

立法會
Legislative Council

LC Paper No. ESC140/18-19
(These minutes have been
seen by the Administration)

Ref : CB1/F/3/2

Establishment Subcommittee of the Finance Committee

**Minutes of the 17th meeting
held in Conference Room 2 of Legislative Council Complex
on Tuesday, 28 May 2019, at 2:30 pm**

Members present:

Hon Mrs Regina IP LAU Suk-ye, GBS, JP (Chairman)
Hon Holden CHOW Ho-ding (Deputy Chairman)
Hon James TO Kun-sun
Hon WONG Ting-kwong, GBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Steven HO Chun-yin, BBS
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon CHAN Chi-chuen
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, BBS, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, SBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon CHU Hoi-dick
Hon HO Kai-ming
Hon SHIU Ka-fai
Hon YUNG Hoi-yan
Dr Hon Pierre CHAN

Hon CHAN Chun-ying, JP
Hon Jeremy TAM Man-ho
Hon AU Nok-hin
Hon Vincent CHENG Wing-shun, MH
Hon Tony TSE Wai-chuen, BBS

Member attending:

Hon KWONG Chun-yu

Member absent:

Hon SHIU Ka-chun

Public Officers attending:

Ms Kinnie WONG Kit-yee	Deputy Secretary for Financial Services and the Treasury (Treasury) 1 (Acting)
Mr Brian LO Sai-hung, JP	Deputy Secretary for the Civil Service 1
Mr Clement LEUNG Cheuk-man	Permanent Secretary for Commerce and Economic Development (Communications and Creative Industries)
Ms Julina CHAN Woon-yee	Deputy Secretary for Commerce and Economic Development (Communications and Creative Industries)
Mr LEUNG Ka-wing	Director of Broadcasting Radio Television Hong Kong
Mr Caspar TSUI Ying-wai	Under Secretary for Labour and Welfare
Mr Carlson CHAN Ka-shun	Commissioner for Labour
Ms Melody LUK Wai-ling	Assistant Commissioner for Labour (Labour Relations)
Mr Raymond HO Kam-biu	Assistant Commissioner for Labour (Development)
Miss Leonia TAI Shuk-yiu	Deputy Secretary for Labour and Welfare (Welfare) 1
Miss Karen SHING Wan-ching	Principal Assistant Secretary for Labour and Welfare (Welfare) 1

Clerks in attendance:

Ms Connie SZETO

Chief Council Secretary (1)4

Staff in attendance:

Mr Hugo CHIU

Senior Council Secretary (1)4

Ms Alice CHEUNG

Senior Legislative Assistant (1)1

Miss Yannes HO

Legislative Assistant (1)7

Ms Haley CHEUNG

Legislative Assistant (1)10

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The Chairman drew members' attention to the information paper ECI(2019-20)4, which set out the latest changes in the directorate establishment approved since 2002 and the changes to the directorate establishment in relation to the seven 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 item under discussion at the meeting before they spoke on the item. She also drew members' attention to RoP 84 on voting in case of direct pecuniary interest.

EC(2019-20)1 Proposed making permanent of one Administrative Officer Staff Grade B (D3) supernumerary post in the Radio Television Hong Kong (RTHK) with effect from 27 May 2019 or with immediate effect upon approval by the Finance Committee, whichever is later to enhance RTHK's governance and to steer its strategies on resources planning and deployment in the light of the substantial growth both in terms of the establishment and diversity of its work

2. The Chairman remarked that the staffing proposal was to make permanent of one Administrative Officer Staff Grade B ("AOSGB") (D3) supernumerary post in the Radio Television Hong Kong ("RTHK") (designation to be changed from Deputy Director of Broadcasting (Developments) ("DD of B (Developments)") to Deputy Director of Broadcasting (Administration and Development) ("DD of B (A&D)")) with effect from 27 May 2019 or with immediate effect upon approval by the

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Finance Committee ("FC"), whichever was later to enhance RTHK's governance and to steer its strategies on resources planning and deployment in the light of the substantial growth both in terms of the establishment and diversity of its work. She pointed out that discussion of the item was carried over from the meeting on 15 May 2019.

Necessity of creating the proposed post

3. Mr James TO, Dr KWOK Ka-ki and Mr CHU Hoi-dick said that despite all the funding increases and establishment expansion in recent years, RTHK had still faced a constant resource shortage, as its broadcasting hours and workload had also increased significantly at the same time. Dr KWOK criticized the Administration for still submitting this staffing proposal despite opposition from the RTHK Programme Staff Union ("RTHKPSU") and questioned whether the proposal was intended to impose control on the editorial independence of RTHK and reduce it to a government mouthpiece. Adding that staff of the Administrative Officer Grade would in general focus only on implementing government policies, he expressed concern on whether DD of B (A&D) could cooperate with RTHK staff. He did not believe that this staffing proposal could solve the problems faced by RTHK. Mr TO questioned whether DD of B (A&D) would seek to "sap" RTHK of its resources on the pretext of improving resource deployment, and to assist the Government in influencing the editorial independence of RTHK. Mr KWONG Chun-yu expressed similar concerns. Mr AU Nok-hin enquired whether the holder of the DD of B (A&D) post had to meet other requirements (including working experience in the media), apart from possessing administrative experience.

4. Permanent Secretary for Commerce and Economic Development (Communications and Creative Industries) ("PSCED(CCI)") emphasized that there had been a significant growth in RTHK's manpower and funding over the past nine years, so RTHK had not faced any problem of resource curtailment. As a Government department, RTHK was required to comply with the Government's internal operational guidelines and maintain fiscal discipline. The Director of Audit's Report No. 71 ("Report No. 71") and the Public Accounts Committee ("PAC") also separately proposed numerous recommendations for improving the cost-effectiveness of RTHK. The duties of DD of B (A&D) were to steer RTHK's strategies on resources planning and deployment and to oversee all administration and development work. DD of B (A&D) would not interfere with the production of RTHK's programmes or its editorial independence. The holder of the post was not required to possess media experience. Director of Broadcasting ("D of B") supplemented that the two former DDs of B responsible for administration and development were highly capable and had handled the administration and resource deployment matters of RTHK

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effectively. Besides, staff of the Administrative Officer Grade all had considerable experience in communicating with various bureaux/departments ("B/Ds").

5. Mr James TO requested the Administration to provide information on the rate of increase in financial provision allocated to RTHK and the changes in the Consumer Price Index between 2010-2011 and 2019-2020.

(Post-meeting note: The supplementary information provided by the Administration was circulated to members vide LC Paper No. ESC128/18-19(01) on 17 June 2019.)

6. Mr CHAN Chi-chuen expressed disappointment at the Administration's failure to give a direct response to the concerns raised in the statement issued by RTHKPSU dated 14 May 2019 ("RTHKPSU's statement") (These concerns included: (a) there was no necessity to make the DD of B (Developments) post permanent as its administrative functions had been taken up by the Departmental Secretary; and (b) the Deputy Director of Broadcasting (Programmes) post had been vacant for almost one year, duties of which were doubled-up by two Assistant Directors of Broadcasting. Creating the proposed permanent post would lead to interference of personnel appointment by executive authorities). Mr CHAN enquired whether the Administration would undertake to fill the DD of B (Programmes) post as soon as possible. Mr AU Nok-hin enquired about the impacts of this staffing proposal on the duties of the Departmental Secretary. Dr KWOK Ka-ki asked how the Administration would respond to the concerns of RTHKPSU, including whether it would hold a meeting with RTHKPSU. Mr SHIU Ka-fai also enquired whether the Administration had discussed the relevant issues with RTHKPSU.

7. PSCED(CCI) and D of B replied that RTHK management had discussed issues related to resources and contract staff with RTHKPSU. The Administration understood RTHKPSU's concern over the shortage of frontline staff. Regarding this, it had continuously increased the funding and manpower for RTHK over the past few years. The Administration's paper had listed the duties of the proposed post and clearly illustrated that such post would only be responsible for steering RTHK's strategies on resources planning and deployment. PSCED(CCI) advised that the Departmental Secretary post was held by an Executive Officer Grade staff member who mainly provided support services. Considering that the number of posts in RTHK would exceed 750 in 2019-2020 with a budget estimation standing at 1 billion, coupled with the launch of numerous large-scale projects (including the development of the New Broadcasting House ("New BH")), it was more appropriate for Administrative Officer Grade staff to plan for and manage RTHK's resources using their rich

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administrative, coordination and communication experiences.

8. Regarding the arrangement for the DD of B (Programmes) post, PSCED(CCI) reiterated that as a Government department, RTHK would handle the promotion of civil servants according to the Government's established mechanism (including yearly performance appraisals and reviews, and the setting up of promotion boards when promotion opportunities arise). RTHK would also review the acting arrangements for vacant posts every year.

9. Mr Martin LIAO enquired how the duties of the DD of B (A&D) post would be carried out if FC's approval could not be granted to this staffing proposal within a short period of time. Mr KWONG Chun-yu raised a similar enquiry.

10. In response, PSCED(CCI) said that the post of DD of B (Developments) was already deleted on 27 May 2019 upon the expiry of its term. If this staffing proposal failed to gain FC's approval, RTHK would make internal manpower arrangements for doubling-up the duties of DD of B (A&D), having regard to the need for according priority to individual tasks (such as the work of following up the recommendations on the operation and resource deployment of RTHK made by the Audit Commission in its Report No. 71 ("AC's recommendations")). He stressed that such practice was not desirable.

Development of the New Broadcasting House

11. Mr CHAN Chi-chuen and Mr KWONG Chun-yu requested the Administration to provide a timetable for the development of the New BH. Mr KWONG also asked how DD of B (A&D) would assist RTHK in taking forward the project.

12. In response, PSCED(CCI) said that the tasks of DD of B (A&D) in taking forward the planning for the New BH were described in paragraphs 20 to 22 of the Administration's paper. He also remarked that RTHK had been exploring with other Government departments the development of a joint-user building ("JUB"). It was hoped that consensus could be reached between RTHK and relevant B/Ds in the next few months, and that Architectural Services Department would work out a conceptual layout and conduct a technical feasibility study for the project. RTHK would then proceed to consult the community. He pointed out that the technical feasibility study would take around one year to complete, but it was difficult at this stage to estimate the time required for other types of work, especially community consultation. For this reason, a concrete timetable for the development of the New BH could not be provided. The

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Administration would regularly report on the progress of the development of the New BH to relevant Panels of the Legislative Council ("LegCo").

13. Mr CHU Hoi-dick asked whether the Administration had ever examined why the Public Works Subcommittee ("PWSC") voted down the funding proposal for the development of the New BH in 2014. He urged that in addition to reviewing the costs factor, the Administration should also ascertain whether there were any other reasons that led members to vote down the funding proposal. Mr CHAN Chi-chuen urged the Administration to expedite taking forward the development of the New BH, suggesting that the authorities should consider the idea of providing two development plans at the same time, namely the JUB and a purpose-built building, for LegCo's consideration. Dr KWOK Ka-ki expressed similar views and expressed concern on whether this staffing proposal could effectively facilitate the implementation of the project.

14. In response, PSCED(CCI) remarked that when discussing the funding proposal for the New BH in 2014, some PWSC members opined that the estimated cost was too high and also expressed reservations about the purpose-built building plan. They advised the Administration to make good use of land. DD of B (Developments) had been following up members' recommendations and proposed to adopt the JUB development plan.

Governance of Radio Television Hong Kong

15. Mr Martin LIAO asked for information about the progress made by RTHK in following up AC's recommendations, including the expected date of submitting a report to LegCo.

16. PSCED(CCI) replied that RTHK had already submitted an interim report to PAC in mid-May 2019 and established a task force to follow up on AC's recommendations. It was expected that a detailed report would be submitted to LegCo and PAC before the end of 2019. He also pointed out that the Administration had undertaken to report the progress of RTHK's follow-up work on AC's recommendations to the relevant LegCo Panels.

Radio Television Hong Kong programmes

17. Mr SHIU Ka-fai asked how this staffing proposal would help RTHK's programme production, and whether it could raise the audience ratings of RTHK television programmes. He also hoped that RTHK could improve its programmes and attract more audience.

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18. In response, PSCED(CCI) said that DD of B (A&D) would be responsible for steering the planning for RTHK's resources, but his/her duties did not include raising the audience ratings of RTHK television programmes.

19. In response to the Chairman's enquiry about the social responsibilities of RTHK, PSCED(CCI) pointed out that the Charter of Radio Television Hong Kong pledged to "serve a broad spectrum of audiences and cater to the needs of the minority interest groups". While providing programmes for the minority interest groups (e.g. classical music programmes), RTHK would also heed AC's recommendations on its programmes, including a clearer positioning and paying attention to the audience rate of its popular programmes. The Chairman remarked that RTHK should provide more quality programmes for the minority interest groups.

20. Mr CHAN Chi-chuen was concerned that despite a shortage of frontline staff, RTHK was required to broadcast television programmes around the clock. He was worried that for reasons of low average rates, RTHK might be criticized for unsatisfactory resource deployment. In response, D of B said that RTHK would examine the audience rate of relevant timeslots (instead of average audience rate) when assessing the cost-effectiveness of its television programmes.

21. Mr AU Nok-hin hoped that RTHK could telecast matches of the Hong Kong Premier League and urged the Administration to undertake that RTHK would participate in the tendering of the telecast right for local football matches in the future. In response, D of B said that RTHK had successfully acquired the telecast right for important local football matches (e.g. Lunar New Year Cup), and such efforts would continue in the future. He pointed out that it took time to obtain the telecast right for local football matches.

Non-civil Service Contract staff employed by Radio Television Hong Kong

22. Mr Alvin YEUNG recognized that RTHK had produced many quality programmes. He enquired about the total number, wastage rates and trade divisions of RTHK's Non-civil Service Contract ("NCSC") staff in the past three years.

23. D of B advised that RTHK had employed a total of around 240 former NCSC staff members as civil servants since 2011; there were 13, 33 and 18 former NCSC staff members being employed as civil servants in 2016-2017, 2017-2018 and 2018-2019 respectively. PSCED(CCI) added that RTHK would review its NCSC posts according to the guidelines of the

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Civil Service Bureau ("CSB"), including whether to turning such posts into civil servant posts.

Production Arrangements for School Educational Television Programmes

24. The Chairman said that AC pointed out in its Report No. 71 that the dropping utilization rates of School Educational Television ("ETV") programmes (particularly in kindergartens and secondary schools), coupled with the growing production costs, had resulted in unsatisfactory cost-effectiveness of RTHK. She asked whether DD of B (A&D) would meet with the Education Bureau ("EDB") to discuss the necessity or otherwise of retaining ETV and the amount of resources RTHK could save per annum if the Government cancelled ETV. The Chairman expected DD of B (A&D) to conduct a detailed value-for-money analysis on ETV.

25. Mr CHAN Chi-chuen enquired whether EDB would outsource the production of ETV programmes to alleviate the resource shortage of RTHK.

26. PSCED(CCI) replied that RTHK accepted the relevant comments and recommendations of AC. He added that ETV fell within the portfolio of EDB, and the Bureau was reviewing the future directions for ETV. He would convey Mr CHAN Chi-chuen's opinions to EDB. In addition, EDB had already given a written response to the relevant recommendations in Report No. 71. As some schools chose to download teaching materials or video clips of ETV programmes from the Hong Kong Education City ETV website, cross-platform audience ratings would be more effective in reflecting the utilization of ETV than television audience ratings. RTHK would explore ways to collect cross-platform audience ratings for analyzing the actual utilization rate. PSCED(CCI) added that EDB approved a funding of some \$28,000,000 to RTHK per annum. Acknowledging the overly-high production costs of ETV programmes, EDB was now discussing with RTHK on how to raise the cost-effectiveness of such programmes. He learnt that EDB would consult stakeholders regarding the review results later, including the committees of the Curriculum Development Council.

Dealing with motions proposed by members under paragraph 31A of the Establishment Subcommittee Procedure

27. At 2:42 pm and 2:52 pm, the Chairman advised that she had received two proposed motions to be moved by Mr CHAN Chi-chuen and Mr AU Nok-hin respectively under paragraph 31A of the Establishment Subcommittee Procedure. She said that she would deal with these motions after members had finished asking their questions.

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28. At 3:37 pm, the Chairman advised that after examining the two proposed motions, she was of the view that they were directly relevant to the agenda item. She put to vote the question that Mr CHAN Chi-chuen's proposed [motion](#) be proceeded. At the request of members, the Chairman ordered a division, and the division bell rang for five minutes. The Chairman declared that the question was [negatived](#). She then put to vote the question that Mr AU Nok-hin's proposed [motion](#) be proceeded. At the request of members, the Chairman ordered a division, and the division bell rang for five minutes. The Chairman declared that the question was [negatived](#).

Voting on the Item

29. The Chairman put the item EC(2019-20)1 to vote. At the request of members, the Chairman ordered a division, and the division bell rang for five minutes. Eleven members voted for the item, and nine against it. The Chairman declared that the Subcommittee agreed to recommend the item to FC for approval. The votes of individual members were as follows:

For

Mr WONG Ting-kwong	Mr WONG Kwok-kin
Mr KWOK Wai-keung	Mr Christopher CHEUNG
Mr Martin LIAO	Mr POON Siu-ping
Mr HO Kai-ming	Mr Holden CHOW
Mr YUNG Hoi-yan	Mr CHAN Chun-ying
Mr Tony TSE	
(11 members)	

Against

Mr James TO	Mr CHAN Chi-chuen
Dr KWOK Ka-ki	Dr Fernando CHEUNG
Mr IP Kin-yuen	Mr Alvin YEUNG
Mr CHU Hoi-dick	Mr Jeremy TAM
Mr AU Nok-hin	
(9 members)	

30. Mr CHAN Chi-chuen requested that the item be voted on separately at the relevant FC meeting.

(At 3:54 pm, the Chairman declared that the meeting be suspended for five minutes. The meeting resumed at 3:59 pm.)

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EC(2019-20)2 Proposed creation of one permanent post of Chief Labour Officer (D1) in the Labour Department with immediate effect upon approval by the Finance Committee to take forward various new measures to enhance statutory maternity leave

31. The Chairman remarked that the staffing proposal was to create one permanent post of Chief Labour Officer ("CLO") (D1) in the Labour Department ("LD") with immediate effect upon approval by FC to take forward various new measures to enhance statutory maternity leave ("ML").

32. Dr Fernando CHEUNG, Chairman of the Panel on Manpower, reported that this staffing proposal had already been discussed at the Panel meeting on 19 March 2019. Most of the Panel members had no objection to the Administration's submission of the staffing proposal to the Establishment Subcommittee ("ESC") and urged the Administration to implement the proposal of extending the statutory ML by four weeks (i.e. extending the current 10 weeks to 14 weeks) ("the new statutory ML") as soon as possible, as well as amending the definition of "miscarriage" under the Employment Ordinance (Cap. 57) ("EO"). Regarding the Administration's proposal to cap the ML pay rate in relation to the additional four weeks of ML at \$36,822, a Panel member considered it unfair to higher-paid pregnant employees. For this reason, he did not support this staffing proposal. Another Panel member expressed reservation about the staffing proposal and urged the Administration to improve the ML proposal to protect employees engaged on a short-term basis so that they would not face non-renewal of contract due to pregnancy.

Arrangements for the implementation of the new statutory maternity leave

Implementation timetable

33. Mr POON Siu-ping and Ms YUNG Hoi-yan expressed support for this staffing proposal, so that the new statutory ML could be implemented as soon as possible. Mr POON pointed out that the Panel on Manpower had already discussed the review of the statutory ML in December 2018 but ESC did not discuss the relevant staffing proposal until now. He was concerned whether the Labour and Welfare Bureau ("LWB") would thus defer implementing the new statutory ML. Ms YUNG enquired whether LWB would seek to further shorten the preparation time for the implementation of the new statutory ML by, for example, expediting the legislative amendment exercise and establishing an information technology ("IT") system required for making arrangements for reimbursing employers for the additional four weeks' ML pay ("the reimbursement mechanism").

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34. Under Secretary for Labour and Welfare ("USLW") said that if this staffing proposal could be approved by FC within a short period of time, the Government estimated that the amendment bill on the new statutory ML could be submitted to LegCo for scrutiny before the end of 2019, with the target of launching the reimbursement mechanism in 2021. He agreed that the implementation timetable was very tight. If the creation of the proposed CLO post was delayed, relevant LD officers would be required to temporarily set aside their jobs on hand to help deal with some of the work relating to the statutory ML, and this might lead to delay in the work progress.

35. Dr KWOK Ka-ki and Dr Pierre CHAN expressed support for this staffing proposal. Dr KWOK noted that pregnant civil servants were already entitled to the new statutory ML, but pregnant employees in the private sector and public bodies could only enjoy such entitlement after the passage of the relevant Bill, which was unfair. He urged LWB to implement the new statutory ML as soon as possible and requested the Administration to provide supplementary information setting out those public bodies that had not yet implemented the new statutory ML. Dr CHAN enquired whether employees of public and subsidized organizations would be entitled to the additional four weeks of ML after passage the relevant Bill.

(Post-meeting note: The supplementary information provided by the Administration was circulated to members vide LC Paper No. ESC137/18-19(01) on 11 July 2019.)

36. USLW said that the proposed CLO would guide the dedicated office in seeing through the policy formulation, legislative amendments and implementation of the new ML regime. He reiterated that LWB aimed to submit the relevant enabling Bill to LegCo for scrutiny before the end of 2019. After the relevant legislation took effect, employees of private-sector organizations and public bodies as well as subsidized organizations could also be entitled to the new statutory ML.

Information and technology and manpower support

37. Mr Holden CHOW noted that according to the Administration, the dedicated office would be required to handle a heavy workload of 30 000 statutory ML applications per annum after the implementation of the new statutory ML. He enquired about the manpower resources for the dedicated office and the progress of establishing an IT system for the reimbursement mechanism.

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38. USLW advised that at present, LB did not have any IT infrastructure to support the operation of the reimbursement mechanism. For this reason, it was necessary to build a new IT system to facilitate the implementation of the new statutory ML. Taking into account the preparatory design for and relevant procurement procedures of the IT system, it was anticipated that the reimbursement mechanism could only be rolled out and commence operation in 2021. After the new statutory ML took effect, employers were required to comply with the ordinance and pay pregnant employees the additional four weeks' MLP first, and then LB would handle relevant matters in accordance with the requirements of the reimbursement mechanism and reimburse employers.

39. Regarding the manpower support for the dedicated office, Commissioner for Labour ("C for L") remarked that a preparatory team, comprising three non-directorate permanent posts (i.e. one Senior Labour Officer, one Labour Officer and one Assistant Labour Officer I), was tasked to take forward the preparatory work for the new statutory ML. The preparatory team would eventually be incorporated into the dedicated office, which helped carry out the work relating to the new statutory ML. After the proposed CLO commenced duty, the post holder would review the manpower required in the dedicated office for handling over 30 000 subsidy applications per annum.

40. USLW noted Mr HO Kai-ming's recommendation on the IT system for the reimbursement mechanism, which suggested the authorities should develop a flexible system to cope with the potential amendments to the statutory ML in the future (e.g. changes in the coverage of employees entitled to paid ML) so that LB could take forward the new measures more effectively.

Necessity of creating a permanent directorate post

41. Despite his support for the new statutory ML, Mr James TO queried the necessity of creating the permanent CLO post in LD to take forward this measure. He noted that the Administration already extended the statutory ML from six weeks to the current 10 weeks many years ago, but it did not create any additional permanent directorate post at that time. Mr TO requested the Administration to provide supplementary information on the details of creating permanent directorate posts for the implementation of publicly-funded policies in the past.

42. Mr WU Chi-wai raised similar concerns and enquired whether LWB would consider creating one supernumerary directorate post first to handle the preparatory work for the new statutory ML. He pointed out that upon completion of the preparatory work for the relevant legislative

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amendments and development of the IT system for the reimbursement mechanism, the handling of applications under the reimbursement mechanism would become a regular task. LB staff currently responsible for handling ML-related matters should be able to tackle this task.

43. In a consolidated response, C for L and Assistant Commissioner for Labour (Labour Relations) ("ACL(Labour Relations)") said that the new statutory ML was the first instance in which LB used public money to reimburse employers for the statutory employment rights and benefits they paid to employees. At present, three non-directorate officers on permanent establishment in LB were tasked to take forward the preparatory work for the new statutory ML but they were not engaged in similar work. Furthermore, LB did not have any experience in handling reimbursements to employers using public money. It was necessary for LB to create a permanent CLO post as the head of the dedicated office to complete the policy formulation on the new statutory ML, introduce legislative amendments and implement the new ML regime, including the development of a new IT system for the reimbursement mechanism. After implementing the new statutory ML, the dedicated office would be expected to handle a yearly volume of some 30 000 applications which involved, among other things, verifying application particulars and conducting necessary investigations to ensure the proper use of public money. If only one supernumerary CLO post was created to handle the aforesaid work, LB would need to arrange acting appointments through internal manpower deployment. This would not be conducive to helping the implementation of the new statutory ML.

44. USLW pointed out that the proposed CLO post would undertake long-term tasks, including education and publicity work to enhance public knowledge and understanding (in particular that of employers and employees) of the new ML regime and reviewing the cap of the additional four weeks MLP where necessary. For this reason, it was appropriate to create one permanent post to handle relevant work.

45. Deputy Secretary for the Civil Service 1 added that the actual circumstances involved in the creation of each permanent directorate post vary in different policy B/Ds. The Administration examined each staffing proposal in accordance with the principle of financial prudence. All staffing proposals were required to go through the Government's internal assessments on whether they were fully justified, whether they could meet the operational needs of the relevant B/Ds, and whether there were adequate resources to support the creation of the proposed post. He said that the Administration would provide the supplementary information as requested by Mr James TO in paragraph 41 above after the meeting.

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(Post-meeting note: The supplementary information provided by the Administration was circulated to members vide LC Paper No. ESC137/18-19(01) on 11 July 2019.)

Amendment to the definition of "miscarriage"

46. Mr Jeremy TAM expressed support for the implementation of the new measures for the new statutory ML and noted LWB's plan to amend the definition of "miscarriage" under EO to align with the definition under other ordinances. He requested LWB to provide supplementary information after the meeting, setting out the implications on paternity leave ("PL") consequent to the amendment to the definition of "miscarriage".

47. Ms YUNG Hoi-yan enquired about the reasons for LWB to amend the definition of "miscarriage" and the implications arising from the amendment.

48. In a consolidated response, USLW and ACL(Labour Relations) said that after consulting the Department of Health and the Hospital Authority, etc., in addition to drawing reference from the practices of relevant professional bodies and other ordinances (e.g. the Offences against the Person Ordinance (Cap. 212)), LWB proposed to update the definition of "miscarriage" from "before 28 weeks of pregnancy" to "before 24 weeks of pregnancy". Following the amendment, a female employee whose child died during delivery would be entitled to the statutory ML where the other required conditions were met, though such circumstance was not covered by the definition of "miscarriage" in the ordinance. USLW remarked that the Administration would provide the supplementary information requested by Mr Jeremy TAM.

(Post-meeting note: The supplementary information provided by the Administration was circulated to members vide LC Paper No. ESC137/18-19(01) on 11 July 2019.)

Proposal to widen the scope of employees covered by the new statutory maternity leave

Contract staff

49. Dr Fernando CHEUNG expressed support for the implementation of the new statutory ML. He was concerned about how the Administration would protect the labour rights of pregnant contract staff under the new statutory ML. He pointed out that despite the Administration's arrangements for reimbursing employers for the additional

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four weeks MLP, some employers might opt not to renew the contracts of pregnant contract staff, or they might terminate the contract of staff who became pregnant, because pregnant staff could enjoy longer ML under the new measure and they feared that this might affect the operation of their companies. Dr CHEUNG urged the Administration to protect the rights and benefits of pregnant contract staff by, for example, stipulating that employers' non-renewal of contracts for employees due to pregnancy was not allowed.

50. Dr KWOK Ka-ki and Mr AU Nok-hin both opined that the new statutory ML regime could not provide sufficient protection for pregnant contract staff and temporary staff. Dr KWOK proposed that the amendments to the relevant ordinances should provide that employers must pay for the statutory ML which employees were entitled to in accordance with their working hours. Should there be any outstanding ML upon expiry of the employee's contract, the corresponding pay should be afforded by the Administration. Mr AU asked if assessment had been conducted on whether more employers would enter into short-term contracts with employees upon the implementation of the new statutory ML in an attempt to avoid paying the additional four weeks MLP arising from the new ML regime.

51. USLW remarked that there were already various provisions in EO for protecting the rights and benefits of pregnant employees (including contract staff), such as those prohibiting the termination of an employee's contract during her pregnancy. He stressed that non-renewal of an employee's contract upon its expiry was not equivalent to layoff. If the legislative amendment stipulated that employers had to renew the contracts of pregnant employees, it might violate the contractual spirit and would arouse great controversies in society. Furthermore, it was believed that most of the employers hired contract staff on a short-term basis mainly to cope with seasonal operation needs. He said that at present, the Government did not plan to make separate arrangements for pregnant contract staff. Upon the commencement of the new statutory ML, after paying for the paid ML taken by eligible pregnant contract staff, employers could apply to LB for reimbursement for the additional ML pay. LB would handle the applications under the reimbursement mechanism.

52. Mr HO Kai-ming was also concerned that after the commencement of the new statutory ML, some pregnant contract staff members might not have their contracts renewed by employers. He urged the Administration to study the feasibility of providing paid ML for pregnant contract staff when drafting the Bill. Mr KWOK Wai-keung expressed support for this staffing proposal and urged the Administration to extend the coverage of the new statutory ML to NCSC staff as soon as possible.

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53. USLW advised that the Administration would continue to listen to the opinions of various stakeholders and Members on different aspects, including the protection for pregnant contract staff under the ML regime.

54. Most of the members were concerned about the statutory ML benefits pregnant contract staff could enjoy after the commencement of the new statutory ML. In view of this, the Chairman requested the Administration to respond to members in respect of: (a) their concern that the implementation of the new statutory ML might render employees hired on short-term contracts unable to get contract renewal due to their pregnancy; and (b) their proposal of amending the law to plug the loophole concerned.

(Post-meeting note: The supplementary information provided by the Administration was circulated to members vide LC Paper No. ESC137/18-19(01) on 11 July 2019.)

High-salaried employees and self-employed persons

55. Dr Fernando CHEUNG urged the Administration to remove the cap on the additional four weeks of MLP (which was currently pitched at \$36,822 as proposed) under the new statutory ML. He said that the cap was calculated based on four-fifths of the wages of an employee with a monthly wage of \$50,000 in four weeks. The cap would be unfair to pregnant employees with a monthly wage of over \$50,000. Mr AU Nok-hin requested the Administration to review the \$36,822 cap.

56. In reply, USLW said that countries funding paid ML with public money also imposed a subsidy cap to ensure the proper use of public money. The policy objective was to use public money for funding most of the cost arising from the additional MLP for pregnant employees, instead of the full costs. The current cap of \$36,822 on the additional four weeks MLP was equivalent to four-fifths of the wages of an employee with a monthly wage of \$50,000 in four weeks and could already cover 95% of female employees in Hong Kong. He added that after the commencement of the new statutory ML, the proposed CLO would review the cap on the additional four weeks of MLP where necessary.

57. Although she welcomed the implementation of the new statutory ML, the Chairman was concerned that the new statutory ML could not benefit pregnant employees or self-employed persons with a monthly wage of over \$50,000 (e.g. LegCo Members, District Council members and barristers, etc.). She opined that this would be unfair. She enquired whether any consideration had been given to taking forward other measures

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to support the aforesaid pregnant persons.

58. USLW replied that the Government noted that paid ML aside, high-salaried pregnant employees and self-employed persons also hoped that the Administration could provide more child care services to help them re-join the labour market. He remarked that the Administration had already enhanced the planning for child care services and developed the required facilities. The Administration would also communicate with various B/Ds to explore other measures for providing high-salaried pregnant employees and self-employed persons with childcare support. He cited as example that there was no employment relationship between the Administration and District Council members, but the Administration would still explore various measures, with a view to helping females facing different circumstances to meet their childcare needs.

59. Mr AU Nok-hin said that the Administration had not responded to the enquiry raised by a member of the Panel on Manpower at the meeting on 19 March 2019 as to whether the new statutory ML would violate gender mainstreaming. USLW replied that the Administration were drafting a reply.

Proposal of extending the statutory paternity leave

60. Mr KWOK Wai-keung urged the Administration to explore an extension of the statutory PL (from five days at present to seven days, for example) after implementing the new statutory ML, and also to use public money for subsidizing employers' payment of additional PL, so as to encourage childbirth.

61. USLW replied that the Administration already increased PL from three days to five days in early 2019. Furthermore, the amendment to the definition of "miscarriage" under EO would bring about consequential impacts on the statutory PL. On the other hand, the Government would continue to explore various ways of helping females to re-join the labour market, including the enhancement of child care service.

Voting on the item

62. The Chairman put the item EC(2019-20)2 to vote. At the request of members, the Chairman ordered a division, and the division bell rang for five minutes. Sixteen members voted for the item, and four abstained. The Chairman declared that the Subcommittee agreed to recommend the item to FC for approval. The votes of individual members were as follows:

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For

Mr WONG Ting-kwong	Mr Steven HO
Mr KWOK Wai-keung	Mr Christopher CHEUNG
Mr POON Siu-ping	Ir Dr LO Wai-kwok
Mr Alvin YEUNG	Mr HO Kai-ming
Mr Holden CHOW	Mr SHIU Ka-fai
Ms YUNG Hoi-yan	Dr Pierre CHAN
Mr CHAN Chun-ying	Mr Jeremy TAM
Mr Vincent CHENG	Mr Tony TSE
(16 members)	

Abstain

Mr CHAN Chi-chuen	Dr Fernando CHEUNG
Mr CHU Hoi-dick	Mr AU Nok-hin
(4 members)	

63. Dr Fernando CHEUNG requested that the item be voted on separately at the relevant FC meeting.

EC(2019-20)3 Proposed creation of one permanent post of Administrative Officer Staff Grade C (D2) in the Labour and Welfare Bureau with immediate effect upon approval of the Finance Committee to head a dedicated policy team for the newly established Commission on Children and take forward its agenda for the interest of children

64. The Chairman remarked that the staffing proposal was to create one permanent post of Administrative Officer Staff Grade C ("AOSGC") (D2), designated as Principal Assistant Secretary (Commission on Children) ("PAS(CoC)"), in LWB with immediate effect upon approval of FC to head a dedicated policy team for the newly established Commission on Children ("the Commission") and take forward its agenda for the interest of children.

65. Mr KWONG Chun-yu, Chairman of the Panel on Welfare Services, reported that this staffing proposal was discussed by the Panel at the meeting on 10 December 2018. Members in principle supported the submission of the staffing proposal to ESC for scrutiny. Some members enquired whether the Administration would consider appointing non-civil servant with professional expertise and a heart for childcare services to lead the policy team. The Administration said that since children issues cut across a wide range of policy areas, the dedicated policy team had to be led by a directorate Administrative Officer with rich experience in policy formulation, implementation and management, so as to effectively

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coordinate relevant B/Ds in taking forward the Commission's recommendations. Some other members were concerned as to whether the proposed new post could effectively help the Commission discharge its duties. The Administration advised that the policy team led by the holder of the new post would provide policy advice and support for the Commission and its working groups, with a view to facilitating the implementation of children-related work.

Establishment of an independent statutory body for children issues

66. Mr AU Nok-hin pointed out that according to the Paris Principles and the guidelines of the United Nations Committee on the Rights of the Child, an effective commission must be an independent statutory body instead of an advisory body. He expressed concern that the Commission was a mere advisory body by nature, and the proposed dedicated team supporting the Commission would be staffed wholly by civil servants. He requested the Administration to expeditiously establish, in accordance with the requirements of the Paris Principles and the United Nations ("UN"), an independent statutory body similar to the Equal Opportunities Commission or the Office of Ombudsman, as well as conferring on it the power to monitor the Government, with a view to effectively taking forward the policy initiative relating to children. He requested the Administration to provide a concrete timetable for the establishment of an independent statutory body.

67. Dr Fernando CHEUNG agreed that the work relating to children issues should be taken forward by an independent commission. He pointed out that following UN guidelines, many jurisdictions had already created independent commissions/commissioners with monitoring power to handle children issues, or established statutory bodies with independent mechanisms to monitor and follow up the relevant policy initiatives. Furthermore, Dr CHEUNG also pointed out that the Subcommittee on Children's Rights of LegCo had held public hearings in the past, and many organizations attending the hearings agreed to the establishment of an independent commission to handle children issues.

68. The Chairman remarked that establishing a commission was an electoral promise of the Chief Executive. She pointed out that at that time, individuals concerned about children's rights actually recommended the establishment of a body with independent resources and statutory powers (including criminal investigation and law enforcement powers) pursuant to UN guidelines. However, the Commission now being established was a mere advisory body without any children participation. She asked whether the Administration would consider the setting up of an independent statutory body to handle all children-related issues.

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69. Under Secretary for Labour and Welfare ("USLW") said that the establishment of a statutory children commission would involve law drafting and legislative procedures, so it could not be formed within a short period of time. The Administration deemed it appropriate for the Commission to expeditiously take forward various tasks relating to children welfare, rights and well-being, in particular matters relating to the development of a Central Databank on Children and children-related indicators as requested by the society. He pointed out that the Commission was a high-level advisory body chaired by the Chief Secretary for Administration. It would be responsible for providing overall leadership, and setting policy directions, strategies and priorities. The Commission hoped to expeditiously take forward the work of the two established working groups ("WGs") (i.e. Working Group on Research and Public Engagement as well as Working Group on Promotion of Children's Rights and Development, Education and Publicity) and set up the remaining two WGs (i.e. Working Group on Children with Special Needs and Working Group on Children Protection) as soon as possible in the second and third quarter respectively. For this reason, it was a matter of urgency to create a dedicated team led by a directorate officer to provide the Commission with policy advice and secretariat support. The Administration would consider whether it was necessary to establish an independent statutory body on children issues in the future based on the operational experience of the Commission and the actual situation. In response to the Chairman's further enquiry, USLW said that Miss CHENG Hui-kiu, a non-official member of the current commission, was recruited through the Member Self-recommendation Scheme for Youth.

Functions, work and secretariat support of the Commission on Children

70. The Chairman asked whether the Administration would consider appointing an officer younger in age to take up the PAS(CoC) post. She also enquired whether this post was a newly created one, and whether it was meant to replace the existing post of Principal Assistant Secretary (Welfare) 1 ("PAS(Welfare)1"), which was responsible for handling the secretariat work of the Commission.

71. Dr Fernando CHEUNG considered it necessary to create a directorate post to enhance support for the Commission's secretariat. He enquired whether the Administration would, apart from conducting internal promotion or deployment within the civil service, also consider conducting open recruitment for the proposed post, so as to identify a candidate with rich experience in handling such issues as children welfare, interests and well-being for the post.

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72. USLW said that given the extensive range, diversity and complexity of children issues (including healthcare, education, social welfare and support for children with special needs, etc.), and since various B/Ds were involved, the proposed dedicated team should be led by a directorate officer with rich experience in policy formulation, implementation and management, so as to effectively coordinate relevant B/Ds in taking forward the Commission's recommendations and relevant measures. He pointed out that the duties of the Commission's secretariat were currently undertaken by PAS(Welfare)1 in addition to his/her existing duties. Given the tremendous workload of PAS(Welfare)1 and the supporting staff concerned, requiring them to do the extra work of providing secretariat support to the Commission was very undesirable. For this reason, it was a matter of urgency to create a dedicated team to support the Commission's secretariat and expeditiously handle the work relating to the establishment of the remaining two WGs.

73. Mr Holden CHOW pointed out that due to the recent passage of same-sex marriage legislation in Taiwan, some parents and sponsoring bodies of religious schools had expressed concern over safeguarding heterosexual marriage and traditional family values. He enquired whether the Commission would establish additional WGs apart from the four existing ones, where necessary, to explore ways of strengthening children's understanding and recognition of heterosexual marriage and traditional family values. He also asked how the proposed PAS(CoC) would help facilitate the work in this respect.

74. Dr Fernando CHEUNG and Mr CHAN Chi-chuen did not agree that the society should focus solely on instilling in children the idea of heterosexual marriage and traditional family values. Instead, they thought that children should be allowed to learn the concepts of diversity and inclusion, non-discrimination and equal opportunities in addition to the aforesaid values. They opined that children should be allowed to realize the existence of diversified family structure in the society.

75. Mr CHAN Chi-chuen opined that sex education for children in Hong Kong was rather backward. He asked whether the Commission would establish a WG in the future to conduct a study on issues relating to sex education for children (e.g. gender temperament, gender identity, sexuality and affective education, etc.). Furthermore, he pointed out that the Administration's progress of handling children protection-related issues had been extremely slow. For example, the review on the Crimes Ordinance (Cap. 200) to provide for an offence of sexual abuse against children had been going on for over 10 years and numerous rounds of public consultation had been conducted, but the proposed legislative amendments had not yet been completed. He enquired whether the

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Commission would help handling the aforesaid issues expeditiously. Furthermore, he requested the Administration to provide information setting out the scope of work and issues, phased/short-term objectives and value-for-money indicator of the Commission.

76. USLW reiterated that the Working Group on Research and Public Engagement as well as the Working Group on Promotion of Children's Rights and Development, Education and Publicity were established in the first quarter of 2019, and publicity as well as public education work relating to the development of the Central Databank on Children and children issues had already been taken forward. The priority of the dedicated team led by PAS (CoC) was to establish the Working Group on Children with Special Needs and the Working Group on Children Protection as soon as possible in the second and third quarter of 2019. The Commission understood the social concerns and views on different children issues and would stay open-minded for future research topics. In exploring its way forward, the Commission would take into account the opinions of all parties in detail. He stressed that all B/Ds had launched different policy initiatives for children interests and well-being, and the Commission would coordinate all B/Ds and set policy directions, strategies as well as priorities, with a view to expediting the implementation and enhancement of each policy initiative. With regard to the future scope of work and focus of the Commission, USLW undertook to provide supplementary information after the meeting.

(Post-meeting note: The supplementary information provided by the Administration was circulated to members vide LC Paper No. ESC131/18-19(01) on 19 June 2019.)

77. Dr Fernando CHEUNG asked whether the Administration had decided to hold a public forum and a summit in November 2019 and summer 2020 respectively to listen to the opinions of children and relevant stakeholders regarding various children issues. He opined that the Commission should focus its efforts on such practical work as reforming the existing ordinance, reviewing the insufficiencies of the current policies and services (e.g. provision of accommodation service for children with special needs), instead of solely focusing on publicity and promotion activities.

78. USLW replied that the holding of a public forum and summit was still in a conceptual stage and pending implementation. On children rehabilitation services, USLW advised that LWB was formulating a new Hong Kong Rehabilitation Programme Plan for the planning of various rehabilitation services and measures in other relevant aspects, so as to expedite the provision of rehabilitation services and other relevant support

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for people in need (including children with special needs).

79. Ms YUNG Hoi-yan enquired about the progress of the Commission in developing the Central Databank on Children, including a detailed breakdown of the organizations with which it had co-operated in information and data collection and the estimated volume of collectible data. Given the vast diversity of children's issues (e.g. children victimized by domestic violence, abused children, children with special needs), Ms YUNG asked if the Administration would focus on collecting information about children of specific ages or types. Furthermore, Ms YUNG quoted the Hong Kong Poverty Situation Report 2017, which showed that child poverty was extremely serious, and that the poor children population was on a continuous rise. She expressed concern that the ex-officio members of the Commission did not include members of the Commission on Poverty ("CoP").

80. USLW replied that development of the Central Databank on Children could effectively integrate data managed by B/Ds and different stakeholders with a view to formulating policy directions, strategies, recommendations, priorities and enhancement measures for children issues. Aiming to finish all relevant work in approximately 18 months, the Administration was now conducting a tendering exercise for recruiting a research consultant. It was estimated that the consultancy study on the development of the database could commence in the fourth quarter of 2019. Details such as the implementation framework of the databank, the data content included, data collection methods, relevant privacy and system security issues would fall within the consultant's scope of work. On child poverty issues, USLW advised that the Administration had been conducting relevant researches and analyses and had enhanced the Working Family Allowance to help working households and their members (including children) extricate themselves from poverty. CoP would continue to discuss and study child poverty issues, including helping children extricate themselves from poverty through such initiatives as education and life planning.

Platforms for direct communication with children

81. Mr CHAN Chi-chuen noted that the functions of the Commission included developing policies and setting strategies and priorities related to the development and advancement of children. He stressed that relevant work should be initiated from the perspectives of children with consideration given to their actual needs. He requested the Administration to provide details about the average age of members and actual age of the youngest member of the Commission. He also enquired about the platforms the Commission leveraged to directly collect children's

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opinions (e.g. inviting children to attend meetings and express their views).

82. Dr Fernando CHEUNG enquired about the communication mechanism and platforms, including those of an on-going nature, which the Commission provided for children to directly express their views and needs to the Commission (e.g. setting up an advisory group comprising children), apart from activities such as public engagement, forums and focus groups, etc. He opined that the Commission should open its four WGs for children to join, allowing them to express their views via an on-going mechanism. Furthermore, he also asked about the relationship and division of work between the Commission and other advisory bodies (e.g. the Family Council and the Youth Development Commission, etc.).

83. The Chairman agreed that the Commission should facilitate children engagement and listen to their opinions on various children issues. Given the international definition of children as persons aged 0 to 18, and this covered infants and toddlers, children and teenagers, she asked if the Commission would collect and handle the opinions of children of different ages separately. She also asked about the channels used by the Commission to make contact with children of different ages and relevant stakeholders (e.g. parents of infants and toddlers). In addition, she reminded the Administration that apart from providing resources to specialists handling children issues (e.g. pediatricians, child psychologists and childhood educators, etc.), it should also establish a mechanism to ensure that relevant specialists could truly protect and further children's interests in an effective manner.

84. USLW replied that the Commission would attach importance to children's opinions and listen to their views by inviting them to various public engagement activities on different topics. The Commission would also handle issues involving children of different ages appropriately. It might, for example, seek to ascertain the needs of infants and toddlers from medical professionals, specialists in children issues and parent representatives. Furthermore, the Commission already launched a new subsidy scheme for children's well-being and development in April 2019, which was open for application from children concern groups and non-governmental organizations, etc., in order to roll out promotion activities or community projects relating to children issues. The Working Group on Research and Public Engagement would also provide effective platforms, including formulation of public engagement plans and focus groups, to facilitate children's engagement. By listening to children's views on various children issues, the Commission would be able to better understand their needs. Regarding the ages of the Commission's members and the communication mechanism as well as platforms between the Commission and children, USLW undertook to provide supplementary

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information after the meeting.

(Post-meeting note: The supplementary information provided by the Administration was circulated to members vide LC Paper No. ESC131/18-19(01) on 19 June 2019.)

Voting on the item

85. The Chairman put the item EC(2019-20)3 to vote. At the request of members, the Chairman ordered a division, and the division bell rang for five minutes. Seventeen members voted for the item. The Chairman declared that the Subcommittee agreed to recommend the item to FC for approval. The votes of individual members were as follows:

For

Mr WONG Ting-kwong	Mr WONG Kwok-kin
Mr Steven HO	Mr YIU Si-wing
Mr CHAN Chi-chuen	Mr Christopher CHEUNG
Dr Fernando CHEUNG	Mr POON Siu-ping
Ir Dr LO Wai-kwok	Mr Alvin YEUNG
Mr Holden CHOW	Mr SHIU Ka-fai
Ms YUNG Hoi-yan	Dr Pierre CHAN
Mr CHAN Chun-ying	Mr Jeremy TAM
Mr Vincent CHENG	
(17 members)	

86. Mr CHAN Chi-chuen said that subject to the supplementary information provided by the Administration, he might request the item be voted on separately at the FC meeting.

87. There being no other business, the meeting ended at 6:19 pm.