

**Medical Coordinators on Child Abuse
of the Hong Kong Hospital Authority**

**Response to the Report on
Sexual Offences Records Checks for Child-related Work:
Interim Proposals
prepared by
The Law Reform Commission of Hong Kong
8 April 2010**

Medical Coordinators on Child Abuse of the Hong Kong Hospital Authority are paediatricians from the Departments of Paediatrics and Adolescent Medicine of various hospitals managing children with suspected abuse.

Our group welcomes the Law Reform Commission taking steps to review the present state of law governing sexual and related offences in Hong Kong, and to make proposals for reform. Our group had made submission to express our views on the then **Sex Offender Register** consultation paper July 2008. We note that changes have since been made and written into the current report **Sexual Offences Records Checks for Child-related Work** February 2010.

The current proposal is an administrative scheme. This is a scaled down response to the quest for a comprehensive child protection system offering maximum protection for our children.

Regarding the nine recommendations in the current proposal, our group would like to make the following comments.

Recommendations 1, 2 and 3

There has not been any change to the recommendations 1, 2 and 3 since the 2008 consultation. Our views remain the same. That is, our group is in support against the introduction of US style Megan's Law in Hong Kong. Our group is in support to establish as an interim measure, an administrative scheme for the checking of criminal conviction records for sex offenders of persons who undertake child-related work and work relating to mentally incapacitated persons, with due consideration of human rights and rehabilitation concerns. We urge that such proposal be implemented without further delay. And that such proposal does not preclude the government from establishing a

permanent Child Protection System written into the laws of Hong Kong. Our group agrees with the definition of child-related work and work related to mentally incapacitated persons, and with persons involved in such work to cover employees, volunteers, trainees and self-employed persons.

Recommendation 4

“Employer should not be required to conduct such a check” has been modified to “Such a check should not be mandatory.” Without any commitment on the part of the employer, it is only human nature that such checking measures could be skipped for convenience. Our group would like to see the sexual offences record checking be made mandatory. In the interim period, registered organizations should be required to develop policies to implement checks with clear documentation. Employers should be alert to the fact that he/she may be held vicariously liable in tort for any sexual abuse committed by its employee.

Recommendation 5

We welcome the proposed scheme should apply to both prospective and existing employees. However, the time frame, say within one year, of such a scheme extending to cover existing employees needs to be developed.

Recommendation 6

We agree with the method of application.

Recommendations 7, 8, 9

We agree with the list of offences, with the addition of sections 129, 130, 132 and 134 covering offences involving sexual exploitation. The limitations of the check - offences committed out of Hong Kong and convictions for offences not listed will not be revealed by the proposed checks, and the proposed scheme not covering allegations and acquittals, have been made clear in these recommendations. A checking system for persons who have committed sexual offences out of Hong Kong should be developed.

Conclusions

The proposal is an interim administrative measure. It is nevertheless a starting point offering protection for the vulnerable child. Hong Kong lags behind other countries in having a safe mechanism for checking sexual conviction records of persons having access to children and mentally incapacitated persons. Our group would like to see the recommendations instituted without further delay

and that such an interim measure does not preclude the government from establishing a permanent child protection system written into the laws of Hong Kong.

Registered organizations have obligation to ensure children and mentally incapacitated persons are protected, and should take steps to work in parallel with the interim checking scheme.

The public should be aware that such checking scheme is only part of the child protection system, and will not stem out sexual abuse. Many child sexual abuse cases are committed by persons familiar with and having regular access to children and may not be brought to the judiciary system. The public as well as the employers should be alerted to the number of limitations of such a proposed checking system - 1) 'spent' convictions are not included, 2) offences committed outside of Hong Kong are not included, 3) it does not cover past allegations, 4) it does not cover acquittals, 5) the onus is on the employer to do the checking.