

**Legislative Council
Panel on Constitutional Affairs**

**Progress of the Work of the Advisory Group on Eliminating
Discrimination against Sexual Minorities**

Purpose

This paper briefs Members on the work of the Advisory Group on Eliminating Discrimination against Sexual Minorities (“Advisory Group”).

Background

2. The Government has been promoting equal opportunities for people of different sexual orientation and transgenders, with a view to fostering in the community the culture and values of inclusiveness and mutual respect. We established the Advisory Group in June 2013 to advise on matters relating to concerns about discrimination faced by sexual minorities in Hong Kong, notably the aspects and extent of discrimination faced by sexual minorities in Hong Kong, and the strategies and measures to tackle the issues identified.

3. The Advisory Group is chaired by Professor Fanny Cheung Mui-ching and comprises 13 non-official members from the academic and business sectors, the sexual minority community and the Legislative Council.

Work of the Advisory Group

4. Since its establishment, the Advisory Group has met eight times and rendered advice on a study on discrimination experienced by sexual minorities in Hong Kong; a desktop research on overseas experience in tackling discrimination on grounds of sexual orientation and gender identity; and a number of public education and publicity measures to promote non-discrimination. The Advisory Group has also met different sexual minority groups, family values and religious groups as well as other concern groups to listen to their views and concerns on the subject.

Study on discrimination experienced by sexual minorities in Hong Kong

5. The Advisory Group has advised that a study on discrimination experienced by sexual minorities should be carried out, with a view to helping ascertain, inter alia, whether sexual minorities are discriminated against in Hong Kong and, if so, the discrimination they experienced and specifically:

- (a) in what aspects or domains they experienced discrimination;
- (b) in what ways, i.e., the form of discrimination;
- (c) what the areas of needs for support and/or redress for the respondents are given these experiences; and
- (d) whether the respondents have attempted to seek redress and/or assistance from different bodies, and if not, the reasons for not doing so.

6. The Advisory Group has rendered advice on how the study should be conducted, including the study objectives, methods to recruit participants, ways to obtain information from participants, and the discussion guide. A consultant was commissioned to conduct the study.

7. Having regard to the Advisory Group's advice, the consultant recruited a total of 214 sexual minority participants (including lesbian, gay, bisexual, transgender, post-gay and intersex participants) from diverse socio-economic backgrounds. The participants were recruited through sexual minority networks and communities; open recruitment; and referrals by participants (i.e., "snowball sampling").

8. A qualitative method was adopted to provide in-depth understanding of the experiences of sexual minorities. The consultant met with the 214 participants between March 2014 and September 2014 and obtained information from them either through focus group discussions or one-to-one interviews. While the qualitative approach could provide ample scope for obtaining in-depth responses by participants, the limitations of the approach were also acknowledged. Views from sexual minority participants were the single source of qualitative data of the study, and the experiences mentioned were cited based on self-report without a requirement to produce concrete evidence or verification with other relevant parties; hence there was no guarantee that all descriptions were accurate especially for distant events. In addition, the study used a non-random sample comprising a limited number of participants, hence it was not a statistically representative sample. The findings therefore cannot be extrapolated to wider populations or form

the basis for any general conclusion to be drawn regarding the sexual minorities population at large in Hong Kong. Nevertheless, efforts have been made to collect views of the sexual minorities from diverse backgrounds as far as possible.

9. Reports of discrimination experienced by participants were recorded under four categories, namely direct discrimination, indirect discrimination, harassment and vilification. The domains covered are employment; education; provision of goods, facilities and services; disposal and management of premises; and other domains as reported by participants. The categorisation follows the framework adopted in the current legislation against discrimination on different grounds.

10. The study report is expected to be completed by the second quarter of this year. It would provide a solid basis to facilitate the Advisory Group's further discussion of recommendations on strategies and measures to eliminate discrimination.

Research on overseas experience in tackling discrimination

11. While the aforementioned study was being prepared and conducted, the Advisory Group has looked into the experience in tackling discrimination on grounds of sexual orientation and gender identity in other jurisdictions (including Australia, Canada, New Zealand, Taiwan, the United Kingdom and the United States). Where anti-discrimination legislation exists in those jurisdictions, the Advisory Group studied the scope of the concerned legislation including the domains and conducts covered, the exceptions and exemptions, relevant litigation / complaint cases, and areas of concerns. This could provide reference information on measures adopted elsewhere and lessons, if any, that could be learnt from their experience.

Public education and publicity measures to promote equal opportunities

12. The Advisory Group has rendered advice on the Government's publicity measures to promote equal opportunities on the grounds of sexual orientation and gender identity, including:

- (a) the key messages to be included in a new series of Announcement in the Public Interest ("API") on television and radio as well as poster to promote the message of non-discrimination against and equal

opportunities for people of different sexual orientation and transgenders launched in end-2013. This was the first time a television API on this subject was produced. Other than on television and radio, the API has also been broadcast and the poster displayed on various other platforms, such as on the Internet, on public transport and in government venues; and

- (b) a campaign to appeal to employers in Hong Kong to adopt the Code of Practice against Discrimination in Employment on the Ground of Sexual Orientation (“the Code”), as well as publishing the list of organisations that have pledged to adopt the Code. As at mid-March 2015, over 140 public and private sector organisations which engage more than 350,000 employees locally have pledged to adopt the Code.

Exchange of views with stakeholder groups

13. To ensure that different viewpoints and concerns of different sectors in the community are taken into account when considering and formulating recommendations to the Government, the Advisory Group has met stakeholder groups including the New Creation Association, Post Gay Alliance, Diocesan Committee for the Pastoral Care of Persons with Same Sex Attraction, Family School Sexual Orientation Discrimination Ordinance Concern Group, Kowloon Union Church and Queer Theology Academy and the Equal Opportunities Commission to exchange views with them.

14. During these exchange sessions, some representatives shared with the Advisory Group the discrimination or difficulties faced by sexual minorities in Hong Kong and their views on support services they needed; some urged for the enactment of legislation against discrimination on the grounds of sexual orientation and gender identity; and some expressed their concerns about the impact of such legislation on the freedom of speech, freedom of religion and family values.

Way Forward

15. Taking into account the findings of the study on discrimination experienced by sexual minorities in Hong Kong and the desktop research on overseas experience in tackling discrimination on grounds of sexual orientation and gender identity, as well as the views of stakeholders, the Advisory Group will formulate recommendations to the Government on

strategies and measures to eliminate discrimination. When the Advisory Group's recommendations are available, the Government will, in close liaison with different stakeholders, consider how the recommendations should be followed up.

Advice sought

16. Members are invited to note the progress of work of the Advisory Group.

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