

**立法會**  
**Legislative Council**

LC Paper No. LS61/10-11

**Paper for the Subcommittee on Revised Code of Practice on  
Employment under the Disability Discrimination Ordinance**

This paper sets out the latest position of the Equal Opportunities Commission (EOC) in relation to the definition of future disability as set out in paragraph 3.4.2 of the Code of Practice on Employment under the Disability Discrimination Ordinance (2011) (LC Paper No. CB(2)1710/10-11(01)) (Code)<sup>1</sup>.

Background

2. Paragraph 3.4.2 of the Code states that future disability means a disability that might develop in the future, with the case, *K & Ors v Secretary for Justice* [2000] 3 HKC 796 (Case), cited in footnote 7 for reference. An example is then given of an employee, who is a Hepatitis B carrier, being dismissed because her employer thinks that she would develop liver cancer in the future (Example). It is suggested that her employer could be liable for disability discrimination.

3. At the meeting of the Subcommittee held on 11 May 2011, the EOC, in response to our enquiry raised in respect of the definition of future disability as provided in the said paragraph, confirmed that the meaning so stated was accurate. We, however, explained that future disability, as held in the Case, means a future disability predicated by a past disability and the risk that it refers to is the possibility of recurrence of the past disability, not the risk of acquiring any disability (copy of the relevant extract of the Case is at Annex)<sup>2</sup>. Accordingly, the definition of future disability as mentioned in that paragraph fails to indicate that a future disability is a future disability predicated by a past disability.

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<sup>1</sup> Please note that the name of the Revised Code of Practice on Employment under the Disability Discrimination Ordinance is proposed to be changed to "Code of Practice on Employment under the Disability Discrimination Ordinance (2011)".

<sup>2</sup> Please see pages 805E to 806G of the Case. It should be noted that one of the deputations has also raised similar comment earlier.

Latest EOC's Position

4. On 12 May 2011, EOC informed the Legislative Council Secretariat that amendments would be proposed to paragraph 3.4.2 of the Code and the Example to reflect the meaning of future disability as held in the Case.

Encl.

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