

LCQ17: Staff of a law firm before it was intervened

Following is a question by the Hon Luk Chung-hung and a written reply by the Secretary for Labour and Welfare, Dr Law Chi-kwong, in the Legislative Council today (March 24):

Question:

Earlier on, the Council of the Law Society of Hong Kong (the Council) intervened in the operation of a law firm (the firm) because the Council suspected after investigation that a former employee of the firm had dishonestly misappropriated the money of the clients of the firm, and was satisfied that the firm had committed serious breaches of the Solicitors' Accounts Rules (Cap. 159F). The firm's practice forthwith ceased, and all the money of the firm has been held by the Council on trust. The Council has appointed another law firm as the Intervention Agent (Agent) to handle the follow-up work. It is learnt that dozens of staff who worked in the firm prior to cessation of its practice were employed by an independent company. As the company's money deposited with the firm has been held by the Council, it is unable to pay such staff wages totalling over \$4 million (which include salaries, pay for untaken annual leave and statutory holidays, wages in lieu of notice and severance payments). On the other hand, some of such staff have assisted the Agent, upon its request, in handling the follow-up work, but have not been paid any wages. In this connection, will the Government inform this Council:

(1) whether the Labour Department (LD) has received requests for assistance from the aforesaid staff; if so, how the LD assists them in recovering the wage defaults, including whether it has assisted them in taking legal actions and applying for legal aid;

(2) whether the LD will discuss with the Council and the Agent the payment of salaries to the aforesaid staff for the period during which they assisted in handling the follow-up work; and

(3) whether it will amend the Legal Practitioners Ordinance (Cap. 159) to stipulate that when similar cases occur in future, the Agent appointed by the Council to handle the follow-up work of a law firm which has been intervened should (i) handle the severance matters for all staff who worked in that law firm (irrespective of whether they were directly employed by the law firm concerned) (including verifying the amounts of wage defaults, so as to help the staff concerned expeditiously recover such wage defaults), and (ii) pay salaries to the staff who assist the Agent in handling the follow-up work?

Reply:

President,

In consultation with the relevant government department, my consolidated reply to the member's question is as follows:

Upon receipt of the request for assistance from the staff concerned in January 2021, the Labour Department (LD) promptly rendered appropriate assistance to the employees, including providing conciliation service, and assisting them to lodge claims at the Labour Tribunal (LT) for their wages in arrears and termination payments. As the employer failed to pay the sums awarded by the LT, the LD assisted them in no time to apply for ex gratia payment from the Protection of Wages on Insolvency Fund, and for legal aid from the Legal Aid Department as necessary.

If there exists an employment relationship between an employee and the Law Society of Hong Kong (Law Society) or its appointed law firm as the intervention agent, and the employee suspects that his/her employment rights and benefits under the Employment Ordinance (Cap. 57) has been infringed, he/she may approach the LD direct. The LD shall render appropriate assistance.

A self regulatory regime has all along been implemented for Hong Kong's legal profession in order to ensure the professionalism and independence of our legal practitioners. The Legal Practitioners Ordinance (Cap. 159) (the Ordinance) is to make amended provisions for the admission and registration of legal practitioners and their employees, the appointment and registration of notaries public, and for purposes connected therewith. The Ordinance and its subsidiary legislation lay down the statutory powers, functions and duties of the Law Society as the regulator of the solicitors' branch, including section 26A of the Ordinance specifying the circumstances under which the Council of the Law Society may pass a resolution to exercise its statutory power to intervene into a law firm's practice and exercise the powers set out in Schedule 2 to the Ordinance, and appoint an intervention agent to assist in the intervention, for the protection of the interests of the clients of that firm and the public.

In respect of the case referred to in the question, we note that in the Law Society's submission to the Legislative Council Panel on Administration of Justice and Legal Services dated January 25, 2021, the Law Society stated that it had already set up a working party to review the intervention process. In relation to views on further protection to the parties affected by the intervention of a law firm, the Department of Justice is ready to maintain communication with the Law Society.