

**Paper for the information of the
Legislative Council Panel on Home Affairs
Promotion of equal opportunities on race issues**

Introduction

In her letter of 13 March 2002, the Clerk to the Panel advised that Members had noted our intention to establish a team to promote equal opportunities on racial issues. She also advised that the Panel had asked us to provide an information paper on the -

- (a) composition and terms of reference of the team;
- (b) direction of its work and the resources to be allocated;
- (c) preliminary outcome of the consultation on the need to legislate against racial discrimination in private sector; and
- (d) the Government's position on the need to introduce legislation against racial discrimination in private sector.

Race Relations Unit

2. In our Policy Objective Booklet on the Rights of the Individual - issued under the 2001 Policy Address - we announced our plan to establish a dedicated Race Relations Unit in 2002-2003 to enhance race-related services. The Unit's staff will be hired on non-Civil Service contract terms for two years and will report to a directorate officer of the Home Affairs Bureau. The team will comprise -

- one Senior Programme Officer (team leader);

- two Programme Officers; and
- one Programme Assistant (clerical support).

3. The Unit will be responsible for the logistical or 'executive' aspects of our work in this area. Its main functions will include -

- devising and producing publicity materials (this will include commissioning contractors and/or NGOs to carry out tasks requiring special expertise);
- to provide secretarial services to the proposed NGO/Government joint committee on race-related public education and publicity, another new initiative that we announced in our 2001 Policy Objective Booklet;
- maintaining a hot line for enquiries and complaints. This will replace the existing service and will entail a higher level of follow-up, possibly including counselling;
- outreach work to schools: international experience suggests that education against discrimination is likely to be most effective when directed at the young. By taking the message direct to the schools, we hope to put across the message that the Government takes this issue seriously and proactively, so fostering a culture of tolerance and mutual respect in the community as a whole;
- administration of the equal opportunities funding scheme; and
- with the assistance of NGOs, co-ordinating - and training volunteers to run - induction programmes for non-Chinese New Arrivals.

4. The Unit's staff costs are estimated to be \$1.3 million in 2002-03. We placed advertisements for the posts on 16 March. The Unit is expected to commence operation in May.

Legislation against racial discrimination in the private sector

5. The consultations were conducted in two phases -

(a) in the first phase, which started on 13 June 2001, we consulted the business community from which we received 25 responses after extending the original deadline from 31 August 2001 to 30 September 2001. Sixteen of the 25 were broadly in favour of legislation. These included nine overseas chambers of commerce and six local trade associations. The 16 also included one local association that, while supportive in principle, did not consider it appropriate to legislate at this stage. Of the remaining nine respondents, six were opposed to legislation and three had no views. A summary of the principal comments received in this phase of the exercise is at Annex;

(b) in the second phase, which started on 21 November 2001, we consulted NGOs and other organisations with an interest in the issue. Several of the organisations so consulted were small bodies with limited resources and, as such, needed more time to discuss the issues with their membership and formulate their replies. To enable them to do so, we extended the deadline from 31 December 2001 to 31 January 2002 and again to 28 February. Of the 55 organisations consulted, a total of 44 submitted comments, the trend - as expected with the NGOs - being in favour of legislation.

6. We are currently analysing the submissions received in the course of the consultations. On completion of that process, we aim to announce our findings - and our decision as to the way forward - as soon as possible.

7. Our position on the need for legislation against racial discrimination in the private sector remains as we have stated on numerous occasions. That is, the Government regards racial discrimination seriously and takes pains to ensure that policies concerning it are formulated on the basis of good information. Our view has been that self-regulation is normally preferable to coercion and we have therefore been addressing the issues through public education and administrative measures. But - recognising that circumstances may change - we have kept the question of legislation under review. That is the purpose of the current consultations.

Home Affairs Bureau

April 2002

**Legislation against racial discrimination in the private sector:
views expressed by the business sector**

A. General views (not in any order of priorities)

1. Legislation will have a positive effect on business and on the continued prosperity of Hong Kong. It will help to attract talent worldwide and ensure Hong Kong remains a world-class city.
2. Tourism and other business areas will benefit by the introduction of legislation as it will demonstrate to the world that all visitors are welcome here.
3. Legislation will provide those aggrieved by racial discrimination a proper redress channel.
4. Hong Kong provides a fair and level play field for all to conduct business and it is one of the strengths of the Hong Kong business environment. Legislation will be a valuable addition to this business environment.
5. The Government should supplement legislation with education on human rights and the respect of the fundamental rights for all, without distinction as to race, sex, religion or national origin.
6. Racial discrimination is not so serious in Hong Kong as to warrant legislation and there is no urgency to enact such a law.
7. There should be no affirmative action (this was a view widely shared by both opponents and supporters of legislation).
8. Any law should be on the same lines as existing legislation.
9. Care should be taken to prevent abuse.

10. Legislation would be 'anti-business', particularly in the current economic climate when businesses are already facing serious difficulties.
11. Legislation would entail additional costs for companies.
12. Legislation could reduce job opportunities for the ethnic minorities, as employers might be reluctant to employ them for fear of encountering litigation at a later stage.
13. Legislation would create unnecessary disputes between private parties and give rise to vexatious litigation.
14. Legislation could engender resentment within the community.
15. Excessive regulation of businesses is contrary to free market principles.
16. Existing legislation provides sufficient protection for employees of all races.

B Specific views

1. Any legislation in this area should contain safeguards against abuse
2. The onus of proof must be on the alleged victims.
3. There should be penalties for persons shown to have brought vexatious claims. Special attention must be paid to factors significant to the banking and insurance industries. For example, nationality is a factor used in determining risk in loan decisions. Any law must therefore include exception similar to those in the existing discrimination ordinances.
4. Specific attention must be given to small and medium enterprises: possibly an exemption for companies employing fewer than a prescribed number of persons.
5. Specific exemptions should be provided for legitimate practices that are based on nationalities.