

## **The Hong Kong Council of Social Service**

### **Review of Procedural Guide for Handling Child Abuse Cases**

#### **Consultation on Definition of Child Abuse and Handling Approaches**

The Hong Kong Council of Social Service (The Council) has been concerned about the Review of Procedural Guide for Handling Child Abuse Cases launched by the Social Welfare Department (SWD) in November, 2016. Upon the issuance of the Consultation Paper on definition of child abuse and handling approach by SWD, eight consultation sessions have been held by the Council to collect views from practitioners from Integrated Family Service Centres, School Social Work Service, District Youth Outreaching Social Work Service, Integrated Children and Youth Services Centres, Residential Child Care Services, Ethnic Minorities Services, and Drug Treatment and Rehabilitation Services, as well as non-subsidized social services and bodies advocating children's rights. There have been around 250 practitioners engaged to discuss the matter.

Based on the discussion and the comments received, the Council would like to give opinions and suggestions with regard to "*Definition of Child Abuse*" and "*Approaches in Handling Suspected Child Abuse/Child Abuse Cases*" as stipulated in the Consultation Paper. As there have been some "*Issues of Concern*" related to child protection came up in the consultation sessions, we have also furnished them in this paper for the information and follow up of SWD.

#### ***Definition of Child Abuse***

##### **Acts, Harm to Child and Intention of Acts**

1. The definition of child abuse should focus on the acts of commission or omission of adults that do harm or generate threat of harm to the child regardless of the intentions of the concerned adults. To avoid confusion among practitioners, the revised definition should mention clearly that intention is not a factor to consider in invoking the mechanism of child protection. Yet, the intention of the suspected perpetrator should be considered when devising welfare plan.
2. There is a suggestion of SWD on changing the Chinese translation of the term "child abuse" (虐待) to a more neutral one. This suggestion is based on the observation that "虐待" connotes an act with an ill intention and bad motive. We have learned from the consultation sessions that different people interpret words differently. "虐待" could be read as an intolerable harm or maltreatment committed without any ill intention and bad motive, but brings negative and serious consequences that deserve professional attention. It could also be read as harm done with ill intention which many would conceive as "虐待". Since it is a general consensus that child abuse can be established regardless of intention, using a neutral term may cause over neutralization for cases which genuinely deserve serious professional and public attention. There may also be a moral hazard

that abusive behaviors without ill intention are perceived by the public as acceptable practices of parenting if a neutral term is used. If the term “child abuse” (虐待) sounds confusing or disturbing to parents or caregiver during the course of intervention, professionals could use soft skills to engage them into the helping process based on professional judgment. Though the sector cannot come up with a better replacement at this moment, the Council is open to any proposal on both Chinese and English terminology which adheres to our definition of abuse and the above principles of practice while at the same time communicates a clear message that abusive act, with or without intention, is not acceptable against moral and social standards of our society and deserves professional and public attention.

### Child Abuse Perpetrators

3. According to practitioners’ experiences, perpetrators of child abuse can be people who are not entrusted with the care and control of a child. The Council considers that for the maximum benefit of the child, it would be more appropriate to adopt a broader definition of perpetrator. We think that the definition offered by World Health Organization, as mentioned in the Consultation Paper, better reflects the reality of Hong Kong as observed by the practitioners.

### Neglect and Psychological Abuse

4. Based on the experiences shared by many practitioners, there are difficulties in identifying neglect and psychological abuse cases under the existing definitions. The existing definitions state that “neglect is *severe* or a *repeated* pattern of lacking attention to a child’s basic needs...” and “psychological abuse is the *repeated* pattern of behavior and attitudes towards a child...”. Both however do not qualify clearly the meaning of severity and frequency. Two suggestions are made to help.

First, referencing the definitions from World Health Organization and Ireland, it is recommended that the definition of neglect and psychological abuse should be revised as follows:

- For neglect: to include both isolated incidents as well as a pattern of failure over time on the part of the party entrusted with care responsibility to provide for the development and well-being of the child and that a threshold of significant harm is reached;
- For psychological abuse: to include both isolated incidents as well as a pattern of behaviors that attacks a child’s emotional development and sense of self-worth, and that a threshold of significant harm is reached.

The revised definition should be able to widen the scope of screen-in and hence to offer timely protection to children who are at risk or potentially at risk of abuse.

Second, to help practitioners make better judgment, The Council suggests that examples of neglect and psychological abuse be included as part of the elaboration of the definitions in the procedural guide for their reference.

### Sexual Abuse and Sexual Exploitation

5. The current definition of child sexual abuse is unclear in terms of how it differentiates from casual sexual relationship. It is necessary to elaborate on the concept of sexual exploitation including the purpose of the act, power differential (including but not limited to age difference) between the suspected perpetrator and the child, as well as other essential elements which constitute exploitation.

### Institutional Abuse

6. The present child protection system, in particular MDCC, does not deal with cases of institutional abuse. However, institutions such as schools, residential service settings and so on could be the sites where abusive behaviors are found. The Council understands that the existing mechanism is not designed to find fault with any parties, nor is not charged with considerable power to deal with institutional entities. However, the Council thinks that to ensure such institutions take reasonable measures against child abuse, the government should consider setting up a separate mechanism to handle institutional abuse. It is suggested that SWD provides the Task Group and the sector with more references on how institutional abuse is prevented and handled in other countries to facilitate further discussion.

## ***Approaches in Handling Suspected Child Abuse/Child Abuse Cases***

### Approaches To Be Adopted

7. Another area for consultation this time is approaches to handling child abuse. The Council agrees that whatever approaches adopted will guide subsequent detailed discussion on the handling procedures, roles and responsibilities of professional etc., in the review exercise. Unfortunately, not sufficient discussion on this area was done in the consultation sessions conducted. It would be more favourable for future discussion if the following could be addressed. First, what are the observations of SWD on the use of the present approach, namely “multi-disciplinary and case manager approach”, and are there any issues that we need to address? Second, while noticing that those approaches mentioned in the consultation paper are developed and practiced in other countries as to solve their contextual problems (e.g. the large number of cases reported because of legislative requirement of mandatory reporting, the negative label on perpetrators manifested by the finding required by statute, rationing of resources incurred in child protection, etc.), The Council suggests that SWD should give more delineation on the direction of discussion. Providing more information on the contexts, such as the legal provision, the reporting system, resources and manpower, etc., in which those approaches are situated could help the sector to discuss the feasibility and suitability of local adaptation of those approaches.

### Elaboration on “the best interests of children”

8. The Council agrees with the addition of more concrete and practicable goals on top of the general vision statements adopted in the Procedural Guide to guide the actions of intervention. Besides, further elaboration on “to serve the best interests of children” is also required in the procedural guide. With reference to the welfare checklist for family proceedings and children from the UK and the one proposed in the Children Proceedings (Parental Responsibility) Bill drafted in Hong Kong, it is suggested that a welfare checklist covering the following (but not limited to) should be included:
- The ascertainable wishes and feelings of the child concerned;
  - The child’s physical, emotional and educational needs;
  - The likely effect on the child if circumstances changed as a result of the decision made in MDCC;
  - The child’s age, sex, backgrounds and any other characteristics which will be relevant to the welfare plan devised in MDCC;
  - Any harm the child has suffered or maybe at risk of suffering;
  - Capability of the child’s parents (or any other relevant person) at meeting the child’s needs

### ***Other Issues of Concern***

#### A Case Bank to Enhance Professional Competence

9. Handling child abuse requires delicate decision-making and subtle skills of practitioners. To enhance professional competence of the practitioners and the stakeholders involved in the child protection mechanism, the Council suggests that a case bank should be created to collect and document all the handled cases for both professional reference and advanced trainings for practitioners. Detailed explication and explanation on the application of definition of child abuse, power differential between the suspected perpetrator and the child, the way how the best interests of the child are served, and so on in each case can be illustrated in the cases collected.

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