

**RESPONSE TO THE PUBLIC
CONSULTATION OF POLICY ADDRESS 2022**

**SUBMISSION BY
PLAN INTERNATIONAL HONG KONG**

INTRODUCTION

Plan International Hong Kong (“Plan International”) is submitting this briefing in response to the Hong Kong Special Administrative Region’s Government (“the Hong Kong Government”)’s invitation for public view on the Policy Address 2022.

Plan International is an independent development and humanitarian organisation that advances children’s rights and equality for girls. Plan International initially operated a field office in Hong Kong from 1953 to 1973, helping nearly 12,000 local children and their families by providing support in education, food, healthcare, housing and career counselling. Plan International re-opened its Hong Kong office in July 2009, giving the Hong Kong community the chance to give back by supporting child development programmes in Asia, Africa, the Americas, Oceania and the Middle East.

Plan International Hong Kong advocates a holistic approach to protecting and promoting children’s rights through preventive and responsive measures so that all children can grow, thrive, lead and live in safety, free from harm, abuse and neglect. Committed to ending violence against children and promoting meaningful child participation, Plan International Hong Kong has rolled out local programmes and influencing work through evidence-based research, partnerships, policy influencing and public education since 2017.

This briefing covers the key issues of Plan International’s concerns and aims to provide recommendations for the Hong Kong Government’s administration.

These main issues include:

- **Institutional Child Abuse**
- **Limited Child Participation in Community Development**

Plan International welcomes the Hong Kong Government’s practice of conducting public consultations when drafting Policy Address, and would appreciate any opportunity to present additional information, in writing or in person, to the Hong Kong Government.

EXECUTIVE SUMMARY

This section serves to highlight Plan International’s recommendations for the Hong Kong Government’s Administration on institutional child abuse and limited child participation in community development.

A. Institutional child abuse

The recent child abuse scandal in Hong Kong Society for the Protection of Children (“HKSPC”) and local research on risks of harm to children in educational institutions have pointed to the grave problem of institutional child abuse in Hong Kong, which requires the Government’s urgent attention on providing a systemic solution to revamp the operation of child-related institutions at large.

To provide assurance that children would enjoy the same level of safety across different child-related sectors, Plan International suggests the Government offer both incentives and guidance for child-related institutions to establish their own Child Safeguarding Policy (“CSP”) to minimise risks of harm and abuse to children within the institution. This can be achieved by:

- a) Establishing and enforcing a set of minimum child safeguarding standards to be followed by child-related institutions in different sectors, by incorporating the standards into different regulation and funding mechanisms, including:
 - Performance Indicators for kindergartens participating in the Kindergarten Education Scheme in Education Bureau
 - Service Quality Standards for social welfare subvented services in Social Welfare Department
 - Sports Subvention Scheme for sports institutions in the Leisure and Cultural Services Department
- b) Enacting legislation to confirm the legal responsibility of child-related institutions on child safeguarding, including making the Sexual Conviction Record Check Mechanism (“SCRC”) and reporting of suspected child abuse mandatory

B. Limited child participation in community development

Despite the fact that the United Nations Convention on the Rights of the Child (“UNCRC”) has come into effect in Hong Kong since 1994, children’s participation in relevant matters remains limited in Hong Kong, and there is little assurance that their participation would effect real changes, contrary to the stipulations under UNCRC article 12.

To fulfil obligations under UNCRC article 12, Plan International suggests the government

- a) Establish effective consultative mechanisms in communities for children at large to participate meaningfully in matters relating to them; and
- b) Enact legislation to ensure children’s voices are given due weight in the decision making processes in communities

SECTION I: INSTITUTIONAL CHILD ABUSE

BACKGROUND OF THE ISSUE

1. Recent news and research have pointed to the grave problem of institutional child abuse among different child-related sectors in Hong Kong, which demands immediate attention and tackling by the Government.
 - 1.1 The recent succession of child abuse scandals in Hong Kong Society for the Protection of Children (“HKSPC”) has exemplified the widespread problem of institutional child abuse in organisations providing residential child care services.¹
 - 1.2 Local research has also indicated an alarming trend of child abuse in the education sector as well. According to the Situation Analysis Study on Child Safeguarding Policy by Plan International Hong Kong, 1 in 5 (22.8%) of children had encountered at least one kind of harm in schools, private tuition centres or interest classes in the past six months, including ‘having intimate bodily touch with teachers’, ‘physical punishment by teachers’, ‘left out by teachers’ and ‘bullied by peers’. More alarmingly, 1 in 10 of the children (11.2%) had been physically punished in education institutions², albeit the fact that corporal punishment has been legally banned in Hong Kong since 1991.

SYSTEMIC SOLUTION: CHILD SAFEGUARDING POLICY

2. As described in the report by the independent review committee into the HKSPC incident, while the stories of child abuse are harrowing, what they have revealed are not only the suffering of individual children due to lapses of judgement of a few child-related workers, but a range of systemic institutional failings that facilitated harm and abuse to children in the first place.³ These institutional failings warrant a systemic solution that thoroughly improves the operation of a child-related institution and tackles child abuse at its core.
3. As a systemic measure to prevent institutional child abuse, there has been a **global trend for child-related organisations to establish their own Child Safeguarding Policy**

¹ 〈童樂居虐兒案再多一人認罪囚約 7 個月 官形容行為非文明社會所見〉。(2022 年 7 月 22 日)。《明報》。取自: <https://bit.ly/3JkJCp2>

² Plan International Hong Kong. (September 2021). *Situation Analysis Study on Child Safeguarding Policy (Parents, Children and the Education Sector) Research Summary*. Retrieved from: https://www.plan.org.hk/wp-content/uploads/2021/09/CSP-Research_ES_EN_vf.pdf (Full report available at: https://www.plan.org.hk/wp-content/uploads/2021/09/PLAN_CSP_parent_children_survey-report_final_pori_.pdf)

³ Hong Kong Society for the Protection of Children. (January 2022). *Independent Review Committee Report Submitted to SWD, HKSPC Accepts IRC Recommendations to Drive Reform*. Retrieved from: <https://bit.ly/3SailtD>

“CSP”) to minimise risks of harm and abuse to children within the institution according to prescribed national standards, particularly in Australia⁴ and England.⁵

4. Although the updated “Protecting Children from Maltreatment – Procedural Guide for Multi-disciplinary Co-operation (Revised in 2020)” by Social Welfare Department exhorts child-related organisations to establish an organisational policy to prevent child abuse in the institution⁶, there are **no relevant guidelines on what reasonable steps a child-related organisation needs to take to safeguard children.**

- 4.1 While different child-related sectors have certain guidelines on corporate governance and service provision (e.g. service quality standards, performance indicators under the Kindergarten Education Scheme), they are not necessarily drafted with the specific intention of preventing institutional child abuse, and therefore may not directly address the common high risk factors underlying it, like the normalisation of harmful practices, hierarchical management structure and the imbalance of power between adults and children⁷.

- 4.2 With no standardised child safeguarding standards and monitoring mechanism across different child-related sectors, child-related institutions have little guidance and incentive to prioritise children’s safety and well-being in daily operation, making it difficult for children to enjoy the same level of safety across different sectors and institutions.

RECOMMENDATIONS FOR THE GOVERNMENT

5. Plan International acknowledges that the Government is actively considering the enactment of legislations to motivate individual child-related workers to fulfil their child safeguarding responsibilities. **We welcome these initiatives in principle. We emphasise the importance of implementing supplementary measures to create an enabling environment for child-related workers to fulfil their duty of care.**

⁴ Australian Human Rights Commission. (2017-2018). *National Principles for Child Safe Organisations*. Retrieved from:

<https://humanrights.gov.au/sites/default/files/National%20Principles%20for%20Child%20Safe%20Organisations.pdf>

⁵ UK Department for Education. (2018). *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children*. Retrieved from:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942454/Working_together_to_safeguard_children_inter_agency_guidance.pdf

⁶ Social Welfare Department. (2020). *Protecting Children from Maltreatment – Procedural Guide for Multi-disciplinary Co-operation (Revised in 2020)*. p.174. Retrieved from:

[https://www.swd.gov.hk/storage/asset/section/1447/en/Procedural_Guide_Core_Procedures_\(Revised_2020\)_Eng_2Nov2021.pdf](https://www.swd.gov.hk/storage/asset/section/1447/en/Procedural_Guide_Core_Procedures_(Revised_2020)_Eng_2Nov2021.pdf)

⁷ Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final Report Volume 2 Nature and Cause*. Section 5.3. Retrieved from:

https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_volume_2_nature_and_cause.pdf

- 5.1 Plan International acknowledges that, in 2019, the Law Reform Commission of Hong Kong proposed the legislation of ‘Causing or Allowing the Death or Serious Harm of a Child or Vulnerable Adult’ to motivate caregivers to uphold their duty of care to children.⁸ Meanwhile, there have been heated discussions on establishing a mandatory reporting mechanism on suspected child abuse cases in Hong Kong.
- 5.2 While these initiatives demonstrate the Hong Kong Government’s commitment to child safeguarding, without the supplementary measures that create an enabling environment for workers to take practical steps on child safeguarding, merely imposing criminal responsibility on individual child-related workers would stifle instead of effectively motivate them to fulfil their duty to protect children from harm.
6. With this view in mind, **Plan International suggests the Government to consider offer both incentives and practical guidance for child-related organisations at large to establish their Child Safeguarding Policy**, which would form a set of standardised guidance for individual child-related workers to safeguard children from harm.
- 6.1 Establish and enforce a set of minimum child safeguarding standards to be followed by child-related institutions**
- 6.1.1 Plan International recommends the government to consider establishing minimum child safeguarding standards to be followed by child-related institutions in different sectors. By setting mandatory benchmarks and structured framework of agreed good practice for child-related institutions to follow, the Government can help institutions prioritise and dedicate resources to child safeguarding, and child-related workers would be adequately supported by their organisations to better safeguard children in their daily work. **Specifically, the Government should consider incorporating the minimum child safeguarding standards into different regulation and funding mechanisms to ensure standardisation of child safeguarding standards across different sectors.** This includes the incorporation of child safeguarding standards into
- Performance Indicators for kindergartens participating in the Kindergarten Education Scheme in Education Bureau
 - Service Quality Standards for social welfare subvented services in Social Welfare Department
 - Sports Subvention Scheme for sports institutions in Leisure and Cultural Services Department
- 6.1.2 Plan International has developed a Child Safeguarding Policy following a comprehensive literature review of relevant legal requirements from other jurisdictions and high risk factors underlying institutional child abuse (see

⁸ The Law Reform Commission of Hong Kong. (May 2019). *Causing or Allowing the Death or Serious Harm of a Child or Vulnerable Adult Consultation Paper*. Retrieved from: https://www.hkreform.gov.hk/en/docs/cadcva_e.pdf

Appendix I), which was used to benchmark the implementation of CSP in sports sector and education sector in Hong Kong in our Situation Analysis Study on Child Safeguarding Policy.⁹ **We suggest that the framework of our CSP could provide an evidence-based reference for the Hong Kong Government to establish and incorporate minimum child safeguarding standards into different child-related sectors in Hong Kong.**

6.2 Enact legislation to confirm the legal responsibility of child-related institutions on child safeguarding

- 6.2.1 The Sexual Conviction Record Check (“SCRC”), a mechanism that allows employers to access information regarding the sexual criminal records of prospective employees, is still implemented as a voluntary administrative scheme with limited coverage on child-related roles. **Plan International recommends to consider that the mechanism of SCRC be extended to include existing employees, self-employed persons and volunteers and be made mandatory to ensure better compliance.** This legislation, if enacted, could facilitate and encourage child-related institutions to conduct more thorough vetting of all relevant workers to better safeguard children in the organisation.
- 6.2.2 While it is the duty of the professional worker to report child abuse, the head of the child-related institution should also have the responsibility to report any suspected child abuse that happens within its institution and take appropriate rectification actions when it occurs. Taking reference from the experience of New South Wales in Australia, **Plan International recommends the Government to consider establish a reportable conduct scheme to require the head of child-related institutions to notify the Government within 30 days of any allegations of child abuse within the institution of which they become aware.**¹⁰ By placing the responsibility to report on the head of the institution, the Government can motivate child-related institutions to pay due regard to child safeguarding for the benefit of avoiding potential reputation and regulatory costs, and also enhance the transparency of the investigation into institutional child abuse and ensure proper protection of children during the investigation.

⁹ Plan International Hong Kong. (September 2021). *Situation Analysis Study on Child Safeguarding Policy (Parents, Children and the Education Sector) Research Summary*. Retrieved from: https://www.plan.org.hk/wp-content/uploads/2021/09/CSP-Research_ES_EN_vf.pdf

¹⁰ Office of the Children’s Guardian. (n.d.). *Reportable Conduct Scheme*. Retrieved from: <https://ocg.nsw.gov.au/organisations/reportable-conduct-scheme>

Plan International’s recommendations on “institutional child abuse”

Plan International recommends the government to create an enabling environment for child-related workers at large to safeguard children by

- a) Establishing and enforcing a set of minimum child safeguarding standards to be followed by child-related institutions in different sectors
- b) Enacting legislation to confirm legal responsibility of child-related institutions on child safeguarding, including making SCRC and reporting of suspected child abuse mandatory

SECTION II: LIMITED CHILD PARTICIPATION IN COMMUNITY DEVELOPMENT

BACKGROUND OF THE ISSUE

7. It is stipulated in Article 12 in United Nations Convention on the Right of the Child (UNCRC) that all children have the right to express views freely in all matters affecting them, and the views of which should be given due weight in a accordance with the age and maturity of the child.¹¹
8. While Plan International acknowledges that there are existing channels in the Children’s Council Project and Children’s Rights Forum to collect children’s views regularly, we consider them not fully adequate for children at large to participate in all matters relating to them, as these channels allow only limited participation of children representatives¹².
9. While children’s participation in relevant matters remains limited in Hong Kong, there is equally little assurance that their participation would effect real changes in the identified issues. Although there have been instances that children’s views are sometimes taken into account in Government administration, there are no relevant legislations and infrastructure to guarantee that children’s voices are given due weight in related decision making processes.

¹¹ Committee on the Rights of the Child. (2009). General Comment No. 12 (2009) *The right of the child to be heard*, paragraph 1. Retrieved from: <https://www.refworld.org/docid/4ae562c52.html>

¹² Every year, only 60 children are recruited in Hong Kong to take part in the Children’s Council Project. See Combined Third and Fourth Reports of the People’s Republic of China under the Convention on the Rights of the Child – Part Two: Hong Kong Special Administrative Region at <https://www.legco.gov.hk/yr11-12/english/panels/ca/papers/ca0618-rpt20120525-e.pdf>

- 9.1 This need for more accountability and commitment to follow-up is manifested in the recent exercise of revamping public play spaces in districts. While it was announced in Policy Address 2019 that “LCSD will encourage and promote community participation and public engagement in the process of modifying public play spaces”¹³, there are by far no reports from the Government on the progress of modifying the 170 public play spaces, and how children’s voices have been taken into account in the modification process.

RECOMMENDATIONS FOR THE GOVERNMENT

10. Plan International recommends the Government establish a strategy and mechanism to expand opportunities for different groups of children at large, to participate meaningfully in their communities and the policy making processes that affect them by the following:

10.1 Establish consultative channels in communities for children to participate meaningfully in matters relating to them in their community surroundings

10.1.1 Plan International has recently developed the ‘Voices of the Children’ project to create opportunities for children to participate in community development, illustrating a child-centred participation model in community settings. By nurturing adult facilitators through capacity building and raising children’s awareness about their rights, we have created a platform through which children can work with other children and adults to solve the problems they identify in their community surroundings and make meaningful and practical changes. **Plan International believes our project ‘Voices of the Children’ may serve as an illustration of how children can be meaningfully engaged in the community and hopes that it will be a reference for the Government for establishing a regular mechanism in collecting children’s views at large.**¹⁴

10.1.2 To ensure children have genuine and meaningful participation in community development, **Plan International also urges the Government to expedite a report on the progress of public play space modification and how children’s voices have been given due weight in the modification process.** Such report should also clearly outline how the quality of child participation will be encouraged and ensured during the public engagement process with clear requirements.

¹³ The Hong Kong Special Administration Region of the People’s Republic of China. (2019). *The Chief Executive’s 2019 Policy Address Treasure Hong Kong: Our Home*. pp.20-21. Retrieved from: <https://www.policyaddress.gov.hk/2019/eng/pdf/PA2019.pdf>

¹⁴ ‘Voices of the Children’ was first launched in June 2018. With consolidated experience, the programme has now been implemented in various districts, including Yau Tsim Mong District, North District, Kwai Tsing District and Sham Shui Po District, with our community partners Alliance for Children Development Rights and HKSKH Lady Maclehorse Centre. See more at <https://www.plan.org.hk/en/child-participatory-community-development-2/>

10.2 Enact legislation to ensure children's voices are given due weight in the decision making processes that affect them in communities

- 10.2.1 Taking reference from the experience of Norway in enacting the Planning and Building Act¹⁵, **Plan International recommends the Government to consider enacting similar legislation to stipulate the responsibilities of the authorities to inform the public and give affected individuals and groups the opportunity to participate actively in the city planning process, as well as the responsibilities to secure children a good environment in which to grow up in the planning process.** Such legislation could help guarantee that children's voices and best interests are taken into account and given due weight in the planning process of community development at district level.

Plan International's recommendation on implementation of Article 12

Plan International recommends the government

- a) To establish effective consultative mechanisms in communities for children at large to participate meaningfully in matters relating to them
- b) To enact legislation to ensure children's voices are given due weight in the decision making processes in communities

¹⁵ Ministry of Local Government and Regional Development. (June 2008). *The Planning and Building Act*. Retrieved from: <https://www.regjeringen.no/en/dokumenter/planning-building-act/id570450/>

APPENDIX I: SUGGESTED FRAMEWORK OF CHILD SAFEGUARDING POLICY

Policy

1. To commit to child safeguarding and state measures to be taken to guarantee children's safety.
2. To provide a clear code of conduct describing acceptable and unacceptable behaviours.
3. Policy is applied to all staff with acknowledgement by signing.
4. Policy is applied to all relevant persons (volunteers, associates, and partners) with acknowledgement by signing.

Procedures

5. To provide clear guidelines to employees, parents and children, so as to support them in reporting any suspicions of child abuse.
6. All incidents, allegations and complaints should be clearly recorded and stored.
7. To ensure children are well-protected during the investigation of a child abuse allegation.
8. To establish a clear time limit on case handling for child abuse allegation.
9. To establish a whistleblowing policy where employees should be able to report abuse or suspicions of abuse without fear of retribution and discrimination in the workplace.
10. To identify, manage and minimise potential risks to children in daily operation.
11. To respect and protect the privacy of children and seek the consent of the child before distributing the child's personal information or pictures.

People & Culture

12. To check job candidates' sexual conviction record.
13. To understand the candidates' attitude and ability towards child protection during recruitment (e.g. interview, background check).
14. To provide employees with regular training and support on how to maintain child safety.
15. To provide training to volunteers, partners and other persons who have contact with children to maintain child safety.
16. To assign child safeguarding responsibilities to designated staff in order to promote CSP's implementation within the organisation.
17. To cultivate a culture where workers feel that they can openly discuss issues related to harm to children.

Accountability

18. Keep the Child Safeguarding Policy public and accessible to all, especially children and parents.
19. To consult children and families on reviewing the effectiveness of child safeguarding policy & procedures.
20. To conduct regular reviews on existing child safeguarding policy and procedures every 1-2 years.