

立法會

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Panel on Manpower

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 17 November 2020**

Rehabilitation services for employees injured at work

Purpose

This paper provides background information on the provision of rehabilitation services for employees sustained injuries at work and summarizes the discussion by the Panel on Manpower ("the Panel") on related issues in the Sixth Legislative Council ("LegCo").

Background

2. Hospitals and clinics under the management of the Hospital Authority ("HA") provide integrated treatment and rehabilitation services, including specialist treatment, physiotherapy and occupational therapy, for employees who sustained work injuries or suffered from occupational diseases prescribed under the Employees' Compensation Ordinance (Cap. 282) ("ECO"). Occupational health clinics ("OHCs") run by the Labour Department ("LD") provide medical treatment and occupational health counselling to employees who have sustained injuries at work or contracted occupational diseases. Subject to the patients' clinical conditions and needs, the occupational health doctors in OHCs will refer the patients to hospitals and clinics under HA for rehabilitation treatment.

3. According to the Administration, an internal working group comprising representatives of the relevant bureaux/departments and organizations had undertaken a study on improving protection for employees in high-risk industries in relation to insurance, compensation for work injuries, therapy and rehabilitation. The Task Force on Improving Work Injury Protection for Employees in High-risk Industries ("TFWIP") coordinated by LD was set up in February 2016 to explore the proposals put forward by the inter-departmental

working group. Three working groups, one each on employees' compensation insurance, case processing and therapy/rehabilitation, had been set up under TFWIP to further the discussions, conduct consultations and implement the agreed measures in phases once they were ready so as to improve protection for injured employees in high-risk industries.

4. The Chief Executive announced in the 2019 Policy Address the proposal to introduce a three-year pilot rehabilitation programme for employees injured at work ("the Pilot Programme") targeting at injured employees from the construction industry. The Pilot Programme will adopt a case management approach to provide private treatment and rehabilitation services for eligible injured employees in a timely and well co-ordinated manner to facilitate their early recovery and return to work.

Deliberations of the Panel

Review of the provision of rehabilitation services for injured employees

5. Members generally held the view that provision of timely rehabilitation services for employees sustained injuries at work would facilitate their early recovery and return to work. Members shared the deputations' views that the existing provisions under ECO mainly focused on making statutory compensation for incapacity of work and did not cater for the provision of rehabilitation services for occupational injury cases. Grave concern was raised about the deficiency in the provision of rehabilitation services for injured employees at work under the public healthcare sector. Given the long waiting time for receiving rehabilitation treatment at public hospitals and clinics, which normally exceeded three months, members were concerned that many employees injured at work had missed the golden period for recovery. In these members' view, the Administration should formulate specific policy to provide timely and appropriate rehabilitation services for injured employees at work.

6. At its meeting on 19 June 2018, the Panel passed a motion requesting the Government to establish an independent mechanism for implementing an occupational rehabilitation programme and introduce legislation on the framework for occupational rehabilitation.

7. The Administration stressed that it recognized the importance of rehabilitation services for the recovery and early return to work of injured employees. In response to the motion passed by the Panel, the Administration advised that in order to strengthen the protection of the rights and benefits of employees injured at work and suffered from occupational disease, LD was actively looking into new measures, including considering the provision of timely and coordinated treatment and rehabilitation services to injured workers

in need through case management model and private medical services, with a view to speeding up their recovery and facilitating their early return to work, and maintaining the overall productivity of Hong Kong.

Effectiveness of the Voluntary Rehabilitation Programme

8. In light of the long waiting time for receiving rehabilitation treatment at HA hospital and clinics, some members considered that employees who had sustained injuries at work or contracted occupational diseases should be reimbursable with rehabilitation treatment fees charged by the private healthcare sector so as to encourage them to seek relevant treatment as early as practicable. There was also a view that a designated government clinic should be set up to provide rehabilitation services for these employees.

9. Members were advised that the insurance industry had launched the Voluntary Rehabilitation Programme ("VRP") since 2003 to provide injured employees with an additional channel to receive free rehabilitation services in the private sector through the insurers' arrangements to facilitate their speedy recovery and early return to work under safe circumstances. The participating insurers would identify appropriate cases, initiate contacts with the injured employees and invite them to join VRP. The injured employees could decide on their own whether to accept the insurers' invitation or not. Participation in VRP would not affect the injured employees' rights and benefits under ECO.

10. Members generally considered that the number of injured employees participating in VRP was on the low side and cast doubt about the effectiveness of the Programme in serving as an additional channel for injured employees to receive rehabilitation services in the private sector. Members also expressed concern that although the injured employees could join VRP to receive free rehabilitation services in the private sector, the Programme was implemented by the insurance industry and the rehabilitation services were arranged through the insurers' arrangement. As such, injured employers would sometimes be assessed to be fit for work even though they were not yet fully recovered.

11. The Administration agreed that there was room for improvement in the participation rate, and would take this into account in reviewing the overall provision of rehabilitation services.

The pilot rehabilitation programme for employees injured at work

Proposed implementation timetable

12. At the Panel meeting on 19 November 2019, the Administration briefed members on the design and mechanic of the Pilot Programme. Members were advised that the Pilot Programme, which was expected to be launched in 2022,

would target at injured construction employees who had not returned to work six weeks after work injury. Considering that provision of rehabilitation services for employees who sustained injuries at work would facilitate their early recovery and return to work, members welcomed the launch of the Pilot Programme. Members, however, took the view that the Administration should shorten the three-year trial period of the Programme. They strongly urged the Administration to expedite the relevant preparatory work for launching the Pilot Programme.

13. According to the Administration, it was proposed to commission the Occupational Safety and Health Council ("OSHC") to administer the Pilot Programme, as its current work in promoting occupational safety and health to employers, employees and other stakeholders had considerable synergy with work injury rehabilitation. However, as the current statutory functions of OSHC did not include work injury rehabilitation, legislative amendments to the Occupational Safety and Health Council Ordinance (Cap. 398) ("OSHCO") were required to expand its remit. It was the Administration's plan to introduce an amendment bill into LegCo in the 2020-2021 legislative session and launch the Pilot Programme in 2022. The Administration would in tandem work out details of the Programme, such as qualification requirements of case managers and rehabilitation plan for injured employees and return-to-work plan for the employees concerned. However, some concrete preparatory work, such as tendering of rehabilitation services, could be commenced only after OSHC was empowered under OSHCO to provide work injury rehabilitation. That said, the Administration would endeavour to compress the necessary preparatory work with a view to launching the Pilot Programme in 2022.

14. Members were also advised that given the general shortage of occupational therapists and physiotherapists in the short to medium term and the inadequate supply of private rehabilitation services, the Administration considered it pragmatic to introduce a work injury rehabilitation programme on a three-year pilot basis. It would allow sufficient time for private market development. Nonetheless, it was expected that there would be sufficient supply of case managers, some of whom would be healthcare professionals and social workers, in the market when the Pilot Programme was to be rolled out in 2022.

Scope

15. Members expressed concern about the scope and the beneficiaries of the Pilot Programme. Some members were of the view that instead of targeting at injured employees from the construction industry only, the Pilot Programme should be expanded to cover those industries which also recorded high work injury rate, such as food and beverage services industry, transport and

residential care services, or further to cover all eligible employees who needed to take work injury sick leave for at least six weeks.

16. The Administration explained that as construction employees constituted the highest percentage of injured employees taking sick leave for six weeks or more among various industries in recent years, with 2 301 cases being registered in the construction industry in 2018. Construction employees, who had not returned to work six weeks after work injury, were hence targets of the Pilot Programme. It was expected that a total of some 7 000 eligible employees could benefit from the Pilot Programme.

Participation rate

17. Some members raised concern about how the Administration would increase the acceptance and participation rate of the Pilot Programme, given that the participation of VRP had been on the low side. Members were advised that under the Pilot Programme, a case manager, who would coordinate with healthcare professionals on the rehabilitation plan and work closely with employers on the return-to-work arrangements, would be assigned to follow up the case of each participant. LD would identify appropriate cases and initiate contacts with the eligible injured employees and invite them to join the Pilot Programme on the voluntary basis. In the Administration's view, as compared with VRP, injured employees would be receptive to joining the Pilot Programme given the professional and independent image established by OSHC and the independent rehabilitation services provided by the medical and rehabilitation professionals concerned who would be accountable to LD and OSHC.

18. Some members were also concerned about the impartiality of rehabilitation programmes operated by insurers, which might be perceived by some employees as primarily driven by insurers' and employers' interests, thereby undermining their willingness to participate. The Administration advised that to ensure the impartiality of the Pilot Programme, the Administration would further appoint members with relevant professional knowledge and expertise to participate in the work of OSHC in formulating, managing and monitoring the Pilot Programme which included, among others, drawing up the guidelines on services provided by rehabilitation treatment service providers and case managers, as well as the approaches and arrangements for appointing the service providers and case managers.

Financial arrangement

19. On members' concern about the financial arrangement for the Pilot Programme, the Administration advised that expenses for private out-patient rehabilitation services under the Pilot Programme would be borne by the

Government, while employers would have to shoulder part of the expenses to fulfil their statutory responsibility. Under ECO, an injured employee who had received medical treatment in respect of a work injury could claim reimbursement of the actual amount of medical expenses incurred, subject to the daily maximum rates specified in the Ordinance.

Latest developments

20. According to the Administration, it aims to introduce an amendment bill to empower OSHC to undertake new functions relating to the rehabilitation of employees injured at work into LegCo in the first half of the 2020-2021 legislative session. Members may wish to note that the Occupational Safety and Health Council (Amendment) Bill is included in the Government's 2020-2021 Legislative Programme. The Administration will brief the Panel on the relevant legislative proposal at its meeting on 17 November 2020.

Relevant papers

21. A list of the relevant papers on the LegCo website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
10 November 2020

Appendix

Relevant papers on rehabilitation services for injured employees

Committee	Date of meeting	Paper
Panel on Manpower	23.1.2017 (Item III)	Agenda Minutes
Panel on Manpower	21.3.2017 (Item IV)	Agenda Minutes CB(2)1980/16-17(01) (Follow-up item 8)
Panel on Manpower	18.7.2017 (Item IV)	Agenda Minutes
Panel on Manpower	27.4.2018 (Item IV)	Agenda Minutes
Legislative Council	2.5.2018	Official Record of Proceedings (Question 21)
Panel on Manpower	19.6.2018 (Item III)	Agenda Minutes CB(2)267/18-19(01)
Panel on Manpower		Report of the Panel on Manpower (CB(2)1734/17-18)
Panel on Manpower	16.10.2018 (Item III)	Agenda Minutes
Panel on Manpower	8.11.2019 (Item I)	Agenda Minutes
Panel on Manpower	19.11.2019 (Item V)	Agenda Minutes CB(2)605/19-20(01)

Committee	Date of meeting	Paper
Panel on Manpower		<p>Letter dated 30 December 2019 from Hon LUK Chung-hung (Chinese version only) (CB(2)455/19-20(01))</p> <p>Administration's response (CB(2)546/19-20(01))</p>

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