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童 心 同 行 40 年

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Mandatory Reporting of Suspected Child Abuse Cases Position Paper

Foreword

The Against Child Abuse (ACA) was established in 1979 and has been committed to eliminate all forms of child abuse in Hong Kong and promote a caring and non-violent environment for the optimal growth and development of children.

With reference to the Child Protection Registry, there were more than a thousand newly reported child abuse cases in 2018 and 2019, the highest in previous years. Physical abuse accounted for more than 40% of the total. The number of neglect cases has continued to rise in the past decade. In 2018, there were successive incidents of child deaths, serious injuries, and neglect. Some of these cases were hidden in the community and were not followed up by social welfare agencies, prompting public concern about the need to establish a mandatory reporting mechanism for suspected child abuse cases.

The United Nations Convention on the Rights of the Child has been extended to Hong Kong since 1994. In 2011, the United Nations Committee on the Rights of the Child recommended that all State parties establish mechanisms for reporting violence against children. In its Concluding Observations of 2013, the Committee recommended that the State party adopts a national coordinating framework, including mandatory reporting of all cases and the follow-up measures necessary to address all forms of violence against children.

According to a survey published by the International Society for the Prevention of Child Abuse and Neglect in 2018, 71 of the 86 countries participating in the survey have enacted legislation to compulsorily report suspected child abuse cases, including the United States, Canada, Australia, Switzerland, Japan, etc.

The Office of the Ombudsman, Hong Kong also published a proactive investigation report on the mechanism for identifying and reporting suspected child abuse cases on 22 October 2019. It is recommended that the government should explore the feasibility of mandatory reporting of suspected child abuse cases and require professionals who have contacts with children to report suspected child abuse cases within a specified time.

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ACA has the following opinions on the feasibility of mandatory reporting of suspected child abuse cases:

1. ACA supports the establishment of a mandatory reporting mechanism

Children are frail and vulnerable. Their growth and development depend on the proper care of family members and caregivers around them. Regrettably, according to the statistical report of the Social Welfare Department, more than 70% of abusers are the parents, family members and caregivers of abused children. Therefore, abusers seldom ask for help, and abused children are unable to protect themselves. Hidden cases cannot be ignored. The “Failure to Protect” Offence recommended by the Law Reform Commission of Hong Kong in May 2019 can fill the loopholes in this area to a certain extent by providing incentives for people caring for or living with children to assist in protecting children when they are at risk of harm. But after more than a year, this issue is still in the consultation stage.

Based on the principle of child protection, the government must consider the best interests of children when formulating laws and policies. The establishment of a mandatory reporting mechanism can raise the sensitivity of professionals to suspected child abuse cases and the public awareness of protecting children. It can also demonstrate the government’s determination to curb child abuse incidents. More importantly, it will help relevant departments and agencies to detect and identify child abuse cases, speed up professional intervention and provide appropriate support, so as to prevent the situation from evolving to a serious or even fatal plight before being exposed, and reduce the occurrence of tragedies.

2. Consultation should be carried out

There are different opinions on this issue so that the understanding of the community needs to be strengthened. In the formulation and implementation, it involves multiple categories and stakeholders. The government must conduct extensive consultation and in-depth discussions, and collect opinions from all relevant sectors and stakeholders, including the voices of children, in order to reach a certain consensus and facilitate implementation.

3. The responsibility of reporting starts with professionals

Professionals play an important role in the protection of children. With their professional



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knowledge and judgment, if suspected child abuse cases are found, they should report and provide support as soon as possible to avoid further harm/abuse of the children concerned. There is evidence that the severity of corporal punishment/child abuse will increase over time, and early professional intervention is critical; otherwise, the consequences may be very serious.

Although the current "Protecting Children from Maltreatment - Procedural Guide for Multi-disciplinary Co-operation" can allow professionals to follow when dealing with suspected child abuse cases, the Guide and mandatory reporting mechanism cannot be equivalent in effectiveness. The former is not legally binding. Admittedly, many professionals who come into contact with children are hesitant to report immediately when they discover or suspect that children have been abused or facing the risk of abuse. For example, schools or case workers worry about the parents' reaction and the cooperative relationship be affected; social workers are not supported by their superiors to report. In 2010, a research report on the reporting behavior of general practitioners in Hong Kong who encountered child abuse cases was published, and it was found that 40% of general practitioners who encountered suspected cases never reported, and there is a common situation of insufficient reporting.

Therefore, the responsibility of reporting should first cover professionals who frequently come into contact with children and families at work, including principals, teaching staff, child care workers, social workers, counsellors, doctors, nurses, police and lawyers. Under the mandatory reporting system, if these professionals reasonably suspect or believe that a child has been harmed/ill-treated/ignored according to the Guide and their professional knowledge, they must notify the relevant departments/organisations/law enforcement institutions within a specified time. The informant does not need to know or prove that the incident is true and there is no need to investigate on your own.

As for other groups and members of the public, the government needs to strengthen community publicity and education and encourage the public to take the initiative to report suspected child abuse cases. The feasibility of mandatory reporting by all citizens can be explored when the professional mandatory reporting mechanism works smoothly, the needs of resources and supporting understood, and publicity and education is effective.

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4. All types of suspected child abuse cases must be reported

Various child abuse behaviors will bring harm and impact in varying degrees to children's physical and mental health and development. It is particularly important to receive appropriate treatment and counseling services as soon as possible to facilitate the recovery process. In terms of protecting children and promoting their well-being, all types of suspected cases, including physical harm/abuse, sexual abuse, neglect, psychological harm/abuse, as well as children witnessing domestic violence, school and cyber bullying, must be reported as these cases will have a negative and even profound impact on children. In addition to suspected abused children, it is necessary to pay attention to and assess whether their siblings are at risk of abuse.

5. Increase resources and supporting package

Cases of child abuse which occur from time to time in the society show that the existing laws, systems, and measures are still insufficient to protect child safety and rights. The protection of children is the common responsibility of the government and all adults in the society so that more resources should be allocated to give full play to the function of protecting children. A complete supporting package is required, including sufficient resources, manpower allocation and division of labor, triage system, professional staff training program, community publicity and education, etc., to make the mandatory reporting mechanism truly play the role of a safety net.

6. Establish a clear case triage system

There are voices in the society that the mandatory reporting system will increase the number of reported and referral cases, or delay the processing of child abuse cases that urgently need support. In accordance with the operation of the current voluntary reporting in Hong Kong, when professionals encounter suspected child abuse cases, they can first identify the case, make preliminary assessment, and report the case to relevant departments/organisations/law enforcement institutions if there is reasonable doubt. Apart from increasing human resources, the government can set up a clear case triage system. Based on the information provided by the informant, cases with a high risk level, such as obvious or serious injuries, sexual abuse, and neglect should be referred to child protection service departments/organisations/law enforcement institutions to conduct child protection investigations and hold multi-disciplinary case conferences. As for cases where children have mild emotional/behavioral signs, they can be referred to the family service centers for follow-up. After investigation and follow-up of cases, appropriate

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departments/organizations can be arranged to provide follow-up services according to the severity of the crisis and the needs of children and families. To achieve effective triage, a clear assessment tool and documentation are needed.

7. State the protection and legal responsibilities of the informant under the mandatory reporting system

In order to relieve the informants' doubts, regulations need to provide protection for them, such as ensuring that the informants' identity is kept confidential and their information will not be leaked; if the informants comply with the principle of reporting in good faith, that is, they sincerely believe in the case/incident with or without suspected elements of child abuse, decide to report or not to report, and can provide reasons. Even if the facts are found to be different from their judgments, or the accusation is not established, the informants do not have to bear legal responsibility. In addition, regulations need to stipulate that if the professionals fail to report suspected child abuse cases in accordance with their duties, they shall be liable, such as fine or imprisonment.

8. Provide training and clear guidance for professionals

Before implementing mandatory reporting, professionals who have the duty to report must be given appropriate training. Such training needs to be held regularly to cater for professionals who have entered the job at different stages. Training not only makes professionals familiarize with the content of the "Protecting Children from Maltreatment - Procedural Guide for Multi-disciplinary Co-operation" so as to master the skills in identification, evaluation and handling of child abuse cases, but also allow them to understand the implementation rules and operation of the mandatory reporting mechanism.

9. Strengthen publicity and education

The government needs to strengthen publicity and education in the community to make the public understand that protecting children is the common responsibility of society and the negative impact of child abuse on children themselves, their families and even society. Educating the public about the reporting channels of suspected child abuse cases is essential. All these will also help create a culture of caring for society.

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10. Continuous review and evaluation

The government can continue to review the implementation and operation of the mandatory reporting mechanism through the Committee on Child Abuse or a task group to assess its effectiveness and formulate remedial plans in a timely manner, hoping to expand the protection of children.

Conclusion

There are frequent incidents of child abuse in the society. When some cases were disclosed, the children had suffered serious physical and mental injuries or even died. The government should review the existing laws and systems in due course, and comprehensively protect the safety and well-being of children through legislative, administrative, social and educational measures. ACA hopes that the government will start consultation work on mandatory reporting of suspected child abuse cases as soon as possible, plan when and how to implement mandatory reporting of child abuse cases by professionals, and then explore the feasibility of mandatory reporting by all citizens.

Donna Wong
Director
Against Child Abuse
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