

LCQ11: Job-hopping acts of foreign domestic helpers

Following is a question by the Hon Doreen Kong and a written reply by the Secretary for Labour and Welfare, Mr Chris Sun, in the Legislative Council today (February 28):

Question:

It has been reported that the supply of foreign domestic helpers (FDHs) in Hong Kong falls short of demand, and the trend of FDHs job-hopping (i.e. premature termination of employment contracts for change of employers) has not abated. On the other hand, the Labour Department reviewed the Code of Practice for Employment Agencies (CoP) in March last year and put forth three proposals to combat job-hopping of FDHs. In this connection, will the Government inform this Council:

(1) of the progress of work on revising the CoP, and whether there is a specific timetable;

(2) how it ensures that once the CoP has been revised, employment agencies (EAs) will be able to clearly explain to FDH jobseekers the application criteria and possible consequences of changing employers under the prevailing policy; whether it will consider requiring EAs to make audio or video recordings of the entire explanation process; if so, of the details; if not, the reasons for that;

(3) whether it has considered including in the sample service agreement in the CoP a provision on refund arrangements when FDHs leave employment early, such as specifying the refund ratio and arrangements for departing Hong Kong, in order to strengthen the protection for the rights and interests of FDHs and employers; if so, of the details; if not, the reasons for that;

(4) whether it will consider stipulating in the CoP that EAs should not provide monetary incentives to FDHs to induce them to terminate their contract prematurely, nor should they provide monetary incentives to the families of FDHs; of the investigation approach and disciplinary mechanism put in place by the Government to address the aforesaid acts allegedly committed by EAs through overseas agents or recruiters;

(5) in order to further protect the rights and interests of employers in Hong Kong, whether the authorities will consider strengthening cooperation with governments of the source countries of FDHs to prevent immoral EAs and FDHs, respectively, from seeking to obtain by deception intermediary fees and leaving service benefits (such as free return passage to FDHs' place of origin); if so, of the details; if not, the reasons for that; and

(6) as the 2023 Policy Address proposed to relax the visa policy for Laotian talents for employment in Hong Kong, whether the authorities have at the same

time explored expanding the source countries of FDHs to Laos; if so, of the details; if not, the reasons for that?

Reply:

President,

The Government is highly concerned about the suspected abuse of premature termination of employment contracts by foreign domestic helpers (FDHs) to change employers (commonly known as "job-hopping"). Apart from the Labour Department (LD)'s rigorous efforts in combating unscrupulous business practices of employment agencies (EAs), the Immigration Department (ImmD) has also been strictly scrutinising the employment visa applications from FDHs who change employers frequently. In 2023, a total of 502 employment visa applications from FDHs were rejected by the ImmD due to suspected "job-hopping", representing a substantial reduction of about 80 per cent when compared with the figure of 2 833 during the pandemic in 2021. The situation of "job-hopping" by FDHs has improved significantly.

In consultation with the Security Bureau and the ImmD, my reply to the Member's question is set out below:

(1) After concluding the consultation exercise on the preliminary proposals for revising the Code of Practice for Employment Agencies (CoP) in the first half of 2023, the LD has analysed and examined the feedback received. Currently, the LD is finalising the revised content of the CoP taking into account the suggestions and concerns raised by different stakeholders, as well as formulating the mechanism for enforcing the revised CoP. The LD will promulgate the revised CoP in the second quarter of this year.

(2) The CoP requires EAs to brief employers and FDHs on their obligations and rights under the Standard Employment Contract (SEC) and relevant legislation, such as the Employment Ordinance. EAs should request employers and FDHs to acknowledge in writing that they have been briefed on these matters, and should retain the written acknowledgement for inspection by the LD. The revised CoP will require EAs to further explain to FDHs the requirements for changing employers, and retain the written acknowledgement signed by FDHs.

(3) To enhance the protection of employers' interests as consumers, the revised CoP will require EAs to specify, in the written service agreements drawn up with employers, whether they will provide a refund or an alternative arrangement for replacement of FDHs in the event of premature termination of employment contracts initiated by FDHs. A new section will also be included in the sample service agreement appended to the CoP, requiring EAs to specify such arrangements.

Regarding the arrangements for FDHs to leave Hong Kong, according to the Government's prevailing policy, FDHs shall leave Hong Kong within two weeks from the date of employment contract termination or upon completion of employment contract, whichever is earlier. The SEC stipulates that employers have to provide their FDH with free return passage to his/her place of origin upon termination or expiry of the contract, so as to ensure the FDH's smooth

return to his/her place of origin upon the completion or early termination of the contract, and to avoid the FDH being stranded in Hong Kong due to a lack of travel expenses.

(4) The revised CoP will further require that EAs should not adopt business practices such as providing monetary incentives to FDHs in employment to induce them to terminate their employment contracts prematurely. If an EA contravenes this requirement, the LD may impose sanctions. As mentioned above and based on the LD's enforcement experience, the implementation of relevant measures against EAs and FDHs can effectively combat the malpractice of "job-hopping" by FDHs.

(5) The Government has established a standing inter-departmental liaison mechanism with the consulates of major FDH source countries in Hong Kong to discuss FDH issues of mutual concern and exchange information on unscrupulous EAs, ensuring that the rights and benefits of both employers and FDHs are well protected. If any organisation located outside Hong Kong is found to have committed improper acts of arranging FDHs' employment in Hong Kong, the LD will relay them to the governments concerned through the liaison mechanism and request appropriate follow-up actions.

(6) To expand the sources of FDHs and increase the FDH supply to Hong Kong, the LD has been keeping in view the labour market conditions in different FDH source countries and maintaining communication with relevant stakeholders. As part of these efforts, the LD has engaged with the consulates of different source countries in Hong Kong, introducing our FDH importation policy and encouraging more of their nationals to come to Hong Kong to work as domestic helpers. The current entry arrangement for admission of FDHs does not apply to Chinese residents of the Mainland, the Macao Special Administrative Region and Taiwan, as well as nationals of Afghanistan, Cuba, Laos, the Democratic People's Republic of Korea, Nepal and Vietnam. Save from the above, the Government has not imposed any restriction on the employment of FDHs of any particular nationalities. Employers may, having regard to individual needs, decide to hire FDHs from any countries and regions other than those specified above.

The Chief Executive's 2023 Policy Address announced the relaxation of the policy in respect of employment for Vietnamese talent and the policy for Laotian and Nepalese talent for employment, training and study in Hong Kong. The relaxations primarily serve to complement the Government's overall strategy for attracting talent, and do not cover the immigration arrangement for FDH importation. The Government will conduct assessments from time to time to ensure our FDH importation policy meets the actual needs and circumstances of Hong Kong, having regard to, among others, maintaining effective immigration control and security considerations.