

From: Coalition for Equal Opportunities Actions

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(Press release)

EOC ineffective in ensuring equality

Comprehensive review on the EOC demanded

This year marks the 20th anniversary of the Equal Opportunities Commission (EOC). Yet the EOC has not made any effort to review on how it has been working on the objectives it was set up to accomplish. The Coalition for Equal Opportunities demands the EOC to conduct comprehensive review on three major work areas: complaint handling, legal assistance, and research and advocacy. We demand immediate reform of EOC to ensure the EOC stay current, use taxpayers' money wisely and make timely improvements.

Currently, complaints are handled by both the Complaint Services Division and the Legal Service Division. Regrettably, the responsibilities of the two divisions are mis-matched. As a result, **victims were put through trying procedures and suffered from second trauma, and in the end they did not even get the justice they deserve.**

There are currently 6 lawyers under the Legal Service Division, incurring a cost of over 8 million Hong Kong dollars every year. Yet these lawyers provided unreasonably limited legal assistance: on average, they only handle about 30 applications every year and half of them are rejected, which means barely a dozen cases received legal assistance, and among them only a few went to the court. In short, **each lawyer only needs to handle one case every two months!**

The Legal Service Division do not meet with or provide legal advice to victims who have not been granted legal assistance. EOC's statutory duty to provide legal consultation as outlined by the anti-discrimination ordinances has not been performed. **Legal Service Division sees itself as EOC's in-house lawyers**, mis-interpreting their responsibilities and is not assisting the victims to seek justice. Instead, it uses the excuse of defending EOC's resource and put forth high evidence threshold to refuse assistance to majority of the victims. In this way, **how can they accumulate precedents to anti-discrimination laws** to alert society against discriminatory practices?

The Complaint Services Division plays conflicting roles; it is both the mediator and the investigator of a case. The information it acquired was shared with the Legal Service Division, and the practice is unfavorable for mediation. When the respondent submits information, they focus on avoiding potential lawsuits, which makes the mediation process less effective. Among 772 complaint cases, only 27% entered the mediation stage, and only 19% of those were successful.

The Policy, Research and Training Division has only been focusing on conducting fragmented research projects, and there has been limited follow-up to the findings. As a result, the EOC lacks focus in implementation of the anti-discrimination laws and promotion of equal opportunities. EOC has been all talk and no action, which is, unsurprisingly, an ineffective strategy.

In the past 20 years, EOC has not fulfilled its roles and responsibilities. In terms of EOC leadership, the Government refused to renew contract with suitable candidates, and hired unsuitable person as EOC Chairperson. Besides, the Government did not allocate sufficient resources to the EOC, which showed a lack of sincerity in promoting equal opportunities in Hong Kong.

Revamping the Legal Service Division

1. Take reference from the Labour Tribunal system to set up an Equal Opportunities Tribunal, which should be operated based on principles of efficiency, cost-effectiveness and simplicity, and directly handle complaints from victims;
2. Unsuccessful mediation cases of the Complaint Services Division should be immediately transferred to the Legal Service Division which will represent the complainants, and provide legal consultation, assist evidence gathering, and conduct mediation or litigation, to fulfill EOC's duties set out under the anti-discrimination ordinances;
3. Convert the "Legal and Complaints Committee" which handles application of legal assistance into the "Appeal Committee". When a legal assistance application is rejected, the complainant can appeal to the Appeal Committee;
4. When the anti-discrimination ordinances were enacted in Hong Kong, reference was made to the British system to introduce a questioning form (questionnaire) as an evidence collection system, but the EOC never used the mechanism. The Legal Service Division should make good use of the questioning form system granted by the law and reduce the burden and stress on the victims in evidence collection;
5. Set up EOC Legal Consultation Service to receive inquiries from the public regarding existing anti-discrimination ordinances, so that victims can be well informed of their legal rights when entering the complaint procedure.

Revamping the Complaint Services Division

1. The Complaint Services Division should focus on mediation and prioritize its efforts to facilitate both parties in a complaint to reach an agreement;
2. Under the current case handling procedure, the information collected by the Complaint

Services Division will be transferred to the Legal Service Division and will be used as evidence for litigation, contrary to the interpretation of the mediation proceeding of legal departments. We suggest that the Complaint Services Division should carry out mediation without infringing the interest of either party to improve the efficiency and success rate of mediation;

3. Civil societies have years of experience in assisting or referring cases. The current case handling mechanism and the requirement for evidence is considered to be too complicated. Therefore, the Complaint Services Division should simplify the current procedures and allow cases to be processed more quickly and efficiently;
4. If the Respondent acts with undue delay, the Complaint Services Division should transfer the case to the Legal Service Division, and initiate the legal assistance mechanism.

Revamping the Policy, Research and Training Division

1. The Division should set up a 3-year research and advocacy plan through public consultation, conduct more focused research and policy intervention strategies, so as to implement the EOC's mission of promoting equal opportunities;
2. EOC should form working groups on different areas with civil societies to build partnership, so that EOC can better involve the public in its conferences, research projects, advocacy, and training work;
3. Review government policies or measures to ensure alignment with principles of equal opportunity, and monitor all government departments on whether they adopt perspectives of equal opportunity in daily operation as well as existing and new policies;
4. The Policy, Research and Training Division should meet regularly with different sectors to help corporates implement workplace guidelines regarding the four anti-discrimination ordinances. It should consult different sectors on anti-discrimination measures, and assist small and medium enterprises to resolve challenges to equal opportunities, so that EOC's anti-discrimination work can be implemented in the private sector;
5. The anti-discrimination ordinances should be enhanced and amended without delay. Moreover, the Policy, Research and Training Division should regularly meet with civil societies in the related areas and discuss how the laws are being implemented at the ground level.

Co-signing organizations:

Hong Kong Unison

Network for Women in Politics

Women's Coalition for Equal Opportunities

New Arrival Women League

Hong Kong Women Workers' Association

Association Concerning Sexual Violence Against Women

Hong Kong Women Christian Council

Women's Affairs Committee, Hong Kong Confederation of Trade Unions

Retail, Commerce and Clothing Industries General Union

Rainbow Action

同志公民 out and vote

Civil Human Rights Front

Office of Fernando Cheung, Legislative Councillor