

Office of The Ombudsman announces results of direct investigation into Government's regulation of boarding facilities for foreign domestic helpers

The following is issued on behalf of the Office of The Ombudsman:

The Ombudsman, Ms Winnie Chiu, today (February 17) announced the completion of a direct investigation into the Government's regulation of boarding facilities for foreign domestic helpers (FDHs) and made altogether 10 recommendations for improvement to the Labour Department (LD), the Home Affairs Department (HAD) and the Immigration Department (ImmD).

Since the 1970s, the Government has allowed the importation of FDHs into Hong Kong. As of September 2020, around 370 000 FDHs were employed in Hong Kong. Amid the COVID-19 pandemic, there has been extensive media coverage on local infection cases of FDHs, revealing an array of problems involving boarding facilities for FDHs, including overcrowding, poor hygiene and suspected violations of the permitted use of the building. Given the Government's policy to import FDHs and the large number of persons involved, it has a duty to ensure reasonable protection of their well-being, including with regard to their temporary boarding facilities.

The investigation by the Office of The Ombudsman has revealed that FDH boarding facilities operated by employment agencies (EAs), depending on their mode of operation, may fall outside the ambit of the Hotel and Guesthouse Accommodation Ordinance or the Bedspace Apartments Ordinance. Moreover, the demand for FDH boarding facilities is related to the time taken by the ImmD to process applications for the FDH employment visa. The Government has no systematic data on the demand and supply of FDH boarding facilities, nor is there any dedicated legislation for regulating those facilities.

Ms Chiu said, "We appreciate that EAs perform a social function in operating boarding facilities for FDHs in need of temporary accommodation. The purpose of regulatory measures is not to stamp out those premises, but to provide the Government with a means to ensure reasonable accommodation for FDHs employed in Hong Kong and to stipulate the standards for compliance by operators. On the issue of regulating FDH boarding facilities, the Government may candidly liaise with stakeholders to draw up a generally acceptable proposal for progressively raising the operation standards of FDH boarding facilities."

The Office has made a total of 10 recommendations, among which the LD is recommended to first adopt short- and medium-term administrative measures including the following:

- liaising with stakeholders and requesting EAs to submit information about their FDH boarding facilities (if any), thereby creating a database of FDH boarding facilities operated by EAs;
- compiling and publishing a list of FDH boarding facilities operated by EAs for better information transparency and facilitating informed choices of FDHs, as well as fostering improvement in the sector's operation standards by market forces;
- revising the Code of Practice for Employment Agencies with more specific details on the relevant laws, standards and guidelines applicable to EAs engaged in FDH boarding service for their reference and compliance;
- requiring an EA to undertake, in the application for new licence or licence renewal, that it will ensure compliance with relevant legislation and the requirements of government departments if it provides boarding facilities for job seekers;
- stepping up education in urging the EA sector to actively co-operate with the Government's initiatives, and encouraging voluntary improvement of FDH boarding facilities;
- strengthening routine collaboration between the LD and stakeholder bureaux and departments for exchanging information about the operation of FDH boarding facilities, formulating regulatory measures jointly, and making referrals as necessary; and
- that the LD may evaluate the effectiveness of the above short- and medium-term administrative measures after implementation for a certain period; if the result is unsatisfactory, the LD should explore the feasibility of introducing a statutory regulatory regime through legislative amendments in the long run, with a view to more stringent regulation of FDH boarding facilities operated by EAs.

The Office also recommends that the HAD review and optimise the procedures for handling complaints about FDH boarding facilities to expedite case handling. In respect of the ImmD, the Office recommends that the department continue to review and improve its measures and efficiency in processing applications for the visa to change employers submitted by FDHs locally, and expedite the approval procedures as far as resources permit, thereby minimising the potential demand for FDH boarding facilities arising from their stay in Hong Kong pending visa approval.

The LD, the HAD and the ImmD have accepted all of the above recommendations.

The full investigation report has been uploaded to the website of the Office of The Ombudsman at www.ombudsman.hk for public viewing.