

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

### **Strengthening Support Service for Victims of Domestic and Sexual Violence in HK** **Legal Support Service to Victim of Domestic and Sexual Violence**

#### **Purpose**

1. The Council recommends the Government **to strengthen legal support service for victims of domestic and sexual violence (hereafter, “the victims”), who choose to use the laws for protection or to take legal actions against the crime. Legal Support Service provides the victims with well-trained volunteers or peer counselors to support them in using and going through the legal proceedings. Throughout the process, the legal support service enhances victims’ understanding in personal legal rights and the laws in protecting and enhancing their safety.** This paper briefly outlines some overseas and local experiences to facilitate discussion on setting up the service among the concerned parties.

#### **Background**

2. The Council conducted three focus groups with the victims of domestic and sexual violence and the concerned service operators from November 2002 to January 2003 to understand victims’ and service operators’ views towards the existing victim support service. Concerns on legal rights and legal support service were raised.

3. It was found that those victims who wanted to file charges against the batterers but did not pursue for various reasons. They lacked knowledge about the charging options and court proceedings. Most of them feared authority, were anxious about personal and children’s safety and emotionally confused. Even though the victims filed charge, not many of them could be persistent and be emotionally strong enough in going through the court procedures.

4. Inadequate knowledge and understanding towards court proceedings and personal rights may lessen the victims’ determination in filing charge or not and testifying or serving as witnesses in criminal procedures. For instance, overseas’ experiences revealed that “legal advocates” could empower victims of domestic violence and sexual violence to go through legal and criminal proceedings. **Hence, it is necessary to discuss measures to empower and support the victims who have determined to use the legal system throughout the proceedings.**

## Overseas experiences

5. In Minnesota, USA, some of the legal advocates have legal training background and some of them are staff of local shelters. They empower battered women to use the courts, assist the victims in gathering much of the evidence needed for the trial, and in the way to work with the prosecutor. The victims are referred to contact them through police and shelter once the case is reported. The roles of the advocates are to provide support to the victims following an arrest or the filing of criminal charges, to explain criminal and civil court options and processes to the victims. They assist the victims in preparing initial statement for the prosecution, explain the community services available to the victims and enable the victims to be present at all court appearance by providing support persons, transportation and when possible, child care. It is believed that battered women deserve to know the process, what impact they could have on the court's decision, and what would likely happen without their input<sup>1</sup>. The legal support service empowers victims in using the legal system, which enhances the legal intervention in the criminal act of domestic and sexual violence.

6. In Canada, under the Department of Justice Canada, the Policy Centre for Victim is the institution mandated to work toward increasing confidence of victims of crime in the criminal justice system. The service provides a range of activities and initiatives to make victims more aware of their roles in the system and the laws. It provides support services and assistance applicable to them during the process<sup>2</sup>.

7. The New South Wales of Australia also has the Crime Victim Bureau<sup>3</sup> to support victims of crime, including domestic violence, to go through court process provided with necessary information on legal options. Apart from institutional service provided by the state Government, there are community-based organizations providing legal support service. The Domestic Violence Advocacy Service provides state wide free confidential legal service for women experiencing domestic violence in the New South Wales of Australia<sup>4</sup>.

8. In UK, there is the Victim Support and Witness Service, which is free of charge and independent from the Police and the Court. It offers information and support to witnesses, victims, their families and friends when they go to court. Its work aims at promoting and advancing the rights of victims and witnesses<sup>5</sup>.

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<sup>1</sup> Pence (1996). *Coordinated Community Response to Domestic Assault Cases: A Guide for Policy Development*. Minnesota Program Development, Inc.

<sup>2</sup> Department of Justice, Canada (<http://canada.justice.gc.ca>).

<sup>3</sup> Victims of Crime Bureau, Australia ([www.lawlink.nsw.gov.au](http://www.lawlink.nsw.gov.au))

<sup>4</sup> Domestic Violence Advocacy Service, Australia ([www.womenslegalnsw.asn.au](http://www.womenslegalnsw.asn.au))

<sup>5</sup> Victim Support, UK. ([www.victimsupport.org.uk](http://www.victimsupport.org.uk))

9. Legal advocate or victim support service is available to victims of domestic violence and victims of crime in America, Canada, Australia and UK. Their experiences facilitate our understanding in the service. In paving the way towards a more strengthened support service to victims of domestic and sexual violence, it is deemed necessary to discuss if legal support service can be set up in a more systemic and structural way in Hong Kong.

### **Local experience**

10. Social Welfare Department provides Witness Support Programme for strengthening support to the abused children serving as witnesses in criminal proceedings, support persons accompany the abused children who have to testify in the court proceedings through a live television link system. The service is also available to the mentally incapacitated persons. The Police makes the service requests to SWD, if it is needed<sup>6</sup>.

11. On the other hand, there are social service organizations providing court escort and legal support service to the victims of domestic and sexual violence. For instance, Harmony House has a pool of trained volunteers who escort victims to the court; Hong Kong Association for the Survivors of Women Abuse (Kwan Fook) trains volunteers with necessary legal knowledge to support victims in going through court proceedings; and “Rain Lily” of Association on Concerning Sexual Violence against Women staff provides information and advice on legal procedures and legal rights, arranges police-reporting and gives emotional support during the course of reporting and escorts victims to attend court hearing if cases are proceeded to court.

12. The local experience is a good start for further strengthening victim support service in Hong Kong. Our service operators’ feedback on the existing services, **there is further room to strengthen and to make the service available to victims of domestic and sexual violence with such service need.** The role of support persons could be further enhanced through training so as to empower victims’ knowledge and courage to go through the court and legal proceedings, without limiting the service to provide escort service only. This could help to enhance service effectiveness.

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<sup>6</sup> Witness Support Programme. (<http://www.info.gov.hk/swd/vs/english/welfare.html>)

## Legal Support Service to Victims of Domestic and Sexual Violence in Hong Kong

13. Regarding the cultural and historical differences between overseas and Hong Kong, direct adoption of overseas model is not realistic. Legal advocates in overseas share some professional roles of social workers in working with victims of domestic and sexual violence in Hong Kong. **It is necessary to discuss and design a customized model fits for use in the local context.**

### Objectives

14. Legal Support Service aims at:

- promoting and advancing the rights and confidence of victims and witnesses of domestic and sexual violence who use the laws for protection or to take legal actions against the crime;
- providing legal support persons to support the victims, witnesses and their families members throughout legal proceedings by offering information on available legal options (e.g. filing charge, prosecutions, divorce, etc), protection by laws (e.g. injunction order, emergency custody and rights of visitation, etc.), assisting them to make necessary applications, bridging professional communications via case managers;
- enabling victims' participation in the legal system by making necessary arrangements (e.g. transport, child care and escort, if necessary); and
- giving empathetic emotional support to the victims.

15. **The service should be made known to the victims and the choice is made up to the victims' requests or the case managers' recommendation.**

### Roles of support persons

16. Victim support persons work closely with the responsible social workers, the case managers. Social workers act as case managers, monitor the service and in formulating and monitoring safety and welfare plan for victims. Case managers also bridge communication between the victims and the legal professionals.

17. The support persons give information and support to witnesses, victims, their families and friends with respect to confidentiality. They work with victims throughout the court process by providing and looking for necessary information for them, in consultation with the case managers. These include legal options and protections to

them by laws, for instance, application for injunction order, emergency custody, visitation arrangement, divorce and concerned procedures. The service empowers victims to make sensible options, and supports them to use the legal system, if they choose to take legal actions.

18. It is the best if the legal support persons (volunteers / peer counselors) have relevant legal training or education background and familiar with the needs of the victims throughout the legal proceedings. Sensitivity and empathetic understanding towards the victims' emotional needs is of utmost importance.

### **Recommendations on service operation**

19. In view of the existing services, we have the following recommendations in making the service more structured and accessible, for further discussion.

- To provide legal trainings related to domestic and sexual violence to the volunteers or peer counselors of the concerned service agencies or units regularly and systematically, so as to enhance their functions and to facilitate quality service delivery at the concern social service organizations; and
- To set up a legal support service database and network on the existing available services, in facilitating the victims and the case managers to seek the service from the central pool, if necessary; or
- To establish independent Legal Support Service by the Government for the victims of domestic and sexual violence, who choose to take legal actions against the batterers or aggressors.

20. No matter the victims come from refuges, Family and Child Protection Units of SWD or family counseling centres of SWD and NGOs, they deserve to know their personal rights, the court and legal process, options available and impact they could have on the court's decision, and what would likely happen without their input, etc.

21. Depending on different nature of cases and emotional status of the victims, not all the victims are suitable to receive the service, for instance, victims with low confidence on other people, except the case managers who have gained rapport with the victims. Therefore, **victims' willingness and the case mangers' assessment have to be respected.**

22. The service should be considered as a pilot service and to be further reviewed. Besides, it is worthy discussing if the service could be extended to support other vulnerable victims of crimes in the legal process. For instance, elderly, people with disabilities.

### **Quality assurance**

23. Domestic and sexual violence bring complicated emotional and interpersonal relationship problems. The victims, at the same time, need to explore related legal protections and options for them. Therefore, the service quality of legal support persons is very important. **Appropriate training ensures service quality and prepares support persons to observe sensitive issues in working with the victims in a responsible and sensible manner. This could avoid bringing secondary victimization trauma to the victims.** Pence (1996) highlights that good advocacy requires special skills and sensitivity to issues that may not be readily apparent<sup>7</sup>. For instance, respecting for confidentiality, and developing empathetic understanding to the victims' emotional and psychological needs.

### **Mandatory intervention program for batterers**

24. Apart from supporting victims who choose to take legal actions against the batterers, there are some victims who do not want the batterers, their spouses, be incarcerated. Many of them have tried hard to salvage their spousal relationships and want the batterers to attend intervention program in changing the latter's belief and attitude in stopping the violence. **Exploring feasibility in establishing mandatory intervention programmes for batterers in spousal relationship; and designing incentives to increase voluntary participation in these batterers' programmes at early stage are equally important.** According to the focus group discussions at the Council and Chiu's (2000) research, in collaboration with Harmony House, find that there are voices from the public, victims and professional service providers on the need to look for alternatives to incarceration in ending domestic violence<sup>8</sup>.

The Hong Kong Council of Social Service  
February 2004

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<sup>7</sup> Pence (1996). Coordinated Community Response to Domestic Assault Cases: A Guide for Policy Development. Minnesota Program Development, Inc.

<sup>8</sup> Chiu M.C. (2001). *Mandatory Counselling – Reconstruction of Harmonic Relationship: “Controlling Domestic Violence and Wife Abuse: A Plea for Mandatory Counselling for Wife Abusers” – Final Report.* HK: City University of Hong Kong, Harmony House, Rotary Club (京港扶輪社).