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**Views of Against Child Abuse on the
“Proposal on the Mandatory Reporting Requirement for Suspected Child Abuse
Cases” by the Labour and Welfare Bureau, Education Bureau, Health Bureau
and Security Bureau**

Foreword

Established in 1979, Against Child Abuse (ACA) is committed to eliminating all forms of child abuse in Hong Kong and promoting a caring and non-violent environment for the optimal growth and development of children.

According to the Child Protection Registry of Social Welfare Department, the number of newly registered child abuse and high-risk cases in 2021 was at a record high. In the recent two months, there were successive incidents of young children suspected of being abused to death. Children are fragile, vulnerable, not able to protect themselves or seek help. Their growth and development need kind caregivers and caring families.

ACA welcomes the Government’s legislative work on mandatory reporting requirement with the target of introducing a bill into the Legislative Council in the first half of 2023. We hope the Government would formulate clear reporting standards, reporting channels, time-frame for reporting, reporter liability, implementation details, etc., and provide appropriate, regular and continuous trainings for professionals to enhance professional capacity for early identification and handling of suspected child abuse cases. And in doing so, the reporting mechanism could be made effective after prompt legislative work.

The spirit of the mandatory reporting mechanism is to early identify and effectively intervene suspected child abuse cases, conveying the message that violence against children is not tolerated in a child-caring culture and in a society with violence-free environment.

Regarding the five main areas and the proposed implementation details in the consultation paper, ACA has the following views:

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1. Whom to Protect

ACA supports the working group to define children as persons aged below 18 in accordance with the definitions of the United Nations Convention on the Rights of the Child, the World Health Organization, and the local “Protecting Children from Maltreatment-Procedural Guide for Multi-disciplinary Co-operation”.

2. Who are mandated to make reports

At this stage, ACA agrees that the mandatory reporting requirement should firstly cover practitioners who have frequent contacts with children and whose professions or work are currently subject to some forms of regulation. The mandated reporters should also include the persons in charge of the institutions. With their professional knowledge and judgment, they can follow the current procedural guide to conduct initial identification and assessment of the cases. If they have reasonable grounds to suspect that a child “has suffered serious harm” or “is at an imminent risk of suffering serious harm”, it must be reported to the Police and/or the dedicated team in the Social Welfare Department's Family and Child Protective Services Unit within a reasonable time to prevent the child from further harm/abuse. ACA hopes that the Government would explore the feasibility of extending the reporting by professionals to the public when the mechanism and supporting facilities are mature, and publicity and education are in place.

In addition, we suggest that the list of mandated reporters be updated timely in line with development of the society and needs of families. To expand the scope of coverage, tutors and persons in charge of registered tuition centers are suggested to be added to the proposed list.

3. What types of suspected cases to be reported

ACA agrees to the “tiered” reporting, covering physical abuse, sexual abuse, neglect, and psychological abuse to avoid delays in handling serious or high-risk cases amongst expected increased reports. We suggest that “child witnessing domestic violence” be spelt out explicitly and added to Level 1 of Psychological Abuse, because it leads to serious and long-term psychological harm to children.

Besides, if parents continuously refuse to accept home visitation from schools or institutions without reasonable explanations, such cases should be reported for early assessment and intervention. This is exactly where the loophole lies and a

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commonality amongst the past abuse tragedies.

ACA agrees that a reference guide book with illustrations of reportable circumstances be drawn up to provide practical guidance for mandated reporters to identify target cases. We suggest that the guide be updated in a timely manner.

Professionals should be reminded that the illustrations are not exhaustive and are for reference only. If in doubt, professionals must seek assistance.

We suggest a reasonable reporting time-frame be specifically set, to avoid delay and individual judgement variations.

4. What should be the appropriate level of penalty

We suggest that the penalty is commensurate with the nature and seriousness of committed offences. We agree that the working group refer to the current penal system and setting the penalty of three months' imprisonment and a fine at level 5 (HK\$50,000) for mandated persons who fail to report. In addition, imposing penalties on deliberate false reporters should be considered.

5. How to safeguard mandated reporters' interest

In order to reduce concerns and protect reporter interests, ACA agrees to confidentiality and protection provisions in the new legislation and guide, to exempt reporters from civil, criminal or administrative liability arising from a report made in good faith, except in situations when reporter identity disclosure is needed for the safety and well-being of a child.

In order to facilitate the smooth implementation of the mandatory reporting mechanism, ACA urges with the Government to:

(1) Increase in manpower and emergency/short-term accommodation

Allocate appropriate resources and sufficient manpower to handle reported cases at all levels, and increase emergency and short-term accommodation for children temporarily unfit for home life.

(2) Provide continuous training

Before and after the implementation of the mandatory reporting requirement,

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appropriate, regular and continuous training must be provided for mandated reporters at different stages of career, helping them acquire knowledge and skills to identify, assess and handle suspected child abuse cases, and to understand the legislation, enforcement rules, operation and reporters' interest of the mandatory reporting mechanism.

(3) Enhance publicity and education

Enhance publicity and education work in the community to help public understand their responsibility in child protection and that child abuse can bring negative impacts on children, their families and the society, and to educate the public how to report suspected child abuse for a society with a caring culture.

(4) Timely review and evaluate the effectiveness

Review the implementation and operation of the mandatory reporting mechanism in a timely manner, evaluate the effectiveness, and formulate improvement plans when necessary, so that the mechanism can truly play the role of a safety net.

(5) Review Comprehensive Child Development Service

“Comprehensive Child Development Service” has the role of early identification and intervention in families in crisis. This scheme has been implemented for more than ten years. It is hoped that the Government will review its operation and effectiveness to strengthen relevant services.

(6) Enhance preventive measures

Enhance early preventive services, such as Home Visiting Service for Infants, to support new parents and enhance their awareness of positive parenting and home safety. It is also necessary to strengthen support for high-risk families in child care, parent education, mental health, economic relief, etc. High-risk families include deprived families, single families, blended families, new arrival families, families with children with special educational needs, parents and carers with emotional distress or mental problems or substance abuse, etc.

Looking forward

Comprehensive protection for children requires a synergy of legislative, administrative, social and educational measures. In September 2021, the Law Reform Commission of

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Hong Kong released a report on the “Failure to Protect” Offence, recommending the introduction of this new offence. The recommendation has taken “Child’s Best Interest” as core value, providing a higher degree of protection for children. ACA hopes that the Government will speed up the implementation of this offence, so as to create a synergy with the mandatory reporting mechanism.

Donna Wong
Director
Against Child Abuse