

LCQ16: Licensing regime for property management companies and property management practitioners

Following is a question by the Hon Andrew Wan and a written reply by the Secretary for Home Affairs, Mr Lau Kong-wah, in the Legislative Council today (January 30):

Question:

The period for the public consultation conducted by the Property Management Services Authority on proposals regarding the licensing regime for property management companies and property management practitioners under the Property Management Services Ordinance (Cap. 626) ended on the 18th of this month. Regarding the licensing regime, will the Government inform this Council:

(1) as it is provided in section 7(5) and (8) of Cap. 626 that where a property contains 1 500 or more than 1 500 flats as defined by section 2 of the Building Management Ordinance (Cap. 344), and the property is managed by an owners' organisation of the property on its own (i.e. without engaging any property management company or property management practitioner), the owners' organisation concerned is required to obtain a licence under Cap. 626, whether the Government knows the current number of this type of properties, with a breakdown by type of owners' organisations (i.e. owners' corporations (OCs), owners' committees and other forms of organisations) managing the property;

(2) whether those contractors currently providing cleansing and horticultural services for properties will be required to obtain a licence upon implementation of the licensing regime;

(3) whether it will, by making reference to the Contractors' Performance Rating scheme for registered lift and escalator contractors implemented by the Electrical and Mechanical Services Department, introduce a similar performance rating scheme for licensed property management companies/practitioners; if so, of the details; if not, the reasons for that; and

(4) whether it will consult the property management services sector, OCs and the Panel on Home Affairs of this Council on the proposed subsidiary legislation on the licencing regime before commencing the relevant legislative procedure?

Reply:

President,

The Property Management Services Ordinance (Cap. 626) (PMSO) was enacted by the Legislative Council (LegCo) on May 26, 2016. It aims to establish the Property Management Services Authority (PMSA), which regulates and controls the provision of property management services by licensing property management companies (PMCs) and property management practitioners (PMPs) and sets the professional requirements respectively for PMCs and PMPs, with a view to enhancing the professionalism and service quality. According to section 6 of the PMSO, no person may, without a PMC licence, act as a PMC, and no person may, without a PMP licence, act as a PMP.

According to the PMSO, the PMSA is responsible for the implementation of the licensing regime. In this regard, the PMSA conducted in November 2018 a two-month public consultation to collect public views on the proposed licensing regime.

With regard to the four parts of Hon Wan's question, my reply is as follows:

(1) The PMSO aims to regulate companies providing property management services, and the practitioners assuming a managerial or supervisory role in such companies in relation to the property management services provided by the companies. Performing the duties under the Building Management Ordinance (Cap. 344) (BMO) and the Codes of Practices under the BMO, etc. by owners' corporations (OCs) does not equate to carrying on the business of providing property management services. Therefore, OCs (and the management committees of the OCs) are not PMCs, and the members of the management committees are not PMPs. They are not the target of regulation of the PMSO and are not required to be licensed.

As regards owners' organisations, the only exception is "self-managed" properties which contain 1 500 or more flats (i.e. the owners' organisations of the properties have not engaged any licensed PMCs and are providing property management services on their own). These owners' organisations will not be exempted (i.e. section 7(8) of the PMSO). Such arrangement is to respond to the concern raised by some members of the Bills Committee during the scrutiny of the PMSO, i.e. the management standard of the "self-managed" properties may not be satisfactory if the number of flats in such properties is very large, and there would be a need for certain level of regulation. On the basis of the preliminary understanding of the Home Affairs Department, there may only be very few such cases in Hong Kong.

(2) Pursuant to section 3 of the PMSO, the PMSA may, by regulation, prescribe a service falling within a category of services set out in Schedule 1 to the PMSO as a "property management service". Whether an individual company is required to apply for a licence after the implementation of the licensing regime depends to a large extent on the specific definition and coverage of "property management service" under the subsidiary legislation for the licensing regime to be formulated by the PMSA.

According to section 7(2) of the PMSO, if a company carries on the business of providing "property management service", and such service falls

neither within more than one category of services nor one type of services under a category of services, then such company will not be subject to the licensing regime. The practitioners providing the relevant service(s) in such company will also not be subject to the licensing regime. Moreover, practitioners in a company which carries on the business of providing more than one category of services (i.e. a PMC which is required to be licensed) will not be subject to the licensing regime, unless they assume a managerial or supervisory role in relation to the "property management services" provided by such company.

The PMSA conducted a public consultation early on regarding the details of the licensing regime (including how, pursuant to section 3 of the PMSO, to prescribe a service as a "property management service" that should be regulated). Among the different views collected during the consultation period, some opined that companies and practitioners providing cleaning and gardening services, etc. to a property at the same time should not be subject to the licensing regime, and, following the above, the PMSA should not put cleaning service and gardening service under two different categories of "property management services" or as two different types of services under the same category when prescribing "property management services".

The PMSA will take the relevant views and the actual circumstances of the industry operation into account when prescribing "property management services", with a view to balancing the development and regulatory needs of the industry.

(3) The PMSO provides for a single-tier licensing regime for PMCs and a two-tier licensing regime for PMPs. In order to ensure the quality of property management services, both PMCs and PMPs have to fulfil a set of criteria before they are granted a licence.

The licensing criteria of a PMC include the minimum number of directors and employees holding PMP licences and whether the company is suitable for holding a PMC licence (e.g. whether the company is in liquidation or subject to a winding-up order, whether there are past conviction records of relevant offences, the suitability of its directors, etc.).

As regards PMPs, the licensing criteria include academic qualifications, professional qualifications, years of working experience and the suitability of the person in holding a PMP licence (e.g. whether the individual is a mentally disordered person, whether there are conviction records for relevant offences, etc.). The professional requirements to be complied by a licensed PMP (Tier 1) are more stringent than those by a licensed PMP (Tier 2). The former may describe himself/herself as a "registered professional property manager" whereas the latter a "licensed property management officer". Such a two-tier licensing regime encourages PMPs to pursue professional development in order to move to a higher tier, while continues to allow those with a lower level of qualifications to have access to the job market.

The PMSO empowers the PMSA to monitor the performance of licensed

PMCs/PMPs through different means, including investigating complaints involving disciplinary offences, and conducting disciplinary actions against PMCs/PMPs which/who are in breach of the requirements under the PMSO and/or the codes of conduct drawn up by the PMSA, such as revocation or suspension of licences and other sanctions such as reprimands, warnings, fines, etc. In addition, to ensure consumers are fully informed in selecting PMCs, licensed PMCs are required to provide the PMSA with certain essential information (e.g. the property management portfolio, the number of licensed PMPs employed, etc.) so that the PMSA can upload the information to its website for public inspection.

As to whether the PMSA will introduce other administrative measures, such as the introduction of a performance rating system for licensed PMCs and/or PMPs, we have relayed such views to the PMSA for its consideration. We will urge the PMSA to take full consideration of such views when formulating the implementation details of the licensing regime.

(4) The PMSA is studying in detail the views collected during the public consultation with a view to refining the licensing regime, such that the regime can balance the development and regulatory needs of the industry. We will closely monitor the process of drafting the subsidiary legislation and implementation details by the PMSA. Together with the PMSA, we will fully communicate with stakeholders (i.e. the property management industry, OCs, LegCo, etc.) to explain and clarify the specific details so as to eliminate any misunderstanding. We look forward to the early implementation of the licensing regime so as to regulate the provision of property management services and enhance professionalism and service quality.

LCQ11: The Government's work on public relations and dissemination of press information

Following is a question by the Hon Claudia Mo and a written reply by the Secretary for Home Affairs, Mr Lau Kong-wah, in the Legislative Council today (January 30):

Question:

Some media workers have relayed that in recent years, the Government's approach for disseminating press information and arranging media coverage, and even the performance of government officials in responding to the public, have all fallen short of public expectations and have time and again aroused criticisms, causing a far-reaching impact on the freedom of the press as the "fourth estate". The examples given by them include that: (a) the Government

did not invite the media to report the handover of the Mainland Port Area of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link on September 3 last year, (b) the Government, on several occasions, did not release until late at night the coupler inspection results obtained after opening up the platform slabs and diaphragm walls of the Hung Hom Station Extension under the Shatin to Central Link project, and (c) the Secretary for Justice displayed a poor attitude when responding to media enquiries about the case concerning the allegations of corruption and misconduct in public office against the Chief Executive of the last term. In this connection, will the Government inform this Council:

(1) of the current policies on and strategies for disseminating press information, liaising with the media, gauging public sentiments and measuring the pulse of society;

(2) of the specific measures in place to improve the immediacy of disseminating press information, media coverage arrangements, and the attitude of government officials in responding to the public; and

(3) whether it will, on an annual basis, conduct reviews of and make improvements to the Government's work on public relations and dissemination of press information, and submit the relevant reports to this Council, so as to manifest an open and transparent style of governance; if so, of the details; if not, the reasons for that?

Reply:

President,

In its pursuit of "people-based" governance, the Hong Kong Special Administrative Region Government formulates various policy initiatives that are aimed to be known, understood, supported and monitored by the public. We therefore attach great importance to information dissemination strategies and their implementation.

The reply to Hon Claudia Mo's question is as follows:

(1) The Government has all along been adopting a proactive and positive approach and adhering to the principles of openness and transparency. Policy bureaux and departments are required to disseminate information promptly when announcing major policies and measures. Appreciating the importance of allowing the media to have thorough understanding of government policies and measures, the Government actively arranges for the convenient and effective dissemination of information.

In this regard, the Government disseminates information to the public through a variety of channels via the media, which include the issue of press releases, photos and videos; handling enquiries from the media and the public; organising media interviews; arranging government officials to attend radio and television public affairs programmes; and offering live broadcast of press conferences and briefings on government website and establishing a

webcast archive for public access, etc.

The Information Services Department (ISD), together with the press officers at bureaux and departments, will pay close attention to feedback as reflected by the media so that officers responsible for the formulation and implementation of policies and measures can learn about the public opinions on their work as soon as possible.

(2) The Government attaches great importance to media feedback on our work of information dissemination. As the Chief Executive earlier pointed out in public, there was room for improvement in the dissemination of information of certain recent individual cases. The Chief Executive has instructed all bureaux and departments to be more proactive in facilitating the media in covering the announcement of major issues.

The Chief Executive had pointed out that in realising its pledge to accord importance to media work, the Government has to provide facilitation. To this end, the current-term Government has enhanced measures to assist the work of the media, including the admission of online media to government events and allowing more time for the media to raise questions by extending press conference durations. In addition, the ISD will continue to make use of the internet in disseminating government information. Through releasing government news on multi-media platforms under "news.gov.hk", the public can access the website via mobile phones and other mobile devices. The "news.gov.hk" website fully utilises social media platforms, including Facebook, YouTube, Twitter, Instagram, Sina Weibo and WeChat, etc., in disseminating updated information, features, photos and videos to all sectors of the community.

(3) The Government disseminates information to the public through the media and has maintained close and frequent contact with members of the media. The Government exchanges with professional news organisations from time to time to listen to their views on the overall public relations and information dissemination work of the Government. As for individual dissemination arrangements, members of the media will reflect their views to relevant bureaux and departments immediately. The Government will continue to strive to enhance the accuracy, transparency and timeliness of information dissemination under public and media scrutiny.

LCQ14: Treatment and rehabilitation services for employees injured at work

Following is a question by the Hon Leung Yiu-chung and a written reply by the Secretary for Labour and Welfare, Dr Law Chi-kwong, in the Legislative Council today (January 30):

Question:

Under the Employees' Compensation Ordinance (Cap. 282), if injury is caused to an employee by accident arising out of and in the course of his/her employment (injury at work), his/her employer shall pay the medical expenses for the medical treatment in respect of such injury, subject to a ceiling of \$300 per day (where an employee is given medical treatment as an in-patient in a hospital or where an employee is given medical treatment other than as an in-patient in a hospital) or \$370 per day (where an employee is given medical treatment on the same day both as an in-patient in a hospital and other than as an in-patient in a hospital). Some employees have relayed that as the charges for private medical services are generally higher than such ceilings, employees injured at work usually choose to receive public medical services. However, due to the long waiting time for public medical services (especially for specialist outpatient and rehabilitation treatment services), the injured employees may miss the prime time for receiving treatment and cannot return to work as early as possible. In this connection, will the Government inform this Council:

(1) of the number of cases in which employees were temporarily incapacitated by work injuries for three months or longer and, among such cases, the number of those in which the employees were hospitalised for one month or less, in each of the past five years;

(2) of the measures put in place to expedite the recovery of employees injured at work, and the details of such measures; whether it will allocate additional resources to the Labour Department (LD), so that LD's Occupational Health Clinics can provide employees injured at work with medical treatment and occupational health counselling more comprehensively; if so, of the details; if not, the reasons for that;

(3) whether it will (i) subsidise community groups to establish rehabilitation centres for employees injured at work, and (ii) set up a rehabilitation fund for work injuries and occupational diseases to be administered by LD, with a view to enabling employees injured at work and those suffering from occupational diseases to expeditiously receive the medical treatment and rehabilitation services they need; if so, of the details; if not, the reasons for that; and

(4) as the Chief Executive mentioned in last year's Policy Address that the Government was studying the provision of timely treatment and rehabilitation services for injured employees in need through private medical services, of the progress of the study, as well as the specific direction of the proposed measures and the implementation timetable?

Reply:

President,

My reply to the question raised by the Member is as follows:

(1) From 2014 to 2018, the number of compensation claims settled in each year involving temporary incapacity of employees for more than three days as a result of work injuries (including compensation claims reported to the Labour Department (LD) under the Employees' Compensation Ordinance (ECO) in or before the respective settlement year) with a breakdown by the number of working days lost is provided below:

Number of working days lost	Number of settled compensation claims				
	2014	2015	2016	2017	2018
Below 90 days	28 107	27 824	26 686	25 251	25 909
90 days or above	6 746	7 034	7 110	6 840	7 218
Total	34 853	34 858	33 796	32 091	33 127

If the work injury sick leave of an employee does not exceed three days and no permanent incapacity is involved, the employer should make direct payment of compensation to the employee in accordance with ECO. LD does not keep statistics on the number of working days lost for this type of cases. Moreover, LD does not keep statistics on compensation claims with a breakdown by the hospitalisation condition of the employees.

(2) to (4) LD recognises that rehabilitation services are very important to facilitate the recovery and early return to work of employees injured at work.

At present, for employees who sustain work injuries or suffer from occupational diseases prescribed by ECO, hospitals and clinics under the Hospital Authority (HA) provide integrated treatment and rehabilitation services which include, among other things, specialist treatment, physiotherapy and occupational therapy.

The Occupational Health Clinics of LD provide medical treatment and occupational health counselling to employees who have sustained injuries at work or contracted occupational diseases. Besides, subject to the patients' clinical conditions and needs, the occupational health doctors in the clinics will refer the patients to hospitals and clinics under HA for rehabilitation treatment to facilitate their early recovery from the injury. Depending on the patients' rehabilitation progress, the occupational health doctors will also give advice to the patients on resumption of work and provide recommendations to the employers on relevant work adjustments as necessary to facilitate the patients' gradual return to work.

In addition, the insurance industry has launched the Voluntary Rehabilitation Programme (VRP) since March in 2003 to provide injured employees with an additional channel to receive free rehabilitation services in the private sector through the insurers' arrangements to facilitate their speedy recovery and early return to work under safe circumstances. Under VRP, the participating insurers identify appropriate cases, initiate contacts with the injured employees and invite them to participate in the programme on a

voluntary basis. Injured employees can decide on their own whether to accept the insurers' invitation or not and participation in VRP will not affect their rights and benefits under ECO.

The Government understands that injured employees using public medical services, like other members of the public, are facing a relatively long waiting time for certain specialty services, thus preventing them from receiving early treatment and rehabilitation for their injury. Furthermore, the public healthcare system may not be able to provide sufficiently coordinated treatment and rehabilitation services geared towards helping the injured employees to return to work early. In light of this, LD is actively looking into a feasible way forward, with a view to providing timely and coordinated treatment and rehabilitation services to injured employees in need as well as speeding up and enhancing the effectiveness of rehabilitation, thus facilitating their early recovery and return to work.

The scope of LD's study includes the design and operation of a feasible scheme, content of the services, the necessary expenditure and financial arrangements, the legislative work that may be required, etc. Preliminary ideas include pairing an independent case manager with each participating injured employee to follow up on the case, coordinate the communication amongst relevant stakeholders (including medical professionals, injured employees, insurance companies and employers) and assist the injured workers to return to work. Engaging the private sector in the provision of relevant medical and rehabilitation services is also being considered. The purpose is to provide timely and highly-coordinated treatment and rehabilitation services for injured employees. LD will complete the study and come up with recommendations as soon as possible. The views of different stakeholders will be sought in the process.

Contractors of Harbour Glory construction site in North Point convicted for illegally carrying out construction works on Sunday

Contractors of Harbour Glory construction site, Aggressive Construction Company Limited and Wise Max Engineering Limited, violated the requirements of a construction noise permit (CNP) and caused noise nuisance to nearby residents. The contractors were convicted and fined a total of \$90,000 at Eastern Magistrates' Courts today (January 30) for contravening the Noise Control Ordinance (NCO).

The Environmental Protection Department (EPD) received reports from

members of the public in January last year that the Harbour Glory construction site in North Point generated noise nuisance by carrying out construction works on a Sunday. The EPD staff conducted investigation and found that the contractors carried out construction works during restricted hours on a Sunday and did not comply with the requirements of the CNP as they used unpermitted powered mechanical equipment and handled rubble. The EPD immediately revoked the CNP of the construction site concerned and prosecuted the two contractors after collecting the evidence.

The NCO aims to protect the public from disturbance of rest. An EPD spokesman stressed that construction contractors should schedule works for the daytime and non-general holidays as far as possible, so as to minimise noise nuisance to the surrounding population. If there is a need to use powered mechanical equipment or conduct "Prescribed Construction Work" (i.e. erection or dismantling of formwork or scaffolding; loading, unloading or handling of rubble, wooden boards, steel bars, wood or scaffolding materials; or hammering) during the restricted hours (between 7pm and 7am on the following day, or at any time on a general holiday), the contractor has to obtain a CNP from the EPD prior to the commencement of works. The contractor shall comply with the requirements of the CNP to use specified powered mechanical equipment and conduct specified "Prescribed Construction Works". The contractor must also implement noise mitigation measures to minimise noise nuisance. Otherwise, it constitutes an offence. First-time offenders are liable to a maximum fine of \$100,000. A maximum fine of \$200,000 may be imposed on second or subsequent convictions.

Illegal worker jailed

A Pakistani illegal worker holding a recognisance form was jailed by Shatin Magistrates' Courts yesterday (January 29).

During an anti-illegal worker joint operation conducted by the Immigration Department (ImmD) and the Food and Environmental Hygiene Department on January 27, enforcement officers arrested a male Pakistani illegal worker, aged 39, who was found selling clothes in Central. Upon identity checking, he produced for inspection a recognisance form issued by the ImmD, which prohibits him from taking employment. Further investigation revealed that he was a non-refoulement claimant.

The illegal worker was charged at Shatin Magistrates' Courts yesterday with taking employment after landing in Hong Kong unlawfully and remaining in Hong Kong without the authority of the Director of Immigration or while being a person in respect of whom a removal order or deportation order was in force. He pleaded guilty to the charge and was sentenced to 15 months' imprisonment.

The ImmD spokesman warned that, as stipulated in section 38AA of the Immigration Ordinance, illegal immigrants or people who are the subject of a removal order or a deportation order are prohibited from taking any employment, whether paid or unpaid, or establishing or joining in any business. Offenders are liable upon conviction to a maximum fine of \$50,000 and up to three years' imprisonment. The Court of Appeal has issued a guideline ruling that a sentence of 15 months' imprisonment should be applied in such cases.

The spokesman reiterated that it is a serious offence to employ people who are not lawfully employable. The maximum penalty is imprisonment for three years and a fine of \$350,000. The High Court has laid down sentencing guidelines that the employer of an illegal worker should be given an immediate custodial sentence. According to the court sentencing, employers must take all practicable steps to determine whether a person is lawfully employable prior to employment. Apart from inspecting a prospective employee's identity card, the employer has the explicit duty to make enquiries regarding the person and ensure that the answers would not cast any reasonable doubt concerning the lawful employability of the person. The court will not accept failure to do so as a defence in proceedings. It is also an offence if an employer fails to inspect the job seeker's valid travel document if the job seeker does not have a Hong Kong permanent identity card. The maximum penalty for failing to inspect such a document is imprisonment for one year and a fine of \$150,000.

Under the existing mechanism, the ImmD will, as a standard procedure, conduct initial screening on vulnerable persons, including illegal workers, illegal immigrants, sex workers and foreign domestic helpers, who are arrested during any operation, with a view to ascertaining whether they are trafficking in persons (TIP) victims. When any TIP indicator is revealed in the initial screening, the officers will conduct a full debriefing and identification by using a standardised checklist to ascertain the presence of TIP elements, such as threat and coercion in the recruitment phase and the nature of exploitation. Identified TIP victims will be provided with various forms of support and assistance, including urgent interference, medical services, counselling, shelter, temporary accommodation and other supporting services. The ImmD calls on TIP victims to report crimes to the relevant departments.