

LCQ17: Measures to combat pregnant Mainland women renting and staying in unlicensed guesthouses in Hong Kong

Following is a question by the Hon Paul Tse and a written reply by the Secretary for Home Affairs, Mr Tsang Tak-sing, in the Legislative Council today (February 8):

Question:

It has been reported that some pregnant mainland women rent and stay in the units in a private housing estate near Kwong Wah Hospital in recent months, in order to rush to the accident and emergency (A&E) department for last-minute delivery; the property management office of the housing estate concerned found that some people even brought with them more than 10 pregnant mainland women to stay in such units, and suspected that some owners or tenants are operating unlicensed guesthouses to lease out units illegally to pregnant mainland women on a daily or "sublease" basis. It has also been reported that the property management office lodged complaints to the Home Affairs Department (HAD) in writing many times, but this did not help solve the problem. In this connection, will the Government inform this Council:

(a) of the total number of complaints received by HAD from the aforesaid property management office, and how HAD followed up the complaints; of the reasons for failing to assist in solving the problem;

(b) whether it has assessed the current number of private housing estates throughout the territory in which units are leased out on a short-term or "sublease" basis to pregnant mainland women giving birth in Hong Kong, and the number of pregnant mainland women involved;

(c) given that the Court of Final Appeal handed down the judgment on Chong Fung-yuen's case that children of Chinese nationality born in Hong Kong to Chinese nationals have the right of abode (ROA) in Hong Kong, irrespective of whether or not their parents have settled or have ROA in Hong Kong, and the problem of those pregnant mainland women whose husbands and they themselves are both not permanent residents of Hong Kong ("doubly non-permanent resident pregnant women") giving birth in Hong Kong is becoming more and more serious at present, of the authorities' stance on addressing such problem by seeking interpretation of the Basic Law and the justifications; further, whether it has assessed if the policy of the authorities to combat "doubly non-permanent resident pregnant women" giving birth

in Hong Kong through administrative measures has been effective in practice; if the outcome of the assessment is in the affirmative, of the reasons why there are still pregnant mainland women renting and staying in units in a private housing estate in order to rush to A&E department for last-minute delivery as mentioned above; if the outcome of the assessment is that it is impossible or difficult to combat the relevant cases through administrative measures, whether it has studied to completely solve the problem at source through other means, such as interpretation of the Basic Law; if it has, of the outcome of the study; if not, the reasons for that; whether the Government has planned to assess the effectiveness of the measures regularly (e.g. at an interval of every three to six months), and to assess the confidence of the members of the public of Hong Kong in such measures, with a view to understanding public view; if it has, of the plan; if not, the reasons for that; and

(d) given that around one thousand members of the public of Hong Kong (including pregnant women and children) staged a march despite the rain on January 15 this year, requesting the Government to deal with the problem of "doubly non-permanent resident pregnant women" giving birth in Hong Kong through interpretation of the Basic Law, of the response of the Government to their aspirations expressed in the march?

Reply:

President,

The operation of hotels and guesthouses in Hong Kong is regulated by the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) (the Ordinance), which stipulates that any premises providing sleeping accommodation at a fee with a tenancy term of less than 28 consecutive days shall obtain a licence before commencing operation. The Office of the Licensing Authority (OLA) under the Home Affairs Department is responsible for the enforcement of the Ordinance. It is tasked with the issue of licences and enforcement work. Operating an unlicensed guesthouse is a criminal offence. Any person who is convicted for operating an unlicensed guesthouse is liable to imprisonment. The maximum penalty upon conviction is a \$200,000 fine and imprisonment for two years, and a fine of \$20,000 for each day during which the offence continues.

The OLA has spared no efforts in combating unlicensed guesthouses operation. Upon receipt of a complaint, it will conduct an inspection within eight working days,

and, having regard to the circumstances of each case, will also collect evidence through various means, including conducting surprise inspections during and outside office hours and posing as clients (commonly known as "snaking") to collect evidence when necessary. Upon investigation, if it shows that there is sufficient evidence indicating operation of unlicensed guesthouses in the premises, prosecution shall be instituted. Moreover, the OLA will conduct large-scale inter-departmental surprise and raiding operations with other departments concerned.

My reply to Hon Paul Tse's question is as follows:

(a) and (b) Upon receipt of reports on suspected operations of unlicensed guesthouses in a private housing estate near Kwong Wah Hospital, the OLA conducted a series of targeted enforcement actions, including repeated inspections of the premises during different periods of time, inquiring persons staying in suspected unlicensed guesthouses at the lobby of the housing estate and conducting "snaking" operations to collect evidence. Investigation revealed that a premises was suspected of offering short-term rental accommodation to pregnant Mainland women and that a Mainland visitor had been in breach of conditions of stay. The Administration has instituted prosecution under the Ordinance and the Immigration Ordinance. Some of the premises involved fell beyond the purview of the Ordinance as they were leased on a monthly basis. As for the remaining premises, the OLA will continue to follow up in a vigorous manner. If there is sufficient evidence for unlicensed operation of guesthouses in the premises, the OLA will institute prosecution actions.

The OLA has in the past received reports on premises suspected of offering short-term rental accommodation to pregnant Mainland women and they are classified and handled as cases of "suspected unlicensed operation of guesthouses". The OLA does not have a breakdown of the number of reports on leasing premises in private housing estates to pregnant Mainland women as short-term accommodation.

(c) and (d) The Food and Health Bureau is very concerned about the surge of demand for Hong Kong's obstetric services by non-local women (including Mainland women) in recent years, which has caused tremendous pressure on the overall obstetric and neonatal care services. To ensure that proper and adequate obstetric and neonatal care services are available for Hong Kong residents, and that local pregnant women are given priority for obstetric services, the number of non-local pregnant women giving birth in Hong Kong in 2012 will be limited by the Government to 35 000, among which 3 400 delivery places are for non-local women in the Hospital Authority (HA)

and around 31 000 planned number of deliveries are in private hospitals.

In addition, the Administration has introduced and gradually implemented various other measures. Non-local pregnant women who are planning delivery in private hospitals in Hong Kong will be required to undergo antenatal checkups by obstetricians in Hong Kong at an appropriate stage for assessment on whether they are suitable to give birth in Hong Kong, so that the safety of such pregnant women and their babies shall not be compromised due to travelling or other factors. To this end, the Hong Kong College of Obstetricians and Gynaecologists has issued professional guidelines on projected high-risk pregnancies in September 2011. The Department of Health (DH) has also co-ordinated and standardised the "Certificate on confirmed antenatal and delivery booking", which will be issued by hospitals to pregnant women suitable to give birth in Hong Kong and will be used by the Administration to keep track of the utilisation of the delivery quota.

To deter non-local pregnant women from seeking emergency deliveries through Accident & Emergency Departments (A&EDs) shortly before labour, which will trigger increased risks to the women themselves, their babies and the medical staff, the HA is reviewing the charges on non-local pregnant women seeking admission to hospitals for delivery through A&EDs. The DH is also taking steps to deploy additional medical personnel to various control points, assisting the immigration officers to conduct arrival clearance checks of non-local women.

The HA is reviewing the delivery quota for non-local pregnant women in the coming year, i.e. 2013. Subject to local women's demand for obstetric services, the Administration will further reduce or even remove the above quota entirely when necessary, and will discuss with private hospitals to determine the number of non-local women to be allowed to give birth in Hong Kong in the following year. Private hospitals are required to set aside sufficient places and to give service priority to local pregnant women.

On immigration controls, the Immigration Department (ImmD) will strengthen surveillance of non-local pregnant women. The ImmD also maintains close liaison with the Mainland authorities to deter non-local pregnant women from seeking entry shortly before labour. Besides, cross-boundary hire cars are not allowed to carry passengers for hire or reward unless the vehicles have been issued the official quota by both the Guangdong and Hong Kong authorities. The Administration believes that there are agencies which arrange for non-local pregnant women without booking to

enter Hong Kong by means of cross-boundary vehicles with no official quota. Regarding these cases of non-compliant use of cross-boundary vehicles for carrying non-local pregnant women to Hong Kong, the Police are collaborating with the Mainland authorities to jointly combat non-compliant vehicles and drivers.

On the other hand, the Police have been closely monitoring the modus operandi and promotion tactics of agencies in Hong Kong. If any unlawful acts are detected, enforcement actions will be taken in accordance with the relevant legislation. For agencies operating in the Mainland, the Police have been conducting joint investigations with the Mainland authorities to combat cross-boundary illegal practices.

On the necessity of asking for interpretation of the Basic Law, social consensus is yet to be reached and a comprehensive study is required. The Administration will continue to take heed of the views of the community. All departments concerned will be closely monitoring the effectiveness of the above administrative measures. At this point, there is no specific timetable for reviewing the measures. We may introduce further administrative measures or maintain the existing measures in the light of the circumstances. The Government will co-operate with the Mainland and discuss the issue of "doubly non-permanent resident pregnant women" giving birth in Hong Kong with the Mainland authorities concerned through established mechanisms.

Ends/Wednesday, February 8, 2012

NNNN