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

**Background brief prepared by Legislative Council Secretariat
for the meeting on 10 November 2015**

Support services for victims of sexual violence

Purpose

This paper provides background information and gives an account of the past discussions by various committees of the Legislative Council ("LegCo") on support services for victims of sexual violence since the Third LegCo.

Background

2. The Administration conducted a review on the services provided for victims of sexual violence in 2006. After the review, the Administration introduced in 2007 a new service model on handling sexual violence cases, and its key element is that a designated social worker will serve as the case manager to co-ordinate and provide a range of support and follow-up services, including immediate support, counselling services, reporting to the Police, arrangement of medical treatment and forensic examination, as well as escorting and accompanying the victims to go through all necessary procedures.

3. To tie in with the implementation of the new service model, the "Procedural Guidelines for Handling Adult Sexual Violence Cases", which was developed in 2002 by the Social Welfare Department ("SWD") in

consultation with the relevant government departments and organisations, have been revised accordingly to enhance co-operation and co-ordination among various parties concerned (including police officers, social workers and medical personnel) which in turn ensures that the most appropriate and effective approach will be adopted to cater for different needs of victims of sexual violence.

4. To ensure that victims or witnesses of sexual offence cases¹ have the necessary privacy and protection during the court proceedings, the prosecution can apply to the court before trial for special measures to be adopted to address their specific needs. Such measures may include placing a screen around the complainant who may be the victim or witness in a sexual offence case during related proceedings so that the complainant will not be able to see the accused and the public or the press will not be able to view the complainant. According to the Judiciary, the court will consider the prosecution's application carefully having regard to the circumstances of the case and the needs of the complainants and will take into account the views of the defendant before deciding whether to adopt any special measure.

Members' deliberations

Police's handling of sexual violence cases

5. Having regard to the traumatic experience of sexual violence encountered by the victims, members had all along expressed grave concern about the adequacy of services and support provided for victims of sexual violence, in particular the assistance rendered to them during police investigation and judicial proceedings. Some members were concerned that only a small number of sexual violence cases, especially indecent assault, had been referred by the Police for social support services.

6. The Administration assured members that the Police treated all sexual violence reports seriously and with sensitivity in pursuit of the dual aims of preventing further abuse and prosecuting offenders. Whenever a report of sexual violence was received, it would be referred to the appropriate crime unit as soon as possible. The victim would be interviewed in private by a

¹ Sexual offence cases refer to offences relating to (i) rape; (ii) incest; (iii) buggery; (iv) gross indecency; (v) indecent assault; (vi) indecent conduct; (vii) unlawful sexual act; (viii) unlawful sexual intercourse; (ix) procuring another person under the age of 16 for making pornography; (x) keeping/managing vice establishment; and (xi) controlling/living on earnings of prostitution.

police officer of the same sex trained in dealing with sexual violence victims. Depending on the circumstances of each case, the victim might be referred to other professionals for assistance if necessary, for example, medical doctor, forensic pathologist and social worker. To avoid adding trauma by repeating their ordeal to different professionals on different occasions, sexual offence victims could choose to receive medical treatment, forensic examination, be interviewed and give a statement to investigators, and receive counselling as well as other support services, for example, temporary accommodation and financial support, within the same public hospital on the same occasion under the one-stop service model.

7. There was a view that the Police should formulate clear procedural guidelines governing the handling of sexual violence against sex workers and the conduct of body searches, including transgender persons. The Administration advised that procedures for dealing with sexual violence cases were contained in the Force Procedures Manual and Criminal Investigation Manual for ease of reference by front-line police officers and were reviewed regularly to identify areas for improvement. To ensure that the rights and welfare of persons with special needs (including those who were under the age of 16, mentally incapacitated or suspected to be mentally incapacitated, disabled or transgender) were fully addressed, the Duty Officer would, where practicable, arrange the search to be conducted in the presence of an appropriate adult. The Administration further advised that a custody search would be conducted only in an area offering privacy, and only officers of the same gender as the detained person should conduct the custody search. As far as a transgender detainee was concerned, the Police would conduct the custody search based on the gender as shown in the identity document. The Duty Officer would, prior to the custody search, ask the detainee whether it was necessary for an appropriate adult to be present. On the request of the detained person, the Duty Officer would, where practicable, arrange the search to be conducted in the presence of an appropriate adult.

Support for victims of sexual offence cases during court proceedings

8. Members had made requests for automatic provision of screen at trial without the need for the victims of sexual violence to make an application with the judge, on the grounds that this would encourage the victims to pursue their cases in court and to give a full and candid account of the acts complained of in court. According to the Judiciary, while there was currently no legislative provision specifically governing the use of screens for witnesses (including the victims) in sexual offence proceedings, the use

of screens in criminal proceedings was governed by common law. At the common law, the court would exercise its judicial discretion to determine whether a screen should be deployed during court proceedings on a case-by-case basis.

9. The Judiciary drew members' attention to the fact that the proposal of providing screens automatically to shield the complainant from the accused, as advised by the Department of Justice, appeared to be a departure from the common law position as it currently stood for Hong Kong, and would necessarily breach the relevant provisions of the Basic Law concerning the right to a fair trial. In other words, such proposal could not be implemented without statutory backing. The Judiciary suggested that instead of changing the law, the current procedure in which the application for use of screen was initiated by the prosecution could be improved by amending the relevant criminal proceedings as set out in Practice Directions issued for the conduct of court proceedings to require the consideration of the need for screen by the judge as a standing procedure in every sexual offence case that would be brought forward to court.

Dedicated shelter service for victims of sexual violence

10. Members were advised that as an integral part of the new service model, the Multi-purpose Crisis Intervention and Support Centre ("CEASE Crisis Centre") was set up by SWD in 2007 to provide one-stop crisis intervention and support services, including short-term accommodation, and to liaise with the relevant social and medical service units for victims of sexual violence and domestic violence as well as individuals/families who were in crisis or distress.

11. Members were further advised that notwithstanding the CEASE Crisis Centre had been operating effectively, the Administration would conduct a review of the shelter service currently provided for victims of domestic violence and sexual violence. Noting the over-utilisation of the existing refuge centres for women and crisis centres, members urged the Administration to provide a concrete timetable and plan for increasing the residential places, and strengthen the support service currently provided by refuge centres for victims of domestic violence and sexual violence.

Medical support for victims of sexual violence

12. In response to members' concern about the medical support for victims of sexual violence, the Administration advised that for cases related

to sexual violence, the Hospital Authority would, 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 minimise distress. The case doctor would provide specific professional advice. The patient would be encouraged to report the case to the Police if he/she had not yet done so. The case doctor, with the patient's consent, would also refer him/her for medical follow-up in a designated clinic if needed.

Relevant papers

13. A list of the relevant papers on the LegCo website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
6 November 2015

Relevant papers on support services for victims of sexual violence

Committee	Date of meeting	Paper
Panel on Welfare Services	3 July 2006 (Item I)	Agenda Minutes
Panel on Administration of Justice and Legal Services	28 May 2013 (Item IV)	Agenda Minutes
	26 January 2015 (Item IV)	Agenda Minutes
Subcommittee on Strategy and Measures to Tackle Domestic Violence and Sexual Violence	12 January 2015 (Item II)	Agenda Minutes
	9 February 2015 (Item II)	Agenda Minutes

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