

立法會
Legislative Council

LC Paper No. CB(2)527/15-16
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by the Administration)

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Subcommittee to Study Issues Relating to Mainland-HKSAR Families

Minutes of the second meeting
held on Monday, 23 November 2015, at 4:30 pm
in Conference Room 1 of the Legislative Council Complex

- Members present** : Hon IP Kwok-him, GBS, JP (Chairman)
Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon WONG Kwok-hing, BBS, MH
Hon Cyd HO Sau-lan, JP
Hon CHEUNG Kwok-che
Hon LEUNG Kwok-hung
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, JP
Hon YIU Si-wing, BBS
Dr Hon Kenneth CHAN Ka-lok
Hon Alice MAK Mei-kuen, BBS, JP
Hon TANG Ka-piu, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
- Members absent** : Dr Hon LAM Tai-fai, SBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Elizabeth QUAT, JP
- Public Officers attending** : Item III
Mr LEE Kam-kwong
Principal Education Officer (New Territories)
Education Bureau

Mr Albert LEUNG Kwok-yan
Senior Education Officer (Placement & Support)
Education Bureau

Mr CHENG Kwan-yam
Chief Executive Officer
Home Affairs Department

Miss Winnie CHUI Hiu-lo
Principal Assistant Secretary (Security)
Security Bureau

Mr Allan AU Chi-lun
Assistant Secretary (Security)
Security Bureau

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

Miss Rita LAU Choi-ha
Chief Social Security Officer
Social Welfare Department

Ms Micy LUI Siu-ying
Chief Social Work Officer (Family & Child Welfare)
Social Welfare Department

Clerk in attendance : Mr Colin CHUI
Chief Council Secretary (2) 4

Staff in attendance : Miss Connie AU
Council Secretary (2) 3

Miss Meisy KWOK
Legislative Assistant (2) 6

Action

I. Application for late membership
[LC Paper No. CB(2)292/15-16(01)]

The Subcommittee accepted the application for late membership from Mr TANG Ka-piu.

Action

II. Confirmation of minutes

[LC Paper No. CB(2)206/15-16]

2. The minutes of the meeting held on 23 October 2015 were confirmed.

III. Progress on implementation of the recommendations of the Subcommittee to Study Issues Relating to Mainland-HKSAR Families formed under the House Committee of the Fourth Legislative Council

[LC Paper Nos. CB(2)292/15-16(02) and (03)]

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

Admin

4. The Subcommittee requested the Administration to provide information on –

- (a) the latest position and a breakdown by source of referral regarding the cases concerning Mainland single mothers that the Immigration Department had received in recent years seeking assistance for settlement in Hong Kong on compassionate grounds;
- (b) the number and demographic profile (e.g. age and education level etc.) of persons who had entered Hong Kong in the past 10 years under the One Way Permit ("OWP") Scheme; and
- (c) the number and age distribution of i) Mainland residents eligible to be "overage children" under the OWP Scheme, broken down by the year in which their natural fathers/mothers first obtained their Hong Kong Identity Cards, and ii) persons who had entered Hong Kong through the OWP Scheme as "overage children" in each phase of applications.

IV. Any other business

5. Members noted that the next meeting was scheduled for Wednesday, 23 December 2015 at 10:45 am.

6. There being no other business, the meeting ended at 6:28 pm.

**Proceedings of the second meeting of the
Subcommittee to Study Issues Relating to Mainland-HKSAR Families
on Monday, 23 November 2015, at 4:30 pm
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Application for late membership</i>			
000600-000815	Chairman	Opening remarks The Subcommittee accepted the application for late membership from Mr TANG Ka-piu.	
<i>Agenda item II – Confirmation of minutes</i>			
000816-000902	Chairman	Confirmation of minutes of meeting of 23 October 2015.	
<i>Agenda item III – Progress on implementation of the recommendations of the Subcommittee to Study Issues Relating to Mainland-HKSAR Families formed under the House Committee of the Fourth Legislative Council</i>			
000903-001725	Chairman Admin	Briefing by the Administration on the progress on implementation of the recommendations of the Subcommittee to Study Issues Relating to Mainland-HKSAR Families formed under the House Committee of the Fourth Legislative Council [LC Paper No. CB(2)292/15-16(02)].	
001726-002535	Chairman Mr LEE Cheuk-yan Admin	Mr LEE Cheuk-yan requested that a meeting be arranged to receive views from deputations. He enquired – (a) the estimated rounds of applications required to complete the processing of all applications for One Way Permit ("OWP") by Mainland "overage children" and details of the next round (i.e. phase six) of applications; (b) of the some 70 cases which had been issued with OWPs for settlement in Hong Kong on discretionary basis mentioned in paragraph 20 of the Administration's paper [LC Paper No. CB(2)292/15-16(02)], whether the majority were widowed single mothers; and (c) if there was any plan to open a channel for Mainland single mothers under the OWP scheme.	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>The Administration advised that –</p> <ul style="list-style-type: none"> (a) it had been in close liaison with the Mainland authorities regarding the next phase of OWP applications from Mainland 'overage children' but concrete information on the implementation details was not yet available; (b) the majority of the some 70 cases which had been issued OWPs for settlement in Hong Kong on discretionary basis were widowed single mothers; (c) for individual cases with special family difficulties but not eligible for application for OWPs, the Immigration Department ("ImmD") would reflect such cases to and liaise with the Mainland authorities having regard to the requests of the applicants and circumstances of the cases; and (d) the suggestion to open a channel for Mainland single mothers under the OWP Scheme involved complicated issues, for example, the possibility of inducing more pregnant Mainland women to enter Hong Kong through various channels for delivery and the problem of bogus marriage. These issues must be carefully deliberated. <p>Members supported the Chairman's proposal that members raise their areas of concern in the first round of deliberations after which the meeting would proceed to discuss individual items.</p>	
002536-003130	Chairman Mr YIU Si-wing Admin	<p>Mr YIU Si-wing urged the Administration to expedite the processing of cases on Mainland single mothers seeking assistance for settlement in Hong Kong. He further asked about –</p> <ul style="list-style-type: none"> (a) the estimated number of i) requests for assistance for Mainland single mothers; and ii) applications by eligible "overage children" to be processed in subsequent phases of applications; and (b) the sum expended by the Government in providing the necessary assistance for Mainland "overage children" already settled in Hong Kong and the number of persons benefited. 	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>The Administration responded that –</p> <ul style="list-style-type: none"> (a) it was not in a position to estimate the number of cases that would approach them for assistance; (b) the estimated number of eligible "overage children" to be processed under the OWP Scheme was not available from either the Hong Kong Government or the Mainland authorities; and (c) as for the remaining cases concerning Mainland single mothers seeking assistance for settlement in Hong Kong on compassionate grounds and other cases meriting special consideration, ImmD would continue to reflect to and liaise closely with the Mainland authorities. 	
003131-003605	Chairman Ms Emily LAU Admin	<p>Ms Emily LAU supported the request for receiving public views at a Subcommittee meeting.</p> <p>At Ms LAU's request, the Administration undertook to provide information on the latest position and a breakdown by source of referral regarding the 140 odd cases that ImmD had received concerning Mainland single mothers in recent years seeking assistance for settlement in Hong Kong on compassionate grounds. The Administration supplemented that the time needed to process each case varied and would depend on the complexity in establishing the facts of the cases concerned.</p>	Admin (paragraph 4(a) of the minutes)
003606-004329	Chairman Mr TANG Ka-piu Admin	<p>Mr TANG Ka-piu asked about –</p> <ul style="list-style-type: none"> (a) the criteria adopted, if any, by the Mainland authorities in according priorities to cases seeking approval of OWPs on compassionate grounds; (b) the progress on the implementation of a mechanism allowing OWP holders who found themselves difficult to adapt to living in Hong Kong, to return to Mainland; and (c) the progress with regard to the review of the fee scale for use of subsidized obstetric services by Mainland pregnant women whose husbands were Hong Kong residents. 	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>The Administration replied that –</p> <ul style="list-style-type: none"> (a) the granting of OWPs to Mainland single mothers on compassionate grounds was not within the established policy framework and the Mainland authorities would consider each case having regard to the merits of individual circumstances; (b) the implementation of a system allowing OWP holders to return to Mainland was still under consideration by the Mainland authorities. It was given to understand that more time was needed to sort out the details like household registration etc.; and (c) the issue of obstetric service had to be addressed by a representative of the Food and Health Bureau or the Hospital Authority at a future meeting. 	
004330-004909	Chairman Mr LEUNG Yiu-chung Admin	<p>Mr LEUNG Yiu-chung also supported the request for receiving public views at a Subcommittee meeting as soon as possible.</p> <p>With a view to facilitating Mainland adult children to take care of their aging parents in Hong Kong, Mr LEUNG enquired the viability of opening a channel under the OWP Scheme for adult children who were currently not eligible to apply for OWP as "overage children".</p> <p>The Administration reiterated that these OWP applications would be handled on a case by case basis.</p>	
004910-005532	Chairman Mr Christopher CHUNG Admin	<p>Mr Christopher CHUNG raised the following concerns and views –</p> <ul style="list-style-type: none"> (a) the implication of the recent review of the population policy in Hong Kong on Mainland-HKSAR families and why the problems of Mainland-HKSAR families still persisted; and (b) as children born to Mainland mothers in Hong Kong were citizens of Hong Kong, they should be entitled to the same family care and social support as other children. The Administration should therefore facilitate their Mainland mothers to settle in Hong Kong to render proper care to their children. Child rearing without proper family care might give rise to a host of social problems at the expense of the society. 	

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		<p>The Administration advised that –</p> <p>(a) the Steering Committee on Population Policy acknowledged that given the prevalence of cross-boundary marriages, there was a continued need for the OWP Scheme to enable eligible Mainland residents to come to Hong Kong in an orderly manner for family reunion and new arrivals under the OWP Scheme would continue to be the major source of our population growth; and</p> <p>(b) assistance for Mainland residents with special family difficulties seeking approval for settlement in Hong Kong would be provided on a case by case basis.</p> <p>Mr CHUNG asked if ImmD had ever exercised its discretionary power to approve the settlement of Mainland residents in Hong Kong for special and justifiable cases.</p> <p>The Administration assured members that ImmD would carefully consider all relevant factors with reference to the individual circumstances of the cases. They would reflect such cases to and liaise with the Mainland authorities in the first place to see if the cases merited special consideration. It also confirmed that ImmD had exercised their discretionary power in the past.</p>	
005533-010015	Chairman	Completion of the first round of deliberations. Members proceed to discuss individual items, the first one was OWP Scheme.	
010016-011321	Chairman Mr LEUNG Kwok-hung Mr LEE Cheuk-yan Admin	<p>Mr LEUNG Kwok-hung commented that –</p> <p>(a) whether the OWP Scheme could be adjusted was more of a political consideration instead of an administrative concern;</p> <p>(b) it was unfair for the Mainland authorities to impose control on the flow of population from Mainland into Hong Kong while there was not a corresponding control vice versa; and</p> <p>(c) the 150 daily OWP quota should be fully utilized to facilitate family reunion.</p> <p>Further to Mr LEUNG's comment, the Chairman sought the Administration's clarification on whether the vetting and approval of OWP applications could be done by the HKSAR Government under the Basic Law.</p>	

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		<p>Mr LEE Cheuk-yan asked if the HKSAR Government could perform the gate-keeper's role and refuse the entry of persons even if they were granted OWPs.</p> <p>The Administration explained that –</p> <p>(a) the approval system for OWP was drawn up having regard to Article 22(4) of the Basic Law as well as the interpretation by the Standing Committee of the National People's Congress in 1999, and according to which the approval of OWPs was within the remit of the Mainland authorities; and</p> <p>(b) Hong Kong performed the gate-keeper's role in various fronts, for example, persons who were found to have entered Hong Kong with OWP obtained with the submission of false information would be repatriated to the Mainland. Besides, the Government would communicate and follow up with the Mainland authorities on individual cases seeking special consideration on compassionate grounds.</p>	
011322-011545	Chairman Mr LEUNG Yiu-chung	<p>Mr LEUNG Yiu-chung opined that in view of the confines of the Basic Law, there was little room for discussion on the 150 daily OWP quota, but he hoped that the Administration could maximize the use of the daily quota through flexible administrative measures.</p> <p>The Chairman said that issues relating to the daily OWP quota would be discussed under the next item.</p>	
011546-011714	Chairman Mr Christopher CHUNG Admin	<p>Mr Christopher CHUNG asked how the Mainland authorities, in exercising their discretion in issuing OWPs, would accord priority to applicants who did not fulfill the eligibility criteria.</p> <p>The Chairman said that it was more appropriate to discuss the issue under the item on Mainland single mothers.</p>	
011715-013121	Chairman Mr LEUNG Yiu-chung Admin	<p>Members proceeded to deliberate on the issue of the daily OWP quota.</p> <p>Noting that more than 40 000 unused OWP quota had been accumulated over the years, Mr LEUNG Yiu-chung strongly urged the Administration to liaise with the Mainland authorities to allow Mainland residents of other</p>	

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		<p>categories to come to Hong Kong for family reunion. He considered that the assistance granted by the Government on a case level was not entirely effective or sufficient in addressing the immigration problems faced by Mainland-HKSAR families.</p> <p>The Administration pointed out that –</p> <p>(a) the exact number of unused OWP quota accumulated throughout the years would depend on the date from which the unused quota was counted;</p> <p>(b) the relaxation of the approval criteria to allow additional categories of Mainland residents to apply for OWPs should be considered in a holistic manner having regard to its implications on a number of concerns, including the potential OWP applications by the spouse and children (who were Mainland residents) of these new arrivals after they had settled in Hong Kong as well as the provision of public services for these new arrivals;</p> <p>(c) a number of measures to fine-tune and relax the requirements of the OWP Scheme had in fact been implemented in recent years by the Mainland authorities; and</p> <p>(d) the handling of applications by Mainland residents with special family circumstances on a case by case basis was a pragmatic approach in addressing their needs.</p>	
013122-013640	Chairman Mr CHEUNG Kwok-che Admin	<p>At the request of Mr CHEUNG Kwok-che, the Administration undertook to provide information on the number and demographic profile (e.g. age and education level etc.) of persons who had entered Hong Kong in the past 10 years under the OWP Scheme.</p> <p>To facilitate members' discussion on the way forward, Mr CHEUNG also requested information on the types of cases seeking assistance from ImmD for settlement in Hong Kong outside prevailing policy. He was of the view that if there were many cases of similar nature, it might warrant the treatment at policy level.</p>	Admin (paragraph 4(b) of the minutes)
013641-014634	Chairman Mr LEUNG Yiu-chung Admin	Members proceeded to deliberate the issue of OWP applications by Mainland "overage children".	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>Mr LEUNG Yiu-chung reiterated his request for relaxation of the application criteria for OWP to make full use of the daily OWP quota.</p> <p>The Administration explained –</p> <p>(a) that the current OWP Scheme aimed to facilitate the arrival of Mainland residents for family reunion in a smooth and orderly manner; and</p> <p>(b) relaxation of the age limit of "overage children" under the OWP Scheme would probably impose much uncertainty to the Scheme and deviate from the established principle of pragmatic, smooth and orderly arrival of Mainland residents.</p> <p>Mr LEUNG was not convinced by the Administration's reply.</p>	
014635-015750	Chairman Mr CHEUNG Kwok-che Admin	<p>Mr CHEUNG Kwok-che proposed expanding the range of date on which the applicants' fathers or mothers obtained their first Hong Kong Identity Cards so that more applications could be processed in each round of applications. The Administration undertook to relay this suggestion to the Mainland authorities for consideration.</p> <p>Mr CHEUNG also requested for information on the number and age distribution of i) Mainland residents eligible to be "overage children" under the OWP Scheme, broken down by the year in which their natural fathers/mothers first obtained their Hong Kong Identity Cards, and ii) persons who had entered Hong Kong through the OWP Scheme as "overage children" in each phase of applications. The Administration would explore the availability of such information and revert.</p>	Admin (paragraph 4(c) of the minutes)
015751-015919	Chairman	Arrangement for subsequent meetings.	
<i>Agenda item IV – Any other business</i>			
015920-015939	Chairman	Closing remarks	