

**For discussion
on 9 February 2015**

Legislative Council Panel on Welfare Services

**Subcommittee on Strategy and Measures
to Tackle Domestic Violence and Sexual Violence**

**Definition, Identification and Assessment of
Domestic Violence and Sexual Violence**

Purpose

This paper seeks to respond to the issues raised by Members and deputations at the meeting of the Subcommittee on Strategy and Measures to Tackle Domestic Violence and Sexual Violence under the Legislative Council Panel on Welfare Services held on 12 January 2015.

Definitions of Domestic Violence and Sexual Violence

2. The Social Welfare Department (SWD) adopts a multi-disciplinary and cross-sectoral model in combating domestic violence and helping victims of sexual violence. To assist victims of domestic and sexual violence, safeguard the best interests of children, protect victims or suspected victims of child abuse, and ensure effective co-operation among all relevant stakeholders (e.g. government departments, non-governmental organisations (NGOs) and other relevant agencies), SWD has joined hands with the relevant departments (including the Hong Kong Police Force (the Police), Education Bureau, Department of Justice, Housing Department, Hospital Authority (HA) and Department of Health (DH)) and NGOs (e.g. the Hong Kong Council of Social Service, Hong Kong Family Welfare Society, Caritas – Hong Kong, Christian Family Service Centre and Against Child Abuse Ltd.) to develop three sets of guidelines, namely the “Procedural Guide for Handling Intimate Partner Violence Cases”, “Procedural Guide for Handling Child Abuse Cases” and “Procedural Guidelines for Handling Adult Sexual Violence Cases”. They set out the definitions agreed by the departments and organisations in respect of intimate partner violence, child abuse and sexual violence, and laid down the respective codes of practice for reference by different professionals working in the departments and organisations. The guidelines aim to promote cross-sectoral co-ordination in the intervention process so that appropriate support could be provided for those in need. The abovementioned guidelines are applicable to people with different backgrounds and needs (including new

arrivals, ethnic minorities and sexual minorities). SWD will review and update the guidelines from time to time having regard to the advice of the professionals and the latest developments.

3. In addition, SWD has set up the Working Group on Combating Violence and the Committee on Child Abuse, which are chaired by the Director of Social Welfare and comprise representatives of the Police, Education Bureau, HA and NGOs. The Working Group on Combating Violence keeps the current procedures and guidelines under review and recommends improvement measures. It also seeks to strengthen co-ordination and co-operation among relevant government departments, NGOs and professionals in handling and combating intimate partner violence and sexual violence. The Committee on Child Abuse examines the child abuse problem in Hong Kong in the light of prevailing social circumstances, maps out strategies to address the problem (including prevention, public education and community participation), and explore ways to facilitate multi-disciplinary collaboration for handling child abuse cases.

Children Witnessing Domestic Violence

4. There are views that children witnessing domestic violence should be regarded as suffering from a form of child abuse. We understand that domestic violence not only hurts the victims, but also brings negative impacts on the children. However, various factors have to be considered to determine whether a case of witnessing domestic violence should be taken as a case of child abuse. It depends on, for example, how the incident takes place and how the child reacts, and it would be inappropriate to prescribe the same conclusion for all cases. That said, a set of clear definition and indicators for psychological abuse are set out in the “Procedural Guide for Handling Child Abuse Cases” as mentioned in paragraph 2 above. Psychological abuse is defined as the repeated pattern of behaviour and attitudes towards a child or extreme incident that endangers or impairs the child’s emotional or intellectual development. In determining whether a case should be treated as child abuse, the responsible professionals will make assessment case by case and take into consideration the actual circumstances and various factors. For instance, as domestic violence (including spouse battering) is one of the possible characteristics associated with child abuse, the professionals and other working parties who have to identify possible child abuse in a case will carefully assess the child’s situation, family background and so forth with reference to the Procedural Guide. The Procedural Guide also states that cases involving child welfare but not meeting the definition of child abuse therein should be handled with care and appropriate services should be rendered to ensure the best interest of the children, and that the safety, needs, welfare and rights of the children should always come first and should be the primary concern.

5. Moreover, under the Offences against the Person Ordinance (Cap. 212), any person over the age of 16 years who has the custody, charge or care of any child or young person under that age wilfully assaults, ill-treats, neglects, abandons or exposes such child or young person or causes or procures such child or young person to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause such child or young person unnecessary suffering or injury to his health (including injury to or loss of sight, or hearing, or limb, or organ of the body, or any mental derangement) shall be guilty of a criminal offence.

6. We understand that there would be negative impacts on the children witnessing domestic violence. In this regard, social workers of SWD's Family and Child Protective Services Units provide a series of services for children who witnessed domestic violence. Apart from individual counselling, education/support groups are also offered. Services of clinical psychologists or psychiatrists are available for children who show symptoms of psychological or psychiatric problems. In cases where statutory protection is warranted, social workers of SWD can initiate legal proceedings under the Protection of Children and Juveniles Ordinance (Cap. 213) for the care and protection of the children.

Psychological Abuse

7. There are comments that psychological abuse is easily overlooked and requires a clear definition. Past court rulings in Hong Kong made under the Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189) (the DCRVO) have established that, in addition to the more common cases of bodily assault, the existing DCRVO can further apply to other forms of abuse, including psychological abuse. The Crimes Ordinance (Cap. 200) also imposes criminal sanctions on acts of intimidation (such as threatening any other person with any injury to the person, reputation or property of such other person with intent to alarm the person so threatened or any other person).

8. For every case received and when providing related support services, SWD, together with other departments and organisations concerned, will conduct a professional and comprehensive assessment of the victims with reference to the definition of psychological abuse (i.e. recurrent aversive or coercive acts intended to produce emotional harm or threat of harm) set out in the "Procedural Guide for Handling Intimate Partner Violence Cases". From the perspective of protecting victims of domestic violence, it is considered necessary to continue to make use of various channels to let victims, abusers, frontline officers and members of the public understand that domestic violence can take different forms, including physical, psychological and sexual abusive acts. It should also be made known that victims of these abusive acts are protected by DCRVO and support services are available. For frontline officers,

SWD provides professional training from time to time to enhance their sensitivities to the identification of victims facing psychological abuse or other problems.

Definition of Sexual Violence

9. According to the “Procedural Guidelines for Handling Adult Sexual Violence Cases” drawn up by SWD in collaboration with relevant departments and organisations, sexual violence happens when a person (including sex workers) is subjected to non-consensual sexual act or non-consensual exposure to such act. The subjugation can take the form of physical or non-physical force, threat of force, coercion, intimidation, duress or deceit. It can also happen when the victim is unable to express his/her wish or give consent owing to his/her age, mental capacity, fear, the influence of alcohol, drugs or other substances.

10. The Procedural Guideline includes, among others, marital rape as an act of sexual violence¹. Sexual harassment, peeping and some other sexual abuse will generally go under the categories of “indecent assault” or “others”. The service units operated by SWD and NGOs will provide assistance and counselling for victims of all the above categories of sexual abuse. In particular, the CEASE Crisis Centre (an SWD-subvented unit run by the Tung Wah Group of Hospitals) provides victims of sexual violence with immediate intervention and support services on a 24-hour basis to help them cope with the crisis or distress. It also provides short-term accommodation for those in need.

11. Sexual offences such as rape, incest and indecent assault are liable to criminal sanctions under the Crimes Ordinance (Cap. 200). The Police will investigate and take resolute enforcement actions if there are reasonable grounds to believe that an offence has been committed. Where appropriate, the Police will refer cases to SWD or other organisations so that counselling and support services will be provided for the victims and their families.

Reporting Mechanism of Domestic and Sexual Violence Cases

12. SWD maintains the “Child Protection Registry” to capture information on child abuse cases, and the “Central Information System on Spouse/Cohabitant Battering Cases and Sexual Violence Cases” to collect data of various types of spouse/cohabitant abuse and sexual violence (including

¹ Sexual violence includes rape, attempted rape and marital rape, indecent assault, incest, being forced to engage in masturbation or oral sex, buggery, and indecent exposure. It may occur in public or in private place. The perpetrators can be members of the family, relatives, acquaintances or strangers.

physical abuse, psychological abuse and sexual abuse). The data are captured from service units operated by SWD and NGOs, HA, the Legal Aid Department, the Police and DH. Cases of spouse/cohabitant battering and sexual violence handled by frontline personnel of an extensive range of departments and organisations are covered. The central information system was formerly known as the “Central Information System on Battered Spouse Cases and Sexual Violence Cases”. To enable the reporting professionals to provide precise data of domestic violence involving same-sex victims, the data input form and reporting mechanism were reviewed by a task force set up by SWD in 2011. A revised input form has been in use since January 2013. SWD will keep the registry and the central information system under review and introduce modifications as and when appropriate.

Identification and Assessment of Domestic and Sexual Violence Cases

Categories of Domestic Violence Cases

13. In January 2009, the Police created a case category of “domestic incident” in order to expand the protection net in the domestic context and provide a fuller picture of the situation of domestic conflicts. The category covers non-violent incidents (e.g. dispute, nuisance, annoyance, distress and argument) which involve spouses or intimate partners (irrespective of gender) and do not implicate criminal offence, common assault or breach of the peace. Before the introduction of this category, all non-criminal domestic conflicts were classified as “domestic violence (miscellaneous)” by the Police.

14. The Police attach great importance to the problem of domestic violence. Regardless of the category of cases, which are classified as “domestic violence (crime)”, “domestic violence (miscellaneous)” or “domestic incident”, they will be processed and investigation will be conducted with empathy and understanding in a professional, fair and impartial manner. Through an inter-departmental and multi-disciplinary approach, the Police seek to protect domestic violence victims and their families from further abuse and bring the perpetrators to justice. A set of policies and procedures has been developed for effective handling of domestic violence cases to reduce the risk of perpetration and strengthen the protection for victims.

Statistics of Domestic Violence Cases provided by the Police

15. The Police handle every case of domestic conflict with care. Police officers on the scene will check with its “Enhanced Central Domestic Violence Database” to ascertain whether there are any past reported domestic conflicts

involving the same family, confirm the classification of past cases and assess the risks. If a family reports a second “domestic incident” within a month, email notifications will be sent to the officers in charge of the two reported cases, who should then review both cases and take appropriate follow-up actions. The Police do not have statistics about recurrent reports of “domestic incident” or the breakdown by type (e.g. dispute, nuisance, annoyance, distress and argument).

16. In 2013, the Police received a total of 14 643 reports of domestic conflicts². SWD followed up 7 474 of them upon police referral. Of these referrals, 7 219 were voluntary and 255 were non-voluntary.

Early Identification of Crisis (including Families with Newborn Babies)

17. There are suggestions that a home visit scheme for families with newborn babies should be introduced for early identification of crisis. Providing support and services for families in need is a long-standing commitment of the Government. Targeting at children aged 0 to 5 and their families who need assistance, the Comprehensive Child Development Service (CCDS) aims at early identification of and timely provision of support for pregnant women at risk, mothers with postnatal depression, families with psychosocial needs, as well as pre-primary children with health, developmental and/or behavioural problems. CCDS uses Maternal and Child Health Centres under DH, hospitals under HA, Integrated Family Service Centres/Integrated Services Centres operated or subsidised by SWD, and pre-primary institutions under the Education Bureau as a platform to identify children and families in need and refer them to suitable service units for follow-up as soon as possible.

18. CCDS was launched by the Government in 2005 and extended in stages until full implementation in the 18 districts of Hong Kong in 2013. Currently, all the 31 Maternal and Child Health Centres, 65 Integrated Family Service Centres and two Integrated Services Centres in the territory are CCDS service providers. The extension of CCDS to all districts has also strengthened the liaison and collaboration among the service units. In addition to inter-departmental co-ordinating committee meetings which are held regularly, SWD, DH and HA set up a working group in 2014 to review and enhance case management and multi-disciplinary collaboration under CCDS, and develop a common assessment tool for identifying vulnerable/high-risk families and cases in a more effective manner. SWD will maintain communication with relevant departments and local units to monitor the implementation of CCDS, including direct contacts/visits made for newborn babies for early identification of families in crisis.

² In the 14 643 cases of domestic conflicts received in 2013, 1 870 were domestic violence (crime) cases, 676 reports were domestic violence (miscellaneous) cases, and 12 097 reports were domestic incidents.

19. Under the Integrated Child Health and Development Programme, DH provides immunisation and health and developmental surveillance for infants and young children of different ages as well as parenting programme at its Maternal and Child Health Centres. The parenting programme aims at equipping parents with the necessary knowledge and skills for bringing up healthy children through positive parenting practices. Parents may receive anticipatory guidance on child care, child development and positive parenting during the antenatal period and the pre-school years of their children by means of individual counselling, information leaflets/videos, online resources, hotlines and workshops. For parents whose children have early behavioural problems or parents who encounter difficulties in parenting, Maternal and Child Health Care Centres also organise structured group training programmes to teach positive parenting strategies. The training aims to promote the psychological health of both the parents and children by relieving the stress of parenting, discouraging corporal punishment and preventing the development behavioural problems in children.

Police Arrangements Concerning Custody Search of Transgender Persons

20. It is the responsibility of the Police to adopt reasonable measures for taking care of detainees. To ensure that detainees would not cause harm to themselves or others, would not escape or assist others to escape, and would not destroy evidence, the Police shall conduct custody searches of detainees prior to the person being detained in a police detention facility.

21. The Police acknowledge that detained persons may have special needs. To ensure that the rights and welfare of persons with special needs (including those who are under the age of 16, mentally incapacitated or suspected to be mentally incapacitated, disabled or transgender) are fully addressed, the Duty Officer shall, where practicable, arrange the search to be conducted in the presence of an appropriate adult.

22. A custody search will be conducted only in an area offering privacy, and only officers of the same gender as the detained person will conduct the custody search. As far as a transgender detainee is concerned, the Police shall conduct the custody search based on the gender as shown in the identity document. The Duty Officer shall, prior to the custody search, ask the detainee whether it is necessary for an appropriate adult to be present to ensure that the rights and welfare of the detainee are fully addressed. On the request of the detained person, the Duty Officer shall, where practicable, arrange the search to be conducted in the presence of an appropriate adult. The custody search will be conducted in the presence of the appropriate adult (if any), unless the detainee objects.

Support Services for Victims of Domestic Violence among the Sexual Minorities

23. It has been pointed out by some people that the statistical figures on sexual minorities suffering from domestic violence appear small and their rate of seeking help is low. SWD attaches great importance to public education for the prevention of domestic violence, and has made use of different publicity means such as videos, posters and pamphlets to urge those who encounter domestic violence to seek early assistance. A website of “Support for Victims of Child Abuse, Spouse/Cohabitant Battering and Sexual Violence” has been developed to provide the public with information on relevant services. On various service pamphlets and website, we have highlighted that all victims of domestic violence, regardless of gender, sexual orientation and race, can obtain the services provided by SWD or its subvented organisations. Sexual minorities groups may refer cases related to domestic violence to SWD or SWD-subvented NGOs for assistance if necessary.

24. Considering some sexual minorities faced with domestic violence may be relatively passive in seeking professional assistance due to various reasons, SWD has met with representatives of the LGBT Against Domestic Violence Alliance to gain a better understanding of domestic violence faced by sexual minorities, and exchange views on how the relevant departments and service units can address their needs in a more effective manner. In addition, various support service units, including the CEASE Crisis Centre run by the Tung Wah Group of Hospitals and the Victim Support Programme for Victims of Family Violence run by Po Leung Kuk, have produced specific publicity materials for direct or indirect distribution to the sexual minorities to raise their awareness of domestic violence and encourage them to seek help if there is such a need.

25. SWD has sought to enhance public understanding of domestic violence through different channels, including District Liaison Groups on Family Violence, District Co-ordinating Committees on Family and Child Welfare Services, talks and district activities, and help victims of domestic violence (including same-sex cohabitants) understand their rights, protection for them under the law and relevant support services. For frontline social workers, SWD has strengthened staff training to enhance understanding of and sensitivity towards sexual minorities and improve the working skills required for providing appropriate assistance.

26. The Police handle domestic violence cases involving same-sex couples with the same professionalism and high degree of sensitivity as it does with other domestic and sexual violence cases, regardless of the gender and sexual orientation of the persons involved. In line with this, the handling of domestic violence cases involving same-sex couples is always supervised by an officer of the Sergeant rank on the scene.

27. The Police continue to enhance the training of frontline police officers in handling domestic violence cases involving same-sex couples. Before the enactment of DCRVO on 1 January 2010, efforts had already been made to enhance frontline police officers' knowledge about the ordinance and same-sex cohabitation relationships, with a view to raising their understanding of same-sex relationships and violence involving same-sex couples, as well as enhancing their sensitivity in handling domestic violence cases involving same-sex cohabitants.

Advice Sought

28. Members are invited to note the contents of this paper.

**Labour and Welfare Bureau
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