

**For discussion on
15 May 2017**

**Legislative Council Panel on Constitutional Affairs
Progress of Work in Tackling Discrimination
on Grounds of Sexual Orientation and Gender Identity**

Purpose

This paper briefs Members on the progress of work of the Government in tackling discrimination on grounds of sexual orientation and gender identity.

Background

2. The Government is committed to promoting equal opportunities for people of different sexual orientation and gender identity, with a view to fostering in the community the culture and values of inclusiveness and mutual respect. The Advisory Group on Eliminating Discrimination against Sexual Minorities (“Advisory Group”) established in June 2013 had taken stock of major developments in Hong Kong on issues of concern to sexual minorities, conducted a qualitative study on discrimination experienced by sexual minorities, carried out a desktop research on the relevant experience and legislation in other jurisdictions and met with stakeholder groups during its term, and recommended to the Government in December 2015 strategies and measures in the following five areas:

- (a) providing training resources for personnel in specific fields to enhance their knowledge of and sensitivity towards sexual minorities;
- (b) enhancing public education and publicity to promote the message of non-discrimination;

- (c) reviewing and reinforcing the relevant support services;
- (d) drawing up a charter on non-discrimination of sexual minorities for voluntary adoption by relevant organisations and individuals; and
- (e) conducting further study on the experience of other jurisdictions in implementing anti-discrimination measures to form the basis for future public consultation.

3. The Government has been actively taking forward the Advisory Group's recommendations. The progress of the relevant work is summarised below.

Progress of work

Providing training resources for personnel in specific fields

4. To implement the Advisory Group's recommendation on providing sensitivity training for teachers, medical practitioners, associated professionals and frontline workers in hospitals and clinics, social workers and human resources professionals, we have collected information on the content, delivery modes and target recipients of existing pre-service and in-service training in the relevant professions, and gathered views from training providers (including tertiary institutions, professional groups and major employers) on the content and delivery mode of the sensitivity training. The development of training resources is being undertaken by a psychologist with experience in designing and teaching related training programmes. The following content will be included:

- (a) generic content applicable to all of the domains mentioned above, including understanding of fundamental concepts about sexual orientation and gender identity, concerns of the sexual minorities, and the importance of promoting equal opportunities, inclusiveness as well as mutual respect between the sexual minorities and other people; and

- (b) domain-specific content, including sharing of possible discrimination cases in the relevant domains, skills in handling cases involving service recipients who belong to the sexual minorities in the relevant contexts, and sources of further information and advice one may consult if needed in the handling of complicated cases.

5. We expect that the draft training resources will be available for trial use in the fourth quarter of this year and would be fine-tuned where necessary in the light of the trial. Upon the formal launch of the training resources next year, we will conduct train-the-trainers sessions and upload the entire resources package onto an e-platform. We will also encourage the professions concerned to include the sensitivity training as part of their regular pre-service or in-service training as appropriate.

Enhancing publicity campaign

6. The Advisory Group recommended the Government to enhance its publicity campaign to promote the message of non-discrimination against and equal opportunities for sexual minorities in the community. We launched a new promotional video targeting the general public in 2016 to step up dissemination of the message “eliminate discrimination, embrace inclusion” in respect of people of different sexual orientations and transgender persons. The video has been broadcast in the public transport network (including in railway stations, train compartments, buses and ferries), various government premises, as well as on the Internet and other new media. In addition, Announcements in the Public Interest promoting the message of equal opportunities for people of different sexual orientations and transgender persons continue to be broadcast on television and radio, coupled with displays of the related promotional posters in various districts.

7. In addition, we are collaborating with Radio Television Hong Kong to produce a television programme which makes reference to real-life scenarios encountered by the sexual minorities. The programme aims to help the public understand some real situations faced

by the sexual minorities in Hong Kong, enhance the people's sensitivity in dealing with sexual minority persons in various domains of daily life, and reduce mutual misunderstanding and prejudice. The programme is expected to be launched in the third quarter of this year.

8. At present, nearly 200 public and private sector organisations which together engage about 470 000 employees locally have adopted the Code of Practice against Discrimination in Employment on the Ground of Sexual Orientation. We will continue to encourage more organisations to adopt the code of practice through various channels including talks, seminars, online and outdoor advertisements, etc. We are also preparing to issue appeal letters to over 2 000 public and private sector organisations.

Reviewing support services

9. In the light of the Advisory Group's recommendation, we have embarked on a review of various support services currently provided to the sexual minorities by different organisations, as well as the need for dedicated shelters and community centres for sexual minorities, to identify the services that can meet their needs and the areas of existing support services that may need improvement, so as to improve the effectiveness of the services. We are gathering from service providers (including the Social Welfare Department, Hospital Authority, Department of Health, non-government organisations, etc.) as well as sexual minority service users' views on the support services, including views on different modes of service delivery. We are also consulting the service providers and sexual minority communities on how the availability of the current support services may be promoted among sexual minority communities to inform potential users.

10. Work on gathering views on support services for sexual minorities from stakeholders is still on-going. On the basis of the views gathered, we expect to start exploring with service providers in the third quarter of this year proposals for service improvement.

Drawing up a charter of non-discrimination of sexual minorities

11. The Advisory Group recommends the Government to draw up a charter for voluntary adoption by (i) employers; (ii) schools; (iii) providers of goods, facilities and services; and (iv) landlords/agents in charge of disposal and management of premises, which aims at enhancing sensitivity and friendliness towards people with different sexual orientations and transgender people in the respective domains. By pledging to adopt the charter, the organisations concerned would commit to adopting non-discrimination policies, i.e. no discrimination, harassment or vilification of employees, students, customers, buyers/tenants of premises on grounds of sexual orientation and gender identity would be allowed. The charter may also include commitments in respect of providing training for their staff on the non-discrimination policies, and establishing internal grievance procedures to deal with complaints.

12. The Advisory Group recommends that the charter should provide definitions on key concepts such as sexual orientation, gender identity and discriminatory acts (including discrimination, harassment and vilification) and cover special circumstances where differential treatment could be justified. The Advisory Group also acknowledges that there are difficulties in defining in different contexts which transgender people should be accorded the same treatment as persons of his/her preferred gender while not jeopardising the rights to non-discrimination entitled to transgender people, and thus the extent to which the charter can cover transgender people needs to be carefully considered.

13. We are now studying the relevant legislation, codes of practice and guidelines in different jurisdictions in the domains of employment; education; provision of goods, facilities and services; and disposal and management of premises to provide reference for the drafting of a charter for application in the local context. We expect to be able to consult stakeholders on the proposed content of the charter within this year.

Conducting further study on the experience of other jurisdictions in implementing anti-discrimination measures

14. As recommended by the Advisory Group, we are conducting a further study on the experience of other jurisdictions in tackling discrimination through legislative and non-legislative measures. The findings of the study will form the basis for public consultation on both legislative proposals and administrative measures to eliminate discrimination on grounds of sexual orientation and gender identity. The study covers the following topics:

- (a) administrative measures adopted in other jurisdictions to tackle discrimination against the sexual minorities, and any empirical data on their implementation; and
- (b) legislative measures adopted in other jurisdictions to tackle discrimination against the sexual minorities, including empirical data on their implementation; definitions of “gender identity” and “sexual orientation” in the relevant legislation, and the threshold of evidence required to establish these grounds for claims; the evolving case law, in particular the scope and application of exemptions in anti-discrimination legislation, and the criteria adopted by courts in balancing the rights and freedoms involved; comparative analyses of the different approaches of formulating anti-discrimination laws; stakeholders’ views on the adequacy of protection and accessibility of remedies; the concerns of different parties such as the legislature, enforcement authorities and stakeholder groups and the relevant discourse, etc.

15. The study is expected to be completed by the end of this year. We shall examine the findings of the study and draw up a plan for conducting public consultation.

Advice sought

16. Members are invited to note and offer views on the content of this paper.

Constitutional and Mainland Affairs Bureau
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