

**立法會**  
**Legislative Council**

LC Paper No. CB(4)26/17-18  
(These minutes have been seen  
by the Administration)

Ref : CB4/HS/1/16

**Subcommittee on Children's Rights**

**Minutes of the tenth meeting  
on Monday, 24 July 2017, at 10:45 am  
in Conference Room 1 of the Legislative Council Complex**

**Members present** : Dr Hon Fernando CHEUNG Chiu-hung (Chairman)  
Hon SHIU Ka-chun (Deputy Chairman)  
Hon LEUNG Yiu-chung  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung, JP  
Hon Andrew WAN Siu-kin  
Hon CHU Hoi-dick

**Member attending** : Hon SHIU Ka-fai

**Members absent** : Dr Hon Helena WONG Pik-wan  
Hon IP Kin-yuen  
Dr Hon Elizabeth QUAT, BBS, JP  
Hon Alvin YEUNG  
Hon HUI Chi-fung  
Dr Hon CHENG Chung-tai

**Public Officers : Agenda item I  
attending**

**Education Bureau**

Ms SO Yuen-yi  
Principal Education Officer (School Administration)

Mr LEUNG Kwok-yan  
Senior Education Officer (Placement & Support)

**Security Bureau**

Mr Billy WOO  
Principal Assistant Secretary for Security (Review)

Mr Freddy CHIK  
Assistant Secretary for Security (Review)<sup>1</sup>

**Department of Health**

Dr Rita HO  
Principal Medical & Health Officer (Family Health Service)

**Immigration Department**

Mr FUNG Ngai-wa  
Assistant Director of Immigration  
(Removal Assessment and Litigation)

Ms YEUNG Suk-yee  
Assistant Principal Immigration Officer (Law Reform)

**Leisure and Cultural Services Department**

Miss Rochelle LAU  
Assistant Director (Libraries & Development)

**Social Welfare Department**

Ms Micy LUI  
Acting Assistant Director (Family & Child Welfare)

**Hospital Authority**

Ms Ivis CHUNG  
Chief Manager (Allied Health)

Dr SIN Ngai-chuen  
Chief Manager (Patient Safety & Risk Management)

**Attendance by invitation : Agenda item I**

The Civic Party

Mr Simon HUNG Ling-fai  
District Developer of the New Territories West Branch

PathFinders Limited

Mr Tomasz ZAWADA

Justice Centre Hong Kong

Miss Annie LI Man  
Research and Policy Officer

Mr Azan-aziz MARWAH

The Lion Rock Institute

Miss Veenie AIDASWANI  
Research Assistant

Health In Action

Miss Karen LAU  
Research and Advocacy Coordinator

Save the Children Hong Kong

Ms Chine CHAN  
Research Advocacy & Meal Manager

The Hong Kong Society for Asylum-Seekers and Refugees

Ms CHOI Fung-yee

Ms Isabella NG

Miss Joey YU

Speaker A

Speaker B

Hong Kong Paediatric Foundation

Mr LO Cheuk-long  
Health Ambassador

Mrs Gloria TIEN LUK Sau-kuen

Mr CHOW Fu-kin

Miss LO Mei-kei

Miss KHAN Sarish-zaitha

The Vine Community Services Limited

Mr Thomas FRANZ  
CEO

Daly & Associates

Ms Karen McCLELLAN  
Solicitor

Christian Action Centre for Refugees

Mr Jeffrey Anderws ALTERIN

Speaker C

Speaker D

Equal Children's Rights Concern Group

Ms Naveed UZMA

Mr Sabih Ur REHMAN

Shahid

**Clerk in attendance** : Ms Angel WONG  
Chief Council Secretary (4)4

**Staff in attendance** : Miss Mandy NG  
Council Secretary (4)4

Ms Sandy HAU  
Legislative Assistant(4)4

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Action

**I. Rights of refugee and asylum seeking children**

(LC Paper No. CB(4)1432/16-17(01) -- Paper provided by the Administration)

Other papers

Written submission from deputation not attending the meeting

(LC Paper No. CB(4)1439/16-17(01) -- Submission from Equal Opportunities Commission (*English version only*))

Meeting with deputations/individuals and the Administration for agenda item I

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

2. The Subcommittee received views from 24 deputations/individuals attending the meeting and a written submission from a deputation which had not attended the meeting. The major views and concerns of deputations/individuals were summarized as follows:

*Unified screening mechanism*

- (a) the screening procedures of the unified screening mechanism ("USM") for claims for non-refoulement protection might take years to complete. If the claims were rejected by the Immigration Department ("ImmD"), a refugee or an asylum seeker could appeal to the Torture Claims Appeal Board and file a judicial review in the High Court. This meant that refugees and asylum seekers might stay in Hong Kong for a considerably long period of time and face more challenges such as daily survival, mental stress and cultural difference. The Administration should consider ways to speed up the process;

Action

- (b) under USM, the claims of refugee and asylum seeking children and their father and/or mother were processed in one go. If their parents were from different countries of origin and their claims were unsubstantiated, they would return to their own countries respectively. Under these circumstances, refugee and asylum seeking children might have to be separated from their parents and were vulnerable to human trafficking and inhumane treatment. The claims of these children should be considered independently for their best interests;
- (c) the Administration should better protect the rights of refugee and asylum seeking children in Hong Kong in accordance with the United Nations Convention on the Rights of the Child;
- (d) refugees and asylum seekers could not leave Hong Kong pending the outcome of their claims. Otherwise, their claims would be treated as withdrawn. The Administration was urged to consider approving refugee and asylum seeking children to join overseas study tours or competitions on a discretionary basis;
- (e) the Administration should not set up detention camps to detain refugees and asylum seekers;
- (f) given the small number of refugees and asylum seekers in Hong Kong, ImmD should issue identity documents to them and permit them to reside in Hong Kong;

*Support to refugee and asylum seeking children*

- (g) the in-kind assistance currently provided by the International Social Service Hong Kong Branch ("ISS-HK"), as commissioned by the Social Welfare Department ("SWD"), was limited in capacity. The Administration should improve social welfare support to ensure basic needs of the refugee and asylum seeking children were met;
- (h) \$1,200 E-token provided by ISS-HK to each refugee and asylum seeker per month for purchase of food items could hardly meet their fundamental needs;
- (i) basic necessities such as washing powder, toilet papers, baby items were distributed by ISS-HK on a monthly basis to refugees and asylum seekers. However, it was reported that the supply of baby items such as disposable diapers were insufficient;

Action

- (j) refugees and asylum seekers were to find their own flats in Hong Kong. However, the monthly rent allowance of \$1,500 per adult and \$750 per child given by ISS-HK was not enough to rent a house in Hong Kong;
- (k) ISS-HK provided refugees and asylum seekers with transportation allowance (\$200-\$420 per month) for appointments with ImmD, doctors and lawyers. The Administration was urged to provide more transportation allowance to these children who were in need of regular medical appointments at hospitals;
- (l) as many refugees and asylum seekers did not understand Chinese or English, they encountered difficulties in applying for birth certificates for their newborns given the absence of free translation/interpretation services;
- (m) while parents in Hong Kong were normally required to attend the Birth Registry once to obtain the birth certificate, refugees and asylum seekers were required to attend twice and took about fifty days before the certificate was issued. Without the birth certificate, their children could not register for medical services;
- (n) refugee and asylum seeking children whose removal was unlikely for a considerable length of time would only be provided schooling on a case-by-case basis. It was hoped that these children could be given same education opportunities as children in Hong Kong;
- (o) refugee and asylum seeking children had difficulties enrolling in schools as some schools were unwilling to admit them;
- (p) refugees and asylum seekers had difficulties in paying for uniforms, books, meals, extra-curricular activities for their children because they were not allowed to work in Hong Kong and the student financial assistance granted on a case-by-case basis would only be disbursed several months after the start of each school year. It would be more desirable to streamline the relevant application procedures to ensure that adequate financial assistance should be provided to these families before school year commenced;
- (q) after graduating from secondary schools, young refugees and asylum seekers were often denied access to higher education and were not allowed to take up employment. Many of them were idle at home and were frustrated about their uncertain future;

Action

- (r) support measures were hardly available for refugee and asylum seeking children with special educational needs;
- (s) when refugees and asylum seekers used medical services provided by public hospitals, they were required to pay for the medical expenses chargeable for "non-eligible persons". Those with financial difficulties could apply for a one-off medical fee waiver at public hospitals and clinics or with SWD. To better address their medical needs, the Administration could consider making recommendations for annual or half-year waiver of medical expenses to them as needed;
- (t) refugee and asylum seeking children were vulnerable to psychological health problems. Sensitivity training should be provided for all front-line medical staff and social workers to enhance their professional capability in handling and accommodating special needs of these children;
- (u) assistance provided to refugee and asylum seeking children should be equivalent to the levels of Comprehensive Social Security Assistance, giving the high standard of living in Hong Kong. For instance, allowance should be given for purchase of eye glasses;
- (v) special grant for dental treatment items, such as dentures, scaling, fillings, should be provided to refugee and asylum seeking children; and
- (w) refugee and asylum seeking children were not eligible for public services, such as borrowing books from public libraries. Non-government organizations ("NGOs") should be enlisted to provide them with the necessary social support.

3. Members shared the views raised by deputations attending the meeting and expressed concerns about the inadequacy of assistance rendered to refugee and asylum seeking children. They opined that the Administration had international obligations to protect the rights of these children and to ensure that the support rendered to them was in compliance with international standards.

4. On the views and concerns raised by members and deputations at the meeting, the Administration made the following responses:

*Unified screening mechanism*

- (a) the United Nations Convention relating to the Status of Refugees had never applied to Hong Kong. The Administration had always



Action

maintained a firm policy of not granting asylum and not determining or recognizing refugee status of anyone. Claimants who lodged non-refoulement claims to resist removal from Hong Kong would not be treated as "refugees" or "asylum seekers". Regardless of the outcome of their non-refoulement claims, their immigration status as illegal immigrants or overstayers would not change; they were not permitted to reside in Hong Kong;

- (b) the Administration was mindful that non-refoulement claims should be handled with a high standard of procedural fairness and would continue its efforts to expedite screening of claims and removing those whose claims had been finally rejected;
- (c) under USM, non-refoulement claimants had all reasonable opportunities to provide facts for establishing their claims. They were provided with publicly-funded legal assistance and interpretation service. In general, the grounds of a non-refoulement claim of a minor were the same as those of his/her father and/or mother. If non-refoulement claimants (including minors) had special needs, such needs might be raised to ImmD for appropriate arrangements;
- (d) non-refoulement claimants did not have a right to enter and remain in Hong Kong. If they left Hong Kong for whatever reasons, their claims would be treated as withdrawn and must not be re-opened;
- (e) the Administration had all along updated the Legislative Council's Panel on Security on the comprehensive review of the strategy of handling non-refoulement commenced in 2016;
- (f) on the suggestion of detention centre made by some members of the public, the Administration maintained an open mind on this issue. Yet, this suggestion warranted careful consideration as it involved challenges from legal, public security and resources perspectives;

*Support to minors of non-refoulement claimants*

- (g) since 2006, SWD had commissioned ISS-HK, a non-governmental organization, through established and regular tendering procedures to offer humanitarian assistance to non-refoulement claimants in need on a case-by-case basis to prevent them from becoming destitute. Non-refoulement claimants would receive in-kind assistance from ISS-HK monthly based on individual needs and circumstances. For special cases with extra needs, ISS-HK might adjust the amount of assistance, subject to an assessment of the

Action

actual situation based on justifications and documental proofs provided. SWD welcomed stakeholders' feedback on the services provided by ISS-HK and would carefully and constantly review the level of assistance for the claimants;

- (h) under the humanitarian assistance programme, the monthly rent allowance was at \$1,500 and \$750 for each adult and child respectively. Non-refoulement claimants might pool together their rent allowance to rent premises. If they encounter difficulties in securing suitable accommodation, they could approach social workers or ISS-HK for assistance;
- (i) eligible non-refoulement claimants were provided with petty cash, ranging from \$200-\$420 per month, to meet travelling needs for various purposes. The transportation allowance also allowed them to have a small buffer to meet non-routine journeys, such as urgent medical appointments. The actual amount of allowance depended on their location of residence and the number of routine journeys. Additional transportation allowance for attending school, etc. would be provided upon individual case needs and relevant documental proofs available;
- (j) if minors of non-refoulement claimants would not be removed from Hong Kong in the foreseeable future and would wish to attend school whilst in Hong Kong, the Education Bureau ("EDB") would arrange for their school placements in public sector primary or secondary schools as appropriate upon confirmation from ImmD that there were no comments on allowing these children to attend schools in Hong Kong. Kindergartens were privately run and student admission was a school-based matter. EDB had reminded kindergartens to note the salient points in their school-based admission policies, such as issues related to the Race Discrimination Ordinance (Cap. 602). Non-refoulement claimants could approach EDB direct if they encountered problems in schooling arrangement of their children;
- (k) a six-month full-time Initiation Programme and 60-hour Induction Programme were offered by EDB for newly-arrived non-Chinese speaking children in Hong Kong, including minors of non-refoulement claimants, to help them adapt to the local social environment and education system;
- (l) apart from considering applications for tuition fee subsidy on a need basis, Student Finance Office provided various student financial assistance schemes, including the Kindergarten and Child Care Centre Fee Remission Scheme, the Grant for School-related

Action

Expenses for Kindergarten Students, the School Textbook Assistance Scheme, the Student Travel Subsidy Scheme and the Subsidy Scheme for Internet Access Charges, covering students from pre-primary to secondary levels to ensure that no students in Hong Kong would be denied access to education because of lack of means. Kindergartens were encouraged to handle with flexibility for the upfront payment in case individual students had encountered financial difficulties;

- (m) the Hospital Authority ("HA") or SWD would grant one-off waivers of medical expenses at public clinics or hospitals to non-refoulement claimants on a case-by-case basis. To assess each application, HA, ISS-HK and SWD could verify the identity of non-refoulement claimants by virtue of the recognizance form issued under Section 36(1) of the Immigration Ordinance (Cap. 115) (commonly known as "Form No. 8".) Should there be doubt on their identity, the concerned department or institution might seek verification with ImmD through the existing coordination mechanism. HA and SWD would further ascertain whether there were changes in their financial and social situation. In connection with assessing these applications, HA and SWD would consider exploring possible enhancement measures to facilitate exchange of information with ImmD;
- (n) if there was a genuine need, non-refoulement claimants, no matter adults or minors, could apply for reimbursement from ISS-HK for purchase of eye-glasses;
- (o) the Department of Health ("DH") operated the Student Health Service which provided a comprehensive range of promotive and preventive health services to primary and secondary school students. The School Dental Care Service under DH also provided dental health care for primary school students. Services were provided regardless of local residence status of the students. Medical fee and charges would be waived for those with waiver certificate issued by SWD; and
- (p) NGOs servicing non-refoulement claimants could join the partnership schemes in collaboration with the Hong Kong Public Libraries to provide community-based library services to their service targets.

Action

5. The Chairman requested the Administration to provide the following information:

- (a) the assistance-in-kind items and amount of transportation allowance provided by ISS-HK to non-refoulement claimants under the humanitarian assistance programme;
- (b) the reasons for SWD commissioning ISS-HK to offer humanitarian assistance to non-refoulement claimants for more than 10 years; and
- (c) a written response to the views and concerns raised by the deputations and members at the meeting.

*(Post-meeting note: The Administration's written information was issued to members vide LC Paper CB(4)1642/16-17(01) on 9 October 2017.)*

**II. Any other business**

6. There being no other business, the meeting ended at 1:17 pm.

Council Business Division 4  
Legislative Council Secretariat  
13 October 2017

## Subcommittee on Children's Rights

### Proceedings of the tenth meeting on Monday, 24 July 2017 at 10:45 am in Conference Room 1 of the Legislative Council Complex

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda Item I - Rights of refugee and asylum seeking children</i>			
000707 - 001325	Chairman	Opening remarks	
001326 - 001635	Chairman The Civic Party	Presentation of views [LC Paper No. CB(4)1458/16-17(01)]	
001636 - 001956	Chairman PathFinders Limited	Presentation of views [LC Paper No. CB(4)1432/16-17(04)]	
001957 - 002300	Chairman Justice Centre Hong Kong	Presentation of views [LC Paper Nos. CB(4)1432/16-17(03) and CB(4)1458/16-17(02)]	
002301 - 002702	Chairman Mr Azan-aziz MARWAH	Presentation of views [LC Paper No. CB(4)1458/16-17(02) ]	
002703 - 002932	Chairman The Lion Rock Institute	Presentation of views	
002933 - 003324	Chairman Health in Action	Presentation of views [LC Paper Nos. CB(4)1432/16-17(02) and CB(4)1458/16-17(02)]	
003325 - 003718	Chairman Save the Children Hong Kong	Presentation of views [LC Paper No. CB(4)1458/16-17(02) ]	
003719 - 004109	Chairman The Hong Kong Society for Asylum-Seekers and Refugees	Presentation of views [LC Paper No. CB(4)1458/16-17(02) ]	
004110 - 004501	Chairman Ms Isabella NG	Presentation of views	
004502 - 004835	Chairman Miss Joey YU	Presentation of views	
004836 - 005037	Chairman Speaker A	Presentation of views	
005038 - 005503	Chairman Speaker B	Presentation of views	
005504 - 005856	Chairman Hong Kong Paediatric Foundation	Presentation of views [LC Paper No. CB(4)1458/16-17(03)]	

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
005857 - 010100	Chairman Mr CHOW Fu-kin	Presentation of views [LC Paper No. CB(4)1482/16-17(01)]	
010101 - 010517	Chairman Miss LO Mei-kei	Presentation of views [LC Paper No. CB(4)1482/16-17(01)]	
010518 - 010934	Chairman Miss KHAN Sarish-zaitha	Presentation of views [LC Paper No. CB(4)1482/16-17(01)]	
010935 - 011244	Chairman The Vine Community Service Limited	Presentation of views [LC Paper No. CB(4)1432/16-17(05)]	
011245 - 011622	Chairman Daly & Associates	Presentation of views [LC Paper No. CB(4)1458/16-17(02) ]	
011623 - 012025	Chairman Speaker C	Presentation of views	
012026 - 012353	Chairman Speaker D	Presentation of views	
012354 - 012817	Chairman Equal Children's Rights Concern Group	Presentation of views [LC Paper No. CB(4)1458/16-17(04) ]	
012818 - 012944	Chairman Mr Sabih Ur REHMAN	Presentation of views	
012945 - 013057	Chairman Shahid	Presentation of views	
013058 - 013321	Chairman Christian Action Centre for Refugees	Presentation of views [LC Paper No. CB(4)1458/16-17(02)]	
013322 - 020229	Chairman Security Bureau ("SB") Education Bureau Social Welfare Department ("SWD") Leisure and Cultural Services Department Department of Health Hospital Authority ("HA")	The Chairman's remarks and the Administration's response to the views of the deputations	
020230 - 021403	Chairman Mr LEUNG Yiu-chung SB SWD Immigration Department ("ImmD")	Mr LEUNG's enquiries about the support measures provided by the Administration and the International Social Service Hong Kong Branch for refugees and asylum seekers, and the feasibility of granting discretionary approval for refugee and asylum seeking children to join overseas study tours and competitions	Paragraph 5 of the minutes refers

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
021404 - 022738	Chairman Deputy Chairman SB HA ImmD SWD	The Deputy Chairman's concerns about the arrangement of medical fee waivers, the operation of humanitarian assistance programme, and the Administration's stance on the setting up of detention camps	Paragraph 5 of the minutes refers
022739 - 022844	Chairman Justice Centre Hong Kong	Presentation of views	
022845 - 022949	Chairman Health in Action	Presentation of views	
022950 - 023103	Chairman The Lion Rock Institute	Presentation of views	
023104 - 023217	Chairman Mr Azan-aziz MARWAH	Presentation of views	
023218 - 023346	Chairman Ms Isabella NG	Presentation of views	
023347 - 023424	Chairman Christian Action Centre for Refugees	Presentation of views	
<i>Agenda Item II – Any other business</i>			
023425 - 023636	Chairman	Closing remarks	