

**For discussion on
21 May 2019**

**Legislative Council Panel on Manpower
Employment Terms and Conditions as well as
Working Arrangements for Government Outsourced Workers
Performing Cleansing Duties in Public Toilets**

Purpose

This paper briefs Members on the measures adopted by the Government for improving the employment terms and conditions as well as working arrangements for the outsourced toilet attendants of the Food and Environmental Hygiene Department (FEHD).

Background

2. Currently, FEHD manages 799 public toilets. Generally speaking, toilet attendant services are provided in public toilets with high utilisation rates or at tourist spots, and attendant rooms are made available in most of the public toilets provided with toilet attendant services. As at 30 April 2019, 264 public toilets managed by FEHD are provided with attendant services and 231 of them are provided with attendant rooms. A total of 969 toilet attendants are employed by FEHD's cleansing contractors.

Improving the Employment Terms and Conditions of Workers

3. FEHD has adopted the following enhancement measures for service contracts that rely heavily on the deployment of non-skilled workers to be tendered on or after 1 April 2019 to implement the new policy announced by the Chief Executive on 10 October 2018. The measures enhance protection for non-skilled workers (including toilet attendants) employed by its outsourced service contractors:

- (a) increasing the weighting of technical assessment of the marking scheme from the current 30% to 50%;

- (b) increasing the weighting of the wage level of non-skilled workers to 25 points out of 100 points (25%) in the technical assessment;
- (c) providing a contractual gratuity to non-skilled workers with no less than one year's service of a continuous contract under the Employment Ordinance (EO) upon completion or termination of the Standard Employment Contract (including resignation by employees or dismissal by employers save for summary dismissal due to the employee's serious misconduct). The rate of the gratuity is 6% of the total wages earned by the employees during the relevant employment period);
- (d) providing statutory holiday pay for non-skilled workers having been employed under a continuous contract according to EO for not less than one month; and
- (e) if a non-skilled worker is required to report duty when typhoon signal no. 8 or above is hoisted, the amount of wages for that day/shift's work should be at least 150% of the wages that the worker is originally entitled to.

4. To benefit non-skilled workers engaged in the service contracts that rely heavily on the deployment of non-skilled workers during the transitional period between the announcement of the new policy on 10 October 2018 and the effective date of 1 April 2019, FEHD will follow the transitional arrangements announced earlier and negotiate with the service contractors concerned to incorporate relevant new enhancement measures into the service contracts by making top-up payments on a reimbursement basis.

Meal Break Arrangements

5. According to the terms of contract, there shall be a meal break of 1 hour on a work shift of 8 hours or longer for toilet attendants who may take meal at any locations within the prescribed time. In addition, toilet attendants working in work shifts of less than 8 hours may have refreshment breaks. On paid meal breaks, the above new policy and enhancement measures have come into force since 1 April 2019 to enhance the employment terms and conditions of non-skilled workers of

outsourcing contractors. Our current task is to ensure smooth implementation of the measures. On whether paid meal breaks should be provided, different policy implications should be considered by the Government. FEHD will act in accordance with any further enhancement measures to be taken by the Government.

Improving Facilities of Attendant Rooms

6. FEHD is reviewing facilities in attendant rooms of public toilets. If circumstances permit, FEHD will install oscillating fans, exhaust fans, power sockets, etc. in existing attendant rooms to improve their environment. In addition, FEHD will as far as possible make available attendant rooms and improve facilities for toilet attendants in new public toilets or when public toilets are refurbished. Power sockets, lockers, oscillating fans as well as ventilation, lighting and exhaust fans will be installed in attendant rooms where facilities for the attendants to take rest and change clothes will also be provided.

Providing Drinking Water

7. Under the Occupational Safety and Health Ordinance (Cap. 509) (the Ordinance) and its subsidiary regulation, it is the responsibility of the street cleansing contractors of FEHD to provide their employees with sufficient drinking water. If FEHD staff find or suspect any contractor who has contravened the Ordinance during their routine inspections, the case will be referred to the Labour Department for follow-up actions. If a contractor is convicted of breaching the Ordinance, FEHD may terminate its contract. In addition, FEHD has specified in its new contracts that the contractor's lacking or failing to provide sufficient drinking water for its employees shall constitute a blatant default. If the contractor contravenes the clause, FEHD may issue a notice of blatant default to the contractor with deduction of monthly payment of service charge without prior warning.

Rationalising Workload

8. To improve the manpower arrangement for public toilet service and alleviate the workload of public toilet cleaners, FEHD will keep under

review the utilisation rates of its public toilets and adjust the arrangement and workload of public toilet cleaners (including toilet attendants) accordingly, including considering deployment of more toilet attendants during peak hours. On top of toilet attendants and routine cleansing services, the FEHD has set up dedicated deep cleansing teams in districts since March 2019 to perform regular deep cleansing services for local public toilets with high utilisation rates or at tourist spots. Such dedicated deep cleansing teams will be progressively extended to all public toilets over the territory upon renewal of street cleansing services contracts.

Enhancing Monitoring of Contractors

9. The minimum requirements on manpower, work shifts and cleansing frequency, etc. are stipulated in the outsourced cleansing services tender documents based on operational needs. Tenderers are required to apply their expertise and experience in devising adequate staff and mode of operation to provide cleansing services up to the performance standard as required by FEHD. Tender proposals are binding once the relevant tender is accepted and will form the basis for monitoring the contractor's performance.

10. Under the cleansing services contracts of FEHD, contractors are also required to provide staff with suitable and adequate uniforms, tools and equipment as well as proper work environment and facilities. If any contractor contravenes the requirements, FEHD will issue a notice of default to the contractor and refer the case to the Labour Department for investigation on any contravention of occupational safety and health regulation. FEHD staff will conduct routine and surprise inspections to public toilets to monitor contractors' performance. If any contractor is found to be in breach of contract terms, FEHD will take appropriate follow-up actions, including the issuance of verbal warnings, written warnings and default notices with deduction of monthly payment of service charge. Such performance record will affect the tenderer's future bidding for FEHD's outsourced services contracts.

Conclusion

11. FEHD is proactively adopting various measures to improve the employment terms and conditions as well as working arrangements for outsourced workers.

12. Members are invited to note the content of this paper.

Food and Health Bureau

Food and Environmental Hygiene Department

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