

# **Procedural Guidelines for Handling Adult Sexual Violence Cases**

**(Revised 2021)**

Working Group on Combating  
Intimate Partner Violence and Adult Sexual Violence



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## **Introduction**

1. The handling of sexual violence cases cuts across different government departments and organisations such as the Hospital Authority, Hong Kong Police Force, Social Welfare Department (SWD), non-governmental organisations (NGOs), Department of Justice and Legal Aid Department, etc. To facilitate the interfacing of these departments and organisations, multi-disciplinary guidelines and procedures have been established in July 2002 to promote a common approach and awareness of good practice among professionals involved in working with victims of sexual violence. To further improve the service, the government has conducted a review on the services provided for victims of sexual violence in 2006 basing on the following principles :

- (a) timely, professional and specialised services should be available to victims of both genders and their family members/significant others on a 24-hour basis;
- (b) there should be a direct and convenient contact point, and services provided should be easily accessible to victims who may come from different locations of the territory;
- (c) the need for victims to undergo different procedures and repeat the incidents should be minimised through better service coordination;
- (d) continuous support and after-care services to the victims after the crisis should be available; and
- (e) synergy among related welfare service units concerned should be achieved.

2. After the review, the service model on handling sexual violence cases has been enhanced. To tie in with the implementation of the new service model, the “Procedural Guidelines for Handling Sexual Violence Cases (July 2002)” (The Guidelines) was revised with joint effort of different disciplines in 2007 and further updated in 2021. The Guidelines serves to enhance co-operation and co-ordination which in turn ensure the most appropriate and effective approach to cater for different needs of victims of sexual violence.

## **Definition of Sexual Violence**

3. The operational definition of sexual violence mutually agreed by the disciplines involved is as follows:

“Sexual violence occurs when a person is subjected to non-consensual sexual act or non-consensual exposure to such act. The subjugation can take the form of physical or non-physical force, threat of force, coercion, intimidation, duress or deceit. It can also occur when the victim is unable to give consent owing to his/her age, mental capacity, fear, the influence of alcohol, drugs or other substances. It includes rape, attempted rape and marital rape, indecent assault, incest, being forced to engage in masturbation or oral sex, buggery, and indecent exposure. It may occur in the public or private place. The perpetrators can be members of the family,

relatives, acquaintance or strangers. A victim of sexual violence can be any person regardless of his/her age, gender, race, occupation, marital status or sexual orientation.”

The content of this set of Guidelines applies irrespective of the gender of the victim.

## **Guidelines for Good Practice**

4. The experience of sexual violence is a traumatic event that may have far-reaching effects on the victim and his/her family/significant others. The following good practice, though not exhaustive, is to be adopted when working with victims of sexual violence:

### *Timely assistance*

- (a) The victim who seeks assistance probably has overcome many barriers. Immediate attention must be given to the victim when a report of sexual violence is received;
- (b) professionals should be sensitive and responsive to the victim’s needs, and be aware of the assistance other professionals can provide or have already provided. Referral to other departments or agencies, e.g. the Social Welfare Department, the Hong Kong Police Force and the Hospital Authority, if necessary, should be made at the earliest possible time. When necessary and appropriate, a case consultation and/or joint interview by professionals should be considered; and
- (c) professionals may also need to provide support, information and counselling to the victim’s non-perpetrating family member(s) or parent(s), as appropriate, especially if the victim is a mentally incapacitated person (MIP).

### *Confidentiality*

- (d) Confidentiality must be assured to the victim and maintained. The victim should be assured that only the relevant personnel who assist in the case will be informed of the details of the case;
- (e) professionals should protect the confidentiality of the personal data of the victim in the course of discharging their duties. Professionals should ensure that the handling of the personal data complies with the provisions of the Personal Data (Privacy) Ordinance and is consistent with the prevailing standards even after the case has been closed; and
- (f) the victim’s right to privacy should be respected. The interview, examination or consultation with the victim should be conducted in an environment which safeguards confidentiality and dignity.

Professional attitude in dealing with victim's needs

- (g) The victim must be treated with respect and empathy;
- (h) the victim must be approached in a calm manner. The victim should never be blamed for the incident;
- (i) professionals should adopt an accepting, open-minded and non-judgmental attitude, regardless of the victim's personal status or behaviour. Appearing to be pushy, or insisting the victim to do as told should be avoided. The victim should be assured of help and the professionals should avoid causing unintentional disappointment, or portraying judgmental attitude as such may prevent the victim from seeking further assistance;
- (j) professionals should accept the victim's feelings of helplessness and confusion, and be sensitive at all times;
- (k) a victim's calmness should not be interpreted as evidence of doubt as to whether the sexual assault has actually occurred;
- (l) until the contrary is proven, any allegation of sexual violence should be handled as a genuine report of such;
- (m) the victim of sexual violence is often unaware of options available and may not have enough information to make an informed decision. Professionals should be knowledgeable of the services and legal provisions available and be aware that a victim under stress may have a great need for support and assistance;
- (n) professionals should ascertain what other service agencies can offer and make the appropriate referral when necessary, with the consent of the victim. Always consult specialist agencies and disciplines and co-ordinate assistance for the victim. In order to avoid confusion and duplication, check beforehand whether the informant or victim has contacted other departments and agencies;
- (o) victims may not be articulate or responsive to questions, and may not volunteer information. Professionals must be patient and understanding, and provide comfort when necessary;
- (p) proper documentation of the incident should be maintained. Details of the circumstances of the incident and injuries sustained by the victim should be recorded. Services required should be recorded in a systematic manner to ensure timely intervention and assistance;
- (q) in dealing with sexual assault within the family, professionals should be alert to risks which may be overlooked or ignored by the victim. All available options should be considered with a view to ensuring the safety of the victim. If the victim does not wish, for instance, to leave home, arrangements to ensure safety should be discussed with the victim; and

- (r) the effects of sexual violence may give rise to psychopathology such as anxiety disorders, especially Post-traumatic Stress Disorder (PTSD), affective disorders and dissociation. In order to facilitate their recovery, victims may be referred for clinical psychological service. For victims who suffer from severe psychopathology, professionals may also need to refer them for psychiatric intervention.

#### Victim's Right to Know

- (s) The victim should be informed of his/her right to access to services provided by SWD/NGOs; and
- (t) the victim should be informed of his/her right to access to information related to his/her case. Social workers, police officers, medical professionals, legal professionals and other service providers should provide relevant information upon request in accordance with the Code on Access to Information and the Personal Data (Privacy) Ordinance.

#### Multi-disciplinary co-operation

- (u) A multi-disciplinary approach should be adopted. Professionals working with the victim should adopt a proactive approach to ensure close co-operation and collaboration with other professionals, to minimise the need for the victim to repeat the ordeal and to ensure that appropriate support and assistance are facilitated.

#### The Victim of Crime Charter

- (v) The Victim of Crime Charter sets out the rights and duties of victims of crime and should be adhered to by those assisting the victim;
- (w) the victim should be encouraged to report the incident to the Police as soon as possible, and every possible assistance should be given to facilitate the victim to do so. If the victim is unwilling to report the case, the reasons should be explored and professionals should try to address such as far as possible. Professionals should provide the victim with care and support regardless of the victim's decision to report the incident to the Police or not;
- (x) the victim should also be advised that it is of paramount importance and for his/her legal interest to go to the hospital as soon as possible after the assault for preserving the evidence for reporting to the Police;
- (y) the victim should be told what to expect and why certain questions are asked and procedures to be followed. The role of the professionals should also be explained to the victim. The importance and specific purpose of, for example, examination and certain procedures, should be clearly explained to



the victim who should be informed such are in his/her best interests. Consent should be obtained and recorded when required; and

- (z) the victim should be informed of all aspects of the progress of the case. If a decision is made concerning the handling of the case (e.g. the result of application for services, or to withdraw a charge), the victim must be informed and assisted in understanding the reason for such.

### Enhancing Staff Capability

- (aa) Suitable training for frontline professionals should be arranged by relevant departments and service providers. The training should include the procedures as per these Guidelines, multi-disciplinary collaborations and other skills/knowledge, such as gender sensitivity and sensitivity in handling sexual violence cases, which fall within the purview of respective professionals, as appropriate.

## **Case Manager**

5. Under most circumstances, with the consent of the victims, the designated social workers<sup>1</sup> of the Multi-purpose Crisis Intervention and Support Centre (the CEASE Crisis Centre) operated by the Tung Wah Group of Hospitals (TWGHs) (Annex I) would take up the role of a case manager in handling sexual violence cases. However, other social workers may also take up the role of case manager. In such cases, the social worker concerned should also make reference to the role of case manager (as set out below) and provide appropriate assistance to the victim as necessary.

### Role of Case Manager

6. The case manager plays a significant role in handling sexual violence cases. Generally speaking, the case manager coordinates the services provided to the victim by different departments/units and offers instant support to the victim so that the victim can go through the process in a convenient, safe, confidential and protected manner. It is essential for the case manager to duly explain the purpose of each subsequent procedure and provide the victim with adequate psychological preparation for what is going to happen.

7. The major tasks of the case manager include:

- (a) to provide crisis intervention, including outreaching service, emotional support, counselling and accompanying the victim to go through necessary procedures;
- (b) to proactively liaise with relevant departments and organisations involved including hospitals and police stations through the designated contact telephone

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<sup>1</sup> Service is provided by the designated social workers of the CEASE Crisis Centre operated by Tung Wah Group of Hospitals on a 24-hour basis.

numbers and, where necessary, to accompany the victim through a co-ordinated response involving procedures such as seeking immediate medical treatment, reporting to the Police, giving statements, conducting forensic examination, attending identification parades and visiting crime scenes and taking part in other necessary steps that the victim may have to undergo in the course of the process;

- (c) to help the victim arrange follow-up services including medical follow-up and provide company to the victim if necessary;
- (d) to make arrangement/referral for other services, e.g. short-term accommodation, housing assistance, clinical psychological service, legal aid and support groups, etc;
- (e) to assist the victim in obtaining information on the general progress of the case from the Police, hospital or lawyer as appropriate so as to ensure that the victim is being informed of the essential procedures and his/her rights;
- (f) to support the victim in court proceedings if necessary; and
- (g) to look after other welfare needs of the victim and his/her family/significant others who are affected by the sexual violence incident.

8. While the case manager would be fully involved in supporting the victim throughout the helping process, it is equally important that if the case has been reported to the Police, the case manager should maintain an impartial role in order not to contaminate the victim's statement and jeopardize the credibility of the victim as a witness during the prosecution process. The case manager should not solicit evidence from the victim or probe into the sexual violence incident or prompt, coach or otherwise seek to influence the witness in any way when dealing with the case.

9. As victims of sexual violence would most probably experience post-traumatic stress, they may tend to disclose further information to the case manager at some stages after they have regained confidence. If such information, which may be of material assistance to the investigation or the prosecution, has not previously been reported to the Police, the victim should be advised to do so. If the disclosure of such information is related to the prevention/detection of crime, the arrest/prosecution of the offender or the preclusion/remedying of unlawful conduct, etc. is exempted from the data protection principle 3 under section 58(2) of the Personal Data (Privacy) Ordinance, Cap 486, and the case manager should liaise with the Police.

10. Furthermore, any professional who has provided counselling or therapeutic treatment to the victim should be aware that they may have to give witness statements to the Police and give evidence in subsequent proceedings. Only upon completion of all police investigations and court proceedings will the constraint on the post-traumatic counselling work be lifted. The case manager should continue to look after the victim and render him/her counselling and support as necessary.

## **Multi-disciplinary Co-operation in Handling Sexual Violence Cases**

11. The victim's needs vary, and may include:

- (a) medical examination and treatment: for treatment of physical injuries or sexually transmitted diseases and prevention of pregnancy;
- (b) report to the Police: for criminal investigation;
- (c) forensic examination: for collection of forensic evidence;
- (d) prosecution: judicial procedures to prosecute the suspect;
- (e) emotional need: for a sense of security and support, need to express his/her emotions and to know "what will come next";
- (f) counselling and psychological service: for assessment and/or treatment if required;
- (g) healing from the trauma;
- (h) legal advice and arrangement for legal aid: for judicial procedures;
- (i) shelter: for temporary accommodation;
- (j) financial support: for damage or loss caused by the incident; and
- (k) information about victim's rights including application for Criminal and Law Enforcement Injuries Compensation if the case is reported to the Police.

12. A victim of sexual violence may come to the attention of different professionals at different times. It is important that all parties involved with the victim co-operate with one another, and each should refer the victim, the family members and other persons affected to the relevant agencies for necessary services or follow-up action.

### **Procedures for Handling Sexual Violence Cases**

13. A victim of sexual violence usually comes to the attention of the following departments or agencies:

- (a) the Accident & Emergency Department of hospitals;
- (b) the Hong Kong Police Force;
- (c) the Forensic Pathology Service of the Department of Health;
- (d) the Social Welfare Department;
- (e) non-governmental organisations (e.g. the CEASE Crisis Centre, Integrated Family Service Centres, School Social Work Service Units, Family Crisis Support Centre, Refuge Centres for Women, etc.);
- (f) the Department of Justice;
- (g) the Legal Aid Department

14. The victim may also wish to receive services from other agencies such as RainLily Sexual Violence Crisis Centre for Female Victim-survivors (RainLily) (Annex II) and the Family Planning Association of Hong Kong (FPAHK) (Annex III). Professionals may refer the victim to such agencies for services if the victim so wishes.

## **Other Relevant Guidelines**

15. Two sets of existing procedural guidelines for handling child abuse and spousal/cohabitant abuse respectively are in place. For sexual abuse case involving victim under the age of 18, the “Protecting Children from Maltreatment — Procedural Guide for Multi-disciplinary Co-operation (Revised 2020)” should apply. For spouse/cohabitant battering cases involving sexual violence, the “Procedural Guide for Handling Intimate Partner Violence Cases (Revised 2011)” should apply. The following Chapters list out the procedural steps for departments and agencies in handling cases of sexual violence involving victims aged 18 or above.

## **I. HOSPITAL AUTHORITY**

16. Victims of sexual violence may approach the hospitals of the Hospital Authority in person or by referral from various sources such as the Police, social worker, other medical practitioner, etc. They are usually under great stress after the incident. Medical professionals have to conduct the medical examination in the least distressing way and handle the history taking with tact and sensitivity. As hospitals or clinics are common initial contact points of the victims, how their staff respond to the victims is crucial in determining how the victims would cope with the incident and their subsequent participation in the procedures involved. The following principles should be adhered to as far as possible:

### **Principles**

- (a) The victim should not be further traumatised unnecessarily by the procedures;
- (b) the number of medical examinations must be kept to a minimum;
- (c) to minimise the frequency of the victim being interviewed by different professionals, the information collected with regard to the sexual violence incident should be shared with relevant parties concerned, as far as possible, with the victim's consent. If required, case consultation and/or joint interview with professionals concerned should be arranged;
- (d) only the relevant persons can have access to the victim's information upon the victim's consent to ensure his/her privacy; and
- (e) if the victim is a mentally incapacitated person (MIP), his/her non-perpetrating parent(s), guardian or family member(s) may be informed about the abuse, if necessary.

### **Accident & Emergency Departments**

17. All the Accident & Emergency Departments (AEDs) of hospitals under the jurisdiction of the Hospital Authority provide the required urgent medical services including medical examination and treatment of injuries, post-coital contraception and screening and prophylactic treatment of sexually transmitted diseases, e.g. Hepatitis B to victims of sexual violence as required. To provide early attention and support to the victim, the case manager or the Police can call the specific contact number for the respective AED to alert them of the attendance of the victim beforehand (Annex IV).

18. When a victim of sexual violence arrives at the AED, the following steps should be

taken:

- (a) as far as possible, a designated nursing staff (the Nurse Coordinator) of the same gender should approach the victim, comfort him/her and arrange a place with privacy for interview or medical examination to minimise distress;
- (b) if the victim is on his/her own, the Nurse Coordinator should ascertain his/her wish on whether to contact his/her family member or friend for support; and
- (c) the victim and the companion (family member, friend or social worker), if any, should be provided with detailed explanation about the purpose of each step of the medical examination and what comes next so that the latter can help the victim, who may already be too distressed to understand information, and these include:
  - (i) seeking the victim's consent for medical examination.<sup>2</sup>
  - (ii) explaining to the victim what the medical examination entails, what specimens would/may be needed. It is important to let the victim know that careful attention to details and correct recording of the examination record are required because these may have evidential significance;
  - (iii) explaining to the victim that sexual and gynaecological histories are required so as to provide information on what aftercare measures need to be provided; and
  - (iv) informing the victim that the medical examination will most probably be done by a doctor of the same gender, if available, at the time of examination. If the doctor of the same gender cannot be arranged during the examination and the victim has hesitation to receive the examination, the case manager is suggested to give support, explain clearly to the victim and let the victim choose whether to receive the examination or not.

## **Referral for Social Service**

19. The victim should be introduced to available social services as soon as possible so that he/she can have support when going through the whole process. If the victim is not accompanied by any social worker at the time when he/she approaches the AED, the Nurse Coordinator, taking into consideration the appropriateness of timing and the emotional or medical condition of the victim, should take the following steps:

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<sup>2</sup> For the victims who are Mentally Incapacitated Person (MIP), please refer to Chapter VI on "Handling of Mentally Incapacitated Adult Sexual Violence Victims in Need of Forensic Examination" of this Procedural Guidelines"

- (a) introducing the service of the designated social workers of the CEASE Crisis Centre for handling sexual violence cases which provides round-the-clock outreach and crisis intervention service;
- (b) if the victim agrees to receive service from the designated social worker, the Nurse Coordinator should obtain consent and call the 24-hour designated referral line<sup>3</sup>. The designated social worker will outreach to the hospital as soon as possible if the situation warrants. Pending the arrival of the designated social worker, the Nurse Coordinator may enlist assistance of the medical social worker in the hospital during their office hours, if necessary;
- (c) if the victim is a known case of a social worker and he/she prefers to solicit support from that social worker, effort should be made to contact the social worker concerned as far as possible; and
- (d) in addition, the victim can choose to receive service from the medical social workers or other NGOs, such as RainLily and FPAHK. However, some victims may decline all social services due to worries or misunderstanding about the related procedures, e.g. fear of personal information being disclosed, reluctance to relay the incident to different persons, etc. The Nurse Coordinator should give reassurance to the victim and address the victim's concern as far as possible. If the victim still insists not to receive any social services, his/her wish should be respected. Information of the service provided by the designated social worker of the CEASE Crisis Centre should be provided to him/her for information so that he/she can seek help if he/she changes his/her mind at a later stage.

## **Report to the Police**

20. For cases which have already been reported to the Police, the Police will proceed with the investigation and statement taking, etc. However, there are also victims who come to the attention of the medical professionals without making a report to the Police. In the latter situation, the following steps should be taken by the Nurse Coordinator and case manager as appropriate:

- (a) all victims should be encouraged to report the case to the Police;
- (b) victims should be advised that early reporting is preferable because physical and circumstantial evidence need to be gathered as soon as possible which may be of significant use in future;
- (c) if the victim refuses to report the case to the Police, the reasons, concerns or worries should be explored but the staff should avoid being pushy;

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<sup>3</sup> The designated referral line refers to the 24-hour referral line for professionals and referrers manned by the CEASE Crisis Centre on a 24-hour basis.

- (d) reassurance and support should be given to victims who are indecisive about reporting to the Police;
- (e) if the victim has decided to report to the Police, every possible assistance should be given to facilitate the victim in making the report either through the assistance of the police officer on duty at the hospital police post to contact or directly contact the designated contact person, i.e. the Duty Officers of respective police stations (contact telephone numbers at Annex V);
- (f) regardless of the victim's decision, care and support should be given; and
- (g) for MIPs, Appendix 3.4 (Notes on Reporting to the Police for Incident involving a MIP) of "Procedural Guide for Social Workers on the Handling of Mentally Incapacitated Adults Arising from the New Provisions in Criminal Procedure (Amendment) Ordinance 1995" (Annex VI) should apply.

## **Forensic Examination**

21. If the victim has reported the case to the Police, the Police will arrange forensic examination if situation warrants. The collection of evidence is to be performed by the forensic pathologist either at hospital or at the examination suites of the Forensic Pathology Service after the victim having sought medical examination and treatment in AED. The Nurse Coordinator of the AED (or the medical officer in ward if the victim is admitted as patient) should liaise with the Police (if the case is not yet handled by a case manager) if collection of evidence in the hospital is necessary. The Nurse Coordinator will arrange a suitable place for the forensic pathologist to conduct forensic examination and the Police to take statement in case the situation so warrants, taking into account the need to protect the privacy of the victim. In case forensic examination is to be performed in the examination suites of the Forensic Pathology Service, the Police will arrange transportation and provide escort. However, if the victim still has medical needs, the Police can liaise with the case manager and/or arrange further medical treatment for the victims.

## **Medical Follow-up Service**

22. After receiving initial medical treatment in the hospital, the victim may require follow-up medical treatment such as screening of sexually transmitted diseases and/or AIDS and other gynaecological treatment for a period of about six months. Follow-up sessions in the four designated sexual violence clinics (Annex VII) will be offered to the victim, and with consent, a medical referral will be provided by the case doctor to the victim. With the medical referral, the case manager will help the victim make appointment at one of the designated sexual violence clinics of his/her choice for medical follow-up, subject to the wish and preference of the victim. Contact points and telephone numbers of the designated sexual violence clinics will be printed on the referral form.



23. Appointment for the designated sexual violence clinics can usually be given within two weeks from the initial attendance at AED. The victim will be seen by a designated doctor of the same gender as far as possible, assessed for any residual physical and/or psychological trauma arising from the incident and screened for sexually transmitted diseases. Further follow-up at the medical clinic will be scheduled as considered clinically necessary.

### **Referral to Other Professionals**

24. If the victim is too emotional, medical examination may be suspended until he/she calms down. Depending on the victim's situation, judgment of the attending doctor and views of the case manager, referral may be made for clinical psychological or psychiatric service. In making such referrals, doctors should provide the receiving unit with necessary information so as to reduce the need for the victim to repeat the traumatic experience.

### **Hospital Wards**

25. If an in-patient only discloses the sexual violence incident after admission into the ward, the nursing/medical officer should report the case to a senior staff who should decide whether medical examination should be carried out or consult a gynaecologist. The principles in handling such cases and steps listed in paragraphs 19-24 above should also be followed. This good practice should also be applied to other health service providers.

## **II. HONG KONG POLICE FORCE**

### **Introduction**

26. A case of sexual violence may be reported to the Police by the victim, victim's family members or relatives, or by the general public through a 999 call, in person to a police station or hospital police post, or be made to an individual police officer, or by referrals from medical practitioners, social workers, Legislative Council members, District Council members, etc. The Duty Officers of respective police stations are the initial points of contact of reports made to the Police.

27. Upon receiving the report, the Police will interview the victim at a suitable venue with adequate privacy, e.g. police station, hospital or office of the social worker. If the victim is already at the hospital, the police officer should discuss with the nursing staff, or the case manager as appropriate, on the arrangement of suitable venue for necessary procedures, e.g. conducting interview, taking statement, undergoing forensic examination, etc. In the absence of a case manager or any nursing staff, where necessary, advice can be sought from the CEASE Crisis Centre through the designated referral line for arrangement of instant support services to the victim or suitable places with adequate privacy for interview, statement-taking and/or forensic examination.

28. As the Police are often the initial contact point of victims of sexual violence, their response will be crucial in determining how well victims are able to cope with the incident and to assist in the process of investigation. It is therefore important that police officers must handle the victim with care, empathy and sensitivity. The following should be adhered to as far as possible :

### **Principles**

- (a) The victim should not be further traumatised by the investigation process;
- (b) any police officer who has initial dealings with the victim must make full and detailed notes of what the victim has verbally stated about the incident to the officer as this information, although not formally recorded as a witness statement, may form essential and important evidence by way of early complaint. The police officer can also ask some essential points in order to prevent secondary trauma and seek consent from the victims for referral to the designated social workers of the CEASE Crisis Centre;
- (c) the number of investigation interviews and statement-taking with the victim should be kept to the minimal;
- (d) only the relevant persons can have access to the victim's information upon the victim's consent to ensure his/her privacy;

- (e) details of the victim should be handled with strict confidentiality to ensure that the information will not be disclosed to unauthorised party or person; and
- (f) the victim should be introduced to the social service organisation that provides case manager to follow up with the victim's needs as early as possible if the Police is the first contact point.

## **Initial Investigation**

29. Upon receiving a report of sexual violence, a police officer should handle the victim with care and empathy and take the following actions:

- (a) when the case is reported to a police station in person, the victim should immediately be escorted to a separate unoccupied room. Any family members or companions may accompany the victim should he/she so desire;
- (b) in the event that a report of such an offence is made by a victim to an officer of the opposite gender on outdoor duties, the victim should only be asked such questions as are necessary to establish whether any immediate medical attention is required and whether the culprit is still in the vicinity. The officer should arrange the victim to be conveyed to the hospital or nearby police station as appropriate as quickly as possible where follow-up should be continued by a nurse or police officer of the same gender;
- (c) the victim should be interviewed as soon as practicable by an officer of the same gender who has been trained to deal with victims of sexual violence. Pending the arrival of such an officer, any available officer of the same gender should elicit personal particulars of the victim and ensure any immediate need for medical attention is not overlooked;
- (d) the victim should not be asked to recount the incident in a report room or Crime office where other people are present. As far as possible, the victim should not be interviewed by an officer of the opposite gender directly;
- (e) an officer of the same gender should stay with the victim throughout the process of initial investigation. A male police officer investigating any sexual offence involving any female victim should ensure that a female officer is present throughout the police investigation;
- (f) the Forensic Pathologist should be notified and immediate arrangement should be made for the forensic examination of the victim, if the alleged sexual assault occurred within 72 hours prior to the report. If the forensic pathologist of the same gender could not be arranged and the victim has hesitation to receive the forensic examination, the victim should be given clear explanation on the situation and the choice whether he/she would accept the forensic examination. The case manager will accompany the victim during the process;

- (g) if the victim has sustained injuries or requested for medical care, he/she should first be conveyed to the hospital. The Forensic Pathologist should be notified, as appropriate, and the escorting officer should inform the doctor or nursing staff of the AED concerned whether the Forensic Pathologist will personally attend the hospital to carry out the examination in respect of the alleged assault in order to avoid examining the victim twice and, if so, liaise with the doctor or nursing staff of the AED to arrange a suitable place for the Forensic Pathologist to conduct the forensic examination. In case forensic examination is to be performed in the examination suites of the Forensic Pathology Service, the Police will arrange transportation and provide escort; and
- (h) in the event that the victim is unable to give a coherent statement due to shock or emotional problems, consideration should be given to seeking advice and assistance from the Senior Force Clinical Psychologist.

30. Two sets of existing procedural guidelines for handling of child abuse and spousal/cohabitant abuse respectively are in place. For sexual assault case involving victims below the age of 18, the “Protecting Children from Maltreatment - Procedural Guide for Multi-disciplinary Co-operation (Revised 2020)” should apply. For spouse/cohabitant battering cases involving sexual violence, the “Procedural Guide for Handling Intimate Partner Violence Cases (Revised 2011)” should apply.

(Note: Police officers may also refer to the handling procedures stipulated in the Force Procedures Manual Chapter 34-02, 34-04 and 34-10 to 34-12.)

### **Referral for Social Service**

31. The officer should:

- (a) introduce to the victim the service of the designated social workers of the CEASE Crisis Centre for handling sexual violence as early as possible which provide round-the-clock outreaching and crisis intervention service. Pamphlet on sexual violence victims (Pol.1152) should be given to the victim so as to give psychological preparation for the victim about the subsequent procedures;
- (b) if the victim agrees to receive service from the designated social worker, the police officer should call the 24-hour designated referral line. The designated social worker will reach out to the scene/police station/hospital as appropriate as soon as possible if the situation warrants;
- (c) if the victim is a known case of a social worker and he/she prefers to solicit support from that social worker, effort should be made to contact the social worker concerned as far as possible. If the concerned social worker cannot be contacted despite efforts made, it is suggested to seek assistance from a designed social worker;

- (d) in addition, the victim can choose to receive service from other NGOs, such as RainLily and FPAHK. However, some victims may decline any social services due to worries or misunderstanding about the related procedures, e.g. fear of personal information being disclosed, reluctance to relay the incident to different people, etc. The police officer should give reassurance to the victim and address the victim's concern as far as possible. If the victim still insists not to receive any social service, his/her wish should be respected. Information of the service provided by the designated social workers (Annex I) and a copy of the Rights of Victims and Witnesses of Crime Leaflet should be provided to the victim if he/she wishes to seek help at a later stage; and
- (e) in the case of a female victim and there is evidence of emission of semen by the perpetrator, there is always a danger of a resultant pregnancy. The victim should be referred to the AED of the Hospital Authority for prevention of pregnancy as soon as feasible (within 72 hours) after the alleged sexual assault. The AED can also provide medical advice related to the possibility of sexually transmitted diseases. The victim should be informed by an officer of the same gender of the availability of these services.

(Note: Police officers may also refer to the handling procedures stipulated in the Manual of Criminal Investigation Chapter 18-17.)

### **Forensic/Medical Examination**

32. In any medical and/or forensic examination, the victim's health and welfare must always be of paramount importance. The victim should not be asked to describe the assault repeatedly and the number of such examinations should be kept to the minimal. When requested to conduct forensic examination, the Forensic Pathologist should be provided with information about the case and the victim as relevant to the conduct of the forensic examination by memo to facilitate the examination and minimise the need for the victim to recount the traumatic experience.

33. In sexual assault case where the alleged assault occurred within 72 hours prior to the report, subject to the victim's consent, forensic examination should be conducted as soon as practicable. Forensic examination may be conducted in a suitable place in the hospital with adequate privacy. However, if the victim requires urgent medical attention, treatment should not be delayed pending forensic examination.

34. In case where the alleged assault has already occurred for more than 72 hours, forensic examination can be arranged at a time convenient to all parties concerned. If the victim is a Mentally Incapacitated Person (MIP) and is unable to give consent, Chapter VI on "Handling of Mentally Incapacitated Adult Sexual Violence Victims in Need of Forensic Examination" of this Procedural Guidelines may apply.

## **Video-recorded Interview with Mentally Incapacitated Victims**

35. In accordance with section 79C of the Criminal Procedure Ordinance (CPO), Cap 221, if the victim is a MIP, the interview may be recorded on video and such a recording may be used in criminal proceedings as his/her evidence-in-chief. The video-recorded interview should be conducted by a specially trained officer attached to the Child Abuse Investigation Unit (CAIU). The Police may seek assistance from the clinical psychologists of SWD in conducting interview and/or assessment on the victim, as appropriate. In such circumstances, reference should be made to the “Procedural Guide for Social Workers on the Handling of Mentally Incapacitated Adults Arising from the New Provisions in the Criminal Procedure (Amendment) Ordinance 1995”.

(Note: Police officers may also refer to the handling procedures stipulated in the Force Procedures Manual Chapter 34-11 and the Criminal Investigation Manual Chapter 31-03.)

## **Progress of Investigation/Prosecution**

36. On completion of an investigation, the Officer-in-charge of the case (OC Case) may seek advice from the Department of Justice as to the sufficiency of evidence to press charge, appropriateness of the charge and venue of the trial, where necessary. Very often the victim will become stressed in the knowledge that he/she has to face the defendant and recount the traumatic experience during the trial. The OC Case should take the following steps to ensure the victim’s rights are adhered to, and to prepare him/her as a witness :

- (a) provide the victim with a completed Report Reference Card (Pol 720), indicating the report reference and office telephone number of the OC Case; and
- (b) notify the victim of the results of the investigation :
  - (i) following the determination of any trial concerning the case;
  - (ii) every 6 months in active case involving serious sexual offence;
  - (iii) whenever enquiries are curtailed; or
  - (iv) whenever enquiries result in the report being classified as “No Offence Disclosed” or “No Crime Disclosed”.

(Note: Police officers may also refer to the handling procedures stipulated in the Force Procedures Manual Chapter 21-31 and 34-13 and the Police General Orders Chapter 20-06.)

## **Support to Witness**

37. If the victim is required to give evidence in court, the case manager will accompany the victim to render professional backup and support to the victim, if necessary.

The case manager will provide support and comfort to the witness throughout the trial process.

38. If the victim requires service from designated social worker while giving evidence in court, the Police may refer the case to a designated social worker who is not the case manager for service through the designated referral line with the victim's consent. The victim should be introduced to the service of designated social worker of the CEASE Crisis Centre. In addition, the victim can choose to receive service from other NGOs, such as RainLily and FPAHK. If the victim is a vulnerable witness (including sexual violence victims or a MIP), support person under the Witness Support Programme should be arranged to accompany the victim to attend court hearing through the Family Conflict and Sexual Violence Policy Unit by the officer in-charge of the investigation.

### **III. SOCIAL WELFARE DEPARTMENT / NON-GOVERNMENTAL ORGANISATIONS AND OTHER ORGANISATIONS**

#### **Source of Referral**

39. Sexual violence cases may be brought to the attention of the SWD, the CEASE Crisis Centre operated by the TWGHs or other NGOs through medical professionals, the Police, referrals from other welfare agencies, religious organisations, ethnic minority groups, sexual minority groups, the general public, or direct approach by the victims. It is important that the staff of these agencies/organisations should be sensitive to the needs of the victims and arrange appropriate services in a timely manner.

#### **Designated Social Workers for Handling Sexual Violence Cases**

40. A pool of designated social workers provides specialised services to the victims of sexual violence. The pool consists of experienced social workers of the CEASE Crisis Centre. The service of the designated social workers include:

- (a) crisis intervention service to the victims of sexual violence;
- (b) case management including co-ordination with the departments/agencies concerned to facilitate the victim to go through the necessary procedures;
- (c) support and counselling to the victim and his/her family throughout the process;
- (d) referrals for other necessary services, e.g. psychological treatment, financial assistance, accommodation services, etc.; and
- (e) case consultation with other frontline professionals handling sexual violence cases.

#### Cases Referred by Hospitals

41. Upon receipt of referral from the hospital staff, the designated social worker will outreach to the hospital to provide immediate support and assistance to the victim as soon as possible. Intervention will focus on the victim's needs as follows:

- (a) need for medical treatment – to work with the designated nursing staff of the hospital as mentioned in paragraph 18 above to facilitate medical examination or treatment of the victim in the hospital;
- (b) need for legal aid – to report to the Police and go through subsequent legal



proceedings;

- (c) emotional need – to provide immediate counselling to address the victim's emotional distress, including any risk of suicide, and reassure his/her about the range of assistance available;
- (d) need for psychological service – to assess the need for clinical psychological service. Victims with severe anxiety, depression and suicidal tendency should be referred to clinical psychologists for a more thorough assessment and if necessary, psychological intervention; and
- (e) need for shelter and protection – to assess the immediate risk of the victim in returning home, especially if the alleged perpetrator is a family member or acquaintance, and arrange for shelter or temporary accommodation if it is not suitable for the victim to return home. If the victim is a MIP, there should be follow-up plan for protection.

42. When meeting the victim, the designated social worker will take the following actions depending on the needs and situation of the victim:

- (a) interview the victim and other family members/significant others, if any, to provide emotional support and to assess whether the immediate situation is critical;
- (b) conduct the interview in a suitable place which is safe and the privacy of the victim can be protected, and explain to the victim and other family members/significant others, if any, the need to have the necessary consent for release of information in making referral for other services;
- (c) collaborate closely with the medical staff and other concerned parties to understand the victim's situation and needs;
- (d) accompany the victim to go through the necessary procedures, including reporting to the Police, going through forensic examination and other legal proceedings as necessary; and
- (e) provide necessary support service, including counselling, temporary accommodation, financial assistance whenever necessary.

43. If the victim needs to be hospitalized, apart from providing necessary support service to the victim, the designated social worker may, with the victim's consent, also liaise with the medical officer in-charge in the ward for necessary medical treatment, including emergency contraception and screening of sexually transmitted diseases, etc. so as to minimise the frequency of repeating the history by the victim. The designated social worker will keep in contact with the medical officer in the ward about the victim's medical condition and prepare for his/her discharge.

44. The victim may be required to attend medical follow-up, e.g. screening or treatment of sexually transmitted diseases, after he/she has been discharged from the hospital. With a medical referral and subject to the wish of the victim, the designated

social worker may help make appointment at one of the designated sexual violence clinics (Annex VII) if the victim so prefers. The designated social worker may need to coordinate the required medical information for follow-up at the designated sexual violence clinic and may also accompany the victim for the necessary medical follow-up sessions as necessary.

45. If the victim has already reported the case to the Police, the designated social worker, upon obtaining consent from the victim, may get a copy of the police statement for better understanding of the incident and case background so as to minimise the need for the victim to repeat the traumatic experience. In cases where the victim has not made any report to the Police, the following steps should be taken:

- (a) the victim should be encouraged to report the case to the Police;
- (b) if the victim refuses to report the case to the Police, the reasons, concerns or worries should be explored but the designated social worker should avoid being pushy; and
- (c) regardless of the victim's decision, care and support should still be given.

46. If the victim has decided to report to the Police, the designated social worker will liaise with the Duty Officer of the police station where the incident took place. Alternatively, the designated social worker may also liaise with the Duty Officer of the police station nearest to the hospital and, with the assistance of the designated nursing staff, arrange a suitable place in the hospital for statement taking and forensic examination, if necessary. When forensic examination is required for the victim, he/she may feel humiliated and embarrassed having his/her body exposed again. The designated social worker should be sensitive to the victim's feeling and explain what will happen and why these procedures are important. If the victim so consents, the designated social worker may also accompany the victim to give support throughout the process.

47. For an adult victim who is a MIP, in addition to the above intervention, the social worker should make reference to the "Procedural Guide for Social Workers on the Handling of Mentally Incapacitated Adults Arising from the New Provisions in the Criminal Procedure (Amendment) Ordinance 1995" and "Handling Mentally Incapacitated Adult Sexual Violence in Need of Forensic Examination" in Chapter VI and may need to:

- (a) contact the MIP's significant others to gather further information;
- (b) help in explaining to the Police that the person is a MIP so as to assist the Police to decide whether special arrangements such as involvement of Child Abuse Investigation Unit (CAIU) or the company of an appropriate adult will be required when the MIP is giving statement;
- (c) arrange for functional assessment by the clinical psychologist of SWD;
- (d) provide company to the victim during video-recorded interview, if so required; and
- (e) explain to the MIP and his/her family as appropriate on the possible criminal proceedings, special legal provisions or arrangements and participation in

welfare case conference, if any.

48. If required, the designated social worker will discuss with the Police the need to arrange a Support Person under the Witness Support Programme and render professional backup to the Support Person to help reduce the fear and anxiety of the MIP witness when giving evidence in court.

### Cases Referred by the Police

49. Upon receipt of referral of the Police and if the victim is in the police station, the designated social worker will outreach to the victim in the police station to conduct immediate assessment and arrange support services. If immediate medical attention is required, the designated social worker should advise the Police to escort the victim to approach the AED of the nearest hospital, taking into consideration of victim's wish. The designated social worker may make a pre-attendance call to the AED of respective hospital (Annex IV) such that the hospital may be better prepared to receive the case and provide support. The designated social worker will co-ordinate the necessary medical treatment with the designated nursing staff in the hospital.

50. There may be situation that the victim does not require immediate medical attention. In such case, the designated social worker may liaise with the Police on the arrangement of statement taking and forensic examination, if required, at a suitable place, e.g. police station, examination suite of the Forensic Pathology Service.

### Self-approach Cases

51. Victims of sexual violence may directly approach the designated social workers for service through the hotline of the CEASE Crisis Centre or referred by other sources such as the public and other organisations. The designated social worker should intake the case (Annex VIII) and take necessary action depending on the case situation.

52. If immediate medical attention is required, the designated social worker will make a pre-attendance call to the AED of the hospital most convenient to the victims and meet the victim at the hospital or escort the victim to the hospital accordingly. Upon arrival at the AED, the designated social worker will liaise with the designated nursing staff and prepare the victim for the necessary medical examination/treatment. Procedures stipulated at paragraphs 42-50 above should be followed.

53. If the victim does not require immediate medical attention but agrees to report to the Police, the designated social worker will liaise with the Duty Officer of the police station nearest to the location of the victim in order to avoid the victim from having to repeat the incident to different police officers and accompany the victim to the police station for necessary procedures as stipulated in paragraphs 50 above.

### Case Follow-up

54. The designated social worker should provide continuous services to the victim after the crisis until the situation of the victim becomes stable, say for at least six months.

55. The designated social worker will take full charge of the intervention process after assessing the needs of the victim. During the course of intervention, there may be a need for the victim to be referred to other agencies for the required services. The designated social worker should closely liaise and co-ordinate among departments and organisations concerned in providing such services for the victim so as to minimise the need for his/her to repeat his/her unpleasant experience.

56. If the victim finds his/her home unsafe and decides to leave his/her home, the designated social worker will arrange appropriate short-term accommodation for her, such as those available in Refuge Centre for Women, Family Crisis Support Centre, or the CEASE Crisis Centre. When handling victims with psychological problem, the designated social worker will make referral to clinical psychologists for assessment and treatment. When the victim decides to apply for legal aid to institute legal proceedings, the designated social worker or other professionals involved may assist the victim to approach the Legal Aid Department (LAD) in person. With the victim's consent, the social worker or other professionals involved will assist the victim to obtain information or relevant documents from various departments, e.g. victim's statement to the Police, progress of investigation/criminal proceedings, outcome of prosecution, medical reports, etc. so that the victim may proceed with his/her application for legal aid. The designated social worker or other professionals involved may also assist the victim to prepare relevant information and a brief statement of the incident to support the victim's application for legal aid, whenever possible, before the victim approaches LAD.

57. For cases requiring prosecution and court proceedings, the designated social worker should maintain close liaison with the Police for information relating to the date and venue of the trial. It is important that the designated social worker should prepare the victim psychologically for the trial and explain to him/her the possible court proceedings. To help reduce the fear and anxiety of the victim when giving evidence in court, the designated social worker may accompany the victim during the court proceedings.

58. The designated social worker accompanying the victim to give evidence in court should:

- (a) provide support and comfort to the victim throughout the whole process;
- (b) never coach a victim in giving evidence;
- (c) never prompt or seek to influence the victim in any way prior to or in the course of giving evidence; and
- (d) refrain from making any comments, or expressing any personal feelings, including anger or hostility, towards the defendant or other family members of the victim, or any personnel connected with the trial.

The designated social worker accompanying the victim to give evidence in court should not be a witness himself/herself. If the responsible designated social worker is also a witness, another appropriate person to provide support to the victim should be arranged.

(Flow chart on the intervention provided by the designated social worker is at Annex IX.)

## **Family and Child Protective Services Units**

59. The Family and Child Protective Services Units (FCPSUs) of SWD are specialised units to handle spouse/cohabitant battering, child protection and child custody cases. Any suspected child sexual abuse (i.e. victim aged under 18) or suspected spouse/cohabitant battering cases involving sexual violence should be handled by FCPSUs. For protection of child with suspected maltreatment, the “Protecting Children from Maltreatment – Procedural Guide for Multi-disciplinary Co-operation” (Revised 2020) should apply. For spouse/cohabitant battering cases, the “Procedural Guide for Handling Intimate Partner Violence Cases (Revised 2011)” should apply.

60. For cases being handled by FCPSU (i.e. known cases), the social worker, as the case manager, will render appropriate service to the victim of sexual violence as stipulated in paragraphs 41-58 above accordingly. Newly reported sexual violence cases (other than child protection or spouse/cohabitant battering in nature) referred to FCPSU will be referred to the designated social workers of the CEASE Crisis Centre for service.

61. For adult sexual violence cases in which the alleged perpetrator is not of spousal relationship with the victim of sexual violence but involving child abuse or battered spouse element, the designated social worker will be responsible for rendering service to the victim and his/her family relating to the sexual violence incident only. FCPSUs should handle these child abuse/battered spouse cases with the designated social worker on a shared case basis.

## **Medical Social Services Units**

62. An adult victim of sexual violence may be treated at AED/hospitalised or referred by the clinical team at the Specialist Out-Patient Department (SOPD). When the victim is newly made known to Medical Social Services Unit but not yet known to designated social worker of the CEASE Crisis Centre, the medical social worker (MSW) serving AED or SOPD should give immediate attention to the victim and introduce the service of the designated social worker of the CEASE Crisis Centre. If the victim consents to receive service from the designated social worker, the MSW should initiate contact with the designated social worker through the designated referral line immediately and brief the receiving designated social worker on the case background to relieve the victim from having to repeat his/her unpleasant experience. If the victim is very emotional, the MSW will accompany the victim and provide support until the arrival of the designated social worker. At the same time, the MSW will liaise with the designated nursing staff to arrange a suitable place that can ensure privacy of the victim to wait and go through the necessary procedures. The MSW should also take a proactive role in liaising with the designated social worker to ensure smooth transfer of the case. In addition, the victim may choose to receive services from the RainLily and FPAHK.

63. If the victim has already been referred to the designated social worker at an earlier stage, the MSW should co-work with the designated social worker to facilitate in-house liaison with the medical professionals when situation requires. Again, the MSW will

accompany the victim and provide support until the arrival of the designated social worker if the victim is very emotional.

64. There may be victim who refuses to receive the service of social worker offered by the CEASE Crisis Centre or relevant NGOs, e.g. the RainLily and FPAHK. For such cases, the MSW should:

- (a) respect the victim's wish if he/she still insists not to be referred for any social service;
- (b) interview the victim and other family members/significant others, if present, as soon as possible to provide emotional support and to assess whether the immediate situation is critical;
- (c) conduct all interviews in a safe and confidential environment and explain to the victim and other family members/significant others the need to have the necessary consent for release of information in making referral for other services;
- (d) if the sexual assault incident is not known to the Police, the MSW will encourage the victim to report to the Police and accompany the victim to make the report as appropriate (the steps in paragraph 46-48 above should be taken);
- (e) collaborate closely with the medical and allied health professionals and liaise with other concerned parties to understand the victim's situation and needs;
- (f) conduct initial social assessment on the needs of the victim and other family members/significant others and effects of the incident on them; and
- (g) render follow-up service as appropriate depending on the needs of the victim.

65. If the victim indicates the need for welfare services in relation to the sexual violence incident upon discharge from the hospital, the MSW will refer the victim to the designated social worker of the CEASE Crisis Centre. In addition, the victim can choose to receive service from the RainLily and FPAHK. For hospitals stationed with MSW of SWD, if the victim prefers the service be continuously provided by the MSW, the responsible MSW should provide the follow-up service as stipulated in paragraphs 54-58 above accordingly. If the victim still insists not to be referred for any other social services, his/her wish should be respected. Information of the service provided by the designated social worker should be provided to him/her for information so that he/she can seek help if he/she changes his/her mind at a later stage.

### **Other Settings Providing Casework Services**

66. The social workers of other settings providing casework services, including IFSCs, Medical Social Services Unit (Psy), Probation and Community Service Orders Office, Integrated Children and Youth Service Centres and School Social Work Service Units,

should give immediate attention to any victim of sexual violence who approaches them for service and introduce the service of the designated social worker of the CEASE Crisis Centre. If the victim consents to receive service from the designated social worker, the social worker should initiate contact with the designated social worker through the designated referral line immediately and brief the receiving designated social worker on the case background to relieve the victim from having to repeat his/her unpleasant experience. If the victim is very emotional, the designated social worker may outreach to a place convenient to the victim (e.g. the referring office) for immediate crisis intervention. The referring worker may attend the joint interview with the victim to facilitate smooth transfer of the case if necessary. (Case flow illustrated at Annex X)

67. The victim should be introduced to the service of designated social worker of the CEASE Crisis Centre. In addition, the victim may choose to receive services from the RainLily and FPAHK. If the victim still insists not to be referred for any other social services and prefers to be followed up by the service unit that he/she has approached, the social worker may interview the victim and provide necessary service depending on the needs of the victims. Procedures stipulated in paragraphs 51-58 above should be followed.

68. For a known case of a casework service unit reporting sexual violence incident, the responsible social worker should introduce the service of designated social worker. If the victim consents to receive service from the designated social worker, the social worker responsible will refer the case to the designated social worker through the designated referral line immediately and work together with the designated social worker on a shared case basis (i.e. the designated social worker to provide service to the victim relating to the sexual violence incident). In making the referral, the social worker should discuss with the designated social worker and send a written referral with necessary background information of the case. For urgent cases, special arrangement should be made (e.g. the referring worker to arrange the first appointment with the designated social worker for the victim prior to the written referral) so that immediate follow-up action can be taken by the designated social worker. (Case flow is illustrated at Annex XI.)

69. There may be situation that the victim still insists not to be referred for any other social services and chooses to be followed up by the responsible social worker instead. In such situation, the responsible social worker should provide the service to the victim according to the procedures stipulated in paragraphs 41-58 above in order to maintain the continuity of service. If necessary, case consultation and assistance can be enlisted from the designated social worker of the CEASE Crisis Centre.

## **Rehabilitation Service Units of NGOs**

70. The victim of sexual violence may be a MIP receiving service from day/residential rehabilitation service units. The service of the designated social worker of the CEASE Crisis Centre should be introduced. If the case is known to more than one social workers (e.g. both social worker of the rehabilitation service unit and social worker of IFSC are handling the case), the social worker of casework setting, upon the victim's consent, will refer the case to the designated social worker through the designated referral line immediately and work together with the designated social worker on shared case basis (i.e. the designated social worker to provide service to the victim relating to the sexual violence

incident). In making the referral, the social worker should discuss with the designated social worker and send a written referral with necessary background information of the case. For urgent cases, special arrangement should be made (e.g. the referring worker to arrange the first appointment with the designated social worker for the victim prior to the written referral) so that immediate follow-up action can be taken by the designated social worker.

71. For cases known to the NGO day/residential rehabilitation service unit only, the social worker of the day/residential rehabilitation service unit should introduce to the victim the service of the designated social worker. If the victim consents to receive service from the designated social worker, the social worker of the day/residential rehabilitation service unit should initiate contact with the designated social worker through the designated referral line immediately and brief the receiving designated social worker on the case background to relieve the victim from having to repeat his/her unpleasant experience. If the victim is very emotional, the designated social worker may outreach to a place convenient to the victim for immediate crisis intervention. Whenever necessary, the social worker of the day/residential rehabilitation service unit should assist in providing support and accompanying the victim in giving statement or attending the video-recorded interview upon request.

72. The victim should be introduced to the service of designated social worker of the CEASE Crisis Centre. In addition, the victim may choose to receive services from the RainLily and FPAHK. If the victim still insists not to be referred for any other social service, the social worker of the day/residential rehabilitation service unit should provide the service to the victim according to the procedures stipulated in paragraphs 41-58 above. If necessary, case consultation and assistance can be enlisted from the designated social worker of the CEASE Crisis Centre.

### **Clinical Psychological Service**

73. Clinical psychologists of SWD provide assessment and treatment services to victims of child abuse, domestic violence and sexual violence. Referrals are accepted from all SWD units and NGO IFSCs without agency clinical psychologist. In addition, the clinical psychologists also provide consultation on the management of victims of violence (sexual or otherwise, both within and outside the family) to social workers of SWD. Some clinical psychologists are trained interviewers to conduct video-recorded interviews for vulnerable witnesses. If the clinical psychologists identify any victim to have suffered from sexual violence, they may refer them to the CEASE Crisis Centre for follow-up services.

74. Assistance from clinical psychologists in the management of sexual violence cases is also available from some IFSCs of NGOs and major general hospitals of the Hospital Authority. For the latter, referrals are normally accepted from doctors or psychiatrists only. Unless they are known cases of the psychiatric services of the Hospital Authority, cases are usually followed up when they are receiving in-patient treatment only.



## Schools

### Referral for Services

75. If the victim of sexual violence is aged 18 or over and the disclosure of the sexual violence incident is first made known to the school teacher, the school teacher should refer the victim to the designated social worker of the CEASE Crisis Centre at the earliest possible time through the designated referral line with the victim's consent. In addition, the victim may choose to receive services from the RainLily and FPAHK. To ensure prompt action will be taken by the receiving end, there should be initial sharing of the case situation between the school teacher and the designated social worker. To facilitate better understanding of the incident, the school teacher should provide all the background information as far as possible and, with the victim's consent, be present during the interview by the designated social worker, if necessary. The interview should be conducted in a place where the victim feels safe and comfortable. If the case has been taken up by the designated social worker, the school teacher should work closely with the designated social worker to facilitate the victim's adjustment to school life.

76. Some victims may decline the social services introduced simply out of worry and misunderstanding about the related procedures, e.g. fear of personal information being disclosed, reluctance to relay the incident to different persons, etc. The school teacher should give reassurance to the victim to address his/her concerns as far as possible. If the victim still insists not to receive any social services, his/her wish should be respected and the reason given should be properly recorded. Information of the designated social worker will be provided to the victim so that he/she can seek help in case he/she changes his/her mind at a later stage.

### Report to the Police

77. Sometimes the sexual assault incidents have been reported to the Police when the cases are brought to the attention of the school. For cases in which the sexual assault incidents have not been reported to the Police, the following steps should be taken as appropriate:

- (a) all victims should be encouraged to report the case to the Police;
- (b) the victim should be advised that early reporting is preferable because physical and circumstantial evidence need to be gathered as soon as possible which may be of significant use in future;
- (c) if the victim refuses to report the case to the Police, the reasons, concerns or worries should be explored but the staff should avoid being pushy;
- (d) reassurance and support should be given to victims who are indecisive about making report to the Police;
- (e) if the victim has decided to report to the Police, every possible assistance should be given to facilitate the victim in making the report through the

designated contact person, i.e. the Duty Officers of respective police station;  
and

- (f) regardless of the victim's decision, care and support should be given.

78. To ensure the principle of confidentiality, each school is encouraged to have designated personnel (e.g. school principal, senior teacher/designated teacher) to handle sexual violence cases. It is further suggested that the designated personnel should form a Crisis Management Team in handling sexual violence cases. Members of the Team should have close communication among themselves and adhere strictly to the principle of confidentiality.

79. All records must be kept centrally by the school principal or designated personnel. Access to these records within the school must be restricted and recorded. On no account should these records be kept with the victim's general records. Records, letters or information supplied by other agencies should not be shown to the parents by the school without expressed permission from the agencies concerned.

## **IV. DEPARTMENT OF JUSTICE (PROSECUTIONS DIVISION)**

### **Introduction**

80. Although sexual violence cases are treated like any other cases, reference can be made to some of the special procedures in prosecuting cases involving vulnerable witnesses i.e. mentally incapacitated persons, complainants of specified offences and witnesses in fear, who have been sexually abused.

### **Roles and Responsibilities of the Counsel**

81. When the Police have constructed a case file and seek legal advice on a sexual violence case, the counsel will, subject to the complexity of the case, seek to advise the Police on the available evidence and the appropriate charge(s) within 14 days on receipt of the police file. A counsel will be assigned to prosecute if the case is tried in the Court of First Instance or the District Court. Depending on the case nature, the case will either be prosecuted by the counsel or a Court Prosecutor if it is tried in the Magistrates' Court.

82. The counsel must have regard to the *Prosecution Code* when handling cases of sexual violence. The *Victims of Crime Charter* and the *Statement on the Treatment of Victims and Witnesses* cover matters that counsel should pay attention to when it comes to the interests and special needs of victims of crime and vulnerable witnesses.

### **Giving Evidence by Vulnerable Witnesses**

83. Complainants of specified sexual offences could give evidence by way of a live television link under section 79B of the Criminal Procedure Ordinance, Cap 221. Under section 117(1) of the Crimes Ordinance, Cap 200, a specified sexual offence includes rape, non-consensual buggery and indecent assault.

84. If the sexual violence case involves a mentally incapacitated person or a witness in fear, evidence could also be given by way of a live television link under section 79B of the Criminal Procedure Ordinance.

85. Under section 156 of the Crimes Ordinance, if an allegation is made that a specified sexual offence has been committed, no matter likely to lead members of the public to identify any person as the complainant in relation to that allegation shall either be published in Hong Kong in a written publication available to the public or be broadcast in Hong Kong except as authorized by a direction of the Court.

86. It is permissible to make use of special protective measures, such as screens, special passageways, support persons, for a witness in a sexual offence case.

87. Practice Direction 9.5 is in place to cover applications for leave to call evidence by way of a live television link (under section 79B of the Criminal Procedure Ordinance) where the witness is mentally incapacitated, a complainant of a specified sexual offence or in fear. It also covers applications in respect of video recorded testimony (under section 79C of the same Ordinance) in the case of witnesses who are mentally incapacitated. The gist of the Practice Direction 9.5 in relation to the arrangement for vulnerable witnesses to give evidence is as follows:

- (a) cases involving vulnerable witnesses should be given priority for listing purposes;
- (b) on the date of trial, in order to avoid additional stress on any vulnerable witness, there should be no postponement except in the most exceptional circumstances;
- (c) all preliminary issues that may otherwise delay the start of the trial should have been dealt with in advance, or alternatively, notified to the parties concerned and to the Court, at least 7 days before the commencement of trial so that arrangement can be made to obviate vulnerable witnesses having to come to Court on days or at times when it is unlikely that they will be needed;
- (d) a usher will be arranged by the Court to operate the audio-visual facilities in the witness room and explain to the witness what to do, etc.;
- (e) a Support Person may also be present with the permission of the Court where the witness is mentally incapacitated or a complainant of a specified sexual offence; and
- (f) when a defendant is not represented and wishes to ask questions of a vulnerable witness, the Judge in his discretion may permit:
  - (i) the screen to be switched off on the monitor in the audio-visual facilities witness room allowing only the defendant's voice to be heard by the witness; or
  - (ii) the questions to be channelled through another person (including the Judge),if the Judge feels that the impact of cross-examination will be too inhibiting or threatening to allow the witness to answer freely.

### **Checklist for Calling Evidence through Live Television Link**

88. The checklist endeavours to provide the prosecutors with guidance to the trial and pre-trial procedures which includes the following matters:

- (a) provision of screens, special passageway, Support Person, and/or other special

protective measures to the victim of sexual violence;

- (b) to settle all conceivable contingencies before the victim is called, rather than for the counsel to mount submissions while the witness is giving evidence;
- (c) to arrange for the witness to visit the court before giving evidence so as to familiarise himself/herself with the court setting and environment, while such visit should not involve the witness seeing the accused;
- (d) it should be the common practice for victims of sexual violence to give evidence early. The time for which the witness will be kept waiting should be confined to the minimal. If possible, the Court will provide a special room for the witness and the accompanying social worker, if any, to settle down should the witness arrive early; and
- (e) the prosecutor should as far as possible ascertain from the defence in advance whether identity is in issue. This is important because it may affect whether court identification is necessary and if so, how it should be done.

### **Victim's Right to Know**

89. Through the Police, the counsel should inform the victim where possible the progress of the prosecution, the date and place of the hearing and the final disposal of the case, including the outcome of any appeal.

## **V. LEGAL AID DEPARTMENT**

### **Civil Remedies for Victim**

90. Victims of sexual violence have the right to seek redress by way of civil proceedings under appropriate circumstances. Under the Domestic and Cohabitation Relationships Violence Ordinance, Cap 189, a spouse/ex-spouse or cohabitee/ ex-cohabitee who suffers from sexual violence or threat of sexual violence may seek legal remedies. In such cases, the Court may make a non-molestation order, ouster order or re-entry order. On the other hand, a victim of sexual violence in a non-domestic situation who suffers from personal injuries and/or damages may also institute civil legal proceedings for an injunction order and/ or damages. A victim may apply for legal aid in person at the Legal Aid Department (LAD) to institute civil legal proceedings.

### **Application for Legal Aid**

91. When a victim of sexual violence applies for legal aid to institute civil proceedings, LAD shall explain clearly to the victim that in order to qualify for legal aid, the victim has to pass:

- (a) the means test, i.e. the victim's financial resources are within a specified level; and
- (b) the merits test, i.e. there are reasonable grounds for instituting civil proceedings, e.g. whether the proposed defendant/respondent can be located, and there is a good prospect of a successful claim and successful recovery of damages, etc.; LAD will consider the merits of each application case by case.

92. For any urgent application for legal aid, for example, the victim wishes to apply for a non-molestation order, ouster order or re-entry order, etc., LAD may arrange prompt appointment for assessing the means of the victim and statement taking.

93. When the victim gives a statement on the incident to LAD, it is important that he/she should not be traumatised by being asked to repeat the unpleasant experience as long as LAD is provided with such details as are necessary to assess the merits of the case. It will be explained to the victim that in order to minimise the need for him/her to repeat the details of the incident unnecessarily, he/she may, with the assistance of the Case Manager or the designated social worker or other professionals involved, produce to LAD the relevant information and documents and a brief statement of the incident. If the victim has difficulty in obtaining the relevant documents, whenever possible and appropriate and with the victim's consent, the victim's own statements given to the Police, outcome of prosecution of the other party and medical reports may be obtained by LAD on behalf of the victim.

94. It is important that the victim has to be informed of the outcome of the application and the reasons (if the application is unsuccessful) as soon as possible.

### **Progress of Court Proceedings**

95. When a victim has satisfied the means and merits tests and a legal aid certificate has been granted to take appropriate Court proceedings, the assigned private solicitors or the in-house litigation lawyers of LAD should contact the victim as soon as possible and advise the latter on the appropriate course of action and take such legal steps promptly to protect and pursue the victim's legal rights. Urgent appointment may be arranged for the victim to meet the assigned solicitor whenever necessary. The victim should be fully informed of the progress of the Court proceedings.

## **VI. HANDLING OF MENTALLY INCAPACITATED ADULT SEXUAL VIOLENCE VICTIMS IN NEED OF FORENSIC EXAMINATION**

96. Victims of sexual violence may have to go through forensic examinations. However, victims who are mentally incapacitated may not be able to give consent to the required examination. This chapter aims at providing a uniform set of procedures so as to facilitate different professionals in handling sexual violence cases involving adult mentally incapacitated persons (MIP).

### **Legal Authority for Consent to Treatment**

97. A victim who is a MIP may have global incapacity or may retain the capacity to make certain decision. If the victim has the capacity to give consent to medical examination/treatment<sup>4</sup> including forensic examination, he/she should make the decision for himself/herself in relation to the matter. If the victim is unable to give a valid consent, forensic examination by a forensic pathologist may still be conducted without the victim's consent by invoking section 59ZF under Part IVC of the Mental Health Ordinance (MHO), Cap 136 if the responsible social worker/police officer in consultation with the forensic pathologist concerned:

- (a) considers that as a matter of urgency that the examination is necessary and is in the best interests of the MIP; and
- (b) has taken all reasonably practicable steps to ascertain whether a legal guardian has been appointed, and there is, or appears to be, no guardian appointed, or the appointed guardian has not been conferred the legal right to give such consent.

98. It is important to note that a guardian duly appointed by the Guardianship Board (GB) may not have the legal power to give consent to medical treatment on behalf of the MIP as such power has to be specifically conferred on the guardian. (Reference: section 44B(1) and section 59R(3)(d) of the MHO)

99. Under section 59ZA of the MHO, "in the best interests" is defined as "in relation to the carrying out of treatment (see paragraph 93 above) or special treatment, as the case may be, in respect of a victim who is a MIP, in order to:

- (a) save the life of the MIP;
- (b) prevent damage or deterioration to the physical or mental health and well being of the MIP; or
- (c) bring about an improvement in the physical or mental health and well being of the MIP."

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<sup>4</sup> "Treatment" means medical treatment, dental treatment or both and includes proposed treatment but does not include special treatment. "Medical Treatment" includes any medical or surgical procedure, operation or examination carried out by or under the supervision of, a registered medical practitioner and any care associated therewith.



100. There is no need to apply for guardianship under Part IVB of the MHO in normal situation. Only under special circumstances that if the registered medical practitioner, e.g. forensic pathologist, considers that the circumstances would not be appropriate to invoke section 59ZF of the MHO and when a guardian is not available or the guardian is not conferred with the power, an application for guardianship/review of the existing guardianship order for the MIP victim under Part IVB of MHO should be considered.

### **Procedures on Arranging Forensic Examination for Mentally Incapacitated Victims**

101. When the victim who is a MIP is brought for forensic examination, the forensic pathologist will assess the victim's capacity to consent to the forensic examination.

102. If the victim **has** the capacity to give a valid consent, he/she should make his/her own decision and the forensic pathologist will act according to his/her decision.

103. If the forensic pathologist considers that the victim **does not have** the capacity to give the required consent, the following may be considered :

- (a) if there is a legal guardian vested with the power to consent to treatment (see paragraph 94 above) under section 59R(3)(d) of the MHO, the guardian will be contacted to consider giving the consent. Under section 59ZD of the MHO, the guardian who has been conferred with the power to consent to medical treatment on behalf of the MIP by the GB can give consent to the forensic examination. The legal guardian will exercise the vested power to give consent to treatment/forensic examination if it is in the best interests of the MIP victim of sexual violence (see section 59 ZB(3) of the MHO); and
- (b) if there is no such guardian or the guardian is not conferred with the said power, the forensic pathologist may invoke section 59ZF under Part IVC of the MHO to conduct the examination for the MIP victim (Annex XII – Flow Diagram of Part IVC of the MHO).

104. However, there are some situations which may warrant an application for guardianship for the victim, e.g. Part IVC of the MHO cannot be invoked due to objection/disagreement from the victim or guardian or family member(s) to the forensic examination being in the best interests of the victim. In such situation, assistance from a social worker to apply for guardianship<sup>5</sup> for the victim will be considered.

105. While cases of sexual violence are handled by the designated social worker, there may be situations where, for whatever reasons, the case has not been taken up by any social worker but is found to be in need of application for guardianship. In such circumstances, referral can then be made by calling the designated referral line of the CEASE Crisis Centre to enlist the assistance from the designated social worker

106. The social worker<sup>6</sup>, with the assistance from the Police should conduct reasonable

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<sup>5</sup> The operating hours of GB is 0845 to 1730 hours from Monday to Friday.

<sup>6</sup> The social worker may refer to the responsible social worker of the victim if the latter has been a known case of any

case checking procedures<sup>7</sup>, and to confirm whether the victim has a legal guardian conferred with the power to consent to treatment (see paragraph 94 above) under section 59R(3)(d) of the MHO through written enquiry (Annex XIII).

### Application for Guardianship

107. The social worker<sup>8</sup> accompanying the victim who is a MIP may initiate an application for guardianship, and together with it, submit an application for Emergency Guardianship Order (EGO).<sup>9</sup> Two medical reports, together with the completed applications for guardianship (Form 1 at Annex XIV) and EGO (Form 4 at Annex XV) should be submitted to the GB at once. The two medical reports are :

- (a) The Registered Medical Practitioner's Report for a Guardianship Application (Annex XVI) to be completed by a doctor approved or not approved under section 2(2) of the MHO; and
- (b) Approved Doctor's Medical Report for Guardianship Application (Annex XVII) to be completed by a registered medical practitioner who is approved under section 2(2) of the MHO by the Hospital Authority as having special experience in the diagnosis or treatment of mental disorder, or special experience in the assessment or determination of mental handicap<sup>10</sup>.

108. For victims in AED or admitted to hospital, completion of the Approved Doctor's Medical Report can be arranged through psychiatric consultation in the respective hospital. For cases not admitted to hospital, psychiatric examination may be conducted by a private psychiatric practitioner or Specialist Out-patient Clinic (Psychiatry) through medical referral.

109. The "EGO application flow diagram (during office hours)" issued by GB (Annex XVIII) applies. For SWD social worker, please refer to paras 10.10.1 to 10.12.1 on "Initiation of an EGO Application" (Revised 2020 November version) of the "Operational Guidelines on Procedures arising from Provisions in the MHO Cap 136" for details of application and follow up of an EGO.

110. If GB deems necessary to interview the victim for the EGO or GO application/Review of GO, the social worker could provide assistance to the GB to decide on the venue. The social worker, with the assistance from the Police, should arrange a suitable venue for accommodating the victim while waiting for the hearing.

111. If the victim's presence in the hearing is deemed necessary and if the hearing is

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unit before the current incident, or the designated social worker.

<sup>7</sup> Responsible officer has to check with the GB and SWD during office hours to confirm whether the MIP concerned is a known Guardianship case under Part IVB and Part IIIA of the MHO respectively.

<sup>8</sup> Social workers of SWD or NGO can apply to the GB for Guardianship Order (GO) or Emergency Guardianship Order (EGO); and if requested by the GB, the concerned social workers, SWD and NGO alike, may need to attend hearings on application for GO or EGO even though they are not the applicant.

<sup>9</sup> In the interest of time, the GB should be contacted by phone (2369 1999) for case briefing to facilitate their early contact of Panel Members for the EGO hearing. All other necessary documents for the EGO application should then be sent to the GB by fax (2739 7171) as soon as possible, with original copies passed to GB subsequently.

<sup>10</sup> Please visit the website of GB for more information regarding guardianship and updated forms

going to be conducted within the same day, the victim may be arranged to stay in the hospital/police station or any other place considered suitable in the company of his/her close relatives or social worker or responsible police officer.

112. If the victim's presence at the hearing is deemed not necessary or the hearing will not be conducted on the same day, the victim may be advised to return home if it is safe to do so. If it is considered not suitable for the victim to return home and other alternatives have been explored, he/she may be arranged to take temporary accommodation as appropriate, e.g. relative's home or Wing Lung Bank Golden Jubilee Sheltered Workshop and Hostel with transport arranged by the Police.

#### MIP victim with legal guardian who refuses to consent

113. If the legal guardian refuses to give consent to examination due to various reasons, especially that the legal guardian is suspected to be the abuser and the forensic pathologist considers that the circumstances would not be appropriate to invoke section 59ZF of the MHO, then the social worker or parties concerned may initiate an urgent review of the Guardianship Order, with the assistance from the forensic pathologist, if necessary, so as to protect the best interests of the victim. The procedures for review application are stipulated in:

- (a) the "Application Procedure for Review of a Guardianship Order" issued by Guardianship Board (Annex XIX) ; and
- (b) paragraphs 10.22.1 to 10.23.4 on "Initiation of a Review Application" (Revised 2020 November version) of the "Operational Guidelines on Procedures arising from Provisions in the MHO Cap 136" (on details of initiation of review application for SWD social worker).

114. Normally a progress social enquiry report (PSER) and the financial statement will be required by the GB in processing a review application. In case of urgency or under special situation, it would be subject to GB's consideration if submission of PSER and/or other documents would be exempted.

#### Cases with complication or controversies

115. If there are complications or disagreement on the views of best interests, the social worker or parties concerned may apply to the Court of First Instance, with the assistance from the forensic pathologist, if necessary, for the Court's consent to the treatment under section 59ZI (1) of the MHO. Alternatively, an application may be made to the High Court for a declaration that the proposed examination is in the best interest of the victim and for approval of the examination. Proper legal advice should be sought as appropriate.

## **VII. HANDLING OF COLD CASES**

### **Introduction**

116. Victims of sexual violence may encounter internal struggles, fear and anxiety if they decide to report the incident of sexual violence. To avoid recalling the unpleasant experience and due to worries of being disbelieved or blamed, they may not choose to report the incident to the Police or seek assistance immediately after the incident. This chapter aims at providing guidance for related professionals in helping those victims who report the incident after the incident took place for two weeks or more.

### **Definition of Cold Case**

117. Cold case refers to the sexual violence incident which has taken place for more than two weeks when the case is reported. To facilitate the provision of appropriate assistance to the victims of cold cases, the handling of these cases can be further divided into two categories according to the time of incident when the case is reported, i.e. “more than two weeks but less than six months” and “more than six months”<sup>11</sup>. The handling of these two categories of cold cases will be explained in the following paragraphs.

### **Understanding the Victims**

118. Though the victims are encouraged to report the incident as soon as possible as evidence may diminish over time, their views and decisions should always be respected. Assistance should be made available and accessible to the victims whenever they decide to report the case.

### **Reasons of Not Reporting**

119. There are many reasons for the victims of sexual violence not reporting or delaying in making a report, such as:

- Inadequate support or information received
- Shame and embarrassment
- Self-blame and guilt
- Avoid “second traumatisation” when retelling the incidents
- Lack of trust in the legal system
- Fear of being blamed

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<sup>11</sup> The periods are defined by the time required for clinical procedures. The forensic examination is clinically significant for the incident occurred within two weeks, while all designated sexual violence clinics accept referrals of the sexual assault incident occurred within six months.

- Fear of being disbelieved
- Fear of retaliation
- Worry about the lack of evidence
- Do not want to get the offender in trouble
- Do not want anyone to know
- Not being aware that the incident is sexual violence
- Insufficient information of the details/perpetrator

### Professional Response to Victims' Needs

120. The victims' disclosure of their traumatic experience is never easy. Though the best timing in collecting the physical and circumstantial evidence of the incident may be missed, professionals should always treat the victims with respect and empathy, adopting an accepting, open-minded and non-judgmental attitude. It is very important that the victims should never be accused/ blamed for the incident or late reporting.

121. As the trauma of the victims might not be easily healed after the incident, the victims may still be very emotional and vulnerable whenever they recall the incident. Professionals should not assume that the victims of sexual violence have recovered from the trauma despite the incident has occurred long time ago. The victims should be treated with care and sensitivity at all times.

### **Procedures for Handling Cold Cases**

#### For incidents having occurred for more than two weeks but within six months

122. The hospitals and Police are often the initial contact points for victims of sexual violence. However, for cold cases, the medical needs of victims may not be valid over time when treatment is not necessary. Thus, the victims may turn to seek help directly from the Police or the social workers.

#### ***Police as the initial contact***

123. Upon receipt of a report of sexual violence, a police officer should handle the victim with care and empathy and take the following actions:

- (a) escort the victim to a separate unoccupied room and introduce the services of the designated social workers of the CEASE Crisis Centre for handling sexual violence cases including round-the-clock outreaching and crisis intervention service;
- (b) explore the needs of the victim for initial medical treatment or examination, such as screening for sexually transmitted diseases and/or AIDS and other gynaecological treatment, and convey him/her to the hospital if needed;

- (c) carry out initial investigation and statement taking in the presence of an officer of the same gender as the victim, if appropriate and available, throughout the process to minimise their distress; and
- (d) ensure that the victim's rights are adhered to, prepare the victim as a witness if there is sufficient evidence to pursue the case, and notify the victim of the progress/result of the investigation.

124. Since the circumstantial evidence may not be available, forensic examination may or may not be suitable to be carried out at this stage, depending on the case nature, time of the incident and judgment of the professionals. Seeking advice from the forensic pathologist is suggested if in doubt.

### ***Hospital as the initial contact***

125. If the victim approaches the hospital directly or have medical needs, medical staff should adopt the following procedures:

- (a) as far as possible, the Nurse Coordinator of the same gender as the victim, if appropriate and available, should approach the victim, comfort him/her and arrange a place with privacy for interview or medical examination to minimise their distress;
- (b) introduce the services of the designated social workers of the CEASE Crisis Centre for handling sexual violence cases including round-the-clock outreaching and crisis intervention service;
- (c) explore the needs of the victim to receive initial necessary medical treatment or examination, such as screening of sexually transmitted diseases and/or AIDS and other gynaecological treatment;
- (d) encourage the victim to report the case to the Police by liaising with the contact person of respective police station or police officer at the hospital police post, and explore the reasons, concerns or worries if he/she refuses;
- (e) provide follow-up medical treatment, such as screening of sexually transmitted disease and/or AIDS and other gynaecological treatment for a period of about six months; and
- (f) With victim's consent, case doctor may refer the victim to the designated sexual violence clinics for follow-up.

126. All designated sexual violence clinics accept request for appointment from the victim or designated social worker with referral from a registered medical doctor if it is within six months of the sexual assault incident.

### ***Designated social worker as the initial contact***

127. When the victim directly approaches the designated social workers, the following steps should be taken:

- (a) explore the needs of the victim to receive initial medical treatment or examination, such as screening of sexually transmitted diseases and/or AIDS and other gynaecological treatment;
- (b) advise the victim to attend medical examination at the hospital or by a registered medical practitioner to see if a medical referral to one of the designated sexual violence clinics for assessment of any residual physical and/or psychological trauma arising from the incident and screening for sexually transmitted diseases is needed;
- (c) encourage the victim to report the case to the Police by liaising with the contact person of respective police station, and explore the reasons, concerns or worries if he/she refuses;
- (d) provide company and assistance for the victim throughout the process, and for cases reported to the Police, provide support and comfort to the witness throughout the statement taking and trial process if he/she is required to give evidence in court; and
- (e) Provide support services to the victim for at least six months, including escort, counselling, and referral for appropriate services such as clinical psychological services, financial assistance, housing, etc. as appropriate.

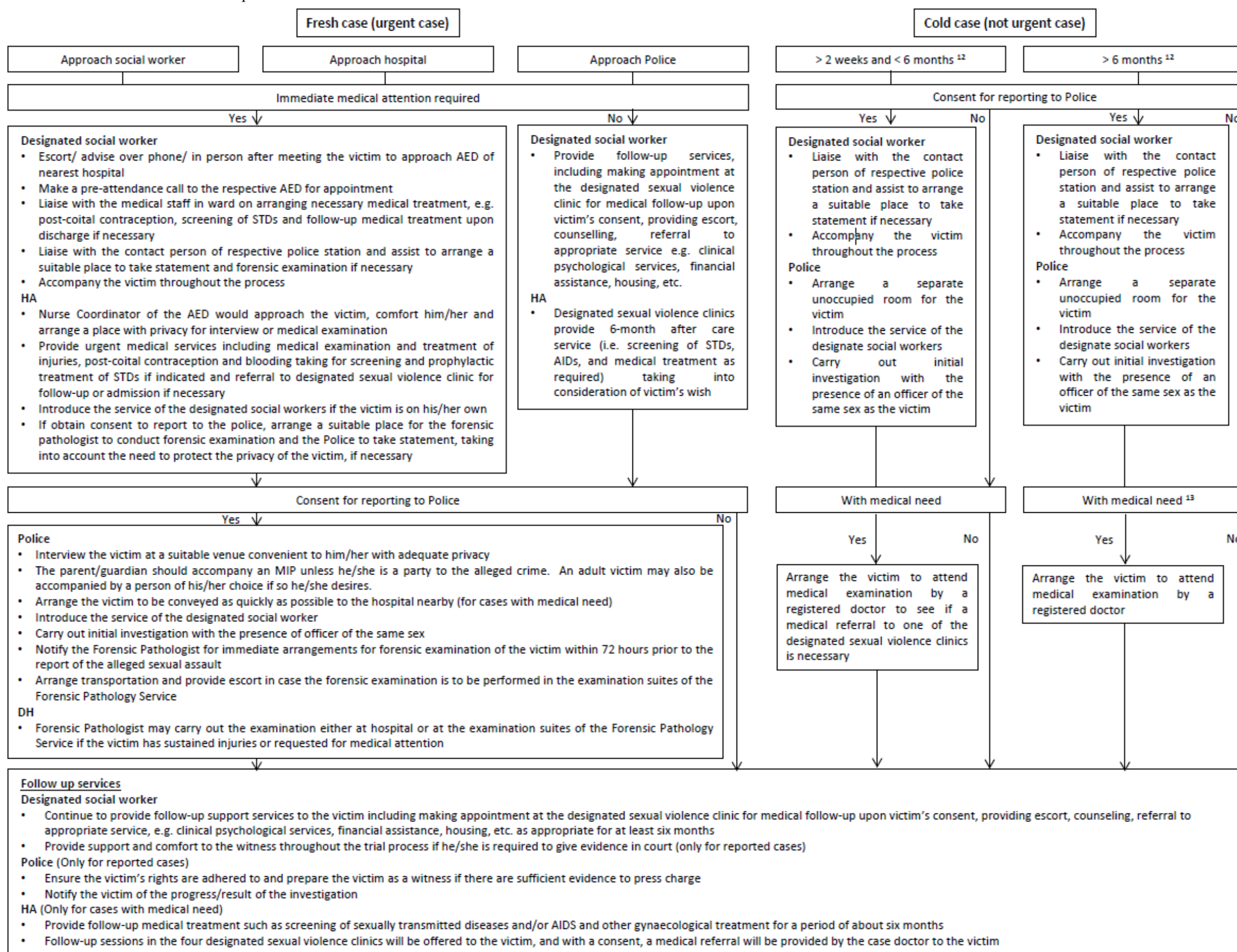
### **For incidents having occurred for more than 6 months**

128. For cases reported after the incident has occurred for more than 6 months, the medical needs may not be the paramount concern for the victims because most of them do not require any medical follow-up. However, the designated social workers will still assist the victims continuously if they have other welfare or emotional needs. Since the designated sexual violence clinic mainly accepts case referrals of sexual violence incident occurred within 6 months, the designated social workers may have to arrange the victims to receive medical examination by a registered doctor if they have medical needs.

129. Please refer to the following flowchart for the summarised procedures in handling victims of sexual violence at different time points.

## Flowchart

Procedures in handling victims of sexual violence at different time points are listed below:



<sup>12</sup> Time of sexual violence incident occurred before the case is reported (forensic examination is clinically significant for the incident having occurred within two weeks, and designated sexual violence clinics accept referrals of the incident having occurred within six months.)

<sup>13</sup> Assessment should be made case by case



**Tung Wah Group of Hospitals CEASE Crisis Centre**

**Victims of Sexual Violence**

If it is so unfortunate that you have come across sexual abuse, escaping from reality or trying to hide away is not the solution to the problem. Finding somebody to talk to is better than shouldering the entire burden on your own. If you want to receive assistance to break away from the trauma of sexual abuse, you may choose our **specialised service**. We are experienced social workers of Tung Wah Group of Hospitals CEASE Crisis Centre specially trained to provide specialised services for you.

**Our Mission**

We will provide timely, professional and specialised service with respect, trust and empathy. We will also help you avoid being further traumatised by unnecessary procedures, travelling from place to place or repeating the unpleasant experience from time to time. We will empower you to regain self-confidence and strength to lead a normal life.

**Services provided:**

- (a) 24-hour crisis intervention service to victims of sexual violence;
- (b) co-ordination with the concerned departments/agencies to facilitate the victim to go through the procedures, if necessary, which include:
  - i) immediate medical examination/ treatment including pregnancy prevention and screening of sexually transmitted diseases
  - ii) medical follow-up, such as treatment for sexually transmitted diseases, gynaecological treatment, HIV, etc.
  - iii) report to the Police and statement taking
  - iv) forensic examination
  - v) other legal proceedings
- (c) provision of support and company to the victims and their family throughout the process;
- (d) referrals for other necessary services, e.g. psychological treatment, financial assistance and temporary accommodation, etc.; and
- (e) case consultation to frontline professionals handling sexual violence cases.

## **Confidentiality**

All information provided is treated in **strict confidence**.

## **Application for Service**

CEASE Crisis Centre 24-hour Hotline : **18281**

**RainLily Sexual Violence Crisis Centre  
for Female Victim-survivors of Sexual Violence**

**Hotline: 2375 5322**

RainLily Sexual Violence Crisis Centre (RainLily) provides independent, confidential, and specialist support for female victim-survivors of sexual violence or abuse, whether or not you have reported to the Police or if you plan to do so, you are not on your own.

**24-hour out-reaching crisis intervention service includes:**

- (a) 24-Hour Emergency Pager for the Police, doctors, nurses, social workers and other professionals
- (b) Accompany the victim-survivor in the process of giving police statement and rendering emotional support and emotional management counselling when needed.
- (c) Accompany the victim-survivor to attend forensic examination and medical treatment related to the assault.
- (d) Refer and accompany the victim-survivor to receive post-coital contraception, assessment, preventive treatment for sexually transmittable infections, and follow-up gynaecology treatment at Kwong Wah Hospital, Prince of Wales Hospital or United Christian Hospital.

**RainLily services:**

• **Hotline Service**

- Sexual Violence Helpline: **2375 5322**
- SafeChat Online Support: WhatsApp: 2375 5322; Instagram: @acsvaw  
<https://rainlily.org.hk/safechat>
- Operating Hours: Monday ~ Friday 9:00 a.m. to 10:00 p.m.  
Saturday 9:00 a.m. to 1:00 p.m.
- RainLily Sexual Violence Helpline assists victim-survivors of sexual violence and their supporters.

- **Counselling**
  - Emotional support, psychological assessment, and individual counselling provided by experienced social worker.
- **Immediate and Post-Crisis Medical Support**
  - Collaborating with a number of hospitals to provide medical follow-up, including immediate medical treatment, post-incident contraception and preventive treatment for sexually transmittable infections.
- **Legal Procedures Accompaniment**
  - Assist in reporting the case to the Police according to the service user's wish, coordinate procedures in statement-taking and forensic examination.
- **Legal Consultation**
  - Free legal consultation on sexual violence related laws and rights with pro-bono lawyers (service available to victim-survivors of all genders).
- **Counselling Group**
  - Safe and comfortable platform for survivors to learn from each other and grow together in a mutually supportive environment.
- **Professional Training**
  - Equipping frontline workers of different sectors on skills and knowledge in supporting victim-survivors of sexual violence.
- **Referral to Other Professional Services**

### **One-Stop Police Reporting Procedures**

When requested and consented by victim-survivors of rape or sexual assault, RainLily's social workers will report the case to the Police on their behalf. Police statements can be taken within RainLily's premises.

### **Specialised Service Operating Principles:**

1. Minimise re-traumatisation of victim-survivors in the process of repeating their stories to different people.
2. Minimise re-traumatisation of victim-survivors in the process of travelling to different departments or organisations.
3. Avoid putting victim-survivors under duress in making decisions.

## **Fees**

All services provided at RainLily are free of charge.

## **Confidentiality**

All information is kept strictly confidential.

## **When could you consider calling RainLily?**

When you come across a female victim-survivors of sexual violence, no matter it is a rape case or a serious sexual assault case (including physical abuse and psychological trauma), please introduce our service to the client and obtain her consent to call us. The service is free of charge and all information concerning the victim will be kept strictly confidential.

## **How does RainLily respond after receiving your call?**

Upon receiving your call, our specialised social workers will provide crisis intervention and out-reaching service, and if the situation requires, we will also travel to your office as soon as possible. Before our arrival, please arrange the victim-survivor to wait at a private and safe area and keep them company.

## **What is RainLily's service coverage?**

RainLily serves the entire Hong Kong SAR.

## **What is the professional background of RainLily counsellors?**

All RainLily counsellors are registered social workers and have clinical experience of counselling victim-survivors of sexual assault and other forms of sexual violence.

## **Referral & Enquiry**

With consent from the victim-survivors, please contact RainLily.

Telephone: 2375 5322

Facsimile: 2717 1801

Email: [safechat@rainlily.org.hk](mailto:safechat@rainlily.org.hk)

Website: <https://rainlily.org.hk/service>



## THE FAMILY PLANNING ASSOCIATION OF HONG KONG

### **Services offered by The Family Planning Association of Hong Kong (FPAHK) to Victims of Sexual Assault:**

#### **1. Prevention of Pregnancy**

If the victim can come to FPA within 5 days after the assault, she will be offered emergency contraception: pills or intra-uterine device to reduce the chance of pregnancy.

#### **2. Examination for Sexually Transmissible Diseases**

Swab and blood and tests will be carried out to detect such diseases. If necessary, we can refer the victim to a Social Hygiene Clinic of the Department of Health for further treatment.

#### **3. Termination of Pregnancy**

If the victim finds that she has missed a period, we can perform a pregnancy test. If pregnancy is confirmed and she does not want to continue with the pregnancy, legal abortion can be arranged. If she wants to continue with the pregnancy, we can also make appropriate referral and arrangement.

#### **4. Counselling**

Our counsellors will help the victim handle any anxieties and fear, and offer a comfortable environment to talk about his/her feelings and thoughts. If necessary, we can also make referral for psychological or psychiatric assessment and treatment.

#### **5. Other Services**

Whenever necessary, FPAHK can refer the victim to other agencies for assistance and services (e.g. Social Welfare Department, CEASE Crisis Centre, RainLily, Mother's Choice, etc.).

**All information is strictly confidential**

**Youth Health Care Centres (For unmarried persons under the age of 26)**

Wan Chai Youth Health Care Centre 2575 4799

FPA Jockey Club Youth Zone, 8/F, Southorn Centre, 130 Hennessy Road, Wanchai, Hong Kong.

Mon to Fri                      9:00 a.m. – 8:00 p.m.  
Sat                                9:00 a.m. – 1:00 p.m.

Mong Kok Youth Health Care Centre 2770 4994

Room A, 13/F, Full Win Commercial Centre, 573 Nathan Road, Kowloon.

Mon to Fri                      9:00 a.m. – 8:00 p.m.  
Sat                                9:00 a.m. – 1:00 p.m.

Kwai Fong Youth Health Care Centre 2443 2773

Units 702-705, Level 7, Tower II, Metroplaza, 223 Hing Fong Road, Kwai Chung, N.T.

Mon to Fri                      9:00 a.m. – 8:00 p.m.  
Sat                                9:00 a.m. – 1:00 p.m.

(Mong Kok and Kwai Fong Centre will extend the opening hours to 5:00 p.m. on Saturday if necessary)

**Clinics (For married persons and persons aged 26 years or above)**

Wan Chai Birth Control Clinic 2919 7777

G/F, Southorn Centre, 130 Hennessy Road, Wanchai, Hong Kong.

Mon - Fri                      9:00 a.m. – 8:00 p.m.  
Sat                                9:00 a.m. – 5:00 p.m.

Ma Tau Chung Birth Control Clinic 2711 9271

1/F, 105 Ma Tau Chung Road, Kowloon.

Mon - Fri                      9:00 a.m. – 8:00 p.m.  
Sat                                9:00 a.m. – 5:00 p.m.

Yuen Long Clinic 2477 3201

G/F, 149-153 On Ning Road, Yuen Long, New Territories.

Mon to Fri                    9:00 a.m. – 8:00 p.m.  
Sat                                9:00 a.m. – 5:00 p.m.

Tsuen Wan Birth Control Clinic 2742 8183

Rooms 1621-1622, 16/F, Nan Fung Centre, 264-298 Castle Peak Road, Tsuen Wan, New Territories.

Mon to Fri                    9:00 a.m. – 8:00 p.m.  
Sat                                9:00 a.m. – 5:00 p.m.

Wong Tai Sin Birth Control Clinic 2326 2447

No. 1-2, G/F, Lung On House, Lower Wong Tai Sin Estate II, Kowloon.

Mon to Fri                    9:00 a.m. – 8:00 p.m.  
Sat                                9:00 a.m. – 5:00 p.m.

\* Youth Health Care Centres and Clinics are closed on Sundays & Public Holidays

**The Family Planning Association of Hong Kong**

**G/F, 8/F, 9/F & 10/F, Southorn Centre, 130 Hennessy Road, Wan Chai, Hong Kong**

**Website : <http://www.famplan.org.hk>**

**E-mail : [fpahk@famplan.org.hk](mailto:fpahk@famplan.org.hk)**

**FPA Services Hotline 2572 2222**



**Contact Telephone Numbers of AEDs of Hospital Authority**

<b>Hospital</b>	<b>Contact No. 1</b>	<b>Contact No. 2</b>	<b>Facsimile</b>
Pamela Youde Nethersole Eastern Hospital	2595 6092	2595 6104	2898 4941
Queen Mary Hospital	2255 3007	2255 3709	2818 9096
Ruttonjee Hospital	2291 2012	2291 2014	2834 0142
St John Hospital	2986 2123	-	2981 5261
Kwong Wah Hospital	3517 8002	3517 8003	2374 0657
United Christian Hospital	3949 4125	3949 4126	2379 5801
Queen Elizabeth Hospital	3506 6063	-	2770 9552
Princess Margaret Hospital	2990 2626	2990 3686	2785 1747
Caritas Medical Centre	3408 7722	-	2310 2642
Yan Chai Hospital	2417 8132	-	2411 6741
Tseung Kwan O Hospital	2208 0288	-	2174 8465
Prince of Wales Hospital	3505 3250	-	2645 9439
North District Hospital	2683 7230	2683 7232	2683 7256
Alice Ho Miu Ling Nethersole Hospital	2689 2929	-	2680 4256
Tuen Mun Hospital	2468 5271	-	2466 9940
Pok Oi Hospital	2486 8031	-	2486 8030
North Lantau Hospital	3467 7126	3467 7170	3467 7127
Tin Shui Wai Hospital	3513 5031	3513 5030	3514 9273

## Contact Telephone Numbers of Police Stations

	Report Room	Telephone	Facsimile
<b><i>Hong Kong Island</i></b>			
1	Central District	3661 1600	2975 4392
2	Police Services Centre, Central District	3661 1602	2543 9612
3	Peak Sub-Division	3661 1604	2849 5652
4	Western Division	3661 1618	2858 9065
5	Aberdeen Division	3661 1614	2552 9216
6	Stanley Sub-Division	3661 1616	2813 6480
7	Wan Chai Division	3661 1612	2511 8731
8	Happy Valley Division	3661 1610	2575 8051
9	North Point Division	3661 1608	2562 5546
10	Chai Wan Division	3661 1606	2556 3406
11	Shau Kei Wan Reporting Centre	3661 1620	2234 9860
<b><i>Kowloon East</i></b>			
12	Wong Tai Sin District	3661 1632	2752 9405
13	Tsz Wan Shan Reporting Centre	3661 1634	2351 9064
14	Sai Kung Division	3661 1630	2791 5129
15	Kwun Tong District	3661 1622	2348 0700
16	Tseung Kwan O District	3661 1624	2706 1332
17	Sau Mau Ping Division	3661 1628	2790 7017
18	Ngau Tau Kok Division	3661 1626	2750 0642
19	Kai Tak Cruise Terminal Police Reporting Centre	3661 1796	2572 2502
<b><i>Kowloon West</i></b>			
20	Tsim Sha Tsui Division	3661 1650	2369 0793
21	Yau Ma Tei Division	3661 1652	2332 8500
22	Yau Ma Tei Reporting Centre	3661 1653	2770 4226
23	West Kowloon Station Reporting Centre	3661 1794 3661 1795	2320 8375
24	Sham Shui Po Division	3661 1646	2958 1430
25	Cheung Sha Wan Division	3661 1644	2742 7046
26	Shek Kip Mei Reporting Centre	3661 1648	2788 3830
27	Mong Kok District	3661 1642	2789 2123
28	Kowloon City Division	3661 1640	2762 9789
29	Hung Hom Division	3661 1638	2624 5367
<b><i>New Territories South</i></b>			
30	Kwai Chung Division	3661 1690	2410 0013
31	Tsing Yi Division	3661 1692	2449 0351
32	Tsuen Wan Division	3661 1708	2405 3687
33	Sha Tin Division	3661 1702	2601 2176
34	Tin Sum Division	3661 1706	2601 5841
35	Siu Lek Yuen Reporting Centre	3661 1704	2646 1458
36	Ma On Shan Division	3661 1700	2640 1904
37	Lantau North Division	3661 1694	2988 1822
38	Lantau South (Mui Wo) Division	3661 1696	2984 1538

	<b>Report Room</b>	<b>Telephone</b>	<b>Facsimile</b>
39	Hong Kong-Zhuhai-Macao Bridge Hong Kong Port Police reporting Centre	3661 1734	2362 0895
40	Penny's Bay Police Post	3661 1698	2983 6530
41	Airport District Police Station	3661 1688	2769 4809
<b><i>New Territories North</i></b>			
42	Tai Po Division	3661 1674	2144 1271
43	Sheung Shui Division	3661 1672	2676 7569
44	Tuen Mun Division	3661 1670	2456 4105
45	Tai Hing Reporting Centre	3661 3950	2474 8033
46	Castle Peak Division	3661 1668	2457 9507
47	Yuen Long Division	3661 1680	2443 0590
48	Tin Shui Wai Division	3661 1678	2446 6547
49	Shenzhen Bay Port Reporting Centre	3661 1682	3549 6205
50	Pat Heung Division	3661 1676	2488 0328
51	Lo Wu Control Point	3661 1656	2673 8203
52	Sha Tau Kok Division	3661 1664	2659 2339
53	Lok Ma Chau Division	3661 1658	2482 4808
54	Lok Ma Chau Spur Line Control Point	3661 1662	3404 6055
55	Lok Ma Chau Boundary Control Point	3661 1660	2674 7798
56	Ta Kwu Ling Division	3661 1666	2659 8501
57	Man Kam To Boundary Control Point	3661 1686	2652 5829
58	Heung Yuen Wai Boundary Control Point Police Reporting Centre	3661 1737	2617 7812
<b><i>Marine</i></b>			
59	Marine East Division	3661 1718	2194 4542
60	Marine South Division	3661 1724	2553 7165
61	Marine West Division	3661 1726	2452 2759
62	Marine North Division	3661 1722	2602 7353
63	Cheung Chau Division	3661 1712	2986 9057
64	Lamma Island Police Post	3661 1714	2982 1824
65	Sok Kwu Wan Police Post	3661 1736	2982 8403
66	Peng Chau Police Post	3661 1716	2983 1146
67	Marine Harbour Division	3661 1720	2884 9242

**Extract from “Procedural Guide for Social Workers on the Handling of Mentally Incapacitated Adults Arising from the New Provisions in Criminal Procedure (Amendment) Ordinance 1995” Appendix 3.4**

**NOTES ON REPORTING TO THE POLICE  
FOR INCIDENT INVOLVING A MIP**

1. The reporting should preferably be made at the police station of the division where the alleged crime/offence has taken place. For example, it will be preferable for a MIP residing at a hostel in Chai Wan who was beaten up and robbed in Central to report the incident to the Central Police Station. If the MIP or his/her relative preferred to report to the nearest police station, they can still make such a report and the case will then be referred to the respective police station for follow-up.
2. If the incident has just occurred, try to bring along the available physical evidence to the police station. If the incident has recently taken place in a service unit or the MIP’s home, try not to disturb the scene in case the police may search for physical evidence. For cases involving sexual act with a MIP, do not bathe the MIP or wash/throw away his/her clothes before the reporting.
3. While the MIP or his/her relative may not be ready to disclose the incident to the police, the nature of the incident and the urgency of the matter should be taken into consideration. For instance, if a MIP witnessed a man stabbing another man with a knife in a public toilet, the incident may better be reported to the police as another person’s life may be at risk. For a female MIP allegedly to have been raped, the matter should be reported to police as soon as possible so that forensic examination and medical treatment, if required can be arranged timely.
4. The Personal Data (Privacy) Ordinance, Cap. 486 provides that personal data can only be transferred or accessed with consent from the data subject (the individual whose personal data is concerned) or the consent from a relevant person (i.e. where the individual is a minor, his/her parents and/or legal guardians; where the individual is incapable of managing his own affairs, a person who has been appointed by a Court).

For adult MIPs, their parents are no longer “a relevant person” who can give consent to or refuse the data transfer unless they have been appointed by the Court. However, their views should be consulted and respected as far as practicable. It is preferable to have discussion with the parents of MIP in relation to the reporting to police.

An adult MIP may give consent to release his/her personal information if his/her mental capacity permits his/her understanding of the request. Part VIII of the Personal Data (Privacy) Ordinance also provides specific exemptions for collection and transfer of information including for the purposes of crime related matters.

5. It is exempted from the data protection principle 3 under section 58(2) of the Personal Data (Privacy) Ordinance, Cap 486 to disclose the personal data of the MIP victim to the Police if the disclosure of information is related to the prevention/ detection of crime, the arrest/prosecution of the offender or the preclusion/remedying of unlawful conduct, etc.

**HA Designated Sexual Violence Clinic / Department Providing Medical After-care Service**

<b>Cluster</b>	<b>Hospitals with AED within the Cluster</b>	<b>Designated Sexual Violence Clinic / Department</b>
Hong Kong	Pamela Youde Nethersole Eastern Hospital, Queen Mary Hospital, Ruttonjee Hospital, St John Hospital	Chai Wan Health Centre (Chai Wan General Out-Patient Clinic)
Kowloon	Kwong Wah Hospital, United Christian Hospital, Queen Elizabeth Hospital, Princess Margaret Hospital, Caritas Medical Centre, Yan Chai Hospital, Tseung Kwan O Hospital and North Lantau Hospital	Family Medicine Specialist Clinic / Yau Ma Tei Jockey Club General Outpatient Clinic
New Territories East	Prince of Wales Hospital, North District Hospital, Alice Ho Miu Ling Nethersole Hospital	Family Medicine Specialist Clinic / Prince of Wales Hospital
New Territories West	Tuen Mun Hospital  Pok Oi Hospital  Tin Shui Wai Hospital	Family Medicine Specialist Clinic / Tuen Mun Hospital







**Form B for Designated Social Work Service**

(should be used with Intake Form **separately**)

**Case Code:** \_\_\_\_\_

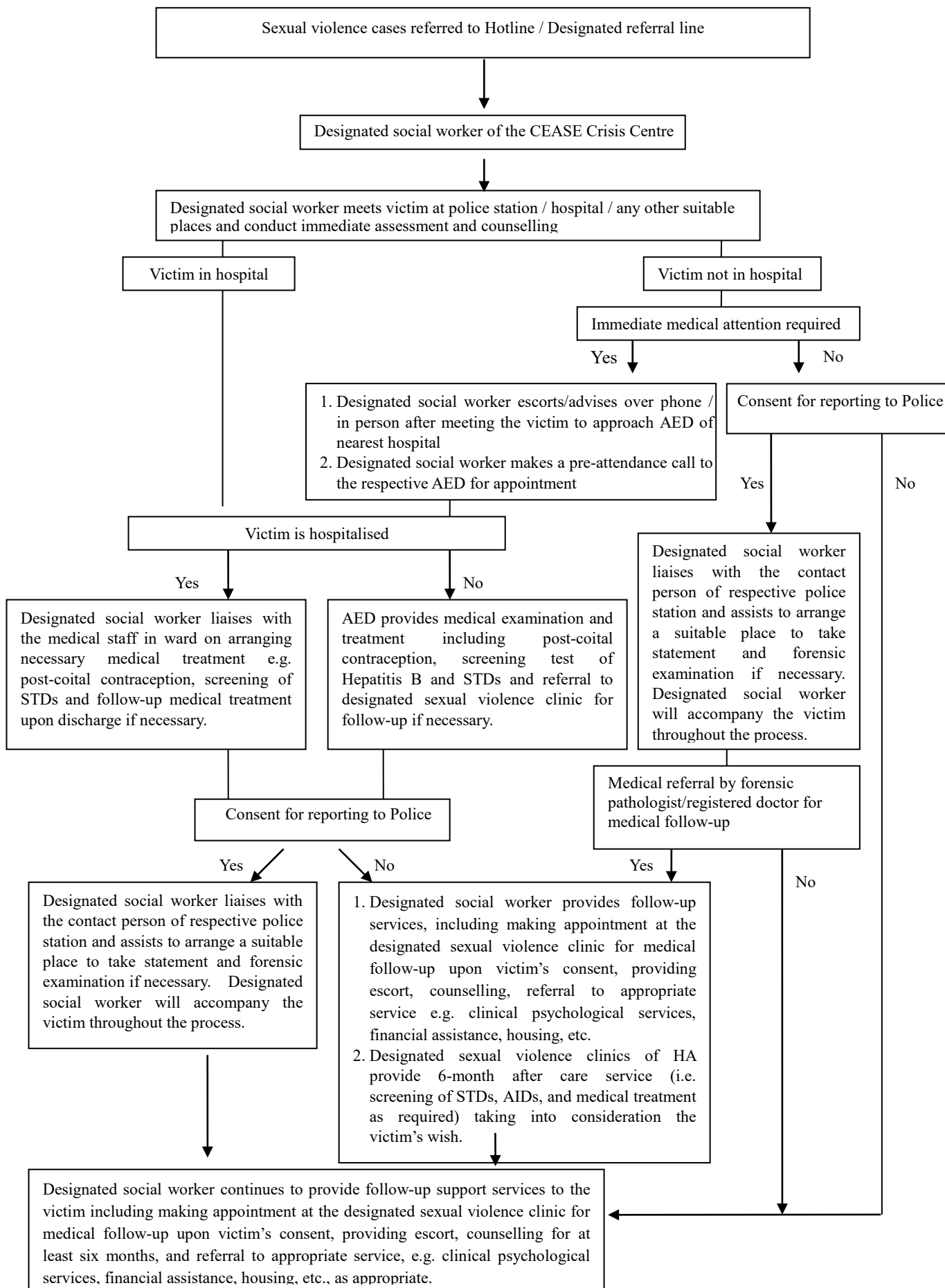
**Name:** \_\_\_\_\_ (in Chinese \_\_\_\_\_)

**Passport /HKIC No.:** \_\_\_\_\_

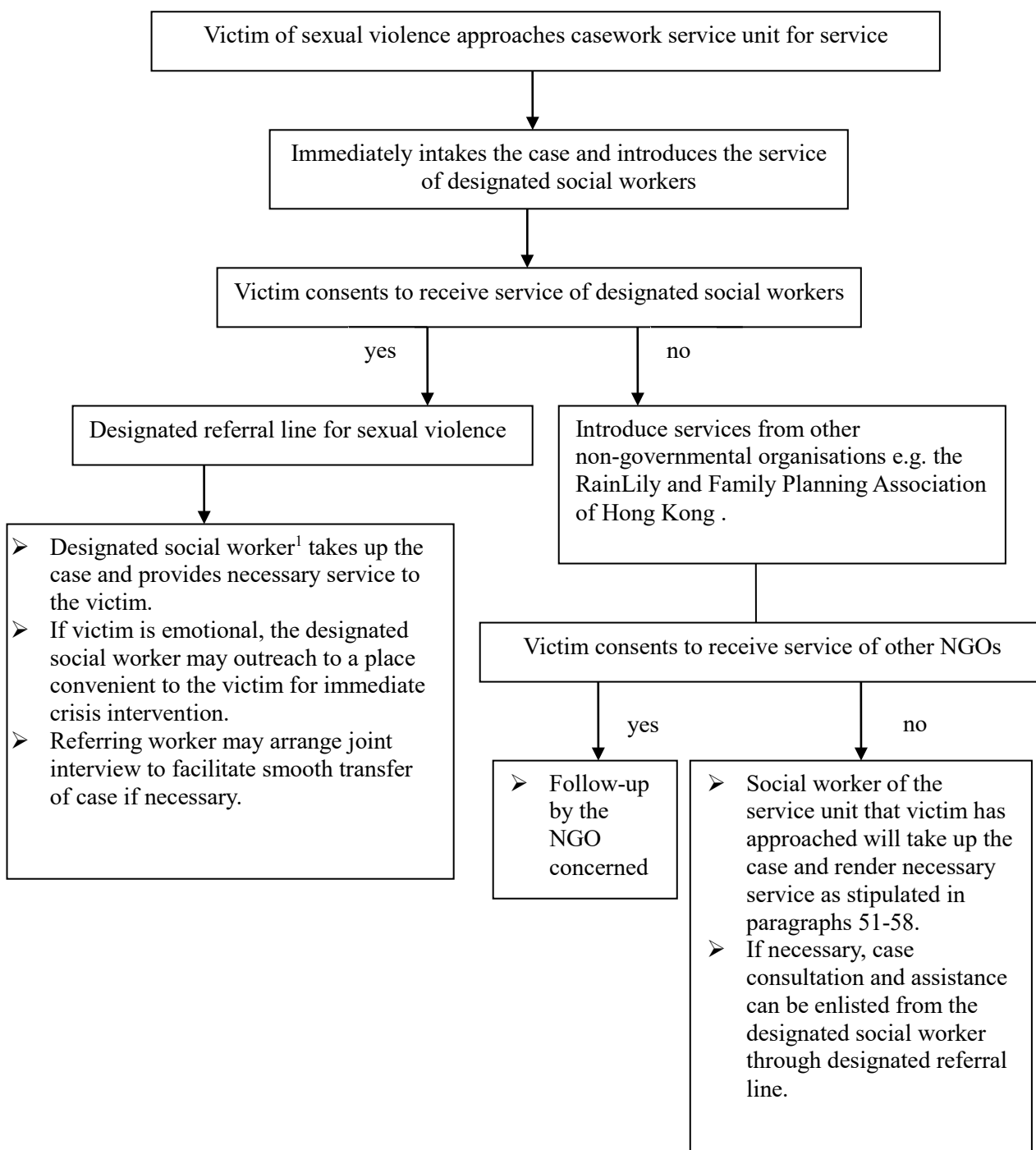
**Telephone No.:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Flow Chart – Crisis Intervention on Sexual Violence Cases by Designated Social Workers**

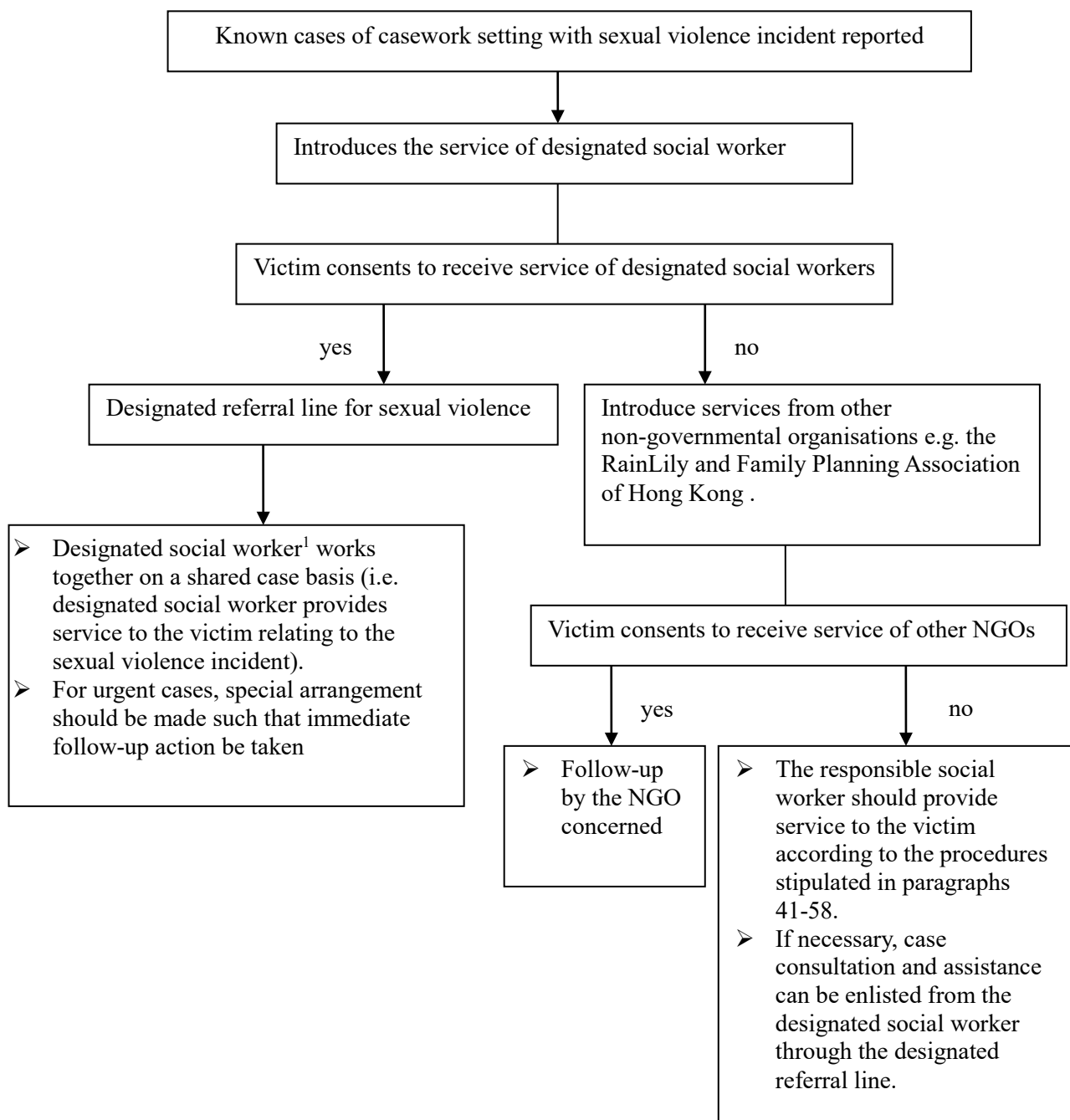


**Flow Chart on Handling of New Cases of Sexual Violence in Other Settings Providing Casework Services**



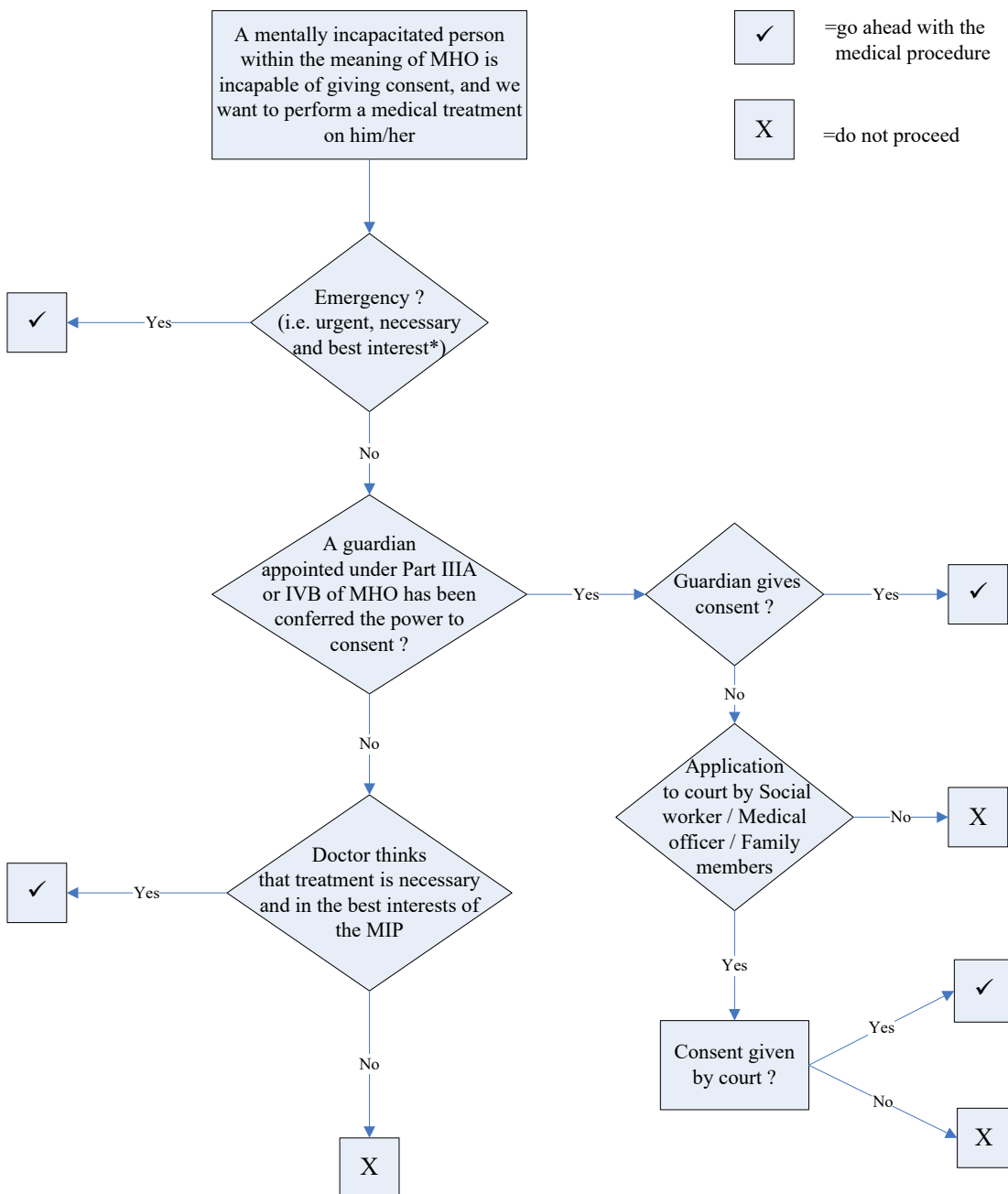
<sup>1</sup> Service is provided by the designated social workers of the CEASE Crisis Centre operated by Tung Wah Group of Hospitals on a 24-hour basis. [Revised January 2010]

**Flow Chart on Handling of Known Cases of Casework Setting with Sexual Violence Incident Reported**



<sup>1</sup> Service is provided by the designated social workers of the CEASE Crisis Centre operated by Tung Wah Group of Hospitals on a 24-hour basis. [Revised January 2010]

**Essence of Part IVC of Mental Health Ordinance, Cap. 136  
[under Section 59ZF(1), 59ZD(1) & 59ZF(3)]**



\* Under Part IVC, Section 59ZA of the MHO, “in the best interests”, in relation to the carrying out of treatment or special treatment, as the case may be, in respect of a mentally incapacitated person, means in the best interests of that person in order to -

- (a) save the life of the mentally incapacitated person;
- (b) prevent damage or deterioration to the physical or mental health and well-being of that person; or
- (c) bring about an improvement in the physical or mental health and well-being of that person.

**Sample**

**URGENT BY FAX**  
**CONFIDENTIAL**

Chairperson  
Guardianship Board  
Room 807-809, 8<sup>th</sup> Floor,  
Hong Kong Pacific Centre,  
28 Hankow Road,  
Tsim Sha Tsui, Kowloon  
(Fax No. 2739 7171)

#Rehabilitation and Medical Social Services Branch  
Social Welfare Department  
Rm 901, 9/F, Wu Chung House  
213 Queen's Road East  
Wanchai  
Hong Kong  
(Fax No.: 3791 2175)

Dear Chairperson ,

**Implementation of Part IVC of**  
**The Mental Health (Amendment) Ordinance 1997**

With the coming into effect of Part IVC of the Mental Health (Amendment) Ordinance 1997, we have to enquire if any mentally incapacitated person listed below has been received into guardianship, and if so, whether the guardian has been given the power to consent to medical examination.

We would like to enquire the following:

- i) whether any guardian has been appointed under Part IIIA or Part IVB of the Mental Health Ordinance for person(s) set out on the following table; and
- ii) if there is such a guardian, whether he/she has been given the power to consent to medical examination. If so, kindly provide his/her contact details to us.

We would be grateful for an early reply because forensic examination is under contemplation.

<b><u>Our Ref.</u></b>	<b><u>Name of Patient(s)</u></b>	<b><u>(Chinese Name)</u></b>	<b><u>HKID Card No.</u></b>	<b><u>Date of Birth</u></b>

(Letter Close)

\*# Checking of cases under Part IVB of MHO should be directed to GB while cases of Part IIIA of MHO should be directed to SWD.

表格 1  
FORM 1[第 3 條]  
[s. 3]

根據《精神健康條例》(第 136 章)第 59M(1)條  
提出的監護申請  
GUARDIANSHIP APPLICATION UNDER SECTION 59M(1) OF THE  
MENTAL HEALTH ORDINANCE (CAP. 136)

致：監護委員會  
To: Guardianship Board

第 I 部  
PART I申請人資料  
Information on applicant

如此項申請並非由社會福利署署長提出—  
If the application is NOT made by the Director of Social Welfare—

姓名： [ ] 性別： (男 / 女)  
Name: (1) [ ] Sex: (M/F)  
身份證號碼： [ ]  
Identity card no.: (2) [ ]  
地址： [ ]  
Address: (3) [ ]  
聯絡電話號碼： [ ]  
Contact telephone no.: (4) [ ]

如此項申請由社會福利署署長提出—  
If the application is made by the Director of Social Welfare—

可聯絡的公職人員姓名： [ ]  
Name of contact public officer: (5) [ ]  
地址： [ ]  
Address: (6) [ ]  
聯絡電話號碼： [ ]  
Contact telephone no.: (7) [ ]  
聯絡傳真號碼： [ ]  
Contact fax no.: (8) [ ]

屬此項申請的標的之精神上無行為能力的人的資料  
Information on the mentally incapacitated person the subject of the application

姓名： [ ] 性別： (男 / 女)  
Name: (9) [ ] Sex: (M/F)  
身份證號碼 (如知悉的話)： [ ]  
If known, Identity card no.: (10) [ ]  
地址 (如知悉的話)： [ ]  
If known, Address: (11) [ ]

(包括該精神上無行為能力的人現時所住的醫院或機構或宿舍)  
(including the hospital or institution or residential home where the mentally incapacitated person is staying)

\*該精神上無行為能力的人現年 [ ] 歲  
\*The mentally incapacitated person is aged (12) [ ] years

或  
OR

[如不知悉該精神上無行為能力的人的年齡]\* 本人 (申請人) 相信該人已年屆 18 歲。  
[If the age of the mentally incapacitated person is not known]\* I (the applicant) believe that the person has attained the age of 18 years.

本人 (申請人) 是該精神上無行為能力的人的 [ 述明與該人的關係 ] (13) [ ] / 社會工  
作者 / 註冊醫生 / 社會福利署的公職人員\*。  
I (the applicant) am the [state relationship] (13) [ ] of

the mentally incapacitated person / a social worker / a registered medical practitioner / a public officer in the Social Welfare Department\*.

本人(申請人)已就此項申請諮詢該精神上無行為能力的人的一名親屬;他/她\*是該精神上無行為能力的人的  
[ 述明與該人的關係及該親屬的姓名和地址 ]

I (the applicant) have consulted a relative of the mentally incapacitated person, namely his/her\* [state relationship and name and address of the relative] (14)

(見註 1)。  
about this application (See Note 1).

或  
OR

本人(申請人)一直未能找到該精神上無行為能力的人在香港的任何親屬(見註 1)。

I (the applicant) have been unable to locate any relative of the mentally incapacitated person in Hong Kong (See Note 1).

本人(申請人)最後一次見該精神上無行為能力的人的日期是(15) [ ] 年 [ ] 月 [ ] 日 (見註 2)。

I (the applicant) last saw the mentally incapacitated person on [date] (15) [ ] (See Note 2).

[如該精神上無行為能力的人是根據《精神健康條例》而被羈留的病人]\* 該精神上無行為能力的人根據《精神健康條例》第(16) [ ] 條而現被或須被羈留。

[If the mentally incapacitated person is a patient detained under the Mental Health Ordinance]\* The mentally incapacitated person is detained or liable to be detained under section (16) [ ] of the Mental Health Ordinance.

[如該精神上無行為能力的人屬根據《精神健康條例》第 59E(4)(a)(iii) 或 (6)(a) 條而提出的建議的標的]\* 有關建議的詳情(包括規限該精神上無行為能力的人的命令)如下—

[If the mentally incapacitated person is the subject of a recommendation under section 59E(4)(a)(iii) or (6)(a) of the Mental Health Ordinance]\* Details of the recommendation (including the order which the mentally incapacitated person is subject to) are as follows—

(17)

#### 提出申請的理由

#### Reasons for making the application

本人(申請人)有理由相信—

I (the applicant) have reason to believe that—

- (a) 屬此項申請的標的之精神上無行為能力的人患有精神紊亂/屬弱智\*, 而其性質或程度足以構成根據《精神健康條例》第 IVB 部將他/她收容監護的理由; 及  
the mentally incapacitated person the subject of this application is suffering from mental disorder/has a mental handicap\* of a nature or degree which warrants his/her reception into guardianship under Part IVB of the Mental Health Ordinance; and
- (b) 為該精神上無行為能力的人的福利著想, 或為保護他人著想, 有需要將該精神上無行為能力的人如此收容監護;  
it is necessary in the interests of the welfare of the mentally incapacitated person or for the protection of other persons that the mentally incapacitated person should be so received;

本人相信上述事項所基於理由是—

The reasons for my belief are—

(18)

本人(申請人)現申請按照《精神健康條例》第 59 〇 條, 將該病人交由 [建議的監護人姓名] (19)

收容監護。

I (the applicant) apply for the person to be received into the guardianship of [proposed guardian's name] (19)

in accordance with section 59〇 of the Mental Health Ordinance.



此項申請是基於 2 名註冊醫生 (兩人均非申請人) 按照《精神健康條例》第 59M(3) 條作出的書面報告而提出的，現將該報告一併附上 (見註 3)。該 2 名註冊醫生的詳情如下—

This application is accompanied by and founded on the attached written reports of 2 registered medical practitioners (neither of whom is the applicant) in accordance with section 59M(3) of the Mental Health Ordinance (See Note 3). Particulars of the 2 registered medical practitioners are as follows—

1. 姓名:   
Name: (20)  
地址:   
Address: (21)  
已照顧該精神上無行為能力的人為期:  
Length of period of caring for the mentally incapacitated person: (22)   
是否已根據《精神健康條例》第 2 (2) 條獲得認可? (23) 是 / 否\*  
Approved under section 2 (2) of Mental Health Ordinance: (23) Yes/No\*
2. 姓名:   
Name: (24)  
地址:   
Address: (25)  
已照顧該精神上無行為能力的人為期:  
Length of period of caring for the mentally incapacitated person: (26)   
是否已根據《精神健康條例》第 2 (2) 條獲得認可? (27) 是 / 否\*  
Approved under section 2 (2) of Mental Health Ordinance: (27) Yes/No\*

申請人簽署   
Signature of the applicant (28)  
日期   
Date (29)

## 第 II 部 PART II

建議的監護人的資料 (如建議的監護人並非由社會福利署署長擔任)

Information on proposed guardian where the proposed guardian is not the Director of Social Welfare

姓名:  性別: (男/女)  
Name: (30) Sex: (M/F)  
年齡:   
Age: (31)  
身份證號碼:   
Identity card no.: (32)  
地址:   
Address: (33)

## 第 III 部 PART III

建議的監護人作出的聲明 (如建議的監護人並非由社會福利署署長擔任)

Declaration by proposed guardian where the proposed guardian is NOT the Director of Social Welfare

本人, 即建議的監護人, 願意按照《精神健康條例》第 59O 條, 作為 [精神上無行為能力的人的姓名] (34)   
 的監護人。  
I, the proposed guardian, am willing to act as the guardian of [name of the mentally incapacitated person] (34)   
 in accordance with section 59O of the Mental Health Ordinance.

本人(建議的監護人)是該精神上無行為能力的人的 [述明與該人的關係] (35)  。

I (the proposed guardian) am the [state relationship] (35)  of the mentally incapacitated person.

建議的監護人簽署  
Signature of the proposed guardian (36)

日期  
Date (37)

\*將不適用者刪去。  
\* Delete as appropriate.

- 註： 1. 如申請人是該精神上無行為能力的人的親屬，則將此段刪去。  
Notes: Delete this paragraph if the applicant is a relative of the mentally incapacitated person.
2. 申請人必須在申請日期前 14 天內曾親自見過該精神上無行為能力的人。  
The applicant must have personally seen the mentally incapacitated person within 14 days of the date of the application.
3. 監護申請書應在一名註冊醫生於為有關申請的目的而提交一份載有醫學意見的書面報告前，最後一次檢查該精神上無行為能力的人的 14 天內，送交監護委員會(見《精神健康條例》第 59R(4) 條)。  
A guardianship application should be forwarded to the Guardianship Board within 14 days of the mentally incapacitated person's last examination by a registered medical practitioner before furnishing a written report containing a medical opinion for the purposes of the application (see section 59R(4) of the Mental Health Ordinance).

## Guardianship Board

**Before making application, pay attention to the following notes:**

1. **Coroner**

According to the "Coroners Ordinance" (Cap 504), where a subject dies whilst under guardianship, a coroner shall hold an inquest into the death and may need post-mortem examination.

Guardian should notify the Director of Social Welfare not later than 14 days after the subject's death; also to report the death to the Coroner via the Commissioner of Police, and immediately inform the hospital of the subject's guardianship status in order that the funeral can be arranged smoothly.

2. **Must co-operate in investigation**

Social Welfare Department need to conduct a full and complete investigation on each guardianship application (irrespective of the stated grounds) and file a report. Applicant and family members should fully co-operate with the reporting officer and provide all relevant information (include finances) of subject.

3. **Case follow-up after granting of a Guardianship Order**

A social worker of the Social Welfare Department will be responsible to follow up the guardianship case until the Order is discharged. Private guardian must fully co-operate with the case social worker and provide all relevant information (e.g. accommodation, finances and medical) to the case social worker **under** the period of Order. The case social worker will visit the subject **each month** as well as the guardian should have **regular** meetings and keep contacts with the case social worker and provide reports **every month** (including monthly accounts and relevant information).

4. **Financial Power is very limited**

It is only allowed to use a specified sum on a strictly monthly basis for the maintenance of subject only.

5. **Sufficient postage ensures successful delivery**

Underpaid mail items which are subject to surcharge by Hongkong Post will not be accepted by the Guardianship Board. For effective and timely delivery of your mail items to the Guardianship Board, please ensure that sufficient postage is paid and return address is appended before posting mail items. All underpaid mail items will not be accepted by the Guardianship Board and will be handled by Hongkong Post in accordance with their established procedures.

Guardianship Board Secretariat



根據《精神健康條例》(第 136 章)第 59 Q 條  
提出的緊急監護申請

EMERGENCY GUARDIANSHIP APPLICATION UNDER SECTION 59Q OF THE  
MENTAL HEALTH ORDINANCE (Cap. 136)

致:監護委員會  
To: Guardianship Board

第 I 部  
PART I

申請人資料  
Information on applicant

如此項申請並非由社會福利署署長提出—

If the application is NOT made by the Director of Social Welfare—

姓名 (請用正楷填寫) Name (please print):	<input type="text"/>	(中文) (Chinese)	<input type="text"/>	性別: (男/女) Sex: (M/F)
身份證號碼: Identity card no.:	<input type="text"/>			
地址: Address:	<input type="text"/>			
聯絡電話號碼: Contact telephone no.:	<input type="text"/>			
聯絡傳真號碼 (如有): Contact fax no. (if any):	<input type="text"/>			

如此項申請由社會福利署署長提出—

If the application is made by the Director of Social Welfare—

可聯絡的公職人員姓名 (請用正楷填寫): Name of contact public officer (please print):	<input type="text"/>	(中文) (Chinese)	<input type="text"/>
地址: Address:	<input type="text"/>		
聯絡電話號碼: Contact telephone no.:	<input type="text"/>		
聯絡傳真號碼: Contact fax no.:	<input type="text"/>		

屬此項申請的標的之精神上無行為能力的人的資料

Information on the mentally incapacitated person the subject of the application

姓名 (請用正楷填寫) Name (please print):	<input type="text"/>	(中文) (Chinese)	<input type="text"/>	性別: (男/女) Sex: (M/F)
身份證號碼 (如知悉的話): If known, Identity card no.:	<input type="text"/>			
地址 (如知悉的話): Address (if known):	<input type="text"/>			
(包括該精神上無行為能力的人現時所住的醫院或機構或宿舍) (including the hospital or institution or residential home where the mentally incapacitated person is staying)				
*該精神上無行為能力的人現年 *The mentally incapacitated person is aged	<input type="text"/>	歲		

或\*  
OR\*

[如不知悉該精神上無行為能力的人的年齡]\*本人(申請人)相信該人已年屆 18 歲。

[If the age of the mentally incapacitated person is not known]\* I (the applicant) believe that the person has attained the age of 18 years.

本人(申請人)是該精神上無行為能力的人的 [ 述明與該人的關係] \_\_\_\_\_。

I (the applicant) am the [state relationship] \_\_\_\_\_ of the mentally incapacitated person.

本人(申請人)最後一次見該精神上無行為能力的人的日期是 \_\_\_\_\_。

I (the applicant) last saw the mentally incapacitated person on [date] \_\_\_\_\_。

**選擇性問題 (見註 1)**  
**Optional Question (see note 1)**

本人(申請人)已就此項申請諮詢該精神上無行為能力的人的一名親屬;他/她\* 是該精神上無行為能力的人的 [ 述明與該人的關係及該親屬的姓名和地址 ] (請用正楷填寫)

I (the applicant) have consulted a relative of the mentally incapacitated person, namely his/her\* [state relationship and name and address of the relative](please print) \_\_\_\_\_

\_\_\_\_\_ (見註 2)。

\_\_\_\_\_ about this application (See Note 2).

**提出緊急申請的理由**  
**Reasons for making the emergency application**

本人(申請人)有理由相信—  
 I (the applicant) have reason to believe that—

- (a) 該精神上無行為能力的人正處於危險之中或正在或相當可能會被虐待或受人利用;  
 the mentally incapacitated person is in danger or is being, or likely to be, maltreated or exploited;
- (b) 該精神上無行為能力的人由於精神上無行為能力而無能力就與其個人情況有關的所有或佔相當比例的事宜方面作出合理的決定;  
 the mentally incapacitated person is incapable by reason of mental incapacity of making reasonable decisions in respect of all or a substantial proportion of the matters which relate to his personal circumstances; and
- (c) 有需要立刻提供款項以保護該人。  
 it is necessary to make immediate provision to protect the mentally incapacitated person.

本人相信上述事項所基於理由是—  
 The reasons for my belief are—

\_\_\_\_\_

本人(申請人)現申請按照《精神健康條例》第 59 Q 條, 將該人交由 [建議的監護人姓名](請用正楷填寫) \_\_\_\_\_ 收容監護。

I (the applicant) apply for the person to be received into the guardianship of [proposed guardian's name] (please print) \_\_\_\_\_ in accordance with section 59Q of the Mental Health Ordinance.

申請人簽署  
 Signature of the applicant \_\_\_\_\_

姓名  
 Name \_\_\_\_\_  
 (請用正楷填寫) (please print)

日期  
 Date \_\_\_\_\_

第 II 部  
PART II

建議的監護人的資料 (如建議的監護人並非由社會福利署署長擔任)

Information on the proposed guardian where the proposed guardian is NOT the Director of Social Welfare

姓名 (請用正楷填寫) Name (please print):		(中文) (Chinese)	性別: (男/女) Sex: (M/F)
年齡 Age:		身份證號碼: Identity card no.:	
地址: Address:			
聯絡電話號碼: Contact telephone no.:			
聯絡傳真號碼: Contact fax no.:			

第 III 部  
PART III

建議的監護人作出的聲明 (如建議的監護人並非由社會福利署署長擔任)

Declaration by the proposed guardian where the proposed guardian is NOT the Director of Social Welfare

本人, 即建議的監護人, 願意按照《精神健康條例》第 59O 條, 作為 [精神上無行為能力的人的姓名] (請用正楷填寫) 的監護人。

I, the proposed guardian, am willing to act as the guardian of [name of the mentally incapacitated person] (please print)

in accordance with section 59O of the Mental Health Ordinance.

本人 (建議的監護人) 是該精神上無行為能力的人的 [述明與該人的關係]

I (the proposed guardian) am the [state relationship] of the mentally incapacitated person.

建議的監護人簽署  
Signature of the proposed guardian

姓名  
Name

(請用正楷填寫) (please print)

日期  
Date

\*將不適用者刪去。  
\* Delete as appropriate.

- 註:  
Notes:
1. 為有關精神上無行為能力的人的最佳利益著想, 最好能通知他/她的親屬, 但該親屬不得是被指控的施虐者。提出申請不一定要徵詢親屬, 不應因此而延誤申請的時間。  
If it is the best interest of the mentally incapacitated person, it is good practice to inform a relative but only if the relative is not alleged abuser. Consulting the relative is not compulsory and you should not spend an unreasonable time in locating him/her, which would delay the application.
  2. 如申請人是該精神上無行為能力的人的親屬, 則將此段刪去。  
Delete this paragraph if the applicant is a relative of the mentally incapacitated person.



### Registered Medical Practitioner's Report for a Guardianship Application

Complete this form if you are a doctor *other than one approved under section 2 (2) of the Mental Health Ordinance* [see Note 1]

#### Details of patient

1. Name with surname in capital letters: (please print) \_\_\_\_\_

#### Details of registered medical practitioner (RMP):

2. Full name: (please print) \_\_\_\_\_ [中文: \_\_\_\_\_]

3. Qualifications: \_\_\_\_\_

4. Position of doctor: private practitioner / D of H doctor / HA doctor / Visiting Medical Officer / others\* \_\_\_\_\_

5. Date of first consultation: \_\_\_\_\_ Number of consultations: \_\_\_\_\_

6. Date of last examination: \_\_\_\_\_ (day/month/year)

**Declaration [IMPORTANT NOTE: THIS PART i.e. QUESTIONS 7, 8, 9, 10 & 11 MUST BE COMPLETED IN FULL]**

7. I am satisfied that the patient is a mentally incapacitated person suffering from one of the following, of a nature or degree which warrants his reception into guardianship: [please tick]

a) mental illness, Please specify **diagnosis**:

- schizophrenia;
- delusional disorder
- Alzheimer's disease;
- vascular dementia;
- mixed-type dementia;
- others: please specify: \_\_\_\_\_

b) arrested or incomplete development of mind, which amounts to a significant impairment of intelligence and social functioning, which is associated with abnormally aggressive or seriously irresponsible conduct; (i.e. a mentally handicapped person with serious behaviour management problems)

c) psychopathic disorder;

d) other disorder or disability of mind which does not amount to mental handicap:

- CVA (Cerebral Vascular Accident / haemorrhage)
- acquired brain injury;
- a stroke causing some cognitive deficits;
- PVS (Persistent Vegetative State);
- Comatose / semi-comatose;
- others: please specify: \_\_\_\_\_

e) mental handicap (developmental delay).

8. How long does the person have the mental disorder/handicap\*? \_\_\_\_\_ month(s) / year(s)

9. Is there any possibility of recovery? [Please tick]

- Is  Static & permanent  Progressively deteriorating  
 Downhill / Stepwise course  Fluctuating, but generally not improving  
 Grave  Poor  
 Fluctuating  Improving  
 Others: please specify: \_\_\_\_\_

10. I am satisfied that the disability limits the mentally incapacitated person's capacity to make decision in respect of all, or a substantial proportion, of matters relating to his/her personal circumstances. Particulars for the above medical opinion on mental incapacity (such as a description of symptoms and results of tests or examinations):

[Please complete] \_\_\_\_\_  
 \_\_\_\_\_

11. I am satisfied that it is necessary in the interests of the welfare of the mentally incapacitated person, or for the protection of other persons,\* that he/she be received into guardianship [note 2] and the reasons for my opinion are: [please complete the followings]

Guardianship will assist decision-making and execution thereof in the following matter(s) of subject's personal circumstances: [please tick]

- Accommodation / Residence [details, if any] \_\_\_\_\_;  
 Finance [details, if any] \_\_\_\_\_;  
 Medical treatment / dental treatment [details, if any] \_\_\_\_\_;  
 Welfare planning [details, if any] \_\_\_\_\_;  
 Others, please specify or tick: Patient is  self-neglected;  being abused;  lacking insight for medical / dental treatment;  unable to self-care;  refusing residential or home help / care services [details, if any] \_\_\_\_\_

[other details, if any] \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Helpful and Important Information** (Please kindly give answers to all the following questions.)

12. What is current treatment / medication?

\_\_\_\_\_  
 \_\_\_\_\_

13. Please specify his/her limitation(s) of capacity [note 3]: -

(a) does the mental disability limit the mentally incapacitated person's capacity or ability to make decisions on medical/dental treatment including compliance with medication?

\_\_\_\_\_  
 \_\_\_\_\_

(b) does the mental disability limit the mentally incapacitated person's capacity or ability to manage finances?

\_\_\_\_\_  
 \_\_\_\_\_



- (c) does the mental disability limit the mentally incapacitated person's capacity or ability to make decisions on personal care, training and accommodation?

\_\_\_\_\_

\_\_\_\_\_

14. Other information/reports/opinions which may assist the Guardianship Board, including your qualifications:

\_\_\_\_\_

\_\_\_\_\_

15. In appropriate cases, why Part IVC is not invoked in order to proceed with the impending medical (or dental) examination / treatment / surgery?

\_\_\_\_\_

\_\_\_\_\_

16. The Board may need to contact you to clarify matters. Could you please give your contact numbers?

Phone/mobile No. : \_\_\_\_\_ Pager No.: \_\_\_\_\_

Hospital/Clinic\* : \_\_\_\_\_

\_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\* Delete as appropriate.

**Note 1.** An approved doctor is a registered medical practitioner approved under section 2 (2) of Mental Health Ordinance by the Hospital Authority as having special experience in the diagnosis or treatment of mental disorder, or the assessment or determination of mental handicap.

**Note 2.** Section 59M (2) of the Mental Health Ordinance (Cap. 136) provides that a guardianship application may be made on the grounds that: -

- (a) a mentally incapacitated person is suffering from a mental disorder or mental handicap of a nature or degree which warrants his reception into guardianship under Part IVB; and
- (b) it is necessary in the interests of the welfare of the mentally incapacitated person, or for the protection of other persons, that he/she be received into guardianship.

Section 59M (3) provides that a medical report shall include: -

- (a) a statement that in the medical or other opinion of the practitioner, the grounds set out in section 59M (2) are satisfied;
- (b) the reasons for that opinion so far as it relates to the grounds set out in subsection (2)(a) and (2)(b).

**Note 3.** Section 59O (3) provides that the Guardianship Board shall apply specific criteria before it makes a guardianship order. Some of these criteria are set out in questions 7 & 10. It is helpful to the Board to have information, if available, on these criteria.

**Guardianship Board**

Unit 807, Hong Kong Pacific Centre, 28 Hankow Road, Tsimshatsui, Kowloon, Hong Kong  
Tel no.: (852) 2369 1999 Fax no.: (852) 2739 7171

認可精神科醫生填寫



**APPROVED DOCTOR'S MEDICAL REPORT FOR  
GUARDIANSHIP APPLICATION [note 1]**

**Details of mentally incapacitated person**

1. Name with surname in capital letters: [please print] \_\_\_\_\_

**Details of approved doctor (AD)**

2. Full name (Please print): \_\_\_\_\_ [中文： \_\_\_\_\_ ]

3. Qualifications: \_\_\_\_\_

4. Position of doctor: Private practitioner / D of H doctor / HA doctor / Visiting Medical Officer / others\* \_\_\_\_\_

5. Date of first consultation : \_\_\_\_\_ Number of consultations: \_\_\_\_\_

6. Date of last examination: \_\_\_\_\_ (day/month/year)

**Declaration [IMPORTANT NOTE: THIS PART i.e. QUESTIONS 7, 8, 9, 10 & 11 MUST BE COMPLETED IN FULL]**

7. I am of opinion that this person is suffering from: **[Please tick]**

- a) mental illness, Please specify **diagnosis**:
- schizophrenia;
  - delusional disorder
  - Alzheimer's disease;
  - vascular dementia;
  - mixed-type dementia;
  - others: please specify: \_\_\_\_\_
- b) a state of arrested or incomplete development of mind, which amounts to a significant impairment of intelligence and social functioning, which is associated with abnormally aggressive or seriously irresponsible conduct;
- c) psychopathic disorder;
- d) other disorder or disability of mind which does not amount to mental handicap:
- CVA (Cerebral Vascular Accident / haemorrhage)
  - acquired brain injury;
  - a stroke causing some cognitive deficits;
  - PVS (Persistent Vegetative State);
  - Comatose / semi-comatose;
  - others: please specify: \_\_\_\_\_
- e) mental handicap (developmental delay).

8. How long does the person have the mental disorder/handicap\*? \_\_\_\_\_ month(s) / year(s)

9. Is there any possibility of recovery? **[Please tick]**

- |    |  |   |
|----|--|---|
| Is | <input type="checkbox"/> Static & permanent            | <input type="checkbox"/> Progressively deteriorating              |
|    | <input type="checkbox"/> Downhill / Stepwise course    | <input type="checkbox"/> Fluctuating, but generally not improving |
|    | <input type="checkbox"/> Grave                         | <input type="checkbox"/> Poor                                     |
|    | <input type="checkbox"/> Fluctuating                   | <input type="checkbox"/> Improving                                |
|    | <input type="checkbox"/> Others: please specify: _____ |   |

10. I am satisfied that, in my medical or other opinion, the mentally incapacitated person is suffering from a mental disorder/mental handicap\* of a nature or degree which warrants his reception into guardianship. Also, I am satisfied that the disability limits the mentally incapacitated person's capacity to make decision in respect of all, or a substantial proportion, of matters relating to his/her personal circumstances. I give a description of particulars below [such as a description of symptoms, any relevant test results/assessments/examinations/other reports, which support the diagnosis (with dates, e.g. MMSE GCS, CT)].

**[Please complete]**

---

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---

---

11. I am satisfied that it is necessary in the interests of the welfare of the mentally incapacitated person, or for the protection of other persons,\* that he/she be received into guardianship? [note 2] and the reasons for my opinion are: [please complete the followings]

Guardianship will assist decision-making and execution thereof in the following matter(s) of subject's personal circumstances: **[please tick]**

- Accommodation / Residence [details, if any] \_\_\_\_\_;
- Finance [details, if any] \_\_\_\_\_;
- Medical treatment / dental treatment [details, if any] \_\_\_\_\_;
- Welfare planning [details, if any] \_\_\_\_\_;
- Others, please specify or tick: Patient is  self-neglected;  being abused;  lacking insight for medical / dental treatment;  unable to self-care;  refusing residential or home help/care services [details, if any] \_\_\_\_\_

**[other details, if any]**

---

---

---

**Helpful and Important Information** (Please kindly give answers to all the following questions.)

12. What is the current treatment/medication?

---

---

13. Comments on prognosis [if any]: -

---

---

14. Please specify his/her limitation(s) of capacity [note 3]: -

- (a) does the mental disability limit the mentally incapacitated person's capacity or ability to make decisions on medical/dental treatment including compliance with medication?

---

---

---

- (b) does the mental disability limit the mentally incapacitated person's capacity or ability to manage finances?

---

---

---

- (c) does the mental disability limit the mentally incapacitated person's capacity or ability to make decisions on personal care, training and accommodation?

---

---

---

15. Do you have any recommendations as to further tests, opinions, assessments or reports, or other comments, which may assist the Board? [Please specify]

---

---

16. In appropriate cases, why Part IVC is not invoked in order to proceed with the impending medical (or dental) examination / treatment / surgery?

---

---

17. The Board may need to contact you to clarify matters. Could you please give your contact numbers?

Phone/mobile No. : \_\_\_\_\_ Pager No. : \_\_\_\_\_

Hospital/Clinic\* : \_\_\_\_\_

Signature : \_\_\_\_\_ Date : \_\_\_\_\_

\* Delete as appropriate

**Note 1.** A registered medical practitioner is approved under section 2 (2) of the Mental Health Ordinance (Cap. 136), by the Hospital Authority as having special experience in the diagnosis or treatment of mental disorder, or special experience in the assessment or determination of mental handicap.

**Note 2.** Section 59M (2) of the Mental Health Ordinance (Cap. 136) provides that a guardianship application may be made on the grounds that: -

- (a) a mentally incapacitated person is suffering from a mental disorder or mental handicap of a nature or degree which warrants his reception into guardianship under Part IVB; and
- (b) it is necessary in the interests of the welfare of the mentally incapacitated person, or for the protection of other persons, that he/she be received into guardianship.

Section 59M (3) provides that a medical report shall include: -

- (a) a statement that in the medical or other opinion of the practitioner, the grounds set out in section 59M (2) are satisfied;
- (b) the reasons for that opinion so far as it relates to the grounds set out in subsection (2)(a) and (2)(b).

**Note 3.** Section 59O (3) provides that the Guardianship Board shall apply specific criteria before it makes a guardianship order. Some of these criteria are set out in questions 7 & 10. It is helpful to the Board to have information, if available, on these criteria.

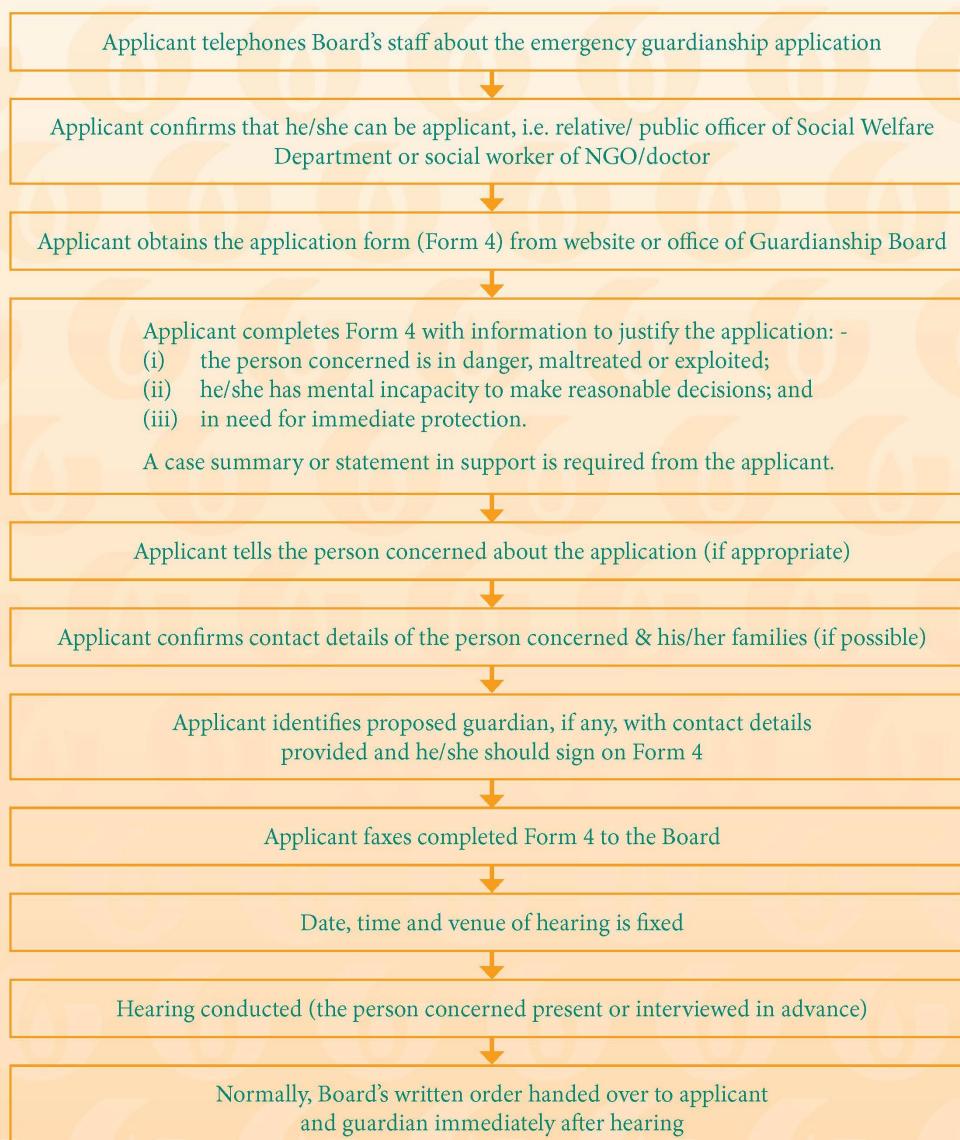
**Guardianship Board**

Unit 807, Hong Kong Pacific Centre, 28 Hankow Road, Tsimshatsui, Kowloon, Hong Kong  
Tel no.: (852) 2369 1999 Fax no.: (852) 2739 7171

## Flow chart for Emergency Guardianship Application (during office hours)

An application for normal guardianship order must first or simultaneously file (Regarding procedure for applying a normal guardianship order, please see leaflets “Application Procedure for a Guardianship Order”, “Flow chart for a normal guardianship application” and “This Guide helps you to fill out the application form for guardianship”).

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**For more information, contact the Guardianship Board:**

Address : Unit 807, 8/F, Hong Kong Pacific Centre, 28 Hankow Road,  
Tsimshatsui Kowloon, Hong Kong

Tel : 2369 1999

Fax : 2739 7171

E mail : [gbenquiry@adultguardianship.org.hk](mailto:gbenquiry@adultguardianship.org.hk)

Webstie : [www.adultguardianship.org.hk](http://www.adultguardianship.org.hk)

**Important notes :** The information in this leaflet is for general guidance only and does not purport to be legal advice given by the Guardianship Board.

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## Application Procedure for Review of a Guardianship Order

### At Guardianship Board, there are three types of reviews

#### A. Review initiated by a person other than the Board

The Board **MUST** review an order at any time prior to the expiry of a guardianship order at the request of any of the following persons: -

- (a) the mentally incapacitated person who is the subject of the guardianship order;
- (b) his/her guardian;
- (c) the Director of Social Welfare;
- (d) any other person (including a relative of the person concerned) who, in the opinion of the Board, has a genuine interest in mentally incapacitated person's welfare.

The applicant should fill out the application form (Form 2). Applicant can get the application form from the Guardianship Board or downloaded the form from our website.

#### Processing

- (a) After the Board received a valid review application form, notice of the review will be sent to the applicant, the mentally incapacitated person, the guardian and the Director of Social Welfare.
- (b) The Board may request the applicant to obtain a review medical report. The Board has a standard review medical report form.
- (c) The Board will request the Social Welfare Department to prepare a progress social enquiry report on the mentally incapacitated person and his/her family. This may take a number of weeks to prepare, but it will not take more than four weeks.

#### The hearing and order

The Board will then notify the parties, who are the applicant, the person concerned, the guardian and the Director of Social Welfare on the date, time and venue of hearing. It is mandatory to give two weeks' notice to the parties of the hearing details, unless they all agree to a shorter time. The Board will also notify any other relevant person, such as a relative, the doctor, and the social worker.

At the hearing, the Guardianship Board may:-

- (a) vary the guardianship order, and may transfer the functions of a guardian to the Director of Social Welfare, or such other person approved by the Board; or
- (b) suspend or revoke the guardianship order; or
- (c) take no further action in relation to the guardianship order.

## **B. Review initiated by the Guardianship Board**

The Board **may**, of its own initiative, and in accordance with such procedures as it thinks fit, review any guardianship order at any time prior to the expiry of the order. The same procedures as outlined above apply, except that the Board will not complete a Form 2, but will send a notice of the review cum hearing to the relevant parties.

## **C. Mandatory (or automatic) review prior to expiry of order**

The Guardianship Board will automatically review each guardianship order just before its expiry date. The same procedures as outlined for other reviews apply, except that the Board will not complete a Form 2, but will send a notice of the review cum hearing to the relevant parties.

### **For more information, contact the Guardianship Board:**

Address : Unit 807, 8/F, Hong Kong Pacific Centre, 28 Hankow Road,  
Tsimshatsui Kowloon, Hong Kong

Tel : 2369 1999

Fax : 2739 7171

E mail : [gbenquiry@adultguardianship.org.hk](mailto:gbenquiry@adultguardianship.org.hk)

Webstie : [www.adultguardianship.org.hk](http://www.adultguardianship.org.hk)

**Important notes :** The information in this leaflet is for general guidance only and does not purport to be legal advice given by the Guardianship Board.

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根據《精神健康條例》(第 136 章)第 59U(4)條  
要求對監護令的覆核  
REQUEST UNDER SECTION 59U(4) OF THE MENTAL  
HEALTH ORDINANCE (CAP 136) FOR REVIEW OF  
GUARDIANSHIP ORDER

致：監護委員會  
To: Guardianship Board

申請人資料  
Information on applicant

姓名：  
Name:  性別：(男/女)  
Sex: (M/F)

與精神上無行為能力的人的關係：  
Relationship with the mentally incapacitated person:

- 1\* 本人  
self
- 2\* 由社會福利署署長擔任的監護人  
guardian who is the Director of Social Welfare
- 3\* 並非由社會福利署署長擔任的監護人  
guardian who is not the Director of Social Welfare

4\* 親屬，請予指明：  
relative, please specify:

5\* 其他，請予指明：  
other, please specify:

身分證號碼(如屬上述第 2 項，則無需填寫)：

Identity card no. (except in case 2 above):

地址(如屬上述第 2 項，則無需填寫)：

Address (except in case 2 above):

精神上無行為能力的人的資料  
Information on mentally incapacitated person

姓名：  
Name:  性別：(男/女)  
Sex: (M/F)

年齡：  
Age:

身分證號碼：  
Identity card no.:

地址：  
Address:

監護人的資料(如監護人並非由社會福利署署長擔任)  
Information on guardian where the guardian is not the Director of Social Welfare

姓名：  
Name:  性別：(男/女)  
Sex: (M/F)

年齡：  
Age:

身分證號碼：  
Identity card no.:

地址：  
Address:

**監護人的資料(如監護人是代社會福利署署長行事的公職人員)**

**Information on guardian who is a public officer acting on behalf of the Director of Social Welfare**

監護人(代社會福利署署長行事的公職人員)姓名：

Name of public officer acting on behalf of the Director of Social Welfare as guardian:

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地址：

Address:

聯絡電話號碼：

Contact telephone no.:

聯絡傳真號碼

Contact fax no.:

**監護令的資料**

**Information on guardianship order**

作出命令的日期：

Date on which order was made:

賦予監護人的權力：

Powers conferred on the guardian:

--

**提出申請的理由**

**Reasons for making the application**

--

申請人簽署

Signature of the applicant

--

日期

Date

--

\* 將不適用者刪去。

\* Delete as appropriate.



監護委員會  
Guardianship Board

致：覆核申請人

**To: Applicant of Review**

請填寫：

Please fill out the following: -

(一) 你提出覆核的目標：

**Your aim / purpose of this review:**

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(二) 你希望獲得的命令：

**The order(s) you pray for:**

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請注意，未有提供以上資料，可導致申請被延遲處理。

**Incomplete information required above may cause delay in your application.**

委員會秘書處

**Guardianship Board Secretariat**