

LCQ19: Default on maintenance payments

Following is a question by the Hon Doreen Kong and a written reply by the Acting Secretary for Home Affairs, Mr Jack Chan, in the Legislative Council today (April 6):

Question:

Some women's groups have relayed to me that the situation of default on maintenance payments has worsened in recent years, and persons who are owed maintenance payments have no way to lodge complaints. The Government indicated in June 2019 that it had commissioned through the Family Council a research team in June 2018 to conduct a "Further Study on the Phenomenon of Divorce in Hong Kong", which would explore matters relating to maintenance payments, and the study was expected to be completed within 18 months. However, the Government indicated in May 2021 that the study was still underway. In this connection, will the Government inform this Council:

(1) whether the authorities have completed compiling a report on the aforesaid study; if not, of the reasons for that;

(2) whether the authorities have compiled the study report based on the information collected in or before 2018; if so, whether it has assessed if the report can fully reflect the recent actual situation in Hong Kong, including the impacts of the economic downturn amid the epidemic on the situation of default on maintenance payments; and

(3) as the Government indicated in May 2021 that the study report would be submitted to the Family Council for consideration and discussion, and the Government would, having regard to the findings of the study, the views of the Family Council and other relevant factors, consider the way forward, whether the Government has commenced the relevant work; if so, of the specific timetable for the future work?

Reply:

President,

Currently, if the paying party who is ordered by the Court to make maintenance payments is in default, the receiving party may take out enforcement proceedings to enforce the judgment or order. The enforcement proceedings include Judgment Summons, Charging Orders, Garnishee Orders, Attachment of Income Orders (AIOs) and Writs of Fieri Facias. The Government has all along been committed to enhancing the effectiveness of the system of collection of maintenance payments and enforcement of maintenance orders, including conducting research and surveys on the relevant issues from time to time. The consolidated reply to the question raised by the Hon Doreen Kong is as follows:

The Government has commissioned through the Family Council a research team to conduct a study for providing information on the demographic and

socio-economic landscape of divorce in Hong Kong and statistics on maintenance payments. The study also examines the effectiveness of Judgment Summons proceedings in recovering default maintenance payments.

Given the wide range of subject areas requiring the research team to collect data and information, and the latest development in respect of the Judgment Summons proceedings, it takes time for the research team to collect, organise and analyse data relating to the enforcement of Judgment Summons after the issue of the Practice Directions to facilitate a more comprehensive review of the enforcement of maintenance orders. Moreover, in view of the COVID-19 pandemic, the research team has made corresponding adjustments to its work arrangements having regard to relevant public health requirements and the need for pandemic prevention. Upon collecting the information and communicating with relevant stakeholders, the research team has to consider the systems and experience of collection of maintenance payments and enforcement of maintenance orders in other places, the pros and cons of these systems, whether such systems are applicable to Hong Kong etc., and submit evidence-based information and recommendations relevant to the subject areas of the study.

The study of the research team mainly covers the circumstances and statistics in the past in respect of the above-mentioned issues. Communication with some of the stakeholders also took place during the pandemic. The study is currently underway. The report will be submitted to the Family Council for consideration and discussion upon completion of the study. The Government will, having regard to the findings of the study, the views of the Family Council and other relevant factors, consider the way forward.

In fact, apart from conducting research and surveys, the Government has kept track of the trends relating to maintenance payment and enforcement of maintenance orders over the years, including the number of Judgment Summons hearings and applications for AIOs regarding the recovery of arrears of maintenance. A series of measures to improve the system of enforcement of maintenance orders have also been adopted, including relaxing the requirement for the Court to make AIOs, imposing interest or surcharge against defaulting maintenance payers, allowing designated Government departments to disclose the addresses of maintenance payers upon the request of legal professionals where it is in compliance with relevant legislation, and adjusting upward the amount of monthly maintenance that may be exempted from the Director of Legal Aid's First Charge, with the aim of assisting divorcees to recover maintenance payments and catering for their needs in a more effective manner. The Government has also been conducting publicity and education programmes to enhance public understanding of the responsibilities of maintenance payers, the rights of maintenance payees and the services available to payees when they fail to receive maintenance payments. The Government will continue to review the system of collection of maintenance payments and enforcement of maintenance orders so as to assist persons in need to recover maintenance payments.