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**PathFinders Limited Written Submission to
Hong Kong SAR's Legislative Council's Subcommittee on Children's Rights
In advance of a meeting on Thursday,
22nd December 2016 at 10:45am
in Conference Room 1 of the Legislative Council Complex
regarding**

Support Measures for Children from Drug Abusing Families

Submitted on 15 December 2016

Introduction:

PathFinders, a Hong Kong charity that assists pregnant, migrant women, mainly foreign domestic workers (**FDWs**), and their Hong Kong-born children.

Given that 1 in 7 women of reproductive age in Hong Kong is employed as a foreign domestic worker, it should be anticipated that some will reproduce while working in Hong Kong. Some of them give birth in Hong Kong. Children born to FDWs do not have right of abode in Hong Kong although they are born here.

The focus and purpose of PathFinders' submission today is:

1. To give a voice to the babies and children born in Hong Kong to these women; and
2. Highlight the failings of the current social welfare system to protect children in drug abusing families.

PathFinders has, to end of November 2016, helped 1,293 newborns and toddlers up to 2 years' age of whom 138 were in such a vulnerable, abandoned and/or otherwise isolated predicament that they would, but for PathFinders, have been at significant risk of abuse, neglect and/or trafficking. There is no other NGO serving these children and PathFinders receives no government funding.

In 2013, five-year old Yeung Chi-wai died tragically in the care of his parents, likely from ingestion of the drug methamphetamine¹. This occurred despite the recommendation of the Multi-Disciplinary Case Conference (**MDCC**), involving the Social Welfare Department (**SWD**) and other childcare professionals, that he be removed from their care. This case highlights the failure of current government processes in protecting children at risk in drug-abusing homes.

PathFinders' cases include examples similar to Chi-wai's and highlight similar failings in the existing out-of-home childcare system - namely:

1. A serious shortage of care options for children outside of the abusing family
2. A failure to follow up and monitor the progress of children returned to the care of the abusing family
3. A failure to recognise the rights of the child over the rights of the parent
4. A failure to follow up on MDCC recommendations and to work collaboratively with other childcare professionals.

In cases where PathFinders' children have ended up in the SWD care system, frontline social workers seem to be content with a short-term childcare plan. Not having any time frames for children in care, as per international best practices², is not only detrimental to the child's emotional and cognitive development, but has also contributed to there being a serious backlog in Hong Kong's residential care and foster system.

¹ Hong Kong government urged to amend guide on handling child abuse in coroner's case involving death of boy who probably ingested Ice
<http://www.scmp.com/news/hong-kong/law-crime/article/1926244/hong-kong-government-urged-amend-guide-handling-child-abuse>

² <http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted>

In addition to the lack of alternative care being available to these children, when they have been returned to their parents for lack of space in the institutional system or on request of their parents, they are not closely monitored. Extremely close monitoring is required where these very vulnerable children have not yet been placed in a foster or care home. Of particular concern is that at times this monitoring is prevented because the wishes and/or the privacy rights of the parents are given more priority than the rights of the child to be protected from risk of harm.

For children in care, SWD also prioritises the wishes and rights of the parent(s) over the rights of the child. PathFinders' cases include children who have remained in institutional and foster care for significant periods of time, while SWD waits for the parent(s) to assume responsibility. Long-term care plan is usually set to aim for family re-union however as the parents fail to demonstrate that they are capable to assume responsibility to care for their child, a timely review and change of long-term care plan is often lacking despite PathFinders' suggestions as to alternative possible permanency solutions and offers of assistance.

PathFinders has consistently found that SWD is disinclined to work collaboratively with NGOs for the benefit of the children despite repeated offers of assistance, including assessment of children, contacting extended families etc. This is further highlighted by the fact that MDCC recommendations are not followed and follow up meetings are not held despite requests to do so by other organisations and professionals helping the child.

PathFinders' Recommendations

Protection from harm

1. The right of the child to a safe and secure upbringing should be given priority over all other considerations.
2. Evidence of abuse of drugs and exposing a child to drugs should be sufficient grounds for intervention, assessment and planning for alternative care for the child.
3. All drug treatment agencies should be required to refer the children of drug abusing clients to the SWD to ensure safeguarding of the child.
4. MDCC recommendations should be followed and regular MDCC meetings held to monitor progress of the case.
5. Pregnant substance misusers should be recorded and pre-birth assessments carried out by the SWD to ensure safety of newborns.
6. Prior to discharge of a baby born to a substance misuser, a 'Child Protection Plan' should be drawn up with the parent(s) setting out what support they need to safeguard their children as well as contingency plans if the parent(s) continue to misuse drugs. This plan can be drawn up during a cross-disciplinary meeting at the hospital and be monitored by the social worker and new born baby clinics' health professionals.

7. Any children removed from the care of their parents due to substance misuse should only be rehabilitated back to their parents' care following parental engagement with a drug treatment plan and a sufficient period of abstinence from drug misuse. In the UK, an abstinence period of 12 months is considered as evidence of positive change.
8. Pediatricians undertaking child protection medicals need to be vigilant and investigate the possibility of substance misuse when they interact with children in need.
9. Specialized drug treatment units where parents can be referred by social workers and health professionals need to be set up and manned by experienced practitioners.

Follow up Actions

10. All cases where children are harmed following return to their parents/legal guardians, despite recommendations they be removed and placed in care, should be subject to a full and thorough investigation to identify any systematic gaps and/or human error and/or misconduct; and to commit to a time-bound action plan to close the gaps.
11. It is recommended that consideration be given at the very earliest stages of a child's involvement with the welfare system to the development of a formal "permanency plan" with a view to finding a permanent and stable family and home environment as quickly as possible. The bonds a child forms with their primary care giver(s) play vital roles in the child's development, both in terms of the physical development of the brain, as well as the development of stable social relationships and social skills. Time-bound permanent care protections for these children must be enforced so as to ensure that they are brought up in a permanent, stable and loving home through to adulthood and supported beyond. As per British practices, a time period of 26 weeks is recommended for cases subject of care proceedings and for every child taken into care, a care plan has to be produced within 3 months of separation. During which assessments of the child's needs and the parent's capacity to meet these is assessed. Not having any timeframes for out-of-home child-care has contributed to there being a serious backlog in Hong Kong's foster system. Too many children languish in limbo. The UN Convention Committee on the Rights of the Child also raised concerns about Hong Kong's absence of procedures requiring regular case reviews of children in care³.

³ Observation #53, Concluding observations on the combined third and fourth periodic reports of China, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013)

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fCHN%2fCO%2f3-4&Lang=en
"53. The Committee is concerned about the absence of procedures for regular review of the placement of children in care in Hong Kong, China and the lack of legislation on the termination of parental rights when necessary. It is also concerned about the insufficient professional support and care provided to families and children in Hong Kong, China and that the best interests of the child and the right of the child to be heard are not sufficiently considered in family crisis situations."



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