

**For discussion
on 9 February 2015**

Legislative Council Panel on Welfare Services

Revision of Fees under the Adoption Ordinance (Cap. 290)

Purpose

This paper briefs Members on the proposed revisions to two guardian ad litem (GAL) fee items related to the adoption service specified in the Adoption Rules (Cap. 290A) and the Convention Adoption Rules (Cap. 290D) made pursuant to the Adoption Ordinance (Cap. 290).

Background

2. The Adoption Ordinance (Cap. 290) makes provisions for the adoption of children, gives effect in Hong Kong to the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption (the Convention) and provides for incidental and connected matters. Under section 4 of Cap. 290, the Court may, upon an application made in the prescribed manner, make an order authorising the adoption of an infant (who refers to a person under the age of 18 and who is not or has not been married). While the Adoption Rules (Cap. 290A) sets out the procedures governing applications for non-Convention related adoptions, e.g. local adoptions, the Convention Adoption Rules (Cap. 290D) governs the applications for adoption under the Convention.

3. Under Cap. 290A and Cap. 290D, the Director of Social Welfare (DSW) will be appointed as GAL of the infant in an adoption application unless the Court has appointed other persons whom it thinks fit as GAL. DSW, as GAL, has to investigate as fully as possible all circumstances relevant to the proposed adoption and make a report to the Court to ensure that adoption is in the best interests of the infant. Some of the infants to be adopted are orphans, abandoned babies or children relinquished by their parents, while others may be related to the

applicants, for example, step-children being adopted to legalise the relationship.

4. An applicant for an adoption order in Hong Kong is required, either under Cap. 290A or Cap. 290D, to pay to DSW a fee in recognition of the costs incurred by DSW in acting as GAL for the infant. The current GAL fee for non-Convention and that for Convention adoption applications are both set at \$2,840, and this fee level has not been revised since 1997 and 2006 respectively¹. In the past three years, the average number of infants adopted, involving payment of GAL fees, was 119 per annum. All these cases involved locally adopted infants.

5. In line with the “user pays” principle, it is Government’s policy that fees charged by the Government should in general be set at levels sufficient to recover the full cost of providing the services. On the other hand, it has been the Government’s policy that applicants should not be discouraged from adopting children who have lost their parents or whose parents are unwilling to maintain them. Striking a balance between these two policy objectives, we seek to recover 20% of the full cost incurred in the execution of statutory duties under Cap. 290A or Cap. 290D.

The Proposals

6. The Social Welfare Department (SWD) recently completed a review of the two GAL fee items. The results show that the cost recovery rate of the two fee items at the prevailing level of \$2,840 falls short of the target of 20% of the full cost at 2015-16 price level. We propose to increase each of the two GAL fee items: (a) from \$2,840 to \$3,970 on 1 June 2015 to attain 20% of the full cost at 2015-16 price level; or (b) by about 12% in each of three consecutive years starting from June 2015. The option under (a) would be a neat and tidy one where option (b) would represent a gradual incremental approach whereby the two GAL fees will be increased from \$2,840 to \$3,170 with effect from 1 June 2015, from \$3,170 to \$3,550 with effect from 1 June 2016 and from \$3,550 to \$3,970 with effect from 1 June 2017, as detailed in the **Annex**.

¹ Under Cap. 290A, the GAL fee has been revised from \$2,610 to \$2,840 since May 1997. Under Cap. 290D, the GAL fee has been set at the same level (i.e. \$2,840) since Cap. 290D came into effect in January 2006.

7. In both scenarios, the increase, in monetary terms, would be moderate and should not deter applicants from adopting infants. Under either option (i.e. after the two GAL fee items has been increased to \$3,970 either on 1 June 2015 or 1 June 2017), DSW would review the fee for each of the two GAL items every year after the proposed fee revision with a view to bringing the fees to the target of 20% of the full cost. Under option (a), the increase in June 2015 would be a sharper one when compared with that under option (b) which would be spread over three years from June 2015 to June 2017. However, the increase under option (a) after June 2015 should be gradual and incremental whereby the increase under option (b) in the year following June 2017 could be sharper.

Efficiency Improvement Measures

8. SWD will continue to enhance efficiency and streamline work procedures so as to contain the costs of providing adoption service.

Financial Implications

9. When the proposed fee adjustments are implemented, the estimated increase in annual revenue is \$134,470 under option (a); and is \$39,270 for the first year, \$45,220 for the second year and \$49,980 for the third year under option (b).

Public Consultation

10. The fee revision proposed under either option (a) or option (b) under paragraph 6 above is mild, and should not be a factor to deter applicants from pursuing their adoption plans. Potential adoption applicants and the existing accredited bodies² for adoption service were consulted on the proposed fee adjustments proposed under option (a) and option (b). They did not express any strong views on the proposed fee adjustments.

² The Adoption Ordinance (Cap.290) provides that DSW may accredit non-governmental organisations to carry out specified functions and procedural duties in relation to local and/or intercountry adoption.

Advice Sought

11. Members are invited to offer views on the proposals as set out in paragraph 6 above.

**Labour and Welfare Bureau
Social Welfare Department
February 2015**

**Fee revision proposals under the Adoption Rules (Cap. 290A) and Convention Adoption Rules (Cap. 290D)
as set out in option (b) in paragraph 6**

Fee Item	Time of Last Revision / First Introduction	Prevailing Fees		Proposed Fees		
		Amount of Fees (\$) <i>(Effective Period)</i>	Recovery Level (%) of 20%-full cost <i>(Price Level)</i>	Amount of Fees (\$) <i>(Effective Period)</i>	Amount of Increase (\$) <i>(Percentage Increase)</i>	Recovery Level (%) of 20%-full cost <i>(Price Level)</i>
1. GAL fee under Cap. 290A	May 1997	2,840 <i>(May 1997 – May 2015)</i>	71.5% <i>(2015-16)</i>	3,170 <i>(Jun 2015 – May 2016)</i>	+ 330 (+ 11.6%)	79.9% <i>(2015-16)</i>
				3,550 <i>(Jun 2016 – May 2017)</i>	+ 380 (+ 12.0%)	85.6% <i>(2016-17)</i>
				3,970 <i>(Jun 2017 until next adjustment)</i>	+ 420 (+ 11.8%)	91.7% <i>(2017-18)</i>
2. GAL fee under Cap. 290D	Jan 2006	2,840 <i>(Jan 2006 – May 2015)</i>	71.5% <i>(2015-16)</i>	3,170 <i>(Jun 2015 – May 2016)</i>	+ 330 (+ 11.6%)	79.9% <i>(2015-16)</i>
				3,550 <i>(Jun 2016 – May 2017)</i>	+ 380 (+ 12.0%)	85.6% <i>(2016-17)</i>
				3,970 <i>(Jun 2017 until next adjustment)</i>	+ 420 (+ 11.8%)	91.7% <i>(2017-18)</i>