

**Meeting of the Legislative Council
Panel on Constitutional Affairs
20 June 2016**

**Work Progress and Major Initiatives of the
Equal Opportunities Commission**

Purpose

This paper provides an update on the work progress of the Equal Opportunities Commission (EOC) in respect of its strategic priority work areas, and sets out the major focuses and initiatives of the EOC in 2016/17.

Statutory Role and Functions of the EOC

2. The functions and powers vested in the EOC are set out in the four anti-discrimination ordinances, namely Sex Discrimination Ordinance (SDO) (Cap 480), Disability Discrimination Ordinance (DDO) (Cap 487), Family Status Discrimination Ordinance (FSDO) (Cap 527), and Race Discrimination Ordinance (RDO) (Cap 602). As stipulated in the Ordinances, the Commission shall:

- (i) work towards the elimination of discrimination, harassment and vilification;
- (ii) promote equality of opportunity between persons: regardless of gender, disability, family status and race;
- (iii) 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;
- (iv) review the working of the ordinances and submit proposals for amendment as necessary;
- (v) undertake or assist the undertaking of research and educational activities which are necessary or expedient for the performance of its functions;
- (vi) issues codes of practices and guidelines under the Legislation; and
- (vii) 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.

Work Priorities and Progress

3. At the meeting of the Legislative Council Panel on Constitutional Affairs (the “Panel”) on 20 July 2015, Members were briefed on the progress of the priority work areas in the EOC’s three-year strategic plan, which were developed after extensive consultation with stakeholders and endorsed by the EOC Board. As detailed in LC Paper CB (2)1908/14-15(03), these strategic priorities included:

- (i) Discrimination Law Review (DLR);
- (ii) Legal Protection for Sexual Minorities (lesbian, gay, bisexual, transgender and intersex, or LGBTI persons) from Discrimination on the Basis of Sexual Orientation, Gender Identity and Intersex Status;
- (iii) Education and Employment Opportunities for Ethnic Minorities (EM);
- (iv) Integrated Education for Students with Special Educational Needs (SEN) and its Implication on Employment Opportunities;
- (v) Adopting an Updated and Unified Definition of Disability in the Performance of Government Functions; and
- (vi) Anti-Sexual Harassment Campaign in the Community.

The Commission is pleased to report that further progress has been made in these work areas, in particular for the first two items, on which the EOC already released its reports and recommendations, as summarised in the paragraphs below.

Discrimination Law Review – Submission to the Government

4. The Discrimination Law Review (DLR) was the most comprehensive and far-reaching review of the anti-discrimination legislation ever conducted by the EOC, since the Commission came into establishment in 1996. The review, which served to simplify, harmonise and modernise the anti-discrimination legislation, attracted overwhelming response from the public, with a total of 125,041 public responses (288 from organisations; 124,753 from individuals) collected during the consultation period in 2014 – the largest number ever received in any single consultation exercise by the EOC. Having carefully and thoroughly reviewed the responses, taking into account the EOC’s operational experience, evidence of discrimination and relevant legal and policy developments locally and internationally, the EOC formulated a total of 73 recommendations on reforms to the anti-discrimination ordinances. To facilitate the Government to take forward these proposals, the EOC further identified 27 priority areas for legislative or related reforms. In March 2016, the EOC published its Submission to the Government, along with the Report on Responses to the public consultation, having sought the endorsement of the EOC Members.

5. During the public consultation, two issues drew extensive public interest, namely extending the protection of RDO to cover discrimination on the grounds of nationality, citizenship, and residency status; and providing protection against marital and family status discrimination, and possible legal recognition, for persons in cohabiting relationships. The EOC believes that the laws should be reformed to afford such protection, but proposes that the Government first conducts further research or consultation. This would enable the Government to determine the content and scope of the provisions, the exceptions that should apply, and also to take into account the evidence of relevant stakeholders.

6. The EOC met the Government shortly before the publication of the Submission to provide a broad overview and some of the key recommendations in the Submission. Subsequently the Submission and the Report on Responses were sent to the Government after these were published. In addition, a series of briefings had been and will continue to be arranged for different groups of stakeholders, including the NGOs and concern groups representing women, persons with disabilities (PWDs) and ethnic minorities, and the Chambers of Commerce, to explain in details the EOC's proposals. In May 2016, the Government requested the EOC to provide further information relating to some of the law reform proposals, and the EOC had duly done so. The EOC will continue the discussion and engagement with stakeholders, and follow up with the Government on the proposed legislative reforms.

Legal Protection for Sexual Minorities from Discrimination on the Basis of Sexual Orientation, Gender Identity and Intersex Status – Findings of the Study

7. As mentioned at the Panel meeting in July 2015, on top of administering the existing anti-discrimination ordinances, the EOC has also been advocating on other discriminatory issues, including discrimination on the grounds of sexual orientation, gender identity and intersex status. In order to gain better insight and perspectives of the discrimination experienced by the LGBTI communities, and solicit views on the approaches to combat discrimination, the EOC commissioned the Gender Research Centre (GRC) of the Hong Kong Institute of Asia-Pacific Studies at The Chinese University of Hong Kong (CUHK) to conduct a “Study on Legislation against Discrimination on the Grounds of Sexual Orientation, Gender Identity and Intersex Status” (the “Study”) in May 2014.

8. Employing mixed methodologies, including both qualitative and quantitative approaches, the Study was the most comprehensive of its kind in Hong Kong in terms of both its scope and the methodologies used. It was also the first study to analytically

investigate similar legislation in other jurisdictions, including those influenced by the Chinese culture, to consider what lessons can be learnt and applied in Hong Kong. In January 2016, the EOC released the findings of the Study, which showed that discrimination against LGBTI people is a common occurrence in Hong Kong. Importantly, the Study also found that public opinion has visibly shifted in favour of legislation against discrimination on the grounds of sexual orientation, gender identity, and intersex status. Over half (55.7%) of the telephone survey respondents agreed with the introduction of legislation – nearly double the comparable figure from a decade ago. Notably, the vast majority (91.8%) of youth respondents considered anti-discrimination legislation necessary, while nearly half (48.9%) of those with religious views also concurred.

9. In view of the findings, the EOC called on the Government to consider conducting comprehensive consultation on the introduction of anti-discrimination legislation on the grounds of sexual orientation, gender identity and intersex status as soon as possible, so that everyone in the community can express their views and play a part in the formulation of the legislation. In addition, the EOC urged the Government to give further consideration to explore claims about possible discrimination on the grounds of religion or belief, given that there are few studies about the extent of discrimination on the grounds of religion or belief in Hong Kong. Other recommendations include encouraging dialogue and better understanding between different groups on the issue of LGBTI discrimination through various avenues, such as public forums or workshops; ensuring frontline Government officials and staff of public bodies who are providing public services are given appropriate training and guidelines to avoid discriminatory behaviour; widening public education to dispel myths and misconceptions about LGBTI people; and expanding support measures targeted at LGBTI people.

10. The EOC already presented the report on the Study to the Government. The Commission believes that the Study, in providing a comprehensive picture of the situation of discrimination against LGBTI people in Hong Kong, can serve as an evidence-based foundation and provide useful reference for the Government and related parties towards advancing equality and considering legislation on this front. The Study would also complement the effort of the Advisory Group on Eliminating Discrimination against Sexual Minorities, which submitted its report on discrimination against sexual minorities to the Government in end-December 2015.

11. Looking ahead, the EOC will continue its advocacy on advancing equality for the LGBTI communities, and urge the Government to make extensive studies and consultation to kick-start the legislative process as soon as possible, given the

evidence that the LGBTI groups are being discriminated against in their everyday lives and yet they are not protected sufficiently under the existing legal framework. The EOC will also play the role of a “facilitator” in the dialogue and discussion on the subject among different parties. It is encouraging to note that both the camps in support and opposition of the legislation have indicated their willingness to come together and participate in joint meetings facilitated by the EOC. These meetings will provide a much-needed platform for both sides to understand each other’s concerns.

Major Focuses and Initiatives of the EOC in 2016/17

New Leadership and Vision

12. Moving into 2016/17, the EOC has reached a milestone in its history, having come into operation for 20 years. Building on its work in the past years, the Commission will continue to stand at the forefront in the advancement of equal opportunities in Hong Kong. On 11 April 2016, Professor CHAN Cheung-ming, Alfred came on board as the new Chairperson of the EOC, bringing with him in-depth knowledge and expertise on social issues, especially ageing, race and disability-related issues, and extensive experience of serving advisory and statutory bodies of different policy areas. Professor Chan shall steer the EOC to take forward its initiatives on various fronts. His vision is to strengthen the EOC’s role as a forerunner and driver in mainstreaming equal opportunities across different sectors and segments of the Hong Kong society.

13. The EOC recognises that mainstreaming equal opportunities is a long-term goal. It requires changes at many levels, including legal, systemic and institutional changes, as well as changes in the practices, procedures and culture of organisations. To effect these changes, it is vital to have commitment from the top level, notably leaders in both public and private sectors, and consistent and concerted actions from all. As such, the EOC will continue its ongoing engagement with the Government and various sectors to advance and mainstream equality, particularly in education, training and employment, and in the provision of public services, by adopting the following strategies:

- (i) Influence the Government to incorporate the concepts of equal opportunities and diversity in its policy-making process, and take the lead to put in place appropriate measures for advancing equality, such as increase employment of PWDs and EM.
- (ii) Mobilise organisations to integrate EO into their business planning and daily operation, by highlighting the benefits of a diverse workplace, and providing concrete, practical guidelines on anti-discriminatory policies.

Equip staff at different levels with the skills and knowledge of equal opportunities through training, and assist organisations in reviewing or auditing their policies.

- (iii) Work with the educational sector to make equal opportunities an integral part of the curriculum, for both the classroom and teacher training, in view of the importance of instilling the concepts of EO into children at a young age so as to build a correct mindset. Facilitate application of the anti-discrimination ordinance in the school setting through training and guidelines for educational professionals.
- (iv) Tackle the structures, behaviours and attitudes that contribute to and sustain the inequality and discrimination in society, including gender inequality, as well as equal educational and employment opportunities for EM communities and PWDs, through implementation of the legislation. Work with the organisations representing the disadvantaged groups on empowering the individuals to compete with others on equal grounds.
- (v) Establish inequality evidence base through the collection of data, research and surveys among stakeholders and the public.
- (vi) Expand the mileage of publicity through new platforms. Riding on the 20th anniversary of the operation of the EOC in 2016, implement a range of educational and publicity programmes citywide, including a multimedia competition, roving exhibition and publication, for raising greater awareness and understanding of the concepts of equal opportunities among the community at large.

The paragraphs below summarised the major work areas and initiatives of the EOC targeting different groups in 2016/17.

Equal Opportunities for Women

14. Promoting gender equality and advancing women's empowerment have always been priority issues for the EOC. Notwithstanding cross-sector effort to enhance sexual equality, women in Hong Kong continue to face different barriers, such as gender stereotypes and prejudices, which prevent them from realising their full potential. In 2016/17, the EOC will implement the following initiatives to advance and mainstream gender equality.

Sexual Harassment

15. Preventing sexual harassment in different domains and sectors remains an ongoing commitment of the EOC, given the negative impact of this unlawful act on

both individuals and organisations. On average, about 30% of the 300-plus complaints received by the EOC under the SDO each year related to sexual harassment in the workplace. In order to promote the importance of preventing sexual harassment to both employers and employees across different sectors, the EOC set up a Working Group on Anti-Sexual Harassment Campaign in 2012. Over the past few years, the EOC initiated and published various surveys to examine the extent of sexual harassment in schools and universities, as well as the business sector, particularly the service industries. In May 2015, the EOC further announced the findings of the “Questionnaire Survey on Sexual Harassment for the Sports Sector”, which showed that almost 90% of the responding national sports associations or NSAs had not formulated an anti-sexual harassment policy.

16. To follow up on these survey findings, the EOC formulated policy frameworks, and organised seminars and training workshops for the respective parties, such as school principals, administrators and teachers. With due regard to the limited resources of small- and medium-sized enterprises (SMEs) in developing and enhancing their sexual harassment policies, the Commission published a booklet on tips of preventing sexual harassment, and lined up a range of seminars and talks for the SMEs. In 2016/17, the EOC will further expand the scope of work, by collaborating with the social service sector on seminars and training workshops for NGOs, with a view to assisting the agencies in establishing in-house policy for dealing with sexual harassment complaints from both internal staff and service users. As part of the EOC’s Submission to the Government on the Discrimination Law Review, the Commission has recommended the Government to improve the protections from sexual harassment, for example, by making it unlawful to sexually harass people in common workplaces such as volunteers. The Commission will continue to work with different stakeholders on putting in place policies and mechanisms for combating sexual harassment.

Pregnant and Breastfeeding Women

17. Women continue to face discrimination on grounds of pregnancy, during maternity leave and after returning to work. Findings from the EOC’s “Study on Pregnancy Discrimination and Negative Perceptions Faced by Pregnant Women and Working Mothers in Small and Medium Enterprises (SMEs)” released in May 2016 showed that unfavourable treatment of pregnant employees and working mothers remains in the Hong Kong SME workplace. Overall, over one in five (22%) employee respondents reported that they were discriminated during pregnancy, maternity leave, and/or within the first year after returning to work from giving birth. Based on the study findings, the EOC has made a number of recommendations for action by the

Government and other key stakeholders, such as enhancing education for both employers and employees about their rights and responsibilities. In addition, as part of the EOC's Submission to the Government on the Discrimination Law Review, the Commission has recommended the Government to introduce a statutory right for women to return to their previous role at work after maternity leave. The EOC has also recommended that an express provision be introduced to prohibit direct and indirect discrimination on grounds of breastfeeding. Indeed, the EOC has been advocating for stronger policies and infrastructure, including friendly workplace policies, to enable mothers to breastfeed their child. As part of the advocacy effort, the Commission will actively promote the provision of breastfeeding facilities in both public places and commercial premises.

Women in Public Life and Policy-making

18. Although women form 48% of Hong Kong's labour force, they make up only 31% of the city's managers and administrators¹, and only 11.1% of the board of Hang Seng-listed companies². Furthermore, women are under-represented in public affairs – whether in elected offices³ or the civil service⁴. Such under-representation of women remains a persistent trend despite the Government's effort to mainstream gender equality, such as increasing the benchmark for appointing women to Government advisory and statutory bodies in 35% in 2015. In order to obtain a more in-depth understanding of the types of gender quotas adopted in different countries and examine views of desired political leaders among the general public in Hong Kong, the EOC is planning to conduct a “Study of Female Political Leadership and Gender Quotas in the Government” in 2016, with a view to making policy recommendations on increasing female representation in political and public offices in Hong Kong.

Education and Employment Opportunities for Ethnic Minorities

19. Constituting about 6% of Hong Kong's population, ethnic minorities form an integral part of Hong Kong. The EOC is committed to empowering the EM communities so that they can enjoy equal access to the full spectrum of opportunities available in the city. With additional funding from the Government, the EOC set up an

¹ Census and Statistics Department, “Women and Men in Hong Kong: Key Statistics 2014 Edition”

² Community Business, Women on Boards Hong Kong 2016 Report

³ Among the 70 Legislative Councillors elected in 2012, only 15.7% were female, while the corresponding figure for the District Council members in 2011 was 18.5%. Source: Submission by the EOC to the Office of the High Commissioner for Human Rights, United Nations on Equal Participation in Political and Public Affairs in Hong Kong, January 2015

⁴ In 2014, 34.3% of directorate offices in the civil service were female. Source: Speech by the Chief Secretary for Administration of HKSAR at the International Women's Day Forum on 21 March 2016

Ethnic Minority Unit (EM Unit) in 2015. Adopting a three-pronged approach of Policy Advocacy, Training and Outreach, the Unit is tasked with:

- (i) Improving equal educational opportunities for EM students;
- (ii) Enhancing employment opportunities of EM, especially those young school leavers with limited career choices;
- (iii) Deepening social inclusion and understanding between EM and Chinese communities; and
- (iv) Educating providers of goods, services and facilities on cultural sensitivity when serving EM customers.

Education

20. In terms of improving the equal educational opportunities for EM students, the Unit has been monitoring the implementation of the “Chinese Language Curriculum Second Language Learning Framework” (“Learning Framework”) by the Government and the enhanced support for non-Chinese speaking (NCS) students. Through meetings with different stakeholders, including parents, teachers, scholars and NGOs, the EM Unit gathered feedback on the measures, and put forward suggestions on improvement to the Education Bureau, such as strengthening professional training on the Learning Framework for teachers, and intensifying publicity of the support available to the EM communities. In view of the fact that the Learning Framework has been introduced for a few years since 2014/15, the EOC is calling upon the Education Bureau to provide periodic progress report on the implementation, with a view to enhancing transparency and accountability, and updating stakeholders on the effectiveness of the measures.

21. The EOC has also been calling on the Government to enhance the support to EM children, given that language acquisition is most effective at an early age, preferably during the pre-school years. Such support can help the children build a solid foundation in the Chinese language, which would in turn facilitate their adaptation to the local curriculum in mainstream primary schools, and their early integration in society. Specifically, the EM Unit has recommended the Government to devise guidelines on fair admission to kindergartens, and strengthen support and teacher training accordingly, in view of the fact that many parents are not well informed about the admission procedures. According to media reports, some schools provide the information in Chinese only, and interviews in some kindergartens were conducted in Chinese (Cantonese).

22. To address the above situation, the EM Unit will publish a set of guidelines entitled “What You Should Know as School Management and Staff, Parents and Students under the RDO” in 2016/17. On top of introducing the definitions of racial discrimination, harassment and vilification, the guidelines will highlight the steps to be taken when racial discrimination happens, the liability of school staff, teachers, school administrators and students, and the suggested practices. The Unit will widely distribute the guidelines to local schools, and arrange talks and workshops for teachers and school administrators to enhance their understanding of the RDO, and the importance of adhering to the Ordinance in the admission and handling of applications by EM students.

Employment

23. In striving to enhance the employment opportunities of ethnic minorities, the EOC has repeatedly urged the Government to take the lead to recruit more EM civil servants. In July 2015, the EOC made a submission to the Legislative Council Panel on Public Service, followed by another one to the Subcommittee on Poverty in November 2015. In the submissions, the EOC highlighted that many EMs encounter systemic barriers in upward social mobility, owing to language problems and low educational attainment. As a result, they are often relegated to jobs with lower pay, more tedious and dangerous work and few opportunities for advancement. The Commission encourages the Government to conduct a comprehensive review of the language proficiency requirements (LPRs) and extend the adjustments to more ranks in all bureaux and departments, besides stepping up in-service training and support to lower-ranking EM civil servants so that they can meet the criteria for selection to promotion.

24. Simultaneously, the Unit has been working with the Labour Department to provide EM Employment Service Ambassadors stationed at the Job Centres with training on the anti-discrimination legislation, so that they can in turn assist the EM job seekers. Looking ahead, the Unit will intensify collaboration with the Labour Department, Employees Retraining Board and Vocational Training Council on the provision of employment services and vocational training for EMs, such as interpretation services for EM job seekers and options of vocational training. The Unit will also urge the Labour Department to step up the monitoring of the Chinese language requirement specified in job vacancies, and assess if it is justifiable. To further promulgate the application of the RDO and encourage local enterprises to hire more EM, the Unit will continue to organise workshops for the human resource personnel of SMEs. The Unit is also planning on a pilot campaign to promote culturally diverse workplace, under which major local enterprises will be encouraged

to hire more EM staff. The EOC is particularly concerned about those young people leaving schools without a good career path. Meetings have been held with the Education Bureau and other organisations on promoting mainstream career choices in the health and social service sectors. Yet their Chinese proficiency remains an issue to be resolved, and the EOC is actively exploring with the Education Bureau and other departments on ways of enhancing their career prospects, including the new Qualification Framework (in Chinese competence), which may be a viable alternative for the EM school leavers.

Access to Services

25. Aside from education and employment challenges, EM communities in Hong Kong also encounter significant language barriers and difficulties in accessing public services. To remove these barriers, the EOC has implemented a range of initiatives. For example, targeting the banking and real estate sectors, the EM Unit reached out to the Hong Kong Association of Banks, The Hong Kong Institute of Bankers and the Estate Agents Authority, and arranged training workshops for their members and practitioners in July 2015. These workshops were aimed to promote understanding of the RDO and enhance the cultural sensitivity of the service providers, especially the frontline staff. Similarly, workshops were arranged for civil servants from various bureaux and departments in January 2016.

26. For hospital services, the EM Unit has relayed the feedback of the EM communities to the Hospital Authority (HA), with particular focuses on the need for accessing hospital information in EM languages and the provision of interpretation services for EM patients. Given that the EM communities are generally not well aware of the interpretation services and other support measures specifically available to them, the EOC invited the HA, along with various Government bureaux and departments, to introduce their policies and services to the EM community leaders and the NGOs serving the communities at the EOC Annual Forum in November 2015.

27. In fact, the EM Unit has been playing a “bridging” role in connecting the EM communities with relevant Government departments and public bodies, such as the Police, to facilitate communication on their service needs. With respect to the concerns of the EM communities that interpretation service is not consistently offered, which often lengthens the service delivery process and, even worse, deters them from applying for the services, the EM Unit has submitted policy recommendations to a number of Panels and/or Sub-committees under the Legislative Council, urging the Government to offer interpretation service as a standard operation protocol for EM service users, and strengthen the cultural sensitivity training of Government officials

and frontline staff. In fact, similar initiatives are needed to cover essential services, including social work, housing and education, for the new arrivals. As a step further, the Chairperson has written to those Government bureaux/departments having frequent direct interactions with the EM communities on their responsibilities of providing fair access to service.

28. In 2016/17, the Unit will continue to organise thematic workshops and online training modules for banking staff, estate agents, civil servants and human resource personnel of SMEs. To further expand the coverage of the training, partnership with other industries, such as housing management and transport, will also be explored. The Unit will also propel the HA and other public bodies to enhance their services and special measures. In this regard, the Unit is planning to conduct sharing sessions with relevant Government bureaux/departments, to put forward suggestions for enhancing their operations. As part of the recommendations, the Government and public bodies, including HA, are strongly advised to recruit more EM staff. This will not only serve to overcome the language barriers experienced by EM service users, but will also further the integration of EM as an integral part of Hong Kong, and showcase their contribution to the society.

Equal Opportunities of People with Disabilities

29. The EOC holds great concerns about the barriers faced by people with disabilities (PWDs), which prevent them from accessing equal opportunities in education, employment and participation in society. In the EOC's Submission to the Government under the DLR, the Commission has made a number of recommendations that aim to eliminate the discrimination faced by PWDs. For example, the EOC has recommended the Government to amend the DDO, by introducing a distinct duty to make reasonable accommodation for PWDs in all relevant fields, including employment, education, and the provision of goods, services and facilities. The Commission has also recommended the Government to conduct public consultation and research on introducing a public sector equality duty to promote equality and eliminate discrimination on all grounds, including disability. The EOC will continue to follow up with the Administration on these recommendations.

Integrated Education for Students with Special Educational Needs

30. For years, the EOC has been urging the Government to increase the resources for integrated education, with a view to facilitating early identification and intervention of students with special educational needs (SEN) and disabilities, enhancing training for teachers and support for students, and advancing public

awareness of the integrated education policy. To date, there remain gaps in the public understanding and perception of integrated education, which underline the need for greater promotional effort by the Government and educational sector. While the Government has announced in the 2014, 2015 and 2016 Policy Address a range of initiatives to address the needs of students with SEN, the EOC will closely monitor the adequacy and effectiveness of these measures, and continue to solicit stakeholders' feedback. In addition, the EOC will continue to collaborate with the local tertiary institutions to tackle the obstacles faced by students with SEN and/or disabilities, which limit their access to tertiary education. Through the Local Tertiary Education Institutes Platform instigated by the EOC, discussion has been and will continue to be made on the support for tertiary students with SEN and disabilities.

Employment of PWDs

31. One of the major challenges faced by PWDs is unemployment. According to a study by the Hong Kong Society for Rehabilitation in 2013, the unemployment rate of PWDs and those with chronic diseases could be as high as over 50%. Unemployment has been one of the major causes of poverty endured by PWDs, which prevent them from leading a dignified and fulfilled life. In an EOC-funded research⁵ released in May 2015, 90% of the employer respondents indicated that they encountered barriers when hiring PWDs. These barriers included high rental fee and additional costs, such as for training, accommodation and supervision. Nearly 60% of them claimed that they have no plan to hire PWDs in the coming five years.

32. To correct such misconceptions, the EOC has been widely publicising the benefits and business return of hiring PWDs, as well as the support measures available to employers. In particular, the EOC has been urging the Government to take the lead and hire more PWDs, as the proportion of PWDs in the civil service at less than 2% is deemed too low. Through research and policy advocacy, as well as rendering legal assistance in disability discrimination cases, the EOC aims to raise public awareness of the discriminatory practices and remind employers that disability discrimination in the workplace is unlawful and that it is prudent to provide reasonable accommodation for employees with disabilities.

Accessibility – Barrier-free Access to Physical Environment/Premises

33. Another major obstacle faced by PWDs is the lack of independent and adequate access to premises and the facilities therein. As Hong Kong's population ages, the

⁵ "Survey on Employers' Attitudes towards Employment of People with Disabilities", Unleash Foundation Limited

EOC believes that the demand for better access and facilities for all will continue to grow, and the Government needs to step up the provision of barrier-free access. At present, buildings built before 2008 are not obliged to comply with the building standards set out in the “Design Manual – Barrier-Free Access 2008” and these standards do not apply retroactively to premises under the management of the Government or the Housing Authority. The EOC urges the Government to consider amending the relevant regulations under the Buildings Ordinance to require pre-2008 buildings to incorporate barrier-free facilities in accordance with the requirements in the Design Manual, and review and update the requirements under the Design Manual in order to meet the latest international standards as a matter of priority. In addition, the Government should incorporate the concepts and principles of “universal design” in the formulation and implementation of policies, and in the development of new Government projects.

Facilities for Persons with Mental Illness

34. In recent years, the declining mental health of the people of Hong Kong has raised serious concerns. To date, many people with mental illness continue to undergo experiences of stigma and discrimination, which impact their recovery and re-integration into the society. Survey by the EOC in 2011 showed that people with mental illness were consistently among the most stigmatised and avoided groups in different areas of life. In the 2009 Policy Address, the Government announced the setting up of Integrated Community Centres for Mental Wellness (ICCMWs) in 18 districts. These ICCMWs were intended to provide district-based one-stop support services to people with mental illness, their families and carers, as well as discharged mental patients, persons with suspected mental health problems, and residents living in the community. However, due to the stigma attached to mental illness, there had been strong community resistance to the setting up of ICCMWs in a number of districts during the public consultation stage, and a number of ICCMWs are yet to identify or relocate to their permanent sites.

35. In view of the difficulties encountered by the Government in finding permanent sites for the ICCMWs, the EOC initiated a “Study on the Challenges Encountered in the Siting of Integrated Community Centres for Mental Wellness and Other Social Welfare Facilities in Hong Kong”. The study involved interviews with the persons-in-charge or representatives of the 24 ICCMWs across the city, as they shared experiences and views of the causes of the difficulties in the establishment of the facilities. The EOC also wrote to the Government departments to enquire about the relevant details. The report of the Study is being finalised and will be released in July 2016. Following the release, the EOC plans to meet various District Councils, relevant

Government bureaux/departments to share with them the findings of the Study and to raise their awareness of the importance of treating persons with mental illness and PWDs equally. The EOC is also planning to conduct a further study “Not in My Backyard? Public Attitudes towards Community Health Facilities for Persons with Mental Illness” in 2016/17. The study is aimed to examine the perception of persons with mental illness and the siting of mental health facilities among the general public. Simultaneously, the EOC will continue its collaboration with stakeholders to strengthen public education with a view to removing the stigma associated with mental illness.

Enforcement of the Anti-Discrimination Legislation

Handling Enquiries and Complaints

36. In addition to the above focuses and initiatives, a large part of the EOC’s work is handling enquiries and complaints concerning discrimination from members of the public, in accordance with the statutory role and functions of the Commission. In 2015, the EOC handled 13,997 enquiries, as compared to 18,988 in 2014⁶. In general, the public enquiries handled by the EOC ranged from seeking information about discriminatory and equal opportunities issues to clarifying the application of the laws, and enquiring about specific scenarios of discrimination which might become the subjects of complaints later.

37. As for complaints, the EOC handled a total of 714 complaints under the four anti-discrimination ordinances in 2015, as compared to 828 in 2014. The majority of these complaints were lodged under the DDO, which took up 400 cases or 56% of the total number of complaints. Of these, 251 were related to employment, such as unlawful dismissal of employee(s) due to sickness or disability. In handling the complaints, the EOC has set a performance pledge of concluding 75% of the complaints within six months. In 2015, the EOC managed to conclude 77% of the cases within six months, with the average conclusion time being 142 days. Where appropriate, the EOC would endeavour to help the parties concerned resolve the dispute through conciliation. Conciliation is totally voluntary, and can be in the form of apology, monetary compensation, changing policies and practices, as well as revising work procedures and arrangements. In 2015, the successful conciliation rate was 67%, as compared to 73% in 2014.

⁶ The relatively higher number of enquiries in 2014 could be attributed to the strong public interest and in turn large number of enquiries concerning the EOC’s Study on Legislation against Discrimination on the Grounds of Sexual Orientation, Gender Identity and Intersex Status, which was launched in May 2014.

Providing Legal Assistance

38. Where conciliation is unsuccessful, a complainant or aggrieved party may apply to the EOC for assistance in taking legal action on the complaint. The Legal and Complaints Committee of the EOC is responsible for considering and deciding on whether or not to grant assistance to a particular case. The forms of legal assistance may include legal advice to the applicant by the EOC lawyers, legal services relating to the gathering and assessment of further information or evidence, or representation in legal proceedings by the EOC lawyers or by lawyers in private practice engaged by the EOC. In 2015, the EOC provided legal assistance for 22 cases, as compared to 17 in 2014. In fact, the number of legally assisted cases has been on the rise in recent years, from 13 in 2012 to 17 in 2014, and then 22 in 2015. In giving legal assistance or taking a case to court, the EOC not only aims to seek redress for the aggrieved parties, but also hopes to raise public awareness of the rights and responsibilities under the anti-discrimination ordinances.

Cost Control and Management

39. The EOC's operation is primarily funded by the Government. In 2016-17, the subvention from the Government stood at \$107 million. In terms of staffing, as at 31 May 2016, the EOC has 88 full-time staff, with 5 officers at senior ranks (including the Chairperson and Chief Operations Officer) comparable to the Directorate ranks in the civil service. As mentioned in the paper submitted to this Panel in July 2015, the EOC initiated a review of the organisational structure of the EOC and decided to reinstate the post of Chief Operations Officer (COO). Subsequently, the post of COO post was filled in December 2015. The realignment of duties between different divisions and re-ranking of certain directorate posts had also been determined. The EOC will monitor closely the effectiveness of the new structure and engage external experts and advisors to conduct a review later.

40. The EOC has all along adopted a stringent and prudent approach in managing and expending its resources, by vigorously controlling cost. Through the years, the EOC has strived to maintain its recurrent expenditure within the subvention amount provided by the Government, except for factors and/or circumstances beyond the EOC's control, under which the EOC, with the lack of additional funding from the Government, needs to tap into its reserve to cover the expenditure, as explained below:

- (i) Covering the increase in office rental (\$5.22M p.a.) – As mentioned in the paper for the Panel last year, the provision by the Government for the EOC's office rental remained at the same level when the EOC first started

up at \$22 per sq. ft. gross, despite that the current rental already rose to \$44.5 per sq. ft. gross. To cover the increase in office rent (about \$5.22M per annum), the EOC has been using its reserve while asking the Government to provide additional subvention for the purpose.

- (ii) Paying for the rental of additional office accommodation (\$1.26M p.a.) – To accommodate the staff members following the creation of the EM Unit in 2014/15 and the reinstatement of the COO post, the EOC leased an additional office nearby in 2015. The new office of 1,810 sq. ft. requires funding of \$1.26M per annum at \$49 per sq. ft. gross (inclusive of rent, rates, air-conditioning and management fees). While the Government has provided an additional funding of \$4.69M p.a. to the EOC for strengthening the promotional and education work relating to the RDO through enhanced manpower resources, no programme cost or other additional provision has been provided. As such, the EOC needs to tap into its reserve to cover the rental.
- (iii) Funding the COO post (\$2.96M p.a.) – The Director of Audit recommended in the Report No. 52 that the posts of the Chairperson and the COO should be separated in order to provide an effective system of check and balance. The Constitutional and Mainland Affairs Bureau (CMAB) had no objection in principle to the establishment of the COO post and had indeed provided the EOC with funding for the COO post ever since 2010/11. However, the CMAB subsequently withheld the recurrent subvention for the COO post in November 2012, and thereafter repeatedly advised the EOC that the subvention for the COO post would be withheld until the post was filled. Despite the fact that the COO post had been filled in mid-December 2015, the CMAB informed the EOC in March 2016 that the subvention of \$2.96M for the COO post would continue to be withheld in 2016/17 and furthermore, deducted from the EOC's baseline subvention starting from 2017/18.
- (iv) Meeting the additional shortfall in subvention for legal fees (\$1.5M p.a.) – As mentioned above, the number of cases with legal assistance from the EOC has been on the rise in recent years. On average, the amount of legal fees incurred by the EOC in the past three years totalled \$1.2M each year, against a provision of only \$0.46M by the Government. The projected amount of legal fees for 2016/17 is \$1.75M. To cover the shortfall, the EOC has to tap into its reserve which is most undesirable.

- (v) Covering the programme cost for the EM Unit (\$2.0M) – As mentioned above, the Government provided additional funding for the EOC to set up the EM Unit in 2014/15. However, no programme cost was provided. In 2015/16, the Government provided a one-off funding of \$2.2M for the promotion of the RDO and the amended SDO (protection of service providers from against sexual harassment by customers) by the EOC. However, no such funding was provided for 2016/17, without which the EOC cannot continue the programmes already rolled out or embark on other new initiatives.

41. The EOC is gravely concerned about using its reserves for meeting the above recurrent operational expenses, as the reserves should normally be set aside for new and one-off initiatives directly related to the promotion of equal opportunities, or for contingency purposes. As a result of the above expenditure, the EOC will undergo a structural deficit from 2016/17, with the estimated balance of the EOC's reserve dropping from \$21M (as at 31 March 2015) to \$5.41M at the fiscal year ending 2017/18, and the reserve fully exhausted in 2018/19 with a shortage of \$6.9M.

42. The EOC already informed the CMAB that the recurrent subvention provided by the Government is insufficient to cover the Commission's recurrent expenditure. The EOC has also indicated to the Government the need for a permanent office for the Commission, such as by using vacant school premise(s). However, the EOC's RAE Bid for the acquisition of a permanent premise in the past few years remained unsuccessful. The EOC has also explored other possible alleviation measures, such as identifying alternative office accommodation of lower rental. In doing so, the EOC needs to take into consideration a number of factors, such as whether the office is in a convenient location that offers easy access to major transport means for service users with disabilities and/or with special needs, possible fluctuations in market rental, and the substantial cost for relocation and set-up. In view of the above, the EOC believes that the long-term solution is for the Commission to move to a permanent office provided by the Government. Once again, the EOC respectfully seeks the support of Members of the Legislative Council for a permanent office and the Government to consider EOC's request as a matter of urgent priority.

Conclusion

43. The EOC is fully aware of the expectations of the community for the Commission to administer the anti-discrimination laws in a fair and just manner, to defend and speak up for the causes of human rights and social justice, and to advance the values of diversity and equality. All along, the EOC has been operating

independently and transparently, and under the scrutiny of the legislature and other external parties, such as the Ombudsman. In planning its work, the EOC is mindful of the need to adopt a forward-looking approach and cater to the needs of society. Over the last two decades, the Hong Kong society has evolved significantly. These changes, including the city's aging population and the shrinking working population, will have significant implications on the social and economic development, as well as equality landscape of the city. Indeed, the EOC will continue to remain sensitive to the socio, economic and political environment of Hong Kong, so that appropriate actions can be taken in a timely manner to address the latest emerging trends of the society and the community's aspirations for greater inclusion and equality, such as for addressing the discrimination faced by the aged and LGBTI persons. Having been in operation for 20 years since the implementation of Hong Kong's first anti-discrimination ordinance in 1996, the EOC is ready to take its work to the next level, and step up the effort to mainstream the concepts of equal opportunities in the society, by working closely with the Government and the Legislative Council, as well as different stakeholders and groups.

Equal Opportunities Commission
June 2016