

**For Information
on 4 June 2013**

**Legislative Council Panel on Security
The Operation and Review of the
Sexual Conviction Record Check Scheme**

This paper provides information on the operation of the Sexual Conviction Record Check (SCRC) Scheme and the review conducted by the Administration.

Background

2. In February 2010, the Law Reform Commission (LRC) published a report on “*Sexual Offences Records Checks for Child-related Work: Interim Proposals*” after thorough discussion and extensive public consultation, recommending the Administration to establish an administrative mechanism for sexual conviction record check to enable the criminal conviction records for sexual offences of persons who undertake child-related work and work relating to mentally incapacitated persons (MIPs) to be checked. The Administration has accepted the LRC’s recommendation and implemented the SCRC Scheme through the Hong Kong Police Force (the Police) on 1 December 2011.

3. The main objective of the scheme is to prevent previous sexual offenders from obtaining the trust of employers by deliberately withholding their past sexual conviction records and molesting children or MIPs again through contact with them in the course of their work. The Scheme provides employers with a reliable channel whereby they may ascertain whether applicants of child or MIP-related work or employment have any previous convictions against a specified list of sexual offences. It aims to help reduce the risk of sexual abuse to children or MIPs and give them better protection. However, a sexual conviction record check in itself cannot take the place of prudent employment practice and proper supervision by employers and parents.

4. Taking into account the recommendations of the LRC, the Scheme operates under the following principles -

- (a) implementation by phases. The initial phase covers prospective employees as well as staff assigned by outsourced service providers involved in work related to children or MIPs;

- (b) applicable only to work related to children or MIPs. Usual duties of the relevant work must involve frequent contacts with a child or MIP;
- (c) voluntary in nature;
- (d) simple application and checking procedures;
- (e) “clean” record check result will not be recorded in writing;
- (f) operation and use of the scheme is subject to the Personal Data (Privacy) Ordinance (Cap. 486, Laws of Hong Kong) and provisions in relation to data protection; and
- (g) applicants are charged under the “user pays” principle as for other government services.

The detailed checking procedures are set out at **Annex** for reference.

5. Before the launch of the Scheme, the Administration had reached out to over 100 associations/organizations which are involved in provision of services to children or MIPs and conducted briefings for the education and social welfare sectors to encourage participation in the Scheme. In addition to the distribution of publicity pamphlets and posters, a publicity video was produced and uploaded to the Police Force’s webpage together with the Scheme Protocol and other relevant documents for public access.

Operation of SCRC Scheme

6. With the strong support from employers, particularly those in the education and social welfare sectors, the Scheme has received overwhelming response since its implementation. Up to end March 2013, the SCRC Office has processed around 46 000 applications for checking. The average number of applications processed per day is 141. During the 16-month period, out of the 46 000 applications, five applicants were found to have sexual conviction records and they agreed to have the positive result uploaded to the Auto-Telephone Answering System (ATAS). A total of around 56 000 successful calls were made to the ATAS for result checking.

7. While the overall operation of the Scheme has been smooth so far, employers did raise concern on the long waiting time before an applicant could obtain an appointment slot at the SCRC Office during the

summer months of 2012 when there was a surge in the number of applications. To relieve the situation, the SCRC Office extended the opening hours of the Office. Furthermore, in order to cope with the increasing demand for SCRC service, the Police have increased the manpower and service counters at the SCRC Office by 112.5% and 125% respectively. With the implementation of these measures, the SCRC Office, now with 17 staff and nine counters, can handle about 350 applications per day, an increase of 250% from the capacity of around 100 applications when the Scheme was first implemented in December 2011.

The Review

8. The Administration has met with and obtained comments from various stakeholders from the child protection, social service and education sectors. The stakeholders are highly supportive of the Scheme which is considered effective in enhancing protection for children and MIPs. They have also provided the following comments/suggestions in relation to the operation of the Scheme -

- (a) most of the stakeholders raise concern about the long waiting time of over two to three weeks before an appointment could be scheduled at the SCRC Office during the peak summer months of 2012. The long processing time was undesirable as it delayed the recruitment procedure and had impact on the provision of essential services for children and MIPs. They note that the processing capacity of the SCRC Office has been increased substantially and are satisfied with the enhanced service;
- (b) publicity of the Scheme should be enhanced for institutions/ organizations which provide service for children or MIPs but have not yet used the SCRC service. A survey commissioned by the End Child Sexual Abuse Foundation in September – November 2012 revealed that about 80% of the private educational institutes surveyed had not used the SCRC service. Stakeholders also request the Administration to publicize the message that the SCRC Scheme is not the “magic solution” for protecting children and MIPs from sexual assault but an important element among all safety measures. Employers should be reminded of the importance of other protective measures such as proper security and supervision for their services;

- (c) the Administration should consider measures to further streamline the application/ checking procedures, and to open more branches of the SCRC Office in locations other than Hong Kong Island;
- (d) the application fee of \$115 should be reduced or waived in order to encourage more participation in the Scheme;
- (e) some suggest that the coverage of the Scheme should be extended to cover existing employees and private tutors employed by parents, but some express that the scope should only be extended if the Administration could ensure that the efficiency of the current checking service for prospective employees will not be compromised;
- (f) some stakeholders suggest that the SCRC checking for certain qualified professions, such as registered teachers and social workers, could be combined with the checking process under their respective professional registration to save resources; and
- (g) some hold the view that the operation of the Scheme should continue to take into account the needs of the rehabilitation of offenders.

9. Since the implementation of the SCRC Scheme, we have observed increasing demand for the service and the need to enhance the processing capacity of the SCRC Office. While we have already taken immediate measures to increase the facility and manpower of the SCRC Office to cope with the summer peak period, we agree with the stakeholders' view that we should continue to monitor the situation closely and give priority to ensure a smooth and efficient checking service for both prospective employees and employers for the purpose of employing persons to engage in providing service for children and MIPs. In order to further streamline the application process and enhance the user friendliness of the SCRC Scheme, the Police are now exploring feasibility of developing an internet platform to allow applicants to make appointment booking and submit applications online. Contingency measures such as extending the operating hours of the SCRC Office in similar fashion to the arrangement last year will also be implemented to cope with any surge in applications during the summer peak period. We reckon that the processing capacity of the Scheme is still an issue of concern, and consider it more prudent to ensure that the Scheme has the

sufficient processing capacity before expanding the scope to cover other groups such as existing employees which may reach 200 000 persons.

10. On publicity, we recognize that there is a need to step up publicity of the Scheme to encourage more employers of the relevant sectors, particularly the private educational institutions, to make use of the checking service in their recruitment process. We have recently communicated with about 3000 organizations and institutions in the relevant sectors, including a large number of private educational institutions, to encourage their participation in the Scheme. In addition, we have launched a partnership programme to invite the stakeholders to join the programme to assist in promoting the SCRC service to their subsidiaries and members. With the assistance of the Education Bureau, a seminar has been organized for private educational institutions to enhance their understanding and support of the Scheme.

11. As regards the proposals to streamline the checking service for certain professions including teachers and social workers or to combine such checking with that of the registration/renewal process of the respective professional qualification, we are open to the suggestion so long as these professionals would undergo a credible checking mechanism on sexual conviction records as part of their professional qualification to be conducted by the respective professional bodies.

12. The service fee for applying for SCRC is currently set at \$115, with the checking result valid for a period of 12 months. The fee is charged in accordance with the "user pays" principle as in the case of other government services. To facilitate the employment needs of the applicants, we are considering the feasibility of extending the validity period to 18 months.

Way forward

13. We will continue to implement the SCRC Scheme as well as the improvement measures to enhance protection for children and MIPs against sexual assaults.

Security Bureau
Hong Kong Police Force
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The detailed checking procedures of Sexual Conviction Record Check

Application for conducting checks

All applicants, i.e. prospective employees, should attend in person at the Sexual Conviction Record Check (SCRC) Office to submit the application. Applicants should make advance appointment through the Auto-Telephone Answering System (ATAS) no less than one working day in advance of the intended appointment. The applicant should bring along his HKID card; documentary proof of possible employment related to children or mentally incapacitated persons (MIPs) from relevant employer; a completed application form; and a fee of HK\$115 per person to submit the application. Fingerprints of the applicant will be taken by an officer of the SCRC Office in connection with his application to ensure accuracy of the check result.

2. Applicants or employers authorised by the applicants will be able to access the check result through the ATAS by entering the first four digits of the applicant's HKID card number together with a random 14-digit computer generated unique checking code provided by the SCRC Office upon acceptance of the application. A transaction number will be provided for reference whenever the result is checked. Applicants can pass the checking code to multiple employers whom they authorise when seeking child or MIP-related work during the validity period of 12 months dated from the first uploading of result onto the ATAS.

3. The result will be available for unlimited times of access during the validity period. At the conclusion of this validity period, the check result will be deleted from the ATAS. The ATAS cannot be accessed by a telephone with the caller display function disabled.

4. If the applicant **does not have** a conviction record against the specified list of sexual offences, the check result will be accessed through the ATAS within seven working days after the application. However, if an applicant **has** a conviction record against the specified list of sexual offences, the applicant will be contacted by phone followed by a letter for an interview by a SCRC officer within seven working days after the application to confirm the accuracy of the conviction record before the check result is uploaded.

5. An applicant may submit a request for renewal of validity period within the last month of the validity period. He has to make advance

booking through the ATAS and attend the SCRC Office in person with his HKID card. The applicant will be required to complete a form indicating the reason for the renewal, and pay a prescribed fee of HK\$76 for the request. The validity period will be extended for another 12 months counting from the expiry date of the preceding validity period. The applicant or his authorised employers will be able to access his check result using the original checking code for another 12 months until the expiry of the renewed validity period.

6. After the uploading of the check result onto the ATAS and throughout the validity period, an applicant's check result will be updated on a daily basis to see whether the applicant has been newly arrested or charged with any of the specified list of sexual offences or is a wanted person. Once confirmed, the SCRC Office will contact the applicant for arrangements to complete the necessary formalities, and the ATAS will not reveal a "clean" record for these applicants.

Conduct of checks by employers

7. The applicant may give the 14-digit checking code to his employer. The employer may, after the activation of the applicant's account, call the ATAS and conduct checks by inputting the checking code and the first four digits of identity card number of the applicant. The ATAS will disclose to the employer that the prospective employee "has" or "does not have" sexual conviction record. However, the details will not be disclosed.

8. An applicant is allowed to request the office to withdraw his application. In such a case, the ATAS will respond that "result of the check is withdrawn upon the applicant's request. Please contact the applicant for the details."

9. The purpose of the SCRC is to enable employers of persons undertaking child or MIP-related work to check their prospective employees' sexual conviction records. Employers should neither pass the sexual conviction record or other personal data of the applicant to any unrelated person, nor use the personal data for any purpose other than the intended recruitment purpose. All access to the check result will be audit logged by the ATAS. Any person who uses the sexual conviction record or other personal data obtained for any purpose other than the intended purpose when the data is first collected may be liable under the Personal Data (Privacy) Ordinance (Cap 486, Laws of Hong Kong).