

LCQ19: Handling of staff complaints by Hospital Authority

Following is a question by Dr the Hon Pierre Chan and a written reply by the Secretary for Food and Health, Professor Sophia Chan, in the Legislative Council today (November 6):

Question:

At present, upon receipt of a staff complaint involving matters of a particular hospital or cluster, the Hospital Authority (HA) will, having regard to the nature of the complaint, refer the case to the hospital or cluster concerned for handling, namely conducting investigation and reverting to the complainant on the result. If the complainant is not satisfied with the investigation result, he/she may lodge an appeal to the respective Cluster Chief Executive or Hospital Governing Committee (the second-tier handling procedure). If the complainant is still dissatisfied with the appeal result, he/she may further lodge an appeal to the Staff Appeals Committee under the HA Board (the third-tier handling procedure) for a final decision. In this connection, will the Government inform this Council:

(1) whether it knows, in each of the past three years, (i) the total number of staff complaints received by HA, and (ii) the respective total numbers of appeal cases received and allowed under the second-tier and the third-tier handling procedures, with a tabulated breakdown by the public hospital, the grade and the rank to which the complainants belonged;

(2) whether it will ask HA to formulate a workplace anti-bullying policy, specify the bullying behaviours which may be subject to disciplinary actions, and set up a mechanism for handling complaints lodged against this type of behaviours; if so, of the details; if not, the reasons for that;

(3) whether it will enact legislation to (i) confer on HA's trade unions the right to collective bargaining, (ii) provide that HA's staff members may invite trade union representatives to accompany them to attend the hearings for handling their complaints, and (iii) provide that the members of the Staff Appeals Committee must comprise healthcare professionals, as well as representatives of staff and trade unions; and

(4) regarding the two cases of the New Territories East Cluster, mentioned earlier on by the Hospital Authority Workers General Union in its public letter of October 22, 2019, which involved suspected infringement of staff's privacy (i.e. the circulation of a nurse's sick leave certificate without the consent of the nurse, and covert surveillance on the ward-round time of and the numbers of patients attended by two medical practitioners), whether the Government will ask HA to (i) give an account in public of its handling of these two complaints (including the justifications for determining that the complaints were unsubstantiated), and (ii) put in place improvement measures?

Reply:

President,

In consultation with the Labour Department and the Hospital Authority (HA), my reply to the various parts of the question raised by Dr the Hon Pierre Chan is as follows:

(1) and (2) The HA has put in place a mechanism to handle staff complaints. If an HA staff member has dissatisfaction or feeling of injustice about the treatment received from other staff or the management, he/she may lodge a complaint to his/her immediate supervisor, the Head of Department, Hospital Chief Executive (HCE) or Head of Human Resources (HHR) as appropriate. The recipient of the complaint will then initiate an investigation having regard to the circumstances of the case. The investigation should normally be completed with a reply issued to the complainant within three months after receipt of the complaint. If this cannot be achieved, a written notification should be sent to the complainant.

If the complainant is still dissatisfied after going through the above procedures, he/she may lodge an appeal under a three-tier staff complaint and appeal mechanism as set out below:

(1) The complainant may lodge an appeal to the HCE or HHR.

(2) If the appellant still feels aggrieved after the HCE or HHR has decided on the appeal, and wishes to appeal that decision, he/she may appeal to the Cluster Chief Executive (CCE), Hospital Governing Committee (HGC) or the HA Chief Executive as appropriate. In doing so, the appellant should state whether he/she has fresh grounds of appeal.

(3) If the staff member is still dissatisfied after exhausting all of the above channels, he/she may lodge an appeal to the Staff Appeals Committee (SAC) under the HA Board. In doing so, the staff member should state whether he/she has fresh grounds of appeal.

In 2016, 2017 and 2018, public hospitals received 213, 213 and 205 staff complaints respectively. Among them, 18 cases were appealed to the second tier (i.e. the CCE, HGC or the HA Chief Executive) and five cases to the third tier (i.e. the SAC under the HA Board) under the established staff complaint and appeal mechanism. All these 23 appeal cases were found unsubstantiated. Breakdown of the staff complaint / appeal cases by cluster and grade are tabulated at the Annex.

Generally speaking, the committee responsible for handling the appeal will, depending on the case, recommend to the management where improvements are necessary, such as clarifying relevant guidelines and enhancing staff communication.

Under the HA's existing procedures, the SAC's decision shall be the HA's final decision. Apart from lodging complaints through the HA's staff complaint mechanism, an HA staff may also lodge complaints to relevant

regulatory bodies, such as the Equal Opportunities Commission, depending on the nature of the complaints. The HA will take appropriate follow-up actions.

The HA is committed to promoting mutual respect and harmony in the workplace. As clearly stated in the Code of Conduct of the Human Resources Policies Manual, "mutual respect" is the HA's core value and staff will be provided with relevant training. The HA Head Office, clusters and hospital management will also implement various measures, including counselling frontline heads, holding mediation meetings, making posting arrangements and taking disciplinary actions, to solve staff issues and work-related problems. The HA Head Office has set up a "Work Group on Building Workplace Harmony", comprising members from different clusters and grades, to advise clusters and hospitals on policies, measures and publicity for further promoting harmony and mutual respect in the workplace.

(3) The Government has all along been encouraging and promoting voluntary collective bargaining on issues related to employment terms and conditions between employers and employees or their respective staff organisations (including trade unions) to resolve differences. The Government believes that any consultation or negotiation should be premised upon a voluntary basis for it to be meaningful, hence be conducive to reaching consensus and resolving disputes. The Government has no plan to compulsorily require employers and trade unions to enter into collective bargaining by legislation.

The HA has all along attached great importance to maintaining good communication with trade unions and staff. It maintains regular communication with staff and discusses issues of their concern with them through the Staff Group Consultative Committees (SGCCs) of six respective staff groups (including doctors, nurses and supporting staff groups). The SGCCs comprise representatives directly elected by staff members of the respective groups and representatives from staff associations/trade unions that meet the membership requirement. The HA management also meets with trade unions to enhance mutual understanding when necessary.

It has been the HA's policy that a complainant (and respondent) may invite an HA staff member (including staff on different conditions of employment) to accompany him/her at investigation meetings. To ensure the fairness of the investigation as a whole, the accompanying person shall not speak in the meetings and shall commit to keeping all information confidential. Provided that the representative is an HA staff member and is invited by the complainant or respondent concerned to accompany him/her at the meetings, the HA will allow a trade union representative to serve as the accompanying person. To facilitate the smooth and efficient conduct of the investigation, it is also the responsibility of the investigator or panel to provide an environment for free expression of views.

For optimal performance of its roles and exercise of powers, the HA Board has established 11 functional committees, including the SAC. Members of these committees are appointed by the HA Board. The SAC has four

members. They are either members of the HA Board or co-opted members, and are responsible for considering appeals from staff members who have raised their grievances through the internal complaint channels and are not satisfied with the decision made. The SAC would submit annual reports to the HA Board.

(4) Upon completion of investigation, the HA has notified the two complainants of the outcome and justifications in writing. Details of individual staff complaints, however, are not to be disclosed.

Regarding the case concerning sick leave certificate, the investigation panel set up by the hospital has recommended that the Central Nursing Department of the hospital strengthen internal communication, and remind the department to carefully handle and file the documents relating to personal data.

As regards the case of the alleged monitoring by the hospital on the time spent in wards and the number of cases seen by doctors, the SAC recommended that the management should ensure that there is a proper authorisation process and documentation when collecting relevant information.