

LCQ13: Visa applications under “General Employment Policy” and “Admission Scheme for Mainland Talents and Professionals”

Following is a question by the Hon Kenneth Leung and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (October 24):

Question:

Last month, the Government rejected an application for renewal of employment visa lodged by a foreign national, who was the Asia news editor of the United Kingdom-based Financial Times (FT). According to FT, this is the first occasion on which the Government rejected an employment visa application lodged by a foreign correspondent. The press, various trade associations and the international community were concerned about the incident, and requested an explanation from the Government about its decision. Regarding the vetting and approval of employment visa applications by the Immigration Department (ImmD), will the Government inform this Council:

(1) of the policy and considerations adopted by ImmD for vetting and approval of employment visa applications;

(2) of the mechanism adopted by ImmD for the vetting and approval of employment visa applications and renewal applications lodged by foreign correspondents; apart from the considerations mentioned in (1), whether there are other considerations in the vetting and approval of such applications;

(3) of the respective numbers of employment visa applications and renewal applications (i) received and (ii) rejected by ImmD in each of the past five years and, among them, the respective numbers of applications which were lodged by foreign correspondents; and

(4) as both the Chief Executive and the Chief Secretary for Administration have indicated earlier that upon deciding to reject an employment visa application, ImmD will not disclose to any person (including the applicant) the reasons behind its decision, of the justifications for adopting such a practice; whether it has assessed if such a practice is in line with the legal principles concerning procedural justice under the common law and the laws of Hong Kong?

Reply:

President,

The reply to the question is as follows:

(1) and (2) Applicants who possess special skills, knowledge or experience of value to and not readily available in the Hong Kong Special Administrative Region (HKSAR) may apply to come to work in the HKSAR under the General Employment Policy (GEP) (which is not applicable to Chinese residents of the Mainland of China) or the Admission Scheme for Mainland Talents and Professionals (ASMP) (which is applicable to Chinese residents of the Mainland of China). Both the GEP and ASMP are non-sector specific. An application may be favourably considered if:

(a) there is no security objection and no known record of serious crime in respect of the applicant;

(b) the applicant has a good education background, normally a first degree in the relevant field, but in special circumstances, good technical qualifications, proven professional abilities and/or relevant experience and achievements supported by documentary evidence may also be accepted;

(c) there is a genuine job vacancy;

(d) the applicant has a confirmed offer of employment and is employed in a job relevant to his academic qualifications or work experience that cannot be readily taken up by the local work force; and

(e) the remuneration package including income, accommodation, medical and other fringe benefits is broadly commensurate with the prevailing market level for professionals in the HKSAR.

In processing each application, the Immigration Department (ImmD) will examine whether the applicant meets the specific eligibility criteria under the relevant admission scheme and normal immigration requirements, and take into account the individual circumstances of each application, so as to ensure that only applicants who meet the relevant immigration policies will be admitted into Hong Kong for employment. While the ImmD endeavours to facilitate the entry of genuine visitors, at the same time the ImmD has the responsibility to uphold effective immigration control so as to safeguard the public interest of Hong Kong.

(3) The numbers of applications for visa/entry permit and extension of stay received and rejected under the GEP or ASMP during the past five years are at Annex. The ImmD does not maintain the breakdown statistics in respect of journalists.

(4) In processing each application, the ImmD acts in accordance with the laws and policies, and decides whether to approve or refuse the application after careful consideration of individual circumstances of each case. According to its established practices, the ImmD will normally not inform the applicant of the specific reason when rejecting an application. There is no requirement under the Immigration Ordinance or the common law for the ImmD to provide the reason for rejecting an application to the applicant who is not granted permission to land in Hong Kong by ImmD.