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Establishment Subcommittee of the Finance Committee

Minutes of the 14th meeting
held in Conference Room 1 of Legislative Council Complex
on Wednesday, 25 May 2016, at 8:30 am

Members present:

Hon Mrs Regina IP LAU Suk-ye, GBS, JP (Chairman)
Hon WONG Kwok-kin, SBS (Deputy Chairman)
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon LEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon WONG Kwok-hing, BBS, MH
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
Hon WONG Ting-kwong, SBS, JP
Hon Starry LEE Wai-king, JP
Hon CHAN Hak-kan, JP
Hon IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Albert CHAN Wai-yip
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin, BBS
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen

Hon CHAN Han-pan, JP
Dr Hon Kenneth CHAN Ka-lok
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Hon IP Kin-yuen
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu, JP
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Alvin YEUNG Ngok-kiu

Members absent:

Hon Albert HO Chun-yan
Hon KWOK Wai-keung
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, JP

Public Officers attending:

Ms Esther LEUNG, JP	Deputy Secretary for Financial Services and the Treasury (Treasury)1
Mr Eddie MAK Tak-wai, JP	Deputy Secretary for the Civil Service (1)
Miss Annie TAM, JP	Permanent Secretary for Labour and Welfare
Mr Donald CHEN, JP	Deputy Secretary for Labour and Welfare (Welfare) 2
Mr Steve TSE	Principal Assistant Secretary for Labour and Welfare (Special Duties)
Mr LAM Ka-tai, JP	Deputy Director of Social Welfare (Services)
Mr John LEE, PDSM, PMSM, JP	Under Secretary for Security
Ms Maggie WONG, JP	Deputy Secretary for Security 3
Mr Billy WOO	Principal Assistant Secretary for Security D
Mr LAW Chun-nam	Deputy Director of Immigration
Mr David CHIU, IDSM	Assistant Director of Immigration (Personal Documentation)

Mr Raymond LOK

Assistant Director of Immigration
(Information Systems)

Mr FUNG Pak-ho

Assistant Director of Immigration
(Enforcement and Removal Assessment)

Clerk in attendance:

Ms Anita SIT

Assistant Secretary General 1

Staff in attendance:

Miss Sharon LO

Senior Council Secretary (1)9

Ms Alice CHEUNG

Senior Legislative Assistant (1)1

Ms Haley CHEUNG

Legislative Assistant (1)9

Miss Yannes HO

Legislative Assistant (1)6

Action

The Chairman remarked that there were six agenda items for the meeting. She drew members' attention to the information paper ECI(2016-17)2, which set out the latest changes in the directorate establishment approved since 2002 as well as the changes to the directorate establishment in relation to the six discussion items on the agenda. She then reminded members that, in accordance with Rule 83A of the Rules of Procedure ("RoP"), they should disclose the nature of any direct or indirect pecuniary interest relating to the funding proposals under discussion at the meeting before they spoke on the items. She also drew members' attention to RoP 84 on voting in case of direct pecuniary interest.

EC(2016-17)1

Proposed retention of one supernumerary post of Administrative Officer Staff Grade C (D2) in the Labour and Welfare Bureau for 12 months with effect from 11 July 2016 or with immediate effect upon approval of Finance Committee (whichever the later) to provide continuing support for the Elderly Services Programme Plan

2. The Chairman remarked that the Administration's proposal was to retain one supernumerary Administrative Officer Staff Grade C ("AOSGC") post, designated as Principal Assistant Secretary (Special Duties) ("PAS(SD)"), in the Labour and Welfare Bureau for 12 months with effect from 11 July 2016 or with immediate effect upon approval of Finance Committee ("FC")

(whichever the later), to provide continuing support for the Elderly Services Programme Plan ("ESPP"). She pointed out that discussion of the item was carried over from the last meeting on 23 May 2016.

Planning for Elderly Services

3. Mr LEUNG Kwok-hung agreed that it was necessary to enhance the existing elderly services. He expressed concern on the inadequacy of residential care homes for the elderly ("RCHEs"), and opined that the government policy on home and community care services for the elderly had failed to address the problem of under-provision of elderly services. He asked the Administration about the direction of the review on elderly services, and whether a universal retirement protection scheme, implemented or otherwise, would have any bearings on the provision of elderly services.

4. Mr Albert CHAN pointed out the need for consistency and stability in the provision of social welfare and elderly services; in his view, the past practice of formulating a 10-year plan (in particular, specific implementation plans in relation to frontline work and service development) for the development of social welfare services was reasonable, feasible, and to which the industry and the public were agreeable. He asked the Administration to consider afresh the introduction of a 10-year plan to work out concrete plans for elderly services and specific implementation proposals.

5. Permanent Secretary for Labour and Welfare ("PS(LW)) explained that the Elderly Commission ("EC") was tasked to formulate ESPP in response to the demands from the industry, which called on the Government in 2013 to put in place a long-term elderly service programme to cope with the rapidly ageing population. A study on elderly services covering a period until 2030 would be conducted under ESPP and recommendations would be drawn up on 19 discussion topics. After the drawing up of preliminary recommendations by EC, public engagement activities would be carried out to gauge the views of different stakeholders with a view to reaching a consensus and formulating short-term, medium-term and long-term implementation plans. EC would also report to the Panel on Welfare Services where necessary. Meanwhile, the Government would continue to enhance and strengthen the existing elderly services to cater for the needs of the community.

Formulation of the Elderly Services Programme Plan

6. Mr CHAN Kam-lam, Mr TAM Yiu-chung and Mr LO Wai-kwok expressed support for the proposal. They agreed on the need to map out long-term planning for elderly services and extending the post of PAS(SD) to provide continuing support to EC for it to complete the outstanding work on ESPP. Mr TAM said that he had once moved a motion urging the

Administration to come up with a long-term planning on elderly services, and he had also taken part in discussions and made suggestions in the Panel on Welfare Services on such topics as enhancing the service quality of private RCHEs as well as the subsidy scheme for provision of residential care services ("RCS") for the elderly in accordance with their needs and personal preferences.

7. Dr Fernando CHEUNG remarked that there were issues on which a consensus could hardly be reached in the community, such as the Voucher Scheme on Residential Care Services for the Elderly ("RCS voucher scheme") and universal retirement protection. He asked how PAS(SD) would take forward the work in relation to the Formulation Stage and Consensus Building Stage after the Scoping Stage. Given that the Enhanced Home and Community Care Services ("EHCCS") had been introduced for more than 10 years, Dr CHEUNG asked whether the Administration would consider regularizing the provision of EHCCS to replace the existing outsourcing arrangement that required regular re-tendering in order to maintain a stable and longer term relationship between the service providers and the elderly. Mr LEUNG Kwok-hung raised a similar concern.

8. PS(LW) responded that the PAS(SD) post would provide dedicated support to EC in formulating ESPP. Having considered the views gathered during the "Scoping Stage" and the analysis by the consultant team, EC had defined the scope of ESPP and published the relevant report on the ESPP website. PAS(SD) would provide continuing support to EC in developing relevant proposals in light of the consensus reached during the "Scoping Stage".

9. Regarding EHCCS, PS(LW) remarked that it was a regular service. The Government had consulted the Panel on Welfare Services on related arrangements. In the previous round of tendering exercise, tendering was only applicable to new service places for the purposes of selecting service operators. As the existing service places were concerned, contracts of the existing service operators were extended. EC would discuss with the industry and stakeholders on the way forward for EHCCS during the Consensus Building Stage.

10. Mr LEUNG Kwok-hung expressed concern on the latest timetable of ESPP regarding the formulation of preliminary recommendations in July 2016 and submission of ESPP report in the second quarter of 2017. He opined that the formulation and implementation of ESPP should complete within the current term of the government.

11. PS(LW) reiterated that the task of EC was to formulate ESPP in response to the long-time aspirations of the industry. It would take longer

time than originally expected, as there were demands from the industry which required the Government to conduct a more extensive public engagement exercise, listen and respond to the views of the industry. She stressed that the Government maintained close contact with the Panel on Welfare Services on related progress, and the updated timetable was both practicable and feasible.

Voucher Scheme on Residential Care Services for the Elderly

12. Dr Fernando CHEUNG remarked that the RCS voucher scheme being studied by the Government was a very controversial subject. The social welfare sector in general was opposed to the scheme, in particular the adoption of Category EA1 RCHEs under the Enhanced Bought Place Scheme. It was because the eligibility criteria for RCHEs would have huge impacts on the quality of caring services for the elderly. He pointed out that the Government had been over-reliant on private RCHEs, whereas the assistance given under the Comprehensive Social Security Assistance Scheme was inadequate for meeting the expenses of RCHEs services. As such, it was arguable that the entire scheme and the policy direction were on the wrong track. He asked how the post of PAS(SD) would continue taking forward the RCS voucher scheme.

13. Ms Emily LAU agreed that the RCS voucher scheme was a controversial subject and expressed concern on the quality of services of private RCHEs. She asked if the Government would take forward the RCS voucher scheme.

14. PS(LW) said that the post of PAS(SD) was not retained for the purposes of following up the work in relation to the RCS voucher scheme, which would be the responsibility of another AOSGC whose task was to take charge of matters relating to elderly services. The Administration entrusted EC to conduct a feasibility study on the RCS voucher scheme in 2014 and the study was expected to complete by July 2016. The Government would brief the Panel on Welfare Services on the findings and recommendations of the EC study.

Other concerns

15. Ms Emily LAU pointed out that there had been cases where interest groups had sent their representatives to RCHEs to assist the elderly in voter registrations and escort them to the polling stations for voting on the polling day. She remarked that she had written to the Social Welfare Department, the Constitutional and Mainland Affairs Bureau and the Registration and Electoral Office to express her concerns, and requested the Administration to put in place measures to prevent the elderly from getting registered as voters without their knowledge and being so escorted to the polling stations for

voting. She urged the Labour and Welfare Bureau and the Social Welfare Department to step up their efforts in addressing the issue.

16. PS(LW) noted the concerns of Ms Emily LAU. She believed that relevant bureaux and departments would follow up the matter.

17. The Chairman put the item to vote. Members agreed that the Subcommittee should recommend the item to FC for approval. The Chairman consulted members on whether the item would require separate voting at the relevant FC meeting. No member raised such a request.

EC(2016-17)2 Proposed creation of three supernumerary posts with immediate effect upon approval of the Finance Committee of one Administrative Officer Staff Grade C (D2) in the Security Bureau and one Assistant Director of Immigration (GDS(C)2) in the Immigration Department (ImmD) for about three years to March 2019 to steer and support the review as well as to step up relevant enforcement measures and expedite screening of non-refoulement claims meanwhile; and one Assistant Director of Immigration (GDS(C)2) in the ImmD for about two years to May 2018 to provide dedicated directorate steer for the Next Generation Smart Identity Card System project

18. The Chairman remarked that the Administration's proposal was to create three supernumerary posts with immediate effect upon approval of the FC of one Administrative Officer Staff Grade C (designated as Principal Assistant Secretary for Security (Review) ("PAS(S)Review")) in the Security Bureau ("SB") and one Assistant Director of Immigration (designated as Assistant Director (Removal Assessment and Litigation)("AD(RAL)")) in the Immigration Department ("ImmD") for about three years to March 2019 to steer and support the review of the strategy of handling non-refoulement claims as well as to step up relevant enforcement measures and expedite screening of non-refoulement claims; and one Assistant Director of Immigration (designated as Assistant Director (Identity Card) ("AD(ID)")) in ImmD for about two years to May 2018 to provide dedicated directorate steer for the Next Generation Smart Identity Card System project. She advised that the Administration had consulted the Panel on Security on the proposal on 2 February and 1 March 2016.

19. Mr IP Kwok-him, Chairman of the Panel on Security, reported that at the meeting on 2 February 2016, the Panel on Security discussed the

Administration's comprehensive review on the strategy of handling non-refoulement claims, as well as the proposal of creating one supernumerary directorate post in SB and ImmD respectively for conducting the review. Members in general supported the comprehensive review. Some members were particularly concerned about the time required for handling screening of non-refoulement claims. Members supported in principle the creation of the two supernumerary directorate posts.

20. Mr IP Kwok-him continued to report that at the meeting on 1 March 2016, the Panel on Security discussed the proposed creation of a supernumerary AD post in ImmD to take forward the Next Generation Smart Identity Card replacement exercise. Members were mainly concerned about whether the post would require an officer with professional knowledge in technology and engineering, and how the Administration would identify prospective candidates. Members in general supported the Administration submitting the proposal to the Establishment Subcommittee. Members also noted Mr WONG Yuk-man's reservation about the proposal, who argued that it was not necessary for ImmD to engage such high-ranking staff to take forward the card replacement exercise.

Processing of non-refoulement claims by the Immigration Department

21. Dr Fernando CHEUNG was concerned about the lengthy time (five years or longer) required for vetting and approving non-refoulement claims, even after the implementation of the Unified Screening Mechanism ("USM"). He enquired about the Administration's concrete plan for speeding up screening of non-refoulement claims. Dr Fernando CHEUNG and Ms Emily LAU also expressed concern about the capability of ImmD for effective screening of non-refoulement claims from various countries (for example, whether there were sufficient translators, whether it had any understanding on the religions, cultures, national conditions, etc. of different countries). Dr CHEUNG requested the Administration to provide information on the number of non-refoulement claims pending determination, together with a breakdown by claimants' nationality.

22. Under Secretary for Security ("US for S") responded that the Refugee Convention of the United Nations was not applicable to Hong Kong. Currently, non-refoulement claims lodged on applicable grounds (including torture, cruel, inhuman or degrading treatment and punishment) would be screened in Hong Kong in one go under USM. He pointed out that there were currently about 11 000 claims pending screening, and it took 25 weeks to process one application under normal circumstances. In order to speed up the screening of such claims, the Government had introduced improvement measures (for example, speedier arrangement for duty lawyers and claimants to have interviews at ImmD) that had shortened the screening time by seven

weeks. The Government would proceed with the comprehensive review of the strategy of handling non-refoulement claims in four main areas, namely pre-arrival control, screening procedures, detention and regulation, as well as enforcement.

[Post-meeting note: The supplementary information submitted by the Administration was circulated to members on 30 May 2016 vide LC Paper No. ESC100/15-16(01).]

23. Mr CHAN Chi-chuen and Mr LEUNG Kwok-hung requested the Administration to explain the slow progress of handling non-refoulement claims. Mr CHAN enquired whether it was mainly due to the claimants being uncooperative or inadequacies in the handling mechanism of ImmD. Mr LEUNG asked if it was necessary to tackle the problem of lengthy screening procedures by means of legislation.

24. US for S responded that the screening of non-refoulement claims took time, partly due to the absence of a specific time limit under the current legislation within which claimants should submit their grounds and supporting documents. On the other hand, during the screening process, the Government had to make available publicly-funded legal assistance to claimants in need. Currently, ImmD could only refer 13 cases per day under the Duty Lawyer Service ("DLS"), which was also a key factor limiting the speed for processing claim cases. In addition, claimants could seek extension on various grounds with regard to the screening of their claims. Given the need for meeting a high standard of fairness, ImmD was obliged to consider the relevant requests carefully, thereby subjecting the screening mechanism to possible abuses. In light of this, the Government would seek to handle non-refoulement claims more effectively, shorten the screening time, and prevent claimants from staying in Hong Kong by repeatedly seeking extensions on various fronts, such as manpower increase (including the number of Appeal Board adjudicators and the number of case referrals to be taken up by DLS), amending legislation and policy concerned.

25. Mr IP Kwok-him was of the opinion that the system of non-refoulement claim had been subject to serious abuse. He requested the Administration to clarify whether the majority of the non-refoulement claimants had come to Hong Kong due to economic reason (who would take up unlawful employment whilst they were staying in Hong Kong); and whether the large number of claimants staying in Hong Kong had created problems relating to law and order.

26. US for S responded that an increasing number of claimants had been arrested for taking up unlawful employment, and many non-refoulement claimants had come to Hong Kong due to economic reason. He pointed out

that according to information of the United Nations, refugees mainly came from Afghanistan, Iraq and certain African countries, whereas most of the non-refoulement claimants in Hong Kong had come from South Asia or other Southeast Asian countries, which were countries that were not internationally recognized as highest-risk countries whose subjects would be subject to persecution. He added that the number of claimants arrested in 2015 had increased by two-thirds when compared with that in 2014.

27. Mr Albert CHAN opined that the Administration should review the screening mechanism, the arrangements for claimants staying in Hong Kong, and the exit paths for the claimants, with a view to handling non-refoulement claims in a more effective manner. Noting that a large number of claimants had come to Hong Kong via the Mainland, he enquired how ImmD would step up interception in cooperation with law enforcement agencies of the Mainland. Mr Alvin YEUNG expressed similar concern. He requested the Administration to give an account on the number of actions jointly held with Mainland's law enforcement agencies in 2016, and to explain whether that had led to any significant decrease in the number of non-refoulement claimants.

28. US for S clarified that nearly half of the claimants in Hong Kong were illegal immigrants, and the other half of them were overstaying visitors who had come to Hong Kong through legitimate channels. ImmD and the Public Security Bureau of the Mainland had proactively carried out joint operations in recent months to block illegal immigrants from coming to Hong Kong via the Mainland. In a large-scale joint operation held recently, about 3 000 illegal immigrants had been arrested, and who would likely lodge non-refoulement claims had they come to Hong Kong. US for S advised that the relevant joint operations had been effective in reducing the number of claimants at source. The Public Security Bureau of the Mainland had indicated that the relevant joint operations would extend to June 2017. US for S further remarked that it had been noted that claimants would lodge claims only after staying in Hong Kong for 12 to 18 months, so the current number of claimants had not immediately reflected the effectiveness of the joint operations. A decrease in the number of illegal immigrants would nevertheless bring forth a corresponding decrease in the number of claimants.

Comprehensive review of the strategy of handling non-refoulement claims

29. Ms Emily LAU expressed support for this proposal. She asked how the Administration would follow up the views and recommendations made by the United Nations Committee Against Torture on USM at the end of 2015 in reviewing the strategy of handling non-refoulement claims.

30. US for S advised that the Government attached importance to the recommendations made by the United Nations Committee Against Torture,

and it would give a detailed briefing to the Panel on Security on 7 June 2016 with regard to the recommendations and the response of the Government. Given the complexity and breadth of the review of the strategy of handling non-refoulement claims as well as the number of stakeholders involved, it was necessary for the Government to create a new supernumerary directorate post in SB to spearhead the review with dedicated efforts.

31. Ir Dr LO Wai-kiwok and Mr YIU Si-wing agreed that the Administration needed to increase manpower to speed up the non-refoulement claims process. They enquired that, apart from additional manpower, whether the Administration had set targets for expediting the screening of non-refoulement claims and reviewing the relevant strategy, and whether such targets were feasible. Mr YIU was concerned how the two proposed supernumerary posts would coordinate the work in future to ensure smooth operation.

32. Mr WONG Kwok-kin opined that the problem of non-refoulement claims had been plaguing Hong Kong for a long time and had given rise to problems of illegal workers and public order concerns. He urged the Administration to expedite the screening of non-refoulement claims in accordance with the principles enshrined in the Basic Law. He enquired about the measures/strategies in place for handling evasive and uncooperative claimants during the screening process.

33. US for S pointed out that in addition to strategy reviews, the post holder of PAS(S)Review would need to review the existing legislation, study the need for tightening the procedures, and specify a time limit for each step of the procedure (including the time limit for case screening and completion of forms and submission of information/justifications by claimants, etc.) to prevent abuses, and to study the need for imposing a cap on the publicly-funded legal assistance. If regulation by legislation would be necessary, PAS(S)Review would take forward the drafting work with a view to introducing an amendment bill in the 2017-2018 legislative session. He stressed that PAS(S)Review would liaise closely with AD(RAL) and conduct studies in the four main areas set by the Government. Reference would be made to overseas experiences, and stakeholders' views would be taken into consideration, with a view to reducing at source the number of claimants coming to Hong Kong and carrying out actions in relation to screening and removal in a more effective manner. The relevant tasks would include exploring the introduction of a pre-arrival registration requirement, examining the need to detain claimants staying in Hong Kong, and strengthening liaison with local Consulates General concerned for speedy repatriation of unsubstantiated claimants from Hong Kong.

34. Dr CHIANG Lai-wan opined that the most effective way for handling problems arising from non-refoulement claims was to set up detention centres for claimants staying in Hong Kong, which could address issues relating to illegal behaviors of claimants staying in Hong Kong and associated problems in relation to law and order. She urged the Administration to proactively study the feasibility of setting up detention centres. US for S noted Dr CHIANG Lai-wan's suggestion and advised that the Government would study various options for tackling problems in relation to non-refoulement claims, including the setting up of detention centres as suggested by Dr CHIANG.

Protection of data and privacy of identity card cardholders

35. Mr LEUNG Che-cheung expressed concern about the measures to be put in place for protection of data confidentiality and cardholder privacy during the one-off territory-wide identity card replacement procedure.

36. US for S responded that during the last territory-wide identity card replacement exercise, ImmD had engaged independent experts and consultants to assess and audit the security and privacy protection at various stages of the project, and the arrangement was found acceptable by the Office of the Privacy Commissioner for Personal Data. In light of past experience, ImmD had put in place stringent arrangements with respect to security (including technology and physical security) and privacy. Such arrangements included providing training for the staff concerned on the security requirements, permission for system log-in by authorized staff only, and maintenance of system logbook, etc. He pointed out that the Next Generation Smart Identity Card System was a closed system with no connection with any external systems.

37. Ir Dr LO Wai-kwok asked whether the post of Assistant Director (Identity Card) ("AD(ID)") would require a candidate with knowledge in technology and engineering. Given that the card replacement exercise would be implemented in the first quarter of 2018 and that it might be necessary for AD(ID) to continue monitoring the implementation of the exercise, Ir Dr LO was of the view that a term of two years might be too short.

38. US for S responded that the proposal to create a supernumerary AD post for two years had been drawn up with reference to the experience and the foundation built in the previous identity card replacement exercise, and taking into account issues to be addressed in the current exercise. The post of AD(ID) was mainly responsible for advance work such as formulating strategies and preparation, and would be supported by a project team comprising officers with relevant professional knowledge on information and technology. ImmD planned to recruit a dedicated team of about 800 staff to

prepare for and conduct the four-year long identity card replacement exercise.

39. Given the experience of the previous territory-wide identity card replacement exercise and that ImmD should have possessed relevant operational experience, Mr SIN Chung-kai asked why it was necessary to create the AD post. He anticipated that the post would be filled by internal promotion, and expressed concern about the staffing arrangement for the post holder after the two-year term had lapsed.

40. Deputy Director of Immigration replied that AD(ID) was a supernumerary post, and the identity card replacement exercise of 2018 would be the second territory-wide identity card replacement exercise so far. While the second exercise had a workflow similar to that of the first exercise, given that the second exercise involved all people in Hong Kong and the Next Generation Smart Identity Card would include new security measures, ImmD would need a dedicated directorate officer for steering the implementation of the project and monitoring the progress in order to ensure the project could be launched smoothly in the first quarter of 2018. After the two-year term had lapsed, ImmD would review the staffing requirements and make proper manpower deployment arrangements in accordance with established procedure.

(At 9:25 am, the Chairman left the meeting venue, and the Deputy Chairman took the chair. The Chairman resumed the chair at 9:30 am.)

41. The Chairman advised that the Subcommittee would continue discussion on this item at the next meeting.

42. There being no other business, the meeting ended at 10:29 am.