

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 Tuesday, 15 March 2016, at 10:45 am
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 CHAN Kin-por, BBS, JP
Hon CHEUNG Kwok-che
Hon LEUNG Che-cheung, BBS, MH, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon SIN Chung-kai, SBS, JP
Hon TANG Ka-piu, JP
- Member attending** : Hon Frankie YICK Chi-ming, JP
- Members absent** : Hon Tommy CHEUNG Yu-yan, GBS, JP
Dr Hon LEUNG Ka-lau
Hon IP Kwok-him, GBS, JP
Hon LEUNG Kwok-hung
Dr Hon CHIANG Lai-wan, JP
Hon CHUNG Kwok-pan

**Public Officers : Item I
attending**

Mr Stephen SUI Wai-keung, JP
Under 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

**Attendance : Item I
by invitation**

Session One

Hong Kong Catering Industry Association

Mr WOO Lun
Representative

The Democratic Party

Mr AU Nok-hin
Member of Central Committee

Federation of Hong Kong Industries

Mr LAU Chin-ho
Honorary President

Democratic Alliance for the Betterment and Progress of
Hong Kong

Mr NGAN Man-yu
Deputy Spokesperson on Manpower

Hong Kong Federation of Restaurants & Related Trades

Mr TAM Hop-sing
Chief Executive Officer

Lok Ma Chau China-Hong Kong Freight Association

Mr Stanley CHAING
Chairman

PathFinders

Ms Dermine Celine Alexandre C.

Hong Kong Taxi Owners' Association Ltd.

Mr WONG Po-keung
Chairman

Association of Restaurant Managers

Mr LEUNG Chun-wah
Vice-Chairman

Neighbourhood and Worker's Service Centre

Mr WONG Yun-tat
Representative

Kwai Chung Estate Labour Rights Concern Group

Miss Vincci WONG
Representative

Kwai Chung Standard Working Hours Concern Group

Miss LAI Choi-yin
Representative

Hong Kong Catholic Commission for Labour Affairs

Miss LAW Pui-shan
Policy Research Officer

Hong Kong Container Tractor Owner Association Ltd.

Mr LAM Hoi-tat
Executive Vice Chairman and Secretarial General

Take a break or break a take

Mr LEUNG Hoi-fu

Hong Kong Chef Union

Mr NG Chi-fai
Chairman

民主議政

Miss YAU Mei-po

Individual

Miss WONG Hiu-kwan

標你有無街坊會

Mr Kelvin CHAN Ho-wah

The Parade Trade Union

Mr CHONG Ka-wai

前線員工權益關注組

Ms Rida CHEUNG

Concerning CSSA & Low Income Alliance

Mr HO Cheuk-hin

葵芳工友組

Ms FUNG Suk-yi

Liberal Party

Mr Peter SHIU
Vice Party Chair

Individual

Mr Joseph CHAN
Member of Central and Western District Council

Business and Professionals Alliance for Hong Kong
Committee on Youth

Mr Vincent TSUI Tien-you
Member

The Federation of Hong Kong & Kowloon Labour Unions

Mr YAU Yik-shing
Secretary

Session Two

Employers' Federation of Hong Kong

Mr Louis PONG Wai-yan
CEO

天主教勞工中心(九龍)單幢大廈保安護衛關注標準
工時關注組

Mr HO Kam-chung
Member

天主教勞工中心(九龍)單幢大廈保安關注標準工時
關注組

Miss CHAN Ka-yee

天主教勞工中心(九龍)保安護衛關注組

Ms CHOI Wai-fun
Member

天主教勞工中心(九龍)單幢大廈保安關注組

Mr CHAN Chau-shing
Member

天主教標準工時關注組

Mr TAM Wai-pang

Individual

Mr TANG Ka-fat

Individual

Miss HUI Hiu-tung

Catering and Hotels Industries Employees General Union

Ms 羅鄧敬

Individual

Mr WAN Pak-kin

民間爭取標準工時聯盟

Mr NG Koon-kwan
Organizer

Hong Kong Confederation of Trade Unions

Ms CHEUNG Lai-ha
Vic Chairperson

Institution of Dining Art

Mr Kelvin YAU
Chairman

香港醫院僱員權益工會

Mr LAI Chi-po

Individual

Mr NGAN Lit-chau

天水圍勞工權益關注組

Mr KWOK Man-ho

Laugh Me Die Working Hour Concern Group

Mr Herrick LEE Yen-hao

Hong Kong Federation of Asian Domestic Workers
Unions

Ms Estrada Grace Aquino
Vice Chairperson

Union of Hong Kong Dockers

Mr HUNG Chun-ngai
Director General

香港碼頭業職工會機手關注組

Mr YUNG Siu-yu
Member

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

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

Ms Kiwi NG
Legislative Assistant (2) 1

Miss Lulu YEUNG
Clerical Assistant (2) 1

I. Working hours policy directions

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

2. The Subcommittee received oral representations from 47 deputations/individuals attending the meeting. Members also noted that 10 organizations/individuals not attending the meeting had provided the Subcommittee with written submissions. Major views and concerns expressed by deputations/individuals are summarised as follows:

- (a) the Administration failed to take forward the issue of legislating for standard working hours ("SWH") as pledged by the Chief Executive in his election manifesto. Grave concerns were raised about the severe long working hours situation in various trades and industries and the adverse impact on employees' health, quality of life and family life. Specifically, the median weekly working hours in some industries, including the catering sector, retail industry and estate management, exceeded 50 hours. Employees in some professions, such as information technology, accounting and education, also worked for long hours and their overtime work was not duly compensated. There was a strong call for implementation of SWH (i.e. a weekly working hours of 44 hours and overtime pay rate of 1.5 times) with a view to assisting employees in achieving work-life balance. It was pointed out that Hong Kong lagged far behind some other Asian economies in the implementation of SWH, including the Mainland China, Japan and Korea; and
- (b) most deputations expressed dissatisfaction that the SWH Committee ("SWHC") had just come up with the proposal of legislating for "contractual working hours" (i.e. the "big frame" under exploration), although it had deliberated on the subject of working hours policy since its establishment in April 2013. Queries were raised that the Administration had adopted a delaying tactic in formulating a working hours policy and the Administration would not conscientiously conduct the second-stage consultation. In the absence of collective bargaining, there were great reservations that employees could be on an equal footing with employers in the negotiation of terms and conditions of the employment contracts and therefore employees' rights could hardly be

safeguarded. Given the refusal of employee representatives of the Labour Advisory Board ("LAB") to participate in SWHC's work again, it was incumbent upon the Administration to proactively take forward the subject of legislating for SWH.

3. Some deputations, on the other hand, expressed views as follows:
 - (a) there was opposition to legislating for SWH. Grave concerns were raised about the affordability of the small- and medium-sized enterprises ("SMEs") should SWH be implemented. It was pointed out that apart from the adverse impact on business operation of SMEs, it would also undermine Hong Kong's competitive edge. Moreover, the situation of manpower shortage would further aggravate;
 - (b) as individual employee's employment terms should be determined by the market force, it would not be appropriate for the Administration to introduce legislation to regulate working hours of employees. In the light of the varied circumstances of various sectors and occupations, it was impracticable to implement maximum working hours or SWH. A uniform ("across-the-board") working hours regulation for all sectors could result in serious impact on individual sectors or even the society and the economy as a whole; and
 - (c) there was support for legislating for "contractual working hours" as the first step to address the existing long working hours situation and protect the interests of employees.

4. Most members shared the views expressed by some deputations that the Administration had adopted a delaying tactic in taking forward the subject of working hours policy. The proposal of legislating for "contractual working hours" (i.e. the "big frame" under exploration by SWHC) could hardly address the long working hours situation of employees and safeguard their interest. Members were given to understand that the labour sector would only support SWHC to explore implementing the "small frame" (i.e. whether there was a need for other suitable measures to further protect grassroots employees with lower income, lower skills and less bargaining power) on the premise of implementing SWH.

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

- (a) SWHC had since its establishment worked at full steam to complete an enormous amount of work to explore working hours policy directions. The Administration had appealed to the employee representatives of LAB to re-join SWHC's work as soon as possible and, together with other members, kick off the second-stage consultation to gauge the views of the community on working hours policy directions, with a view to preparing SWHC's report for the Administration's consideration; and
- (b) SWHC would consult the public on four policy directions, as set out in paragraph 8 of the Administration's paper, which could be considered for taking forward the working hours policy. The Administration appealed to the community and general public to take the opportunity to actively express views on the subject during the second-stage consultation.

6. Chief Labour Officer (Working Hours Policy) of the Labour Department advised that in deliberating the subject of working hours policy directions, SWHC had examined a range of factors relating to the working hours policy which amongst others, included social factors such as employees' health, quality of life and family life.

7. Principal Economist of the Financial Secretary's Office added that while upholding an evidence-based approach in the deliberation of the working hours policy directions, SWHC would also consider qualitative analysis of relevant information on working hours.

8. Mr TANG Ka-piu and Mr LEUNG Yiu-chung suggested and members agreed that the Subcommittee should write to the Administration requesting that in preparing the second-stage consultation document, SWHC should collect statistics and conduct quantitative analysis on the social costs including healthcare expenses, arising from long working hours of employees, and set out the relevant findings in the consultation document.

(Post-meeting note: The Subcommittee's letter to the Secretary for Labour and Welfare was sent on 18 March 2016.)

II. Any other business

9. The Chairman said that the next meeting of the Subcommittee was tentatively scheduled for 11 April 2016. Noting that SWHC would continue to discuss the relevant draft document and arrangement relating to the second-stage consultation at its meeting scheduled for end of March 2016 and pending the launching of the second-stage consultation on the working hours policy directions around April 2016, the Secretariat would further liaise with the Administration in respect of the timing of the next meeting. Members would be informed of the arrangement in due course.

(Post-meeting note: The Subcommittee meeting originally scheduled for 11 April 2016 had been rescheduled to 16 May 2016.)

10. There being no other business, the meeting ended at 1:45 pm.

Council Business Division 2
Legislative Council Secretariat
15 August 2016

**Proceedings of meeting of the Subcommittee to
Study Issues Relating to Standard Working Hours
held on Tuesday, 15 March 2016, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

| Time marker | Speaker | Subject(s) / Discussion | Action Required |
|--|---|--|------------------------|
| <i>Agenda item I - Working hours policy directions</i> | | | |
| <i>Session One</i> | | | |
| 000000 - 000741 | Chairman | Opening remarks | |
| 000742 - 001207 | Chairman Admin | Briefing by the Administration on the latest work progress and deliberations of the Standard Working Hours Committee ("SWHC"). | |
| 001208 - 001545 | Chairman Mr WOO Lun, Hong Kong Catering Industry Association | Presentation of views [LC Paper No. CB(2)1070/15-16(01)] | |
| 001546 - 001857 | Mr AU Nok-hin, The Democratic Party | Presentation of views [LC Paper No. CB(2)1124/15-16(01)] | |
| 001858 - 002202 | Mr LAU Chin-ho, Federation of Hong Kong Industries | Presentation of views [LC Paper No. CB(2)1086/15-16(01)] | |
| 002203 - 002418 | Mr NGAN Man-yu, Democratic Alliance for the Betterment and Progress of Hong Kong | Presentation of views | |
| 002419 - 002726 | Mr TAM Hop-sing, Hong Kong Federation of Restaurants & Related Trades | Presentation of views [LC Paper No. CB(2)1049/15-16(02)] | |
| 002727 - 002956 | Mr Stanley CHAING, Lok Ma Chau China-Hong Kong Freight Association | Presentation of views | |
| 002957 - 003252 | Ms Dermine Celine Alexandre C., PathFinders | Presentation of views | |
| 003253 - 003506 | Mr WONG Po-keung, Hong Kong Taxi Owners' Association Ltd. | Presentation of views [LC Paper No. CB(2)1124/15-16(02)] | |
| 003507 - 003746 | Mr LEUNG Chun-wah, Association of Restaurant Managers | Presentation of views [LC Paper No. CB(2)1070/15-16(01)] | |

| Time marker | Speaker | Subject(s) / Discussion | Action Required |
|--------------------|---|---|------------------------|
| 003747 - 004052 | Miss Vincci WONG, Kwai Chung Estate Labour Rights Concern Group | Presentation of views | |
| 004053 - 004350 | Miss LAI Choi-yin, Kwai Chung Standard Working Hours Concern Group | Presentation of views | |
| 004351 - 004618 | Mr Joseph CHAN, Member of Central and Western District Council | Presentation of views | |
| 004619 - 004922 | Miss LAW Pui-shan, Hong Kong Catholic Commission for Labour Affairs | Presentation of views [LC Paper No. CB(2)1086/15-16(02)] | |
| 004923 - 005228 | Mr LAM Hoi-tat, Hong Kong Container Tractor Owner Association Ltd. | Presentation of views | |
| 005229 - 005536 | Mr LEUNG Hoi-fu, Take a break or break a take | Presentation of views | |
| 005537 - 005841 | Mr NG Chi-fai, Hong Kong Chef Union | Presentation of views | |
| 005842 - 010149 | Miss YAU Mei-po, 民主議政 | Presentation of views | |
| 010150 - 010455 | Miss WONG Hiu-kwan | Presentation of views | |
| 010456 - 010802 | Mr Kelvin CHAN Ho-wah, 標你有無街坊會 | Presentation of views | |
| 010803 - 011106 | Mr CHONG Ka-wai, The Parade Trade Union | Presentation of views | |
| 011107 - 011359 | Ms Rida CHEUNG, 前線員工權益關注組 | Presentation of views [LC Paper No. CB(2)1124/15-16(03)] | |
| 011400 - 011650 | Mr HO Cheuk-hin, Concerning CSSA & Low Income Alliance | Presentation of views | |
| 011651 - 011957 | Ms FUNG Suk-yi, 葵芳工友組 | Presentation of views | |

| Time marker | Speaker | Subject(s) / Discussion | Action Required |
|--------------------|---|---------------------------------|------------------------|
| 011958 - 012302 | Mr Peter SHIU, Liberal Party | Presentation of views | |
| 012303 - 012540 | Mr Vincent TSUI Tien-you, Business and Professionals Alliance for Hong Kong Committee on Youth | Presentation of views | |
| 012541 - 012846 | Mr YAU Yik-shing, The Federation of Hong Kong & Kowloon Labour Unions | Presentation of views | |
| 012847 - 013148 | Mr WONG Yun-tat, Neighbourhood and Worker's Service Centre | Presentation of views | |
| 013149 - 014003 | Chairman | 5-minute break for the meeting | |
| <i>Session Two</i> | | | |
| 014004 - 014115 | Chairman | Opening remarks for Session Two | |
| 014116 - 014319 | Mr Louis PONG Wai-yan, Employers' Federation of Hong Kong | Presentation of views | |
| 014320 - 014628 | Mr HO Kam-chung, 天主教勞工中心(九龍)單幢大廈保安護衛關注標準工時關注組 | Presentation of views | |
| 014629 - 014935 | Miss CHAN Ka-ye, 天主教勞工中心(九龍)單幢大廈保安關注標準工時關注組 | Presentation of views | |
| 014936 - 015142 | Ms CHOI Wai-fun, 天主教勞工中心(九龍)保安護衛關注組 | Presentation of views | |
| 015143 - 015450 | Mr CHAN Chau-shing, 天主教勞工中心(九龍)單幢大廈保安關注組 | Presentation of views | |
| 015451 - 015755 | Mr TAM Wai-pang, 天主教標準工時關注組 | Presentation of views | |

| Time marker | Speaker | Subject(s) / Discussion | Action Required |
|--------------------|--|---|------------------------|
| 015756 - 015904 | Mr TANG Ka-fat | Presentation of views | |
| 015905 - 020138 | Miss HUI Hiu-tung | Presentation of views | |
| 020139 - 020440 | Ms 羅鄧敬, Catering and Hotels Industries Employees General Union | Presentation of views | |
| 020441 - 020739 | Mr WAN Pak-kin | Presentation of views | |
| 020740 - 021039 | Mr NG Koon-kwan, 民間爭取標準工時聯盟 | Presentation of views | |
| 021040 - 021344 | Ms CHEUNG Lai-ha, Hong Kong Confederation of Trade Unions | Presentation of views [LC Paper No. CB(2)1124/15-16(04)] | |
| 021345 - 021652 | Mr Kelvin YAU, Institution of Dining Art | Presentation of views [LC Paper No. CB(2)1049/15-16(05)] | |
| 021653 - 021958 | Mr LAI Chi-po, 香港醫院僱員權益工會 | Presentation of views | |
| 021959 - 022304 | Mr NGAN Lit-chau | Presentation of views | |
| 022305 - 022614 | Mr KWOK Man-ho, 天水圍勞工權益關注組 | Presentation of views | |
| 022615 - 022925 | Mr Herrick LEE Yen-hao, Laugh Me Die Working Hour Concern Group | Presentation of views | |
| 022926 - 023233 | Ms Estrada Grace Aquino, Hong Kong Federation of Asian Domestic Workers Unions | Presentation of views | |
| 023234 - 023543 | Mr HUNG Chun-ngai, Union of Hong Kong Dockers | Presentation of views | |
| 023544 - 023828 | Mr YUNG Siu-yu, 香港碼頭業職工會機手關注組 | Presentation of views | |

| Time marker | Speaker | Subject(s) / Discussion | Action Required |
|--------------------|---------------------------------------|---|------------------------|
| 023829 - 024348 | Chairman Mr LEE Cheuk-yan Admin | <p>Mr LEE Cheuk-yan cited that although the employment conditions of foreign domestic helpers ("FDHs") were stipulated in the Standard Employment Contract ("SEC"), their working hours remained long. He therefore cast doubt about the effectiveness of legislating for "contractual working hours" (i.e. the "big frame" under exploration by SWHC) in addressing the long working hours situation of employees.</p> <p>The Administration's response as follows:</p> <p>(a) SWHC would consult the public on four policy directions, as set out in paragraph 8 of the Administration's paper, which could be considered for taking forward the working hours policy; and</p> <p>(b) currently, there were no general statutory provisions regulating working hours of employees at large under the Employment Ordinance. FDHs enjoyed the same protection and rights under the labour laws as local employees.</p> <p>Mr LEE's strong view that it was necessary to legislate for SWH so as to safeguard employees' rights.</p> | |
| 024349 - 024759 | Chairman Mr TANG Ka-piu Admin | <p>Mr TANG Ka-piu's remarks that employee representatives of the Labour Advisory Board ("LAB") on SWHC refused to participate in SWHC's work again because of their dissatisfaction about the fact that employer representatives had backtracked on their promise to conduct future discussion on the basis of legislating for working hours of employees as agreed at the SWHC meeting on 18 March 2015.</p> <p>Mr TANG advised that the labour sector would only support, on the premise of implementing SWH, SWHC to explore implementing the "small frame" (i.e. whether there was a need for other suitable measures to further protect grassroots employees with lower income, lower skills and less bargaining power).</p> | |

| Time marker | Speaker | Subject(s) / Discussion | Action Required |
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| | | <p>Mr TANG's view that the considerable uncompensated overtime work as stated in the Report of the Policy Study on SWH released in 2012 could be perceived as wage defaults. His concern as to whether the Administration had taken any enforcement actions to address the situation.</p> <p>In response to Mr TANG's enquiry, the Administration's advice that SWHC noted the need to extend SWHC's term of office beyond its scheduled expiry in early April 2016 so as to complete the remaining work.</p> <p>The Administration's appeal to the employee representatives of LAB to re-join SWHC's work as soon as possible and, together with other members, kick off the second-stage consultation to gauge the views of the community on working hours policy directions, with a view to preparing SWHC's report for the Administration's consideration.</p> | |
| 024800 - 025209 | Chairman Mr SIN Chung-kai Admin | <p>Mr SIN Chung-kai expressed grave concern that there would be insufficient time left for the current-term Government to complete the necessary legislative process for an SWH regime. His enquiry about the specific follow-up work to be undertaken by the Administration upon receipt of SWHC's report.</p> <p>The Administration's advice that the current-term Government would expire on 30 June 2017. Upon receipt of SWHC's report, the Administration would carefully consider the recommendations therein in identifying the way forward for a working hours policy suitable for Hong Kong.</p> <p>Mr SIN's view that the Administration should have its stance over a working hours policy, having regard to the divergent views on the subject between employee and employer representatives on SWHC. Mr SIN considered that the Administration had adopted a delaying tactic in taking forward the issue.</p> | |

| Time marker | Speaker | Subject(s) / Discussion | Action Required |
|-----------------|---|--|-----------------|
| | | <p>The Administration's advice that SWHC had since its establishment worked at full steam to complete an enormous amount of work to explore working hours policy directions. It appealed to the community and general public to take the opportunity to actively express views on the subject during SWHC's second-stage consultation.</p> | |
| 025210 - 025930 | Chairman Mr LEUNG Yiu-chung Admin | <p>Mr LEUNG Yiu-chung shared the view that the Administration had adopted a delaying tactic in taking forward the subject of working hours policy. Mr LEUNG echoed that it would be impossible to complete the relevant legislative work within the current-term Government.</p> <p>Mr LEUNG's grave reservation about the bargaining power of employees and that the long working hours situation could be adequately addressed by way of legislating for "contractual working hours".</p> <p>Mr LEUNG's enquiry about whether the Administration would conduct an assessment on the social costs, such as healthcare expenses, arising from the long working hours situation of employees and set out the relevant findings in the second-stage consultation document for an informed discussion.</p> <p>The Administration's response as follows:</p> <p>(a) in deliberating the subject on working hours policy directions, SWHC had examined a range of factors relating to the working hours policy which amongst others, included social factors such as quality of life, family life and employees' health; and</p> <p>(b) while upholding an evidence-based approach in the deliberation of working hours policy directions, SWHC also considered the relevant qualitative information on working hours issues.</p> | |

| Time marker | Speaker | Subject(s) / Discussion | Action Required |
|--------------------|--|---|------------------------|
| 025931 - 030120 | Chairman Mr TANG Ka-piu Mr LEUNG Yiu-chung | The Subcommittee would write to the Secretary for Labour and Welfare conveying members' request for SWHC to consider social costs of long working hours situation. Meeting arrangement for the next meeting. | The Secretariat |

Council Business Division 2
Legislative Council Secretariat
15 August 2016