

立法會
Legislative Council

LC Paper No. CB(2)649/14-15
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by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Tuesday, 16 December 2014, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex

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

Member absent : Hon CHEUNG Kwok-che

Public Officers attending : Item IV
Mr Donald TONG Chi-keung, JP
Commissioner for Labour

Mrs Tonia LEUNG SO Suk-ching, JP
Assistant Commissioner for Labour
(Employment Services)

Miss Cindy YIM Lai-kwan
Senior Labour Officer (Employment Services)
(Operation)
Labour Department

Item V

Mr Donald TONG Chi-keung, JP
Commissioner for Labour

Miss Mabel LI Po-yi, JP
Assistant Commissioner for Labour (Development)

Mr William MAK Chi-tung
Chief Labour Officer (Statutory Minimum Wage)
Labour Department

Ms Kate TAM Wing-tsz
Senior Labour Officer (Statutory Minimum Wage)
Labour Department

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

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

Ms Mina CHAN
Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)439/14-15)

The minutes of the meeting held on 18 November 2014 were confirmed.

II. Information paper 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)441/14-15(01) and (02))

Regular meeting in January 2015

3. Members agreed that the Panel would receive briefings by the Secretary for Labour and Welfare and the Secretary for Education on the relevant policy initiatives in the Chief Executive's 2015 Policy Address at the next regular meeting scheduled for 20 January 2015.

4. Miss CHAN Yuen-han suggested the Panel to consider appointing subcommittees to study issues relating to legislating for standard working hours, alignment of statutory holidays with general holidays and the offsetting arrangement under the Mandatory Provident Fund system. Mr Tommy CHEUNG, however, expressed reservations about the proposal having regard to the commitment and the availability of members to participate in the work of the subcommittees if so formed. The Chairman requested Miss CHAN Yuen-han to provide details of the work plan and terms of reference of the proposed subcommittee(s) for members' further discussion at the next regular meeting in January 2015.

IV. Tung Chung Job Centre
(LC Paper Nos. CB(2)441/14-15(03) and (04))

5. At the invitation of the Chairman, Commissioner for Labour ("C for L") briefed members on the latest progress in setting up a job centre in Tung Chung. C for L added that as at 30 November 2014, altogether 3 500 visitors for various facilities and services were recorded after the new Tung Chung Job Centre ("TCJC")'s commissioning.

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6. Members noted the background brief entitled "Tung Chung Job Centre" prepared by the Legislative Council ("LegCo") Secretariat.

Provision of employment support services

7. Noting that TCJC planned to organise six district-based job fairs for local employers during the period from mid-November to end of December 2014, Mr POON Siu-ping sought information on the participation of employers and the effectiveness of such job fairs in assisting job seekers to secure employment.

8. In reply, C for L said that four district-based job fairs had already been completed during the aforesaid period and the remaining two would be staged on 23 and 30 December 2014 respectively. Altogether, over 20 employers from organisations at the Hong Kong International Airport and Lantau Island had participated in the job fairs, offering some 400 job vacancies.

9. While welcoming the establishment of TCJC and expressing satisfaction about its provision of employment support services, Miss CHAN Yuen-han was concerned how it could better serve job seekers of Lantau Island. Miss CHAN enquired whether the Government had analysed the residential districts of job seekers who had visited TCJC so as to better understand the service need of those job seekers who were residing in other parts of Lantau Island, such as Mui Wo and Tai O. Acknowledging that it might not be cost-effective to set up job centres in different locations on the island, Miss CHAN called on the Government to consider providing mobile employment support services to job seekers residing in the remote areas.

10. C for L responded that while the Government did not have ready information on the residence of job seekers served by TCJC, it was understood that the majority of them were Tung Chung residents. He said that the Labour Department ("LD") would seek to provide the requested information as far as practicable after the meeting. C for L added that while job seekers were welcome to visit TCJC in person, they could also obtain the latest job vacancy information through LD's Interactive Employment Service ("iES") website as well as several hundreds of vacancy search terminals located at its various job centres and other easily accessible locations, including Public Enquiry Service Centres of Home Affairs Department, community centres, and certain non-governmental organisations ("NGOs"), and make direct job

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applications. In addition, job seekers could make use of iES applications to browse job vacancy information through smart phones or mobile communication devices.

11. Miss CHAN Yuen-han, however, noted with concern that there was a considerable number of vulnerable job seekers on Lantau Island, in particular the ethnic minorities ("EMs"), who might not possess the information technology knowledge or the devices in accessing the employment support services of LD through the iES website or electronic applications. In anticipation of the construction of various mega infrastructure projects in the neighboring areas of Tung Chung, Miss CHAN said that there would be a pressing need for labour supply in the district. She urged the Government to seriously consider introducing mobile employment support services with a view to facilitating job matching in Tung Chung and thus reducing the travelling cost incurred by the local residents in working across districts. In response, C for L stressed that LD had been providing employment support and training services to job seekers through various channels and means to help them seek employment.

12. In response to Mr TANG Ka-piu's enquiry about employment support services to Tung Chung residents with business aspirations, C for L said that having regard to available resources, LD operated two Youth Employment Resource Centres i.e. "Youth Employment Start" at Mongkok and Kwai Fong, which had been providing effective one-stop employment and self-employment support service for young people.

Employment support services to groups with special needs

13. While welcoming the setting up of TCJC, Dr KWOK Ka-ki pointed out that there was a considerable number of EMs and vulnerable families in Tung Chung who needed specific employment services. Specifically, single parents could only take up part-time jobs in order to take care of their young children. He enquired about the unemployment situation in the district and the specific measures in place to address the employment difficulties of these groups of job seekers, such as language barrier faced by EMs.

14. Sharing a similar concern about the employment difficulties encountered by EMs, Mr TANG Ka-piu was of the view that the Government should proactively reach out to the EM community to enhance their awareness of TCJC's employment support services, say, mailing flyers to all households in Tung Chung.

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15. Responding to members, C for L said that there was a downward trend of the unemployment situation in Island District. According to the latest labour force statistics released by the Census and Statistics Department ("C&SD"), in 2013, the unemployment rate in the district was 3.1% which was lower than the overall unemployment rate of 3.4% in Hong Kong at the time. C for L further said that a total of 244 job seekers, including 109 males and 135 females, who were residing in Tung Chung and nearby area had registered for LD's free employment services as at 30 November 2014. Among them, there were 13 EMs and 12 new arrivals. Upon commencement of TCJC's soft commissioning, LD had carried out promotion through various channels, including mailing flyers to 17 500 households in Tung Chung to publicise the establishment and services of TCJC. Another round of mailing exercise would soon be conducted. In addition, TCJC maintained close contact with NGOs, such as the Support Service Centre for EMs of the Neighbourhood Advice-Action Council, the Hong Kong Outlying Island Women's Association and the Hong Kong Sheng Kung Hui Tung Chung Integrated Services, providing services in the district for groups with special needs so as to attain a better understanding of the employment needs and situation of the groups concerned. It also strengthened collaboration with NGOs and encouraged them to refer job seekers with employment needs to LD for employment support services.

16. Mr POON Siu-ping was concerned about the effectiveness of the pilot project "Employment Services Ambassador Programme for Ethnic Minorities" launched by LD in September 2014.

17. C for L advised that a total of 18 EMs were offered employment as trainees in job centres under the pilot project (including two in TCJC) and 15 of them accepted the appointment. These youths would undergo six-month on-the-job training with monthly remuneration of \$8,200. The project sought to help job centres proactively reach out to other EM job seekers and enhance the provision of employment services to them. It also helped the trainees acquire work experience and skills and map out their career plans. Upon completion of the project in March 2015, LD would conduct a review on the effectiveness of the pilot project.

18. The Deputy Chairman enquired about the effectiveness of employment support services provided by LD's job centres, including TCJC, in terms of job matching and assisting Comprehensive Social Security Assistance ("CSSA") recipients to find employment and thus left the CSSA net.

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19. C for L advised that LD had successfully assisted around 14 000 job seekers, including about 60% of females and 40% of males, in securing employment through its referral service during the period from January to November 2014. C for L further advised that the Social Welfare Department had commissioned a NGO to operate the Integrated Employment Assistance Programme for Self-reliance to assist able-bodied CSSA recipients to enhance their employability to find paid employment as soon as possible through the provision of a range of one-stop integrated employment assistance services. LD, on the other hand, assisted all job seekers to secure employment irrespective of whether they were on CCSA. TCJC had made 82 job referrals since its commencement of operation up to 30 November 2014 and 10 job seekers had successfully secured employment through its referral services.

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20. At the suggestion of the Deputy Chairman, C for L agreed that statistics on successful job matching in Tung Chung and the neighbouring areas would be incorporated in the Government's paper on the review of employment support services of TCJC if and when the subject was to be discussed by the Panel in future.

Extension of LD's service

21. Mr TANG Ka-piu expressed disappointment at the lack of conciliation service of LD's Labour Relations Division ("LRD") on Lantau Island. This had deterred employees working on Lantau Island including the Hong Kong International Airport to seek appropriate assistance from LD in the event that they had labour disputes. Mr TANG considered that LD should set up offices on Lantau Island to extend its service coverage to labour disputes and employees' compensation claims.

22. C for L advised that employees were welcome to seek consultation service over the phone or in person at LRD's offices as and when necessary. The Government would keep in view the service need for LD's conciliation service on Lantau Island having regard to available resources.

23. To better assess the need for LD's conciliation service on Lantau Island, the Chairman said that it would be useful for the Government or relevant organisations to compile statistics on cases of labour disputes and claims from employees residing or working in the district.

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V. Results of review of the special arrangement for employees with disabilities under the Statutory Minimum Wage regime
(LC Paper Nos. CB(2)441/14-15(05) and (06))

24. At the invitation of the Chairman, C for L briefed members on the results of a review conducted by LD on the special arrangement for employees with disabilities under the Statutory Minimum Wage ("SMW") regime.

25. Members noted the background brief entitled "Special arrangement for employees with disabilities under the Statutory Minimum Wage regime" prepared by the LegCo Secretariat.

Special arrangement for employees with disabilities

26. The Deputy Chairman expressed appreciation of the efforts made by LD and other relevant organisations in promoting employment of persons with disabilities. While commending on the smooth operation of the special arrangement since the inception of the Minimum Wage Ordinance (Cap. 608) ("MWO") in 2011, the Deputy Chairman said that there was concern about the complexity of the procedures and methods of assessment. She enquired whether the Government would consider simplifying the productivity assessment mechanism.

27. C for L responded that the special arrangement aimed to strike a reasonable balance between providing wage protection to employees with disabilities and safeguarding their employment opportunities. It was gathered from the assessment cases that amongst those employees with disabilities, their family members and employers that had expressed views on the assessment mechanism, the majority considered the existing assessment mechanism appropriate and simple to invoke and it helped protect or promote job opportunities of employees with disabilities and facilitate their continued employment. C for L stressed that serving employees with disabilities who had opted for the transitional arrangement under MWO before the implementation of SMW could invoke the assessment any time having regard to their individual circumstances and needs. He advised that the Government considered it appropriate to maintain the existing assessment mechanism and would continue to explore appropriate enhancement measures for the special arrangement.

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28. In response to Miss CHAN Yuen-han's enquiry, C for L affirmed that as at the end of November 2014, 438 approved assessors had been appointed to conduct assessment for employees with disabilities under MWO. These assessors possessed the requisite experience and completed satisfactorily the relevant training arranged by LD for the purpose of carrying out the assessment for persons with disabilities under MWO.

Results of review of the special arrangement

29. Miss CHAN Yuen-han noted with concern that among 389 cases of assessment conducted under MWO during the period from 1 May 2011 to 30 June 2014, only around 80% of the employees with disabilities and employers were satisfied or very satisfied with the assessment results. Miss CHAN sought more information on those who indicated otherwise.

30. C for L responded that about 20% of employees with disabilities who had undergone the productivity assessment were dissatisfied with or had not provided views on the assessment results, and the reasons of dissatisfaction commonly mentioned were that the assessed level of productivity did not meet their expectation or the post-assessment wage level was unsatisfactory.

31. Referring to item (5) in Annex II of the Administration's paper, Mr POON Siu-ping sought information on the educational level of employees concerned under the category of "Others", which amounted to nine assessment cases (i.e. 2.3% of all assessments). In response, C for L advised that the employees concerned had received vocational training or possessed post-secondary qualifications.

32. Regarding the 389 assessments conducted, Mr POON Siu-ping, Mr TANG Ka-piu and Mr LEE Cheuk-yan raised similar concerns that the majority of the employers (i.e. around 60%) of the assessed employees had a total employment size up to 29 persons. These members asked about the rationale for the less active participation of large enterprises in the employment of persons with disabilities. Pointing out that the number of productivity assessments conducted in private organisations was fewer than those in NGOs or their social enterprises, Mr POON was concerned whether private organisations had adequate knowledge about the assessment mechanism.

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33. In response, C for L stressed that there was no correlation between the percentage of all assessments conducted in large enterprises and the actual number of employees with disabilities engaged by them or their willingness to recruit employees with disabilities. While the assessment mechanism was designed for employees with disabilities upon the implementation of MWO, the figures only represented the number of assessments conducted in respect of employees with disabilities who had opted to undergo the productivity assessment and it had excluded those persons with disabilities who earned wages at or above the SMW rate and thus needed not undergo the assessment.

34. Of the 389 cases of productivity assessment, Mr TANG Ka-piu was concerned about the impact of the assessment on the wage level of the serving employees with disabilities.

35. C for L advised that about 90% of the serving employees with disabilities who had been in employment and opted for the transitional arrangement prior to MWO taking effect and had undergone productivity assessment (i.e. 65 out of 73 responding employees) subsequently got a pay rise after the assessment, and the wage levels of the remaining ones mostly remained unchanged.

36. Mr LEE Cheuk-yan was gravely concerned that serving employees with disabilities who had opted for the transitional arrangement would retain their contractual wage rate below the SMW rate if they had not undergone the assessment. Notwithstanding that these employees could decide on their timing of invoking productivity assessment, Mr LEE was concerned that as a result of the undue pressure from their employers who were concerned about the possibility of wage increase after the assessment, the majority of these employees dared not to invoke the productivity assessment. Mr LEE considered it far from satisfactory that only 389 cases of productivity assessment had been conducted since the implementation of the mechanism in 2011. In his view, the Government should require all serving employees with disabilities, including those working in the subvented rehabilitation organisations, to undergo the assessment progressively with a view to ensuring their wage commensurate with their productivity level. Mr LEE remarked that the Rehabilitation Advisory Committee ("RAC") should address the issue squarely.

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37. C for L advised that newly employed persons with disabilities who were remunerated at or above the SMW rate needed not undergo the productivity assessment. According to MWO, the right to invoke the assessment was solely vested in the employees with disabilities, not their employers or any other parties. He pointed out that among those employees with disabilities or their family members and their employers who expressed views on the assessment mechanism, the majority considered the existing assessment mechanism appropriate and simple to invoke and it helped protect or promote job opportunities of employees with disabilities and facilitate their continued employment. C for L stressed that the option of transitional arrangement would lapse when a serving employee with disabilities was no longer engaged by the same employer or the kind of work to be done had changed though under the employment by the same employer. Moreover, according to MWO, serving employees with disabilities who had opted for the transitional arrangement might, prior to assessment, retain their original wage rate which would follow the same percentage of adjustment of the SMW rate, if any. The Government considered that the transitional arrangement should be retained so that the serving employees with disabilities might continue to invoke assessment by contacting approved assessors to be selected from the "Register of Approved Assessors" of LD out of their own choice to conduct the assessment any time having regard to their individual circumstances and needs.

38. C for L added that RAC noted the smooth functioning of the assessment mechanism and was generally of the view that the existing simple operation of the assessment mechanism could be maintained.

39. While understanding that the right to invoke the productivity assessment was solely vested in the employees with disabilities, Miss CHAN Yuen-han said that LD should be more proactive to help settle labour disputes upon receipt of complaints from employees with disabilities in respect of the assessment mechanism.

40. C for L said that LD would step up communication with NGOs providing services to persons with disabilities and enhance their knowledge about the assessment mechanism such that assistance could be offered to employees with disabilities who wished to invoke the assessment. Besides, LD would render advice to employers and employees concerned upon receipt of complaints in respect of the productivity assessment, as appropriate.

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41. Mr LEE Cheuk-yan enquired about the assistance rendered by the Selective Placement Division ("SPD") of LD to persons with disabilities in securing employment and whether the jobs so referred were remunerated at the SMW rate or above.

42. C for L advised that SPD of LD provided free and personalised employment services to job seekers with disabilities for open employment. During the period from January to November 2014, SPD made 2 335 placements of persons with disabilities. In all placement cases achieved through SPD's employment services, the employees with disabilities were offered wages no less than the SMW rate. In respect of the job vacancies received from employers for posting at LD's job centres, C for L said that employers concerned had been reminded to pay the employees, to whom MWO applied, hired to fill the posts concerned wages no less than the SMW rate as specified in MWO.

43. In response to Mr LEUNG Yiu-chung's enquiry, C for L advised that of the 389 assessment cases, the assessment results of about 57% of the cases showed productivity level of 70% or above.

44. Given that there were only 389 assessment cases since the implementation of the assessment mechanism, the Chairman wondered whether the mechanism should be scrapped in the light of the small number of assessments. In his view, the Government should instead encourage the employers to assume their corporate social responsibilities to engage more persons with disabilities. In this connection, the Chairman sought information on the employment statistics of persons with disabilities, including the total number of such employees and those who were remunerated at or above the SMW rate.

45. C for L responded that C&SD conducted a new round of Special Topic Enquiry on Persons with Disabilities and Chronic Diseases in 2013. Reference could be made to the relevant employment statistics upon the release of the thematic study report. In response to Mr TANG Ka-piu's follow-up enquiry, C for L advised that to his understanding, the report was being finalised.

Whether an appeal mechanism should be put in place

46. Miss CHAN Yuen-han expressed concern about the absence of an appeal mechanism to review the assessment results under the special arrangement. She held the view that there was a need for an appeal mechanism to handle disputes over the assessment results.

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47. In response, C for L said that should an appeal/review arrangement be set up, a number of operational issues had to be resolved in the first place, such as whether both the employees with disabilities and their employers could seek appeal/review. Moreover, an appeal/review arrangement would complicate the assessment mechanism and could create undue psychological pressure on employees with disabilities, which would in turn affect their performance during the assessment. The arrangement of periodic reviews could also impose a labelling effect on the employees with disabilities concerned or dampen employers' willingness to employ persons with disabilities. C for L pointed out that some rehabilitation organisations reflected that the productivity of individual employees with disabilities might deteriorate owing to the changing state of their disabilities and the result of the second assessment would not necessarily excel the first one.

48. Miss CHAN Yuen-han, however, remained of the view that the lack of an appeal/review arrangement was unfair to employees with disabilities. She called on the Government to consider seriously setting up an appeal mechanism.

Provision of wage subsidy

49. While acknowledging that there was concern about the impact of SMW on the employment opportunities of persons with disabilities, Mr LEE Cheuk-yan expressed dissatisfaction about the productivity assessment mechanism under which the wage rate of the assessed employees would, according to their productivity level, be set at a level below the SMW rate. Pointing out that some members had strongly requested for the provision of a wage subsidy when the Minimum Wage Bill and its subsidiary legislation were under the scrutiny of LegCo, Mr LEE reiterated the request that the Government should top up the difference between the SMW rate and the wage rate of those employees with disabilities whose productivity was assessed to be less than 100%.

50. Mr LEUNG Yiu-chung and Mr LEUNG Kwok-hung echoed a similar view. Given that the majority of employees with disabilities who had undergone productivity assessment showed a high percentage of productivity, both members remarked that the financial implication of providing wage subsidy to employees with disabilities concerned would be insignificant. Mr LEUNG Yiu-chung called on the Government to seriously consider providing wage subsidy to employees with disabilities with a view to safeguarding their basic livelihood. Mr LEUNG

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Kwok-hung was of the view that employees with disabilities should not be discriminated under the minimum wage policy. The Government should provide wage subsidy to employees with disabilities or financial incentive to employers concerned to ensure that the wage rates of employees with disabilities were on par with able-bodied employees under MWO and encourage them to join the workforce.

51. Responding to members, C for L said that the objective of setting up the SMW regime under MWO was to provide a wage floor with a view to forestalling excessively low wages of employees, which was different from safeguarding the basic livelihood of the employees concerned. The Government had no plan to implement the suggestion of providing wage subsidy to employees with disabilities since it was not the policy intent of MWO. The suggestion of wage subsidy would involve major policy considerations with far-reaching implications on public finance. Persons with disabilities with financial difficulties could apply for assistance under the social security system to meet their basic needs as necessary. Pending the funding approval of LegCo's Finance Committee on the proposed Low-income Working Family Allowance, employees with disabilities from eligible low-income families would also benefit from the new scheme.

52. Mr LEUNG Yiu-chung, however, remained concerned that provision of financial assistance under the social security system for employees with disabilities was deviated from the intent of setting up a SMW regime to provide wage protection to employees.

Measures to facilitate employment of persons with disabilities

53. To promote the employment of persons with disabilities, the Deputy Chairman enquired whether the Government would consider setting a mandatory employment quota requiring large enterprises to employ a specified percentage of employees with disabilities.

54. C for L responded that the Government had made reference to the overseas experiences in adopting a mandatory employment quota which had not been proven successful in helping persons with disabilities to secure employment. Notably, there were cases in which employers chose to pay a fine in lieu of meeting the mandatory employment quota. In effect, some countries had eventually abolished the mandatory employment quota for persons with disabilities, for instance, the discontinuation of such a requirement in the United Kingdom from 1995. In addition, there was also concern about creating a labelling effect on

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employees with disabilities. The Chairman, however, raised queries as to whether the level of penalty for not meeting the mandatory employment quota was too low to achieve the desired outcome.

55. Noting that persons with disabilities were not eligible for transport subsidy under the Work Incentive Transport Subsidy ("WITS") Scheme in connection with commuting to and from sheltered workshops, Mr TANG Ka-piu asked whether the Government would consider extending the coverage of the Scheme in this regard.

56. C for L advised that sheltered workshops provided vocational rehabilitation service for users who were neither employed nor self-employed. Travelling costs incurred by these service users in commuting to and from sheltered workshops were therefore not covered by the WITS Scheme, which aimed to relieve the financial burden of employed persons (including self-employed ones) on work-related travelling expenses. That said, Mr TANG Ka-piu's suggestion would be taken into consideration in the comprehensive review of the WITS Scheme which was underway.

57. There being no other business, the meeting ended at 6:15 pm.

Council Business Division 2
Legislative Council Secretariat
16 January 2015