

立法會
Legislative Council

LC Paper No. CB(2)1490/19-20
(These minutes have been seen
by the Administration)

Ref : CB2/PL/MP

Panel on Manpower

Minutes of meeting
held on Tuesday, 16 June 2020, at 4:30 pm
in Conference Room 2 of the Legislative Council Complex

- Members present** : Hon Vincent CHENG Wing-shun, MH, JP (Chairman)
Hon CHU Hoi-dick (Deputy Chairman)
Hon LEUNG Yiu-chung
Hon Claudia MO
Hon YIU Si-wing, BBS
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon Elizabeth QUAT, BBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, SBS, JP
Hon CHUNG Kwok-pan
Hon Andrew WAN Siu-kin
Hon SHIU Ka-fai, JP
Hon SHIU Ka-chun
Hon YUNG Hoi-yan, JP
Dr Hon Pierre CHAN
Hon LUK Chung-hung, JP
Hon Jeremy TAM Man-ho
- Member absent** : Hon WONG Kwok-kin, SBS, JP

Public Officers attending : Item II

Mr Jeff LEUNG Wing-yan, JP
Deputy Commissioner for Labour (Occupational Safety and Health)

Mr WU Wai-hung, JP
Assistant Commissioner for Labour (Occupational Safety)

Mr WAN Chi-ping
Chief Occupational Safety Officer (System and Support)
Labour Department

Item III

Dr LAW Chi-kwong, GBS, JP
Secretary for Labour and Welfare

Mr Simon LI Chi-chung, JP
Assistant Commissioner for Labour (Employees' Rights & Benefits)

Mr Sam SUM Kai-wah
Senior Labour Officer (Labour Inspection)
Labour Department

Mr Eric TSAI Yu-sing
Assistant Director (Grade Management & Development)
Food and Environmental Hygiene Department

Mr Rex LAW Chi-wai
Assistant Director (Finance)
Leisure and Cultural Services Department

Mr Wicky CHEUNG Wing-keung
Chief Leisure Manager (Management)
Leisure and Cultural Services Department

Miss LEE Sin-man
Chief Manager / Management (Hong Kong Island & Islands)
Housing Department

Mr Simon CHIU Sze-ming
Chief Property Manager (Property Management)
Government Property Agency

Mr Alex CHAN Mun-keung
Senior Property Manager (Property Management)
Contract Administration
Government Property Agency

Clerk in attendance : Miss Betty MA
Chief Council Secretary (2) 1

Staff in attendance : Ms Rita LAI
Senior Council Secretary (2) 1

Miss Lulu YEUNG
Clerical Assistant (2) 1

Action

I. Information paper issued since the last meeting

Members noted that no information paper had been issued since the last meeting.

2. The Chairman informed members that he had received a letter earlier today from Ms Elizabeth QUAT suggesting the Panel to discuss unemployment support measures and the Employment Support Scheme. In anticipation of further increase in the unemployment rate, Ms QUAT considered that there was a pressing need to discuss the issues raised in her letter. Mr LUK Chung-hung and Dr Fernando CHEUNG expressed support for the suggestion. The Chairman suggested and members agreed that a special meeting of the Panel would be held to discuss the matter. The Chairman said that he would liaise with the Administration in respect of the timing for discussion.

(Post-meeting notes:

- (a) Ms Elizabeth QUAT's letter dated 16 June 2020 was issued to members vide LC Paper No. CB(2)1232/19-20(01) on 18 June 2020; and

Action

- (b) a special meeting of the Panel was subsequently scheduled for 7 July 2020 at 8:30 am to discuss "Unemployment support measures and the Employment Support Scheme".)

II. Hong Kong's occupational safety performance in 2019

(LC Paper Nos. CB(2)1182/19-20(01) and (02))

3. At the invitation of the Chairman, Deputy Commissioner for Labour (Occupational Safety and Health) ("DC for L (OSH)") briefed members on Hong Kong's occupational safety performance in 2019 as detailed in the Administration's paper.

4. Members noted an updated background brief entitled "Occupational safety performance in Hong Kong" prepared by the Legislative Council ("LegCo") Secretariat.

Occupational injuries statistics

5. Mr SHIU Ka-fai sought explanation for the reduction in the number of non-fatal cases of the industrial accidents in the construction industry from 3527 in 2018 to 2931 in 2019 i.e. a decrease of 16.9%.

6. DC for L (OSH) responded that enhancing the OSH performance of the construction industry had always been the top priority of the Labour Department ("LD"). LD had been stepping up inspection and enforcement targeting at the construction industry. In addition, LD from time to time organized promotional and educational programmes in different themes and scales to heighten the OSH awareness of industry stakeholders, including employers and employees, over systemic safety problems and the need to implement appropriate preventive measures. With concerted efforts of various sectors of the community and the Government, the accident rate per thousand workers in 2019 dropped to 29, representing a decrease of 8.5% over 2018. That said, LD considered that the number of fatal cases i.e. 16 cases was still on the high side.

7. Mr POON Siu-ping was of the view that Hong Kong's occupational safety performance in 2019 was not satisfactory. Dr Fernando CHEUNG, Mr POON and the Deputy Chairman expressed particular concern about the increase in the number of fatal cases of occupational injuries from 218 in 2018 to 249 in 2019, representing an increase of 14.2%, which was a record high in the past five years. Mr POON and

Action

the Deputy Chairman enquired whether LD had conducted investigation and analyses of the causes of the 249 fatal cases of occupational injuries, and sought information on the number of cases relating to overexertion at work and prolonged period of work.

8. Mr LEUNG Yiu-chung, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr POON Siu-ping, and Dr CHIANG Lai-wan were gravely concerned that among the 22 fatal industrial accidents in 2019, 16 cases involved the construction industry. Dr KWOK sought information on the number of public works projects among the 22 fatal industrial accidents. Mr POON asked about the progress of the prosecution work of the 16 cases of construction fatalities. With respect to the seven cases of persons falling from height among the 16 construction fatalities, Mr SHIU Ka-fai sought information on the firm size of the contractors involved as well as the number of deceased workers who were Registered Minor Works Contractors ("RMWCs").

9. In response to members' concerns and views, DC for L (OSH) said that the investigation of the causes of death for some of the 249 fatal cases of occupational injuries in 2019 was still on-going. According to the preliminary analysis, around 140 cases were related to occupational fatalities not caused by accidents, which was a slightly higher number when compared with some 130 cases in 2018. The majority of these cases were attributed to cardiovascular diseases or cerebrovascular diseases ("CCVDs"). The notification of these cases did not represent that the deaths were related to overexertion at work, as employers were statutorily required under the OSH legislation to report employees' death cases at workplace to LD. For the remainder, some were suicide cases and some cases occurred on vessels or outside Hong Kong. Assistant Commissioner for Labour (Occupational Safety) ("AC for L (OS)) added that no public works projects were involved among the 22 fatal industrial accidents in 2019.

10. DC for L (OSH) advised that LD participated actively in site safety management committee meetings of public works projects to keep close tabs on the projects' OSH conditions and risks, with a view to devising more focused inspection strategies. During the meetings, LD gave advice on work processes of higher risk and urged the contractors and relevant duty holders to conduct risk assessments, devise safe method statements and implement safety measures as early as possible. AC for L (OS) further said that the OSH prosecution work of the 16 cases of fatal industrial accidents in the construction industry had been

Action

completed. LD had taken out prosecution against the duty holders concerned who contravened OSH offences.

11. As regards the seven cases of persons falling from height among the 16 industrial fatalities in 2019, DC for L (OSH) and AC for L (OS) advised that the contractors involved were of different sizes, including five large-scale contractors launching new works and two small-scale contractors undertaking repair, maintenance, alteration and addition works. Under the prevailing OSH legislation, the Administration did not maintain occupational injury statistics on self-employed persons, including RMWCs. Mr SHIU Ka-fai called on the Administration to strengthen the provision of necessary occupational safety training to RMWCs.

12. The Chairman sought information on the age distribution of the cases of occupational fatalities due to CCVDs. The Deputy Chairman enquired whether there was a rising trend of occupational fatalities related to CCVDs as compared with the figures in the previous years. Referring to the study conducted by the Occupational Safety and Health Council ("OSHC") on employees' sudden death at work as commissioned by LD, the Deputy Chairman sought information on the timing for release of the study results.

13. DC for L (OSH) responded that the Administration did not have information at hand on the age distribution of the cases of occupational fatalities related to CCVDs in 2019. According to the preliminary analysis of OSHC's study on the relationship between work situations and workplace death cases caused by CCVDs, most of the deceased employees were aged over 50. The study would collate relevant information from 200 death cases referred by LD and was expected to be completed within 2020. OSHC had completed analyses of about two thirds of the referred cases.

14. Mr LEUNG Yiu-chung suggested that as a preventive measure for sudden death at work which might be related to CCVDs, the Administration should consider requiring employers to arrange health check-up for their employees. DC for L (OSH) advised that LD had adopted a risk-based approach to conduct regular health assessment for workers of certain work types, such as those engaged in diving and exposed to radiation at work. CCVDs were more a public health issue, especially with the ageing population of Hong Kong. It would therefore be more appropriate for the Department of Health to address this issue

Action

from a public health perspective. To his knowledge, the Department of Health had made use of various channels to strengthen health education and disease prevention in this regard.

15. In response to Dr CHIANG Lai-wan's enquiry about the new measures in place to improve the occupational safety performance, in particular those for the construction workers, DC for L (OSH) advised that following the risk-based principle, LD had been formulating and adjusting its strategies in a timely manner with reference to the dynamic OSH risk levels of various industries. LD was also considering to refine the notification criteria under the OSH legislation by requiring contractors of relevant works projects to notify LD prior to the commencement of works projects, such that LD could conduct inspections and better monitor workplaces with relatively higher OSH risks. Legislative amendments might be necessary. Dr CHIANG held the view that heavier penalties should be imposed on duty holders contravening the OSH legislation so as to increase the deterrent effect for non-compliance with OSH requirements.

Current level of penalty for non-compliance with legislation of occupational safety and health

16. Mr LUK Chung-hung was of the view that the existing penalty for breaching the OSH legislation was too low to achieve sufficient deterrence and expressed dissatisfaction that no employer had so far been sentenced with an imprisonment term for breaching the OSH legislation. Dr KWOK Ka-ki echoed that the sentences for OSH offences were too low and disproportionate to the severity and consequences of the offences. Dr KWOK sought information on the number and results of appeals filed by the Department of Justice ("DoJ") at LD's request in respect of the penalties imposed by the court on OSH offences in the past years. The Chairman called on LD to make requests for appeal as necessary so as to increase the deterrence of the OSH legislation.

17. Mr SHIU Ka-fai held the view that LD should request DoJ to make appeals to the court's decision in respect of the penalties imposed by the court on OSH offences which were considered too low or disproportionate to the offences. Mr SHIU also expressed the view that it was of equal importance for employees to be alert to the risks at work and make use of the protective equipment and items provided by employers. He called on the Administration to strengthen the publicity work in this regard.

Action

Admin

18. AC for L (OS) advised that from 2014 to May 2020, LD requested DoJ to consider filing a review or an appeal in respect of 48 cases involving offences under the Occupational Safety and Health Ordinance (Cap. 509) and the Factories and Industrial Undertakings Ordinance (Cap. 59) ("FIUO"), including 36 cases involving the construction industry. At Dr KWOK Ka-ki's request, the Administration agreed to provide the requisite information and the relevant follow-up work taken in writing after the meeting.

19. Referring to a fatal industrial accident occurred on 10 July 2017 at a construction site in Hung Hom in which three workers were killed when carrying out work related to hand-dug tunnelling ("the Accident"), Dr Fernando CHEUNG was gravely concerned that the principal contractor and the sub-contractors were found not guilty of the charges for breaching occupational safety requirements and the fine for summonses on other offences was around some \$11,000 only. Dr CHEUNG asked whether LD had requested DoJ to file an appeal against the court's ruling. He queried whether the relevant OSH legislation was too lenient and asked whether the Administration would consider amending the law.

20. DC for L (OSH) said that during the legislative review of the OSH legislation, LD had made reference to overseas legislation and noted that the requirements regarding conducting risk assessment and safe system of work in the OSH legislation in Hong Kong were generally comparable to those of overseas jurisdictions. The Administration shared members' disappointment at the court's ruling on the Accident and was discussing with DoJ in respect of filing an appeal against the penalties as appropriate.

21. AC for L (OS) added that currently, there was no specific legislation on hand-dug tunnelling works. After the occurrence of the Accident which involved hand-dug tunnelling works solely through manual digging operation, LD had consulted the industry stakeholders on devising a set of guidelines on hand-dug tunnelling works which highlighted that hand-dug tunnelling method should only be adopted under exceptional circumstances and required relevant duty holders to take more stringent OSH measures. LD issued the relevant guidelines by the end of 2017 to enhance the protection of workers engaged in tunnelling works. It was noteworthy that since then no hand-dug tunnelling works solely through manual digging operation had been conducted.

Action

Raising penalties of occupational safety and health legislation

22. Pointing out that the Administration's proposal for raising penalties of the OSH legislation was pledged by the Chief Executive in the 2017 Policy Address, Mr POON Siu-ping expressed dissatisfaction at the slow progress in taking forward the proposal. Dr KWOK Ka-ki and Mr POON sought information on the timetable of the relevant legislative amendment exercise to raise the deterrent effect of penalties for OSH offences.

23. In response to members' views and concerns, DC for L (OSH) said that comparing to the penalties of the OSH legislation in other advanced countries/regions, the maximum fines of the OSH legislation in most of these places far exceeded those of Hong Kong. By comparison, the penalties of the OSH legislation in Hong Kong were on the very low side. The penalties imposed by the court on OSH offences were on the low side and did not have sufficient deterrent effect to propel the improvement of OSH performance. With a view to raising the deterrent effect of penalties for OSH offences, LD consulted the Panel in July 2018 on the proposed broad directions to raise the penalties of the OSH legislation, including the proposal to peg the maximum fines for extremely serious offences with the convicted companies' turnover. LD further consulted the key stakeholders on the preliminary legislative amendment proposals earlier in 2019, including the Panel and the Labour Advisory Board as well as many key employer and employee organizations from the construction industry, etc. The Administration was analyzing and considering the views received for refining the legislative amendment proposal. The process took time as the legislation involved more than 600 penalty-carrying provisions. Subject to the stakeholders' views and progress of law drafting, the Administration aimed to complete the legislative amendment exercise within the term of the current Government.

24. Mr LUK Chung-hung said that the labour sector was in support of the Administration's legislative amendment proposal to increase the maximum fine for the general duty provisions for employers/proprietors under FIUO and called on the Administration to be determined to work in such direction regardless of the opposition from the employer side.

Safety of working at height

25. Referring to the new Building (Construction) Regulation (Cap. 123B) which would come into operation in February 2021 to

Action

introduce new provisions mandating provision of adequate means of access for maintenance of facilities at the exterior of new buildings (for example, air-conditioners) in order to provide better protection of workers' safety, Mr LUK Chung-hung expressed concern about how the Administration would strengthen the work safety of workers undertaking maintenance works on external walls of existing buildings. Mr LUK sought information on the relevant work progress.

26. DC for L (OSH) said that LD had formed a Special Duties Office in April 2019 and was working full steam ahead with relevant professionals to study the external wall designs of some existing residential buildings, which might not be conducive to the adoption of common work methods for maintenance work at external walls of these buildings, and identify possible problems so encountered. Given the considerable number of buildings involved in some 400 housing estates, it would take three years to complete the exercise.

Industrial accidents relating to use of working platforms

27. Pointing out that a number of industrial fatalities were related to the use of working platforms including the construction of the Hong Kong-Zhuhai-Macao Bridge local projects in 2017 and the maintenance work accident for the incinerator at Chemical Waste Treatment Centre on 14 June 2020, Mr LEUNG Yiu-chung asked whether the Administration had conducted investigation and analyses of the causes of these industrial accidents and had drawn up specific measures to reduce the recurrence of such fatalities.

28. Acknowledging that a certain number of industrial fatalities involved the use of working platforms, AC for L (OS) said that after the occurrence of each of the industrial accidents, LD had conducted a thorough investigation to examine the causes of the accident. Notably, there were various causes of the industrial fatalities, including the design and structure of the working platforms and some other causes not related to the use of working platforms. With a view to reducing industrial accidents in connection with the use of working platforms, LD would strengthen its inspection efforts and publicity work as necessary.

Prevention of heat stroke at work

29. Pointing out that Hong Kong was getting increasingly hot during summer, Dr CHIANG Lai-wan expressed concern about working outdoor under hot weather. In view of a number of occupational fatal and injury

Action

cases related to heat stroke at work in the past few years, Dr CHIANG called on the Administration to review the relevant OSH legislation and strengthen its publicity efforts on the prevention of heat stroke at work. The Chairman raised concern that workers would be working under very hot environment after wearing a face mask as an infection control measure against Coronavirus disease 2019 ("COVID-19"). The Chairman sought information on provision of guidelines in this respect.

30. DC for L (OSH) said that LD was very concerned about the hazard of heat stroke to which employees might be exposed while working under very hot weather. In order to enhance OSH of employees working outdoor under hot weather or at workplaces with high heat stress, LD had been promoting the awareness of employers and employees on the prevention of heat stroke at work through launching large-scale promotion campaign on heat stroke prevention in collaboration with OSHC, distributing protective equipment, broadcasting new publicity videos and conducting extensive publicity as well as requiring government service contractors of providing appropriate protective items to their employees, in particular cleansing workers and security guards. DC for L (OSH) further advised that as wearing face masks was an essential preventive measure against the infectious risk of contracting COVID-19, employers were advised to request their employees to do so at workplace especially for those who had frequent contact with the public.

Erection of monument for deceased workers

31. Expressing the view that the existing three monuments in memory of the deceased workers who died in industrial accidents were placed at rather remote locations, Mr CHU Hoi-dick called on the Administration to reconsider the request of the labour sector to erect a monument for the deceased workers at a prominent location in the city centre for easy access by members of the public and families of the deceased for mourning, and at the same time, to enhance occupational safety education.

32. DC for L (OSH) responded that in recognition of the contribution made by local workers who were injured or died in different industrial accidents, a monument had been placed in OSHC OSH Academy in Tsing Yi. The Administration considered the location appropriate in view of a great number of visitors every year, including students and industry stakeholders. This would serve the purpose of raising the vigilance of the public about occupational safety issues.

Action

Motion proposed by members

33. The Chairman said that Mr CHU Hoi-dick had indicated his intention to propose a motion under this agenda item. Mr LUK Chung-hung had proposed amendments to Mr CHU's motion. He ruled that the proposed motion and the amendments were directly related to the agenda item. Members agreed that the motion would be proceeded with.

34. The Chairman said that the amendments to the motion would be voted on first. He invited Mr LUK Chung-hung to move his amendments to the motion. Mr LUK Chung-hung said that he supported in principle the motion proposed by Mr CHU Hoi-dick and moved the amended motion below:

"本港每年有數以十計工友因工業意外死亡，大部分是建造業工人。

為紀念歷年來為香港城市發展作出貢獻而殉職的工人，本事務委員會要求當局在目前三個位置較偏僻的紀念碑外，於市中心顯眼位置豎立一座「殉職工人紀念碑」，方便市民和死者家屬前往悼念。同時加強職業安全教育，令公眾對職安問題提高警惕。"

(Translation)

"In Hong Kong, tens of workers died in industrial accidents every year and most of them were construction workers.

To commemorate the deceased workers who contributed to the urban development of Hong Kong over the years, this Panel requests that, apart from the existing three monuments at rather remote locations, a monument for the deceased workers be erected at a prominent location in the city centre for easy access by members of the public and families of the deceased for mourning, and at the same time, occupational safety education be enhanced to raise the vigilance of the public about occupational safety issues."

35. The Chairman put Mr LUK Chung-hung's amendments to vote. The Chairman said that all members present unanimously voted for the amended motion and declared that the motion as amended was carried. As such, there was no need to vote on Mr CHU Hoi-dick's original motion.

Action

III. Progress report on the review of the improvement measures for non-skilled employees engaged by government service contractors

(LC Paper Nos. CB(2)1182/19-20(03) to (04) and CB(2)1207/19-20(01))

Admin

36. At the invitation of the Chairman, Secretary for Labour and Welfare ("SLW") briefed members on the ongoing review of the Government's improvement measures implemented from April 2019 for enhancing the employment terms and conditions as well as labour benefits of non-skilled employees engaged by government service contractors ("GSCs") ("non-skilled employees") ("the improvement measures") as detailed in the Administration's paper. SLW added that the Administration was collating information on the issues raised in the letter dated 15 June 2020 from Dr Fernando CHEUNG and would provide a written response after the meeting.

37. Members noted an updated background brief entitled "Protection of non-skilled workers of government service contractors" prepared by the LegCo Secretariat.

Implementation of the improvement measures

Admin

38. Mr POON Siu-ping and the Chairman were in support of the improvement measures which would increase the wage level and enhance the employment terms and conditions of non-skilled employees engaged by GSCs. While sharing a similar view, Mr LUK Chung-hung remarked that there was still room for improvement. Mr LUK sought information on the percentage of the government service contracts implementing the improvement measures among all government service contracts under the four major procuring departments as at 31 May 2020. SLW said that he did not have the requisite information on hand and would provide the information after the meeting.

Admin

39. Dr Fernando CHEUNG also requested the Administration to provide information on the number of outsourced service contracts awarded on the basis of "lowest bid wins" before and after the implementation of the improvement measures under the four major procuring departments as at 31 May 2020.

Action

Wage level of non-skilled employees

40. While acknowledging that the wage levels for non-skilled employees had increased slightly following the implementation of the improvement measures, Mr LUK Chung-hung considered it not satisfactory as the hourly wage rates of non-skilled employees engaged under some 25% of the new government service contracts stood at the fifth percentile of those among all employees in Hong Kong. The median hourly wage of non-skilled employees (i.e. \$45 per hour) was lower than that of the overall employees in the labour market and government employees of the lowest rank. With a view to encouraging GSCs bidding the service contracts to offer higher wages for their non-skilled employees, Mr LUK was of the view that consideration should be given to increasing the weighting of wage level as an assessment criterion in the technical assessment.

41. The Chairman called on the Administration to regularly collate statistics on the wage levels of non-skilled employees in order to monitor the wage trend.

42. Dr KWOK Ka-ki appealed to the Administration to consider setting a living wage for non-skilled employees to safeguard their basic livelihood needs.

43. In response to members' views and concerns, SLW said that the Government would monitor the wage trend of non-skilled employees with reference to relevant monthly statistical data released by the Census and Statistics Department. It was noteworthy that wages of non-skilled employees were determined by the market mechanism and in general were lower than those of skilled employees. The Administration would endeavour to ensure that non-skilled employees were reasonably remunerated apart from being protected under the Minimum Wage Ordinance (Cap. 608). To this end, the Administration would conduct a review of the improvement measures to enhance the remuneration packages and protection of employment terms and conditions of non-skilled employees ("the review") within 2020.

44. Mr LUK Chung-hung expressed further concern about the problem of suspected bid-rigging among various tenderers in setting the wage level of non-skilled employees when bidding government service contracts. SLW responded that bid-rigging was prohibited under the Competition Ordinance (Cap. 619). The Administration would duly follow up upon receipt of relevant reports.

Action

45. Referring to the number of non-skilled workers broken down by committed wages under the service contracts awarded between 1 April and 30 November 2019, Mr LEUNG Yiu-chung noted with concern about the relatively low wage level of the service contracts of the Housing Department ("HD") when comparing with those of the Food and Environmental Hygiene Department ("FEHD") and the Leisure and Cultural Services Department ("LCSD"). Mr LEUNG sought explanation for such differences.

46. SLW advised that the disparity in the wage levels amongst outsourced service contracts of various procuring departments might be attributable to the different operational needs. In effect, there were other consideration factors in evaluating the tenders for service contracts in addition to the technical weighting and weighting of wage level. These issues would be taken into consideration in the review.

Review of improvement measures

47. Pointing out that the seasonally adjusted unemployment rate increased to a record high of 5.9% in March to May 2020 and that the number of unemployed persons (not seasonally adjusted) increased to 230 400 in March to May 2020, Mr POON Siu-ping was gravely concerned about the adverse impact on the bargaining power of the non-skilled employees. Mr POON sought information on the direction of the review being conducted by the Labour and Welfare Bureau. He was particularly concerned whether weighting of wage level in the tender assessment and working hours of non-skilled employees would be covered under the review.

48. SLW advised that there was no established way forward of the review. Information and statistics related to service contracts awarded to GSCs before and after 1 April 2019 by the four major procuring departments were currently being collated and analyzed so as to study the changes in the remuneration packages of non-skilled employees after implementation of the improvement measures. Moreover, information which was collated under the monitoring measures and compliance mechanisms would be studied to assess the effectiveness of the improvement measures.

49. Pointing out that the statutory employment benefit of leave entitlement under the Employment Ordinance (Cap. 57) was calculated on the basis of reckonable years of service, Mr LUK Chung-hung was

Action

concerned that consequent upon frequent change of GSCs, it had been difficult for non-skilled employees to accumulate continuous years of service. Mr LUK considered that non-skilled employees should be provided with 14 days of paid leave annually and suggested that reckonable years of service and leave entitlement of non-skilled employees be covered in the review. SLW responded that the Government would take heed of all the views in the review.

50. Dr Fernando CHEUNG and Mr LUK Chung-hung called on the Administration to review whether the arrangement of outsourcing government services should be minimized or abolished at all. Both members were of the view that the Administration should recruit government employees to perform the outsourced work if there was a long-term service need.

51. To better safeguard the employment benefits of the non-skilled employees, Dr KWOK Ka-ki enquired whether the Administration would model on the procurement arrangement of consultancy services for the public works projects and make direct wage payments to GSCs' employees.

52. SLW advised that outsourcing government services could help maintain flexibility of the provision of services, including manpower deployment and making relevant payments, in achieving the specific policy objective. That said, the suggestion was beyond the scope of the review, which aimed to enhance the employment terms and conditions as well as labour benefits of non-skilled employees engaged by GSCs.

Monitoring measures

53. Dr Fernando CHEUNG raised query about the effectiveness of the monitoring measures being undertaken by individual procuring departments to check GSCs' compliance with the improvement measures. Dr CHEUNG suggested that the Administration should consider introducing a centralized or independent monitoring mechanism to this effect.

54. SLW responded that it was the responsibility of individual procuring departments to monitor GSCs' provision of services and compliance with the employment terms as specified in Standard Employment Contract ("SEC"). In addition, the administration fee would be very costly if monitoring of GSCs was to be performed by a separate monitoring body.

Action

Issues arising from premature termination of outsourced service contracts

55. Referring to the reportedly premature termination of some outsourced government service contracts as mentioned in Dr Fernando CHEUNG's letter dated 15 June 2020, the Deputy Chairman expressed concern that non-skilled employees engaged by the GSC concerned would not be entitled to the severance payment ("SP"). Dr Fernando CHEUNG raised a similar concern. Both members expressed further concern that some of the terminated outsourced service contracts were subsequently awarded to other GSCs under new company names but having ownership similar to that of the terminated GSC. They urged the Administration to address the matter. Dr KWOK Ka-ki echoed a similar concern.

56. SLW advised that the Administration was aware of the concerns raised by members, which involved complicated issues to be resolved. SLW further advised that to forestall labour disputes over the entitlement to SP upon the expiry of the government service contracts, GSCs were required under the improvement measures to pay contractual gratuity to their non-skilled employees with no less than one year's service of a continuous contract when SEC was completed or terminated (including resignation by employees, or dismissal by GSCs save for summary dismissal due to the employee's serious misconduct).

57. Mr LEUNG Yiu-chung was concerned that some GSCs might make use of various excuses, such as employees' refusal to be redeployed to workplaces at other districts, and dismiss their employees prior to their completion of a two-year employment contract. As such, the employees concerned would only be entitled to the one-year contractual gratuity only but not to SP which would be of a greater amount. In response, SLW said that in most cases, the contractual gratuity, i.e. 6% of the total wages earned by an employee during the relevant employment period would usually be more than the amount of SP which was around some 5.55% of the total wages, except for those employees with long years of service.

58. Mr LEUNG Yiu-chung, however, remained concerned about the protection of non-skilled employees against unreasonable dismissal by GSCs and the difficulties of these workers in accumulating years of service.

Action

Other issues

Monthly allowance under the Anti-epidemic Fund

59. Noting that cleansing and security employees engaged by GSCs would receive a monthly allowance of HK\$1,000 for a period of four months under the Anti-epidemic Fund, Dr Fernando CHEUNG expressed concern that the outsourced pest control workers who performed similar duties were not entitled to the monthly allowance. Dr CHEUNG called on the Administration to review the arrangement.

60. SLW said that, following a review by the Government, pest control employees were also eligible for the monthly allowance of HK\$1,000. The procuring departments had already asked the relevant GSCs to grant allowance to employees who had performed relevant duties since March as soon as possible.

Provision of face masks

61. In the light of COVID-19 epidemic, the Chairman was concerned about whether the Administration would allocate additional resources to safeguard the occupational safety of non-skilled employees when performing anti-epidemic related duties, such as provision of face masks and other personal protective items.

62. Dr KWOK Ka-ki expressed concern about the occupational safety of non-skilled employees given that some GSCs only provided five face masks to their non-skilled employees once a week.

63. SLW said that to his understanding, cleansing workers engaged by GSCs to perform high-risk street cleansing and washing services would be provided with one face mask for each working day since February, and two face masks for each working day since mid-May. SLW added that it was the responsibility of employers i.e. GSCs to provide face masks to their employees to safeguard the occupational safety.

Retirement age of non-skilled employees

64. Mr SHIU Ka-chun was concerned that after the outsourcing of the security services of LCSD museums in 2020, some security guards aged 65 or above did not have their employment contracts renewed. In the light of the government's policy of encouraging the elderly to join or stay in the labour market, Mr SHIU called on the Administration to investigate

Action

whether such cases constituted age discrimination and to put in place monitoring measures.

65. SLW advised that at present, most employers had set a retirement age of their employees according to the operational needs of individual enterprises. The Government had no plan to change the prevailing practice by legislative means. Nevertheless, the Government appealed to the employers to continue engaging senior employees as it would be beneficial to their business operation. Assistant Director (Finance)/LCSD added that SEC was adopted as the employment contract for all outsourced security guards engaged by the GSC of LCSD museums, under which no retirement age had been specified. As regards Mr SHIU Ka-chun's concern, LCSD had conducted investigation into the relevant cases and received no complaints or requests for assistance from the outsourced security guards. LCSD would refer complaint cases of such, if any, to LD for follow-up.

New uniform for non-skilled employees

66. Noting that new anti-heat stress uniform had been provided to FEHD workers at some workplaces to enhance their comfort and safety at work, the Deputy Chairman sought information on the timetable for introducing the new uniform for non-skilled employees engaged by GSCs of FEHD and other procuring departments. Dr Fernando CHEUNG raised a similar concern, having regard to the fact that a considerable number of non-skilled employees had to perform outdoor duties under hot weather.

67. Assistant Director (Grade Management & Development) of FEHD advised that the provision of new uniform to cleansing employees of FEHD service contractors was on a trial basis. As a preliminary stage, FEHD would collect users' feedback for improvement of the design and choice of fabrics. FEHD would then study the viability of introducing the new uniform. He undertook to expedite the work progress and timetable as far as practicable.

68. There being no other business, the meeting ended at 6:32 pm.