



Labour Department (Headquarters)

勞工處 (總處)

Your reference 來函編號: CB4/PAC/R69
Our reference 本處檔案編號: LD CR/4-35/9 Pt.1
Tel. number 電話號碼: 2852 4134
Fax number 傳真機號碼: 2543 3194

10 January 2018

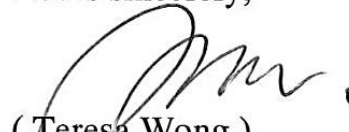
Mr Anthony CHU
Clerk, Public Accounts Committee
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Mr Chu,

Public Accounts Committee
Consideration of Chapter 9 of the Director of Audit's Report No. 69
Occupational safety and health

I refer to your letter dated 22 December 2017 regarding the captioned subject. Please find attached our reply. The response of the Department of Health has been incorporated.

Yours sincerely,


(Teresa Wong)
for Commissioner for Labour

Labour Department's response to the questions

Part 2: Occupational Safety: Inspection and Enforcement

(1) According to paragraph 2.5 of the Report, Audit found that the personnel concerned of eight Notifiable Workplaces had not submitted the required statutory notifications to LD before LD's investigation, while operation had commenced for 90 days to 18 years and 5 months. Besides, as shown from the records of LD for the period from January 2012 to July 2017, no prosecution had been taken by LD against non-compliance of the notification requirement. Please advise of the following:

- (a) the existing procedures for submission of statutory notifications of Notifiable Workplaces; if the notifications cannot be submitted before the scheduled date, whether there are any penalties; if so, of the details; if not, the reasons for that;

Section 9 of the Factories and Industrial Undertakings Ordinance (Cap. 59) stipulates that the proprietor of a Notifiable Workplace¹ shall give the Commissioner for Labour ("CL") notification of his workplace using a prescribed form before the first occasion on which any industrial process commences in the workplace. Any proprietor who contravenes the above provision is liable on conviction to a maximum fine of \$10,000.

- (b) the procedures for investigations of accidents at Notifiable Workplaces, the manpower establishment and expenses concerned;

Occupational Safety Officers ("OSOs") of the Occupational Safety - Operations Division ("Operations Division") of the Labour Department ("LD") are responsible for investigating work accidents that occurred in various workplaces (including notifiable workplaces). The procedures generally involve carrying out on-site investigations, enquiring personnel met on the spot about the accidents, securing relevant evidence in relation to the accidents (e.g. checking documents, taking

¹ Notifiable Workplace (not including construction site) means:

(i) any factory, mine or quarry; and

(ii) any premises or place in which a **Dangerous Trade** or **Scheduled Trade** is carried on or is proposed to be carried on.

Examples of **Dangerous Trade** defined under the FIUO include: (a) boiler chipping; (b) vermilion manufacture; (c) chromium plating; and (d) the manufacture of hydrochloric, nitric or sulphuric acids.

Examples of **Scheduled Trade** defined under the FIUO include: (a) any industrial undertaking involving the use of any dangerous goods specified in Category 5 in the Schedule to the Dangerous Goods (Application and Exemption) Regulations (Cap. 295A) and for which a licence is required under the Dangerous Goods Ordinance (Cap. 295); and (b) any industrial undertaking involving the use of any X-ray or radioactive substance.

photographs and measurements, conducting tests or examinations and seizing articles/samples, etc.), and taking statements (i.e. declarations of truth or records of interview) from related personnel on the spot or through interviews by appointments.

Upon completion of accident investigation, OSOs will compile accident reports and identify the legal liability of relevant duty holders. If breaches of occupational safety and health (“OSH”) legislation are discovered, prosecutions will be initiated against offenders, in consultation with the Department of Justice (“DoJ”) as necessary.

As at 30 November 2017, the manpower establishment of OSOs of the Operations Division was 315. Work accident investigation and the associated OSH enforcement work are integral parts of LD’s routine work, and the manpower and expenditure involved cannot be separately identified.

- (c) apart from notification by persons concerned of Notifiable Workplaces, whether there are other channels for LD to know if the workplaces will commence/have commenced operation;

The statutory notification mechanism for Notifiable Workplaces is one of the various means for LD to be made known of these workplaces. LD also gets to know Notifiable Workplaces that will commence/ have commenced work processes through other means. For instance, LD gets knowledge of the workplaces concerned and conducts OSH inspections and enforcement work through referrals under various notification mechanisms established with other entities, including other divisions of LD (e.g. the Labour Inspection Division and the Employees’ Compensation Division), relevant government departments (e.g. the Fire Services Department, the Food and Environmental Hygiene Department, the Electrical and Mechanical Services Department and the Environmental Protection Department, etc.) and other public organisations (e.g. the Housing Authority). Besides, OSOs are on the alert for unrecorded workplaces during routine inspections or special enforcement operations targeting high-risk trades and work processes launched every year. In addition, the LD also pays particular attention to any newly established notifiable workplaces during area patrol exercises.

- (d) the reasons why no prosecution had been taken against non-compliance with the notification requirement, and whether human negligence or a loophole in law is involved;

The Audit Report pointed out that LD had not initiated prosecution against any

non-compliance with the notification requirement from January 2012 to July 2017. This is because LD has been adopting a risk-based approach in law enforcement and taking immediate prosecutions against offences that may directly pose imminent OSH risks to employees. As non-compliance with the notification requirement may not directly pose imminent OSH risks to employees, LD's prevailing course of actions is to first issue warning letters, and initiate prosecution if the duty holders fail to submit notification within the time allowed after receiving the warnings. Under normal circumstances, upon receipt of warning letters, duty holders will provide the relevant information and submit the statutory forms to comply with the legal requirement.

- (e) whether the notification requirement was reviewed in the past; if so, why the above situation still occurred; if not, the reasons for that; and
- (f) the progress of the implementation of the measures recommended in paragraph 2.11(a) of the Report by LD, so as to strengthen the enforcement of the notification requirement for Notifiable Workplaces.

LD has reviewed the notification requirements from time to time. Taking into account the consideration as stated in the replies to (c) and (d) above, LD has continued with the above-mentioned enforcement and prosecution strategy. In light of the Audit Commission's recommendation, LD agrees that it is necessary to step up enforcement action regarding the notification requirements, including considering to take immediate prosecution against duty holders failing to give notification in compliance with the legal requirement. At the same time, LD will also enhance promotion of the relevant statutory requirement to the duty holders concerned. If necessary, LD will also consider amending the relevant legislation with a view to enforcing the notification requirement more effectively.

(2) Regarding the recommendation in paragraph 2.11(b) of the Report that reviewing the need to tighten the exemption criteria of the notification requirement mentioned in paragraph 2.7, please advise of the progress and results of the review, and whether legislative amendments are involved; if so, when will the legislative amendments be introduced; if no review has been conducted by LD, of the reasons and the timetable for conducting such review.

LD agrees with the relevant recommendation made by the Audit Commission, and is reviewing the notification mechanism, with a view to expanding its coverage to include more building and engineering construction workplaces. LD is now

conducting a research on relevant legislation and aims to come up with an amendment proposal as soon as possible.

(3) According to paragraphs 2.9 and 2.10 of the Report, it was recommended that similar review of the List of Hazardous Trades should be conducted at a three-year interval. While the last review was completed in January 2013, a new round of such review was not commenced until July 2017. Please advise of the following:

- (a) the current procedures for conducting the review, the staff establishment and expenses concerned; whether LD has regularly examined such procedures, the staff establishment and expenses concerned; if so, of the outcome; if not, of the reasons and whether LD will consider examining the above items;

Review of the List of Hazardous Trades is mainly carried out by the Operations Division of LD. In conducting the review to revise the hazardous trades on the list, reference is made to accident figures, accident rates, types and severity of accidents, etc. of various trades in the past years. The work is one of the duties of the Operations Division, and the manpower establishment and expenditure involved cannot be separately identified. LD will examine and review the relevant procedures and manpower arrangement when necessary with a view to carrying out the relevant reviews in a timely manner.

- (b) the reasons why a new round of such review was not commenced by LD until July 2017, whether it was due to problems with the staff establishment; if so, whether LD will consider reviewing and adjusting the establishment; and
- (c) LD's work progress concerning the recommendation in paragraph 2.11(d) as well as the response in paragraph 2.12 of the Report, so as to ensure that the next review of the list of hazardous trades will be conducted after three years according to schedule.

The List of Hazardous Trades is devised on the basis of the occupational injury figures of all trades in the past few years. The List serves as a reference for LD to set priorities of routine inspection and enforcement. Apart from this List, LD also makes reference to the prevailing OSH risks (e.g. whether there are serious accidents recently) and relevant accident statistics of various trades, in order to ensure that our inspection and enforcement work can address the latest risk situations and community concerns effectively. In 2016, according to the accident statistics available to LD at the time, LD considered that the List of Hazardous Trades could still effectively reflect the risks of different trades and there was therefore no

urgency to conduct a review. Although the new round of review only commenced in July 2017, LD had been keeping close track on the latest accident statistics and apparent OSH risk (if any) in any trade or work process, in order to formulate or revise the OSH enforcement strategy in a timely manner. LD agrees to the recommendation of the Audit Commission and will complete the current review as soon as possible.

The relevant task force is now conducting the review in full gear and plans to complete the task in the second quarter of 2018. The task force will also establish a management system and review the relevant internal guidelines with a view to ensuring that the reviews will be conducted in a timely manner in future.

(4) According to paragraphs 2.15 to 2.17, 2.19, 2.22 and 2.24, as at 31 March 2017, there were 6 074 backlog cases of inspection on inactive building and engineering construction (“BEC”) workplaces and 23 414 backlog cases on non-BEC workplaces. Meanwhile, LD only monitored the backlog in bringing up the workplace files but not whether inspections were carried out according to schedule, resulting in a serious situation in which inspections were conducted long after the files had been brought up. Please advise of the following:

(a) the staff establishment and expenses involved in the current inspections

Inspection of workplaces is an integral part of LD’s ongoing work. The staff involved are also responsible for accident/complaint investigation as well as assisting in promotional work. The manpower establishment and expenditure for inspection therefore cannot be separately accounted for.

(b) the reason for not monitoring whether inspections were carried out according to schedule, and whether it was caused by problems in the staff establishment or the entire system;

(c) in view of a large number of backlog cases for a long period of time, whether review has been conducted regularly by LD to solve the problem; if so, why there are still so many backlog cases; if not, the reasons for that;

(d) the details and timetable of LD’s follow-up work concerning the recommendation in paragraphs 2.26(a) and (b) as well as the response in paragraph 2.27 of the Report, so as to ensure that cases will be brought up for inspections according to schedule and the backlog of inspections will be cleared as soon as possible;

(e) when will the backlog of inspections be expected to be cleared;

LD adopts a risk-based inspection strategy with priorities on workplaces with higher risks e.g. workplaces subject to notification requirement under OSH legislation, active construction sites, complaint cases and workplaces with OSH concern at different times, etc. We consider that, compared with handling workplace files according to their bring-up schedule, this strategy is more effective to ensure our inspection efforts can achieve the best impact in safeguarding employees' OSH. In accordance with the risk-based principle, LD has been monitoring whether workplace files are brought up as scheduled and whether inspections are completed in a timely manner to ensure timely handling of cases with relatively higher risk. In fact, LD has reviewed the backlog brought-up cases highlighted in the Audit Report and reaffirmed that they were all low-risk cases. Nevertheless, we agree that although they are all low-risk cases, the situation is still not satisfactory. LD is therefore actively following up on the Audit recommendations. We are now reviewing the handling of low-risk cases and will embark on tackling the backlog as soon as the review is completed.

(f) LD's progress in improving the documentation of the inspection work performed as recommended in paragraph 2.26(c) of the Report, and devising a checklist to further strengthen the monitoring work of the Divisional Occupational Safety Officer as undertaken in paragraph 2.27(b) of the Report; and

(g) in addition to devising the list as stated in paragraph 2.27(b) of the Report, whether LD has formulated other measures to improve the documentation of the inspection work.

To improve record-keeping of inspection work and strengthen Divisional OSOs' inspection monitoring work, LD is now preparing a checklist for use by the officers concerned. The relevant work is expected to be completed by the first half of 2018. Besides, LD is also reviewing and revising the relevant internal guidelines for officers' compliance.

(5) According to Table 12 of the Report, the highest and average amounts of fines under the five most common offences were significantly lower than the maximum statutory amounts, the deterrent effect of the relevant legislation is obviously inadequate; whether LD will consider an immediate review with a view to raising the penalties; if so, of the timetable and specific details; if not, the reasons for that and the measures to be taken by LD to mitigate the problems.

To strengthen the deterrent effect of penalties so that they can lead to improvement of overall OSH situation, LD has been seeking imposition of heavier penalties on duty holders through various means, including submitting comprehensive information to the court for reference in sentencing (like the serious consequences of the concerned accidents, the number of related accidents, and the highest penalty imposed for similar cases in the past, etc). Depending on the circumstances of individual cases, LD also requests DoJ to consider filing reviews or appeals to the court when necessary.

Nonetheless, LD considers that the penalties are still too low to reflect the seriousness of the offences and consequences of the accidents. LD is therefore of the view that it is necessary to increase the penalties for contravening OSH legislation, and is reviewing the OSH legislation in full swing. LD reported to the Panel on Manpower of the Legislative Council on the preliminary direction of amending the legislation in December last year. For instance, LD is considering whether the maximum fines should be suitably raised by pegging them with the financial means of the convicted, especially for serious cases (such as those causing serious injuries or fatalities and those involving serious culpability), thus enabling the court to impose penalties with sufficient deterrent effect to alert the industry. LD is reviewing the relevant legislation in full speed and aims to submit the amendment proposal to the Legislative Council as soon as possible.

Part 3: Occupational Safety: Training

(6) According to paragraph 3.6 of the Report, of the inspections conducted by LD, 182 (81%) were conducted when there were no course sessions, and LD conducted checking on documentation of the training course providers (“TCPs”) instead. However, seven of the ten aspects of the inspection checklist can only be observed during course sessions, indicating that the results might not specifically reflect the actual situation. Please advise of the following:

(a) the staff establishment and expenses for monitoring TCPs;

TCP inspection is mainly undertaken by OSOs of LD’s Occupational Safety and Health Training Centre (“OSHTC”). However, the OSOs are also responsible for the centralised issuance of examination papers and other duties related to Mandatory Safety Training (“MST”) courses. As at 30 November 2017, the establishment for

discharging the above duties was four OSOs, and the manpower and expenditure for TCP inspection cannot be identified separately.

- (b) whether observation was arranged by LD based on the course schedule provided by TCPs; if so, why were the aforementioned 182 inspections conducted when there were no course sessions, and whether human negligence or manpower problems were involved;
- (c) whether the differences of monitoring effectiveness between checking on documentation and during-class inspections have been assessed; if so, of the outcome; if not, whether an assessment of the differences in effectiveness between these two methods will be conducted, so as to examine the effectiveness of the existing monitoring system;
- (d) whether a review on the arrangement for TCP inspection is regularly conducted; if so, of the details; if not, the reasons for that;

LD is highly concerned about the quality of MST courses. Various modes of inspection, including surprise inspection including inspection during class sessions (hereafter referred to as “during-class” inspection) and inspection when there is no class session (hereafter referred to as “outside-class” inspection) and covert inspection are adopted to achieve effective monitoring. Outside-class inspection focuses on checking of training records and related documents, whether the TCPs issue certificates in accordance with LD’s requirements and whether the TCPs organise training courses in accordance with the course schedules submitted to LD, etc. On the other hand, during-class inspection focuses on monitoring trainers’ performance, course delivery, course durations, etc. For covert inspection, staff of LD in the guise of students participate in the entire courses. This allows effective monitoring of all aspects of course delivery, including examination, marking of examination papers and practical training, etc. Different modes of inspection have different focuses and there is no question of discrepancy in effectiveness. Instead, they complement one another to achieve the best monitoring impact.

In 2016, LD conducted 225 inspections to MST courses. This figure did not include covert inspections conducted in the same year. Among the 225 inspections, 95 were to follow up on whether TCPs had acted in accordance with the warning letters and written directions previously issued to them. These follow-up inspections were required to be conducted within a certain period of time and there was no need for them to be conducted during class. For the remaining 130 inspections, 43 were during-class inspections, while 87 were outside-class inspections. LD had issued warnings in respect of the irregularities detected in

both types of inspections. In early 2016, LD also conducted 10 covert inspections, during which 17 warning letters were issued. In addition, written directions were issued to three TCPs, requiring them to comply with LD's approval conditions.

LD reviews the effectiveness of our MST monitoring strategy from time to time and has suitably adjusted the mix of different modes of inspection to maximise the monitoring effectiveness. For example, in view of the effectiveness of covert inspections, LD had increased the frequency of covert inspection since 2015 and regularised it from 2017 onwards.

- (e) the progress of the follow-up actions in respect of the recommendation in paragraph 3.10(a) of the Report that inspections on the TCPs should be arranged during time period when there are course sessions taking place as far as possible, and the undertaking by LD in paragraph 3.11(a) of the Report that it would arrange more during-class inspections.

Starting from November 2017, LD has taken administrative measures to arrange more during-class inspections. Furthermore, LD is also undertaking a comprehensive review on the concerned internal inspection guidelines to formalise the increase in proportion of during-class inspections.

(7) According to paragraph 3.9, as at August 2017, two of the three Phase One improvement measures for the remaining five types of mandatory safety training ("MST") courses had not been implemented, while LD had yet drawn up a timetable to implement the above improvement measures as well as those for Phase Two. Please provide:

- (a) the timetable, procedures, staff establishment and expenses involved in the improvement measures already implemented; whether regular reviews on the implementation progress of the improvement measures were conducted at that time; if so, of the outcome; if not, the reasons for that;

Implementing improvement measures on MST programmes is mainly undertaken by OSOs of LD's OSHTC. As at 30 November 2017, the establishment for discharging the above duty was four OSOs. As they are also responsible for other duties, the manpower and expenditure involved in implementing the improvement measures cannot be separately accounted for.

- (b) of the two Phase One improvement measures for the remaining five types of MST courses which had not been implemented;
- (c) the reasons why Phase One measures have not yet been implemented and the timetable for implementing the remaining Phase One measures and Phase Two measures has not been drawn, and whether it has something to do with the improper staff arrangements; whether LD will adjust or employ more staff in view of the delay in the implementation of the measures concerned; if so, please specify the estimated expenses and details; and
- (d) the progress and details of LD's follow-up actions in respect of the recommendation in paragraph 3.10(b) of the Report.

In 2011, LD implemented the Phase One improvement measure on "Consolidation of the Guidance Notes", and also the "Standardisation of Course Contents" and "Centralisation of Issuance of Examination Papers" measures for the Mandatory Basic Safety Training Course (commonly known as "Green Card Course"). At the request of the industry, LD had subsequently on three different occasions enhanced the Green Card Course to enrich its course content and refine its approval conditions to ensure the Course can better equip all construction workers with OSH knowledge. As a result, such efforts have delayed the implementation of improvement measures for the five remaining types of MST courses.

LD has just completed the latest review of the Green Card Course and will roll out the new curriculum in the first quarter of 2018. Upon completion of this review, LD will concentrate its resources on the implementation of the remaining Phase One improvement measures, viz "Standardisation of Course Contents" and "Centralisation of Issuance of Examination Papers". We aim to draw up a practicable implementation timetable in the first quarter of 2018. As stated in the paper submitted to the Manpower Panel of the Legislative Council in April 2011, the suggested Phase Two improvement measures involve more complicated issues, and LD needs to conduct more in-depth studies and consult relevant parties before determining the measures to be implemented in Phase Two.

(8) Regarding the recommendation in paragraph 3.25(a) of the Report that LD should review whether there is a need to revise the Factories and Industrial Undertakings (Safety Management) Regulation (Cap. 59AF) to address the shortcomings that some Registered Safety Auditors ("RSAs") are not Registered Safety Officers ("RSOs"), and as stated by LD in paragraph 3.26(a) of the Report

that it will ensure that RSAs are RSOs, please advise of the follow-up actions already taken and the outcome, including when the above Regulation will be reviewed and amended.

It is LD's policy intention that an RSA should also be an RSO. LD had consulted DoJ on the issue identified in the Audit Report. DoJ advised that CL might impose a registration condition, under section 6 of the Factories and Industrial Undertakings (Safety Management) Regulation, that an RSA should be an RSO and has to maintain his/her RSO status. LD is studying the relevant legal advice in order to devise appropriate measures to ensure that all RSAs are RSOs.

Part 4: Occupational Health

(9) According to paragraphs 4.6 to 4.8, the utilization of the reserved sessions for radiation medical examinations had decreased during the period from 2012 to June 2017. The number of no-show cases had increased. Moreover, the number of sessions in which not more than 20 examinations were carried out had increased to 56%, coupled with the fact that no other clinical service could be provided by the doctor manning the session during the reserved sessions, causing a serious mismatch of resources. Please advise of the following:

- (a) the respective amounts of wasted expenses due to no-show cases and the decrease in the number of bookings per session;

Medical examination of radiation workers is carried out by the doctors of the Kwun Tong Occupational Health Clinic ("KTOHC") of LD. Apart from the work on medical examination, the clinic doctors are also responsible for other duties. As such, there is no specific breakdown on the manpower cost for this area of work. The consultation service of KTOHC is provided on an appointment basis. If some radiation workers fail to turn up for their appointments or cancel their appointments on short notice, the clinic cannot immediately arrange other patients to make use of the vacated time slots. The doctor responsible for the medical examination will make use of the time for other duties (e.g. reviewing patients' radiology and laboratory test reports, writing medical reports and workplace assessment reports, etc.) instead of idling themselves.

- (b) whether LD and Department of Health ("DH") have conducted regular reviews

on the utilization of reserved sessions; if so, why the above situation persists; if not, the reasons for that;

LD sets aside a number of sessions for medical examination of radiation workers according to the yearly evaluation by DH. In September each year, DH will base on the actual number of radiation workers examined in that year and the expected possible increase in the number of radiation workers to assess the number of medical examination sessions required for the coming year. In order to facilitate the rescheduling of medical examinations for individual radiation workers who need to change their appointments, and for those who may default their appointments, the number of medical examination sessions reserved is higher than the actual need to ensure that the radiation workers can undergo medical examination within the statutory time limit. This accounts for under-utilisation of some sessions.

- (c) regarding the fact that LD agrees with the recommendation in paragraph 4.16(a) of the Report that it should, in collaboration with DH, reduce the no-show rate of radiation workers for medical examination, the follow-up work involved and the effectiveness. Apart from the above recommendation, whether the Administration will consider other measures, such as making adjustments to the reserved sessions or allowing the doctor manning the session to provide other clinical service during the reserved sessions in case of no-show of the patient concerned, in order to ensure the proper utilization of clinical resources.

LD concurs with the advice of the Audit Commission that there is a need to reduce the overall number of reserved sessions, step up measures to encourage radiation workers to attend the medical examination as scheduled and arrange appointment rescheduling in a more stringent manner with a view to making full use of the reserved sessions.

In order to align the total annual number of sessions reserved for medical examination more closely with the number of radiation workers, DH has collaborated with LD to improve the mechanism for assessing the yearly number of medical examination sessions and suitably reduce the number of medical examination sessions each year. At the same time, utilisation of the medical examination sessions is closely monitored on a monthly basis to enable moderation of the number of sessions in accordance with actual need. This helps ensure that scheduled sessions can be fully utilised whilst the medical examination services for radiation workers will not be affected.

Moreover, to better utilise each of medical examination sessions, DH has worked

with LD to introduce improvement measures. These include informing the employers of the radiation workers four weeks before the scheduled examination session (instead of the current practice of two to three weeks), and reminding them to inform DH within ten days from the date of the notification letter if their radiation workers cannot attend the examination as scheduled. This enables the employers and the radiation workers concerned to make early arrangement for the medical examination, and allows more time for DH to arrange other radiation workers to substitute in case any workers are unable to attend the scheduled appointment. In view of the fact that some radiation workers have chosen not to provide their mobile phone number and hence cannot receive reminding messages from DH through SMS three days before the scheduled appointment, staff of DH will call the employers of these radiation workers three to four working days prior to the scheduled appointment so as to remind the employers of the coming medical examination scheduled for their radiation workers.

The above arrangements have been implemented since November 2017. Statistics of the first three sessions after the implementation show that the number of workers defaulting appointment per session has significantly reduced and the actual number of radiation workers examined per session has noticeably increased.

(10) According to paragraphs 4.10 and 4.11 of the Report, under existing legislation, the examinations carried out for the radiation workers' first employment should be provided free of charge, but whether the periodic examinations after the workers' first employment should be charged is not specified. At present, the radiation medical examinations (including those for the first employment or periodic examinations after the first employment) conducted at KTOHC are provided free of charge. Please advise of the following:

- (a) the grounds for KTOHC to allow workers and their employers not to pay for the periodic examinations after the first employment of the workers concerned; and
- (b) whether DH will consider amending the legislation to specify if the periodic examinations carried out for the radiation workers after their first employment would be provided for a fee or free of charge; if so, of the details and implementation timetable; if not, why, how will DH address the question of whether periodic examinations should be provided for a fee.

The subsidiary regulations of the Radiation Ordinance require radiation workers to undergo pre-employment medical examination and periodic medical examination

after employment, and be certified fit for employment in radiation work before they can engage in relevant duties. The regulations state that medical examinations on first employment are provided free of charge. As for periodic examinations, although there is no similar provision that they are provided free of charge, there is also no stipulation of any required fee. Since the regulations have clearly set out the requirements and fees for chargeable items, and the medical examinations on first employment and periodic medical examinations are basically of the same nature, fees have not been collected for the periodic medical examination of radiation workers all along.

LD and DH are studying the relevant provisions of the regulations in detail and the justifications for the existing practices. Legal advice from DoJ will be sought when necessary. In addition, views of relevant stakeholders including the Radiation Board, employers and employees concerned will be taken into account before any decision is taken on legislative amendments or chargeable fees. LD will work closely with DH on this matter and there is no definite timetable at this stage.

(11) According to paragraph 4.18 of the Report, LD did not monitor the number of outstanding inspections on occupational health, as well as the delay in carrying out inspections after they were brought up. Please advise of the following:

- (a) whether staff establishment is the reason for not monitoring; whether regular reviews on the arrangement of carrying out of inspections on occupational health were conducted in the past; if so, why does the above situation persists; if not, the reasons for that;
- (b) whether guidelines have been drawn up to specify the time frame from bringing up the inspections on occupational safety to actually carrying out inspections; if so, of the details; if not, whether LD will consider including such a time frame in the guidelines; and

LD adopts a risk-based approach in inspections on occupational health. The relevant Technical Note of LD stipulates the bring-up mechanism and follow-up arrangements of inspection on occupational health. According to the Technical Note, workplaces identified as high-risk should be brought up within one year and be inspected within three months from the brought up dates; and workplaces classified as moderate-risk should be brought up within three years and be inspected within six months from the brought up dates. Owing to their nature, low-risk cases normally are not required to be brought up and there is no prescribed inspection

deadline. The Audit Commission noted that there were some cases of outstanding and delayed brought-up inspections. LD examined all such cases and confirmed that all (except for one) were low-risk cases.

Inspections on occupational health are conducted by Occupational Hygienists of the Occupational Hygiene Divisions of LD and such work is monitored by the Division Heads. The monitoring mainly focuses on ensuring that brought-up cases classified as high-risk and moderate-risk are handled appropriately. As workplaces classified as low-risk are not required to be brought up and have no prescribed inspection deadline as stated in the relevant Technical Note of LD, these workplaces are not the priority of the Occupational Hygiene Divisions under the risk-based approach.

- (c) the timetable for following up the recommendations in paragraph 4.21 of the Report, the progress, specific measures, and effectiveness of the measures in this respect.

LD noted that some workplaces classified as low-risk were brought up not according to the relevant Technical Note of LD. To ensure effective implementation of the bring-up mechanism, the monitoring system of inspections on occupational health has been enhanced. Besides, a monthly progress report showing the number of brought-up cases and any delay in inspection is submitted to the management for monitoring purpose. The new monitoring system has been implemented since 1 January 2018. All existing backlog cases will be cleared by April 2018.

(12) According to paragraph of 4.23, LD did not report separately the respective numbers of investigations, surveys, examinations, assessments, and clinical consultations in its Controlling Officer's Report ("COR"). Please advise of the following:

- (a) the current staff establishment and expenses for handling COR;

Handling of the COR is part of the day-to-day work of LD. Manpower establishment and expenditure relating to the work cannot be separately identified.

- (b) whether Audit's recommendation for separate reporting of the respective numbers of investigations, surveys, examinations, assessments, and clinical consultations will be further considered; if so, the details of the estimated additional staff establishment and expenses required.

CL agrees with the Audit Commission's recommendation and will report the number of investigations, surveys, examinations, assessments and clinical consultations separately in the COR from 2018 onwards to enhance transparency. The work does not involve additional manpower and expenditure.