

# LCQ1: Children Proceedings (Parental Responsibility) Bill

Following is a question by the Hon Lam San-keung and a reply by the Secretary for Labour and Welfare, Mr Chris Sun, in the Legislative Council today (March 19):

Question:

The Children Proceedings (Parental Responsibility) Bill (the Bill) aims at reforming and consolidating the law relating to the responsibilities and rights of parents for children, providing for the appointment and powers of guardians, etc, and requiring the court to, in giving the ruling, regard the best interests of a child as the paramount consideration. At the meeting of the Panel on Welfare Services of this Council on June 17 last year, most members considered that the authorities should expeditiously reactivate the legislative proposal. In this connection, will the Government inform this Council of the reasons for not having commenced the legislative process of the Bill after a lapse of nine months, and whether the Government will immediately commence the relevant legislative process at the request of members?

Reply:

President,

The Government endeavours to implement a number of measures to support divorced families with children in coping with challenges in various aspects such as finance, child care and parenting, psychological well-being and social relationships, so as to assist them in fulfilling the positive functions of a family and safeguarding the well-being of children.

The Labour and Welfare Bureau (LWB) prepared the draft Children Proceedings (Parental Responsibility) Bill in 2015 which introduces a statutory list covering parental responsibilities and rights and major decisions concerning the child's upbringing, and requires parents to obtain the express consent of the other parent or to notify them in advance for making such decisions, with an aim to reforming and consolidating the law relating to parents' responsibilities and rights for their children. However, many stakeholders, including single parents, expressed concerns about the legislative proposal at that time. Those who do not support the bill considered that the legislative proposal would not help divorced parents in resolving conflicts, but might instead cause more problems for families with domestic violence background. Single-parent groups were also concerned that the requirement to "obtain the other party's consent for major decisions concerning the child" would be exploited by a troublemaking ex-spouse with malicious intent to harass their former partner, causing distress to the child. Hence, the Government shelved the legislative proposal and focused instead on implementing a series of support measures to strengthen support

for divorced families, including separated/divorcing/divorced parents and their children. In this connection, the Government increased resources in 2019 to set up five Specialised Co-parenting Support Centres (SCSCs) to provide one-stop specialised services for divorced families; provide a spectrum of preventive, supportive and remedial services for families in need (including separated/divorced families) through the 65 Integrated Family Service Centres (IFSCs) and two Integrated Services Centres; and adopted a multi-pronged approach of public education and publicity to foster community awareness of the well-being of children of divorced families and promote the message of co-parenting.

To gauge the latest views of stakeholders on the legislative proposal, the Social Welfare Department (SWD) collected feedback from service users through the SCSCs and IFSCs in the second half of 2024. Results of the questionnaire survey indicated that the views of divorced parents on the subject remain diverse. About 70 per cent of the respondents agreed to inform their ex-spouses before making major decisions concerning their children (e.g. further studies, emigration, surgery, choice of religion, change of name, etc), but the percentage of those who agreed dropped to 56 per cent if the consent or written confirmation of their ex-spouses had to be obtained first. More than 61 per cent of the respondents opposed to allowing ex-spouses who do not live with their children to participate in major decisions affecting their children's welfare and future through legislation. In fact, the court has been encouraging divorced parents to take an active part in matters relating to the life and care of their children provided that it is in the best interests of the children, and their responsibilities do not end just because of the breakdown of their marriage or relationship. In recent years, when handling matrimonial proceedings, the court has been making judgments based on the principle of "joint parental responsibility" and allow both parents to participate directly in the lives of their children as far as possible in suitable cases (e.g. those not involving domestic violence).

We understand that there are views in the community that the legislation would help clearly reflect the current criteria of the court in making judgments, thereby promoting public understanding of the importance of joint parental responsibilities after divorce. However, there is in general still a lack of awareness and even misunderstanding of custody orders in the community. Divorced parents tend to focus on defending their custody rights, which may lead them to overlook the continuous joint parental responsibilities with the other parent with regard to the principle of safeguarding their children's best interests. Therefore, the Government considers that prior to deciding whether to resume the legislative process, we should step up public education to change the entrenched concepts as mentioned above. This would enable divorced parents to understand their joint responsibilities over their children, instead of initiating unnecessary legal proceedings in fighting for the custody rights of their children, which would jeopardise the best interests of their children.

As I pointed out at the meeting of the Panel on Welfare Services in November 2024, since single parents have clearly expressed their concerns about the legislation (no matter whether the concern is attributed to a lack

of understanding of the legislative proposal or to a dissenting view), the Government should not force the resumption of the legislative process. The Government is willing to collaborate with the legal sector and non-governmental organisations specialising in supporting divorced families to explain to divorced parents the essence of joint parental responsibilities and the benefits of legislation. If the majority of stakeholders can overcome their deep-rooted concerns, the legislative process will naturally come to fruition, at the same time avoiding disputes in the community and preserving social harmony. In this connection, the LWB and the SWD plan to launch a new and enhanced public education programme next year to promote the concept of continuous joint responsibility of divorced parents for their children at various fronts of the community. This will include enabling single parents to fully understand the current criteria of the court's judgments on custody orders, alleviating their concerns about the legislative proposal. After rolling out the public education programme for a period of time, the Government will evaluate its effectiveness in embedding the concept of "joint parental responsibility" in the minds of divorced parents, and further consider whether the legislative proposal should be put back on the agenda.