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13 July 2011

Mr Raymond Lam
Clerk to Panel on Security
Legislative Council
3rd Floor, Citibank Tower
3 Garden Road
Central
Hong Kong

Dear Mr Lam,

Legislative Council Panel on Security

Establishing a Sexual Conviction Record Check Mechanism for Child-related Work

At its meeting on 3 May 2011, some Members requested for supplementary information. Our response is set out below.

The Personal Data (Privacy) Ordinance and the Ombudsman Ordinance

The operation and use of the scheme are subject to the Personal Data (Privacy) Ordinance and provisions in relation to data protection. The scheme has taken account of privacy considerations and made arrangements for striking a balance. The proposed scheme has also considered advice from the Privacy Commissioner for Personal Data. In addition, according to the Ombudsman Ordinance, the Ombudsman may investigate complaints relating to alleged breaches of the Code of Access to Information against the Hong Kong Police Force.

"Clean" checking results

We have accepted the Law Reform Commission's recommendation that the scheme will only communicate to the employers verbally whether the applicants have sexual conviction record or not. The Police will not issue any written record on "clean" checking results to the applicants or the employers. The reason is to avoid creating a situation in which there is a sub-class of people in society who are unable to produce a no-sexual offences conviction certificate for general employment purposes, putting them at a disadvantage in seeking employment generally and undermining the opportunities for offenders to rehabilitate and lead a new life.

In addition, any "clean" written record may also be counterfeited by criminals. Furthermore, even the Police may issue a "clean" written record, the applicant may, after obtaining the written record, commit sexual offence and leave a conviction record. In such special circumstances, a "clean" written record cannot reflect the latest conviction record, which is not recommended.

(Mrs Millie Ng)
for Secretary for Security