

## **SOCIAL WORKERS REGISTRATION BOARD**

### **Notes of the Sixty-third Meeting of the Committee on Professional Conduct**

Date: 25 May 2016

Time: 7:10 p.m.

Venue: Conference Room, 26/F Eastern Commercial Centre, 83 Nam On Street, Shau Kei Wan, Hong Kong.

Present: Mr. TSANG Kin-chiu (Convenor)

Mr. HUI Chung-shing, Herman

Dr. LEUNG Chuen-suen

Mr. LUK Ka-mei

Mr. LUN Chi-wai

Mr. MA Kam-wah, Timothy

Mr. SHIU Ka-chun

Mr. WONG Ka-ming

In-attendance: Mr. Thomas LEUNG Sui-keung, Registrar

Ms. Veronica FAN, Assistant Registrar (Secretary)

#### **Notes**

1 The Convenor welcomed members to the Committee on Professional Conduct

2 Confirmation of the notes of the last meeting

Members took note of the meeting notes and made the following amendments:

- (a) “the” was deleted in line 6 in paragraph 3.2(a) and the sentence was amended as “.....enclosing a list of Disciplinary Committee members.”
- (b) “s” was deleted from “presiding member” in line 1 in paragraph 3.2 (g) and line 4 in paragraph 3.3(b).

3 Matters arising

3.1 The Registrar briefed that the Committee had completed the review on Disciplinary Procedures before expiry of the tenure of the last term.

3.2 Regarding the proposed amendments to the Social Workers Registration Ordinance, the Labour and Welfare Bureau (LWB) suggested the Board to

make rules under section 9 of the Ordinance to address the operational problems presently encountered by the Board instead of enacting amendments to the Ordinance. The Board had sought legal advice on the viability of the said suggestion. After detailed examination and discussion, some problems might not be solved by simply making rules under Section 9 of the Ordinance. The issue of registration of Category 2 RSW who did not possess any recognized social work qualification was a good example. A person might apply for registration as a Category 2 RSW so long as he was occupying a social work post or had been accepted to take up a social work post. Unless the Ordinance was amended, Category 2 RSWs would not be faded out. A reply was sent to LWB on 13 January 2016.

- 3.3 The Board of the last term decided to pursue the matter and keep communication with LWB. In future, if LWB agreed to our proposal to enact the amendments which were listed in our letter, we would push LWB to enact other amendments in one-go.

- 3.4 Members' discussions were as follows:

- (a) We did not receive any reply from LWB. Members agreed that we should follow up with LWB to ensure that LWB had received our letter and understood our problems. Members agreed that the Registrar would touch base with (anonymised), Principal Assistant Secretary of LWB. Mr. LUN Chi-wai, Chairman of SWRB, would then follow up and raise the request to arrange a meeting.

*(Post meeting note: an email was sent to LWB on 26 May 2016.)*

- (b) From the Government's point of view, there was no urgency to enact the amendments of the SWRO. The Board was reminded that it would take long time to put forward our amendments to LegCo. Members agreed that no matter the waiting time, we should first request LWB and Department of Justice to start the preparation work.
- (c) The Registrar briefed that the Board started the above discussion with the Government more than 10 years ago. In the initial stage, the Government was supportive to our proposal. However, the Government changed their stance and advised the Board to submit a Private Member's Bill to LegCo in order to speed up the process of amendments. However, the Board took opposite view because the SWRO was to protect the public interest and the amendments should be enacted through Public Bill.

- (d) Some members shared that we should keep contact with the Principal Assistant Secretary of LWB and reflect our views at any occasions.

((anonymised) joined the meeting at this juncture)

4 Consideration of the terms of reference of the Committee on Professional Conduct

The Registrar walked through the terms of reference which had been used in the previous term of the Committee. Members adopted the terms of reference.

5 Exploration on the work plan of the Committee on Professional Conduct in the term of 2016-2019

5.1 Nomination of Co-opted members

(a) The Registrar briefed that the composition of the Committee in the last term included four Board members and five co-opted members. The co-opted members were mainly from agency's management and medical sector.

(b) Members exchanged views as follows:

(i) Members proposed to invite nominations of co-opted members from agency management, other professionals, RSWs and non-social work labour unions.

(ii) It was proposed to have nominees from other professionals who had close working relationship with social workers, for example, nominees from health care sector or medical sector or rehabilitation.

(iii) A member proposed two nominations. One nominee was (anonymised). Another nominee was (anonymised). Members advised the Board office to collect information of (anonymised) for the Committee's screening at the next stage.

(iv) Currently, we had eight Board members in the Committee. Members proposed to have not more than four co-opted members including two nominees from RSWs through open nomination and two nominees from other sectors.

- (v) Members proposed to send the invitation of nomination of co-opted members for the Committee on Professional Conduct to all RSWs by post. Members could also send their proposed nominees to the Board office. The open nomination exercise should be conducted at a later stage as three nomination exercises were now in progress. The screening process would start after the nomination deadline and the Committee would propose a list for the Board's endorsement.

## 5.2 Review of Code of Practice

- (a) In view of a recent disciplinary complaint case, a member invited the Committee to consider whether it was necessary to set the guidelines to regulate the conduct of agencies.
- (b) Members exchanged views as follows:
- (i) SWRO empowered the Board to deal with registration of RSWs, disciplinary control of the professional activities of RSWs, and other related matters. The mandate of the Board was to regulate RSWs only.
  - (ii) A member elaborated that the complaint case no. (anonymised) raised his concern on the malpractice of social work administrative work or social work administrator. It was noted that social workers were required to perform duties of professional social work and also administrative work. However, there was no guideline to regulate the administrative work performed by RSWs or social work administrator. He proposed to discuss the issue when we review the Code of Practice.
  - (iii) Members had other views that according to the SWRO, one of the Board's primary functions was to deal with disciplinary control on the professional activities of RSWs. It might be doubted whether administrative work performed by an RSW in his capacity as an administrator of the agency were professional activities in the context of the Ordinance.
  - (iv) Professional conducts of RSWs were regulated by SWRB while agencies were monitored by the Social Welfare Department through the Service Quality Standards.
- (c) After discussion, members agreed that it was necessary to review the Code of

Practice as the last review was conducted in the term of 2010-2013. There were areas which required further elaborations or reviewed, for example, handling of sexual minority, social work administrator. Details on implementation and schedule of the review exercise would be discussed at the next meeting.

- (d) A member proposed to form a working group to handle the review of the Code of Practice. In response to his suggestion, the Registrar provided information on the past practice. The review was handled by the Committee directly. Members would examine the Code of Practice and the Guidelines on Code of Practice and provided their suggestions to the Board office. A consolidated list would be discussed and examined by the Committee.

### 5.3 Discussion on Disciplinary Procedures

- (a) The new disciplinary procedures were reviewed and implemented before the end of the last term of the Committee. A member proposed to observe the progress. Members also exchanged views on how to improve the procedures.
- (b) A member shared that the disciplinary procedures of SWRB was different from other professional bodies. In general, the prosecution would be taken up by the professional bodies itself and the burden of proof lied on the prosecutor. After hearing, the decision of tribunal was the final decision. However, under the disciplinary procedures of SWRB, there was no prosecutor and the burden of proof lied on the complainant who might not have professional knowledge. After hearing, the Board would make a final decision based on DC's recommendations.
- (c) Under the current disciplinary procedures of the SWRB, the Board's legal adviser would draft the charges on behalf of the complainant based on the information on complaint form after the two Board members decided to refer the case to DC hearing. It would not be an ideal arrangement to the complainant because the charges might be different from what he wrote on the complaint form.
- (d) Usually, the complainant was unable to present his complaint case accurately and clearly in relation to the charges. Members proposed to provide legal assistance to the complainant so that the complaint case content and charges could be confined. This arrangement would help expedite the process. The Registrar updated that the Board already had a Legal Representation

Assistance Scheme but it had not been used by the Board for long time. Under the Scheme, the Board might exercise its discretion to consider to provide legal assistance to the complainant in cases where the complainant was unable to present his case effectively and competently during an inquiry. Members reminded that the Board had to be careful in providing legal assistance to the complainant because the Board would be accused as unfair to persons being complained when the Board was the adjudicator at the same time. Members agreed that the Committee would further discuss the Scheme at another meeting.

- (e) The Board, after consideration of the DC's recommendations, would decide to accept the DC's recommendations or not. If any person disagreed with the decision, he might appeal to the Court of Appeal against the Board. In other professional bodies, the tribunal's decision was final and any appeal was against the tribunal. The Registrar updated that ten years ago, the Board had discussions on the issue and maintained that the Board had the power of final decision. Members respected the decision of the Board of the previous term and agreed not to pursue the issue.

6 Date of next meeting

Members agreed that the next meeting would be scheduled on 19 September 2016 at 7:00pm.

*(Post meeting note: the meeting was re-scheduled to 6:30pm on 7 November 2016.)*

7 There being no other business, the meeting was adjourned at 9:50 p.m.

1 November 2016