

LCQ21: Combating job-hopping by foreign domestic helpers

Following is a question by the Hon Starry Lee and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (January 27):

Question:

To assist foreign domestic helpers (FDHs) and their employers in coping with the epidemic, the Government has, since March 21 last year, flexibly considered applications from FDHs for extending their limit of stay in Hong Kong as visitors, to facilitate their finding new employers in Hong Kong. To prevent FDHs from abusing that arrangement by prematurely terminating their employment contracts (contracts) for change of employers (commonly known as "job-hopping"), the Government announced on the 30th of last month that FDHs whose contracts have been prematurely terminated would no longer be allowed to apply for extension of their limit of stay in Hong Kong as visitors, and would be required to leave Hong Kong pursuant to the prevailing policy. However, some media have uncovered that some intermediaries have introduced cash awards to attract FDHs to use their intermediary services for changing employers: an FDH whose existing contract has been completed may be awarded \$2,000 and an FDH whose contract has been prematurely terminated may be awarded \$1,000. In this connection, will the Government inform this Council:

(1) of the number of applications for extension of the limit of stay in Hong Kong as visitors received by the Immigration Department last year from FDHs whose contracts had been prematurely terminated;

(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 them, by the authorities in the past three years; whether there are new measures and actions which can more effectively curb this kind of business practices; if so, of the details; and

(3) whether it will include applicants' previous immigration records and employment records in Hong Kong as factors for consideration when vetting and approving employment visa applications from FDHs, so as to further combat job-hopping and protect the rights and interests of employers of FDHs; if so, of the details; if not, the reasons for that?

Reply:

President,

To combat the alleged abuse of the arrangement for premature termination of contract by foreign domestic helpers (FDHs) in order to change employers (commonly known as "job-hopping"), the Immigration Department (ImmD) set up a

special duties team in June 2013 to strengthen the assessment of employment visa applications from FDHs who changed employers frequently. In assessing FDHs' employment visa applications, the ImmD will closely scrutinise the case details.

Besides, the Labour Department (LD) has also advised employment agencies (EAs) through various channels not to abet FDHs in terminating contracts arbitrarily or disrupting labour relations deliberately.

Having consulted the ImmD and the LD, my consolidated response to the Hon Starry Lee's question is set out below:

(1) In view of the COVID-19 epidemic, the Government launched a series of facilitation measures in the past few months, including allowing FDHs to apply for extension of their limit of stay for not more than a month in Hong Kong as visitors. The purpose of this measure was to facilitate FDHs in finding a new employer within a specific period of time without leaving Hong Kong, thereby reducing their risk of COVID-19 infection due to cross-boundary travel. The measure also helped meet the demands of local employers who need to employ FDHs. In 2020, the ImmD received a total of nearly 30 000 applications from FDHs for extension of their limit of stay in Hong Kong as visitors after completion or early termination of their contracts. The ImmD does not maintain the breakdown figures raised in the question.

(2) Pursuant to the Code of Practice for Employment Agencies (CoP), EAs should ensure that the candidates offered to employers could satisfy the employers' requirements. In general, employers expect FDHs offered by EAs to complete the two-year Standard Employment Contract.

Between 2018 and 2020, the LD received 9, 17 and 29 complaints in each year respectively about EAs providing FDH placement services abetting FDHs in job-hopping, including EAs providing monetary incentives such as cash rewards to attract FDHs to use the EAs' services for processing employment contract renewals or finding new employers. The LD has initiated investigation on each of these complaints. Officers were sent to inspect the relevant EAs and remind them not to encourage FDHs to job-hop. The EAs concerned have stopped such business practices. The LD also issued letters to all EAs providing FDH placement services to remind them that they should not encourage or induce FDHs to job-hop through business malpractices. If there is sufficient evidence to prove that EAs have induced FDHs to engage in misconduct like job-hopping and/or failed to comply with the CoP, the LD may revoke or refuse to issue or renew their licence, or issue warning for rectification of the irregularities detected. The LD will continue to actively explore more effective ways with greater deterrence to detect EAs which induce FDHs to job-hop.

(3) In view of recent concerns about the health risks posed to FDHs staying in boarding facilities and to prevent the abuse of the facilitation measure mentioned in part (1) above by individual FDHs to change employers frequently, the Government announced adjustments to the facilitation measure concerned on December 30, 2020. Starting from that day, FDHs whose contracts

are prematurely terminated can no longer apply for extension of limit of stay in Hong Kong as visitors. In accordance with the prevailing policy of the Government, FDHs are required to leave Hong Kong immediately upon completion of their employment contract; if they terminate their contracts prematurely, they must leave Hong Kong within two weeks from the date of termination of their employment contracts. The ImmD will only accept applications from FDHs for extension of stay in Hong Kong as visitors in exceptional circumstances. On the other hand, to minimise the number of FDHs and their length of stay in boarding facilities, the ImmD will continue to consider and expedite the processing of employment visa applications submitted by FDHs currently staying in Hong Kong.

Clause 12 of the Standard Employment Contract for recruiting FDHs provides that in the event of termination of the contract, both the employer and the FDH shall give the Director of Immigration notice in writing within seven days of the date of termination. A copy of the other party's written acknowledgement of the termination shall also be forwarded to the Director. They can choose to complete the ImmD's Notification of Termination of Employment Contract with Foreign Domestic Helper (Form ID407E), in which the employer and the FDH can fill in the reason for termination of contract. These records will be kept and taken into account by the ImmD when it assesses any future applications made by the FDH for employment visa or extension of stay again.

The ImmD has all along been processing employment visa applications of FDHs in a rigorous manner. To combat abuse of job-hopping by FDHs, the ImmD will continue to closely scrutinise the case details, such as the number and reasons for premature termination of contract in the last 12 months. For suspected job-hopping cases, the ImmD will refuse the employment visa applications and require the applicants to leave Hong Kong. Since the establishment of the ImmD's special duties team in June 2013 and up to end December 2020, a total of 14 721 employment visa applications were referred to the special duties team for follow-up. After further assessment, the ImmD refused 2 427 applications among them; and there were another 1 850 applications that were withdrawn by the applicant or could not be follow-up.