

LCQ18: Study tours and exchange tours of schools

Following is a question by the Dr Hon Pierre Chan and a written reply by the Secretary for Education, Mr Kevin Yeung, in the Legislative Council today (December 9):

Question:

The Coronavirus Disease 2019 (COVID-19) epidemic which broke out at the beginning of this year has swept across the globe. Due to the needs for prevention of the epidemic, the Education Bureau (EDB) has reminded all schools in Hong Kong to suspend exchange/study tour activities outside Hong Kong. Moreover, as all of the destinations of study tours and exchange tours (collectively referred to as "study tours") have implemented immigration control and quarantine measures, the relevant flights have been cancelled, and the Government has issued the Red Outbound Travel Alert (OTA) on all overseas countries/territories, the study tours that schools originally scheduled for this year have all been cancelled. As a result, quite a number of disputes between schools, travel agents and insurance companies over the arrangements for dealing with the aftermaths have erupted. In this connection, will the Government inform this Council:

(1) of the number of study tours organised by schools in each of the past three school years, and among such tours, the number of those subsidised by the Government and the amount of subsidy involved, with a breakdown by (i) school type (i.e. kindergarten, primary school and secondary school) and (ii) destination;

(2) whether it has assessed what specific effects that the OTA System has on how schools, travel agents and insurance companies make arrangements for study tours;

(3) of the existing guidelines setting out the arrangements for travel agents to make refunds for a study tour which has been cancelled due to objective circumstances (e.g. an epidemic, OTA of Red or above, immigration restrictions imposed at the destination of the study tour, or any other force majeure causes); whether it knows how travel agents generally handle refund matters in such circumstances; as some travel agents have indicated to the schools that they will make no refund of tour fees or deposits for study tours that have been cancelled due to such circumstances, of the measures put in place by the Government to protect the rights and interests of schools, teachers and students;

(4) given that the Travel Industry Council of Hong Kong (TIC) has issued two sets of guidelines, namely the Code of Business Practice on Study Tours and Exchange Tours and the directive on "cancellation of package tours for reasons beyond control" whether it knows if TIC will penalise those travel agents which have failed to comply with such guidelines when handling matters

on study tours (including the drawing up of contracts);

(5) whether the existing codes of practice and regulations concerned have stipulated that upon receipt of the deposit paid by the school concerned and a mutual agreement that the travel agent should take out travel insurance on behalf of the school, a travel agent commissioned to organise a study tour is required:

(i) to provide services such as making reservation of air tickets and accommodations on behalf of the school and, upon request of the school, produce proof of the expenses so incurred, to ensure that the money concerned is not misappropriated, and

(ii) to take out expeditiously travel insurance for the study tour to ensure protection for the school as well as its teachers and students in the event that the study tour is cancelled;

if not, whether the authorities will amend the relevant codes of practice and regulations to make such requirements, so as to protect the rights and interests of schools, teachers and students;

(6) of the respective numbers of complaints about study tours received by (i) EDB, (ii) the Travel Agents Registry, (iii) the Hong Kong Police Force and (iv) TIC since February this year, with a breakdown by nature of complaints, school type, the size of the study tour in terms of the total number of teachers and students (each group spanning 20 persons), and the group to which the disputed amount of money belonged (each group spanning \$100,000); the issues involved in such complaints which fall into the scope of investigation, as well as the progress of processing such complaints and the outcome of their follow-up actions;

(7) whether EDB will (i) amend the Guidelines on Study Tours Outside Hong Kong to stipulate that upon announcement by EDB that all schools in Hong Kong should suspend all their face-to-face activities due to an epidemic or under other circumstances, the relevant arrangements will also be applicable to study tours outside Hong Kong, and (ii) organise seminars for schools on how to avoid inadvertently falling into traps in the contracts and suffering losses when organising study tours;

(8) whether EDB, the Security Bureau, the Tourism Commission and TIC will collaborate in formulating guidelines in respect of the relevant responsibilities to be borne by the school and the travel agent concerned and the refund arrangements in the event of cancellation of a study tour under the following circumstances: the Government has issued OTA of Red or Black on the destination of the study tour and the authorities of such destination have imposed immigration restrictions, which make the study tour unable to make departure; if so, of the details and timetable; if not, the reasons for that; and

(9) given that an outbound traveller who has suffered from a loss of outbound fare arisen from the closing down of the licensed travel agent which he/she patronised, may apply for an ex gratia payment of up to 90 per cent of the loss from the Travel Industry Compensation Fund, whether such an arrangement is applicable to a study tour already cancelled but the licence of the travel agent concerned has been revoked before the refund dispute is settled?

Reply:

President,

In view of the fact that study tours outside Hong Kong organised by primary and secondary schools are part of their outdoor activities, the Education Bureau (EDB) has incorporated the "Guidelines on Study Tours Outside Hong Kong" (the Guidelines) into the "Guidelines on Outdoor Activities". The safety of students is the prime concern of the EDB in formulating the Guidelines, which include the points to note on manpower arrangement, appointment of escorts, scheduling of activities and safety matters for schools' reference in organising such activities. The Guidelines clearly state that if schools commission agents to arrange the itinerary, the agents must be licensed travel agents, and the accompanying staff must be holders of a valid Tour Escort Pass issued by the Travel Industry Council of Hong Kong. To safeguard the interests of participants, schools may also request the agent commissioned to produce a sexual conviction record of the accompanying staff, and provide information such as the safety equipment on board and drivers' driving history. Besides, as participation in study tours outside Hong Kong is part of students' learning, the Guidelines remind schools to make reference to the curriculum guides on various Key Learning Areas and design suitable study tour programmes according to their school-based curriculum and the needs of their students.

There are various modes of organising study tours, such as commissioning to travel agents, collaborating with other organisations and organising by schools themselves. Schools have to follow tendering and procurement procedures if they commission agents to organise study tours outside Hong Kong. The prevailing Guidelines also require schools to follow the "Guidelines on Conducting Trading Operations" and related Education Bureau circulars to ensure that programmes and activities outside the classroom provided for students by schools (including those co-organised with other organisations) can be conducted effectively and conform to the related requirements in administrative and financial arrangements. For example, schools with Incorporated Management Committee (IMC) should obtain prior approval from their respective IMCs when engaging in commercial activities and follow the procurement procedures for aided schools.

In consultation with relevant Bureaux, the consolidated reply to the question raised by Dr Hon Pierre Chan is as follows:

(1) Schools may use various grants to organise school-based study tours outside Hong Kong and the EDB has not collected from schools the number of these activities and the related information.

(2) The Security Bureau (SB) has put in place the Outbound Travel Alert (OTA) System, which aims to help Hong Kong residents better understand the possible risks to personal safety in travelling to overseas places that are popular with Hong Kong residents. When there are incidents in these countries/territories which may affect the personal safety of Hong Kong residents, the SB will assess and consider the need to issue an OTA taking into account factors such as the nature (e.g. whether it is targeted at

travellers), level and duration of the threat. Should there be public health reasons, the SB will, based on the advice of the Food and Health Bureau, issue an OTA on countries/territories which are seriously affected by infectious diseases or disseminate information through the OTA System to help the public and the tourism industry better understand the possible health risks and make arrangements accordingly. Hong Kong residents are encouraged to make reference to the OTA before travelling abroad or firming up their travel plans. It is however a personal decision of a Hong Kong resident to choose whether to continue the journey and travel abroad. Schools are reminded in the Guidelines to exercise prudence and observe the OTA on countries/territories issued by the SB.

In view of the health risks arising from the persistent and rapid increase in the number of COVID-19 cases globally, the Government issued the Red OTA on all overseas countries/territories based on public health considerations on March 17, 2020. As the pandemic situation around the world is evolving rapidly, members of the public are strongly urged to adjust their travel plans and avoid any non-essential travel outside Hong Kong. Countries across the globe have implemented different quarantine measures which would affect the travel arrangements of members of the public. If travelling is unavoidable, the public should pay close attention to the latest situation of COVID-19 and the corresponding travel health advice issued by the Department of Health.

(3), (4) and (5) According to the Commerce and Economic Development Bureau (CEDB), the Travel Industry Council of Hong Kong (TIC) is responsible for trade self-regulation and regulation of travel agents through promulgating codes of conduct and directives and establishing a disciplinary mechanism. The Travel Agents Registry (TAR) under the Tourism Commission is responsible for issuing travel agents' licences and the related work, including monitoring the financial position of travel agents, under the Travel Agents Ordinance (TAO) (Cap 218).

In respect of the OTAs issued by the SB on certain countries/territories, the TIC does not require travel agents to make relevant commercial decisions on the group tours (including study tours) organised by them in accordance with OTAs. The TIC will not intervene with the commercial decisions of travel agents in response to OTAs. In general, if there is a need to cancel a study tour or make changes to an individual itinerary, the school and the travel agent may discuss it based on the contractual agreement signed by both parties.

If there is a complaint from a school against a travel agent, the TIC will follow up the matter in accordance with its procedures, including assisting the parties concerned to sort out the arrangements of the affected study tour, and referring to the relevant committee(s) under the TIC for handling having regard to the circumstances. In general, if the travel agents' operation or the terms and conditions of its products violate or contravene the TIC's directives or codes of conduct, the TIC will follow up in accordance with its disciplinary mechanism, and handle the case or take disciplinary action having regard to the actual circumstances.

(6) Since February 2020, the TIC has received a total of 34 complaints relating to study tours from seven secondary schools, 17 primary schools, one kindergarten and one special school, involving a total of 1 686 students, parents and school staff members (including principals, teachers and staff members), and a total funding of about \$10 million. The complaints mainly involve disputes on refund of study tours which could not take place due to COVID-19, and the travel agents' refusal to provide insurance companies with documentary proofs of orders placed for air tickets and hotels and the payment made for service fees not being refunded when the schools concerned filed claims to insurance companies. Of the 34 complaint cases, the TIC has processed 12 cases (including those in which the schools and the travel agents had settled on the refund arrangement, or part of the losses of the schools have been compensated by insurance companies, and no further processing by the TIC is required). As for the remaining 22 cases which are being processed, they include six cases being followed up by the TIC's Executive Office, 13 cases being scheduled for deliberation by the TIC's Consumer Relations Committee (CRC), as well as three cases in which the concerned travel agents have appealed against the ruling of CRC.

Meanwhile, the TAR and the EDB have not received any complaints relating to study tours since February 2020. According to the SB, the police do not have statistics and information related to complaints on study tours.

Nevertheless, the EDB has addressed enquiries from some schools about cancellation of arranged activities and contractual issues with the contractors, and provided them with appropriate support such as the provision of the "One-off support measure" for schools to use the EDB grants to pay for the expenses incurred by the cancellation of activities due to the COVID-19 epidemic under the required conditions. The ceiling of the provision is the estimated expenses of the schools in using the EDB grants for the activities concerned.

(7) and (8) The EDB has been closely monitoring the development of the COVID-19 epidemic and keep in close liaison with the school sector to formulate related arrangements. Concerning extra-curricular/exchange activities, the EDB issued a letter on January 31, 2020 to inform schools that during the deferral period of class resumption, schools should suspend all group/extra-curricular activities inside and outside the school campuses so as to avoid crowd gatherings and minimise the risk of viral transmission. The EDB's letter reminded schools that as the epidemic was evolving, all students' exchange programmes to the Mainland organised by the EDB had been suspended or postponed. Schools should also make similar arrangements for the self-arranged exchange programmes to the Mainland. Besides, due to widespread infection among various countries and regions globally, overseas exchange programmes could also pose significant risks to the participants. Schools should adopt the same principles when arranging such activities. To our knowledge, schools have suspended exchange programmes originally planned because of the epidemic outside Hong Kong. As a matter of fact, study tours are part of school activities and any special arrangements of EDB on school activities are applicable to study tours.

For arranging seminars, the EDB conducted sharing sessions on January 15

and 16, 2019 and invited representatives of the TIC to share with school managers, principals and accounting personnel of aided schools about the salient issues in organising study tours. The EDB will continue to keep close communication with the TIC and organise different seminars and trainings to strengthen schools' understanding on the matter where necessary.

The EDB has updated the Guidelines in August 2020, reminding schools to take into account the actual operation and possible incidents when drafting contracts in procuring the services for organising study tours from licensed travel agents. Relevant provisions, such as mechanism for making changes to the itinerary, instalment arrangement, liability clauses for force majeure and refund arrangement due to the cancellation or delay of study tours, should be included to better protect the school's interests. Schools should seek their own independent legal advice and, where necessary, the advice of other relevant professionals, on the terms and conditions to be adopted in the invitation letters and written quotation/tender document/contract for each invitation of written quotation/tender exercise/contract preparation. The EDB will remind schools about the areas to note when procuring the service to reduce loss by organising relevant seminars.

(9) According to the CEDB, outbound travellers who have purchased outbound travel services (usually including group tours comprised of carriage from Hong Kong to places outside Hong Kong and accommodation outside Hong Kong) from a licensed travel agent, and are holding valid franked receipts will be protected by the Travel Industry Compensation Fund. If the travellers suffer a loss of outbound fares arising from the default of the travel agent, they may apply for an ex gratia payment equivalent to 90 per cent of the loss of outbound fares, irrespective of the departure date of the trip. Applicants are required to submit relevant documents to the Travel Industry Compensation Fund Management Board for verification of the amount of the loss.