

CHAPTER 4

PUBLIC ACCOUNTABILITY

4.1 Subventions to the non-governmental organisations (NGOs) are accounted for under the subventions subheads of Head 170 Social Welfare Department (SWD). The Director of Social Welfare, as controlling officer of Head 170 SWD, is responsible and accountable for all expenditure from these subventions subheads as required under the Public Finance Ordinance (Chapter 2, Laws of Hong Kong). While the statutory responsibility for the control and management of social welfare subventions rests with the Director of Social Welfare, a public accountability framework has to be put in place to ensure that NGOs receiving Government subventions are accountable, through the Director of Social Welfare, to the public for the use of public funds. This Chapter sets out the public accountability framework in respect of NGOs under Lump Sum Grant (LSG), much of it is in fact drawn from the existing Guide to Social Welfare Subventions and the Review Report on the Lump Sum Grant Subvention System by the Lump Sum Grant Independent Review Committee, with which NGOs are familiar.

ROLES AND RESPONSIBILITIES OF DIRECTOR OF SOCIAL WELFARE

4.2 As the head of department executing the Government's social welfare policy, the Director of Social Welfare is responsible for ensuring that social welfare services, whether these are delivered by SWD or by NGOs, are meeting the Government's policy objectives, and that they remain so in the light of changing circumstances. The Director has to work closely with service providers to review the effectiveness of the services rendered.

4.3 As the controlling officer for the social welfare subventions, the Director of Social Welfare is responsible for ensuring that subvented activities are properly and effectively planned, delivered and evaluated. The Director has to obtain regular feedback from service providers in the process of service planning and evaluation.

4.4 To help discharge the above roles and responsibilities, the Director of Social Welfare, having regard to the Funding and Service Agreement, is empowered to :

- (a) impose conditions on the granting of LSG;
- (b) undertake the following audits :
 - (i) performance assessment of the NGO in respect of its Funding and Service Agreement (FSA) activities and related support services under the Service Performance Monitoring System (for details, please refer to **Annex 9**) ; and
 - (ii) value-for-money study in respect of any area being funded by LSG and other social welfare subventions. (The Director may also request the NGO to do such an audit themselves);
- (c) have access to the records and accounts of NGOs receiving LSG and other social welfare subventions. The Audit Commission and the Independent Commission Against Corruption will have the same access;
- (d) examine management and control procedures in an NGO with the assistance of the Independent Commission Against Corruption (ICAC) with a view to providing corruption prevention advice to its executive committee;
- (e) require the submission of annual audited accounts, financial reports, statements, statistics on performance indicators and any other necessary reports and/or returns from NGOs receiving LSG and other social welfare subventions;
- (f) seek representation as an observer on the executive or management committees of NGOs; and
- (g) withhold or terminate LSG and other social welfare subventions if an NGO obstructs the Director of Social Welfare in the exercise of his/her authorities as given above or fails to :
 - (i) achieve a reasonable standard of performance in accordance with the FSAs;
 - (ii) exercise reasonable and prudent financial management; or

- (iii) comply with the LSG rules and other subvention rules.

ROLES AND RESPONSIBILITIES OF NON-GOVERNMENTAL ORGANISATIONS

4.5 NGOs receiving Government subventions are responsible for effective planning and the cost effective administration and of the services and activities governed by the FSAs. In discharging this role under the LSG, NGOs are expected to build in accountability mechanism and to be flexible and proactive in responding to the changing needs of the community.

ACCOUNTABILITY OF DIRECTOR OF SOCIAL WELFARE

4.6 As controlling officer for the social welfare subventions, the Director of Social Welfare has to secure public resources for the subvented activities through annual appropriation by the Legislative Council. Subject to the availability of funds, all applications and continuation of LSG have to be approved by the Director.

4.7 In disbursing subventions, the Director of Social Welfare has to observe the Government's overall subvention policy and guidelines prevailing at the time. The Director has to disseminate any revised subvention policy and guidelines to NGOs and to ensure compliance in a timely and effective manner. The Department will perform service performance assessments and audits and bring to the attention of the management of the NGO any anomalies of practice, together with recommendations for rectification and improvement.

4.8 The Director of Social Welfare is required to answer to the Public Accounts Committee for any discrepancy or mis-management in the disbursement of LSG, or any issues concerning economy, efficiency or cost-effectiveness in the use of subventions, which may be identified by the Director of Audit.

ACCOUNTABILITY OF NON-GOVERNMENTAL ORGANISATIONS

Proper and Prudent Use of Public Funds on FSA or FSA-related Activities

4.9 NGOs receiving LSG and other social welfare subventions are directly accountable to SWD and the public for the proper and prudent use of public funds. It is the responsibility of NGOs' board and management to maintain proper control of the LSG and ensure that the use of the LSG meets the requirements and objectives set out in the FSAs and complies with the conditions spelt out in this manual. **To avoid misunderstanding, NGOs should consult SWD in a timely manner as to what constitutes "FSA-related" activities before conducting such activities.** NGOs are expected to ensure that the LSG is spent in the most cost-effective manner and for the intended purposes. NGOs must also ensure effective management of income.

4.10 NGOs must take speedy actions to rectify any anomalies identified during the service performance assessments and audits by SWD and brought to their attention.

4.11 If an NGO ceases to operate, it must repay SWD any unused LSG, including those accrued in its accumulated reserve. Audited accounts and financial reports for the period up to and including the last day of operation must be submitted to SWD within two months of ceasing operation.

4.12 The chairman of the NGO board and the head of the NGO management may be invited to attend with the Director of Social Welfare before the Public Accounts Committee in cases where it is reported by the Audit Commission that the NGO has not complied with the conditions of LSG and FSAs and/or not used public funds prudently.

Audit Commission

4.13 The Director of Audit may carry out such examination as he thinks fit into the economy, efficiency and effectiveness with which the NGOs have used public resources in discharging their functions.

Disclosure of Annual Financial Report

4.14 A formal public accountability framework should be in place for NGOs to disclose their Annual Financial Reports (AFRs) as submitted to SWD, so that they will also be accountable to the public for proper and prudent use of public funds.

4.15 In addition to making their AFRs available to the public upon request, NGOs should establish their channels of disclosure of the AFRs to the public and disclose the latest versions to the public upon their submission of the AFRs to SWD each year. Where the NGOs publish Annual Report of their organisation, they must follow the requirements as specified in paragraph 3.11 to disclose their AFRs. For NGOs not publishing Annual Report, they have to disclose the AFRs in one or more of the following ways :

- (a) posting up a copy of the latest AFR prominently on the notice board(s) at the Central Administration Unit/ Head Office at all times;
- (b) uploading the latest AFR to the NGO's website; or
- (c) publishing the latest AFR through special circular(s), newsletter(s) or whatever means.

Monitoring of Remunerations of Senior Executives in Subvented Bodies

4.16 To ensure proper use of public funds, NGOs are required to return their Self Assessment Report on Remuneration Packages for Staff in the Top Three Tiers in **Annex 10** to SWD by **31 October** of the financial year.

4.17 NGOs are also required to return their Review Report on Remuneration Packages for Staff in the Top Three Tiers (Review Report) in **Annex 11** to SWD, unless one or more of the following exemption criteria is (are) fulfilled :

- (a) receiving subventions and subsidies⁹ of less than \$10 million a year from SWD;
- (b) receiving 50% or less of the NGO's total operating income from SWD; or
- (c) with the top three-tier positions of the NGO (or of a particular division, e.g. social service of the NGO, where appropriate) funded entirely by the NGO's income from sources other than the Government. In this case, other senior staff of the NGO (or of its particular division) occupying the subsequent three-tier positions may then be covered subject to the NGO's particular circumstances such as its organisational structure.

4.18 In conducting the review, the management boards of NGOs are advised to take into account aspects such as the current human resources management practices, their contractual commitment with their staff, the appropriateness of the number and ranking of senior positions, the functions and overall staffing structure, the nature and complexity of duties performed by each of the top three-tier staff in question, and the appropriateness of remuneration packages.

4.19 As a measure to enhance transparency and public accountability, NGOs are required to make the information in their Review Report available to the public upon request and to disclose it through one or more of the following channels :

- (a) posting the information prominently on notice board(s) at the Central Administration Unit/ Head Office;
- (b) uploading the information to the NGO's website;
- (c) reporting the information in the NGO's Annual Report; or
- (d) publishing the information through special circular(s), newsletter(s) or whatever means.

⁹ "Subventions and subsidies" broadly cover all payments from SWD to a subvented NGO including recurrent subventions under LSG/ conventional subvention mode, Lotteries Fund, Social Welfare Development Fund, other project funds and payments from SWD to the NGO, but excluding other payment for welfare services.

Handling of Complaints

4.20 The NGOs, as service providers, should be accountable for their service performance and should handle complaints lodged against them, in the first instance, in accordance with their established policy. For LSG-related complaints that cannot be satisfactorily addressed at the NGO level, they should be handled by the Lump Sum Grant Independent Complaints Handling Committee (ICHC), which was set up in April 2009.

4.21 The Secretariat of ICHC will screen all the complaints received, conduct direct investigation into the complaint issue if required, and reply to the complainants and the NGOs concerned on the investigation outcome on behalf of ICHC. ICHC will also relay decisions and recommendations to SWD for appropriate follow-up with the NGOs, where appropriate, to enhance the Lump Sum Grant Subvention System. NGOs are expected to render full cooperation to the Secretariat of ICHC during the process.

4.22 For the terms of reference, ambit and complaints handling mechanism of ICHC please refer to the following website –

http://www.swd.gov.hk/en/index/site_ngo/page_subventions/sub_ICHC/