

## **Legislative Council Panel on Welfare Services**

### **Policies on Handling of Domestic and Sexual Violence Cases**

#### **Purpose**

In response to the concerns raised by Members and deputations at the meeting of the Panel on Welfare Services held on 14 January 2013, the Administration has prepared this paper which briefs members on the handling of domestic violence (including sexual violence) cases by the Social Welfare Department (SWD), Hong Kong Police Force (the Police), Housing Department (HD) and Department of Health (DH) and their collaboration mechanisms, as well as support services to the victims and some other related issues.

#### **Strategic Direction**

2. The Administration does not tolerate domestic violence. To this end, the Administration has adopted a cross-disciplinary model as well as a multi-pronged intervention approach to tackle domestic violence and support the victims and their families. The Administration has been coordinating the joint efforts of all parties concerned towards this common objective and direction. The Committee on Child Abuse (CCA) and the Working Group on Combating Violence (WGCV), chaired by the Director of Social Welfare and comprising representatives from the Police, Education Bureau, Hospital Authority and non-governmental organisations (NGOs), have been set up to map out strategies to tackle the problems of child abuse, spouse/ cohabitant battering and sexual violence in Hong Kong.

3. With the advice of CCA and WGCV, SWD has drawn up the “Procedural Guide for Handling Child Abuse Cases” and the “Procedural Guide for Handling Intimate Partner Violence Cases” (the Procedural Guides) to facilitate front-line professionals in handling cases of child abuse and spouse/ cohabitant battering in a professional and effective manner. The Procedural Guides will be updated on a need basis.

4. Following a review of the services for victims of sexual violence conducted by the then Health, Welfare and Food Bureau and SWD in

collaboration with the Hospital Authority, the Police and the Forensic Pathology Service of DH in 2006, we have put in place a new service mode since March 2007 based on the following principles:

- (a) timely, professional and specialized services should be available to victims of both sexes and their family members on a 24-hour basis;
- (b) there should be an easy contact point, and services provided should be easily accessible to victims who may come from different locations of the whole territory;
- (c) the need for victims to undergo different procedures and to repeat the incidents should be minimized through better service coordination;
- (d) continuous support and after-care services to the victims after the crisis should be available; and
- (e) synergy among related welfare service units concerned should be achieved.

Under the new service mode, 24-hour hotline and outreaching service are provided to the victims of sexual violence. Designated social workers will follow through the case and act as case managers to provide and coordinate services such as emotional support, counselling, report to police, arranging medical treatment and forensic examination, etc. As one of the core components of the new service mode, a multi-purpose crisis intervention and support centre was set up in 2007 which, among other support services, provides short-term accommodation service to the victims.

### **Welfare Services for Victims and Children Witnessing Domestic Violence**

5. The Administration strives to ensure the safety of the victims and their children, and support them to tide over the difficult period in the aftermath of domestic violence so as to lessen the trauma associated with violence and help them lead a new life. To this end, social workers of the Family and Child Protective Services Unit (FCPSUs) would render a package of services for the victims and children witnessing domestic violence. Apart from individual counselling, educational/support groups would also be convened for the victims and their children. Services provided by clinical psychologist or psychiatrist

would also be arranged if the children exhibit psychological or psychiatric symptoms. Where there is a need for statutory protection for the child, social workers of SWD may initiate care or protection proceedings for the child under the Protection of Children and Juveniles Ordinance (Cap. 213).

### **Welfare Services for Batterers**

6. To stop violence at its source, services for batterers of domestic violence form an integral part of the packaged services to individuals affected by domestic violence. The Anti-violence Programme (AVP) has been introduced for batterers who are required by the Court under the Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189) to participate in the psycho-education programme to change their abuse attitudes and behaviour.

7. In addition to individual counselling provided by clinical psychologists and social workers, treatment group services, namely, the Batterer Intervention Programme (BIP), have been introduced by SWD since 2006 to help the batterers sever from violent behaviour. Batterers may participate in BIP on a voluntary basis or as required by the Court. Under the existing criminal legislative framework, the Court may, pursuant to the Probation of Offenders Ordinance (Cap. 298), make a probation order requiring a person convicted of an offence to be under the supervision of a probation order. A probation order may in addition require the offender to comply with such requirements as the Court considers necessary for securing the good conduct of the offender or for preventing a repetition by him/ her of the same offence or the commission of other offences. In connection with the aforesaid, the Court has been referring convicted batterers put on probation to attend BIP.

8. From the evaluation study on the effectiveness of pilot project of BIP for male batterers, batterers joining BIP were found to have made significant improvement in terms of marital adjustment. The existing service delivery mode with casework services as a base supplemented by clinical psychological services and BIP is therefore considered effective in reducing domestic violence and meeting the needs of the affected families. The Administration will continue to explore different treatment approaches to assist different batterers according to their needs, such as BIP for female batterers and short-term education programme for batterers who are unable to join the BIP or AVP.

## **Welfare Services for Ethnic Minority and Sexual Minority Victims**

9. The objective of services provided by SWD and its subvented organisations is to provide appropriate assistance to people in need irrespective of their race and sexual orientation. Support services from SWD and NGOs subvented by SWD are also accessible to ethnic minorities and sexual minorities suffering from domestic or sexual violence. On its information leaflet and webpage on support for victims of family violence, SWD has clearly pointed out that support services are available to victims of domestic violence, regardless of their ethnic origin and sexual orientation.

10. To promote relevant services among ethnic minorities, SWD has produced leaflets on prevention of child abuse and spouse/ cohabitant battering in languages of different ethnic minority groups. SWD has also subvented an NGO to provide education programmes to the ethnic minorities on the prevention of child abuse, as well as funded specific district-based projects in networking and supporting ethnic minority groups.

11. Representatives of the Labour and Welfare Bureau and SWD attended the Sexual Minorities Forum organised by the Constitutional and Mainland Affairs Bureau before the enactment of the Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189) in December 2009 to brief relevant organisations and groups on the contents of the Ordinance, as well as the support services available to the victims. SWD has also held meetings and sharing sessions with relevant concern groups after the enactment of the Ordinance to exchange views on issues relating to domestic violence, including support services for sexual minorities. Since the Ordinance came into effect in January 2010, SWD has sought to enhance public understanding of the scope of protection of the Ordinance through different channels, including the District Liaison Groups on Family Violence, the District Co-ordinating Committees on Family and Child Welfare Services and talks, etc, so as to help victims of domestic violence (including same-sex cohabitants) understand their rights, protection provided by law and relevant support services. The Administration will continue to use various channels to collect views from the sexual minorities.

## **Financial Assistance for New Arrival Victims**

12. Since 1 January 2004, to be eligible for the Comprehensive Social Security Assistance (CSSA), applicants must have been Hong Kong residents for at least seven years, except for Hong Kong residents

aged below 18 who are exempted from this requirement. The Director of Social Welfare may exercise discretion to waive the residence requirement in cases involving applicants in genuine hardship. All relevant factors will be taken into account to establish whether there is genuine hardship. Where an applicant with neither income nor other resources who has been forced to move away from his/ her spouse with his/ her young children because of domestic violence, discretion will normally be exercised to waive the residence requirement for the applicant. Furthermore, discretion will normally be exercised where a new arrival works to support his/ her family members, in recognition of his/her efforts to become self-supporting.

13. Apart from CSSA, there are other forms of assistance available to new arrivals such as employment support services, emergency relief, temporary grants from charity trust funds, medical waivers, child care services, assistance in kind and placement in singleton hostels when there are proven needs and subject to meeting the respective eligibility criteria.

### **Housing Assistance for Victims**

14. The Housing Authority attaches great importance to the housing needs of those who encounter domestic violence, and has formulated policies to provide them with housing assistance in accordance with their individual needs.

#### *Non-public rental housing tenants encountering domestic violence*

15. Victims of domestic violence who are not existing public rental housing (PRH) tenants but have genuine and imminent housing needs may seek recommendation for Compassionate Rehousing (CR) from SWD for housing assistance. Upon receipt of CR recommendation from SWD, HD will conduct eligibility checking and vetting of these cases and arrange flat allocation for eligible applicants.

16. The Conditional Tenancy (CT) Scheme under CR provides PRH assistance to those who are assuming custody of children and in need of accommodation while awaiting the Court decision on their divorce applications. Since 2001, the CT Scheme has also been extended to cover victims of domestic violence who do not assume custody of children but have petitioned for divorce. In view of the urgent nature of CT applications involving victims of domestic violence, HD would complete the vetting of these cases recommended by SWD as quickly as possible for flat allocation. In addition, after the completion of the divorce proceedings, tenants under CT could be converted to normal tenancy if

they pass the Comprehensive Means Test (CMT) and the Domestic Property Test (DPT), as well as complying with the residence rules.

*Existing public rental housing tenants encountering domestic violence*

17. If PRH tenants (including their new arrival spouses) encounter domestic violence, they may apply to HD for household splitting in order to prevent further deterioration of the situation. HD will conduct an eligibility vetting, such as the CMT and DPT for the applicants applying for household splitting and refer eligible cases to SWD for consideration. Subject to the recommendation of SWD, the splinter household will be offered a refurbished PRH flat in the New Territories. If the applicants cannot fulfill the relevant eligibility criteria but has imminent housing needs, HD will refer them to SWD for consideration of appropriate assistance.

18. The CT scheme mentioned in paragraph 16 above is also applicable to existing PRH tenants and their spouses who are unable to continue to live under the same roof during the process of divorce proceeding (such as involving domestic violence). Eligible PRH tenants or their spouses under such cases would be allocated to another PRH flat subject to recommendation by SWD.

*Recommendation for CR by SWD*

19. In considering whether to make the recommendations for CR, social workers will exercise their professional assessment according to the unique situations of the applicants by taking into account, among others, their medical and/ or social grounds. The nature and complexity of the family problem of each case which trigger the need for housing assistance, as well as the network and resources available to address the need, are different. Social workers need to make their professional assessment on CR eligibility according to the circumstances of individual case. While it would not be pragmatic to draw up a set of standardized, exhaustive and objective criteria, the Procedural Guides referred to above are available to provide sufficient guidance in facilitating social workers to make case and needs assessment relating to domestic violence when processing CR applications. SWD also organises relevant training courses such as 'Working with Clients with Accommodation Problems' which has been included as part of the programme for the 'Induction Course on Services of Integrated Family Service Centres'.

20. To ensure consistency in assessment yardsticks, each CR application will be scrutinized and endorsed by the respective District Social Welfare Officer. SWD and HD will accord due priorities to

processing CR applications under special and urgent circumstances. Under normal circumstances, SWD will recommend an eligible case to HD for consideration of CR within six weeks after initial application if the applicant can produce all the necessary documents. Upon receipt of SWD's recommendation, HD will complete eligibility assessment and notify the eligible applicant of the allocation of public rental housing unit as soon as practicable.

21. The District Social Welfare Offices of SWD will also organise sharing sessions from time to time on handling of housing assistance cases in response to the needs of the respective districts in collaboration with the District Tenancy Management Offices of HD, with a view to rationalizing the application procedures for processing applications for CR.

## **Handling of Domestic Violence Cases by the Police**

### *Classification of Domestic Conflict Reports*

22. The Police treat all Domestic Conflict Reports (DCR) seriously and with sensitivity, in pursuit of the twin aims of preventing further abuse and prosecuting offenders. In line with the multi-agency and cross-sectoral approach, domestic violence victims receive quality support services by referral to relevant government departments and NGOs.

23. The Police have clear definitions for the three categories of DCR, namely domestic violence (crime), domestic violence (miscellaneous) and domestic incidents reflecting the degree of seriousness of the reports. Domestic violence (crime) refers to all violent crime cases, such as Murder and Manslaughter, Wounding and Serious Assault, Rape, Indecent Assault, Criminal Intimidation, Criminal Damage, Possession of Offensive Weapons, etc. Domestic violence (miscellaneous) refers to cases of common assault and cases involving a "breach of the peace". In order to expand the protection net and to fully reflect the overall situations of domestic conflict, the Police created the domestic incidents category in January 2009 to include all non-violent incidents occurring in a domestic context, which are without any crime element, common assault or breach of the peace, such as dispute, nuisance, annoyance, distress or argument, etc. In accordance with the Procedural Guides, social workers would contact the victims on the domestic violence incidents and render appropriate assistance to the victims and their families irrespective of whether the case is classified as domestic violence or domestic incidents by the Police.

### *Investigation of domestic and sexual violence cases by police*

24. An officer of Sergeant rank or above must attend the scene of a DCR to ensure that it is correctly handled. An assessment of the risk of continuation and recurrence of domestic violence will be carried out based on the facts of the reported incident, any previous domestic violence incident involving the same parties and any other relevant matters. A check-list of domestic violence indicators, and a Force wide database into which details of all DCR are input, namely the Enhanced Central Domestic Violence Database (ECDVD), contains details of all previous domestic violence/ domestic incidents reports and can assist frontline officers to carry out the risk assessment.

25. Whilst investigating a fresh DCR, the responsible police officers must check the ECDVD to find out if the persons involved have any previous record of domestic conflict, and the result considered during the risk assessment. The ECDVD has an automatic alert function that notifies case officers and supervisors when a person who was involved in a DCR handled by them previously becomes involved in a fresh DCR. This ensures that the ongoing nature of the problem is brought to Police attention so that additional preventive measures can be considered.

26. The “One-family-one-team” system has been adopted, whereby the same team handles all DCR involving the same subjects, thus ensuring that officers are fully aware of the extent of the problem. Each Police District has at least one designated domestic violence investigation unit to investigate serious domestic violence cases. Other Crime Investigation Units handle all other domestic violence (crime) and high-threat domestic violence (miscellaneous) cases.

27. The suspect will be arrested as soon as possible if there are reasonable grounds for suspecting that he or she has committed an offence, and the suspect will then be prosecuted or bound over, depending upon the circumstances. Prosecution is dependent on the availability of sufficient evidence to prove a charge, and often relies upon the willingness of the victim to give a statement and undertake to testify against the suspect in Court.

28. Domestic violence victims are given advice on how to reduce the risk of re-occurrence. The evidence-in-chief of domestic violence victims who are Mentally Incapacitated Persons is video recorded for presentation in Court under Sections 79B & C of the Criminal Procedures Ordinance (Cap.221).

29. As in the case of DCR as referred to in paragraph 22 above, the



Police treat all sexual violence reports seriously and with sensitivity in pursuit of the twin aims of preventing further abuse and prosecuting offenders. In line with the multi-agency and cross-sectoral approach, sexual violence victims receive quality support services by referral to relevant government departments and NGOs.

30. The Child Protection Policy Unit is responsible for, among other things, developing Police policy and procedures regarding sexual violence. According to relevant policy and procedure, upon receiving a sexual violence report, the victim will be interviewed as soon as practicable in private by a police officer of the same sex trained in dealing with sexual violence victims. The victim may be accompanied by a relative or friend. The Police investigate each sexual violence report thoroughly to gather sufficient evidence to successfully prosecute the culprit. The “one-stop” service model speeds up the process of investigation, thus reducing stress to the victim. The statements of sexual violence victims who are children under 17 years old, or Mentally Incapacitated Persons, are video recorded in “Vulnerable Witness Interview Suites” . The Police will continue to provide regular training for frontline police officers to ensure that victims of sexual violence are treated with sensitivity, empathy and in a professional manner.

### **Health and Medical Services for Victims**

31. The Student Health Service provides promotional and preventive health programmes for primary and secondary school students according to their needs at various stages of development. If child abuse including sexual abuse is suspected by staff of the Student Health Service, the medical officer in-charge should follow the service guideline and refer the case to the Child Protection Special Investigation Team jointly formed by the Police and SWD for further investigation and management. If professional advice from paediatricians or hospitalization is required, the respective Medical Coordinator on Child Abuse appointed in nearby Paediatric Departments in the Hospital Authority would be contacted for referral and management.

32. The Family Health Service provides a health promotion and disease prevention programme to women at or below 64 years of age to cater for their changing needs in different life stages. If women who attend any of the services are suspected or found to be victims of domestic or sexual violence, or have other psychosocial problems, medical and nursing staff would provide immediate risk assessment, counselling, follow-up and referral to hospital, SWD or other NGOs as

required.

33. The Hospital Authority provides services for the victims of domestic violence, sexual violence or child abuse through a multi-disciplinary approach. Apart from providing medical examination and treatment as appropriate, the healthcare personnel will refer patients who are suspected to be the victims of domestic violence, sexual violence or child abuse to medical social workers (MSW) in the hospitals for assessment and follow up. MSWs will collaborate closely with relevant parties (such as medical team, Police, relevant welfare services units of SWD and NGOs) to assess the needs of the victims and their families and to render follow-up service as appropriate. Such follow-up measures include counselling, financial aid, referral to other community resource, etc. Clinical psychologist and psychiatrist may also be involved in the assessment and intervention of the victims as appropriate.

34. For cases involving child abuse and/ or intimate partner violence, the Hospital Authority will call for Multi-Disciplinary Case Conference as necessary with the participation of respective healthcare personnel and professionals (e.g. doctors, nurses, MSWs and clinical psychologists) to facilitate the conduct of risk assessment and formulation of welfare plan for the victims and their families.

35. The Hospital Authority has also worked with the Labour and Welfare Bureau, Education Bureau, DH and SWD in the Comprehensive Child Development Service (CCDS) to identify and meet, at an early stage, various health and social needs of children (aged 0 to 5) and their families so as to foster healthy development. CCDS has been implemented by phases since July 2005 in Maternal and Child Health Centres. It aims to ensure early identification of the varied needs of children and their families so that appropriate services can be made available to them in a timely manner.

36. For cases related to sexual violence, the Hospital Authority will, as far as possible, arrange a designated nursing officer of the same sex of the patient to approach and comfort the patient and also arrange a place with privacy for interview or medical examination to minimize distress. The case doctor will provide specific professional advice. The patient will be encouraged to report the case to the Police if he/ she has not yet done so. The case doctor, with the patient's consent, will also refer him/ her for medical follow-up in a designated clinic if needed.

## **Assistance to Victims on Maintenance**

37. Having carefully examined the suggestion of setting up a maintenance board, the Administration concludes that the setting up of a maintenance board to collect and enforce maintenance payments would unlikely bring to either the maintenance payees or the taxpayers any significant benefits over and above those which could be achieved by improving the existing system of collection of maintenance payments and enforcement of maintenance orders.

38. The Administration will continue to formulate maintenance-related policies to protect the rights of maintenance payees. The measures that have been put in place include –

- (i) relaxing the requirement for the Court to make Attachment of Income Orders to make the issuance procedure more flexible;
- (ii) imposing interest or even surcharge against defaulting maintenance payers;
- (iii) working on the proposed legislative amendments on relaxing the service requirements for the judgment summons to be serviced personally on the maintenance payers to combat the problem of maintenance payers evading service of the judgment summons and empowering the Court to make an order for the arrest of the maintenance payer pending examination, an order prohibiting him/ her from leaving Hong Kong, and an order that he/ she be imprisoned until the resumption of the adjourned judgment summons hearing;
- (iv) allowing designated government departments (i.e. Immigration Department, Transport Department and Housing Department) to release the addresses of maintenance payers against whom legal actions will be taken to sue for arrears in maintenance free-of-charge upon the request from legal professionals who could provide sufficient information; and
- (v) working on publicity and education programmes to strengthen public understanding of the responsibilities of maintenance payers, rights of maintenance payees and services available to maintenance payees for the arrears of maintenance.

## **Provision of Legal Aid Services**

39. The policy objective of legal aid is to ensure that no one with reasonable grounds for pursuing or defending a legal action in Hong Kong is denied access to justice because of a lack of means. Any person, whether or not resident in Hong Kong, who is involved in legal proceedings in the District Court or higher courts, may apply for legal aid. To qualify for legal aid, a person is required by law to satisfy the means and merits tests.

40. The Legal Aid Department (LAD) fully recognises the need to deal with legal aid applications that involve domestic violence with care and speed. LAD therefore treats all applications to seek injunction by victims of domestic violence as urgent cases and will process them expeditiously. Provided that the applicant satisfies the means and merits tests, legal aid will be granted. Apart from legal assistance through the grant of legal aid, posters by various NGOs offering shelter and/ or marital counselling and mediation services are displayed in the reception areas of LAD's offices. In appropriate cases, LAD would also give applicants a pocket-sized information card published by an NGO about Police assistance with commonly asked questions and answers on what to do when applicants are subjected to domestic violence. The card contains the 24-hour hotline telephone number of that NGO which also offers shelter services to victims of domestic violence. The above measures are meant to meet the needs of applicants who are victims of domestic violence so that they can obtain appropriate advice and non-legal assistance in a timely manner.

## **Training to Frontline Staff**

41. Frontline staff in SWD have been provided with various training programmes regularly to enhance their knowledge and skills in handling domestic and sexual violence cases, including early identification of the cases, crisis intervention, investigation, multi-disciplinary collaboration, case management, post-trauma counselling and prevention of domestic violence, etc. In 2011-12, SWD organized or subsidized around 150 training programmes on subjects relating to domestic violence with the participation of around 7 000 frontline professional staff from various disciplines. In 2012-13, SWD will provide around 7 000 training places.

42. Training has also been provided by SWD to enhance the understanding and sensitivity of the front-line social workers in rendering services to people of different sexual orientations. In 2011-12 and 2012-13, SWD organised six training courses for about 300 front-line social

workers on sexual orientation and related issues.

43. Training on various domestic conflict related issues, such as handling DV incidents, handling heterosexual/ homosexual relationships, victim's psychology and conflict management, is provided to police officers at various stages of their careers, including during basic training, crime investigation training and development training. Procedures for dealing with DCR are contained in the Force Procedures Manual and Criminal Investigation Manual for easy reference by frontline police officers and are reviewed regularly to identify areas for improvement. Ad hoc seminars will continue to be held for frontline police officers for the purpose of enhancing their professional sensitivities and updating their knowledge with the latest changes in laws and procedures.

### **Advice Sought**

44. Members are invited to note the content of this paper.

**Labour and Welfare Bureau  
Social Welfare Department  
Hong Kong Police Force  
Housing Department  
Department of Health  
Home Affairs Bureau  
Legal Aid Department**

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