

Subcommittee on Rights of Ethnic Minorities
Implementation and Review of the Administrative Guidelines on
Promotion of Racial Equality

Submission from the Equal Opportunities Commission

Purpose of the Paper

This paper sets out the Equal Opportunities Commission's (EOC's) views to the Subcommittee on Rights of Ethnic Minorities regarding the Administrative Guidelines on Promotion of Racial Equality (the "Guidelines") and its implementation.

The Role of the Guidelines

2. Although the exercise of Government function is not covered under the Race Discrimination Ordinance (RDO), discrimination on the ground of race in education, employment, provision of goods, facilities, services and premises etc., by the Government may still constitute unlawful race discrimination. In this regard, the Guidelines, though non-mandatory as currently implemented, are a necessary tool in guiding relevant Government Bureaux and Departments and public authorities (hereafter as "relevant authorities") to provide non-discriminatory services, particularly to ethnic minorities (EMs). Furthermore, in view that the Guidelines state clearly in Paragraph 1.4 the objective to "provide guidance to relevant public authorities so that they would adopt the good practice of considering the promotion of racial equality as an integral dimension in the formulation, implementation and review of relevant policies and measures", the EOC believes that the Guidelines also aim to play a role in ensuring relevant parties promote racial equality as part of a larger social

responsibility. They are to be seen as good practices to further the cause of racial equality, well beyond the fulfillment of minimal legal requirements.

3. The Guidelines have laid down some essential steps towards formulating policies and measures to ensure equal service access as well as suggestions for staff training and implementation of the Guidelines. However, without the Guidelines being legally or administratively binding, there is an enormous disparity among relevant authorities in whether or how they follow the Guidelines in policy making and operations. At one end of the spectrum are examples which are proactive efforts to empower EMs such as the HK Police Force's Project Gemstone, while at the other end there are public bodies including many public utilities, which are simply excluded from the list of authorities the Guidelines currently cover.

4. In view of the above observation and the fact that the Guidelines have been in place for 8 years, the EOC highly recommends a comprehensive review by the Government with the suggestions below taken into consideration.

EOC Recommendations

Policies and Measures

5. Currently, the Guidelines mainly look at existing or potential new policies to check for compliance with racial equality objectives. As the RDO has been legislated for almost 10 years, the focus of the Guidelines needs to be elevated and moved towards being more proactive in the approach towards achieving racial equality. Positive measures and specific policies to facilitate access to services for EMs will have to be encouraged. For example, instead of simply translating documents into the six EM languages and putting them on the respective websites, thought may need to be given to the actual information

seeking habits of the target audience and find those ways to convey information. For certain disadvantaged groups, such as low-income South Asian households, other ways of reaching them may be required in order to ensure their equal access to services and information. Some positive examples by a few public authorities include working with particular EM community networks and undertaking outreach efforts in the form of information days, recruitment of staff proficient in certain EM languages to cater to EM service users' needs, etc.

6. The Guidelines recommend consulting with relevant stakeholders and collecting pertinent information and statistics while assessing the impact of policies and measures. The EOC believes this is a critical step.

Implementation

7. The EOC recommends a system of regular, structured monitoring, which persuades relevant authorities to set goals and report progress routinely. For instance, staff training on racial equality and cultural sensitivity is often laid down as one of the measures by many authorities. However, there should be a clear target of number of staff trained and regular assessment of its achievement.

8. The Guidelines also advise that the authorities publicize the policies and measures they have implemented to further the objectives of racial equality. The EOC wholly supports this suggestion. This not only informs the public about new measures put in place but also helps provide a measure of accountability for the public authorities. However, as current practices by authorities differ greatly, the Government is recommended to develop a centralized platform to streamline the information provision and facilitate access by EMs. Examples by the Women's Foundation and Family Council to set up a dedicated webpage under the GovHK websites with regular updates could be considered.

Review

9. With the profile and demographics of EMs in Hong Kong changing over the years, it is essential that policies, measures and services keep pace with the change. In order for this to happen, systematic collection and analysis of service user data is imperative. The Guidelines makes mention of this. However, it is unclear how many public authorities are practicing this, let alone publicizing the findings. For example, the EOC has recommended to the Hospital Authority to collect data on EM patients visiting their hospitals so as to accurately assess needs and plan services accordingly. Data on language requirement, health profile, medical services accessed etc. by district/area and race as well as gender may be critical indicators to determine the amount and type of services and staff training to be provided in different hospitals.

Extension of Guidelines to Cover Employment

10. The Guidelines make mention of the EOC's Code of Practice on Employment under the RDO for relevant authorities to follow when it comes to employment policies and practices. However, the EOC recommends that in addition, the Guidelines specifically list out key measures for authorities to follow in order to promote equal opportunities in recruitment for EMs. The low numbers of EM employees that can be found in public authorities is a glaring pointer to what is possibly a deeper systemic issue. Proactive and affirmative steps may be called for in order to correct this imbalance.

11. It is recommended that an important recruitment guideline be included on language requirement for job vacancies. Authorities should be advised to carefully scrutinise the language requirement listed in the vacancy for being commensurate with the actual needs of the job as well as allow for skills,

including language skills, to be picked up on the job or within a certain time on the job.

12. Likewise, such scrutiny should be extended to all aspects of the job including promotions, transfers, training etc. Wherever possible, reasonable accommodations should be provided for the language barrier including on the job language training, alternate language qualifications, bilingual materials etc.

Conclusion

13. The Guidelines serve an important function in providing relevant authorities with a list of good practices that can help promote equal access to services and opportunities within their areas of function. However, as with all guidelines, they are voluntary and non-enforceable. In order for them to have teeth, it is essential that regular monitoring, review and user feedback are used effectively and with consequences.

14. It is also recommended that the scope of the Guidelines be expanded to include employment by relevant authorities. Given that the Government is the largest employer in Hong Kong and the population of EMs, particularly youth, is increasing, it may be prescient to re-examine recruitment policies of various Bureaux and Departments and help them to do provide job opportunities for EMs through the Guidelines.

Equal Opportunities Commission

January 2018