

LCQ5: Legislation and measures for protecting children

Following is a question by the Hon Elizabeth Quat and a reply by the Secretary for Labour and Welfare, Dr Law Chi-kwong, in the Legislative Council today (October 30):

Question:

In the past decade, the annual numbers of newly reported child abuse cases stood at around 1 000. Yet, among such cases, the annual numbers of neglect cases showed an upward trend. Regarding the law and measures for protecting children, will the Government inform this Council:

(1) Given that a sub-committee of the Law Reform Commission conducted earlier on a three-month public consultation on the introduction of a new criminal offence of "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", whether the Government has drawn up the relevant legislative timetable and, before such legislation is enacted, what interim measures are in place to step up the protection of children from high risk families;

(2) Given that young persons aged 15 or above may be lawfully employed, but some parents dare not leave their children aged below 16 unattended at home for fear of committing the offence of "ill-treatment or neglect by those in charge of child or young person" under section 27 of the Offences against the Person Ordinance, resulting in such children wandering in the streets all day long and running the risk of going astray, whether the Government will review the said provision and lower the age ceiling for the children who are subject to this provision, to dovetail with the actual situation; if so, of the details; if not, the reasons for that; and

(3) Given that the number of cases of psychological abuse of children received by a concern group in the last financial year more than doubled the figure of the year before, but no relevant offence is provided under the existing legislation, whether the Government will enact legislation in this regard; if so, of the details; if not, the reasons for that; of the details of the immediate and long-term treatments currently provided for the relevant child victims?

Reply:

President,

The Government attaches great importance to the well-being of children and firmly believes that every child has a right to protection against harm and abuse. Effective child protection is premised on close collaboration, mutual trust and care for the well-being of children amongst stakeholders of multi-disciplinary professionals. The Government will continue to allocate

resources to enhance child protection.

In consultation with the Security Bureau, the Hong Kong Police Force, the Social Welfare Department (SWD) and the Secretariat of the Law Reform Commission, I provide a consolidated reply to the Member's question as follows:

(1) The Causing or Allowing the Death of a Child or Vulnerable Adult Sub-committee of the Law Reform Commission (LRC) is conducting a review on causing or allowing the death or serious harm of a child or vulnerable adult. A public consultation on the proposed new offence of "failure to protect" has been conducted from May to August this year. It is understood that the Sub-committee would collate and consider carefully the views collected from the public consultation with a view to submitting the final recommendations to the LRC as soon as practicable.

The offence of "failure to protect" as mentioned in the public consultation paper by the Sub-committee involves an extensive range of complicated issues that warrant further and careful considerations, including different options for addressing the problem, responsibilities and rights of different parties, public interest, social consensus and preference, and whether legislation is an effective means to solve the problem and achieve the desired effect. The Government will keep in view closely the LRC's review and its final recommendations, and upon receipt of its final report, carefully consider the recommendations therein.

Relevant government bureaux and departments have adopted various measures to prevent child abuse and provide the necessary services for the abused children and their families. On the specific procedures for handling child abuse and suspected cases, the SWD has, in collaboration with relevant government departments, non-governmental organisations (NGOs) and professionals, drawn up the Procedural Guide for Handling Child Abuse Cases, with a view to safeguarding the interests of children and protecting those children suspected or found to be abused. The Procedural Guide also provides guidance on cooperation among different professionals, including personnel engaged in social, health and education services as well as law enforcement. To further enhance the cooperation among government departments and relevant stakeholder bodies, the SWD has formed a task group with representatives from relevant government departments and NGOs for reviewing the current version of the Procedural Guide. The draft of the revised version was issued and views of the sector were sought from July to September this year. The review is expected to be completed by the end of 2019.

(2) There are a number of existing laws in Hong Kong that protect the well-being of children. With different focuses and legislative considerations, they have set different age ceilings for children under the applicable provisions according to different purposes of the relevant legislations.

For example, the Offences against the Person Ordinance (Cap 212) stipulates that any person who unlawfully abandons or exposes any child, being under the age of two years, whereby the life of such child is endangered, or the health of such a child is or is likely to be permanently

injured; or any person who wilfully assaults, ill-treats, neglects, abandons or exposes such a child or young person under the age of 16 years under his custody, charge or care in a manner likely to cause such a child or young person unnecessary suffering or injury to his health shall be guilty of a criminal offence. Whether leaving a child unattended at home will constitute an offence under the above legislation depends on a number of factors and has to be assessed on a case-by-case basis, including the child's age and self-care abilities, whether the act has caused harm to the child, whether the person involved has a responsibility of care over the child, and whether the person has intentionally neglected the child and is aware of the possible harm to the child caused by his act. The existing arrangement for addressing cases involving children being left unattended at home has the enough and necessary flexibility to allow the authorities handling the cases to suitably consider various relevant factors. The Government has no plan to review the upper age limit of the relevant legislation at this stage.

(3) The number of reported cases of psychological abuse of children and the percentage of such cases over the total number of child abuse cases have been relatively low. The Child Protection Registry of the SWD recorded a total of five and 11 cases of psychological abuse of children, accounting for about 0.5 per cent and 1.0 per cent of the total number of the newly reported child abuse cases in 2017 and 2018 respectively. One possible reason of the relatively low rates is that psychological abuse generally refers to a carer's prolonged and repeated negative behaviours and/or attitudes towards a child; and since such abusive behaviours persist for a relatively long period of time and are less obvious, they are less identifiable than other child abuse cases in general. The caseworker needs to be observant, sensitive and attentive to the child's situation for a long period and obtain the child's trust to enable early identification and intervention for suspected cases of child abuse. Nonetheless, the existing multi-disciplinary child protection mechanism already covers the protection of children from psychological abuse. If a relevant staff member (e.g. a school staff member who has frequent contact with the child) suspects that a child has suffered from psychological abuse, he/she may, in accordance with the Procedural Guide, refer the case to a social worker in charge to conduct investigation and hold a Multi-disciplinary Case Conference on Protection of Child with Suspected Abuse to devise a follow-up plan for the abused child and his/her family.

The SWD will continue to adopt a multi-pronged approach to strengthening various child care services and providing appropriate support for children and families in need. For example, social workers of the Family and Child Protective Services Units (FCPSUs) under the SWD provide comprehensive follow-up services for child abuse cases, including regular visits, counselling (such as emotional management and parenting skills), financial assistance and referrals for psychological counselling services. Where necessary, the social workers will arrange foster care or residential care services for the affected children to ensure that their well-being is protected. Apart from casework counselling, social workers of the FCPSUs also provide group counselling and developmental programmes for affected children and their families to help them overcome the negative impact of the incident, enhance their individual and family resilience, and develop positive self-

confidence as well as interpersonal and family relationship, etc. In addition, the 65 Integrated Family Service Centres and the two Integrated Services Centres operated by the SWD and NGOs provide a range of services to strengthen families' capability in caring for children and help parents improve the care quality.

The Government will continue to consider on a need basis enhancing the social work service in pre-primary institutions as well as public sector primary and secondary schools, and the social work manpower of the FCPSUs for early identification of children at risk of abuse, and provide multi-disciplinary support and handle suspected abuse cases in accordance with the Procedural Guide.