

**立法會**  
**Legislative Council**

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**Panel on Manpower**

**Subcommittee to Study Issues Relating  
to Standard Working Hours**

**Minutes of meeting  
held on Monday, 1 February 2016, at 2:30 pm  
in Conference Room 1 of the Legislative Council Complex**

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

**Public Officers : Item I  
attending**

Mr Matthew CHEUNG Kin-chung, GBS, JP  
Secretary for Labour and Welfare

Ms Queenie WONG Ting-chi  
Assistant Commissioner for Labour (Policy Support)

Mr Desmond HOU Ka-chun  
Principal Economist  
Financial Secretary's Office

Mr Raymond HO Kam-biu  
Chief Labour Officer (Working Hours Policy)  
Labour Department

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

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

Ms Kiwi NG  
Legislative Assistant (2) 1

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**I. Progress of the work of the Standard Working Hours Committee**

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

2. Most members expressed dissatisfaction that the Administration failed to honour the Chief Executive ("CE")'s pledge in his election manifesto in respect of setting up a special committee to follow up on legislating for standard working hours ("SWH") and had adopted a delaying tactic in formulating a working hours policy. Pointing out that the Administration should be fully aware of the divergent views between the labour sector and the business sector over the subject and that "contractual working hours" (i.e. the "big frame") was a question of enforcement action for the Labour Department, these member were of the

view that there was no need for the Standard Working Hours Committee ("SWHC") to conduct the second-stage consultation on the future directions of a working hours policy. The consultation should instead focus on how to legislate for SWH, including the number of weekly working hours and overtime pay rates.

3. Some other members were concerned that the number of working hours and the arrangement for overtime work compensation of a large proportion of employees had not been expressly stipulated in their employment contracts. They called on the Administration to address the situation in the first place so as to safeguard the interests of employees while SWHC could in the meantime continue its deliberation on the subject of working hours policy direction. Some members also cautioned that the implementation of SWH would adversely affect the business operation of the small- and medium-sized enterprises and cause business closure.

4. In the light of the unwillingness of employee members of the Labour Advisory Board ("LAB") on SWHC to continue participating in the ensuing discussion of SWHC under the "contractual working hours" approach, members were gravely concerned about how the Administration could take forward the subject of working hours policy direction.

5. In response to the views and concerns of members, Secretary for Labour and Welfare made the following response :

- (a) SWHC had since its establishment worked at full steam to complete an enormous amount of work to explore working hours policy direction. The Administration appealed to the six employee representatives of LAB to re-join the work of SWHC again. SWHC planned to launch the second-stage consultation in 2016 to facilitate further discussion on working hours policy directions and collect public views for SWHC's reference in preparing its report;
- (b) with reference to the findings of the dedicated working hours survey as well as the public engagement and consultation on working hours conducted by SWHC in 2014, SWHC had in principle recommended exploring a legislative approach to mandatorily require employers and employees in general to enter into written employment contracts, specifying clearly

such terms relating to working hours, for instance, the number of working hours, overtime work arrangements and modes of overtime compensation (i.e. the "big frame");

- (c) SWHC was also exploring whether there was a need for other suitable measure(s) to provide further protection for grass-roots employees with lower income, lower skills and less bargaining power (i.e. the "small frame"), and conducted data analyses and assessments on the impacts of 28 parameter combinations on employees, enterprises and Hong Kong's medium- and long-term macroeconomic situation; and
- (d) SWHC planned to conduct a second-stage consultation and would submit its report to the Government afterwards. Upon receipt of SWHC's report, the Government would thoroughly and holistically consider its recommendations.

6. Chief Labour Officer (Working Hours Policy) of the Labour Department added the following points :

- (a) at present, a contract of employment could be made orally or in writing. According to the statistics of the household survey conducted by SWHC in 2014, of all employees, about 60% did not have the modes of overtime compensation specified in their contracts/agreements;
- (b) SWHC had agreed to conduct the second-stage consultation and consult the public on four policy directions which could be considered for taking forward the working hours policy, including (i) only implementing the "big frame"; (ii) only implementing the "small frame"; (iii) on the premise of implementing the "big frame", to implement the "small frame" as well; and (iv) not to implement the "big frame" nor "small frame" but recommend implementing other policies/measures pertaining to working hours (for instance, formulating voluntary guidelines according to the needs of individual sectors);
- (c) SWHC had agreed to consult major trade associations and labour organisations, employers' and employees' associations of the relatively long-working-hours sectors, and other relevant organisations on its preliminary discussion

outcomes and working hours policy directions under exploration, so as to collect views for SWHC's reference in further discussing working hours policy directions and preparing its report; and

- (d) SWHC would consider the specific timetable for conducting the second-stage consultation at its meeting scheduled for end of February 2016. SWHC had engaged an independent consultant to collate, consolidate and analyse all the views received during the second-stage consultation for SWHC's consideration.

## **II. Any other business**

7. Members agreed that the next meeting of the Subcommittee would be held on 8 March 2016 to receive public views on working hours policy directions.

*(Post-meeting note: With the concurrence of the Subcommittee Chairman, the next meeting was re-scheduled for 15 March 2016 at 10:45 am.)*

8. There being no other business, the meeting ended at 4:00 pm.

Council Business Division 2  
Legislative Council Secretariat  
13 April 2016

**Proceedings of meeting of the Subcommittee to  
Study Issues Relating to Standard Working Hours  
held on Monday, 1 February 2016, at 2:30 pm  
in Conference Room 1 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action Required</b>
<i>Agenda item I - Progress of the work of the Standard Working Hours Committee</i>			
000000 - 000228	Chairman	Opening remarks.	
000229 - 001300	Chairman Admin	Briefing by the Administration on the latest work progress and deliberations as well as the subsequent work directions of the Standard Working Hours Committee ("SWHC").	
001301 - 001841	Chairman Dr CHIANG Lai-wan Admin	<p>Dr CHIANG Lai-wan's concern that the number of working hours and overtime pay rates of a large proportion of employees had not been expressly stipulated in their employment contracts. Dr CHIANG's suggestion that the Administration should address the situation in the first place so as to safeguard the interests of employees while SWHC could continue its deliberation on the subject of working hours policy direction.</p> <p>The Administration's advice that it attached great importance to the long working hours situation in Hong Kong. SWHC planned to launch the second-stage consultation in 2016 to facilitate further discussion on working hours policy directions and collect public views for SWHC's reference in preparing its report.</p>	
001842 - 002552	Chairman Dr KWOK Ka-ki Admin	<p>Dr KWOK Ka-ki's query that the Administration had adopted a delaying tactic in formulating a working hours policy and redirected the discussion from legislating for SWH to legislating for contractual working hours (i.e. the "big frame" under exploration).</p> <p>Dr KWOK's concern that the long working hours situation of specific professions, including doctors, accountants and information technology personnel, could not be properly addressed. His query about how the Administration could take forward the</p>	

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		<p>subject of working hours policy direction in the absence of employee representatives of LAB on SWHC.</p> <p>The Administration's advice as follows :</p> <p>(a) issues relating to SWH were far more complicated and controversial than the introduction of statutory minimum wage and would affect a wide spectrum of employees and had widespread and far-reaching implications. An "across-the-board" legislative approach would be inappropriate. There were pros and cons for implementing SWH;</p> <p>(b) SWHC had agreed to conduct the second-stage consultation, which would include both the "big frame"; and the 28 parameter combinations under the "small frame" to explore whether there was a need for other suitable measures to further protect grassroots employees with lower income, lower skills and less bargaining power; and</p> <p>(c) SWHC would consult the public on four policy directions, as detailed in paragraph 37 of the Administration's paper, which could be considered for taking forward the working hours policy, to facilitate further discussion on working hours policy directions and for SWHC's reference in preparing its report.</p> <p>The Administration's appeal to the employee representatives of LAB to participate in the SWHC's work again.</p>	
002553 - 003406	Chairman Mr LEE Cheuk-yan Admin	<p>Mr LEE Cheuk-yan's strong dissatisfaction that the Administration had adopted a delaying tactic in taking forward the subject of legislating for SWH.</p> <p>Mr LEE's views/enquiry and the Administration's response regarding the following :</p>	

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		<p>(a) having regard to more than half of the employee and employer respondents were in support of "setting standard working hours" in the dedicated working hours survey conducted by SWHC in 2014, the Administration should proceed with legislating for SWH. There was no need to conduct the second-stage consultation on the future directions of a working hours policy;</p> <p>(b) most employee representatives on SWHC were reluctant to continue their participation in SWHC's work because the focus of the second-stage consultation was not on how to legislate for SWH; and</p> <p>(c) the concrete content of the second-stage consultation.</p> <p>The Administration's advice that about 93.7% of the employee respondents in the relevant household survey agreed with the approach of "providing for stipulation of hours of work, overtime arrangements and overtime compensation in employment contracts".</p>	
003407 - 003953	Chairman Mr LEUNG Yiu-chung Admin	The Administration's response to Mr LEUNG Yiu-chung's enquiry about the specific timetable for conducting the second-stage consultation, analysis of the consultation outcomes as well as completion of SWHC's report.	
003954 - 004615	Chairman Dr LEUNG Ka-lau	<p>Dr LEUNG Ka-lau referred members to his proposed Member's Bill entitled "Standard Working Hours Bill".</p> <p>Dr LEUNG's views and suggestion as follows :</p> <p>(a) based on his personal experience, employees' entitlement could not be properly safeguarded by means of employment contract over the issue of contractual working hours;</p> <p>(b) the Administration should conduct a comparison study on the difference</p>	



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		<p>between implementing "contractual working hours" and legislating for SWH;</p> <p>(c) it was inappropriate to compare the findings of the household survey conducted between June and August 2014, since the respective employee and employer respondents had been asked to respond to various approaches for the way forward of a working hours policy, and which were not mutually exclusive; and</p> <p>(d) according to a survey conducted by Dr LEUNG earlier, only some 20% of employers opposed setting SWH.</p>	
004616 - 005121	Chairman Mr KWOK Wai-keung Admin	<p>Mr KWOK Wai-keung's dissatisfaction that SWHC continued its work without the participation of employee representatives of LAB since November 2015 and that the Administration did not have its stance over the subject of working hours policy. His view that the Administration should be proactive in securing the participation of the employee representatives of LAB in SWHC's work again.</p> <p>Mr KWOK's grave concern about the phenomenon of uncompensated overtime work of employees. His emphasis that legislating for contractual working hours alone could not address the situation.</p> <p>The Administration's reiteration of including the "small frame" under exploration in the second-stage consultation.</p>	
005122 - 005718	Chairman Mr CHUNG Kwok-pan Admin	<p>The Administration's response to Mr CHUNG Kwok-pan's following enquiries :</p> <p>(a) whether "SWHC's overall observation" and "Working hours policy directions being explored by SWHC" as detailed in paragraphs 22 and 23 respectively in the Administration's paper had been agreed upon by the employer and employee representatives; and whether and how SWHC would on such basis continue its</p>	

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		<p>work without the participation of employee representatives of LAB; and</p> <p>(b) the progress and content of the educational work for enhancing public understanding of various working hours issues.</p>	
005719 - 010231	Chairman Mr Tommy CHEUNG	Mr Tommy CHEUNG cautioned that policy-making for SWH on the basis of inaccurate statistics would jeopardize the economy of Hong Kong in the long run and the implementation of SWH would adversely affect the business operation of the small- and medium-sized enterprises and cause business closure.	
010232 - 010959	Chairman Deputy Chairman Admin	<p>The Deputy Chairman's strong dissatisfaction that the Administration failed to honour CE's pledge in his election manifesto in respect of setting up a special committee to follow up on legislating for SWH.</p> <p>The Deputy Chairman's remark/suggestion and the Administration's response regarding the following :</p> <p>(a) the labour sector had all along advocated for due compensation for overtime work while acknowledging that special consideration should be given to implementing SWH in some specific trades and industries; and</p> <p>(b) SWHC should be dissolved in the light of refusal of employee representatives of LAB to continue participating in the ensuing discussion of SWHC under the "contractual working hours" approach.</p>	
011000 - 011529	Chairman Mr LEE Cheuk-yan Admin	<p>Mr LEE Cheuk-yan's strong dissatisfaction that the Administration failed to take forward the issue of legislating for SWH as pledged by CE in his election manifesto. His view that the second-stage consultation should focus on how to legislate for SWH.</p> <p>Mr LEE's view that the employee members of LAB on SWHC would be willing to</p>	

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		<p>participate in the work of SWHC again if the deliberation of the subject was based on legislating for SWH.</p> <p>The Administration's reiteration that SWHC would launch the second-stage consultation, which would be the final round of its consultation, and planned to submit its report to the Government thereafter. Upon receipt of SWHC's report, the Government would thoroughly and holistically consider its recommendations.</p>	
011530 - 012451	Chairman Mr LEUNG Yiu-chung Admin	<p>Mr LEUNG Yiu-chung's enquiries about whether, as stated in its terms of reference, upon completion of the second-stage consultation, SWHC would report to CE and advise on the working hours situation in Hong Kong, including whether a statutory SWH regime should be considered, and if so, the content of the relevant legislation.</p> <p>Mr LEUNG's view and the Administration's response regarding the following :</p> <p>(a) the "big frame" under exploration was nothing new and was a question of enforcement action for the Labour Department. There was no need to conduct the second-stage consultation and legislate for "contractual working hours"; and</p> <p>(b) the second-stage consultation should instead focus on the "small frame" concerning the number of weekly working hours and overtime pay rates.</p> <p>The Administration's advice that Mr LEUNG's views would be relayed to SWHC for consideration.</p>	<b>Admin</b>
012452 - 013134	Chairman Mr LEUNG Yiu-chung Admin Mr CHEUNG Kwok-che Mr IP Kwok-him Mr LEE Cheuk-yan	Meeting arrangement for the next meeting.	

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