



香港申訴專員公署
Office of The Ombudsman, Hong Kong



主動調查報告
Direct Investigation Report

有關辨識和通報懷疑虐待兒童個案的機制
Mechanism for Identifying and
Reporting Suspected Child Abuse Cases

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1

INTRODUCTION

BACKGROUND

1.1 According to statistics from the Social Welfare Department (“SWD”), the number of newly reported child abuse cases in Hong Kong has been on the rise over the past years, with an increase of around 20% from 882 cases in 2008 to 1,064 cases in 2018. In some grievous cases, the abused child was left in a vegetative state, or was allegedly battered to death. The problem has caused wide public concern. Since most victims do not know how to seek help and the abusers are often their close relatives,¹ it would help to address the problem at an early stage if professionals who have frequent contact with children, including school teachers, social workers, doctors and nurses, can pay attention to their condition, thereby promptly identifying abuse cases and taking action to intervene. There have been criticisms that the reporting mechanism for preventing child abuse has been inadequate, and that people who have become aware of the situation are not required to report suspected child abuse cases. Consequently, Government authorities would often only intervene after tragedies have happened, rather than take pre-emptive action to prevent such incidents.

1.2 Against this background, we initiated a direct investigation on 30 January 2018, pursuant to section 7(1)(a)(ii) of The Ombudsman Ordinance, to examine the mechanism for identifying and reporting suspected child abuse cases and make recommendations for improvement where necessary.

¹ According to statistics from SWD, among the child abuse cases newly reported between January and December 2018, 64.5% of the abusers were the victims’ parents.

PROCESS OF INVESTIGATION

1.3 Apart from scrutinising the information provided by SWD and the Education Bureau (“EDB”), we also had meetings with child concern groups and took reference of their views on this issue.

1.4 On 12 June 2019, we issued the draft investigation report to SWD and EDB for comments. This final report, having incorporated the two departments’ comments, was completed on 17 October 2019.

2

OVERVIEW OF MECHANISM FOR HANDLING CHILD ABUSE CASES

2.1 Currently, Hong Kong has not enacted any specific legislation against child abuse offences, nor laid down any statutory definition of “child abuse”. When a child has been neglected or abused, charges might be brought against the perpetrator depending on the abusive acts and circumstances, including the offences of incest, rape, indecent assault or unlawful sexual intercourse under the Crimes Ordinance, or the offence of ill-treatment or neglect by those in charge of a child or young person under section 27 of the Offences against the Person Ordinance.

MECHANISM FOR HANDLING CHILD ABUSE/SUSPECTED CHILD ABUSE CASES

2.2 A number of Government departments/parties are involved in handling child abuse and suspected child abuse cases. These include SWD, EDB, the Department of Health (“DH”), Hong Kong Police Force (“the Police”) and Hospital Authority (“HA”), schools and non-governmental organisations (“NGOs”). To safeguard the best interests of children and protect the children suspected of being abused or having been abused, SWD has drawn up the Procedural Guide for Handling Child Abuse Cases (“Procedural Guide”) in collaboration with the relevant Government departments, NGOs and professionals. It aims at providing reference to various professionals, including personnel engaged in social service, health service, education service, law enforcement and others whose work brings them into close contact with children, so that they, when coming across a case of suspected child abuse, can take necessary actions, such as conducting immediate assessment and social enquiry, arranging a “multi-

disciplinary case conference on protection of child with suspected abuse” (“MDCC”)² and formulating welfare plans. The Procedural Guide currently in force is the revised version issued by SWD in December 2015.

DEFINITION OF CHILD ABUSE IN THE PROCEDURAL GUIDE

2.3 According to the Procedural Guide, child abuse is defined as any act of commission or omission that endangers or impairs the physical/psychological health and development of an individual under the age of 18. Child abuse acts include four types, namely physical abuse, sexual abuse, neglect and psychological abuse.

2.4 Child abuse is not limited to a child-parent/guardian situation but includes anyone who is entrusted with the care and control of a child, e.g. child-minders, relatives, teachers, etc. For child sexual abuse, the acts may also be committed by strangers to the child.

2.5 Professionals, such as social workers, teachers, doctors and nurses, would judge what sort of acts will amount to child abuse on the basis of community standards and professional expertise. Child abuse is committed by individuals, singly or collectively, who, by exploiting the power difference between them and the child because of their status (such as age, social status, knowledge and organisational form), renders a child particularly vulnerable.

2.6 The definition of child abuse set out above is not a legal definition, but is provided as a guideline for relevant professionals or personnel to safeguard the welfare of children being abused or at risk of abuse. In determining whether a case should be defined as a child abuse case, the responsible professionals would make assessment based on the circumstances of each case and take into consideration various factors (e.g. the child’s age, the act of abuse, and the impact of the act on the child, etc.) instead of just focusing on the frequency and nature of incidents that have occurred.

² The MDCC is a forum on which professionals having a major role in handling and investigating suspected child abuse cases (such as medical personnel, school personnel, social workers, police officers and clinical psychologists) can share their professional knowledge, information and concern on the health, development and functioning of the child concerned, and the ability of his/her parents/carers to ensure the safety of the child concerned.

MEANS TO IDENTIFY SUSPECTED CHILD ABUSE CASES

2.7 According to the Procedural Guide, suspected child abuse cases can be identified by the following means:

- (1) direct reports from the child concerned, the family or members of the public;
- (2) reports from the teachers or personnel of kindergartens/schools/child care centres/residential child care centres, student guidance officers/teachers/personnel serving in primary schools, school social workers serving in secondary or special schools, personnel serving in children and youth centres, medical officers or private practitioners, nursing staff of hospitals/clinics, personnel of Government departments or NGOs; and
- (3) reports received by the SWD hotlines.

REPORTING MECHANISM

2.8 The Procedural Guide sets out the actions to be taken by other Government departments, NGOs, schools and individual practitioners if they encounter suspected child abuse cases. For instance, when a suspected case of child abuse comes to the attention of the school, the first person in contact of the child concerned should inform the principal and consult the principal/personnel responsible for student guidance/school social worker. Where necessary, the principal may also consult the Family and Child Protective Services Unit (“FCPSU”) of SWD. Upon referral of a suspected child abuse case to the FCPSU or the responsible social worker for further action, the school should inform the parent(s)/guardian(s) of the student concerned. Nevertheless, it should handle the case with special attention if the student’s parent(s)/guardian(s) are suspected to be involved in child abuse. In circumstances suggesting that a criminal offence might have been committed, the school should report to the Police.

2.9 When a suspected case of child abuse comes to the attention of doctors working in hospitals/clinics under HA, taking into account the nature of the case, level of suspicion and any need for urgent medical treatment, they should inform the consultant/senior medical officer, who in turn should consult the medical coordinator on

child abuse of the same or a nearby hospital on how to handle the case. Depending on the circumstances of the case, the doctors should also inform a social worker or the Police for further action. When a suspected case of child abuse comes to the attention of the doctors working in the clinics under DH, they should inform the doctor-in-charge of the clinic and senior medical officer, and inform the medical social worker/SWD/the relevant service unit for further action. In circumstances suggesting that a criminal offence might have been committed, the doctors should file a report with the Police.

2.10 According to the Procedural Guide, a child suspected of being abused may be brought to the attention of any welfare service unit, clinic/hospital, school, the Police or other service units of various Government departments as well as NGOs by an informant (e.g. neighbour, relative of the child concerned) or a referrer (a staff member of a Government department, NGO, HA or other organisations who comes across the suspected child abuse case in the course of performing his/her duties).

2.11 The Procedural Guide is only an administrative manual. Currently, the law does not require any professional (such as social workers, teachers, doctors and nurses) who has direct contact with children to report to the responsible unit if he/she suspects or is aware of a child abuse case. The Government has neither set up a mechanism nor formulated any administrative measures requiring the professional concerned to make a report if he/she suspects or is aware of a child abuse case.

THE CHILD PROTECTION REGISTRY

2.12 SWD, in collaboration with NGOs and the Hong Kong Council of Social Service, has set up the Child Protection Registry (“the Registry”). It is a computerised record system that not only has the function of case registration and case enquiry but also helps statistical research. Since 1994, the Family and Child Welfare Branch of SWD has been managing the Registry, which is set up mainly for the following purposes:

- (1) to facilitate better communication among casework units which handle child abuse cases/cases with risk of child abuse and which are registered users of the Registry to ascertain, through an easy checking mechanism, whether a case is/was registered in the Registry and the last known service units of SWD or NGO handling the case;

- (2) to collect and compile statistical information on the children who have been abused/might have been abused or are currently at risk of abuse and their abusers/suspected abusers/potential abusers, with a view to ascertaining the magnitude of the problem and identifying the general profile and characteristics of child abuse cases;
- (3) to monitor the regular updating and review of significant data to ensure accuracy of the statistical information as far as possible; and
- (4) to facilitate the planning and development of services for prevention of child abuse, including the planning of public education programmes to prevent child abuse.

2.13 All SWD and NGO service units that provide casework services, including the Integrated Family Service Centres, Integrated Services Centres, the FCPSU, Medical Social Services Units (including HA), Probation and Community Service Orders Office, School Social Work Units, Outreaching Social Work Units, Integrated Children and Youth Services Centres, etc. can report child abuse cases and children at risk of abuse to SWD via the Registry. The cases are classified into the following four categories:

- (1) a child who was considered a victim of child abuse in an MDCC or by all professionals concerned (for cases where MDCC was dispensed with) after investigation;
- (2) a child currently at risk of abuse though not considered a victim of child abuse in an MDCC or by all professionals concerned (for cases where MDCC was dispensed with) after investigation;
- (3) a child who is not suspected to be abused but considered potentially at risk of abuse by virtue of risk factors of child abuse identified, e.g. a younger sibling of an abused child/new born baby of a single parent with serious drug problem; and
- (4) a child who was not considered a victim of child abuse or currently not at risk of abuse in an MDCC or by all professionals concerned (for cases where MDCC was dispensed with) after investigation, but professionals suspected that the alleged abuse incident might have happened.

STATISTICS ON CHILD ABUSE CASES

2.14 According to the Registry, the number of newly reported child abuse cases received by SWD each year between 2014 and 2018 and the types of abuse (see **para. 2.3**) are tabulated below:

Type of abuse	Number of newly reported child abuse cases (%)				
	2014	2015	2016	2017	2018
Physical abuse	413 (48.2%)	424 (48.5%)	378 (42.4%)	374 (39.5%)	493 (46.3%)
Sexual abuse	285 (33.3%)	273 (31.2%)	294 (33.0%)	315 (33.3%)	297 (27.9%)
Neglect	122 (14.3%)	139 (15.9%)	182 (20.4%)	229 (24.2%)	237 (22.3%)
Psychological abuse	6 (0.7%)	7 (0.8%)	10 (1.1%)	5 (0.5%)	11 (1%)
Multiple abuse	30 (3.5%)	31 (3.5%)	28 (3.1%)	24 (2.5%)	26 (2.4%)
Total	856 (100%)	874 (100%)	892 (100%)	947 (100%)	1064 (100%)

3

SWD'S ROLE AND WORK

SWD'S PROCEDURES FOR HANDLING REPORTS AND COMPLAINTS ABOUT SUSPECTED CHILD ABUSE CASES

3.1 In handling child abuse cases, the paramount concern is the welfare of the child. Upon learning that a child may be abused, SWD, the relevant government departments and NGOs will follow the Procedural Guide (see **para 2.2**) to handle the case together through multi-disciplinary collaboration. When SWD receives a report/complaint about suspected child abuse, and the case is not a case being handled by SWD or any NGO, the FCPSU of SWD will collect basic information and conduct an interview with the child concerned and his/her parents for initial assessment.

3.2 If after initial assessment there is no sufficient information to indicate suspected child abuse (e.g. only general parenting issues are involved), the FCPSU social worker will refer the case to an Integrated Family Service Centre or other service units for follow-up. If the child is suspected of being abused, the FCPSU social worker will take immediate protection action as required in the case, such as arranging medical examinations and temporary residential service. If criminal offences may be involved in the case (see **para. 2.1**), the social worker or other professionals will refer the case to the Police for investigation. If it is a case being handled by SWD/NGO, the FCPSU social worker will immediately notify the responsible social worker for initial assessment and necessary protection action.

3.3 The case manager approach is adopted by SWD or NGOs in the course of handling suspected child abuse cases so that the child only needs to interact with the case manager for most of the time. The FCPSU social worker or the social worker of SWD/NGO handling the case of the child/family concerned (the key social worker) would normally take up the role of a case manager to coordinate the various services provided to the victim. This is to ensure coordinated intervention services rendered by

different professionals.

3.4 The case manager will conduct a detailed social enquiry to assess a host of risk factors. The scope of assessment also includes the physical, mental and psychological condition of the child and his/her carer, attitude of the abuser, the growth and developmental needs of the child, the family's capacity for child care, parent-child relationship, arrangements for child care, as well as the support that the family network can provide. An MDCC will then be convened to devise a welfare plan and take follow-up actions. Where necessary, the case manager will provide immediate support, such as arrangement for emergency residential service and statutory protection.

3.5 In addition, starting from April 2019, SWD has strengthened its assistance to pre-primary institutions and primary schools. If a school suspects that a child is abused, it can refer the case to the FCPSU of SWD for initial assessment. The FCPSU social worker will also provide outreaching service and/or take immediate action to protect the child where warranted.

IMPROVEMENT MEASURES

3.6 Recent years have seen a rising trend in the number of newly reported child abuse cases (the **Table** under **para. 2.14**) and occurrence of grievous child abuse cases from time to time. To protect the well-being of children, the Government has taken various measures to improve the child protection mechanism and step up its child protection efforts. The improvement measures in respect of the identification and notification mechanism for suspected child abuse cases are elaborated in the following paragraphs.

(I) Review the Procedural Guide

3.7 In November 2016, SWD formed a task group ("the Task Group") to review the Procedural Guide. The Task Group is comprised of representatives from different Government departments and NGOs, including the Labour and Welfare Bureau, EDB, DH, the Police, HA, the Hong Kong Council of Social Service and NGOs of relevant service nature. In early 2017, the Task Group consulted different sectors on the definition of child abuse and handling of related cases. Between the second half of 2017 and first half of 2019, six focus groups have been formed to deliberate on the following aspects:

- (a) the definition of child abuse and approaches in handling child abuse cases;
- (b) identification, initial assessment and risk assessment of child abuse cases;
- (c) social enquiry;
- (d) handling of cases relating to parents with substance abuse;
- (e) planning and implementation of follow-up plan; and
- (f) the role of education services personnel.

3.8 Moreover, SWD has liaised with the social welfare, healthcare and education sectors and the Police to review other aspects in the Procedural Guide, including criminal investigation, medical examination and the roles of personnel from different sectors. Since November 2016, the Task Group has called five meetings to consider the focus groups' views and recommendations, and comment on relevant chapters in the draft of the latest Procedural Guide. In mid-July 2019, the Task Group launched another consultation exercise among different sectors regarding the draft of the latest Procedural Guide.

3.9 The review covers a wide range of aspects, which involve various proposed amendments and enhanced contents such as the mechanism for reporting suspected child abuse cases, personnel responsible for and coverage of the initial assessment, principles of and reference for risk assessment, follow-up services for child protection cases and enhanced services of the FCPSU of SWD, etc. In addition, it is necessary to engage different sectors and stakeholders in in-depth discussions to reach a consensus. As such, SWD expects the review to be completed by the end of 2019.

(II) Provide Social Work Services at Schools

Pre-primary Institutions

3.10 The Government has earmarked \$989 million from the lottery fund for a pilot scheme to identify pre-primary children who are at high risk of abuse and in need of welfare service, and support them and their families. It is a three-year pilot scheme for social work services, targeting all pre-primary institutions in Hong Kong, which include aided child care centres, kindergartens and kindergarten-cum-child care centres, and covering a total of some 150,000 pre-primary children and their families. The pilot scheme comprises three phases, and 16 teams of social workers are formed in each phase,

making a total of 48 teams. Social worker teams are operated by eligible NGOs, and they provide school-based services at pre-primary institutions. The first and second phases have already started in February and August 2019, and the third phase will commence in August 2020. The Government will consider the experience in the pilot scheme and devise future plans for the social services for pre-primary children and their families.

Primary Schools

3.11 Starting from the 2018/19 school year, EDB has provided more resources for all public sector primary schools and primary schools under the Direct Subsidy Scheme (“DSS”) in Hong Kong to encourage strengthening and enhancement of their social work and guidance services according to the school-based circumstances. The ultimate objective is to achieve “one social worker for each school”. Under the new funding mode, schools, depending on their individual circumstances, may create a regular assistant social work officer post to ensure stable social services, or receive an equivalent amount of grant to employ a school-based registered graduate social worker or hire the service of a school-based registered graduate social worker from a social work service provider. Schools will also be provided with a consultation service grant for hiring consultation, supervision or other related support services for school social workers to ensure service quality. According to the school-based principle, schools can flexibly deploy the grant for the aforesaid aspects to hire staff or services from NGOs, subject to the qualification, experience and duties of the staff to meet the students’ needs.

Secondary Schools

3.12 Since the 2000/01 school year, the Government has implemented the policy of “one social worker for each school” among all public sector and DSS secondary schools in Hong Kong. By granting subsidies to NGOs, the Government provided secondary schools with school-based social work services. Starting from September 2011, the Government has provided even more resources to achieve “1.2 social workers for each school”. Recently, the Government announced in the Budget 2019/20 its intention to grant funding to about 460 public sector and DSS secondary schools in Hong Kong from the new school year onwards to enable “two social workers for each school”, so that the schools can promptly identify those young people in need of help and give them support.

(III) Explore the Establishment of a Central Data Bank on Children Information

3.13 Currently, various Government departments keep records of different types of information about children. For example, SWD keeps records of information about children whose families are receiving government assistance; EDB keeps records of students information; and HA and DH keep records of information relating to children's health. Collected for different purposes, the data held by the bureaux and departments concerned are not kept in a consistent format or fully digitalised. Hence, without integration, these data are not accessible to all the bureaux/departments concerned. In order to consolidate all the information about children for formulating child-related policies (including early identification of children at risk of abuse), the Government is exploring the establishment of a central data bank on children information. Upon commencement of the tender invitation for consultancy, the study is expected to start in the fourth quarter of 2019 and complete in about 18 months. The Government will make reference to the findings and recommendations of the study in formulating work plans thereafter.

(IV) Explore the Enactment of Specific Legislation

3.14 In September 2006, the then Secretary for Justice and Chief Justice engaged the Law Reform Commission ("LRC") to study the topic of "Causing or Allowing the Death of a Child or Vulnerable Adult" with the aim to review the cases of death or serious harm of a child or vulnerable adult resulting from an unlawful act while they were under the care of their parents or carers, and examine the criminal liability of the parents or carers. After nearly 13 years, the relevant sub-committee of LRC released a consultation paper in May 2019³, in which it recommended the introduction of a new 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". The sub-committee further recommended that the Government undertake a review of the current maximum penalty (i.e. 10 years' imprisonment) applicable under section 27 of the Offences against the Person Ordinance (i.e. the current provision about ill-treatment or neglect of child; see **para. 2.1**) in order to impose tougher penalties. Upon completion of the consultation, the sub-committee would collate the public views obtained, and LRC would make reference to them and submit its final recommendations to the

³ For details of this three-month consultation on "Causing or Allowing the Death or Serious Harm of a Child or Vulnerable Adult" launched by LRC, please see the relevant consultation paper at <https://www.hkreform.gov.hk/en/publications/cadcva.htm>. The sub-committee would give thorough consideration to the public views obtained during the consultation period. LRC would make reference to the public views obtained and submit its final recommendations to the Government in due course.

Government.

3.15 Moreover, the sub-committee has set out, in the consultation paper, information relating to the responsibility of reporting abuse cases, which includes the reporting mechanism in other countries, the pros and cons of enacting laws on mandatory reporting of abuse cases and issues to be considered. This could help the Government and other relevant organisations make further plans to formulate policies on responsibility of reporting abuse cases.

4

EDB’S ROLE AND WORK

PROCEDURES FOR HANDLING CHILD ABUSE CASES BY SCHOOLS

4.1 EDB sets out guidelines on handling suspected child abuse cases in circulars and administration guide issued to schools.

Circulars

4.2 Subsequent to the issuance of the revised Procedural Guide by SWD in December 2015 (see **para. 2.2**), EDB issued in January 2016 the circular “Handling Child Abuse and Domestic Violence Cases” (“the 2016 Circular”), which superseded the previous circular of the same series, to all schools (including kindergartens and kindergarten-cum-child care centres, thereafter referred to as “kindergartens” in general) to draw their attention to the revised procedures for handling child abuse and domestic violence cases in the Procedural Guide. In the 2016 Circular, EDB briefly explained those procedures.

4.3 Subsequent to a suspected case of child abuse resulting in death⁴ in early 2018, EDB considered that the circular must be revised promptly to provide clear instructions to schools so that children in need and their families can receive assistance as soon as possible. Hence, in August 2018, EDB issued the circular “Handling Suspected Cases of Child Abuse and Domestic Violence” (“the 2018 Circular”), which superseded the 2016 Circular, to all schools (including kindergartens), advising them to keep an eye on the condition of students for early identification and intervention. Schools were also reminded to take appropriate measures to provide assistance to the children concerned in accordance with the Procedural Guide. The 2018 Circular

⁴ In early 2018, a five-year-old child found in a coma at home was sent to the hospital and died afterwards. Allegedly, the child had been abused by the parents. Between September and the end of October 2017, the child had attended classes at a kindergarten. The child then stopped going to school and subsequently dropped out in early December 2017.

explained in detail the procedures for schools to follow in handling suspected child abuse cases. Those procedures are elaborated below.

4.4 The first person who comes into contact with the student concerned should inform the school supervisor/principal/designated teacher(s). The School should activate immediately the school-based contingency arrangements/Crisis Management Team and assign designated personnel (e.g. principal, senior teacher or designated teacher, school social worker or guidance personnel) to make an initial attempt to understand the student's condition and conduct an initial assessment. The established principles and procedures should be followed in the follow-up and handling of suspected child abuse cases.

4.5 During initial assessment, schools may, if necessary, consult the FCPSU of SWD for professional advice on case handling. If the student concerned is not a case subject of the school social worker, schools should check with the respective SWD/NGO units to see if it is a new case or a known case. For a new case in a kindergarten which does not have a social worker or guidance personnel, the kindergarten may contact the FCPSU for follow-up services.

4.6 For a known case, schools should inform the caseworker of the unit concerned to take over the case as soon as possible. Schools should also discuss with the responsible caseworker of the known case or the social worker of the FCPSU to decide whether it is necessary to take immediate actions to protect the child. For example, whether it is necessary to arrange the student to go to a public hospital for medical examination/treatment.

4.7 If parent(s)/guardian(s) is/are suspected to be involved in the abuse, schools do not need to seek the prior consent of parent(s) when making referral of a suspected child abuse case to the school social worker/the caseworker of a known case or the FCPSU. If schools need to contact the parent(s) during the process, they may consult the FCPSU first for handling methods.

4.8 In circumstances that suggest a criminal offence may have been committed and the case is in a severe situation, or the safety/life of the child concerned is being threatened where immediate action is needed (such as serious physical abuse), schools should report the case to the Police as early as possible. If it is a suspected child sexual abuse case and the alleged offender is a family or an extended family member of the child or a person entrusted with the care of the child, or if the case involves a number of

abused children, schools may contact the FCPSU first, and social workers of the FCPSU will contact the Child Abuse Investigation Units of the Police for joint investigation. Whenever necessary, schools can consult the School Liaison Officers of the Police or social workers of the FCPSU for advice and support.

School Administration Guide

4.9 EDB issues a revised online version of the School Administration Guide to all aided primary and secondary schools in each new school year. The School Administration Guide includes relevant legislation such as the Education Ordinance and Education Regulations and other related ordinances, and the latest versions of relevant EDB circulars and instructions relating to various aspects. It provides reference and guidelines for schools so that they can operate in accordance with the school-based management framework, formulating school-based policies and procedures relating to school administration and management to ensure smooth day-to-day operation. Although the mode of management and rules for resources deployment in government, DSS and private schools are different from those of the aided schools to different extent, the School Administration Guide can serve as a reference.

4.10 In the School Administration Guide issued by EDB in September 2015, EDB, as in the previous version of the Guide, advised schools to handle suspected child abuse cases in accordance with the Procedural Guide, and also set out in Chapter 3.8.9 “Handling of child abuse cases” the relevant procedures in handling child abuse cases (see **para. 2.8**), which include:

- (1) The first school staff who comes into contact with the abused child should inform immediately the school supervisor/principal, and the case should be followed up and handled by the school social worker or guidance/designated personnel. The school supervisor/principal may seek further professional advice from the FCPSU.
- (2) When making a referral of a child abuse case, schools should inform the parent(s) of the student concerned. Nevertheless, special attention should be paid if parent(s)/guardian(s) is/are suspected to be involved in the abuse.
- (3) When it is apparent that urgent medical attention is called for, the school should take the child to the Accident and Emergency Department of a

prescribed public hospital for medical examination/treatment, and/or contact the medical coordinator on child abuse of HA for direct admission of the student to the Paediatric Ward (see **para. 2.9**).

- (4) In circumstances that suggest a criminal offence may have been committed, schools should report the case to the Police.
- (5) In handling suspected child sexual abuse cases, the school supervisor/principal should inform EDB.

4.11 In August 2018, EDB issued the 2018 Circular delineating the procedures that schools should follow in handling suspected child abuse cases (see **para. 4.3**). Then in September that year, EDB issued the School Administration Guide (“the 2018/19 School Administration Guide”), with amendments made to Chapter 3.8.9 (see **para. 4.10**) regarding the procedures for handling child abuse cases. The updated content was similar to the 2018 Circular (see **paras. 4.4–4.8**), covering what the schools should do in making a referral of a suspected child abuse case. Previously, it was stipulated that *“the schools should inform the parent(s) of the student concerned. Nevertheless, special attention should be paid if parent(s)/guardian(s) is/are suspected to be involved in the abuse”* (see **para. 4.10(2)**). This was revised to become *“If parent(s)/guardian(s) is/are suspected to be involved in the abuse, schools do not need to seek the prior consent of parent(s) when making a referral of a suspected child abuse case to the school social worker/the caseworker of a known case or the FCPSU. If schools need to contact the parent(s) during the process, they may consult the FCPSU first for handling methods”* (see **para. 4.7**).

Kindergarten Administration Guide

4.12 In addition to issuing circulars to kindergartens to remind them to follow the Procedural Guide in handling suspected child abuse cases (see **paras. 4.2 and 4.3**), EDB also issued the Kindergarten Administration Guide (“the Kindergarten Administration Guide”) to all kindergartens in September 2017 in response to the Government’s implementation of the Kindergarten Education Scheme since the 2017/18 school year to provide direct subsidy to kindergartens participating in the Scheme. The Kindergarten Administration Guide serves both as a school administration manual for participating kindergartens and as reference material for non-participating kindergartens, with a view to enhancing the efficiency of school operation and improving the standard of education services.

4.13 Nevertheless, unlike the School Administration Guide issued to all secondary and primary schools (see **paras. 4.9-4.11**), the Kindergarten Administration Guide does not touch on the topic about how kindergartens should handle suspected child abuse cases.

REPORTING MECHANISM FOR ABSENTEES

4.14 Information showed that in some child abuse cases, the abused child had been absent from school. EDB has established a reporting mechanism for absentees. Details are as follows.

Kindergartens

4.15 The current legislation does not require young children under six to enrol in a kindergarten, and kindergarten education is not a prerequisite under EDB's Primary One Admission System. As such, EDB would not issue attendance orders with respect to young children under six being absent from school. In 2007, EDB launched the Pre-primary Education Voucher Scheme ("PEVS")⁵. To ensure proper use of public funds, normally, students absent from school for an entire month will not be entitled to the fee subsidy for that calendar month. Since the implementation of the PEVS, kindergartens must report to EDB if a student is absent for an entire month ("reporting mechanism for entire-month absentees"). When EDB introduced the Kindergarten Education Scheme (see **para. 4.12**) and dispensed with the PEVS in the 2017/18 school year, the reporting mechanism for entire-month absentees remains effective. Its function is not for exposing child abuse cases.

4.16 The child abuse case in early 2018 (in which the young victim allegedly died as a result of abuse, see **Note 4**) brought into question the possible loopholes in the reporting mechanism for absentees, as a result of which kindergartens may not be able to identify the children at risk of abuse in time for early intervention and appropriate support and services.

⁵ The PEVS offers direct tuition fee subsidy to parents of children attending nursery, lower or upper classes in eligible local non-profit-making kindergartens so that they can pay their children's school fee. To be entitled to the fee subsidy for a month, eligible students studying in a PEVS kindergarten must have attended class in that month.

4.17 EDB considered that the key to early identification of child abuse cases lies not in the number of days of absence that triggers mandatory reporting to the Bureau under the reporting mechanism. Besides, young victims may not be absent from school. If kindergartens suspect or discover a child abuse case, EDB is not the only authority they can report the case to, nor the authority which they must first turn to. Nevertheless, EDB agreed that there is a need to heighten the alertness of kindergarten personnel on suspected child abuse cases in a comprehensive manner, and considered that a reporting mechanism for absentees can help achieve this objective. In this connection, EDB issued in February 2018 the circular “Reporting Mechanism for Absentees in Kindergartens”, requiring all kindergartens to report to EDB upon students’ absence for seven consecutive school days without reasons or under doubtful circumstances. Upon receipt of the report, EDB will discuss with the kindergarten how to handle the case, including approaching SWD for professional advice or support.

4.18 To avoid misunderstanding by kindergartens or their teaching and non-teaching staff that only absence for seven consecutive days can be reported, EDB emphasised in the circular that if schools suspect a child abuse case, report to the relevant authority is not limited to the number of days of absence as specified in the circular. Even if a child is absent for less than seven days, or attending schools as usual, or absent intermittently, any kindergarten personnel who notices wounds or other signs of abuse on that child should take action at once in accordance with the Procedural Guide (see **para. 2.2**) and, depending on the circumstances, report to EDB while seeking assistance from SWD and/or the Police. On the other hand, kindergarten students are very young, so absence is more common than primary and secondary school students. If their absence is not doubtful, the school can follow up in accordance with the prevailing school-based arrangements. Report to EDB after the seventh day of absence of a student is not a hard and fast rule.

4.19 The aforementioned reporting mechanism for absentees, unlike the reporting mechanism for entire-month absentees (see **para. 4.15**), aims at early identification and handling of suspicious cases of absence. These two mechanisms serve different purposes and are in force simultaneously.

Primary and Secondary Schools

4.20 Under the current policy, the Government provides nine-year universal basic education to eligible children aged between six and 15. At present, all public sector primary and secondary schools, DSS schools and private schools (excluding English

Schools Foundation (“ESF”) and international schools⁶) must comply with the “Early Notification System” established by EDB to report cases of student absence and dropout to the Bureau. According to the “Early Notification System”, schools are required to report the case to EDB on the seventh day of a student’s continuous non-attendance regardless of the reasons for absence. The Non-attendance Cases Team (“NAC Team”) of EDB will examine the non-attendance cases reported by schools and work in partnership with them to follow up each case and facilitate the student’s resumption to school as soon as possible.

4.21 Prior to 2013, if the students of non-attendance cases or their parents were out of contact when NAC Team followed up their cases (“non-contact’ non-attendance cases”), the Team would try to contact them by way of home visits or telephone calls, or seek help from the relevant departments, including the Housing Department (“HD”), SWD and the Immigration Department (“ImmD”), to contact them. If NAC Team was still unable to contact the absentee students and their parents, it would consider closing the cases.

4.22 In 2013, EDB modified the procedures for handling those “non-contact” non-attendance cases. NAC Team would try to contact the parents of absentee students through home visits, telephone calls or mails. In case of failure to contact the students concerned and their parents, NAC Team would make enquiries with the schools or other departments (including HD, SWD and ImmD) in a bid to locate the students and their parents. For those students who have family or parenting issues, NAC Team would report their situations to SWD or relevant organisations and work out follow-up plans. If the students concerned or their parents remained out of contact after the above procedures, NAC Team would consider closing such cases.

⁶ In the past, given that ESF and international schools mainly offered non-local curriculum education for the children of expatriate families residing in Hong Kong or coming to Hong Kong for work or investment, and their curriculum structures were different from local curriculum, EDB did not require ESF and international schools to report non-attendance cases according to the “Early Notification System”. After consulting legal advice, EDB is planning to require ESF and international schools to also report non-attendance cases to the Bureau in compliance with the “Early Notification System”. As EDB has not provided its computer system for use by those schools, it is necessary to develop a separate computer system for them to report details of non-attendance cases, and draw up the administrative procedures for reporting non-attendance cases by those schools. EDB expects the reporting measures to be implemented in the 2019/20 school year.

4.23 In the wake of an incident of a woman and her son found dead at their home in September 2017,⁷ EDB further reviewed and enhanced the follow-up procedures at the end of 2017. Under the latest mechanism, EDB has adopted more stringent procedures to follow up “non-contact” non-attendance cases, including increasing the number of contacts and home visits. If EDB is still unable to come into contact with the students or their parents after multiple home visits and enquiries with other departments, it will refer the cases to other departments, such as requesting SWD to assist in checking if it has any records about the contact details of the students and their parents, or reporting to the Police for handling as missing person cases. Furthermore, EDB will follow up each non-attendance case thoroughly and regularly (every six months) contact the students, the parents and other Government departments, and will not close the case until the students concerned reach the age of 15. It will no longer terminate the cases because of failure to contact the school-age children or their parents. After successfully contacting the students concerned or their parents, EDB will refer cases of suspected neglect or abuse to SWD for follow-up.

4.24 As for non-attendance cases reported by schools involving students at or above the age of 15, EDB explained that since most of such cases are attributable to choices made by the parents and students, EDB’s follow-up actions mainly include understanding the choices of the students and parents, and providing them with information about other programmes or available options, or referring them to enrol in the short-term programmes offered by NGOs, so that they can be well-prepared for resumption to school, enrolment for vocational training or entering the job market in future.

Statistical Analysis on Length of and Reasons for Students’ Absence

4.25 While EDB has established the above mechanism for primary and secondary schools to report absentees, it did not conduct any statistical analysis on the length of and reasons for students’ absence in the past. In the course of this direct investigation, EDB has accepted the relevant recommendation made by this Office during our preliminary inquiry.

⁷ In September 2017, a woman and her son were found dead at their home. Subsequently, it was discovered that the 15-year-old deceased son had dropped out of school since Primary Two. In late September 2017, EDB revealed in a relevant Legislative Council meeting that it had followed up the son’s non-attendance case in 2011 and 2012, but was unable to come into contact with the woman and her son due to incomplete address information.

TRAINING ON PREVENTION OF CHILD ABUSE

4.26 To raise school personnel's awareness in identifying victims of child abuse and ability in risk assessment, as well as facilitate multi-disciplinary collaboration for early identification and intervention of suspected child abuse cases, EDB has organised talks and seminars jointly with other departments, including SWD and the Police, to advise school personnel on early identification, intervention and support of students suspected to have been abused. From 2018 to mid-July 2019, EDB, jointly with SWD and the Police, organised 31 workshops or talks for schools on topics including early identification of suspected child abuse cases, the reporting mechanism and supports offered by relevant departments.

5

OUR COMMENTS AND RECOMMENDATIONS

5.1 All children should be protected from any form of abuse and exploitation. In recent years, grievous child abuse incidents occurred time and again in Hong Kong, including the harrowing tragedy of a young child who was allegedly battered to death by the parents. We understand that child abuse is a complex social issue, with diverse views held by professionals from different sectors and child concern groups on how to detect child abuse cases at an early stage, and what should be done to improve the reporting mechanism for handling suspected child abuse cases. But in any event, Government authorities and professionals from various sectors should always attach the utmost importance to protection of the children's safety and interests in taking action to intervene and handle suspected child abuse cases, so as to avoid further suffering and distress of children.

5.2 As shown above, in response to the child abuse incidents occurred in recent years, Government authorities have adopted various measures to improve the mechanism for child protection. In particular, the improvement measures related to the mechanism for identifying and reporting suspected child abuse cases include allocating more resources to beef up social work service, such that the FCPSU of SWD and relevant organisations can identify and support the students and their families with high risk factors and in need of welfare as early as possible (see **paras. 3.10-3.12**); studying the establishment of a central data bank on children information to integrate all information and data of children held by relevant departments/organisations, so as to facilitate early identification of children at risk of abuse (see **para. 3.13**); setting up a new reporting mechanism for absentees in kindergartens, so as to raise kindergarten personnel's alertness to suspected child abuse cases (see **para. 4.17**); and revising the procedures for handling non-attendance cases of primary and junior secondary students (aged between six and 15), with more stringent and prolonged follow-up actions for

“non-contact” non-attendance cases (see **para. 4.23**). Moreover, to further protect children, in September 2006 the then Secretary for Justice and Chief Justice directed LRC to study the topic of “Causing or Allowing the Death of a Child or Vulnerable Adult”. The relevant sub-committee of LRC already recommended the introduction of specific legislation and increase of current maximum penalty in its consultation paper published in 2019 (see **para. 3.14**). In this regard, we expect the Government’s proactive follow-up action upon receipt of the final recommendations from LRC.

5.3 After scrutinising relevant information and views submitted by various parties, we have the following observations and comments on the mechanism for identifying and reporting suspected child abuse cases.

(I) GOVERNMENT SHOULD EXPLORE FEASIBILITY OF MANDATORY REPORTING OF SUSPECTED CHILD ABUSE CASES

5.4 Victims of child abuse will suffer from not only physical and emotional trauma, but also long-lasting negative impact on their psychological health. However, most victims do not know how to seek help, and the abusers are often their close relatives (see **note 1, page 1**). Therefore, it would help to address the problem at an early stage if professionals who have frequent contact with children, including school teachers and social workers, can pay attention to their condition, thereby promptly identifying abuse cases and taking action to intervene. At present, there are no mechanism or administrative measures requiring professionals who have direct contact with children (such as teachers, social workers, doctors and nurses) to report to the relevant authorities (such as SWD or the Police) after they become suspicious or aware of child abuse incidents. Moreover, Hong Kong currently has no laws on mandatory reporting of child abuses (see **para. 2.11**).

5.5 We note that the United Nations Committee on the Rights of the Child recommended as early as 2011 that all States parties establish mechanisms for reporting violence against children, or they should, at a minimum, require those professionals working directly with children to report instances, suspicion or risk of violence.⁸ Subsequently in 2013, the Committee further recommended that States parties focus on

⁸ For details, please refer to the general comment No. 13 on article 19 of the Convention on the Rights of the Child issued by the United Nations Committee on the Rights of the Child in April 2011: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f13&Lang=en

adopting a national coordination framework, including mandatory reporting of all cases and necessary follow-up measures, to address all forms of violence against children.⁹

5.6 In fact, according to a survey published in 2018 by the International Society for the Prevention of Child Abuse and Neglect (“ISPCAN”)¹⁰, of the 86 countries participating in the global survey, 71 had already enacted laws to require mandatory reporting of suspected child abuse cases. They included the United States, Canada, Switzerland, Australia and Japan.

5.7 We understand that there are diverse views in the community as to whether a mechanism for mandatory reporting of suspected child abuse cases should be established in Hong Kong, and no consensus has been reached yet. Advocates of the mandatory reporting mechanism assert that it can raise the sensitivity of professionals to suspected child abuse cases, so that more child abuse cases can be identified at an early stage. The sooner a suspected child abuse case is reported, the sooner the authorities can intervene and prevent the situation from worsening. On the other hand, there are views that mandatory reporting might give rise to mistaken reports and thus damage the relationship between professionals and families.

5.8 Given the views of the United Nations (see **para. 5.5**) and the fact that many countries have enacted laws on mandatory reporting of suspected child abuse cases (see **para. 5.6**), and in the light of the consultation paper published by the sub-committee of LRC, which set out the pros and cons of mandatory reporting and the issues to be considered (see **para. 3.15**), we opine that the Government should explore the feasibility of establishing a mechanism for mandatory reporting of suspected child abuse cases. We understand that whether a mechanism for mandatory reporting of suspected child abuse cases should be established is a complex issue involving a number of stakeholders, including various professionals and parents. It is imperative to conduct thorough and extensive discussions, studies and consultations and foster a broad consensus among the community before such a mechanism should be implemented.

⁹ For details, please refer to the concluding observations on the combined third and fourth periodic reports of China, adopted by the United Nations Committee on the Rights of the Child in October 2013: [https://www.cmab.gov.hk/doc/en/documents/policy_responsibilities/Concluding\(eng\).pdf](https://www.cmab.gov.hk/doc/en/documents/policy_responsibilities/Concluding(eng).pdf)

¹⁰ ISPCAN is an international concern group working to protect children from abuse and neglect, with 1,027 members from 87 countries.

(II) EDB SHOULD INSERT PROCEDURES FOR HANDLING SUSPECTED CHILD ABUSE CASES INTO THE KINDERGARTEN ADMINISTRATION GUIDE

5.9 We notice that EDB mentioned briefly the procedures for handling child abuse cases in the 2016 Circular issued to all schools (including kindergartens) (see **para. 4.2**), and elaborated in detail the procedures for reporting suspected child abuse cases in its 2018 Circular (see **paras. 4.3-4.8**). The School Administration Guide EDB issued to all aided primary and secondary schools also set out the procedures for reporting suspected child abuse cases (see **paras. 4.9-4.11**). Nevertheless, it failed to instruct kindergartens on how to handle suspected child abuse cases in its Kindergarten Administration Guide (see **para. 4.13**). In fact, a lot of child abuse cases involve young children. We consider that EDB should also include the information on how to identify child abuse cases in the Kindergarten Administration Guide to help kindergartens identify such cases as early as possible, so that they can promptly report the cases to the relevant parties and provide assistance to the young children involved.

(III) RELEVANT CONTENT OF SWD'S PROCEDURAL GUIDE AND EDB'S CIRCULARS/SCHOOL ADMINISTRATION GUIDE SHOULD BE CONSISTENT AND CLEAR FOR SCHOOLS TO FOLLOW

5.10 In paragraph 23.16 under Chapter 23 of the current Procedural Guide issued by SWD in 2015, it is stated that when making a referral of a suspected child abuse case to the FCPSU of SWD or the responsible social worker for follow-up action,

*the school should inform the parent(s)/guardian(s). Special attention has to be paid when parent(s)/guardian(s) is/are suspected to be involved in the abuse (see **para. 2.8**).*

5.11 On the other hand, EDB's 2018 Circular and the amended 2018/19 School Administration Guide stipulate the relevant procedures as follows:

*If parent(s)/guardian(s) is/are suspected to be involved in the abuse, schools do not need to seek the prior consent of parent(s) when making a referral of a suspected child abuse case to the school social worker/the caseworker of a known case or the FCPSU (see **paras. 4.7 and 4.11**) (thereafter referred to as*

“the EDB Instruction”).

The paragraph in SWD’s Procedural Guide cited above focuses on whether the schools should “inform” parent(s) when making referrals; and the EDB Instruction focuses on whether they have to seek the “consent” of parents when doing so. While the two are not contradictory, SWD admitted to us that school personnel often have doubts in this regard. As SWD is now revising the Procedural Guide, we consider that the Department and EDB should seize this opportunity to rationalise the relevant parts in their own guidelines for greater clarity and consistency, so that schools would have clear instructions to follow when handling suspected child abuse cases. They should also continue to communicate with each other when revising their own guidelines/circulars/School Administration Guide in future to ensure consistency of their revised contents.

(IV) EDB HAS NOT CONDUCTED STATISTICAL ANALYSIS ON THE LENGTH OF AND REASONS FOR STUDENTS’ ABSENCE

5.12 Besides family members, teachers and school social workers are the people that children see most often in their daily lives. If teachers and school social workers can be more alert and pay extra attention to the condition of children, in particular those who are frequently absent or have been absent for long periods, and try to find out the reasons for their absence and refer suspected cases of child abuse to relevant parties, we believe it should help expose earlier child abuse incidents. In fact, EDB agreed that the new Reporting Mechanism for Absentees in Kindergartens would heighten the alertness of kindergarten staff on suspected child abuse cases (see **para. 4.17**). We find that in the past EDB had not conducted any statistical analysis on the length of and reasons for students’ absence in primary and secondary schools. In response to our recommendation, EDB agreed to collect and analyse relevant data (see **para. 4.25**). We recommend that EDB also conduct statistical analysis on the length of and reasons for students’ absence after obtaining data through the new Reporting Mechanism (see **paras. 4.17 and 4.18**). By doing so, child abuse cases could be exposed at an early stage and EDB could get an overall picture and plan the appropriate support.

RECOMMENDATIONS

5.13 Overall, The Ombudsman recommends that:

- (1) the Government explore the feasibility of mandatory reporting of suspected child abuse cases (see **para. 5.8**);
- (2) EDB include the information on how to identify child abuse cases and procedures for handling suspected child abuse cases in the Kindergarten Administration Guide for kindergartens' reference (see **para. 5.9**);
- (3) SWD and EDB continue to communicate with each other when revising the guidelines/circulars/School Administration Guide in order to ensure consistency of the relevant contents so that schools can have clear guidelines to follow in handling suspected child abuse cases (see **para. 5.11**); and
- (4) EDB conduct statistical analysis on the length of and reasons for students' absence in kindergartens, primary and secondary schools to enable early identification of child abuse cases. EDB can then get an overall picture and plan the appropriate support (see **para. 5.12**).

ACKNOWLEDGEMENTS

5.14 The Ombudsman thanks SWD and EDB for their full cooperation during the course of this investigation.

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