a person driving under the influence of drug would pose immediate threat to himself, other persons and property, whereas a drug abuser might be very passive when being suspected of having abused drug. He added that there was no mandatory treatment for persons identified of drug driving.

Extra-territorial effect

45. Referring to paragraph 26 of the Bar's submission, Ms Cyd HO said that given the very different legal systems of Hong Kong and the Mainland, it was not appropriate to extend the offence of consumption of dangerous drugs outside the territory of Hong Kong. She asked about the problems arising from the extension of the offence outside the territory of Hong Kong.

46. Referring to paragraphs 39 to 46 of the Annex to the Bar's submission, Mr P Y LO responded that the problems arising from such extension included the problems of double jeopardy and admissibility of evidence. Legislation with extraterritorial effect should apply to exceptional circumstances only.

Downstream support services

47. Dr Fernando CHEUNG and Mr LEUNG Kwok-hung expressed concern that there were inadequate downstream support services to complement RDT. Mr LEUNG Kwok-hung said that he was aware of a drug abuser who could not find a place in a drug treatment and rehabilitation centre for nine months. C for N responded that much more resources had been allocated for anti-drug work in the past few years. Over 87% of persons in need of residential places in drug treatment and rehabilitation centres could currently be placed within two weeks. The occupancy rate of female centres was currently 72% and that of male centres was 66%.

ACAN's public consultation on RDT

48. The Chairman said that ACAN's public consultation on RDT would end on 24 January 2014. Any person who wished to submit views on the consultation paper to ACAN should do so before 24 January 2014.

[To allow sufficient time for discussion, members agreed that the meeting be extended to 5:00 pm.]

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V. Follow up on the Court of Final Appeal order in the Judicial Review case *W v Registrar of Marriages*

(LC Paper Nos. CB(2)588/13-14(08) to (09) and CB(2)612/13-14(02))

49. Secretary for Security ("S for S") briefed Members on the Administration's follow-up actions in the light of the Court of Final Appeal ("CFA")'s order in the judicial review case of *W v Registrar of Marriages* (FACV 4/2012) ("the W Case") made on 16 July 2013, concerning marriage registration by post-operative transsexual persons in Hong Kong.

50. Members noted the information note entitled "Court of Final Appeal order in the Judicial Review case *W v Registrar of Marriages*" prepared by the LegCo Secretariat.

[To allow sufficient time for discussion, members agreed that the meeting be further extended to 5:15 pm.]

Whether a marriage would become invalid when one of the parties to the marriage subsequently completed full sex reassignment surgery ("SRS")

51. Mr CHAN Chi-chuen said that although the Administration had pointed out in paragraph 12 of its paper that it attached great importance to CFA's comments and problems facing transsexuals, the scope of the Administration's proposed legislative amendments was very narrow. He expressed concern that with such legislative amendments, disputes might arise in future regarding issues such as whether the marriage of a person who had undergone full SRS thereafter would become invalid because it was no longer a marriage between a male and a female.

52. Referring to paragraph 9 of the Administration's paper, Ms Cyd HO asked whether a marriage would become invalid when one of the parties to the marriage had subsequently completed full SRS, thus causing the marriage to become one between two males or two females.

53. S for S responded that according to legal advice, a marriage would not automatically become invalid on the ground that one of the parties to the marriage had subsequently undergone full SRS. A married person who had subsequently undergone full SRS after marriage could apply for dissolving the marriage if he wished to do so.

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Whether the proposed legislative amendments had any impact on persons who had not undergone full SRS

54. Mr LEUNG Kwok-hung asked whether the proposed legislative amendments had any impact on a person who had not undergone full SRS. S for S responded that the sex of a person who had not undergone full SRS would not change after the enactment of the proposed legislative amendments.

Prima facie evidence of the sex of a person for the purpose of marriage registration

55. Mr Paul TSE expressed support for the Administration's introduction of legislative amendments to implement CFA's order in the W Case first before studying in detail the other issues raised by CFA in relation to the W Case. Referring to paragraph 8 of the Administration's paper, he expressed concern whether a person who had undergone full SRS would be required to produce other evidence besides personal identification document at the point of marriage registration. He asked whether a person who had undergone full SRS must report his or her change of sex and apply for change of the sex entry in his or her Hong Kong Identity Card ("HKIC"). He also asked whether the change of sex entry in HKIC of such a person would be made only after the person had dissolved the marriage relating to the person's previous sex.

56. Assistant Director of Immigration (Personal Documentation) responded that in order to obviate the need for transsexual persons who had undergone full SRS and had the sex entry on his or her HKIC changed to present the relevant birth certificate at the point of marriage registration, the Administration intended to introduce legislative amendments to the Marriage Ordinance (Cap. 181) to provide expressly that the sex of any party to a marriage as stated at the time of the marriage in his or her personal identification document would be prima facie evidence of the sex of that party. If the record of the Immigration Department ("ImmD") indicated that a person was of a different sex, ImmD would ask whether the person concerned had undergone full SRS and request him or her to apply for changing the sex entry on his or her HKIC. He pointed out that it was an offence under regulation 19 of the Registration of Persons Regulations (Cap. 177A) for a person who, without reasonable excuse, failed to report a change of particulars previously submitted for the purpose of registering and applying for an HKIC, including sex, in accordance with regulation 18(1)(a) of Cap. 177A.

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57. Mr CHAN Chi-chuen asked whether the sex of a person as appearing on his or her birth certificate would not be considered in the process of marriage registration after enactment of the proposed legislative amendments. S for S responded that the HKIC of a person would be prima facie evidence of the sex of a person at the time of marriage registration. A birth certificate was a record of the sex of a person at the time of birth. The sex entry on the birth certificate of a person could not be changed, even if the person had undergone full SRS.

High level interdepartmental working group

58. Regarding the high level inter-departmental working group referred to in paragraph 12 of the Administration's paper, Mr CHAN Chi-chuen sought information on the policy bureaux involved, the composition of "other appropriate members" and the timetable for establishment of the inter-departmental working group. Mr Charles MOK expressed concern how members of the working group would be identified and whether members of the working group would include transsexuals.

59. S for S responded that the high level interdepartmental working group was expected to be set up in the first quarter of 2014. Relevant policy bureaux would be involved. It was expected that the working group would consult stakeholders and other members of the public before submitting its proposals to the Administration. He said that Mr MOK's concerns would be conveyed to the working group.

Gender recognition and problems facing transsexuals

60. Dr Priscilla LEUNG said that the Administration's proposed legislative amendments to implement CFA's judgment in the W Case was acceptable, as it was confined to transsexual persons who had undergone full SRS. However, she was opposed to the enactment of legislation to allow transgender marriage. She said that a majority of the people in Hong Kong were supportive of maintaining a marriage institution based on monogamy between one male and one female and disagreed with CFA's comments regarding issues relating to gender recognition.

61. Mr Dennis KWOK expressed concern that although CFA had stated in its judgment that consideration should be given to enacting legislation to deal with various issues relating to gender recognition, the Administration's proposed legislative amendments were confined to persons who had undergone full SRS. He said that there might be challenges in court relating to persons who had not undertaken any SRS or had not fully completed SRS.

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62. Referring to paragraph 124 of the judgment, S for S responded that CFA had left open questions regarding transsexual persons who had undergone less extensive treatment. The high level inter-departmental working group to be established would undertake detailed study on gender recognition, taking into account CFA's views and striking a balance between the rights of transsexual persons and the rights of other affected persons in doing so.

63. Mr Charles MOK said that the Professional Commons was in support of addressing the issues concerned along the direction of gender recognition. Noting from paragraph 11 of the Administration's paper that CFA had remarked that the Administration should consider how best to address problems facing transsexuals in all areas of law by drawing reference to overseas practice, such as the Gender Recognition Act 2004 of the United Kingdom, he considered that the Administration had not fully addressed the issues raised by CFA.

64. S for S responded that CFA's order was confined to persons who had gone through full SRS, on which legislative amendments were to be introduced. CFA had also made comments on problems facing transsexuals in other areas of law, treatment of persons who had not fully completed SRS and issues relating to gender recognition, which involved complex issues to be studied by the high level inter-departmental working group to be formed.

65. Ms Cyd HO expressed concern whether an application for public rental housing would still be valid, if the applicant had undergone full SRS after submitting the application. She also expressed concern whether undergoing full SRS had any impact on a person's eligibility for married person's tax allowance. She said that consideration should be given to recognition of same-sex relationship in Hong Kong. S for S responded that the problems facing transsexuals and the subject of gender recognition would be studied by the high level inter-departmental working group. Ms HO's concerns would be conveyed to the working group. He stressed that the W Case did not involve same-sex relationship.

66. There being no other business, the meeting ended at 5:12 pm.