

LCQ22: Protecting children from being abused

Following is a question by the Hon Elizabeth Quat and a written reply by the Secretary for Labour and Welfare, Dr Law Chi-kwong, in the Legislative Council today (June 16):

Question:

Between 2006 and 2015, there were six cases on average each year in which children died of assault. The number of new cases of child abuse has risen persistently in recent years, which can be seen by the fact that the number in 1999 rose by 75 per cent to more than 1 000 in 2019. There are views that the current number of reported cases of child abuse may just be the tip of the iceberg, as reporting of suspected child abuse cases is made only on a voluntary basis. On the other hand, a sub-committee of the Law Reform Commission has recommended the introduction of a new criminal offence, namely "failure to protect a child or vulnerable person where the child's or vulnerable person's death or serious harm results from an unlawful act or neglect" (the new offence). In this connection, will the Government inform this Council:

(1) As the Government indicated earlier on that it was preparing to explore the possibilities of enacting legislation on the proposed new offence, of the progress and outcome of the exploratory work, including whether it will enact such legislation; if so, of the timetable, and the new measures, before the commencement of such legislation, to step up protection for children of at-risk families from being abused;

(2) Given that about 70 jurisdictions around the world have put in place a mechanism for mandatory reporting of suspected child abuse cases and the Office of The Ombudsman, Hong Kong recommended in 2019 that the Government explore the feasibility of such mechanism, whether the Government will expeditiously launch public consultation on the establishment of such mechanism, and actively consider establishing such mechanism; if so, of the details and timetable; if not, the reasons for that; and

(3) As there are views that there is no provision in the existing legislation against acts of psychological/mental abuse of children, whether the Government will, by drawing reference from overseas practices, enact relevant legislation, so that persons who abuse children psychologically/mentally will be held criminally liable; if so, of the details; if not, the reasons for that?

Reply:

President,

The Government attaches great importance to the well-being of children.

At present, there are many pieces of legislation in place that protect children from harm and abuse. They include the Offences against the Person Ordinance (Cap. 212), the Crimes Ordinance (Cap. 200), the Prevention of Child Pornography Ordinance (Cap. 579) and the Protection of Children and Juveniles Ordinance (Cap. 213). In addition, for the prevention, early identification and appropriate intervention of cases of children suspected or found to be abused, the Government has implemented a number of measures in recent years, including strengthening social work services at pre-primary institutions as well as primary and secondary schools; issuing guidelines to schools to implement a reporting mechanism for non-attendance cases, and requesting schools to pay more attention to students' conditions; and providing guidelines for use by relevant professionals including social workers, teachers, healthcare personnel and the Police with a view to enhancing inter-disciplinary co-operation.

In consultation with the Education Bureau (EDB) and the Security Bureau, my reply to various parts of the Member's question is as follows:

(1) and (2) In May 2019, the Law Reform Commission (LRC) published a consultation paper which proposed to impose criminal liabilities on parents, carers and others when children or vulnerable adults die or are seriously harmed as a result of abuse or neglect while in their care. Under the proposed offence, the person who has a duty of care would have a duty to protect. Such duty would also include the duty to report, which is widely discussed in the community recently. The LRC's consultation paper set out the information of other jurisdictions on duty to report including the pros and cons of mandatory reporting of suspected child abuse cases. In addition, in October 2019, the Office of The Ombudsman published its direct investigation report on "Mechanism for Identifying and Reporting Suspected Child Abuse Cases". One of the recommendations made was that the Government should explore the feasibility of mandatory reporting of suspected child abuse cases. However, the report also pointed out that whether such a mechanism should be established was a complex issue involving a number of stakeholders, and it would be imperative to conduct thorough and extensive discussions, studies and consultations and foster a broad consensus in the community before such a mechanism could be implemented. The Government is exploring the possibilities of legislation on mandatory reporting as well as relevant mechanism and arrangements with reference to the final report to be published by the LRC.

In fact, the Government has implemented in recent years a number of measures to protect children from maltreatment, including:

(a) Since the 2018/19 school year, the Social Welfare Department (SWD) has strengthened the provision of social work services at schools for early identification of children in need by providing in phases social work services for more than 700 aided child care centres (CCCs), kindergartens (KGs) and KG-cum-CCCs across the territory, covering a total of some 150 000 school children and their families;

(b) Since the 2018/19 school year, the EDB has implemented the policy of "one school social worker for each school" in public sector primary schools.

Schools may, having regard to their own circumstances, employ at least one school-based registered graduate social worker with professional qualifications to further enhance the overall quality of guidance services;

(c) Since the 2019-20 school year, the SWD has deployed additional resources to strengthen school social work manpower at secondary schools and increase the number of school social workers to two for each secondary school and enhance supervisory support;

(d) The EDB has required KGs as well as primary and secondary schools to report students' non-attendance to the EDB on the seventh day of the student's continuous absence regardless of the reasons. For suspected child abuse cases, even if the students concerned have not been absent or have taken less than seven consecutive days of absence, schools should take action as early as possible according to the EDB's circulars/guidelines and report to the EDB as appropriate;

(e) The EDB, the SWD and the Hong Kong Police Force have jointly organised annual briefings and seminars to step up training for school personnel on identification of child abuse victims. Elements or themes relevant to identification of child abuse victims have also been incorporated into training courses for school guidance personnel with a view to enhancing the capability and skills of school personnel holding different positions in handling child abuse cases;

(f) In April 2020, the SWD, in collaboration with relevant government departments, non-governmental organisations and professionals, implemented the "Protecting Children from Maltreatment – Procedural Guide for Multi-disciplinary Co-operation", which sets out clear procedures for identification, reporting, immediate protection actions and follow-up of suspected child abuse cases, for use by relevant professionals including social workers, teachers, healthcare personnel and the Police; and

(g) In 2019-20, the SWD launched a video that aims to help the public understand the impact of family conflict on child development and promote co-parenting amongst separated or divorced parents for the best interests of their children. In 2020-21, the message that "child abuse is a crime" was also widely promoted.

(3) At present, the Police may invoke section 27 of the Offences against the Person Ordinance on "Ill-treatment or neglect by those in charge of child or young person" to handle any ill-treatment including bullying and intimidation. The provision stipulates that any person over the age of 16 years who has the custody, charge or care of any child or young person under that age who wilfully assaults, ill-treats, neglects, abandons or exposes such child or young person causing such a child or young person unnecessary suffering or injury to his health (including any mental derangement) shall be guilty of a criminal offence. Furthermore, the Protection of Children and Juveniles Ordinance empowers the court to grant a supervision order or appoint a legal guardian in respect of a child or juvenile who is in need of care or protection. The Government has no plan to amend section 27 of the Offences against the Person Ordinance regarding psychological abuse at this

stage.