

Executive Summary

Direct Investigation Report

Mechanism for Identifying and Reporting Suspected Child Abuse Cases

Introduction

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. There have been criticisms that the reporting mechanism for preventing child abuses has been inadequate, and no mandatory requirement is imposed on people who have become aware of the situation 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.

Our Findings

2. Regarding the mechanism for identifying and reporting suspected child abuse cases, we have the following observations and comments.

(1) Government Should Explore Feasibility of Mandatory Reporting of Suspected Child Abuse Cases

3. 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. SWD statistics show that many abusers were close relatives of the victims. 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 Hong Kong Police Force) after

they become suspicious or aware of child abuse incidents. Moreover, Hong Kong currently has no laws on mandatory reporting of child abuses.

4. 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. Subsequently in 2013, the Committee further recommended that States parties focus on adopting a national coordination framework, including mandatory reporting of all cases and necessary follow-up measures, to address all forms of violence against children.

5. In fact, according to a survey published in 2018 by the International Society for the Prevention of Child Abuse and Neglect, 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.

6. 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.

7. Given the views of the United Nations and the fact that many countries have enacted laws on mandatory reporting of suspected child abuse cases, and in the light of the consultation paper on “Causing or Allowing the Death or Serious Harm of a Child or Vulnerable Adult” published in May 2019 by the relevant sub-committee of the Law Reform Commission, which set out the pros and cons of enacting laws on mandatory reporting of suspected child abuse cases and the issues to be considered, 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 can be implemented.

(II) Education Bureau Should Insert Procedures for Handling Suspected Child Abuse Cases into the Kindergarten Administration Guide

8. The Procedural Guide For Handling Child Abuse Cases (“Procedural Guide”) issued by SWD specifies the procedures for handling suspected child abuse cases for professionals’ reference, and the School Administration Guide issued by the Education Bureau (“EDB”) to all aided primary and secondary schools in each new school year also sets out those procedures. Nevertheless, EDB failed to instruct kindergartens on how to handle suspected child abuse cases in the Kindergarten Administration Guide it issued to all kindergartens in September 2017. In fact, a lot of child abuse cases involve young children. We consider that EDB should 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 Contents of SWD’s Procedural Guide and EDB’s Related Circulars/School Administration Guide Should Be Consistent and Clear for Schools to Follow in Handling Suspected Child Abuse Cases

9. In paragraph 23.16 under Chapter 23 of the current Procedural Guide (which was issued by SWD in 2015), it is stated that when making a referral of a suspected child abuse case to SWD’s Family and Child Protective Services Unit (“FCPSU”) 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.

10. On the other hand, the EDB Circular “Handling Suspected Cases of Child Abuse and Domestic Violence” issued to all schools (including kindergartens) in August 2018 and the School Administration Guide issued in September that year 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 parents when making a referral of a suspected child abuse case to the school social worker/known case to the caseworker or FCPSUs (thereafter referred to as “the EDB Instruction”).

11. The paragraph in SWD’s Procedural Guide cited above focuses on whether the schools should “inform” parents 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

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 February 2018, EDB set up the Reporting Mechanism for Absentees in Kindergartens, requiring kindergartens to report to EDB any student’s absence for seven consecutive days without reason or under doubtful circumstances. EDB agreed that the Reporting Mechanism would heighten the alertness of kindergarten staff on suspected child abuse cases. 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 recommendations, EDB agreed to collect and analyse the relevant data. 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. By doing so, child abuse cases could be exposed at an early stage and EDB could get an overall picture and thereby plan the appropriate support.

Recommendations

13. Overall, The Ombudsman recommends that:

- (1) the Government explore the feasibility of mandatory reporting of suspected child abuse cases;
- (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;
- (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; 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.

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