

For discussion on  
19 November 2019

## **Legislative Council Panel on Manpower**

### **Pilot Rehabilitation Programme for Employees Injured at Work**

#### **Purpose**

With a view to strengthening rehabilitation services<sup>1</sup> for employees injured at work, the Chief Executive announced in the Policy Address this year a proposal to introduce a three-year pilot rehabilitation programme for employees injured at work (Pilot Programme) targeting at injured employees from the construction industry. This paper aims to introduce the design and proposed mechanics of the Pilot Programme, and seek Members' views on the proposal.

#### **Background**

2. Under the Employees' Compensation Ordinance (Chapter 282) (ECO), injured employees now generally make their own choice of receiving medical treatment<sup>2</sup> in respect of their work injuries at public or private hospitals or clinics, unless the employers have provided (or have made a written undertaking to provide) adequate free medical treatment to them. The ECO also provides that injured employees who have received work-injury-related medical treatment which is not provided by their employers may claim reimbursement of the actual amount of medical expenses incurred from their employers, subject to the maximum daily rates specified in the Ordinance<sup>3</sup>.

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1 Rehabilitation services refer to treatments, including medical treatment, physiotherapy and occupational therapy, etc., administered to facilitate the process of recovery from work injury.

2 Under the ECO, "medical treatment" is defined as medical treatment given by or under the supervision of a registered medical practitioner, registered Chinese medicine practitioner, registered dentist, registered chiropractor, registered physiotherapist or registered occupational therapist.

3 Under the ECO, the maximum daily rate for out-patient treatment is set at \$300.

3. At present, most injured employees seek rehabilitation services in hospitals and clinics under the management of the Hospital Authority (HA). The majority of work injury cases involve physical injuries. In general, these cases require physiotherapy and occupational therapy. Some may require orthopaedics treatment and imaging service<sup>4</sup>. Injured employees using public rehabilitation services, like other members of the public, are facing a long waiting time<sup>5</sup> for these services. As a result, some of them may miss the golden recovery period<sup>6</sup>. HA services target at the public and are therefore treatment-oriented. They are not geared towards facilitating injured employees' early return to work. However, employer and employee sectors widely recognise that return-to-work oriented rehabilitation services, including work trial, light duties and work modification, etc. are key contributing factors to effective rehabilitation and speedy recovery as they help injured employees regain confidence at work and better adapt to their working environment upon recovery.

4. Musculoskeletal injuries (such as sprain and strain), which constitute a majority of physical injury cases, can easily turn into chronic conditions in the absence of timely and co-ordinated rehabilitation services. Apart from affecting employers' productivity, delay in recovery and prolonged sick leave will compromise injured employees' capacity for returning to work. We are also concerned that the delay may also create opportunities for recovery agents to take advantage of some injured employees' vulnerability and their misunderstanding about employees' compensation (EC) and return to work, and to induce them to make ill-informed rehabilitation decisions.

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4 Physiotherapists generally provide symptom relief treatment and restore functional capacity. Occupational therapists generally provide therapeutic devices, conduct work capacity evaluation and provide work rehabilitation training. Complicated cases such as those in need of surgical treatments require Orthopaedics specialists for assessment and management. A minority of work injury cases may require advanced imaging investigations such as computed tomography (CT) scan and magnetic resonance imaging (MRI) to assist doctors in making diagnoses.

5 According to the latest progress report on the key performance indicators of HA, up to June 2019, the waiting time for stable or non-urgent new case bookings in HA could reach up to 134 weeks for Orthopaedics specialist outpatient cases, 39 weeks for physiotherapy allied health outpatient (AHOP) cases, 26 weeks for occupational therapy AHOP cases, 116 weeks for MRI cases and 121 weeks for CT scan cases.

6 International and local studies reveal that for work injury rehabilitation to be effective, it should be initiated as soon as possible. While there is no international consensus on the definition of "golden recovery period" after work injury, medical evidence suggests that the intervention should be made after about six weeks of sickness absence.

5. Moreover, adopting a case management approach in managing the work injury rehabilitation process is also critical. Case managers<sup>7</sup> play an important coordinating role in liaising with employers and the concerned medical and rehabilitation professionals as well as the injured employees in ensuring a smooth rehabilitation process and making necessary return-to-work arrangements. Perceived independence of rehabilitation service providers and case managers is also critical to injured employees' reception and hence success of a work injury rehabilitation programme.

6. The insurance industry has been operating the Voluntary Rehabilitation Programme (VRP) since 2003, under which the insurers initiate contacts with the injured employees they consider suitable, invite them to join VRP on a voluntary basis and to receive private rehabilitation services. Although a certain number of injured employees have joined VRP, given its operation by insurers, it is perceived by some employees as primarily driven by insurers' and employers' interests, thereby affecting their willingness to participate.

### **Design and Mechanics of the Pilot Programme**

7. In the light of the above, the Government committed in the Policy Address last year to actively look into new measures to speed up recovery of injured employees and facilitate their early return to work. The Labour Department (LD) has completed the study. The Chief Executive announced in the Policy Address this year a proposal to introduce a three-year Pilot Programme for injured construction employees, under which a case management approach will be adopted to provide private out-patient rehabilitation treatment services for eligible injured employees in a timely and well co-ordinated manner to facilitate their early recovery and return to work. Moreover, we propose to commission the Occupational Safety and Health Council (OSHC) to administer the Pilot Programme through legislative amendments. The design and proposed mechanics of the Pilot Programme are elaborated in paragraphs 8 to 19 below.

### **Pilot Programme**

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7 Case managers are mostly engaged by insurance companies or work injury management companies. They generally have nursing, physiotherapy, occupational therapy or social work background.

8. Research studies clearly indicate that early medical intervention of injured employees with higher risk of long-term incapacity can significantly improve recovery outcome. With reference to these studies and our sick leave statistics on injured employees, we consider that the new initiative should target at employees suffering from physical injury and having taken work injury sick leave for at least six weeks. In 2018, some 10 000 settled EC cases<sup>8</sup> involved sick leave durations of six weeks or more. In view of the large size of these injured employees, we propose to first launch the initiative on a pilot basis for the following reasons -

- (a) the rehabilitation treatment services are envisaged to be provided by the private sector. The current supply of occupational therapists and physiotherapists in private practice must be taken into consideration in launching the programme. According to the findings of the “Strategic Review on Healthcare Manpower Planning and Professional Development”,<sup>9</sup> there is a general shortage of occupational therapists and physiotherapists in the short to medium term. It is therefore pragmatic to introduce a work injury rehabilitation programme for injured construction employees on a pilot basis, having regard to the manpower situation. This will also allow us to roll out the initiative in an expeditious manner; and
- (b) the programme involves a range of stakeholders and service providers, as well as operation details such as liaison with employers on return-to-work arrangements, etc. Piloting the programme can help us gain experience for gradually refining the programme details.

### Target employees

9. The Pilot Programme will target at injured construction employees for the following reasons –

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8 EC settled cases refer to cases settled through the issue of the Certificate of Compensation Assessment which states the compensation payable assessed by the Commissioner for Labour under the ECO, and also cases adjudicated by the Court through legal proceedings, etc.

9 The Review was commissioned by the Food and Health Bureau. It projected the manpower demand of 13 healthcare professions with reference to the then service level in 2015, the known shortage of these professions and manpower demand arising from demographic change, as well as known and planned policy initiatives and projects at that time.

- (a) the Pilot Programme targets at employees who have not returned to work six weeks after work injury. Construction employees constituted the highest percentage of injured employees taking sick leave for six weeks<sup>10</sup> or more among various industries in recent years. Moreover, among injured employees taking sick leave for six months<sup>11</sup> or more in various industries, construction employees also made up the highest percentage in recent years. Medical papers suggest that the longer the period of injury-related absence, the lower the chance of successful return to work; and
- (b) work injury cases of the construction industry predominantly involve construction workers who are more prone to musculoskeletal injuries at work. They are more in need of timely and co-ordinated rehabilitation services to avoid their injuries turning into chronic conditions and hence are targets of the Pilot Programme.

10. Eligible construction employees can participate in the programme on a voluntary basis, while rehabilitation treatment services provided by hospitals and clinics under HA for their work injuries and covered in the programme have to be discontinued after they have joined the programme.

#### Proposed mechanics

11. The Pilot Programme will provide eligible injured employees with private out-patient rehabilitation treatment services related to their work injuries. The services will be provided by registered general medical practitioners, orthopaedics specialists, physiotherapists and occupational therapists, and will cover imaging services if required. Subject to the clinical presentation of individual patients, the attending doctor will work out a tailor-made rehabilitation plan together with the relevant rehabilitation professionals. The services will generally be provided in an expeditious and intensive manner in order to take advantage of the golden period for rehabilitation. At appropriate stages during the rehabilitation process, the team will work out or refine a return-to-work plan for the employee, which may include work trial or work

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10 In 2018, there was a total of 10 318 settled EC cases involving working day loss of 42 days (six weeks) or more among various industries, of which 2 301 came from the construction industry, representing 22% of the total.

11 In 2018, there was a total of 4 430 settled EC cases involving working day loss of 180 days (six months) or more among various industries, of which 1 377 came from the construction industry, representing 31% of the total.

modification.

12. A case manager will be assigned to each participant to follow up his/her case as soon as he/she is admitted to the Pilot Programme. The case manager is the linchpin of the service, and coordinates with medical and rehabilitation professionals to increase cohesion of the services. He/she will work closely with the employees to ensure that they fully comply with the rehabilitation plan and to provide them with the necessary psychosocial support in the process. The case manager also needs to work closely with the employers on the return-to-work arrangements, and to make sure that the employees understand their rights and obligations under the ECO.

### OSHC to administer the Pilot Programme

13. On the basis of the following considerations, we recommend tasking OSHC to administer the Pilot Programme -

- (a) according to the Occupational Safety and Health Council Ordinance (Chapter 398)(OSHCO), OSHC is currently tasked to promote occupational safety and health (OSH) to employers, employees and other stakeholders through promotion and publicity, education and training, research and studies and other initiatives. We consider that work injury rehabilitation has considerable synergy with the current work of OSHC in promoting OSH. Apart from receiving rehabilitation services, injured employees also need to heighten their awareness of work injury prevention in order to avoid reinjuries resulting in chronic conditions. The working environment of their workplaces and the OSH management standards may also need to be improved. Hence, OSH promotion and effective rehabilitation work are complimentary to each other;
- (b) employees' perception of the neutrality of rehabilitation services will affect their willingness to participate. Through its efforts over the years, OSHC has long established a professional and independent image amongst employers and employees. We expect injured employees to be receptive to joining the Pilot Programme administered by OSHC; and
- (c) commissioning OSHC can help expedite the implementation of the Pilot Programme. Although the current functions of OSHC do not include work injury rehabilitation and legislative amendments are required to expand its remit, the legislative amendment exercise is

less complex when compared with establishing a new statutory organisation. The latter will involve the enactment of new legislation and the establishment of a new advisory and management structure.

14. Upon completion of consultation, LD will immediately embark on drafting the legislative amendments. We aim to introduce a bill to amend the OSHCO into the Legislative Council (LegCo) in the next legislative session.

15. At present, members of OSHC and its committees include rehabilitation professionals. To tie in with the introduction of the Pilot Programme, the Government and OSHC plan to further appoint members with relevant professional knowledge and expertise to participate in formulating and managing the Pilot Programme. Moreover, the Government will provide resources to strengthen the OSHC Secretariat professionally for it to help administer the programme. LD will collaborate with OSHC in working out the specific details of the programme, implementing the programme and evaluating its effectiveness.

#### Financial arrangement for the Pilot Programme

16. The Government will earmark sufficient funds for private out-patient rehabilitation treatment services to be received by injured employees under the Pilot Programme, while employers are to shoulder part of the rehabilitation treatment expenses to fulfill their statutory responsibility under the ECO. The Government will also provide funding for OSHC to carry out the new function of administering the programme.

17. We expect that the programme can help injured employees recover and return to work early, avoid their work injuries turning into chronic conditions, and help reduce work injury payouts of employers arising from delayed treatment of their employees and maintain employers' productivity, thereby bringing benefits to both employers and employees.

18. In the long run, subject to the effectiveness of the Pilot Programme, we would explore the possibility of extending the Pilot Programme to cover other injured employees and having employers finance the programme. We would consult the views of employers at an appropriate time.

#### Implementation timetable

19. Subject to the progress of the legislative amendment exercise and the

time required for concrete preparatory work to be commenced afterwards, we envisage launching the Pilot Programme in 2022. The Government will decide the way forward in the light of the implementation experience and effectiveness of the Pilot Programme.

### **Consultation**

20. The Labour Advisory Board discussed the design and proposed mechanics of the Pilot Programme at its meeting on 16 October 2019 and supported the Pilot Programme. LD will consult rehabilitation professional bodies, relevant employer and employee groups, as well as other stakeholders on the Pilot Programme.

### **Advice Sought**

21. Members are invited to give views on the proposed Pilot Programme.

**Labour and Welfare Bureau**  
**Labour Department**  
**November 2019**