

2020.11.13 SCMP Tougher penalties needed to deter sex offenders, Hong Kong law review panel says

- Experts appointed by the government complete a 14-year review of existing crimes and penalties, finding them insufficient
- Among its recommendations: new offences covering sexual exploitation of minors and incentives for felons to undergo treatment while in prison

[Brian Wong](#) Published: 12:44am, 13 Nov, 2020



- The panel has proposed sentencing caps for 30 new offences, including crimes aimed at deterring the sexual exploitation of minors. Photo: Shutterstock

A panel of legal advisers appointed by the Hong Kong government has called for stronger penalties to deter sex offenders and the expansion of a background check programme for employees working with vulnerable groups.

The government should also provide incentives for sexual offenders to receive treatment while serving their sentences, it said on Thursday.

The suggestions were contained in the fourth and final consultation paper on a comprehensive review by the Law Reform Commission's Review of Sexual Offences Subcommittee that began 14 years ago.

It had previously announced a host of wide-ranging recommendations, including changing the definition of sexual offences to cover all genders and sexual orientations, and bringing legislation in line with the digital age.



- Members of the Review of Sexual Offences Subcommittee of the Law Reform Commission (from left): Adeline Wan, Andrew Powner, Peter Duncan Eric Cheung and Sally Ng. Photo: Handout

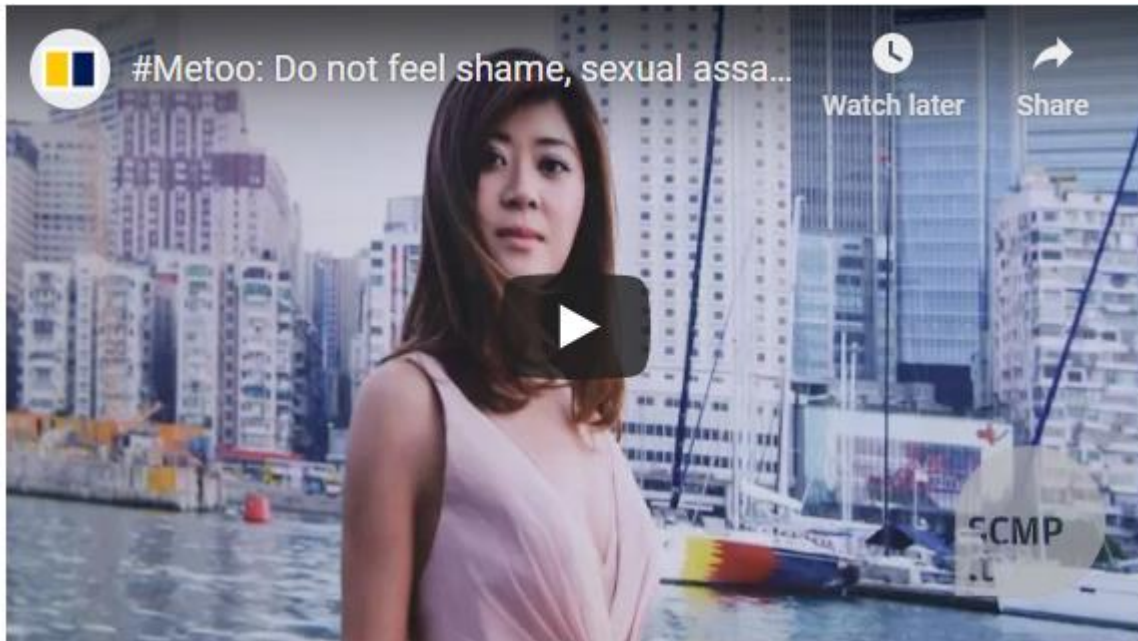
The panel has proposed sentencing caps for 30 new offences, including crimes aimed at deterring the sexual exploitation of minors.

Two proposed new offences are sexually assaulting a child under the age of 13 and committing the same act against a teen under 16. Currently, offenders are charged with either indecent assault or indecent conduct with or towards a child under 16, both of which carry a maximum penalty of 10 years in jail. The panel wants the new offences punishable by up to 14 years.

The current charge of sex with a minor only covers rape and buggery, while the new sexual assault offences would include oral sex.

The panel also called for the creation of the new crimes of penetration of a child under 16, causing or inciting a child to engage in sexual activity and committing an offence with the intent to commit a sexual offence, regardless of the age of the victim. Currently, for example, a person who restrains another with the intent to have sex would be charged with the crime of false imprisonment.

A proposed new crime of sexual exposure would be punishable by up to five years in jail. The sentence for the existing offence of indecency in public is capped at six months and does not specifically target sexual offenders.



<https://youtu.be/gaX2sXqpM-8>

Voyeurism and taking upskirt photographs without consent, which are not covered by the law, should be penalised by a maximum of two year's imprisonment, in line with British law.

But a government consultation paper, submitted to the legislature in July, suggested the two offences should be punishable by up to five years in jail.

Subcommittee chair Peter Duncan SC did not elaborate on the discrepancy but said the sentencing suggestions in general were made in reference to overseas jurisdictions with "suitable" adjustments.

"It's not just a matter of picking up what's overseas and applying it," Duncan said. "It's taking those into consideration and also considering the local situation."

The subcommittee recommended the government legislate incentives for sex offenders to receive psychiatric treatment while in prison and strengthen rehabilitation programmes for after their release. The inducements could take the form of privileges such as extra visiting hours or higher pay for prison labour, Duncan said, citing examples in England.

The group recommended expanding a scheme that allows companies to ask employees directly in contact with children or people with disabilities to provide a police record showing whether the worker had been convicted of a sexual offence.

Currently the requests, which can be refused, are only permitted to be made of workers renewing their contracts, staff provided by outsourced suppliers or possible hires. The panel wants to allow companies to seek the background check for permanent employees as well.

But the experts were not inclined to compel employees to apply for a check at the request of their bosses or force sex offenders to undergo treatment while in prison.

Subcommittee member Eric Cheung Tat-ming said the background scheme was still in a preliminary stage and it was only appropriate to "take it step by step" before making it mandatory.

The legal scholar also said it remained uncertain how effective compulsory treatment for sex offenders would be in minimising the possibility of reoffending. Successful rehabilitation largely depended on the offenders' willingness to change.



<https://youtu.be/jVZkpjjQROU>

Yupo Lee Yu-po, service manager at NGO Against Child Abuse, said both the background scheme and rehabilitation programmes for sex offenders should be compulsory to better protect minors.

“Sexual assault of children has long-lasting consequences,” Lee said. “It’s not just about the numbers. It’s about the lifelong impact that sexual assaults have on children.”

On the proposed sentences, the Association Concerning Sexual Violence Against Women said voyeurism and taking upskirt photos should carry the same maximum penalty as sexual exposure, five years, as the three offences were similar in terms of intent.

A Security Bureau spokesman said the government would take into account the subcommittee’s recommendations to be made after a public consultation. The consultation ends on February 11.

參考資料 Reference:

<https://www.scmp.com/news/hong-kong/law-and-crime/article/3109636/tougher-penalties-needed-deter-sex-offenders-hong-kong>