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Subcommittee on Rights of Ethnic Minorities

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 23 January 2018**

**Implementation and review of the Administrative Guidelines
on Promotion of Racial Equality**

Purpose

This paper provides background information on the Administrative Guidelines on Promotion of Racial Equality ("the Administrative Guidelines") and summarizes the major concerns raised by the Panel on Constitutional Affairs ("the Panel") and by Members of the Legislative Council ("LegCo") on the Administrative Guidelines.

Background

2. The Administration introduced the Administrative Guidelines in 2010 to provide guidance to relevant bureaux and departments ("B/Ds") and public authorities to promote racial equality and ensure equal access to public services in key areas concerned. Under the Administrative Guidelines, relevant B/Ds and public authorities have drawn up checklists of measures that would assist in promoting racial equality and equal access to key public services to enhance the transparency of their work. The Administrative Guidelines cover key public services which are particularly relevant to meeting the special needs of ethnic minorities ("EMs") and facilitating their integration into the community, namely, medical, education, vocational training, employment and major community services. The Constitutional and Mainland Affairs Bureau ("CMAB") is responsible for coordinating and maintaining an overview on the implementation of the Administrative Guidelines in the Government as a whole, including monitoring implementation of the Administrative Guidelines, collecting relevant information and publicizing such information to the public.

Members' deliberations

Effectiveness of the Administrative Guidelines

3. The Administration consulted the Panel on the draft Administrative Guidelines on 7 July 2009 and briefed members on the implementation progress at its meetings on 19 October 2009 and 11 December 2009. Some members queried the effectiveness of the Administrative Guidelines to promote racial equality on the grounds that the draft Administrative Guidelines which were couched in abstract and broad terms would be implemented on a voluntary basis only. These members considered that a high-level monitoring mechanism led by the Chief Secretary for Administration ("CS") should be set up to ensure compliance within the Government. Members requested the Administration to provide adequate resources for B/Ds to implement the Administrative Guidelines.

4. The Administration advised that under the Policy Committee led by CS, all relevant policy secretaries were aware of the need to implement the Administrative Guidelines. Relevant B/Ds and public authorities had the obligation to comply with the Administrative Guidelines even though it was not legally binding for them to do so. The Ombudsman was empowered to investigate maladministration cases of relevant B/Ds in relation to failure to apply the Administrative Guidelines within the confines of The Ombudsman Ordinance (Cap. 397). CMAB would also maintain an overview on the implementation of the Administrative Guidelines within the Government. The Administration also assured the Panel that it would strive to provide the resources to meet the bid for additional funding from relevant B/Ds for the financial year 2010-2011 for the implementation of the Race Discrimination Ordinance (Cap. 602) and the Administrative Guidelines.

Implementation and previous review of the Administrative Guidelines

5. At the Council meeting of 20 November 2013, Hon CHEUNG Kwok-che raised a written question regarding the implementation of the Administrative Guidelines. The Administration advised that, where necessary, the relevant B/Ds and public authorities would issue updates on the information of the checklists of measures. As reflected by these relevant B/Ds and public authorities, the Administrative Guidelines had been implemented smoothly so far, and the relevant measures had received positive feedback from EM residents. The Administration would continue to review the implementation of the Administrative Guidelines as necessary and consider further extending the coverage of the Administrative Guidelines.

6. When the Panel discussed the outline of topics to be included in the third report of the Hong Kong Special Administrative Region under the International Convention on the Elimination of All Forms of Racial Discrimination at its meeting on 16 November 2015, Dr Hon Fernando CHEUNG urged the Administration to closely monitor the implementation of the Administrative Guidelines. The Administration advised that the application of the Administrative Guidelines had been extended from 14 B/Ds and public authorities in 2010 to 23 at present.¹ The implementation of the Administrative Guidelines, which was last reviewed in late 2014, had been smooth according to the feedback provided by relevant B/Ds.

7. At the Council meeting of 9 November 2016, Hon Andrew WAN raised a written question expressing concern that, despite the Administrative Guidelines, some government departments had still turned down EMs' requests for interpretation services when these EMs were seeking public services. Mr WAN also enquired whether the relevant authorities would upload the report of the review of the operation of the Administrative Guidelines, conducted by CMAB in 2014, onto government websites for public access. At the same Council meeting, Hon LAM Cheuk-ting also raised a written question to enquire about, among others, the outcome of the review in respect of the provision of interpretation services for EMs. In reply, the Administration advised that it would keep the scope, coverage and implementation of the Administrative Guidelines under review as appropriate, and share among departments effective measures to facilitate experience sharing and enhance the effectiveness of the Administrative Guidelines.

Recent review of the Administrative Guidelines

8. At the policy briefing cum meeting of the Panel on 16 October 2017, Hon Alice MAK, raised concern that it was not mandatory for B/Ds and other public authorities, including the Hospital Authority and the Housing Department, to keep disaggregated data on the ethnicities of their service users. In her view, such data would be useful for planning services for EMs. Hon LUK Chung-hung also suggested that performance indicators and a complaint-handling mechanism should be introduced in relation to the implementation of the Administrative Guidelines, and the publicity of the Administrative Guidelines should also be enhanced.

9. The Administration advised that it had embarked on a review on the implementation of the Administrative Guidelines in September 2017 in collaboration with various B/Ds. In addition, some B/Ds rolled out additional

¹ The list of the 23 B/Ds and other statutory bodies is in Note 1 of Appendix I.

measures to support EMs from time to time according to their operational experiences.²

10. At the Council meeting on 22 November 2017, Hon Alice MAK raised a written question on the review of the Administrative Guidelines. The question and the Administration's reply are in **Appendix I**.

Latest development

11. The Subcommittee will discuss the implementation and review of the Administrative Guidelines at the next meeting on 23 January 2018.

Relevant papers

12. A list of relevant papers on the LegCo website is in **Appendix II**.

Council Business Division 2
Legislative Council Secretariat
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² These additional measures are set out in items (i) to (v) on pages 2 and 3 of Appendix I.

Appendix I

Press Releases

LCQ19: Review of the Administrative Guidelines on Promotion of Racial Equality

Following is a question by the Hon Alice Mak and a written reply by the Secretary for Constitutional and Mainland Affairs, Mr Patrick Nip, in the Legislative Council today (November 22):

Question:

Quite a number of concern groups have relayed to me that the Administrative Guidelines on Promotion of Racial Equality (the Guidelines) is ineffective in ensuring the fair provision of public services to the ethnic minorities (EMs) by various government departments. Regarding the review of the Guidelines, will the Government inform this Council:

(1) when it will launch a comprehensive review of the Guidelines according to its plan, and whether it will consult this Council, concern groups and EMs when conducting such a review; if not, of the reasons for that;

(2) whether it will consider stipulating in the Guidelines standard guidelines on and procedure for various government departments to arrange the provision of interpretation services to EMs receiving public services; if so, of the details; if not, the reasons for that;

(3) whether it will consider stipulating in the Guidelines the requirement that various government departments must regularly collect data on the use of their services by EMs, so as to accurately assess (i) EMs' demand for public services and (ii) the performance of the departments concerned in delivering such services; if so, of the details; if not, the reasons for that; and

(4) whether it will consider stipulating in the Guidelines the performance indicators for evaluating and monitoring the implementation of the Guidelines by various government departments; if not, of the reasons for that?

Reply:

President,

The Government is committed to eliminating racial discrimination and promoting equal opportunities for ethnic minorities (EMs). The Race Discrimination Ordinance (RDO) (Cap. 602), enacted in 2008, purports to protect people against discrimination, harassment and vilification on the ground of race. The RDO provides that it is unlawful to discriminate in specified areas, including employment; education; provision of goods, facilities, services and premises; election and appointment matters of public bodies etc; arrangements in relation to barristers and membership of clubs. It is also unlawful to racially harass another person (i.e. engaging in unwelcome conduct, in circumstances in which a reasonable person would have anticipated that the other person would be offended, humiliated or intimidated by that conduct) in these fields.

In 2010, the Constitutional and Mainland Affairs Bureau (CMAB) issued the Administrative Guidelines on Promotion of Racial Equality (the Guidelines) to provide general guidance to relevant government bureaux and departments (B/Ds) and public authorities to promote racial equality and ensure equal access by ethnic minorities to public services in the key areas concerned, and to take this into account in the formulation, implementation and review of relevant policies and measures.

After consulting the relevant responsible departments, the consolidated reply to the question raised by the Hon Alice Mak is as follows:

(1) Relevant B/Ds and public authorities are responsible for drawing up, within their respective policy and programme areas, checklists of measures that would assist in promoting racial equality and equal access to key public services to enhance the transparency of their work in accordance with the Guidelines. The relevant departments will draw up and issue updates on the contents of the checklists according to their respective programme areas where necessary. The checklists have been uploaded onto the CMAB website.

Since the promulgation of the Guidelines in 2010, the Government has kept the operation of the Guidelines under review. For instance, the scope of application of the Guidelines has extended from 14 to 23 B/Ds and public authorities (Note 1). To facilitate experience sharing, the CMAB has assisted in sharing among relevant B/Ds and public authorities the measures that have been put in place. This year, we have followed up with various B/Ds and public authorities on the operation of the Guidelines again. A number of them have indicated that they have put in place more new measures to assist ethnic minorities (EMs). For example:

(i) since November 2016, the Hong Kong Police Force has expanded its joint project with the Centre for Harmony and Enhancement of Ethnic Minority Residents (CHEER) entitled "TRANSLINK" to cover all 67 police report rooms and reporting centres. Under the project, instant telephone interpretation services in seven common non-ethnic Chinese languages, namely Urdu, Nepali, Punjabi, Hindi, Bahasa Indonesia, Thai and Tagalog, could be provided;

(ii) in February 2017, the Hospital Authority (HA) completed a revamp of the dedicated webpage for EMs. The webpage contains information about the HA and the accident and emergency service, as well as the addresses, telephone numbers and consultation hours of general out-patient clinics. In addition to the original five EM languages (Note 2), the content is also available in Thai, Bahasa Indonesia and Tagalog, to facilitate more EMs to better understand the information provided by the HA;

(iii) since May 2017, the Labour Department has engaged two Employment Assistants proficient in EM languages at the Kowloon West Job Centre in Sham Shui Po and the Employment in One-stop in Tin Shui Wai on a pilot basis to provide employment services for EM job seekers in partnership with experienced Employment Officers;

(iv) the Social Welfare Department has provided Hotline Service (2343 2255) for callers of ethnic minority groups to have instant access to telephone interpretation services in seven common EM languages so as to facilitate their welfare services enquiries;

and

(v) the Construction Industry Council (CIC) offers training courses and trade tests in English for EMs. In addition, the CIC has also set up the Ethnic Minority Service Team to enhance its services and support to EMs, including promoting the CIC services through regular visits to related organisations and publicity activities, providing interpretation and translation services to candidates and trainees, etc.

Various B/Ds and public authorities will maintain liaison with concern groups and EMs in order to understand the special needs of EMs and explore ways to improve their services. The CMAB and relevant government B/Ds also welcome views of the Legislative Council on the implementation of the Guidelines in order to further improve the provision of public services to EMs.

(2) Various B/Ds of the Hong Kong Special Administrative Region have been providing services to meet the needs of EMs under their respective policy areas, with a view to facilitating the EMs integrate into the society. The B/Ds concerned will provide suitable assistance to the EM service users according to these users' practical needs, including interpretation services, thereby ensuring their equal access to public services.

Since the interpretation needs of EMs vary depending on what public services they are accessing to, the B/Ds will consider the actual situation and adopt appropriate procedures to provide interpretation services to EMs in need.

The Home Affairs Department has commissioned the Hong Kong Christian Service to operate the CHEER Centre. Apart from a variety of basic services, the CHEER Centre also provides general interpretation and translation services. Interpretation services are mainly instant telephone interpretation and enquiry services. Depending on the availability of resources, on-site interpretation or simultaneous interpretation services can also be arranged. At present, there are 17 EMs working in the CHEER Centre responsible for providing a variety of services, including interpretation and translation services.

Interpretation and translation services in specialised areas do not fall within the service scope of CHEER Centre. B/Ds may procure appropriate interpretation and translation services to meet their respective service needs in accordance with the Stores and Procurement Regulations. For instance, interpretation services covering 18 EM languages are provided for in public hospitals and clinics under the HA primarily through a service contractor, the HKSKH Lady MacLehose Centre (the Centre), part-time court interpreters and relevant consulates. At present, the Centre employs more than 100 interpreters who have all received training in medical-related knowledge as well as communication skills.

The HA has also formulated guidelines for its staff on the procedures of arranging interpretation services. Staff of the HA will arrange on-site or telephone interpretation services according to the needs of each case or at the request of patients. To ensure the quality of the interpretation service, the HA also pays close attention to the users' comments and feedback. According to previous questionnaire surveys conducted by the HA, service users are generally very satisfied with the interpretation services provided in hospitals and clinics.

CMAB will coordinate with various B/Ds and public authorities to see whether there is room for improvement in the provision of interpretation services to EMs and explore the feasibility of drawing up standard guidelines and procedures for interpretation services. In this respect, CMAB has provided an additional allocation of \$3 million to the Ethnic Minorities Unit (the EM Unit) of the Equal Opportunities Commission in 2017-18. The EM Unit will embark on a series of initiatives for the purpose of promoting equal opportunities for EMs including the one on exploring the prospect of introducing accreditation for interpreters of EM languages.

(3) and (4) The Guidelines is administrative in nature and is not legally binding. That said, the relevant public authorities are obliged to comply with the Guidelines. In accordance with the Guidelines, the relevant public authorities should consider taking appropriate steps to assess the impact of their policies and measures on racial equality or provision of equal access to key public services. These steps may include collection of relevant information and statistics, consultation with relevant stakeholders and other appropriate measures. Moreover, to facilitate assessment by the public, the relevant public authorities should consider setting indicators and/or targets as appropriate.

B/Ds and public authorities, having regard to their own policy considerations and needs, may collect data and statistics on the races of stakeholders and conduct related studies. This year, apart from following up on the operation of the Guidelines, we have requested the relevant public authorities to collect feedback from stakeholders in order to further improve the provision of their services. At present, about half of the 23 B/Ds and public authorities covered by the Guidelines have already conducted surveys and collected relevant data. For example, the HA conducts annual questionnaire surveys to garner the views of EM patients and its staff on the interpretation services provided by the service contractor.

The CMAB will continue to request the relevant authorities to collect data and set indicators for the continuous improvement of services provision to EMs by modelling on the HA's practice having regard to own actual operational circumstances.

Note 1: The 23 B/Ds and public authorities are the Education Bureau, Social Welfare Department, Labour Department, Home Affairs Department, Employees Retraining Board, Vocational Training Council, Food and Health Bureau, Department of Health, Hospital Authority, Construction Industry Council, Office of the Government Chief Information Officer, Innovation and Technology Commission, Office of the Communications Authority, Housing Department, Hong Kong Observatory, Post Office, Legal Aid Department, Hong Kong Police Force, Correctional Services Department, Customs and Excise Department, Immigration Department, Fire Services Department and Registration and Electoral Office.

Note 2: The essential information given on the HA website is available in five EM languages, including Hindi, Nepali, Punjabi (Indian), Punjabi (Pakistani) and Urdu.

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**Relevant documents on
Implementation and review of the Administrative Guidelines
on Promotion of Racial Equality**

Committee	Date of meeting	Paper
Panel on Constitutional Affairs ("CA Panel")	7.7.2009 (Item III)	Agenda Minutes
	19.10.2009 (Item III)	Agenda Minutes
	11.12.2009 (Item III)	Agenda Minutes
Legislative Council ("LegCo")	20.11.2013	Official Record of Proceedings Pages 118-122 (Written question)
CA Panel	16.11.2015 (Item IV)	Agenda Minutes
LegCo	9.11.2016	Official Record of Proceedings Pages 78-84 (Written question)
		Official Record of Proceedings Pages 93-95 (Written question)
CA Panel	16.10.2017 (Item III)	Agenda Minutes
LegCo	22.11.2017	Official Record of Proceedings Pages 125-129 (Written question)