

Briefing on Mandatory Reporting of Child Abuse Regime

Guidance & Discipline Section, EDB

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1 Mandatory Reporting of Child Abuse Ordinance

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Background of the Mandatory Reporting of Child Abuse Ordinance

There had been a long-standing demand in the community to establish a mandatory reporting mechanism in Hong Kong to ensure early and effective identification and intervention of child abuse cases. In April 2021, the court's ruling in the case of a 5-year-old girl who was abused to death by her parents revived the public concern about the lack of reporting of serious child abuse cases in Hong Kong and called on the Government to take action.

At that time, the reporting of suspected child abuse cases was made on a voluntary basis. The procedures for the identification and reporting mechanism as well as the protection actions, multidisciplinary case conferences and follow-up plans for suspected child abuse cases are set out in “Protecting Children from Maltreatment - Procedural Guide for Multidisciplinary Co-operation” of the Social Welfare Department (SWD).

According to SWD statistics, the number of reported cases of child abuse from 2018 to 2022 was 1 064, 1 006, 940, 1 367 and 1 439 respectively. About 60% of the abusers were parents.

In July 2021, the Government set up a cross-bureaux working group (the Working Group) comprising the Labour and Welfare Bureau, the Education Bureau, the then Food and Health Bureau and the Security Bureau to explore the feasibility of introducing a mandatory reporting regime in Hong Kong.

The Working Group proposed to mandate specified professionals who have frequent contacts with children (“mandated reporters”) to report abuse cases as soon as practicable, if they suspect that a child “has been suffering serious harm” or “is at real risk of suffering serious harm”. The proposal was premised on the following considerations:



The mandated reporters, after receiving appropriate training, are better placed to detect child abuse cases than members of the general public. Making it their duty to report, with criminal liability for non-compliance, will ensure early identification of more substantiated cases which require urgent investigation and support.

Mandatory reporting of cases involving serious harm will achieve better results than requiring reporting on all suspected cases. The latter approach may result in an exponential increase in unsubstantiated referrals, which may divert scarce public resources from timely intervention into substantiated cases.

At the meeting of the Executive Council on 23 May 2023, the Council advised and the Chief Executive ordered that the Mandatory Reporting of Child Abuse Bill should be introduced into the Legislative Council.

The following key items were examined:

(a) Whom to protect

(b) What types of suspected cases to be reported

(c) Who are mandated to make reports

(d) What should be the appropriate level of penalty

(e) How to safeguard mandated reporters' interest

Interpretation of the Ordinance

- Authority – the Director of Social Welfare or the Commissioner of Police
- Courts – includes a magistrate
- **Child – a person below the age of 18 years**
- Responsible Person – in relation to a child, means a person who has attained the age of 18 years and has the custody, charge or care of the child
- Specified Professional – a person specified in Part 1 of Schedule 1 of the Ordinance
- Report – a report made under section 4(1) of the Ordinance
- Material time – the time at which the ground mentioned in subsection (1) comes to the notice of the specified professional
- Serious Harm – any harm specified in Schedule 2
- Government school – a school entirely maintained and controlled by the Government
- Specified School - a school within the meaning of the Education Ordinance (Cap. 279), but does not include –
 - (a) a Government school;
 - (b) a school that only provides post secondary education within the meaning of that Ordinance; or
 - (c) an exempted school within the meaning of the Education (Exemption) (Private Schools Offering Non-formal Curriculum) Order (Cap. 279 sub. leg. F)
- Accredited Register – in relation to a healthcare profession, means the register maintained –
 - (a) under The Accredited Registers Scheme for Healthcare Professions (Scheme) established by the Government; and
 - (b) by the professional body that is accredited for the profession under the Scheme

Key matters:

1. When must reports be made

2. What types of suspected cases to be reported

3. Who are mandated to make reports

4. Penalties

5. How to safeguard mandated reporters' interest

1.

When must
reports be
made

If a reasonable ground to suspect the following comes to the notice of a specified professional during the course of his or her work as a specified professional—

- (a) a person is a child at the material time; and
- (b) at the material time, the child—
 - (i) is suffering serious harm; or
 - (ii) is at real risk of suffering serious harm

Reporting channels and requirements

The professional must, as soon as practicable after the material time, make a report in respect of the child in compliance with section 6. Requirements for reports are as follows:

1.

A report must be made to an Authority

2.

A report must contain-

- a) sufficient information for an Authority to identify the child concerned
- b) the ground mentioned in section 4(1)
- c) the contact information of the specified professional making the report

3.

A report must be made in the way specified by the Director of Social Welfare

2.

What types of suspected cases to be reported

Suspect that the child is suffering serious harm or is at real risk of suffering serious harm at the material time.



Material time –
means the time at which the ground mentioned in subsection (1) comes to the notice of the specified professional.



Serious harm –
means any harm specified in Schedule 2.

Schedule 2 - Serious Harm

1. Any harm that endangers a child's life, or harm that endangers a child's physical health and requires urgent medical treatment, including—
 - (a) loss of any limb or the function of any limb;
 - (b) loss of sight or hearing;
 - (c) injury to any internal organ;
 - (d) fracture of any bone;
 - (e) burn on body surface;
 - (f) wound that causes nerve, muscle or tendon damage or severe haemorrhage; and
 - (g) loss of consciousness or impaired consciousness.
2. Any harm that endangers a child's psychological health or development, including—
 - (a) mental derangement; and
 - (b) prolonged psychological trauma, but does not include any emotional reaction (such as distress, grief, fear and anger) that is a response to the ordinary vicissitudes of life.
3. Any harm caused by coercing or enticing a child to take part in—
 - (a) rape;
 - (b) incest;
 - (c) buggery;
 - (d) sexual intercourse; or
 - (e) any act of gross indecency.
4. Any harm caused by the neglect of a responsible person of a child that endangers the child's life or health, including—
 - (a) by failing to provide the child with necessities for maintaining the child's life or health; and
 - (b) by exposing the child to a situation (such as allowing the child to access or take any dangerous drug or substance) or environment that endangers the child's life or health.

No reporting is required

A specified professional is not required to make a report under subsection (1) if—

- (a) the professional honestly and reasonably believes that the serious harm—
 - (i) was caused solely by an accident that is not caused by the neglect of a responsible person of the child;
 - (ii) was, or is to be, caused solely by the child himself or herself; or
 - (iii) was, or is to be, caused solely by any other child (otherwise than caused by any act of a sexual nature);

- (b) an Authority had informed the professional at or before the material time in respect of—
 - (i) the same, or substantially the same, serious harm suffered by the child; or
 - (ii) the same, or substantially the same, real risk of child suffering serious harm;

No reporting is required

- (c) the professional had made a report before the material time in respect of—
 - (i) the same, or substantially the same, serious harm suffered by the child; or
 - (ii) the same, or substantially the same, real risk of the child suffering serious harm; or

- (d) the professional honestly and reasonably believes that another specified professional had made a report at or before the material time in respect of—
 - (i) the same, or substantially the same, serious harm suffered by the child; or
 - (ii) the same, or substantially the same, real risk of the child suffering serious harm.

3. Who are mandated to make reports

Specified Professionals

Education	✓ a registered teacher or a permitted teacher	
Sector	<ul style="list-style-type: none"> ✓ a teacher or a principal who is working in a Government school ✓ a member of the teaching staff or a principal of the Youth College of the Vocational Training Council ✓ a warden of a boarding school 	
Social Welfare	✓ a social worker	
Sector	✓ a child care worker or supervisor	
	✓ a superintendent of a residential child care service unit	
Healthcare	✓ a nurse	✓ a radiographer
Sector	<ul style="list-style-type: none"> ✓ a medical practitioner ✓ a dentist ✓ a dental hygienist ✓ a Chinese medicine practitioner ✓ a physiotherapist ✓ an occupational therapist ✓ a medical laboratory technologist ✓ an optometrist 	<ul style="list-style-type: none"> ✓ a pharmacist ✓ a midwife ✓ a chiropractor ✓ a speech therapist ✓ a dietitian ✓ an audiologist ✓ a clinical psychologist ✓ an educational psychologist

Specified Professionals Working at School

a child care worker or supervisor

a registered teacher or a permitted teacher who is working in a specified school

a warden of a boarding school

a social worker

a person employed as a member of the teaching staff or a principal of the Youth College of the Vocational Training Council

a person employed by the Government as a teacher or a principal who is working in a Government school

a superintendent of a residential child care service unit

a speech therapist

an educational psychologist

4. Penalties

A specified professional who contravenes subsection (1) commits an offence and is liable—

- (a) on summary conviction—to a fine at level 5; or
- (b) on conviction on indictment—to a fine at level 5 and to imprisonment for 3 months.

*According to Schedule 8 (Levels of fines for offences) of the Criminal Procedure Ordinance (Cap. 221) in Hong Kong, the fine at level 5 (HK\$50,000) is in force.

5.

How to safeguard mandated reporters' interest

Prohibition on inhibiting or obstructing making of reports

- 1) A person must not wilfully—
 - (a) inhibit or obstruct a specified professional from making a report; or
 - (b) impose any guideline or requirement that has such an effect.

- 2) A person who contravenes subsection (1) commits an offence and is liable—
 - (a) on summary conviction—to a fine at level 5; or
 - (b) on conviction on indictment—to a fine at level 5 and to imprisonment for 3 months.

Pre-reporting Protection

Post-reporting Protection

Applies to a specified professional in respect of a report made by him or her if, at the time of making the report, the professional has honestly and reasonably believed that he or she was required by this Ordinance to make the report.

No liability incurred by making reports

1.

A specified professional does not incur any civil or criminal liability only by making a report.

2.

A specified professional must not be held to have breached any code of professional conduct or ethics, or to have departed from any accepted standards of professional conduct, only by making a report.

3.

To avoid doubt, a reference to making a report includes providing supplementary information in connection with the report.

Prohibition on disclosing identity of specified professionals who made reports

- 1) A person commits an offence if the person discloses the identity of a specified professional as the person who made a report, or information from which such identity could be deduced.
- 2) A person who commits an offence under subsection (1) is liable—
 - (a) on summary conviction—to a fine at level 5; or
 - (b) on conviction on indictment—to a fine at level 5 and to imprisonment for 3 months.
- 3) It is a defence for a person prosecuted for an offence under subsection (1) to establish that—
 - (a) the disclosure is necessary for performing a function under an Ordinance, or for carrying into effect or doing anything authorized by an Ordinance;
 - (b) the disclosure is made for the consideration of the institution of, or otherwise for the purpose of, any criminal proceedings or any investigation of a criminal complaint;
 - (c) The disclosure is made with the written consent of the professional;
 - (d) the disclosure is made under an order of a court;
 - (e) the disclosure is made for the purpose of seeking advice from, or the giving of advice by, a counsel or a solicitor or any other professional adviser, acting or proposing to act in a professional capacity in connection with any matter arising under this Ordinance;
 - (f) the identity of the professional, or the information, has already been lawfully disclosed or made available to the public; or
 - (g) the disclosure is made to prevent or mitigate a real risk of injury to a person.
- 4) A person is taken to have established a matter that needs to be established for a defence under subsection (3) if—
 - (a) there is sufficient evidence to raise an issue with respect to that matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

Defences for offence under section 4

- 1) If a specified professional is prosecuted for an offence under section 4(4), it is a defence for the professional to establish that, at the time of the alleged offence, the professional had reasonable excuse for contravening section 4(1).
- 2) If a specified professional is prosecuted for an offence under section 4(4) for failing to make a report in respect of a child as soon as practicable after the material time as defined by section 4(5) (**delay**), it is a defence for the professional to establish that the professional—
 - (a) honestly and reasonably believed that the delay was in the best interests of the child; and
 - (b) has, during the delay, taken actions that are reasonably necessary in the circumstances to protect the interests of the child.
- 3) A specified professional is taken to have established a matter that needs to be established for a defence under subsection (1) or (2) if—
 - (a) there is sufficient evidence to raise an issue with respect to that matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

Implementation

This Ordinance comes into operation on the expiry of 18 months after the day on which it is published in the Gazette, that is, 20 January 2026.