

**CONTROLLING OFFICER'S REPLY**

**FHB(FE)185**

**(Question Serial No. 2042)**

Head: (49) Food and Environmental Hygiene Department

Subhead (No. & title): (-) Not specified

Programme: (-) Not specified

Controlling Officer: Director of Food and Environmental Hygiene (Miss Vivian LAU)

Director of Bureau: Secretary for Food and Health

Question:

As regards cases of injury at work handled by the Food and Environmental Hygiene Department in respect of outsourced cleansing workers, please advise this Committee of the following:

1. the number of reported cases of injury at work received by the Department in respect of outsourced cleansing workers in each of the past 5 years, and the measures taken by the Department to follow up the reported cases of injury at work (if no follow-up actions have been taken, the reason(s));
2. further to the above question, the number of prosecutions against the contractors concerned, verbal warnings, written warnings and default notices issued, and/or other follow-up measures taken;
3. whether the Department has considered increasing manpower to monitor the occupational safety and health of outsourced workers; and
4. whether the Department has specified in the tender document for each outsourced cleansing service contract and the signed contract the minimum staffing requirement for each service item, the protective equipment in the required quantities, the number of training courses on occupational safety and health, the provision of sufficient drinking water, and the regular provision of changing and locker facilities (if yes, the details; if not, the reason(s)); whether a review will be conducted and relevant arrangements implemented.

Asked by: Hon LEUNG Yiu-chung (Member Question No. (LegCo use): 8)

Reply:

The information sought is provided as follows –

1.&2. The contracts signed between the Food and Environmental Hygiene Department (FEHD) and its service contractors stipulate that in the event of any of the contractors' employees suffering from any injury or death in the course of or arising out of the contract (whether or not a claim for compensation is involved), the contractor shall, within 7 clear working days, give notice in writing of such injury or death to FEHD. The contractors are also required to comply with all the legislation in relation to the execution of the service contracts, including the Occupational Safety and Health Ordinance (Cap. 509) (the Ordinance). If FEHD suspects a breach of the Ordinance in a reported case, the case will be referred to the Labour Department (LD) for investigation. If it is confirmed that the contractor has committed an offence under the Ordinance, LD will take appropriate action including instituting prosecution against the contractor. FEHD will also take action in accordance with the contract terms, including the issuance of verbal warnings, written warnings and default notices as well as withholding/deducting monthly payment of service charge.

The number of reported cases received and the follow up measures taken by FEHD on injury at work of cleansing workers employed under cleansing service contracts in the past 5 years is given below –

Year	2013-14	2014-15	2015-16	2016-17	2017-18 (up to 28 February 2018)
No. of reported cases on injury at work	53	89	94	65	62
No. of verbal warning issued	12	10	8	10	7
No. of written warning issued	0	0	0	0	1
No. of default notice issued	0	0	0	0	0

3. The contractors have a duty to ensure, as far as reasonably practicable, their employees' safety and health at work. FEHD will offer appropriate assistance where circumstances and resources permit.
4. FEHD has generally adopted an "outcome-based" approach in outsourcing cleansing services. Clear and precise performance-based service requirements including the scope of the services required, level of cleanliness expected, response time for rectification of unsatisfactory performance, etc. are incorporated in the tender document. Minimum requirements relating to manpower, work shift, and cleansing frequency may be stipulated in the tender document based on operational needs. The tenderers are required to apply their expertise and experience in devising the staff deployment plan and the 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.

Under the service contracts entered between FEHD and its contractors, it is stipulated that contractors shall comply with all legislation in relation to the execution of the service contracts. Specifically, the Occupational Safety and Health Regulation (Cap. 509A) (OSHR) provides that employers have a duty to ensure, as far as reasonably practicable, their employees' safety and health at work, which includes, inter alia, providing sufficient drinking water and toilets for employees. If FEHD finds that any contractor fails to comply with the requirements for providing its employees with sufficient drinking water, FEHD will issue a notice of blatant default to the contractor without prior warning. FEHD will also refer the case to LD for investigation on any contravention under the OSHR.

In addition, it is also part of the contractual requirements that the contractors undertake that contractor personnel shall have the necessary training which includes training in occupational safety and health to provide the services, and the contractors should ensure that all their employees wear tidy and clean uniforms or special protective clothing which the Government may consider necessary or appropriate while they are providing the services. This includes the replacement of face mask at least once at the beginning of a work shift or immediately after the mask is damaged. The contractors are obliged to provide and replace uniforms and special protective clothing for their staff. FEHD has added a clause to newly awarded contracts to require the contractor to submit a uniform supply and allocation plan within 2 weeks after the commencement of contract for approval. The contractor is also required to keep a record of allocation of such items to each employee with his/her acknowledgement of receipt, and produce the record at FEHD's request for inspection. There is no specific statutory or contractual requirement on the provision of changing and locker facilities. Nevertheless, many FEHD venues with contractors engaged have resting/changing facilities which can be used by employees of the contractors. As for newly completed facilities including refuse collection points (RCPs), changing and storage facilities are provided for both in-house staff and contractors' employees. FEHD is planning to launch a pilot scheme to carry out improvement works in existing roll call points, including RCPs, where feasible, for provision of changing and storage facilities.

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