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29 April 2011

Mr Raymond Lam
Clerk to Panel on Security
Legislative Council
3/F, Citibank Tower
3 Garden Road
Hong Kong

Dear Mr. Lam,

**Panel on Security
Law Reform Commission Report on
Sexual Offences Records Checks for Child-related Work**

At the Panel on Security meeting on 2nd March 2010, a Member was concerned that the Administration could not prevent persons who had committed sexual offences from working in the educational sector, and sex offenders whose teacher registration was suspended under the Education Ordinance could not be barred from operating tutorial schools or taking up child-related and mentally incapacitated person (MIP)-related work in other sectors. Our response to the Member's concern is set out below.

The Administration has accepted the Law Reform Commission's (LRC) recommendations and will establish a scheme for sexual conviction record check for child and MIP-related work through the Police. The main objective of the scheme is to prevent sexual offenders from obtaining the trust of employers by deliberately withholding their past sexual conviction records and molesting children or MIPs again

through contact with them in the course of their work. The scheme provides employers with a reliable channel whereby they may ascertain whether applicants of child or MIP-related work or employment have any previous convictions for sexual offences. The scheme will be implemented in stages. The first stage covers employers of organisations or enterprises whose work involve children or MIPs. When the operation has become smooth, we will consider opening the scheme to parents and volunteers.

The purpose of the scheme is not to assess or vet the professional qualifications of those who provide services to children or MIPs (such as teachers, childminders, etc.). The monitoring or registered organisations of the relevant professional qualifications will continue to carry out their respective monitoring or registration functions independently for such professionals as required by respective legislation.

For Member's concern on persons who had committed sexual offences working in the education sector and operating tutorial schools, we have consulted the Education Bureau (EDB) and their response is as follows.

In accordance with the Education Ordinance, no person shall teach in a school unless he/she is a registered teacher or a permitted teacher. An applicant must declare whether he/she has previously been convicted of criminal offence(s) when he/she applies for teacher registration. It is a criminal offence if it is found after investigation that the applicant willfully gives any false information.

In fact, EDB attaches great importance to professional conduct of the teaching profession. When handling the registration status of teachers convicted of criminal offences or misconduct, EDB will give prime consideration to the well-being and interests of students.

EDB has been closely following up applications for teacher registration by convicted persons and the registration status of teachers' offence cases. When a teacher is convicted of criminal offence(s) in court, EDB will take into consideration the court verdict, the nature and gravity of the offence in every case to prevent persons who are not fit and proper from teaching in schools. In principle, teachers who are convicted of serious offences (for example, the teacher has been sentenced to imprisonment or found guilty of a sexual offence in which the victims are children or his/her students), their teacher registration will be cancelled by EDB. A person who has his/her teacher registration

cancelled can no longer serve as a teacher in schools, including tutorial schools.

Regarding the issue on operation of tutorial schools by persons who have previously been convicted of sexual offences, in accordance with the Education Ordinance, a tutorial school shall be managed by its management committee. The Ordinance also provides grounds for refusal to register a person as a manager of a school and for cancellation of the registration of a school manager. If a manager-applicant or a serving manager has been convicted of a sexual offence, or his/her teacher registration has been cancelled, EDB will consider refusing to register him/her as a manager of a school or cancelling his/her manager registration as appropriate.

EDB will work closely with relevant department on the implementation of the scheme for sexual conviction record check recommended by the LRC. The scheme will provide the employers concerned with an important reference in considering the appointment of job applicants.

Yours sincerely,

(Mrs Millie Ng)
for Secretary for Security

c.c.

Secretary for Education
(Attn: Mrs Hong Chan Tsui Wah)

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