

# 立法會 *Legislative Council*

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## **Panel on Welfare Services**

### **Background brief prepared by the Legislative Council Secretariat for the meeting on 10 May 2021**

#### **Reporting and prevention of child abuse**

#### **Purpose**

This paper provides background information and gives an account of past discussions of Members on the reporting and prevention of child abuse.

#### **Background**

##### Criminal laws in relation to child abuse

2. The protection of children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child is a fundamental right guaranteed by the United Nations Convention on the Rights of the Child.<sup>1</sup> In Hong Kong, criminal offences related to specific abusive acts against children are provided in different pieces of legislation. Under the Offences Against the Person Ordinance (Cap. 212), any person who wilfully assaults, ill-treats, neglects, abandons or exposes a child or young person under the age of 16 years under the person's custody, charge or care in a manner likely to cause such a child or young person unnecessary

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<sup>1</sup> The United Kingdom Government extended the Convention on the Rights of the Child to Hong Kong in 1994. The People's Republic of China is a State Party to the Convention. The Government of the People's Republic of China notified the United Nations in June 1997 that the Convention with certain reservations would continue to apply to the Hong Kong Special Administrative Region with effect from 1 July 1997.

suffering or injury to his health shall be guilty of a criminal offence. There are a number of sexual offences in the Crimes Ordinance (Cap. 200) aimed at the protection of children, whereas the Prevention of Child Pornography Ordinance (Cap. 579) prohibits child pornography, pornographic performances by children and child sex tourism, and criminalizes the printing, making, producing, reproducing, copying, importing, exporting, publishing, possessing and advertising of child pornography.

### Reporting of child abuse cases

3. The United Nations Committee on the Rights of the Child recommended as early as 2011 that for all States parties, the reporting of instances, suspicion or risk of violence should, at a minimum, be required by professionals working directly with children. As set out in the consultation paper on "Causing or Allowing the Death or Serious Harm of a Child or Vulnerable Adult" ("the Consultation Paper") released by a subcommittee under the Law Reform Commission of Hong Kong ("LRC") in May 2019,<sup>2</sup> a "mandatory reporting duty" requires a report to be made in every case where there are suspicions or knowledge of child abuse or neglect (i.e. there is limited professional discretion in whether or not to report). The action taken under the duty is limited to reporting, and the duty would be discharged once a report has been made. There are likely to be sanctions for a failure to report.

4. Globally, mandatory reporting of suspected child abuse is a statutory duty in at least 70 places.<sup>3</sup> In Hong Kong, the reporting of child abuse is voluntary. Information on the latest number of newly reported child protection cases (including cases with children under high risk or maltreatment) in the years of 2018, 2019 and 2020 with a breakdown by age and source of referral, and the perpetrator's relationship with the maltreated child is in **Appendix I**. There are, however, observations in the community that reported instances of abuse are likely to represent a serious underestimation.

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<sup>2</sup> The consultation paper released by the Causing or Allowing the Death of a Child or Vulnerable Adult Sub-committee of the Law Reform Commission of Hong Kong in May 2019 is available at: <https://www.hkreform.gov.hk/en/publications/cadcva.htm>.

<sup>3</sup> According to a survey published in 2018 by the International Society for the Prevention of Child Abuse and Neglect, of the 86 countries participating in the global survey, 71 had already enacted laws to require mandatory reporting of suspected child abuse cases. They included the United States, Canada, Switzerland, Australia and Japan.

5. While the study of LRC referred to in paragraph 3 above focuses on a new proposed offence of "Failure to protect a child or vulnerable person where the child's or vulnerable person's death or serious harm resulted from an unlawful act or neglect" without a recommendation on a mandatory reporting mechanism which is not strictly within the terms of reference of the subcommittee concerned, relevant research information on reporting obligations has been set out in Chapter 8 of the Consultation Paper for the Administration to consider how to further develop policies in this area. Separately, the Ombudsman initiated a direct investigation on 30 January 2018 to examine the mechanism for identifying and reporting suspected child abuse cases. In the Direct Investigation Report on Mechanism for Identifying and Reporting Suspected Child Abuse Cases published on 22 October 2019, it was recommended that the Administration should explore the feasibility of mandatory reporting of suspected child abuse cases; include the information on how to identify child abuse cases and procedures for handling suspected child abuse cases in the Kindergarten Administration Guide for kindergartens' reference; ensure that schools have clear guidelines in handling suspected child abuse cases; and conduct statistical analysis on the length of and reasons for students' absence in kindergartens, primary and secondary schools to enable early identification of child abuse cases.<sup>4</sup>

#### Procedural guidelines

6. Detailed guidelines for voluntary reporting of child abuse are contained in the Procedural Guide for Handling Child Abuse Cases ("Procedural Guide") drawn up by the Social Welfare Department ("SWD") to provide guidance on handling suspected abuse cases and the level of cooperation among relevant departments or units for reference of those groups of professionals most likely to be in situations to observe and report on child abuse. Following a comprehensive review by a task group set up

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<sup>4</sup> A summary of the Ombudsman's observations on the mechanism for identifying and reporting suspected child abuse cases and the Government Minute in response to the recommendations is available at <https://www.legco.gov.hk/yr20-21/english/counmtg/papers/cm20201216-sp060-e.pdf> (pages 242 to 246).

by SWD<sup>5</sup> on the recommendation of the Committee on Child Abuse,<sup>6</sup> the revised Procedural Guide, which was renamed to "Protecting Children from Maltreatment – Procedural Guide for Multi-disciplinary Co-operation (Revised 2020)" ("Revised Procedural Guide"), was endorsed by the Committee on Child Abuse on 20 December 2019 and was implemented on 1 April 2020.<sup>7</sup>

7. In addition to the guidance from SWD, the Education Bureau ("EDB") has put in place the "School Administration Guide", "Kindergarten Administration Guide" and "Operational Manual for Preprimary Institutions" to provide schools with specific and clear guidelines on the procedures for early identification and proper handling of child abuse cases.<sup>8</sup> Separately, according to EDB's procedures in handling non-attendance cases, EDB will follow up every non-attendance case thoroughly, repeat the process of contacting the parents regularly and will not close any cases because it is unable to reach the school aged students or their parents. If EDB could not make contact with the students or parents after paying frequent home visits and making enquiries to other

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<sup>5</sup> In November 2016, the Social Welfare Department set up a task group comprising representatives from the Labour and Welfare Bureau, Education Bureau ("EDB"), Department of Health, the Police, Hospital Authority, The Hong Kong Council of Social Services and non-governmental organizations ("NGOs") of relevant service natures to review the Procedural Guide. The objectives of the review include (a) facilitating professionals concerned to have a common understanding on the definition of child abuse and to adopt a consistent approach in handling various types of suspected child abuse or child abuse cases; (b) providing frontline professionals with more reference on the indicators for identification of cases with higher risk of child abuse; (c) providing frontline professionals with clearer guides in handling and following up different types of suspected child abuse/child abuse cases; (d) enhancing the cooperation between parents concerned and professionals as well as children's participation in the formulation and implementation of the welfare plan; and (e) delineating the roles and responsibilities of professionals concerned in handling various types of suspected child abuse/child abuse cases to facilitate better collaboration among various disciplines.

<sup>6</sup> The Committee on Child Abuse is chaired by the Director of Social Welfare and comprises representatives from related bureaux, government departments and NGOs. It is responsible for examining the problem of child abuse and mapping out strategies to address the problem.

<sup>7</sup> The Protecting Children from Maltreatment – Procedural Guide for Multi-disciplinary Co-operation (Revised 2020) is available at [https://www.swd.gov.hk/storage/asset/section/1447/en/Procedural\\_Guide\\_Core\\_Procedures\\_\(Revised\\_2020\)\\_Eng\\_12May2020.pdf](https://www.swd.gov.hk/storage/asset/section/1447/en/Procedural_Guide_Core_Procedures_(Revised_2020)_Eng_12May2020.pdf).

<sup>8</sup> EDB issued in May 2020 Circular No. 1/2020 "Handling Suspected Cases of Child Maltreatment and Domestic Violence" to all schools urging them to pay paramount concern to the safety and best interests of children and pay close attention to students' physical, behavioural, emotional indicators of child maltreatment. The circular is available at <https://applications.edb.gov.hk/circular/upload/EDBC/EDBC20001E.pdf>.

departments (such as SWD, the Immigration Department and the Housing Department), EDB will refer the cases to the Police or SWD for appropriate follow-up actions.

### **Deliberations of Members**

8. Issues relating to the reporting and prevention of child abuse were discussed at a number of meetings of the Panel on Welfare Services ("the WS Panel"), the Subcommittee on Strategy and Measures to Tackle Domestic Violence formed under the WS Panel in the Fifth Legislative Council ("LegCo") and the Subcommittee on Children's Rights formed under the House Committee in the Sixth LegCo, and when the Panel on Administration of Justice and Legal Services ("the AJLS Panel") was briefed by LRC on the Consultation Paper. The major deliberations and concerns of Members are summarized in the ensuing paragraphs.

#### Reporting of suspected child abuse cases

9. There had long been calls from members for a mandatory reporting mechanism for people in certain professions, such as doctors, nurses, teachers and social workers, to report suspected child abuse cases to enable immediate intervention to protect the children concerned. When LRC briefed the AJLS Panel on the Consultation Paper in May 2019, members sought clarification as to whether, under the proposed new offence of "Failure to protect", failure of a teacher in identifying suspected child abuse cases involving his or her students and taking appropriate actions, such as reporting to the Police, would make the teacher being liable for the proposed new offence.

10. LRC advised that designated professionals including teachers, social workers and healthcare professionals, who had only infrequent or limited ongoing contact with the victims, were not intended to be targeted by the proposed new offence. It was hoped that the proposed new offence would deter those living with and/or caring for children and vulnerable persons from failing to protect them from risks of harm. Some members remarked that there was a need to introduce mandatory reporting system to better protect children and vulnerable persons.

11. Dr Fernando CHEUNG consulted the WS Panel in December 2019 on a Member's bill ("the proposed Bill") which he intended to present to LegCo. The proposed Bill sought to amend the Protection of Children and Juveniles Ordinance (Cap. 213) and the Juvenile Offenders Ordinance (Cap. 226) to, among others, impose a new statutory duty on those

responsible for the care and welfare of children to report child abuse to the Police or SWD ("the proposed reporting requirement"). Members in general supported the proposed reporting requirement.

12. In July 2020, the President ruled that the proposed Bill related to the operation of the Government and might not be introduced into LegCo. In respect of the proposed reporting requirement, the President stated in his ruling that he took the view that it would bring about significant changes to the existing work procedures of SWD as explained by the Administration, and such effect would not be temporary. According to the Administration, the proposed reporting requirement would result in a significant increase in the number of reported suspected child abuse cases and affect the operation of the Family and Child Protective Services Units ("FCPSUs") operated by SWD.<sup>9</sup> FCPSUs would have to assess each and every of those cases by taking necessary steps, from outreaching, investigation, statutory protection and care plans to group work services for victims, abusers and other vulnerable family members involved in child abuse. To cope with the upsurge of workload, SWD estimated that it would have to restructure FCPSUs and set up four additional investigation units, involving 78 new permanent posts and an annual recurrent expenditure of about \$60 million.

#### Handling of suspected child abuse cases

13. Members noted that when a suspected child abuse case came to the attention of a school, the first person in contact of the child should inform the school supervisor or principal, and the school social worker or the guidance or professional staff should handle and follow up the case. The school might consult FCPSU of SWD for further professional advice and refer the case to the unit as appropriate, and report cases suspected to involve criminal offence to the Police. Expressing concern that SWD had regarded some reported suspected child abuse cases as enquiries, members called on the Administration to improve the existing mechanism of handling suspected cases. The Administration advised that clear classification of cases as enquiries or referrals as well as guidelines on how enquiries and referrals should be handled would be provided in the revised Procedural Guide.<sup>10</sup>

14. Holding the view that schools should play a more active role in

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<sup>9</sup> SWD had set up 11 FCPSUs across the territories as specialized units to handle cases involving child protection and spouse or cohabitant battering. Upon receipt of referral, the social worker of FCPSU would assess the situation and service needs of the case and provide a coordinated package of one-stop service for the victims of domestic violence, the family and the perpetrator.

<sup>10</sup> See paragraph 6 above.

identifying the symptoms of child abuse and following up the cases, members considered that sufficient social work support should be provided for primary schools and kindergartens, such as through the implementation of a policy of "one school, one social worker" for each kindergarten. According to the Administration, a three-year pilot scheme had been launched in the 2018-2019 school year to provide social work service in phases for pre-primary children and their families in subsidized or aided pre-primary institutions (including aided child care centres, kindergartens and kindergartens-cum-child care centres). To help chart the way forward, SWD had commissioned the City University of Hong Kong in December 2019 to conduct an evaluation study on the mode of operation and performance of the pilot scheme. For primary schools, EDB had, starting from the 2018-2019 school year, provided public sector primary schools with additional resources under a new funding mode to enable them to implement the policy of "one school social worker for each school" according to school-based circumstances. Starting from the 2019-2020 school year, additional resources had been allocated to strengthen the manpower of social work in secondary schools, by providing two school social workers for each secondary school, and at the same time increasing supervisory support.

15. Members noted that the Maternal and Child Health Centres ("MCHCs") of the Department of Health ("DH") had made 2 335, 2 358 and 1 659 referrals to the Integrated Family Service Centres ("IFSCs") or Integrated Services Centres ("ISCs") operated by SWD or subvented non-governmental organizations for follow-up services in 2015-2016, 2016-2017 and 2017-2018 (up to December 2017) respectively. There was a concern about how SWD would follow up the suspected child abuse case referrals made by MCHCs if the parents concerned were not cooperative. The Administration advised that case social workers would follow up with and pay home visits to the families concerned to better understand their needs. In case a high-risk family refused to receive the services, SWD would attempt to intervene in the family via other channels, such as through other services provided for the family. The social worker would keep in view whether there were signs of domestic violence in the families and enlist the Police's assistance if necessary.

#### Prevention of child abuse

16. Members were advised that SWD and subvented organizations had been promoting the message of prevention of domestic violence as well as encouraging those in need of help to seek assistance through various media and platforms. The Facebook Fanpage/Instagram named "Heart and Hut" was launched by SWD in November 2020 to encourage family members

cherish each other and avoid using violence to solve problems. Public education activities of "Strengthening Families and Combating Violence" were also organized from time to time by the District Social Welfare Offices. There were suggestions that SWD should proactively reach out to families with potential risk of domestic violence, conduct home visits on a regular basis, and arrange social workers to station at MCHCs for the provision of timely support so as to prevent the occurrence of domestic violence (including child abuse).

17. The Administration advised that the territory-wide IFSCs provided a spectrum of preventive, supportive and remedial services for needy families to, among others, enhance parenting capacity and assist those parents who had care and child discipline problems. To try to contact those families in need which are reluctant to actively seek help, IFSCs, ISCs, FCPSUs and the Psychiatric Medical Social Service Units of SWD had jointly implemented the Family Support Programme. Through telephone calls, home visits and other outreaching services, social workers contact the families with members at risk of domestic violence (including child abuse) and refer them to a host of support services. Separately, the Comprehensive Child Development Service jointly implemented by EDB, DH, the Hospital Authority and SWD would identify and meet various health and social needs of children aged between zero to five and their families at an early stage through MCHCs, public hospitals and other service units (e.g. IFSCs).

18. There were views that a holistic review of the relevant legislation on child protection should be conducted with a view to updating and consolidating them into a comprehensive piece of legislation, and a central databank for children covering, among others, data about children suffering from abuse should be set up to provide the Administration with an informed basis for formulation of children policies and providing necessary support for the children in need. Members were advised that the Commission on Children had engaged a consultant to examine the feasibility of developing a central databank on children in Hong Kong.

### **Latest developments**

19. According to the Administration, the consultant engaged to examine the feasibility of developing a central databank on children in Hong Kong has already completed the review of overseas experiences and local databases. The consultant has identified the options of collecting children's data, including for the purposes of "trend monitoring", "policy appraisal" and "prevention and early intervention". The consultant will

conduct a series of engagement sessions to collect the views, possible concerns and expectations from stakeholders.

### **Relevant papers**

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

Council Business Division 2  
Legislative Council Secretariat  
7 May 2021

**Age of newly registered children under high risk and maltreatment  
in the Child Protection Registry of the Social Welfare Department**

Age	2018	2019	2020
0 to 2	185	170	173
3 to 5	99	98	96
6 to 8	177	180	143
9 to 11	227	181	138
12 to 14	237	239	245
15 to 17	139	138	145
<b>Total</b>	<b>1 064</b>	<b>1 006</b>	<b>940</b>

**Number of child protection cases newly received by the Family and Child Protective  
Services Units of the Social Welfare Department with a breakdown by source of referral**

Source of referral	2018	2019	2020
Medical professionals and medical social workers	192	161	217
Schools (including teachers and school social workers)	180	165	147
Police	152	104	113
Social service units (including other service units under SWD, IFSCs and NGOs, etc.)	430	429	387
Members of the public/media/SWD hotlines	1	-	4
Courts/other government departments	7	2	6
Self-approach	13	8	12
Others	-	3	2
<b>Total</b> <sup>[Note]</sup>	<b>975</b>	<b>872</b>	<b>888</b>

[Note] As each case may involve more than one child under high risk/maltreatment, the number of child protection cases newly received by the Units does not tally with the total number of newly registered children under high risk/maltreatment in the Child Protection Registry of the year.

**Perpetrator's relationship with the maltreated child for the newly registered cases  
in the Child Protection Registry of the Social Welfare Department**

Relationship with the maltreated child	Number of perpetrator		
	2018	2019	2020
Parent/Sibling/Step-parent/Grandparent/Relative	776	739	685
Family friend/Parent of peer/Schoolmate/Friend/Peer	94	120	99
Caregiver/School teacher/School personnel/Staff of boarding section of school/Tutor/Coach/Religious personnel	60	56	51
Co-tenant/Neighbour/Inmate of residential service	11	10	12
Unrelated person	79	75	104
Unidentified person/Others	40	25	26
<b>Total</b> <sup>[Note]</sup>	<b>1 060</b>	<b>1 025</b>	<b>977</b>

[Note] The number of newly registered cases and number of perpetrators do not tally because a perpetrator may harm/maltreat more than one child and a child may be harmed/ maltreated by more than one perpetrator.

Source: *The Administration's written replies to Members' written questions in examining the Estimates of Expenditure 2021-2022*

**Relevant papers on reporting and prevention of child abuse**

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Subcommittee on Strategy and Measures to Tackle Domestic Violence and Sexual Violence	8 March 2016*	<a href="#">Report of the Subcommittee to the Panel on Welfare Services</a>
Subcommittee on Children's Rights	May 2018*	<a href="#">Report of the Subcommittee to the House Committee</a>
Panel on Welfare Services	19 January 2018 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a> <a href="#">CB(2)820/17-18(01)</a>
	9 April 2018 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a> <a href="#">CB(2)1541/17-18(01)</a>
	9 December 2019 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	8 March 2021 (Item IV)	<a href="#">Agenda</a>
Panel on Administration of Justice and Legal Services	27 May 2019 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>

\* Issue date