



The Discrimination Law Review: Submissions to the Government

It is vital for Hong Kong's future that everyone can enjoy equal protection from discrimination. To this end, the Equal Opportunities Commission (EOC) launched a comprehensive review of the anti-discrimination Ordinances, in order to submit evidence-based recommendations to the Government on proposed legislative amendments and other actions.



At a Glance



20 years since the first anti-discrimination Ordinance **came into effect**



4 anti-discrimination Ordinances covering sex, pregnancy, marital status, disability, family status, and race



4 months of public consultation



Over 125,000 written responses received



288 written responses from **15** categories of **organisations**

Organisations show higher level of support for EOC's proposals

Majority of organisations **supported** the EOC's proposals in

57 out of 77 questions



Majority of individuals **disagreed with** the EOC's proposals in

66 out of 77 questions

Some Relevant Factors Considered in Formulating the EOC's Position

Role and operational experience of the EOC

Evidence and seriousness of discrimination

Number of people affected by discrimination

Hong Kong's local and international **human rights obligations**

Whether **systemic inequality** could be addressed



Legal developments in comparable jurisdictions

Extent of existing protection

Degree of **support/opposition** from organisations and individuals

Exception in the law is not legitimate or proportionate

Reform would **clarify, simplify, or modernise** the law

Higher Priority Areas for Legislative Amendments or Other Actions

Based on the analysis of key factors, a number of higher priority areas have emerged which raise more serious and urgent concerns. For some of these issues, the EOC believes the proposed amendments are more straightforward and less complex in application; for others, given that the EOC's proposals will likely have impact across multiple domains and policy areas, the EOC recommends that further consultation and studies be conducted by the Government before legislating. Some of the higher priority areas are highlighted below.



Advancing equality for people with disability



Introducing a distinct duty to make **reasonable accommodation** for persons with a disability, in **all fields** where legislation applies



Adding express prohibition on disability discrimination in **voting and standing for elections**



Introducing being accompanied by an **assistance animal** as a category of disability discrimination



Enhancing equality for women



Introducing a **statutory right** for women to return to their previous work position after **maternity leave**

Introducing express provision to prohibit **direct and indirect discrimination** on grounds of **breastfeeding**, including expressing milk



Higher Priority Areas for Legislative Amendments or Other Actions



Promoting equality for all racial groups



Prohibiting race discrimination in the exercise of **government functions or powers** under the Race Discrimination Ordinance



Prohibiting race discrimination and harassment **by association**, including for spouses, cohabitating partners, relatives, carers, or business/sporting/recreational relationships



Repealing the exception in **vocational training and education** in relation to **medium of instruction**



Improving protection from discrimination or harassment



Providing protection from sexual, racial and disability harassment to persons **in a common workplace**, such as consignment workers and volunteers

Providing protection from racial and disability harassment of **service providers** by service users

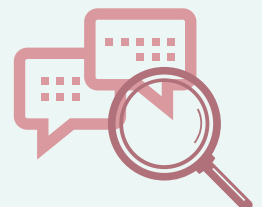


Including express provision to prohibit **public authorities** from discriminating in the performance of their functions and powers under the anti-discrimination laws



Introducing public duty to promote and mainstream equality

Conducting **public consultation and research** on introducing a **public sector equality duty**. This would require public bodies to **promote equality and eliminate discrimination** in their work and apply to all protected characteristics. The consultation should cover the duty's scope, application, means and extent of enforceability, and the EOC's possible role in producing guidance and monitoring its effectiveness



Higher Priority Areas for Legislative Amendments or Other Actions



Expanding protection from discrimination on grounds of nationality, citizenship and residency status



Conducting **public consultation** with the **aim of introducing protection** from discrimination on grounds of **nationality, citizenship and residency status** under the Race Discrimination Ordinance, including on the scope of protection and what exceptions may be appropriate



Enhancing **better understanding** on the application of the Race Discrimination Ordinance and **potential effects** of proposed protections



Safeguarding equality for families: cohabitation relationships



Conducting **comprehensive research and public consultation** on:

- (1) Providing protection from discrimination for **cohabitating relationships** under the Sex Discrimination Ordinance;
- (2) The **effect** of other discriminatory legislation; and
- (3) Related issues of possible **legal recognition** of cohabitation relationships



Conducting **research and public consultation** on the extension of protection under the Family Status Discrimination Ordinance to that related to **care of immediate family members** from:

- **Former marriages;**
- Current and former **cohabitating relationships**