

LCQ5: Reforming law relating to responsibilities of parents for children

Following is a question by the Hon Lam San-keung and a reply by the Secretary for Labour and Welfare, Mr Chris Sun, in the Legislative Council today (December 6):

Question:

The Children Proceedings (Parental Responsibility) Bill (the Bill) seeks to reform the law relating to responsibilities of parents for children and to provide that, in determining certain questions in the children proceedings, a court must regard the best interests of a child as the paramount consideration. The Government conducted a public consultation on the Bill in 2015, and explained the reasons for not introducing the proposed legislation at this stage in its reply letter to the Panel on Welfare Services (the Panel) of this Council dated July 5 this year. In this connection, will the Government inform this Council:

(1) given that, as mentioned in the aforesaid letter, the opposing views that the Bill "could not help divorced parents in resolving conflicts" were received during the aforesaid public consultation, whereas there are views that the legislative intent of the Bill is to clarify parents' due responsibilities for children and to protect children's interests, which has nothing to do with helping divorced parents in resolving conflicts, of the Government's justifications for using such opposing views as a reason for not introducing the proposed legislation at this stage; and

(2) as there are views pointing out that, as also mentioned in the aforesaid letter, the Panel passed motions in February 2016 and May 2017 requesting the Government to postpone the introduction of the Bill pending the provision of more support measures for the families concerned, whereas the letter also mentioned that the Government had already implemented many support measures, indicating that the Panel's concerns had been allayed, of the Government's justifications for still not introducing the proposed legislation at this stage?

Reply:

President,

The Labour and Welfare Bureau (LWB) prepared the draft Children Proceedings (Parental Responsibility) Bill (the legislative proposal) in 2015, to reform and consolidate the law relating to responsibilities and rights of parents for children; provide for the appointment and powers of guardians, etc. The legislative proposal introduce a statutory list covering parental responsibility (encompassing both responsibilities and rights) and

providing for major decisions concerning the child's upbringing to be made upon express consent of or notification to the other parent, etc.

The LWB conducted a public consultation in November 2015 on the legislative proposal. The proportion of stakeholders in support of and in opposition to the legislative proposal at that time was about the same (i.e. 34.5 per cent on each side), while another 20 per cent considered the proposal worthy of support in principle but requested additional resources and support measures as a prerequisite. Subsequently, the Legislative Council Panel on Welfare Services (the Welfare Panel) unanimously passed two motions in February 2016 and May 2017 respectively, urging the Government not to introduce the Bill into the Legislative Council at that stage, pending the provision of more support measures for separated/divorcing/divorced families, including setting up of a "maintenance board", assistance to single-parent families in seeking financial support, enhancement of the prevention of divorce and support to divorced families, and setting up "visitation centres" in various districts.

The reply to the Member's question, in consultation with the Home and Youth Affairs Bureau, is as follows:

(1) According to the result of the public consultation conducted by the LWB in November 2015, the proportion of stakeholders in support of and in opposition to the legislative proposal was about the same (i.e. more than 30 per cent on each side). Those in support considered that the legislative proposal could protect children's best interests. Those in opposition considered that the legislative proposal not only cannot help divorced parents in resolving conflicts, but might cause more family problems for families with domestic violence background. Single-parent groups were also concerned that the new requirement for obtaining the other party's consent or giving notification on major decisions would be taken advantaged by the troublemaking party with malicious intent to obstruct and harass their spouse, causing distress to the child, and hence undermining the interests of the child. Afterwards, some representatives of groups from the social welfare sector, maintenance concern groups, single-parent groups, and women groups requested the Government to first deal with issues of support services for separated/divorced families and default in maintenance payment, before proceeding with legislation.

The LWB has always considered that enhancing the law relating to the parental responsibilities and rights on the upbringing of children would help safeguard the interests of children. Considering the views of the stakeholders and the Welfare Panel's position, the LWB considers that priority should be accorded to promoting the concept of continuing parental responsibility towards children even after divorce, strengthening co-parenting counselling and parenting co-ordination service, as well as providing children contact service, and that the legislative proposal should only be put forward again when the society has a clearer consensus.

(2) Considering the views of the stakeholders and the Welfare Panel's position, the Social Welfare Department (SWD) has implemented a series of

support measures in recent years. To strengthen co-parenting support services for separated/divorced families, including separated/divorcing/divorced parents and their children, the Government increased resources to set up five Specialised Co-parenting Support Centres (SCSCs) in 2019, providing one-stop specialised services for them, including co-parenting counselling, parenting co-ordination service, parenting groups or programmes and child contact service, etc., to assist separated/divorced parents in carrying out parental responsibilities under the child-focused principles, strengthening parent-child connection and providing support to children affected by parental separation/divorce and family change to promote their healthy development physically and mentally. The 65 Integrated Family Service Centres (IFSCs) and two Integrated Services Centres also provide a spectrum of preventive, supportive and remedial services for needy families (including separated/divorced families).

In addition, to foster community awareness of the well-being of children of separated/divorced families and promote the message of co-parenting, the SWD has adopted a multi-pronged approach and enhanced public education and publicity at various platforms, including the dedicated website of "Parenthood Goes On", the publication of reference materials on joint parental responsibility and dissemination of latest information on relevant groups and programmes for separated/divorced parents and their children in various districts.

Meanwhile, the Government is committed to improving the effectiveness of the system for collecting maintenance payments and enforcing maintenance orders. Over the years, the Government has implemented a series of improvement measures to facilitate divorcees recovering maintenance payments as well as publicity and education programmes on maintenance-related issues. The Government also keeps exploring feasible measures to assist people in society who are in arrears with maintenance payments. In this regard, the Government will launch through the Community Care Fund a maintenance mediation pilot scheme to assist the parties concerned to resolve disputes through mediation. In addition, the Government will continue to collect statistics concerning maintenance so as to better consider the future work direction.

To keep abreast of the latest views of stakeholders, in particular the aforementioned stakeholders who had concerns about the legislative proposal at that time, the SWD would collect the views of service users through SCSCs and IFSCs, for the Government to consider whether there is sufficient consensus to put forward the legislative proposal again and, if so, the appropriate timing.