

LCQ8: Assistance for victims of road traffic accidents

Following is a question by the Hon Chan Kin-por and a written reply by the Secretary for Labour and Welfare, Dr Law Chi-kwong, in the Legislative Council today (July 15):

Question:

The Traffic Accident Victims Assistance (TAVA) Scheme, which is administered by the Social Welfare Department (SWD), aims to provide victims of road traffic accidents or their dependents with speedy financial assistance calculated on the basis of the injuries sustained by or the death of the former. It has been reported that some persons who had not sustained any injury in the traffic accidents happened to them obtained, by pretending to be feeling unwell, medical certificates for sick leave of no less than three days so that they can apply for assistance under the TAVA Scheme. Moreover, some members of the insurance industry have relayed that some organisations suspected of engaging in champerty have sent persons station outside the office of the Traffic Accident Victims Assistance Section of SWD to persuade TAVA Scheme applicants to entrust their cases to the solicitors designated by such organisations, and arrange them to apply for legal aid for instituting legal proceedings to make claims for compensation. In this connection, will the Government inform this Council:

(1) of the respective numbers of applications received and approved as well as the total amount of financial assistance disbursed by SWD under the TAVA Scheme in the past five years; among such cases, the relevant numbers and total amount of financial assistance in respect of those cases in which the applicants were professional drivers;

(2) of the number of TAVA Scheme applicants who were prosecuted in the past five years for allegedly obtaining financial assistance by deception and the total amount involved; among such persons, the number of those who were professional drivers;

(3) whether it will review if the eligibility criteria for the TAVA Scheme are too lax (e.g. the financial situation of the applicants and the element of responsibility for the traffic accident being disregarded), thereby giving lawbreakers opportunities to obtain financial assistance by deception; if so, of the details; if not, the reasons for that; and

(4) whether the authorities initiated any investigations in the past five years into suspected champerty cases involving traffic accidents; if so, of the number of such cases; of the measures in place to eradicate such unlawful acts?

Reply:

President,

The Traffic Accident Victims (Assistance Fund) Ordinance (Cap 229) provides for the establishment of the Traffic Accident Victims Assistance (TAVA) Scheme, which is administrated by the Social Welfare Department (SWD). The objective of the Scheme is to provide speedy financial assistance to road traffic accident victims (including pedestrians and drivers) or their surviving dependents (in case of death) on a non-means-tested basis, regardless of the element of fault leading to the occurrence of the accident. Payments are made for personal injuries, while loss of or damage to property is not covered.

After consulting the relevant responsible bureaux/departments, the consolidated reply to the Member's question is as follows:

(1) In the past five years, the number of applications received, the number of applications approved and the amount of assistance paid under the TAVA Scheme are as follows:

Year	Number of applications received	Number of applications approved	Amount of assistance paid (\$ million)
2019-20	9 342	6 820	290.4
2018-19	8 483	7 334	280.2
2017-18	8 419	6 553	235.0
2016-17	8 799	7 340	254.6
2015-16	8 524	7 148	229.0

SWD does not keep statistics on the cases by the applicant's occupation.

(2) In the past five years, there was one case of suspected fraud prosecuted by the Police. Since the applicant concerned had withdrawn his application, SWD did not authorise any payment of assistance.

(3) The TAVA Scheme is a social welfare initiative which aims to provide speedy financial assistance to injured victims of road traffic accidents or their surviving dependents (in case of death). To prevent abuse and fraud, an application for assistance payment must meet the following conditions:

(i) the accident must have been reported to the Police and determined by the Police as a road traffic accident; and

(ii) the victim is injured or killed in the accident. In case of injury, the injured victim must be certified by a registered doctor that such injury requires hospitalisation of no less than three days or issued with proof for medical leave of no less than three days.

SWD staff will verify the information submitted by applicants when considering their applications, so as to ensure the assistance is paid and disbursed to eligible applicants. SWD collaborates and maintains close

liaison with the Police, the Hospital Authority (HA) and the Department of Health (DH) to thoroughly review suspicious traffic accidents, medical proof and medical reports. Depending on the circumstances, the proof and reports submitted by applicants will be passed to HA or DH for re-assessment, and suspected cases of fraud will be referred to the Police for follow-up.

When processing an application, SWD will clearly explain to the applicant that obtaining assistance payment by deception is a criminal offence. Apart from being ineligible for assistance, the applicant is also liable on conviction under the Theft Ordinance (Cap 210) to imprisonment of a maximum of 14 years.

(4) Those injured in accidents who wish to pursue legal claims should seek professional legal advice, or assistance from the Law Society of Hong Kong or the relevant government departments such as the Legal Aid Department, Labour Department and SWD. Maintenance and champerty are common law offences which are punishable by a fine and up to seven years' imprisonment. If the Police are aware of any suspected cases of maintenance or champerty or receive relevant reports, they will carry out comprehensive and professional investigations. The Police do not maintain statistics in respect of suspected champerty cases relating to traffic accidents. Besides, on public education, the Government has been strengthening public awareness against the relevant illegal acts through broadcasting of Announcements in the Public Interest on TV stations and radio stations.