

LCQ6: Sexual Conviction Record Check Scheme

Following is a question by the Hon Holden Chow and a reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (June 16):

Question:

Under the Sexual Conviction Record Check (SCRC) Scheme, schools, residential care homes for disabled persons, private tutorial centres and private interest/activity institutions (employing organisations) may request prospective employees and contract renewal employees who undertake work relating to children and mentally incapacitated persons (MIPs) to make an application to the Police for a check on their own sexual offence conviction records. The Police will then disclose the relevant records to the employing organisations directly. In this connection, will the Government inform this Council:

(1) of the number of SCRC applications received by the Police in each of the past five years, with a breakdown by the type of employing organisations; whether it knows the number of prospective employees who were not employed because the employing organisations had learnt of their sexual offence conviction records;

(2) of the respective numbers of reported cases, received by the Police in each of the past five years, on children and MIPs having been sexually assaulted on the various types of premises of the employing organisations; among such cases, the respective numbers of those which involved repeated sexual offenders and those in which the employing organisations had been informed of the sexual offence conviction records of such persons through the SCRC Scheme beforehand; and

(3) whether it will consider changing the nature of the SCRC Scheme from voluntary to compulsory, and designating other persons undertaking the aforesaid work (including candidates for private tutors, incumbent employees of employing organisations, self-employed persons and voluntary workers) as eligible applicants for SCRC?

Reply:

President,

The Hong Kong Police Force (HKPF) implemented the Sexual Conviction Record Check (SCRC) Scheme in 2011 to enable employers of persons undertaking child-related work and work relating to mentally incapacitated persons (MIPs) to check whether prospective employees or contract renewal employees have any criminal conviction records against a specified list of sexual offences

(sexual offence convictions). Employers may request eligible applicants to submit applications to the HKPF for the record check.

The SCRC Scheme provides employers with a reliable channel, whereby they may ascertain whether applicants for relevant jobs have any previous sexual offence convictions, so as to help reduce the risk of sexual abuse to children or MIPs and give them better protection.

The coverage of the SCRC Scheme has been gradually extended since its implementation. Currently, applicants covered include prospective employees applying for work relating to children or MIPs, contract renewal staff and staff assigned by outsourced service providers to provide relevant services, including private interest institutions such as swimming clubs, sports associations and music centres.

After consulting the Education Bureau (EDB) and the Social Welfare Department (SWD), my reply to various parts of the question is as follows:

(1) In each of the years from 2016 to 2020, the HKPF received 43 000, 51 000, 58 000, 58 000 and 45 000 new applications respectively. The check results are valid for 18 months, during which an applicant or an authorised employer could access the check results through an Auto-Telephone Answering System.

An applicant may submit a renewal application for extending for another 18 months within the last three months of the validity period. In each of the years from 2016 to 2020, the HKPF received 7 000, 8 000, 7 000, 11 000 and 13 000 renewal applications respectively.

The HKPF do not maintain any breakdown by type of organisation employing the applicants. As an employer's decision on employment is affected by various factors and there is no need to notify the HKPF, the HKPF have no idea about the employment situation of the applicants.

(2) In each of the years from 2016 to 2020, the number of indecent assault and unlawful sexual intercourse cases in kindergartens, primary schools or secondary schools received by the HKPF were 41, 38, 51, 38 and 19 respectively. The statistics maintained by the HKPF contain neither a breakdown by the background of the victims or persons concerned (including whether repeated offenders of sexual offences were involved) nor by the premises where the cases occurred.

To support the implementation of the SCRC Scheme, the EDB issued a circular to all schools (including "tutorial schools" as commonly known) in November 2011, strongly advising schools (including tutorial schools) to adopt the SCRC Scheme as soon as practicable in their appointment procedures. In May 2020, the EDB issued a circular to all schools in Hong Kong (including tutorial schools), requiring them to observe the relevant procedures in their employment of staff (including non-teaching staff) to ensure students' safety. The procedures include requiring applicants to declare whether they have been convicted of any criminal offence, or whether they are involved in any ongoing criminal proceedings or investigations to the best of their

knowledge.

Moreover, the Code of Practice for Residential Care Homes (Persons with Disabilities) (Revised Edition) issued by the SWD in January 2020 stipulates that all staff of an residential care home for persons with disabilities should undergo the SCRC prior to their employment or renewal of their employment contracts. The SWD also points out in the Protecting Children from Maltreatment – Procedural Guide for Multi-disciplinary Co-operation (the Guide) that relevant organisations should formulate child protection policies, measures and handling procedures according to the Guide so as to prevent and properly handle suspected child mistreatment cases, with a view to protecting the safety and best interests of children.

(3) Since the implementation of the SCRC Scheme, its Auto-Telephone Answering System has received a total of around 492 000 telephone calls that have successfully checked results. It reflects that the SCRC scheme provides employers with an effective channel.

The question mentioned whether the Government will consider changing the voluntary SCRC Scheme into a mandatory one, and expanding the scope of the SCRC Scheme to cover existing employees, self-employed persons and volunteers. The Government has been actively implementing measures to protect children and MIPs from sexual abuse. Therefore, the Government has continued to enhance the procedures and expand the scope of checking since the implementation of the SCRC Scheme in 2011. However, given the significant number of all employees in Hong Kong and a large number of persons involved with children and MIPs, we have to establish a system and handle the matter according to risks and efficiency. Hence, we need to adopt a gradual approach to ensure that the SCRC Scheme has sufficient handling capacity.

Regarding the proposal to cover existing employees, there are objections that it will cause employment problems. The issues involved are complex, including the need to be resolved by the employer and the employee together, or even by the court. As for other areas, such as private tutors, we must also consider how to establish appropriate arrangements to prevent the abuse of SCRC Scheme due to the difficulty in verifying whether an employment relationship actually exists.

As for whether to make it mandatory for employers or staff to undertake checking, the matter would involve legislative exercise and a balance must be carefully struck between the two major principles of protecting children and facilitating rehabilitation. Consensus in the community will also be required. The existing SCRC Scheme has been operating smoothly and well recognised by the society. It also has the benefits of flexibility.

It is also because of the complexity of the related issues, the Review of Sexual Offences Sub-committee of the Law Reform Commission of Hong Kong (the Law Reform Commission) published a consultation paper in November 2010 consulting the public, among others, recommendations relating to the SCRC Scheme. Recommendations from the relevant Sub-committee include extending the coverage of the SCRC Scheme and making it a mandatory one.

The public consultation of the Law Reform Commission completed in February 2021 and the relevant Sub-committee is considering the views collected to prepare a report. We will keep in view and consider the final recommendations made by the Law Reform Commission in relation to the SCRC Scheme.

Thank you, President.