

**For discussion on  
14 May 2007**

**Legislative Council Panel on Welfare Services  
Child Fatality Review and Child Protection**

**Purpose**

This paper briefs Members on the framework for child protection and the proposed pilot project on child fatality review.

**Background**

2. The Administration attaches great importance to the well-being of children. We firmly believe that every child has a right to justice and protection against harm and abuse. To protect the well-being of children is one of the guiding principles in child-related legislation, policies and programmes under the auspices of different Government Bureaux/Departments.

**Legislative Framework**

3. At present, the Protection of Children and Juveniles Ordinance (Cap.213) provides the legal framework for professionals with frequent contact with children, including social workers, medical professionals and the Police, and the society at large to define a child<sup>1</sup> or juvenile<sup>2</sup> in need of care or protection. As defined by s.34(2) of Cap.213, a child or juvenile in need of care or protection means a child or juvenile: -

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<sup>1</sup> In Cap.213, a “child” has the meaning assigned to it by the Juvenile Offenders Ordinance (Cap.226). Under Cap.226, a child means a person who is, in the opinion of the court having cognizance of any case in relation to such person, under the age of 14 years.

<sup>2</sup> A “juvenile” means a person who is, in the opinion of a court or a person exercising any power under Cap.213, 14 years of age or upwards and under the age of 18 years.

- (a) who has been or is being assaulted, ill-treated, neglected or sexually abused; or
- (b) whose health, development or welfare has been or is being neglected or avoidably impaired; or
- (c) whose health, development or welfare appears likely to be neglected or avoidably impaired; or
- (d) who is beyond control, to the extent that harm may be caused to him or to others,

and who requires care or protection.

4. There are also many other ordinances that govern the well-being and protection of children. The foci of the ordinances vary. For example, in child welfare, the Guardianship of Minors Ordinance (Cap.13), the Domestic Violence Ordinance (Cap.189), the Child Care Services Ordinance (Cap.243), the Adoption Ordinance (Cap.290) and the Child Abduction and Custody Ordinance (Cap.512) set out their respective principles and requirements on, *inter alia*, the guardianship and adoption of children, the registration, control and inspection of child care centres, as well as the civil remedies to protect children from domestic violence.

5. With regard to protection of children against physical and sexual abuse, there is adequate legislation in place to criminalize such acts. The Offences Against the Person Ordinance (Cap.212) contains a provision which makes ill-treatment or neglect by those in charge of children an offence, while the Crimes Ordinance (Cap.200) provides legal protection for children against sexual abuse. Furthermore, the Prevention of Child Pornography Ordinance (Cap.579) provides protection for children against child pornography and child sex tourism.

6. There is also other legislation pertaining to provision of legal safeguards to facilitate child witnesses giving testimony in court. This includes the Evidence Ordinance (Cap.8) and the Criminal Procedure Ordinance (Cap.221) which provide special provisions to allow child witnesses to give unsworn evidence in criminal proceedings, to give testimony by way of video-recorded tapes and be cross-examined through a live television link. Cap.221 also allows for a support person to accompany a child witness to give evidence in court under the Witness Support

Programme administered by the Social Welfare Department (SWD).

### **Supportive Welfare Services**

7. The SWD works in close partnership with NGOs to provide a continuum of child-centred, family-focused and community-based welfare services to support and protect children and youth as they grow into adulthood. To protect the well-being of children, a range of preventive, supportive and remedial welfare services are available, including public education, parenting education, support groups, child care support services, place of refuge, child psychological services and other services provided by the Integrated Family Service Centres, Integrated Children and Youth Services Centres, Family and Child Protective Services Unit, Medical Social Services Unit, etc. Members were briefed on the principles and practice adopted in delivering welfare services related to the protection of children in June 2006 (LC Paper No. CB(2)2540/05-06(01)).

### **Pilot Project on Child Fatality Review**

8. Despite the concerted effort to safeguard the welfare of children, there are from time to time tragic incidents involving child death, which arouse concerns on the effectiveness of the services provided and operating mechanisms for child protection. There have been calls for the Administration to set up a child fatality review mechanism to identify ways to prevent re-occurrence of similar tragedies. The Review Panel on Family Services in Tin Shui Wai in its report released in November 2004 also recommended the SWD to explore the feasibility of setting up such a mechanism.

9. In consultation with the Committee on Child Abuse, and with reference to overseas practices (please refer to Annex for more details), the SWD proposes to set up a review mechanism for child fatal cases arising from unnatural causes on a two-year pilot basis. A review will be conducted after the pilot operation of the review mechanism.

10. The purpose of the review is to facilitate the examination of and

improvement to the current system in respect of child protection and child welfare. It is not intended to be the mechanism to identify the causes leading to the child's death nor to attribute responsibility to individuals. Details of the proposed review mechanism for child fatal cases are as follows :

Objectives of the review

- (a) To examine the practice and service issues pertaining to the child death cases;
- (b) To identify feasible and practical improvements in these areas;
- (c) To identify patterns and trends for formulation of prevention strategies; and
- (d) To promote multi-disciplinary and inter-agency cooperation for prevention of child death.

Scope of cases covered

- (a) All cases of children aged under 18 who died of unnatural causes during the period of 18 months prior to the inception date of the project; and
- (b) In order to avoid prejudicing the criminal investigation and judicial processes of the cases concerned, the review will be conducted only upon the completion of such processes.

Operation mechanism

- (a) A Review Panel comprising professionals and laymen from different disciplines and fields, and appointed by the Director of Social Welfare, with secretariat support from SWD;
- (b) The secretariat will prepare a list of children who died of unnatural causes within a specified period, and obtain the demographic and social information for general review by the Review Panel. Out from these cases, the secretariat will identify and recommend cases that have aroused public concern and have implication on social welfare services for the consideration of in-depth review by the Review Panel;
- (c) If it considers appropriate, the Review Panel may conduct in-depth review on particular cases. It will be primarily a documentary review, based on the relevant incident/review reports prepared by the service organisations and

recommendations of death inquest conducted by the Coroner's Court, and a case summary prepared by the secretariat. Interviews with concerned parties may be arranged if the Panel considers necessary;

- (d) The Review Panel may identify possible areas for improvement and make recommendations accordingly. The recommendations will be provided to the relevant parties and organisations for consideration and follow-up action; and
- (e) The Review Panel will publish an annual report with an overview on the cases reviewed without disclosing details or particulars of individual cases.

11. On the implementation timetable, the pilot operation of the review mechanism will commence in the last quarter of 2007 or first quarter of 2008.

### **Advice Sought**

12. Members are invited to note the content of the paper.

Health, Welfare and Food Bureau  
Social Welfare Department  
May 2007

**Overseas Practice of Child Fatality Review<sup>1</sup>**

|                     | <b>Types of Practices</b>  | <b>Countries</b>   |
|---------------------|--|--|
| I. Cases for review | <p>(a) Cases involving death of children known to child protection agencies prior to the fatal incidents</p> <p>(b) Cases involving serious injury or fatality known to child protection agencies prior to the incidents</p> <p>(c) Unexpected child deaths (excluding those resulting from diagnosed terminal illness) regardless of whether the cases have been known to child protection agencies</p> <p>(d) All child deaths (including those died of natural causes) regardless of whether the cases have been known to child protection agencies</p> | <ul style="list-style-type: none"><li>• Australia, Canada, UK, USA</li><li>• UK, USA</li><li>• Australia, USA</li><li>• Australia, USA</li></ul> |
| II. Scope of review | <p>(a) On individual cases</p> <p>(b) Review of a group of cases with similarities (e.g. infant cases)</p> <p>(c) Overview of all cases reviewed</p>   | <ul style="list-style-type: none"><li>• Australia, Canada, UK, USA</li><li>• USA</li><li>• Australia, Canada, UK, USA</li></ul>                  |

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<sup>1</sup> The practices listed may not be exhaustive and different practices may be adopted under one mechanism.

|                              | <b>Types of Practices</b>  | <b>Countries</b>  |
|------------------------------|--|---|
| III. Function of review      | <p>(a) Identification of causes of death</p> <p>(b) Review of individual and organizational practice conducted by individual agencies</p> <p>(c) Review of inter-agency collaboration and practice</p>                         | <ul style="list-style-type: none"> <li>• Canada, UK, USA</li> <li>• UK, USA</li> <li>• Australia, UK, USA</li> </ul>  |
| IV. Review bodies            | <p>(a) Statutory in nature (formed under legislation)</p> <p>(b) Non-statutory in nature</p>   | <ul style="list-style-type: none"> <li>• USA, Australia</li> <li>• UK, Canada</li> </ul>                              |
| V. Reporting review findings | <p>(a) Reports on individual cases not published</p> <p>(b) Reports on individual cases published after conclusion of related court proceedings</p> <p>(c) Annual/periodical/overview reports on a group of cases reviewed</p> | <ul style="list-style-type: none"> <li>• Australia, Canada</li> <li>• UK</li> <li>• Australia, Canada, USA</li> </ul> |