

LCQ14: Foreign domestic helpers

Following is a question by Dr the Hon Chan Han-pan and a written reply by the Secretary for Labour and Welfare, Mr Chris Sun, in the Legislative Council today (November 27):

Question:

Regarding foreign domestic helpers (FDHs), will the Government inform this Council:

(1) of the number of cases received by the authorities, in each of the past five years, in which harassment was inflicted on FDHs' employers due to finance companies' debt collection from FDH borrowers, and the total amount of debts involved;

(2) whether measures are put in place to prevent FDHs from using their employers' residential addresses without authorisation to borrow loans from money lenders, for example, whether it will require that FDHs, when borrowing money, must provide a declaration of no objection from their employers regarding the use of their residential addresses, and that money lenders must not use the employers' residential addresses for debt collection purposes after confirming that the FDHs have left their employment; if so, of the details and timetable; if not, the reasons for that;

(3) whether it will consider establishing a personal credit rating system for FDHs so that money lenders may consider lending based on the credit ratings of FDHs applying for loans; if so, of the details and timetable; if not, the reasons for that;

(4) in view of FDHs' job-hopping (i.e. premature termination of employment contracts for change of employers) problem, whether the authorities have considered establishing a centralised FDH curriculum vitae system to disclose, without jeopardising the privacy of FDHs, the work records of FDHs to prospective employers, including whether there have been frequent job-hopping and involvement in integrity issues such as theft and negligence of duty; if so, of the details and timetable; if not, the reasons for that;

(5) whether it will consider requiring FDH intermediaries to (i) make the best endeavour to ensure that the curriculum vitae and health declarations provided by FDHs are true and accurate, (ii) impose a probationary period on FDHs with the employers, and (iii) identify suitable replacement without employers paying the costs in the event of termination of employment of the FDHs during the probationary period; if so, of the details and timetable; if not, the reasons for that;

(6) in view of instances of unreasonable job-hopping or integrity issues of FDHs, whether the authorities will consider exempting employers from, subject to arbitration by a third party, making payment of all or part of FDHs'

passages to return to their places of domicile and other consequent expenses incurred; if so, of the details and timetable; if not, the reasons for that; and

(7) whether the authorities will consider setting up a dedicated department responsible for handling the following issues: vetting and approving FDHs' applications for coming to Hong Kong, reviewing the Standard Employment Contract, studying the imposition of a probationary period on FDHs, and assisting employers, FDHs and FDH intermediaries in handling labour disputes; if so, of the details and timetable; if not, the reasons for that?

Reply:

President,

The Government has been reminding foreign domestic helpers (FDHs) to exercise financial prudence and avoid borrowing from financial companies through publicity and promotion efforts. The Government has also been adopting a multi-pronged strategy to combat the abuse of premature termination of employment contracts by FDHs to change employers (commonly known as "job-hopping"). This includes rigorously clamping down on unfair trade practices of employment agencies (EAs), stringently vetting employment visa applications from FDHs who have frequently changed employers, as well as stepping up publicity targeting FDHs on the serious consequences of "job-hopping".

In consultation with the Financial Services and the Treasury Bureau, the Security Bureau, the Companies Registry (CR) and the Immigration Department (ImmD), my reply to the Member's question is set out below:

(1) Upon receipt of complaints from FDH employers regarding alleged harassment by licensed money lenders (money lenders) during debt recovery from their FDHs, the CR refers such cases to the Police for follow-up actions. In the past five years, the numbers of cases referred to the Police are as follows:

	Number of cases referred
2020	0
2021	1
2022	0
2023	4
2024 (as at October)	9

According to the CR, only some of the complainants have provided the amount of outstanding debt involved, ranging from approximately \$1,000 to \$16,800.

(2) The Government is very concerned about the borrowing issue of FDHs, and

has been continuously reviewing and enhancing regulatory measures targeting the licensed money lending sector to regulate the business practices of money lenders, while also conducting publicity and education. To address instances where employers are harassed due to their FDHs' borrowing activities, the prevailing licensing conditions of the Money Lenders Licence clearly state the relevant regulatory requirements:

(a) Debt recovery: Money lenders and their debt collectors should only recover debts from individuals who are legally indebted to the money lenders. They should not harass anyone or adopt unlawful or improper debt collection practices when attempting to locate debtors. If an FDH employer discovers that his residential address is used improperly and feels harassed, he may lodge a complaint with the money lender concerned and request immediate cessation of its improper debt collection behaviours.

(b) Protection of personal data: Money lenders should ensure that personal data collected in their course of business are protected against unauthorised or accidental access, processing, erasure or other uses by any debt collectors. They should also comply with the stipulations of the Personal Data (Privacy) Ordinance concerning the collection, use, holding and processing of personal data.

(c) Loan referees: In cases where a referee is provided for a loan application, money lenders should, before entering into any loan agreement, request the intending borrower to provide written consent signed by the referee confirming his agreement to act as the referee for the intending borrower in respect of the loan application, and attach the written consent to the loan agreement. If a money lender is informed or aware that the written consent of a loan referee has not been signed by the referee, the money lender should immediately cease to use the referee's information. If an FDH employer has not provided written consent to act as a loan referee for his FDH, the money lender should not contact the employer for the FDH's loan application. Even if an employer agrees to be a loan referee, his role as a referee ends when the loan is granted. In addition, irrespective of whether an employer acts as a loan referee, the money lender should not contact the employer regarding any matter related to the debtor after the loan is granted.

Money lenders should strictly comply with the licensing conditions in carrying on their business. Any breach of the licensing conditions during the course of business is an offence under the Money Lenders Ordinance. Upon conviction, offenders are subject to a maximum fine of \$100,000 and imprisonment for two years. If the Registrar of Money Lenders (Registrar) and the Police consider that a money lender has ceased to be a fit and proper person to carry on business as such, they may apply to the Licensing Court for revocation of his licence or refusal of his licence renewal application. Therefore, if there is any complaint against a money lender for improperly harassing an FDH employer, the complaint may serve as a ground for the Registrar or the Police to apply to the Licensing Court for revocation of his licence, or make an objection against his licence renewal application.

(3) According to the licensing conditions of the Money Lenders Licence, money lenders should, before entering into any agreement for unsecured personal loans, assess the ability of intending borrowers to make repayments under the loan agreement affordably, and have due regard to the outcomes of the assessment. In carrying out the assessment, money lenders should consider the income, expenditure and ability of intending borrowers to make repayments under the loan agreement. Other factors to be considered include the current credit and financial data of intending borrowers. In this connection, the Government has all along been encouraging the money lending sector to participate in the "Credit Data Smart", with a view to making more accurate assessment on the affordability of intending borrowers (such as FDHs) in drawing unsecured personal loans, so as to ensure better compliance with the aforementioned requirements of the licensing conditions.

To step up efforts in addressing the over-borrowing issue of certain groups such as FDHs and young people, the Government is reviewing the existing regulations on money lenders, including exploring to set a borrowing cap on unsecured personal loans based on the monthly income of intending borrowers, alongside enhancing publicity and education. We are formulating measures along the above directions for public consultation and will announce the details in due course. Our plan is to commence the consultation in the first half of 2025.

(4) The ImmD has been proactively combating "job-hopping" of FDHs. In vetting FDH visa applications, the ImmD refers suspicious cases of "job hopping" to the special duties team (SDT) for investigation. Case officers of the SDT holistically consider a host of factors, including the conduct of FDHs, records of FDHs and former employers, and reasons for premature termination of employment contracts. To understand such reasons, case officers will also contact former employers and applicants as necessary based on individual case circumstances. For FDHs suspected of "job-hopping", the ImmD will decisively reject their visa applications and request them to leave Hong Kong. The ImmD will also retain the application records and take them into account when vetting future applications from the FDHs concerned for employment visas or extension of stay.

In 2023, 1 557 FDH visa applications were referred to the SDT for follow-up due to suspected "job-hopping", with 502 applications being rejected eventually; such numbers are notably lower than the respective numbers of 5 844 and 2 833 in 2021.

In parallel, the Labour Department (LD) promulgated in May this year the revised Code of Practice for EAs (CoP). The CoP requires that EAs should thoroughly brief FDH job seekers on FDH-related immigration regulations, including the general application procedures and arrangements for changing employers; and refrain from adopting business practices such as providing monetary incentives to FDHs in employ to induce premature termination of employment contracts. Non-compliance with the CoP could lead to the LD's revocation of or refusal to renew an EA's licence, or issuing of warnings for rectifications.

The situation of "job-hopping" among FDHs has significantly improved following policy interventions, and the Government will continue its efforts in combating "job-hopping".

According to the Personal Data (Privacy) Ordinance, generally speaking, disclosure or transfer of FDHs' personal data (including their past employment) without their consent contravenes the Ordinance.

(5) The CoP requires that EAs should exercise due diligence in checking the accuracy of information provided by both job seekers and employers as far as practicable, and ensure that information made available to both parties (e.g. curriculum vitae and medical examination reports of FDHs) is consistent with the facts made known to them. In addition, the CoP requires EAs to specify, in written service agreements with employers, whether they will provide a refund, an FDH replacement or other alternative arrangements in cases of premature termination of employment contracts initiated by employers or FDHs.

The Employment Ordinance and the Standard Employment Contract for FDHs (SEC) specify the requirements on termination of employment contracts. Arrangements for FDH replacement after contract termination should be mutually agreed upon between EAs and FDH employers. Mandating EAs to offer a "probationary period" for employers and arrange FDH replacement without fees may be fraught with disputes on the applicable circumstances. It will also lead to increased service fees charged by EAs, which will run against the interests of employers.

(6) According to Clause 7(a) of the SEC, employers are obliged to provide FDHs with free return passage to their place of origin upon contract completion or termination. This ensures that FDHs will not be left stranded in Hong Kong due to a lack of means for travel after their contract expires or ends. This requirement is not only applicable to FDHs, but also to workers who come to work in Hong Kong under other labour importation schemes. The Government currently has no plan to change this requirement.

(7) The LD established a dedicated FDH Division in 2020. In addition to implementing measures to raise awareness among FDHs and employers about their rights and obligations, as well as providing support to FDHs and employers where necessary, the division maintains close contact and collaboration with other divisions of the LD, the ImmD and other law enforcement agencies to coordinate matters related to the FDH employment.