

## LCQ15: Advance directives in relation to medical treatment

Following is a question by Dr the Hon Chiang Lai-wan and a written reply by the Acting Secretary for Food and Health, Dr Chui Tak-yi, in the Legislative Council today (May 22):

Question:

An advance directive in relation to medical treatment (advance directive) is a statement (usually in writing) in which a person indicates, when he is mentally competent to make decisions, the form of health care he would like to receive in case he is no longer competent to make decisions. The Law Reform Commission of Hong Kong (LRC) published a report in 2006 putting forward a number of recommendations regarding advance directives, including the one that the person making an advance directive may specify that he does not agree to receive any life-sustaining treatment if he is in any of the following three conditions: being (i) terminally ill, or (ii) in a state of irreversible coma, or (iii) in a persistent vegetative state. The Hospital Authority (HA) formulated a guidance note and prepared a model form on advance directives in July 2010 for patients' reference. Besides, it was mentioned in the 2018 Policy Address that the Government would consult the public in 2019 on arrangements of advance directives and the relevant end-of-life care. In this connection, will the Government inform this Council:

(1) whether it knows (i) the number of valid forms on advance directives received, and the number of cases in which the advance directives as set out in the forms were executed, by healthcare workers in public hospitals, and (ii) the number of patients in public hospitals who produced to healthcare workers advance directives that were not made in accordance with the model form (e.g. advance directives signed under the witness of private doctors), in each year since July 2010;

(2) whether it knows if HA has established a registration system for advance directives; if HA has not, of the reasons for that;

(3) when the Government will launch the public consultation on advance directives and the relevant end-of-life care, and the timetable for the consultation exercise;

(4) whether the Government will make reference to the Patient Right to Autonomy Act in Taiwan and stipulate the following two kinds of conditions of patients as the conditions under which advance directives will become operative: (i) suffering from severe dementia, and (ii) other announced disease conditions of patients or sufferings being unbearable, the disease being incurable and there being no other appropriate treatment options available given the medical standards at the time of the disease's occurrence; and

(5) of the resources allocated in each of the past 10 years by the Government to the research and promotion of advance directives as well as life and death education, and the details thereof?

Reply:

President,

Under the common law, a patient may, while mentally competent to make decisions, give advance directives (ADs) to specify that apart from receiving basic and palliative care, he/she chooses not to receive any life-sustaining treatment or any other treatment he/she has specified when he/she is in a serious irreversible situation, such as terminally ill, in a state of irreversible coma or in a persistent vegetative state, allowing healthcare professionals to withhold or withdraw futile treatment under specific conditions, which merely postpones his/her death.

The concept of ADs is based on the principle of self-determination by patients, sparing healthcare professionals, the patients' relatives, or both, making difficult healthcare decisions on the patients' behalf, in particular decisions of withholding or withdrawing life-sustaining treatment. In this regard, the Code of Professional Conduct for the Guidance of Registered Medical Practitioners formulated by the Medical Council of Hong Kong has provided guidelines on care for the terminally ill. Where death is imminent, it is the doctor's responsibility to take care that a patient dies with dignity and with as little suffering as possible. When a doctor determines that the treatment for a terminally ill patient is futile, it is legally acceptable or appropriate to withhold or withdraw life-sustaining procedures taking into account the best interest of the patient and the preferences of the patient and his/her family.

My reply to the various parts of the question raised by Dr the Hon Chiang Lai-wan is as follows:

(1) and (2) The Hospital Authority (HA) formulated a guideline together with standardised form on ADs in July 2010. Since August 2012, the Clinical Management System (CMS) has marked the ADs witnessed by HA's doctors as a reminder to assist clinical communication. Currently, doctors can set a reminder on CMS when a patient signs an AD including "Do Not Attempt Cardiopulmonary Resuscitation" in HA, to inform other healthcare professionals that the patient has signed an AD. The number of ADs signed by HA's patients each year since August 2012 is as follows:

<b>Year</b>	<b>Month</b>	<b>Number of ADs signed</b>
2012	From August 21 to December 31	150
2013	From January 1 to December 31	325
2014	From January 1 to December 31	491
2015	From January 1 to December 31	706

2016	From January 1 to December 31	937
2017	From January 1 to December 31	1 395
2018	From January 1 to December 31	1 557
Total number of ADs signed		5 561

HA does not maintain the number of valid AD forms received and the number of cases in which the ADs as set out in the forms were executed. In addition, HA also does not maintain the number of patients in public hospitals who produced to healthcare professionals ADs that were not made in accordance with HA's model form (e.g. ADs signed as witnessed by private doctors).

(3) To allow terminally ill patients more options of their own treatment and care arrangements, the Government will consult the public in the second half of 2019 on arrangements of ADs and relevant end-of-life care.

(4) The ADs of HA currently cover (a) terminally ill; (b) in a persistent vegetative state or a state of irreversible coma; or (c) in other specified end-stage irreversible life limiting condition, which includes patients with irreversible loss of major cerebral function and extremely poor functional status, end-stage renal failure, end-stage motor neuron disease, end-stage chronic obstructive pulmonary disease, etc. Therefore, patients suffering from severe dementia are covered in (c).

Regarding "other announced disease conditions of patients or sufferings being unbearable, the disease being incurable and there being no other appropriate treatment options available given the medical standards at the time of the disease's occurrence", if the concerned situation is an "end-stage irreversible life limiting condition", then it is also covered in (c) above.

The Government and HA will continue to monitor international trend, take into account the needs of patients and engage stakeholders, to review the application of ADs with an open mind. The public consultation on arrangements of ADs and relevant end-of-life care in the second half of this year will cover the related issues.

(5) The Education Bureau (EDB) attaches great importance to life and death education by enhancing students' comprehension of different stages of life and experiences as well as promoting the positive values of cherishing and respecting life. EDB provides continuous curriculum support to schools, including choosing appropriate "life events" themes to produce teaching plans and worksheets, such as "Filial piety shown in grave sweeping in Ching Ming Festival" and "I know how to reflect on the meaning of life", to encourage discussion and sharing among teachers and students, and enhance students' understanding of related topics. EDB also conducts teacher professional development programmes and establishes learning communities to advance teachers' relevant knowledge and skills. Since the expenditure and manpower on developing curriculum, learning and teaching resources along with conducting professional development programmes are subsumed under the

recurrent expenditure of EDB, a breakdown of expenditure is not available.

The Elderly Health Service (EHS) of the Department of Health also conducts health talks for elderly persons and their carers on ageing, life and death education and bereavement at residential care homes for the elderly, elderly centres, and the Elderly Health Centres through its multi-disciplinary team of nurses and allied health professionals. From 2009-2018, a total of 1 680 health talks related to these topics were conducted. The expenditure for these activities are covered by the overall provision of the EHS, a breakdown of expenditure is not available.

As mentioned above, HA formulated a guideline together with standardised form on ADs in July 2010. Such information has been made available on the Internet for access by the public. However, HA does not keep count of resources allocated to the research and promotion of ADs.

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## [LCQ16: Management of shopping arcades under the Hong Kong Housing Authority](#)

Following is a question by Hon Ho Kai-ming and a written reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (May 22):

Question:

I have received a complaint that the Hong Kong Housing Authority (HA) earlier on refused to renew the tenancy of a shop operator, who had been operating Chinese medicine beauty business in a shopping arcade under HA for as long as three years, on grounds that Chinese medicine beauty was not within the business scope of the designated trade (i.e. beauty services and cosmetics) of the shop concerned. Regarding HA's management of its shopping arcades, will the Government inform this Council:

(1) of the criteria based on which HA (i) formulates asset enhancement programmes for its shopping arcades and (ii) determines the trade mix of the tenants; the procedure for HA to determine whether it was the business of beauty services and cosmetics or Chinese medicine clinic that the shop operator concerned was operating;

(2) whether HA has regularly reviewed the trade mix of the tenants of its shopping arcades, with a view to keeping the trade mix of the tenants in pace with the times and attracting shop operators from emerging industries; if HA has, of the year in which a review was last conducted and the contents;

(3) whether a mechanism is currently in place for shop operators whose

tenancies are not renewed to make representations or lodge appeals; if so, of the procedure, and the number of appeal cases in the past three years; and

(4) as some members of the public have pointed out that the approach of HA in managing its shopping arcades is outdated and inflexible, resulting in the types of trades in which tenants are engaged being not diversified and out of tune with the needs of the residents, of HA's improvement measures?

Reply:

President,

My consolidated reply to Hon Ho Kai-ming's question is as follows:

In formulating the trade mix of shops in its shopping centres, the primary consideration of the Hong Kong Housing Authority (HA) is meeting the basic daily needs of residents. HA also takes into account the scale of the estates and shopping centres, the technical feasibility as well as the surrounding environment of the estates. For example, HA considers factors such as the availability of shopping centres and retail facilities in the vicinity. HA also follows the market trend with a view to providing balanced and diversified choices of goods and services to the residents. In general, HA will, depending on the size and technical provisions of the shops, first arrange food and beverages and other trades which cater for the daily needs of residents, such as supermarkets, convenience stores, stores for household utensils, bakeries, clinics, etc. For shopping centres that are of larger size, HA will also consider introducing other different types of trades including pharmacies, hairdressers and laundry shops, etc.

HA has been taking various measures to improve the retail facilities of its shopping centres, including re-designing the trade mixes, changing the usage and adopting proactive and flexible marketing and leasing strategies, etc. Since 2011, HA puts forward a five-year rolling programme annually. By taking into account various factors and changes in circumstances, such as the location and surrounding environment of the commercial facilities, the letting situation and the estate population, etc., HA will identify suitable projects for detailed study and carry out asset enhancement works for its retail and carpark facilities. So far, HA has completed a number of asset enhancement works under the programme, including renovation of shopping centres, re-designation of trade mixes, addition of shops and change of usage, etc., with a view to improving and optimising the commercial potential of its facilities.

To keep pace with the market trend, HA also adopts flexible marketing and letting strategies, and proactively explores new sources to increase shopping choices and variety of services to residents of public housing estates and the community. For example, HA has, in some estates, introduced mobile banking facilities, mobile Chinese medical services and mobile physiotherapy services as well as set up parcel lockers in response to the need for delivery services arising from online shopping.

HA arranges shops for letting in accordance with the designated trades by way of tendering, and will sign tenancy agreements (TAs) with the successful tenderers. As stipulated in the TAs, the tenants are required to operate the designated trades. At present, the list of trades for retail facilities under HA includes "Beauty Services and Cosmetics" and "Chinese Medicine Clinics". The former provides services for beauty care and sale of cosmetics, while the latter provides consultation and treatment services by registered Chinese medicine practitioners. These two trades are completely different.

In general, HA will arrange staff to meet with the successful tenderers to sign the TAs, during which HA's staff will inform them again of the designated trade of the shop concerned so as to ensure that the tenants understand the trades permitted under the TAs. HA will monitor whether shop tenants are in breach of the clauses in the TAs through routine inspections. If any breach of the TAs is identified, such as operation of trade not specified in the TAs, HA will urge the tenants to rectify the situation. If such situations persist, HA will consider terminating the tenancies or not renewing them upon expiry.

The TAs signed between HA and the tenants contain no provision guaranteeing the tenants an option of tenancy renewal. Regarding termination of tenancy during its term, section 20(1) of the Housing Ordinance specifies that a tenant has a right to lodge an appeal against termination of his/her tenancy to the Appeal Panel (Housing) no later than 15 days after the date on which the Notice-to-quit has been issued. The Appeal Panel (Housing) will arrange a hearing for the appeal and decide whether it is upheld.

According to records, in the past three years, there were a total of eight cases of which the tenancies were terminated due to breaches of the conditions under the TAs, among these cases, two have lodged appeals. There were four cases involving tenancies not renewed due to breaches of tenancy conditions.

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## **LCQ18: Encouraging transport trade to switch to electric vehicles**

Following is a question by the Hon Chan Hak-kan and a written reply by the Acting Secretary for the Environment, Mr Tse Chin-wan, in the Legislative Council today (May 22):

Question:

The Government launched incentive schemes in 2000 and 2002 respectively to push the transport trade to replace diesel taxis and diesel light buses

with liquefied petroleum gas (LPG) ones. It has been over 17 years since such schemes were launched. On the other hand, it has been reported that LPG light buses currently produced by a single manufacturer will cease to be produced in 2021. The proprietors of some motor trading companies have expressed that the retirement age for LPG light buses is about 20 years, and those light buses purchased under the aforesaid incentive scheme will need to be replaced in the coming few years. On encouraging the transport trade to switch to the use of electric vehicles, will the Government inform this Council:

(1) of the numbers of light buses and taxis that will reach their normal retirement age in the coming three years; whether it will subsidise the owners concerned to switch to the use of electric vehicles; if so, of the details; if not, the reasons for that;

(2) given that in 2016, the carbon monoxide emissions by public light buses (PLBs) and taxis accounted for 28 per cent of the relevant emissions by all vehicles in Hong Kong, what new measures, apart from the Pilot Green Transport Fund, the Government has put in place to encourage the vehicle owners concerned to switch to the use of electric vehicles, with a view to improving air quality; and

(3) whether it will (i) explore the feasibility of installing charging facilities for electric light buses at PLB termini, and (ii) study the allocation of land for building quick charging stations for electric taxis; if so, of the details; if not, the reasons for that?

Reply:

President,

The level of roadside carbon monoxide in Hong Kong has already been better than the World Health Organization's guideline level. Currently, roadside air pollution is mainly caused by respirable suspended particulates (RSP) and nitrogen oxides (NO<sub>x</sub>), and commercial vehicles (CVs) account for 95 per cent of the vehicular emissions of these two air pollutants. Hence, CVs as a whole has all along been a major target of the Government's measures to improve roadside air quality. The Government has been implementing various measures to reduce vehicular emissions in recent years. They include phasing out old diesel CVs, strengthening emission control on vehicles using petrol or liquefied petroleum gas (LPG), and retrofitting franchised buses of earlier models with emission reduction devices. Concentrations of major roadside air pollutants have dropped by around 30 per cent from 2013 to 2018.

In 2000, the Government introduced a scheme to incentivise the replacement of diesel taxis by cleaner LPG ones. Since August 1, 2001, taxis registered for the first time have been mandated to be fuelled by either LPG or petrol. As at the end of 2018, all registered taxis use LPG, except for a few using petrol.

As regards light buses, the Government launched a scheme in 2002 to encourage owners of diesel light buses to switch to those running on cleaner power/fuels like LPG and electricity. The scheme is on encouraged basis ended

in 2005. Given that the Government has not mandated the type of power/fuels used by light buses, light bus owners may, based on their operational needs, choose LPG, diesel, electric or petrol vehicles. As at the end of 2018, nearly 60 per cent of registered light buses ran on LPG, around 40 per cent on diesel, and less than 1 per cent on electricity.

At present, LPG light buses in the local market are all of the same brand. The supplier has indicated earlier that its manufacturer will cease the production of LPG light buses at the end of 2020, and Euro VI diesel light buses under the same brand will be supplied by then to meet the local demand for light buses. Owing to technology advancement in emission reduction in recent years, Euro VI diesel light buses emit 80 per cent less NO<sub>x</sub> and 50 per cent less RSP than the current Euro V diesel counterparts and nearly 90 per cent less NO<sub>x</sub> and 50 per cent less RSP than the current Euro IV diesel counterparts.

My responses to the question raised by the Hon Chan Hak-kan are as follows:

(1) and (2) The Environmental Protection Department (EPD) introduced an incentive-cum-regulatory programme in March 2014 to progressively phase out about 82 000 Euro III and pre-Euro III diesel CVs by the end of 2019, which included diesel light buses. So far, the programme has been implemented effectively and is expected to be completed by the end of 2019 as scheduled. Also, diesel CVs registered for the first time on or after February 1, 2014 are subject to a statutory service life limit of 15 years to ensure their timely replacement. The EPD is planning to introduce the next incentive-cum-regulatory programme to progressively phase out some 40 000 Euro IV diesel CVs (including diesel light bus). The EPD is working out the implementation details (e.g. deadlines and ex-gratia payments) and will consult the trade in due course. As vehicular emission of LPG vehicles is generally lower than that of diesel vehicles, the Government currently has no plan to set the retirement age for LPG light buses and taxis.

Electric vehicles (EVs) have no tailpipe emissions. Therefore, replacing conventional vehicles, especially CVs, with EVs can help improve roadside air quality.

At present, there are only one electric taxi (e-taxi) model and two electric light bus (e-LB) models available in the local market. All are on trial under the Pilot Green Transport Fund (PGTF). Results of the existing trials have reflected that high production cost, limited service life and long charging time of batteries, etc. are the key constraints for electric CVs (e-CVs), including e-taxis and e-LBs, to become popular. Besides, all the three e-taxis previously on trial under the PGTF have been re-registered as private cars after the completion of the trial programme because taxis generally run almost nonstop for whole day and under normal operation are unable to spare four hours per day for charging. The e-LBs have also experienced similar problems. Even after a full charge for four hours, they can only be driven for a range lower than the daily mileage of a typical public light bus (PLB). Therefore, most of the existing e-taxis and e-LBs on trial are yet to be able to cope with the requirements of the local transport



sectors in respect of the driving range and charging time of taxis and PLBs.

The EPD will continue to keep in view the development of e-taxis and e-LBs and encourage suppliers to bring into market more relevant types of vehicles and the transport sectors to make use of the PGTF to try them out.

In addition to the PGTF, the Government has been waiving the first registration tax (FRT) of e-CVs (including e-taxis and e-LBs) fully since 1994 until March 31, 2021. Also, starting from 2010, enterprises that procure EVs are allowed to claim full profit tax deduction for the capital expenditure of the vehicle in the first year of procurement. Both initiatives aim to encourage owners to purchase e-CVs, thereby promoting their development.

(3) On the feasibility of installing charging facilities for e-LBs at PLB termini and transport interchanges, the EPD has engaged a consultant in March this year to develop a set of technical specifications and requirements of electric PLBs (e-PLBs) and their charging facilities suitable for use in Hong Kong in order to help foster vehicle manufacturers to design and produce suitable e-PLBs and charging facilities for local use.

Furthermore, the Government is looking for suitable locations to set up public quick charging stations for electric private cars for trial. A quick charger (charger with a power output of at least 50 kilowatts) can provide 50 to 100 kilometres of driving range for electric private cars in 15 to 30 minutes. Should the trial of quick charging stations be successful and there be suitable e-taxi models meeting local operational needs, the Government will explore the feasibility of expanding the use of quick charging stations for e-taxis.

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## [Appointment of the Chief Judge of the High Court](#)

The following is issued on behalf of the Judiciary:

The Chief Justice of the Court of Final Appeal, Mr Geoffrey Ma Tao-li, today (May 22) welcomed the acceptance by the Chief Executive of the recommendation of the Judicial Officers Recommendation Commission (JORC) on the appointment of the Honourable Mr Justice Jeremy Poon Shiu-chor, Justice of Appeal of the Court of Appeal of the High Court, as the Chief Judge of the High Court. The Chief Justice noted that the Government would be seeking the endorsement of the Legislative Council of the recommended appointment.

The High Court of the Hong Kong Special Administrative Region is a court of unlimited civil and criminal jurisdiction, subject to the provisions of the High Court Ordinance (Cap. 4). The High Court consists of the Court of

Appeal and the Court of First Instance. The Court of Appeal and the Court of First Instance are constituted by judges including the Chief Judge of the High Court, who is the president of the Court of Appeal.

Mr Justice Poon stated that he is honoured by the Chief Executive's acceptance of JORC's recommendation on the appointment. He noted that the Government would be seeking the Legislative Council's endorsement and said that if appointed, he would do his utmost to discharge his duties as the Chief Judge of the High Court.

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## **Appointment of non-permanent judge from another common law jurisdiction of the Court of Final Appeal**

The following is issued on behalf of the Judiciary:

The Chief Justice of the Court of Final Appeal, Mr Geoffrey Ma Tao-li, today (May 22) welcomed the acceptance by the Chief Executive of the recommendation of the Judicial Officers Recommendation Commission on the appointment of the Right Honourable Lord Jonathan Sumption as a non-permanent judge from another common law jurisdiction of the Court of Final Appeal. The Chief Justice noted that the Government would be seeking the endorsement of the Legislative Council of the recommended appointment.

The Hong Kong Court of Final Appeal Ordinance (Cap. 484) provides for a list of non-permanent Hong Kong judges and a list of judges from other common law jurisdictions. Currently, there are four non-permanent Hong Kong judges and 14 non-permanent judges from other common law jurisdictions. The maximum number of non-permanent judges is 30. In hearing and determining an appeal, the Court of Final Appeal is constituted by five judges, i.e. the Chief Justice, three permanent judges and one non-permanent Hong Kong judge or one non-permanent judge from another common law jurisdiction.

The recommended appointment of Lord Sumption to the Hong Kong Court of Final Appeal will increase the number of non-permanent judges from other common law jurisdictions from 14 to 15 and will provide greater flexibility for dealing with the caseload of the Court of Final Appeal.