

Press Releases

LCQ20: Race Discrimination Ordinance

Following is a question by the Hon Emily Lau Wai-hing and a written reply by the Secretary for Constitutional and Mainland Affairs, Mr Stephen Lam, in the Legislative Council today (May 25):

Question:

The Race Discrimination Ordinance (Cap. 602) (the Ordinance), which came into full effect in 2009, provides protection for all ethnic groups in various fields such as employment, education and the provision of goods, facilities and services. Regarding the implementation of the Ordinance since its commencement, will the Executive Authorities inform this Council:

(a) whether they know the respective numbers of enquiries and complaints received by the Equal Opportunities Commission (EOC) relating to the various fields protected under the Ordinance since its commencement;

(b) given that ethnic minorities have relayed to this Council many times that the authorities have not provided sufficient and effective educational support to non-Chinese speaking (NCS) students and have affected the further study opportunities of such students, and most school sponsoring bodies (SSB), principals and teachers do not have sufficient understanding of the details of the Ordinance, whether the authorities know if EOC will follow up by:

(i) carrying out a study and a formal survey on whether there is institutional racial discrimination against ethnic minority students under the education system of Hong Kong; if it will, of the details concerned; if not, the reasons for that; and

(ii) formulating a code of practice on education in accordance with the Ordinance by drawing reference to that of the Disability Discrimination Ordinance (Cap. 487), so as to explain the legislation and provide a practical guidance for SSB on how to comply with the Ordinance; if it will, of the details concerned; if not, the reasons for that;

(c) given that 11 direct investigations were carried out by EOC in respect of the Ordinance in 2010, and among them, the greatest number of cases (with a total of six cases) involved the provision of goods, facilities and services, whether the authorities know if EOC will consider formulating a code of practice on this field; if it will, of the details concerned; if not, the reasons for that; and

(d) given that the attainment of a pass in the subject of Chinese Language in the Hong Kong Certificate of Education Examination as one of the entry requirements for most ranks in disciplined services departments such as the Police Force and the Correctional Services Department render many NCS people ineligible to apply for a post in the disciplined services, and it is learnt that the Police Force has made adjustments to such requirement recently, whether the authorities will revise comprehensively such entry requirement regarding the subject of Chinese Language in all disciplined services departments, so that ethnic minorities will have an equal opportunity to join the disciplined services; and whether the authorities know if EOC will take the initiative to carry out an investigation on whether the language proficiency requirement set by government departments in recruiting staff is in contravention of the Ordinance?

Reply:

President,

(a) During the period from the commencement of the operation of the Race Discrimination Ordinance (RDO) on July 10, 2009 up to April 30, 2011, the Equal Opportunities Commission (EOC) had received 731 enquiries and 99 complaints relating to racial discrimination. Of these 731 enquiries, 320 were related to the employment field and 411 related to fields other than employment (the EOC does not keep further statistical breakdown by protected fields other than employment for enquiries under the RDO). Of the 99 complaints received, 54 were complaints on discrimination related to provision of goods and services, 30 related to the employment field, five related to education and three related to government services, while the remaining seven cases were complaints on harassment or vilification.

(b) Regarding education support, the Administration has put in place a series of measures to support non-Chinese speaking students. The Education Bureau (EDB) has revised the arrangements for admission to Primary One for non-Chinese speaking students since 2004 to enable them to choose schools which, by tradition, admitted a larger number of non-Chinese speaking students, or other public sector schools. A three-year longitudinal research was conducted in tandem. The EDB has also issued circulars to schools and, in collaboration with the EOC, conducted briefings on the RDO for staff of the EDB and schools in November 2008 and July 2010 respectively, in which educational establishments were reminded of their responsibilities to make their best endeavours to support the teaching and learning of all students irrespective of race, to create an accommodating environment for ethnic diversity in schools, to respect cultural and religious differences, and to maintain communication with parents.

Studying the education needs of ethnic minorities in Hong Kong is an important area of the EOC's work. The EOC set up a Working Group on Education for Ethnic Minorities (the Working Group) in July 2010 to explore the practical problems faced by non-Chinese speaking students and recommend measures for improvements. Having consolidated the concerns of different stakeholder groups including principals and teachers of designated schools, ethnic minority parents, students and non-governmental organisations serving the ethnic minorities community, the Working Group has forwarded its views to the EDB and exchanged views with the Bureau on the issues concerned.

Taking into account the situation of relevant enquiries and complaints received so far by the EOC and the EOC's work priority and the effective use of its manpower resources, the EOC will first work closely and follow up with the EDB and stakeholders on the views submitted by the Working Group to the EDB, and consider conducting formal investigations and formulating a Code of Practice on Education under the RDO at a later stage if necessary. Meanwhile, the EOC will continue with its publicity and public education efforts to promote equal opportunity in education.

(c) The EOC carried out 11 self-initiated investigations in respect of the RDO in 2010, six of which were related to the provision of goods, facilities and services. The outcome of these investigations shows that out of these six cases, two were in breach of the RDO. No unlawful act was found in the other four cases although there is room for improvement by the service providers in these cases to avoid misunderstanding of discrimination. The EOC has issued advice to the service providers concerned accordingly.

Since the implementation of the RDO, most of the complaints relating to provision of goods and services arose from inadequate communication or misunderstanding between the parties concerned.

With more operational experience, and taking into account the number, nature and complexity of complaints received in the field, the EOC will consider the need for issuing a Code of Practice or guidelines on the provision of goods, services and facilities. The EOC will continue its efforts in public education to raise the public awareness of and sensitivity to racial discrimination.

(d) According to the Code of Practice on Employment (the CoP) issued by the EOC under the RDO, an employer must ensure that any language requirement for a job is relevant to and should be commensurate with the satisfactory performance of the job. In line with the CoP, Heads of Department/Grade have specified appropriate Chinese and English language proficiency requirements (LPRs) as part of the entry requirements for appointment to each of the grades under their purview, having regard to the job requirements and operational needs of the concerned grades. The prevailing arrangement on LPRs is also conducive to the Administration's policy to maintain a fully biliterate (Chinese and English) and tri-lingual (Cantonese, Putonghua and English) Civil Service.

At present, the LPRs for appointment to all the disciplined services grades are set at Level 2 in Chinese Language and English Language subjects in the Hong Kong Certificate of Education Examination (HKCEE), or equivalent. In order to facilitate applicants who may not possess these local qualifications, results in other public examinations, such as Grade D in Chinese Language subject and Grade E in English Language subject in the International General Certificate of Secondary Education, UK General Certificate of Secondary Education, and General Certificate of Education "Ordinary" Level, are also accepted as equivalent to Level 2 in Chinese Language and English Language subjects in the HKCEE respectively. The Administration will from time to time review the LPRs for appointment to the relevant grades in the light of operational needs.

The EOC has liaised with different disciplined services on matters relating to the selection criteria and compliance with the requirements of the RDO. As the disciplined services are re-examining their recruitment and appointment policies and practices, and the EOC has not received any complaint in this regard, the EOC has no plan at this stage to launch a formal investigation on the LPRs for recruitment in the disciplined services or other Government departments. The EOC will continue to monitor the development of the matter and consider the need to take other actions in the light of the circumstances.

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