

**Legislative Council Panel on Constitutional Affairs**

**The Chief Executive's 2019 Policy Address  
Policy initiatives of Constitutional and Mainland Affairs Bureau  
in relation to electoral arrangements,  
promotion of the Constitution and the Basic Law,  
promotion of equal opportunities and elimination of discrimination**

This paper briefs Members on the policy initiatives of the Constitutional and Mainland Affairs Bureau (“CMAB”) in relation to electoral arrangements, promotion of the Constitution and the Basic Law, promotion of equal opportunities and elimination of discrimination. Panel paper on policy initiatives relating to Mainland co-operation and Taiwan affairs has been submitted to the Panel on Commerce and Industry for discussion.

**Our vision**

2. Our vision is to ensure that public elections will continue to be conducted in a fair, open and honest manner; safeguard the fundamental rights protected by the Basic Law; and actively promote the Constitution and the Basic Law to the public.
3. The new initiatives we will pursue and on-going initiatives we will continue to implement are highlighted as follows -

New Initiatives

- a) develop training resources for the Government disciplined services and incorporate such resources into the regular training courses to enhance frontline officers' knowledge of and sensitivity towards sexual minorities;
- b) establish a communication platform to discuss with stakeholders and implement feasible anti-discrimination proposals based on the findings of the study on the experience of other jurisdictions in implementing measures on anti-discrimination of sexual minorities;

- c) formulate legislative proposal for expanding protection under the Sex Discrimination Ordinance (Cap. 480) to prohibit harassment on the ground of breastfeeding;
- d) support the Equal Opportunities Commission (“EOC”) in stepping up its sexual harassment prevention effort; and
- e) review and study to amend the Personal Data (Privacy) Ordinance (“PDPO”) to strengthen protection towards personal data privacy.

### On-going Initiatives

- a) introduce necessary technical legislative amendments for public elections;
- b) work closely with the Electoral Affairs Commission (“EAC”) to ensure that the 2019 District Council Ordinary Election (“DCOE”) and 2020 Legislative Council (“LegCo”) General Election will be conducted in a fair, open and honest manner in accordance with the relevant legislation;
- c) consider all related factors, size up the situation and carry out constitutional development in accordance with the Basic Law and the relevant Interpretation and Decisions of the Standing Committee of the National People’s Congress (“NPCSC”);
- d) continue to take forward the work on implementing the Law of the People’s Republic of China on the National Anthem (“National Anthem Law”) through local legislation;
- e) promote the Constitution and the Basic Law through the working groups under the Basic Law Promotion Steering Committee (“BLPSC”) and relevant bureaux to enable the public to have a more comprehensive and accurate understanding of the Constitution, the Basic Law, and the “one country, two systems” principle;
- f) promote equal opportunities for people of different

sexual orientation and transgender persons, with a view to fostering in the community the culture and values of inclusiveness, mutual respect and non-discrimination. Efforts will include following up on the strategies and measures recommended by the Advisory Group on Eliminating Discrimination against Sexual Minorities;

- g) facilitate the LegCo's scrutiny of the Discrimination Legislation (Miscellaneous Amendments) Bill 2018 submitted by the Government in December 2018, with a view to implementing eight recommendations of priority in the EOC's Discrimination Law Review ("DLR"), and continue to consider the remaining recommendations of priority in the EOC's DLR;
- h) improve the Administrative Guidelines on Promotion of Racial Equality for application to all government bureaux and departments as well as related organisations providing services to ethnic minorities ("EMs"); and
- i) continue to promote children's rights through the Children's Rights Education Funding Scheme and the Children's Rights Forum, etc..

## **Detailed measures**

### Public Elections

4. We introduced the Electoral Legislation (Miscellaneous Amendments) Bill 2019 into the LegCo in March this year. The Bill introduces necessary technical legislative amendments for the 2020 LegCo General Election and other public elections, including technical amendments concerning the electorate of the functional constituencies, arrangements in the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), as well as various electoral procedures. We will follow up with the legislative amendment exercise, and hope that the technical amendments could be passed as soon as possible with a view to implementing them in public elections.

5. To improve various electoral arrangements, we are reviewing how to further enhance the protection of personal data of candidates in

public elections, as well as the arrangement of releasing financial assistance. We will critically examine the various operational details and legal issues involved, with an aim to ensuring that elections are conducted in a fair, open and honest manner.

6. We will continue to work closely with the EAC to ensure that the 2019 DCOE and 2020 LegCo General Election will be conducted in a fair, open and honest manner in accordance with the relevant legislation. The EAC will work on the practical arrangements of the 2020 LegCo General Election in the first half of 2020 and will consult this Panel.

### Voter Registration

7. To tie in with the 2020 LegCo General Election, the Government will strengthen publicity efforts on voter registration in line with past practice, with a view to encouraging eligible persons to register as electors. The Registration and Electoral Office will continue to implement checking measures and the inquiry process to remind the public / registered electors to provide true and accurate information for voter registration, and to fulfil their civic responsibility to update their registration particulars, with a view to maintaining the accuracy and completeness of the voter registration records.

### Constitutional Development

8. The HKSAR Government understands the aspirations of the community for universal suffrage. To achieve this aim, there is a need to conduct dialogues to narrow differences with a view to attaining a consensus agreeable to all sides. The discussion on political reform needs to be conducted in a pragmatic manner having due regard to the legal basis and in a peaceful atmosphere conducive to mutual trust. The HKSAR Government will continue to do the best to create a social climate conducive to taking forward political reform, consider all related factors, size up the situation and carry out constitutional development in accordance with the Basic Law and the relevant Interpretation and Decisions of the NPCSC.

### National Anthem Law

9. The National Anthem Law was adopted at the 29th session of the Standing Committee of the 12th National People's Congress on 1 September 2017, and has come into force nationwide since 1 October 2017. On 4 November 2017, the NPCSC adopted the

decision to add the National Anthem Law to Annex III to the Basic Law. According to Article 18(2) of the Basic Law, the national laws listed in Annex III to the Basic Law shall be applied locally by way of promulgation or legislation by the Hong Kong Special Administrative Region (“HKSAR”). It is thus the responsibility of the HKSAR Government to implement the National Anthem Law locally.

10. We submitted the National Anthem Bill to the LegCo in January 2019. Our legislative principle is to maintain the purpose and intent of the National Anthem Law to fully reflect its spirit and to preserve the dignity of the national anthem, so that our citizens would respect the national anthem, whilst taking into account our common law system and the actual circumstances in Hong Kong. After 17 meetings and over 50 hours of deliberation during the 2018-19 legislative session, the Bills Committee of the LegCo completed the scrutiny of the National Anthem Bill on 24 May and reported to the House Committee on 14 June. The Government plans to resume Second Reading debate on the National Anthem Bill for its early passage in the 2019-2020 legislative session.

#### Promotion of the Constitution and the Basic Law

11. The Government attaches great importance to the promotion and education on the Constitution and the Basic Law. The Constitution and the Basic Law form the constitutional basis of the HKSAR and provide strong safeguard for the long-term prosperity and stability of Hong Kong. The HKSAR government has the responsibility to let the general public have a comprehensive understanding of the Constitution and the Basic Law.

12. The Government has been actively promoting the Constitution and the Basic Law via different channels in order to enable the public to have a comprehensive and thorough understanding of the Constitution, the Basic Law, and the “one country, two systems” principle. Our activities include organising large-scale thematic seminars; promotion through the electronic media; organising regular roving exhibitions at the district level; arranging the Basic Law mobile resource centres to pay visits to different districts and schools; and co-organising with relevant organisations or subsidising community organisations to organise activities, including talks, quizzes and debate competitions, for the public.

13. The BLPSC chaired by the Chief Secretary for Administration co-ordinates and steers the work of its five working groups, namely Working Group on Local Community; Working Group on Teachers and

Students; Working Group on Civil Servants; Working Group on Industrial, Commercial and Professional Sectors; and Working Group on Community Outside Hong Kong. The Home Affairs Bureau, the Education Bureau, the Civil Service Bureau, the Trade and Industry Department and the Information Services Department provide secretariat services to the five working groups respectively and assist the working groups in planning and organising activities to promote the Basic Law to the respective sectors.

14. 4 April 2020 marks the 30<sup>th</sup> anniversary of the promulgation of the Basic Law. On top of regular promotional activities, the BLPSC will organise special activities, including thematic exhibition and large-scale seminars, as well as launch new Announcements in the Public Interest (“APIs”) on television and radio.

#### Eliminating Discrimination on Grounds of Sexual Orientation and Gender Identity

15. The Government has always been committed to promoting equal opportunities for people of different sexual orientations and transgenders, with a view to fostering in the community the culture and values of inclusiveness, mutual respect and non-discrimination. Efforts will include following up on the strategies and measures listed below.

16. On public education and publicity, we are committed to promoting the culture and values of inclusiveness, mutual respect and non-discrimination, including actively introducing to employers the Code of Practice against Discrimination in Employment on the Ground of Sexual Orientation (“the Code”). As of now, over 350 organisations employing a total of more than 550 000 employees have adopted the Code. We will continue our efforts in promotion and education with the use of various channels such as online platforms and seminars.

17. On support services provided to the sexual minorities, we subsidise the 24-hour hotline for supporting sexual minorities operated by the Tung Wah Group of Hospitals (“TWGHs”) to provide prompt support, counselling and referral services to sexual minorities and their families. Since its establishment in January 2018, the hotline has provided service to over 5 200 users. TWGHs has been organising regular support groups and programmes for sexual minorities. As at September 2019, more than 60 relevant programmes have been organised.

18. In December 2018, we launched the training resources to

enhance sensitivity of medical and healthcare professionals towards sexual minorities, and a briefing session was organised for more than 80 representatives from various professional bodies from the medical and healthcare sector in January 2019. We subsequently arranged two train-the-trainer sessions for these professional bodies in March and July to facilitate their dissemination of relevant knowledge and practical skills to members of their professional bodies. Through these activities, we had positive exchanges with the medical and healthcare sector, enhancing their knowledge of and sensitivity towards sexual minorities. We also encouraged relevant professional bodies to include the training resources as part of their regular pre-service or in-service training according to the needs of their profession. Meanwhile, we are developing training resources for other specific fields and the one for social workers is expected to be launched at a later stage. We have also commenced the development of training resources for the Government disciplined services and will incorporate such resources into the regular training courses to enhance frontline officers' knowledge of and sensitivity towards sexual minorities.

19. We are drawing up a charter on non-discrimination of sexual minorities covering provision of goods, facilities and services, provision, disposal and management of premises, employment and education for voluntary adoption by service providers, with a view to enhancing the acceptance towards sexual minorities.

20. Regarding the study on the experience of other jurisdictions on eliminating discrimination against sexual minorities by legislative and administrative measures, we have completed the work of gathering information and conducted analysis. The draft study report is being compiled. We will establish a communication platform to discuss with stakeholders and implement feasible anti-discrimination proposals based on the findings of the study.

#### Discrimination Law Review

21. The Discrimination Legislation (Miscellaneous Amendments) Bill 2018 ("the Bill") was introduced to the LegCo in December 2018 to take forward eight of the recommendations of priority in the EOC's DLR that were found to be less complex and controversial. Upon passage of the Bill, we will work with EOC on the implementation of relevant legislative measures.

22. Passing the Bill into law would not signify the conclusion of the

review on anti-discrimination legislation. Consequential to suggestions received in the course of deliberating the Bill, the Government has undertaken to propose legislative amendments to expand protection under the Sex Discrimination Ordinance (Cap. 480) to outlaw harassment on the ground of breastfeeding. We will also invite EOC to conduct a comprehensive and holistic study on the applicable circumstances of protection from sexual harassment in order to address relevant concerns that go beyond the scope of the DLR.

23. Alongside with our efforts to enhance legal protection, we support the EOC in stepping up its sexual harassment prevention effort, which includes studying of related legal protection, setting up a one-stop support platform, promoting the formulation of anti-sexual harassment policies and measures among different sectors, and enhancing public understanding and alertness about sexual harassment through education and publicity campaigns.

24. At the next stage, the Government will continue to study EOC's remaining recommendations of priority, with a view to informing the public of the way forward within this term of Government.

#### Promotion of Racial Equality

25. The Government is fully committed to eliminating racial discrimination and promoting equal opportunities for EMs. In 2010, we have issued the Administrative Guidelines on Promotion of Racial Equality ("the Guidelines") to provide general guidance to relevant Government bureaux and departments and public authorities (hereafter referred to as "relevant authorities") to promote racial equality and ensure equal access by EMs to public services in key areas concerned, and to take the Guidelines into account in their formulation, implementation and review of relevant policies and measures. To further promote racial equality and enhance cultural sensitivity in public services, and to put in place a mechanism to monitor the provision of public services for EMs, we seek to improve the Guidelines for application to all government bureaux and departments as well as related organisations providing services to EMs. We are taking active steps to review the Guidelines including drawing up guidelines for provision of interpretation services and collection of race-related data from service users. We aim to complete the improvement of the Guidelines by end 2019.



## Protection of Personal Data Privacy

26. The Government values the protection of personal data privacy very much and agrees that the data protection regime has to be up-to-date. In view of the series of major personal data breach incidents which took place earlier, we are now actively reviewing and studying possible amendments to the PDPO jointly with the Privacy Commissioner for Personal Data (PCPD) to strengthen protection towards personal data privacy.

27. The PCPD has already put forward preliminary recommendations on amendments to the PDPO to the Government. We are now focusing our study on several amendment directions, including establishing a mandatory data breach notification mechanism, strengthening the regulation on data retention period, reviewing penalties of non-compliance with the PDPO by raising relevant criminal fines and exploring the feasibility of introducing direct administrative fine, regulating data processors directly to strengthen protection towards personal data being processed, as well as amending the definition of “personal data” to cover information relating to an “identifiable” natural person.

28. We will continue to conduct further in-depth study on the feasibility of the above proposed legislative amendment directions in collaboration with the PCPD, and make reference to relevant data protection laws in other jurisdictions and Hong Kong’s actual situation. We would consult relevant stakeholders in due course, with a view to submitting concrete proposals to amend the PDPO and drafting the amendment bill as soon as possible.

## Children’s Rights

29. Since its establishment in 2006, the Children’s Rights Education Funding Scheme has supported over 330 projects implemented by non-government bodies, to enhance different stakeholders’ understanding of children’s rights as provided under the United Nations Convention on the Rights of the Child. The Scheme in 2020 will offer sponsorships under the "District-focused Project" and "Territory-wide Project" categories. The Government aims to encourage and enable more community organisations to undertake educational projects under the Scheme. The approved projects are expected to be launched in the first quarter of 2020.

30. We will also continue to provide a platform for exchanging views on matters concerning children's rights among relevant non-governmental organisations, children's representatives and the Government through organising the Children's Rights Forum. A total of 35 meetings of the Forum has been held since its establishment in 2005.

### **Conclusion**

31. Members are invited to note the content of this paper.

Constitutional and Mainland Affairs Bureau  
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