

LCQ5: Injuries or sudden deaths of employees caused by overexertion at work

Following is a question by the Hon Kwok Wai-keung and a reply by the Secretary for Labour and Welfare, Mr Chris Sun, in the Legislative Council today (July 5):

Question:

In recent years, incidents of sudden deaths of employees suspected to be caused by overexertion at work (commonly known as deaths from overexertion) have been heard from time to time. In 2017, the Government commissioned the Occupational Safety and Health Council to undertake the Study on Relationship between Workplace Deaths and Work Condition, but the authorities reached the conclusion that there was no direct relationship between "workplace deaths" and "work factors", and so far the Government has not legislated for deaths from overexertion to include the employees concerned in the scope of protection. In this connection, will the Government inform this Council:

(1) of the number of cases, as recorded by the Labour Department in each year since 2018, in which employees suddenly died in the course of the employment not as a result of accidents arising from work; of the industries and job types involved in and the situation of the follow-up work for such cases;

(2) whether it has plans to formulate new targeted measures, including legislating for standard working hours, so as to prevent injuries or sudden deaths of employees caused by overexertion; if so, of the details; if not, the reasons for that; and

(3) whether it will, by drawing reference from the practices of neighbouring countries and regions, designate sudden deaths of employees caused by overexertion as occupational injuries and deaths for which employees' compensation may be claimed, and draw up a legal definition or guidelines for deaths from overexertion?

Reply:

President,

If an employee dies as a result of an accident arising out of and in the course of employment, his/her employer is liable to pay compensation for death to the surviving members of his/her family, and reimburse the funeral and medical attendance expenses to concerned persons in accordance with the Employees' Compensation Ordinance (ECO). The ECO also covers circumstances where an employee dies as a result of his/her existing disease triggered by accident arising out of and in the course of employment.

However, whether the sudden death of an employee in the course of work

is caused by an accident at work, or involved other factors, depends on the facts and specific circumstances of the case.

Regarding the concept of "overexertion at work", it is not a medical diagnosis. The International Labour Organization has not drawn up any definition or guidelines on workplace deaths caused by "overexertion at work", nor are there any internationally recognised criteria in this regard. There is no such definition in Hong Kong either.

The reply to the Member's question is as follows:

(1) From 2018 to 2022, the number of cases of fatalities at work received by the Labour Department (LD) that were not caused by work accidents or occupational diseases was 131, 138, 136, 159 and 160 respectively. The number of cases by industry is set out in Annex 1. Starting from 2021, the LD has also kept the statistics of such cases by occupation or work nature, and the details are set out in Annex 2.

Of these 724 cases in total, as at May 2023, the LD has concluded the processing of 677 cases, with results including cases where the LD's Occupational Health Officers opined that the deceased employees had died of natural causes, family members withdrew their claims for compensation, settlement had been reached between family members and the employers, family members had lodged their claims at the District Court, etc. The LD is following up the remaining 47 cases.

(2) and (3) Fatalities at work not arising from accidents can be due to different causes. According to the LD's statistics on occupational fatalities, cases died of cardiovascular and cerebrovascular diseases (CCVDs) during work accounted for the majority of fatalities at work which are not caused by accidents.

In 2017, the LD commissioned the Occupational Safety and Health Council (OSHC) to undertake a study which focused on 200 cases of fatalities at work notified to the LD under the ECO which were caused by CCVDs.

The study findings pointed to the direction that multiple risk factors were in play in the development of CCVDs of the studied cases. Apart from work factors, personal risk factors such as medical history, advanced age and unhealthy lifestyle are also involved. No single factor could be pinpointed as solely responsible for the workplace CCVD deaths. These observations are consistent with the findings of relevant international researches. The LD considered it difficult to conclude, basing merely on the occupation or work nature, that the death of the cases was due to work.

In light of the finding that security guards and construction workers constituted about 40 per cent of the cases in the study, the OSHC, together with the LD, the Department of Health as well as employers' and employees' organisations of the property management and construction industries, established a steering committee to promote the implementation of health-friendly measures at workplace. The Heart Caring Campaign was launched in May 2022. Through inviting organisations to sign workplace charters,

disseminating information on healthy living and organising various promotional activities such as health risk assessments and health management classes, the Campaign aims to enhance the awareness of employees in the two industries on the risks of contracting CCVDs, and to encourage and assist them to take appropriate preventive actions.

As regards standard working hours legislation, in view of its complexity and highly controversial nature which carries far-reaching implications on Hong Kong's socio-economic development, employment relations, working culture, etc., the community has divergent views on any legislative proposals on regulating working hours. At present, the Government is engaging the industry-based tripartite committees comprising representatives of employees, employers and the Government to find a suitable way to formulate working hours guidelines for reference and adoption by employers and their employees.