

# Guidelines for Employers and Employees

## Prevention of Avian Influenza



### Avian Influenza

Avian influenza is caused by those influenza viruses that mainly affect birds and poultry, such as chickens or ducks. It is mainly transmitted through close contact with infected birds and poultry or their droppings. Human cases infected with influenza A H5N1 and H9N2 viruses have been identified in Hong Kong and other parts of the world, while cases due to H7N9 virus have recently been reported in Mainland China. People infected with avian influenza may develop symptoms including fever, lethargy, cough, sore throat, etc., and in severe cases, pneumonia, respiratory failure, multi-organ failure and even death.

As a healthy and safe workplace is in the interests of both employers and employees, it is of utmost importance that they should be vigilant in guarding against the spread of avian influenza in workplaces.

The Labour Department has therefore produced these guidelines to advise employers and employees on the precautionary measures and related employment issues.

### Precautionary measures that should be undertaken by employers and employees

#### Keeping a clean and hygienic work environment

- ◆ Maintain good ventilation at the workplace, e.g. well-maintained and clean air-conditioning system, and/ or open as many windows as possible for better ventilation.
- ◆ Disinfect commonly-used equipment with diluted solution of household bleach (1 part bleach: 99 parts water) when necessary.
- ◆ Keep the workplace, particularly the floor, carpets, doors, windows and ventilation systems, clean.
- ◆ Ensure toilet facilities are properly maintained.
- ◆ Provide liquid soap, lidded rubbish bin, disposable towels and a hand-dryer in toilets.

#### Enhancing employees' personal hygiene

- ◆ Keep hands clean and wash hands properly. Alcohol-based handrub is also effective when hands are not visibly soiled.
- ◆ Avoid touching poultry, birds or their droppings, because infected poultry, birds or their droppings may carry the avian influenza virus.
- ◆ Wash hands thoroughly with liquid soap promptly if they are dirtied by respiratory secretions (e.g. after sneezing or coughing), or after touching poultry, birds or their droppings.

- ◆ Cover nose and mouth when sneezing or coughing. Always wrap nasal and mouth discharges with tissue paper, and dispose of the tissue paper properly in a lidded rubbish bin and then wash hands thoroughly.
- ◆ Wear a mask when symptoms of respiratory tract infection or fever develop. Seek medical advice promptly.
- ◆ Refrain from work if symptoms of influenza develop, stay at home and avoid going to crowded or poorly ventilated places.

#### Employers should take the following measures

- ◆ Ensure that the workplace is kept clean and hygienic.
- ◆ Provide adequate and proper face masks, gloves and other personal protective equipment when necessary. Ensure that the workers are using such personal protective equipment properly.
- ◆ Communicate the relevant health advice and guidelines to employees.
- ◆ Remind staff of the importance of good personal hygiene.
- ◆ Remind employees to consult a doctor in case of fever or cough, and not to go to work in case of fever or as advised by the doctor.
- ◆ Develop contingency plans for keeping the workforce safe and secure as far as practicable.

### Rights and Obligations

Employers and employees should show understanding to each other. We appeal to employers to adopt a considerate, compassionate and flexible attitude in dealing with sick leave and absence from work.

#### (A) Rights and obligations of employers and employees under the Employment Ordinance (EO)

##### (1) For an employee who has contracted avian influenza

- ◆ Where an employee has contracted the disease, sick leave should be granted by the employer. Under the EO, the employee is entitled to sickness allowance (equivalent to four-fifths of the employee's average daily wages) if:
  - the sick leave is supported by an appropriate medical certificate;
  - the sick leave is not less than 4 consecutive days; and
  - the employee has accumulated sufficient number of paid sickness days.

- ◆ An employer should not terminate an employee's contract of employment during paid sick leave. Such action is an offence under the EO.
- ◆ Where a sick employee has not accumulated sufficient paid sickness days to cover the period of sick leave, we urge the employer to be compassionate and to consider granting the employee paid sick leave.

**(2) For an employee subject to isolation or quarantine ordered by a Health Officer**

- ◆ As the Health Officer will issue a written order to the employee concerned, the same advice as stated in section (A)(1) above applies.

**(3) Other than those circumstances stated in section (A)(2) above, for an employee who has been asked by his employer to stay away from work because the employee has family members or relatives with the disease, or in the case of the employer closing the workplace for fear of the spread of the disease**

- ◆ The EO does not provide for suspension of employment in such circumstances. The employer may agree with the employee to take annual leave which the employee has earned or to advance annual leave to the employee.

**(4) For a pregnant employee who is concerned about possible infection at the workplace**

- ◆ While the EO does not provide for absence from work in these circumstances, it requires an employer not to assign to a pregnant employee duties injurious to her pregnancy if she can produce a medical certificate with an opinion indicating her unfitness to do such work.
- ◆ In view of the special situation, the employer should, as far as possible, work out with the employee mutually acceptable arrangements. We urge employers to be sympathetic and flexible.
- ◆ We urge the employer to be compassionate and to consider granting the employee paid leave until the avian influenza comes under control. The employer may agree with the employee to take annual leave which the employee has earned or to advance annual leave to the employee.
- ◆ If both parties agree, the employer may redeploy the employee to a position with no or less contact with the public, or allow her to work from home by using telephone, e-mail, fax etc.

**(5) For foreign domestic helpers (FDHs)**

- ◆ As for FDHs who live at their workplace, we urge employers to be considerate and render assistance to

their helpers in case the latter contract the disease.

- ◆ Employers are reminded that FDHs are entitled to the same rights and benefits as other employees under the EO (e.g. sick leave and pay) and the Employees' Compensation Ordinance (e.g. compensation if the helpers contract the disease due to their employment).

**(B) Rights and obligations of employers and employees under the Employees' Compensation Ordinance (ECO)**

**For an employee who has contracted avian influenza due to his employment**

**(1) As a prescribed occupational disease**

- ◆ Avian influenza A is an occupational disease prescribed under the ECO.
- ◆ If an employee suffers incapacity or dies as a result of avian influenza A, and the employee has been engaged in the specified trade, industry or process at any time within the 14-day period immediately preceding such incapacity or death, it shall be presumed that the disease is due to the nature of such employment. The employee is entitled to receive compensation under the ECO.
- ◆ The specified trade, industry or process include any occupation involving close and frequent contacts with a source or sources of avian influenza A infection by reason of employment :
  - as a worker engaged in the handling of poultry or birds or their uncooked remains or residues, or their untreated products, that are a source of avian influenza A infection, or in a service ancillary to that handling;
  - as a research worker engaged in research in connection with avian influenza A, or in a service ancillary to that research; or
  - as a laboratory worker engaged in the handling of materials that are a source of avian influenza A infection, or in a service ancillary to that handling.

**(2) Contracting the disease by an accident arising out of and in the course of employment**

- ◆ For an employee who contracts the disease but his nature of work does not fall within the above specified trade, industry or process, he may claim compensation under section 36(1) of the ECO if it can be proved that the disease is a personal injury by accident arising out of and in the course of employment. In case of a dispute that cannot be resolved with the Labour Department's assistance, the final decision rests with the court.

**Responsibilities of employers under the ECO**

- ◆ Depending on the extent of incapacity, the items of compensation under the ECO include periodical payments, medical expenses, compensation for permanent incapacity or death etc.
  - ◆ An employer must notify the Commissioner for Labour within 14 days if the disease results in incapacity of the employee or 7 days if the employee dies, irrespective of whether the disease gives rise to any liability to pay compensation.
  - ◆ An employer shall not terminate the contract of employment of an employee who is entitled to compensation before relevant certificate has been issued under the ECO or other relevant conditions as stated in the Ordinance have been met.
- (C) Other important points to note**
- ◆ Under the Occupational Safety and Health Ordinance, the employer must, so far as reasonably practicable, ensure the safety and health at work of all employees.
  - ◆ Where it is confirmed that any employee of the workplace has contracted the disease, the employer must thoroughly cleanse and disinfect the work premises, and clean its ventilation system. The employer should inform other relevant staff immediately.

**Further information**

The Labour Department stands ready to assist individual employers and employees on labour issues. For enquiries, call our hotline on 2717 1771 (operated by "1823"), or browse the Department's website at [www.labour.gov.hk](http://www.labour.gov.hk).

For further information on avian influenza, please call the 24-Hour Health Education Hotline of the Department of Health on 2833 0111, visit the Prevention of Avian Influenza website at [www.info.gov.hk/info/flu/eng/home.htm](http://www.info.gov.hk/info/flu/eng/home.htm) or Centre for Health Protection's website at [www.chp.gov.hk](http://www.chp.gov.hk).

Labour Department April 2013 edition