

**Meeting of Legislative Council Panel on Constitutional Affairs
on 17 June 2013**

The Work of the Equal Opportunities Commission (EOC)

Functions and Powers of EOC

1. As stipulated in the four anti-discrimination ordinances, the Commission shall:

- (a) work towards the elimination of discrimination, harassment and vilification;
- (b) promote equality of opportunity between persons: regardless of gender, disability, family status, and race;
- (c) encourage persons who are concerned with the matter related to any unlawful discriminatory act to effect settlement by conciliation; and consider granting assistance to a person in instituting proceedings under the ordinances concerned, where there has not been a settlement;
- (d) review the working of the ordinances and submit proposals for amendment as necessary;
- (e) undertake or assist the undertaking of research and educational activities which are necessary or expedient for the performance of its functions;
- (f) issues codes of practices and guidelines under the Legislation; and
- (g) conduct formal investigations for any purpose connected with the carrying out of its functions as it thinks fit or as directed by the Chief Secretary for Administration.

Governance

2. Members of the EOC currently comprise a full time Chairperson and 16 Appointed Members (Name list at Appendix 1). They form the Commission's governing body, with statutory authority to perform the above functions and exercise the powers of the Commission.

Our Finances

In the financial year up to 31 March 2013, we spent HK\$97.28M, HK\$95.44M of which came from Government Subventions.

Our Staff

As at 31 May 2013, we had 95 full-time staff and a few part-time staff, with 4 officers at senior ranks (including the Chairperson) comparable to Directorate Ranks in the HKSAR Civil Service.

Our Work

3. During 2012/13 we:

- responded to 16,672 public enquiries, handled 929 complaints, and self-initiated 108 investigations (i.e. without complaints received)
- processed 34 applications for legal assistance and acted on seven cases of legal action involving the relevant ordinances
- made five submissions on equality issues in relation to United Nations' different international instruments and Legco Panels
- announced four survey results on matters relating to equal opportunities
- advocating policy changes by organizing large scale seminars and meetings with senior government officials including the then CE-elect
- conducted 428 publicity and promotional activities
- undertook 139 talks/workshops, 411 training programmes, 36 visits , plus 254 drama performances at schools
- funded 65 Community Participation Programmes

The EOC's Three-year Strategic Plan

In performing our statutory functions, the EOC has identified the following five areas which we believe should be accorded higher priority:

1. The Discrimination Law Review (DLR)

Based on the EOC's experience, there are limitations and inconsistencies in the current anti-discrimination legislation. Available evidence of continued discrimination and inequality, even for those groups presently protected by the discrimination ordinances, highlights the need to strengthen the existing protection. The DLR is also necessitated by the HKSAR Government's international human rights obligations to promote equality and eliminate discrimination against different groups in society, including those under international treaties such as the International Covenant on Civil and Political Rights (ICCPR) and the International

Covenant on Economic, Social and Cultural Rights (ICESCR). Furthermore, there is a need to ensure Hong Kong keeps apace with significant modernization at the international level in the concepts of equality and eliminating discrimination, in order that appropriate protections are given under the law.

Given the EOC's statutory duty to keep under review and, where appropriate, to make submission to the Government to amend the Discrimination Ordinances, the Commission plans to undertake a comprehensive Discrimination Law Review of all the existing discrimination laws in Hong Kong. The EOC plans to take forward the DLR in five phases: an internal review by the EOC of the discrimination laws and their operation in practice; a public consultation with all key stakeholders and the general public on their views; an assessment of all the submissions and views expressed during the public consultation; drafting submissions and recommendations to the Government; and working with the Government on how the recommendations can be implemented. It is expected that public consultation will be launched some time in 2014.

2. Legal Protection for Sexual Minorities from Discrimination on the Basis of Sexual Orientation and Gender Identity

Sexual minorities continue to experience significant discrimination and harassment in the public sphere due to their sexual orientation and/or gender identity, which necessitates their protection under the law from discrimination. Moreover, the HKSAR Government has international legal obligation to eliminate discrimination on the basis of sexual orientation and gender identity, including those provided for under the ICCPR and ICESCR, as well as local legislation including the Basic Law and the Bill of Rights Ordinance. The United Nations Human Rights Committee has made specific recommendations to the HKSAR to adopt anti-discrimination legislation relating to sexual orientation and gender identity on a number of occasions, most recently in its concluding observations on the third periodic report of Hong Kong in light of the ICCPR, issued in March 2013.

The EOC aims to consult the public and make submissions to the Government on introducing legislation to protect against discrimination

on the basis of sexual orientation and gender identity. The proposed project involves three phases: internal EOC review of evidence of sexual orientation and gender identity discrimination in Hong Kong, international and domestic human rights obligations, and international best practices; a public consultation on possible proposals as to the contents of the provisions; and drafting submissions to the government after reviewing responses to the consultation. We intend to consult the public on this issue following the DLR consultation above. We are confident that the EOC's submission will complement any views and advice to be sought by the Government in this regard.

3. Education and Employment Opportunities for Ethnic Minorities

Ethnic minorities (EM) continue to face systemic barriers in pursuing equal education, which, in turn, limit their employment opportunities over their lifetime. The obstacles stem in large part from the lack of support EMs receive in learning Chinese in mainstream schools in the absence of a home language environment. EM students with special education needs and female EM students are also at higher risk for facing multiple discrimination. The HKSAR Government has international as well as local legal obligations to address this issue, which was recently highlighted by the UN Human Rights Committee in its concluding observations on the third periodic report of Hong Kong in light of the ICCPR. However, despite repeated appeals by the EOC and other stakeholders, progress on this front has been slow.

Moving forward, the EOC aims to continue its advocacy to the Government to take concrete action to address this issue, including urging the EDB to introduce an alternative standardized Chinese-language curriculum and assessment framework for non-Chinese speaking students and review its current policy of designated schools. The EOC will also continue discussions with the Civil Service Bureau and other relevant government organisations to encourage wider employment opportunities for ethnic minority candidates.

4. Integrated Education for Students with Special Education Needs (SEN) and its Impact on Employment Opportunities

A 2012 EOC Study suggests that resources, training and support for Integrated Education (IE) remain inadequate, which negatively impacts the ability of students with special educational needs to pursue equal opportunities in education and employment over their lifetime. Although IE policy has been in operation for over 15 years, there has been limited progress on this issue. This may contravene the right to equal access to education irrespective of disability, which is protected by a number of international instruments to which the Hong Kong Government is bound, in addition to local obligations under the Disability Discrimination Ordinance (DDO).

Going forward, the EOC has identified the following areas of priority for action: promoting early identification of students with special needs; increasing resources and manpower for special education; advancing public awareness on the IE policy; and enhancing and speeding up training for teachers.

5. Disability Discrimination in the Performance of Government Functions

The EOC has advocated to the Government to adopt a broader definition of “disability” by taking into consideration attitudinal and environmental barriers that hinder persons with disability from full participation in society. Different definitions of “disability”, such as that provided under the DDO versus those adopted by different policy and functional bureaux/departments of the Government in their provision of services, give rise to gaps when approaching issues and cases involving the EOC’s statutory power and duties. In some instances, certain categories of persons with disability are excluded from services provided by the Government, such as the Disability Allowance Scheme, which may be considered justifiable from an administrative convenience perspective but may not necessarily be in line with equal opportunity principles. The Government’s exclusion of inter-disability discrimination from their interpretation of “disability discrimination” may further invite allegations of discrimination. The EOC will continue to recommend to the HKSAR government to standardize the definition of disabilities and adopt the new International Classification of Functioning, Disability and Health (ICF), introduced by the World Health Organization, in formulating its policies and providing services to persons with disability and re-examine

its disability and rehabilitation policies and services to ensure that no disability discrimination should occur.

Furthermore, the EOC will also devote due resources to three ongoing major undertakings, briefly summarized below:

1. Anti-Sexual Harassment Campaign

Elimination of sexual harassment has always been the work priority of the EOC since its establishment. In an effort to approach the problem from a policy perspective, a structured anti-sexual harassment campaign targeted at the education and business sectors will be launched by the special Working Group under the EOC's Policy and Research Committee (PARC). Various planned initiatives include research studies; training packages; and public education activities.

2. Review of the Code of Practice on Employment under the Sex Discrimination Ordinance (SDO)

The Code of Practice (CoP) on Employment under the SDO has been in effect since 1996. Over the past years the EOC has gathered operational experience in relation to the ordinance in parallel with developments in legal jurisprudence. Following the recent revision of the DDO CoP on Employment in 2011, we are now embarking on revising the SDO CoP on employment so that it continues to instill good employment practices, provide clarity to employers and employees on the application of the law, and encourage a strong partnership between employers and employees towards an equal workplace for all.

3. Follow-up on the Formal Investigation Report on Accessibility in Publicly Accessible Premises

Following the release of the EOC's Formal Investigation Report on Accessibility in Publicly Accessible Premises in June 2010, improvement programmes and retrofitting measures to provide barrier-free access have been and are still undertaken by the Government and the Link. The EOC will continue to advocate accessibility in the built environment as well as in information and communications technology, such as widening adoption of web accessibility features and design, in order to address accessibility issues in Hong Kong which affect hundreds of thousands of people with disabilities, the elderly and other people with

special needs.

Conclusion

The EOC remains committed to achieving our vision of fostering an inclusive society with no barriers to equal opportunities. We believe the above identified priority areas and initiatives deserve careful attention and allocation of resources. Our planned actions would not be possible without the support of the Legislative Council and the community, as well as the wise counsel of EOC Members and the diligence and commitment of EOC colleagues. The EOC will continue to listen to the views of different stakeholders. By working together, we can attain a higher level of fairness and social justice, and build a community with equal opportunities for all.

Equal Opportunities Commission
June 2013

Membership Listing
Equal Opportunities Commission
平等機會委員會成員

Updated on 20 May 2013

Chairperson 主席

Dr. CHOW Yat-ngok, York (周一嶽醫生)

Members 成員

1. Ms CHIU Lai-kuen, Susanna (趙麗娟女士)
2. Ms CHOI Hing-shi, M.H. (蔡杏時女士)
3. Mr. CHOW Ho-ding, Holden (周浩鼎先生)
4. Dr. KOONG May-kay, Maggie (孔美琪博士)
5. Dr. Trisha LEAHY (李翠莎博士)
6. Dr. Hon LEE Kok-long, Joseph, S.B.S., J.P. (李國麟博士)
7. Mr. LUI Tim-leung, Tim, B.B.S., J.P. (雷添良先生)
8. Mr. Amirali Bakirali NASIR, J.P. (黎雅明先生)
9. Ms NG Wing-mui, Winnie (伍穎梅女士)
10. Mr. Zaman Minhas QAMAR (金志文先生)
11. Ms Su-Mei THOMPSON (周素媚女士)
12. Dr. TSANG Kit-man, Sandra, J.P. (曾潔雯博士)
13. The Hon TSE Wai-chun, Paul, J.P. (謝偉俊議員)
14. Dr. TSE Wing-ling, John, M.H. (謝永齡博士)
15. Ms WONG Ka-ling, Garling (黃嘉玲女士)
16. Mr. YIP Siu-hong, Nelson, M.H. (葉少康先生)