

LCQ16: Problem of job-hopping by foreign domestic helpers

Following is a question by the Hon Edward Leung and a written reply by the Secretary for Security, Mr Tang Ping-keung, in the Legislative Council today (January 19):

Question:

With the coronavirus disease 2019 epidemic persisting, the number of foreign domestic helpers (FDHs) coming to Hong Kong has reduced sharply, resulting in a shortage of FDHs and giving rise to quite a number of cases of FDHs prematurely terminating their employment contracts for change of employers (commonly known as "job-hopping"). Although the Immigration Department (ImmD) has indicated that it has all along been vetting and approving employment visa applications from FDHs stringently to combat job-hopping, it has been reported that the situation has seen no improvement. In this connection, will the Government inform this Council:

(1) of the respective numbers of applications for extension of the limit of stay in Hong Kong as visitors made by FDHs who had prematurely terminated their contracts which were received, approved and rejected by the ImmD in each of the past five years;

(2) of the number of complaints about intermediaries abetting FDHs or even providing incentives to encourage FDHs to job-hop received, and what follow-up actions were taken on such complaints, by the ImmD in each of the past five years; and

(3) regarding the substantiated cases among the complaints mentioned in (2), whether the ImmD has put the FDHs and intermediaries concerned on a dedicated blacklist; if so, of the respective numbers of FDHs and intermediaries put on such blacklist in each of the past five years, and the penalties imposed on them?

Reply:

President,

The Immigration Department (ImmD) has all along been proactively combating job-hopping of foreign domestic helpers (FDHs) and has set up a special duties team (SDT) in June 2013 for that purpose. In vetting visa applications, the ImmD will refer suspicious cases to the SDT for investigation. Case officers will holistically consider a host of factors, such as the conduct of the FDHs, records of the FDHs and their former employers, and the reasons for premature termination of the employment contract. To understand such reasons, case officers will also contact the former employers and the applicants as necessary in light of the individual

case circumstances. In respect of FDHs suspected of job-hopping, the ImmD will decisively refuse their visa applications and ask them to leave Hong Kong. The ImmD will maintain their application records and take them into account when vetting future applications from the FDHs concerned for employment visa or extension of stay.

According to Clause 12 of the Standard Employment Contract for employing FDHs, both the employer and the FDH shall give the Director of Immigration notice in writing within seven days from the date of contract termination, and shall forward a copy of the other party's written acknowledgement of the termination to the Director of Immigration. They may choose to complete the ImmD's Notification of Termination of Employment Contract with Foreign Domestic Helper (Form ID407E), in which they can fill in the reasons for terminating the contract in the corresponding section. The ImmD will keep and take relevant records into account when vetting any future application from the FDH for employment visa or extension of stay.

The ImmD's SDT reviews and adjusts its work strategy from time to time. It will reinforce its efforts in a timely manner to proactively investigate suspicious cases, such as stepping up checks on all applications involving premature termination of contract. In 2021, 5 844 applications were referred to the SDT for follow-up on suspected job-hopping and 2 833 applications were rejected, representing almost nine times the total number of applications rejected in 2020. The number of visa applications from FDHs referred to the SDT for investigation on suspicion of job-hopping, and the number of rejections among referred applications in the past five years are tabulated as follows:

Year	No. of applications referred	No. of applications rejected
2017	1 063	367
2018	1 184	165
2019	1 709	267
2020	1 776	319
2021	5 844	2 833

Having consulted the Labour and Welfare Bureau, the ImmD and the Labour Department (LD), I provide a consolidated reply to the question raised by the Hon Edward Leung as follows:

(1) In accordance with the prevailing FDH policy of the Government, a FDH shall leave Hong Kong upon completion of employment contract or within two weeks from the date of contract termination, whichever is the earlier. Save for the exceptional circumstances deemed reasonable by the ImmD (including the premature termination of contract owing to the transfer, migration, death or financial reasons of the original employer, or where there is evidence that the FDH has been abused or exploited), an application from a FDH for

change of employer in Hong Kong within the two-year contract period will normally not be approved. A FDH who wishes to have a new employer must leave Hong Kong and submit a fresh employment visa application to the ImmD.

The Government announced on March 21, 2020 that FDHs would be allowed to apply for extension of stay in Hong Kong as visitors for not more than one month. The purpose of this measure was to reduce their risk of COVID-19 infection due to cross-boundary travel. To local employers who needed to employ FDHs, this measure also helped meet their demands. However, to prevent abuse by individual FDHs who sought to change employers frequently, the Government discontinued this facilitation arrangement on December 30, 2020.

The figures relating to applications from FDHs for extension of stay in Hong Kong as visitors upon expiry or early termination of contract (Note 1) in the past five years are tabulated as follows:

Year	2017	2018	2019	2020	2021
No. of applications received	7 577	6 770	5 945	29 811	10 590
No. of applications approved (Note 2) (Note 3)	6 535	5 716	5 182	28 520	5 685
No. of applications rejected (Note 2) (Note 3)	610	673	612	689	4 535

Note 1: The ImmD does not maintain the requested statistics.

Note 2: Except for applications from FDHs for extension of stay in Hong Kong as visitors for not longer than one month as per the Government's facilitation arrangement in light of the pandemic announced on March 21, 2020 (this arrangement ceased on December 30, 2020), FDHs will only be allowed to extend their stay in Hong Kong as visitors in certain circumstances. Such circumstances include, but are not limited to, where FDHs have to attend relevant tribunal hearings because of labour or monetary disputes, or where they have been criminally intimidated or abused and have to remain in Hong Kong to assist in investigations.

Note 3: The applications processed in a year may not correspond with the applications received in the same year.

(2) and (3) The LD is responsible for administering Part XII of the Employment Ordinance (Cap. 57), the Employment Agency Regulations (Cap. 57A) and the Code of Practice for Employment Agencies (CoP). It regulates employment agencies (EAs) in Hong Kong through means such as licensing, inspection, complaint investigation and prosecution, with a view to protecting the interests of job seekers and employers using the services of local EAs.

Pursuant to the CoP, EAs shall act honestly and exercise due diligence when providing placement services to employers and job seekers, and shall ensure that the candidates recommended could satisfy the employers' requirements. In general, employers expect FDHs recommended by EAs to complete the two-year Standard Employment Contract.

Generally speaking, upon receipt of complaints or enquiries regarding EAs, the ImmD will refer them to the LD for follow up actions. In the past five years (i.e. from 2017 to 2021), the LD received 15, nine, 17, 29 and 177 complaints respectively involving EAs abetting FDHs to job-hop. The LD has launched investigation into each complaint, sent officers to inspect the EAs concerned and reminded them not to encourage FDHs to job-hop.

The LD has taken stronger measures to combat EAs suspected of abetting FDHs to job-hop, including issuing letters time and again to all EAs providing FDH placement services to remind them not to adopt business practice to encourage or abet FDHs to job-hop; closely monitoring the business practice of EAs and inspecting EAs that offer cash incentives to FDH job seekers (particularly those who have terminated their contracts prematurely) and their referrers; and formulating inspection and investigation guidelines in respect of FDH job-hopping cases to facilitate more targeted investigation and collection of evidence of EAs abetting FDHs to job-hop.

The ImmD will also conduct detailed analysis on applications from FDHs who are suspected of job-hopping. Targeting persons or EAs suspected of encouraging or abetting FDHs to job-hop or contravening the Immigration Ordinance (Cap. 115), the ImmD and the LD will conduct joint operations to inspect the EAs concerned, and will remind them not to encourage or abet FDHs to job-hop through unfair business practice.

If an EA is found to have breached the CoP, the LD may revoke, refuse to issue or renew its licence, or issue warnings for rectification of the irregularities detected. From 2017 to 2021, the LD revoked, refused to issue or renew the licences of six, 11, 13, seven and seven EAs respectively on different grounds, such as the conviction of the licensees for overcharging commission from job seekers or for unlicensed operation, and the breach of the CoP by the licensees.