

消除歧視

引言

《性別歧視條例》及《殘疾歧視條例》規定，任何人如基於性別、婚姻狀況、懷孕或殘疾而歧視另一人，即屬違法。性騷擾和基於殘疾而騷擾和中傷另一人也是違法的行為。此外，發布或安排發布歧視性廣告亦屬違法。

委員會設有電話查詢服務，解答市民對兩條條例的條文及平等機會委員會工作的查詢。訓練有素的職員會向市民解釋法例和平等機會委員會的角色及職能，並迅速處理市民以書面方式或親臨辦事處提出的查詢。

兩條條例清楚列出違法的歧視作為，任何人士如受到不平等對待而感到受屈，可以親身或由其代表向平等機會委員會提出申訴，委員會有權按《性別歧視條例》第 84 條或《殘疾歧視條例》第 80 條所賦予的權力調查該項投訴，並致力調解以達和解。這類投訴屬「應進行調查及調解的投訴」。

委員會亦會調查其他的違法行為，包括發布歧視性廣告，以及由熱心的市民向平等機會委員會舉報的違法行為。這類個案稱為「其他投訴」。

對於可能影響深遠或涉及原則問題的事宜，委員會可進行正式調查。在進行正式調查之前，委員會必須先劃定調查範圍，並須就該調查向答辯人發出通知。



Eliminating Discrimination

Introduction

The Sex Discrimination Ordinance (SDO) and Disability Discrimination Ordinance (DDO) make it unlawful to discriminate against persons on the ground of sex, marital status, pregnancy or disability. Sexual harassment, and harassment and vilification on the ground of disability are unlawful under the two ordinances. Also, it is unlawful to publish or cause to be published a discriminatory advertisement.

To deal with enquiries on the provisions of the two discrimination ordinances and the work of the Commission, the EOC provides a telephone enquiry service. Duty officers who are fully-trained provide assistance to members of the public in understanding the law, and the role and functions of EOC. Enquiries in writing or made in person are dealt with promptly.

Persons aggrieved by any unlawful act under the two ordinances, or their representatives, may lodge a complaint with the EOC. The EOC is empowered to investigate into the complaint by virtue of Section 84 of the SDO or Section 80 of the DDO respectively and endeavours to effect a settlement through conciliation. This type of complaints is called "Complaints for the Purpose of Investigation and Conciliation".

The EOC also investigates into other unlawful acts such as publishing discriminatory advertisements and cases of other alleged unlawful practices which are brought to EOC's attention by people who are concerned about such issues. Cases dealt with under this category are called "Other Complaints".

The Commission may conduct a formal investigation into matters which would have significant implication or would raise issues of principle. Before embarking on a formal investigation, the EOC must draw up the terms of reference for the investigation and give notice of the holding of investigation.

查詢

市民可以用電話、書函或親身到委員會作出查詢。查詢分兩類：一般查詢及具體事項查詢，後者主要涉及《性別歧視條例》及《殘疾歧視條例》的條文。截至1997年3月31日為止，委員會共收到一千零七十九宗一般查詢及九百三十七宗具體事項查詢。在九百三十七宗具體事項查詢中，有四百零九宗關乎《性別歧視條例》，二百六十八宗關乎《殘疾歧視條例》，七十九宗同時關乎兩條法例，三十一宗關乎委員會的工作，一百五十宗與委員會的管轄範圍無關。在與委員會的管轄範圍無關的一百五十宗查詢中，涉及的範圍包括：基於年齡、種族、性傾向、家庭崗位、宗教及其他一般或個人關注的問題而起的歧視。

Enquiries

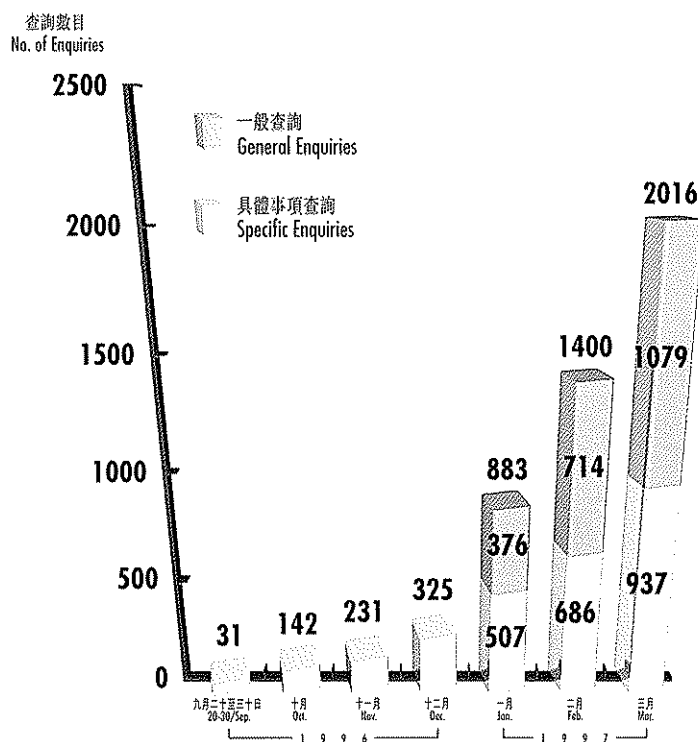
Members of the public may make enquiries to the EOC by telephone, by letter or in person. There are two types of enquiries: general enquiries and specific enquiries, the latter related mainly to the provisions of the SDO and the DDO.

As at 31 March 1997, the Commission received 1079 general enquiries and 937 specific enquiries. Of the 937 specific enquiries, 409 were SDO-related, 268 DDO-related, 79 related to both ordinances, 31 concerned the work of the Commission and 150 were outside EOC's jurisdiction. The 150 enquiries which were outside EOC's jurisdiction included matters related to discrimination on the grounds of age, race, sexual orientation, family status, religion and other general or personal concerns.

一般查詢及具體事項查詢累積統計 (一九九六年九月二十日至一九九七年三月三十一日)

Cumulative Statistics on General and Specific Enquiries

(for the period of 20 September 1996 to 31 March 1997)



* 一般查詢的數字由一九九七年一月一日起開始收集

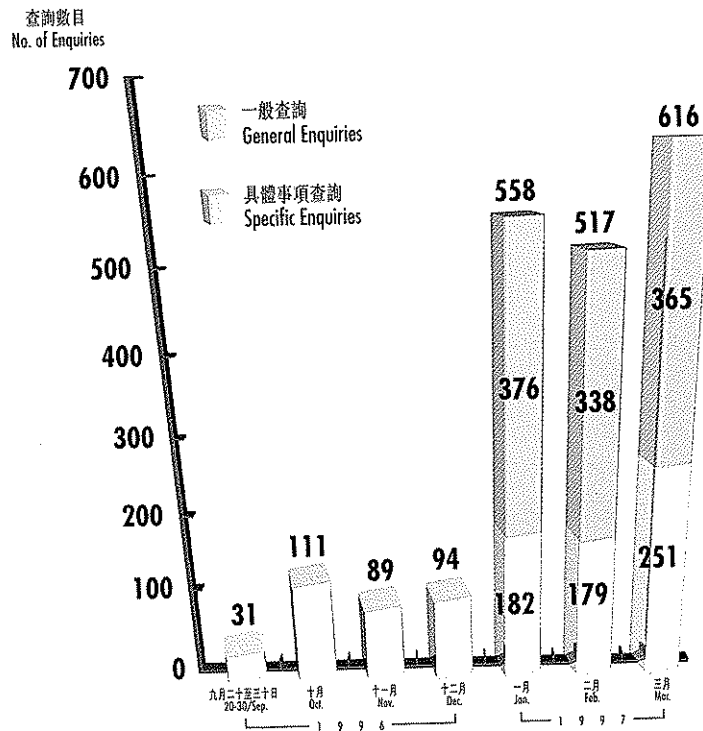
* The Data of General Enquiries were collected since 1 Jan. 1997

一般查詢及具體事項查詢每月統計

(一九九六年九月二十日至一九九七年三月三十一日)

Monthly Statistics on General and Specific Enquiries

(for the period of 20 September 1996 to 31 March 1997)



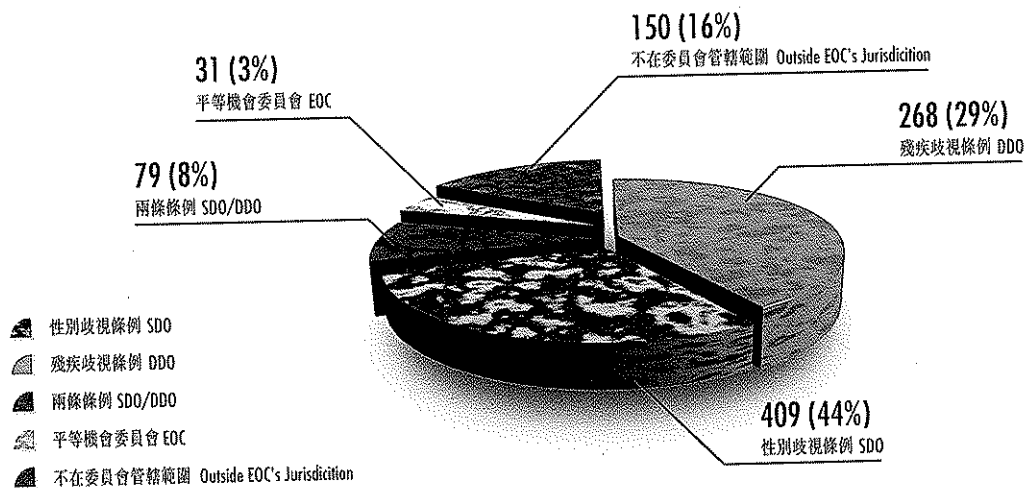
*一般查詢的數字由一九九七年一月一日起開始收集
 * The Data of General Enquiries were collected since 1 Jan. 1997

具體事項查詢分類

(具體事項查詢總數: 937)

Breakdown of Specific Enquiries

(Number of Specific Enquiries: 937)



投訴

應進行調查及調解的投訴

委員會其中一項主要的職能是鼓勵任何牽涉違法行為事件的人士，可藉調解方法達致和解。

法例規定，如有人提出書面投訴聲稱有人做出法例條文中所定的違法行為，而投訴人因為該違法行為而感到受屈，或投訴人是一位或一群受屈人士的代表，委員會有權就該投訴採取行動。任何人，尤其是殘疾人士，如提出書面投訴有困難，委員會將予以協助。

委員會一旦接到投訴，便需展開調查，並盡力調解，以達致和解。調查和調解工作會由性別事務科和殘疾事務科的人員負責，他們會調查每宗個案，瞭解實情，而投訴個案中的雙方都有機會向調查人員講述其立場。如雙方願意，便會進行調解。當雙方同意和解的條款，個案便調解成功。

如委員會信納，投訴中所指的行為並非按法例條文屬於違法；或受屈人不想委員會展開或繼續調查；或投訴所指的違法行為已發生超過十二個月；或委員會認為，投訴是瑣屑無聊、無理取鬧、基於錯誤理解或缺乏實質，在以上種種情況下，委員會可能不接受投訴或終止調查。

Complaints

Complaints for the Purpose of Investigation and Conciliation

One of the primary functions of the EOC is to encourage persons concerned with a matter involving any act alleged to be unlawful to effect a settlement by conciliation.

The legislation provides the EOC with the power to act upon a complaint when it is in writing, when the complaint alleges that a person has done an unlawful act under a provision of the legislation and when the complainant is a person who feels aggrieved because of the unlawful act or the complainant is a representative of (an) aggrieved person(s). The EOC will provide assistance to any complainant, particularly people with a disability, who may have difficulty in complying with the requirement of putting his or her complaint in writing.

Once a complaint is received the EOC is obliged to conduct an investigation into it and to endeavour to settle it by conciliation. The investigation and conciliation of complaints is undertaken by the operational staff of the Gender and Disability Divisions. The facts of each case are looked into and both parties to the complaint have the opportunity to speak to the investigating officer. If both parties are then willing, the matter proceeds to conciliation. The case is conciliated when the parties agree on the settlement terms.

The EOC may decline complaints or discontinue investigation in certain situations. These include when the EOC is satisfied that the act complained of is not unlawful by reason of a provision of the legislation, when the aggrieved person does not wish the investigation to be conducted or continued, when more than 12 months has passed since the alleged act occurred, or when the EOC is of the opinion that the complaint is frivolous, vexatious, misconceived or lacking in substance.

Human Rights

Discrimination

如答辯人不想進行調解，或雙方不能達成和解協議，投訴人可提出民事訴訟，並可向委員會申請其他協助，把個案提上法院。根據法例，委員會如信納該個案可帶出一個原則的問題，或認為讓申請人自行應付該案而不加援手是不合情理的，在這樣的情況下，委員會可給予申請人協助，協助的形式包括由委員會的律師或代延外間的律師擔任申請人的法律代表。

1996年9月20日至1997年3月31日期間，委員會共收到三十二宗需進行調查及調解的投訴個案，其中有十三宗是根據《性別歧視條例》提出，另有十九宗是根據《殘疾歧視條例》提出。

投訴的範圍廣闊，在十三宗根據《性別歧視條例》提出的投訴中，有十一宗涉及僱傭範疇；當中包括有性騷擾，亦有基於性別、婚姻狀況或懷孕而發生在招聘、解僱及提供福利方面的歧視。餘下兩宗的投訴則關乎僱傭範疇以外的性騷擾，以及提供貨品及服務方面的婚姻狀況歧視。

至於根據《殘疾歧視條例》提出的十九宗投訴，其性質更為多樣化。在九宗與僱傭有關的投訴中，共計涉及招聘、解僱、升職、分配工作、福利和提供職業訓練方面的歧視，以及基於殘疾的騷擾等方面。至於十宗僱傭範疇以外的投訴，其中有五宗與殘疾人士進出處所有關，五宗與提供貨品及服務方面的歧視、行使政府權力及騷擾殘疾人士等有關。

由於兩條法例於1996年12月20日全面生效，因此大部份投訴都是在此年報期間最後三個月才收到的。截至1997年3月31日為止，有數宗個案已接近和解。

When a respondent does not wish to proceed to conciliation, or the parties cannot reach agreement on the terms of settlement, a complainant may initiate civil proceedings and may apply to the EOC for other assistance in bringing the case to court. The legislation allows the EOC to grant assistance, including legal representation by its own lawyers or other lawyers, where the EOC is satisfied that the case raises a question of principle or it is unreasonable to expect the applicant to deal with the case unaided.

Between 20 September 1996 and 31 March 1997, the Commission received 32 complaints for the purpose of investigation and conciliation. These included 13 complaints under the SDO and 19 under the DDO.

The complaints covered a wide range of subject matters. For the 13 complaints under the SDO, 11 of them were employment-related concerning sexual harassment, discrimination in recruitment, dismissal, and provision of benefits on the ground of sex, marital status or pregnancy. The remaining complaints were related to sexual harassment outside the employment field and discrimination in the provision of goods and services on the ground of marital status.

As regards the 19 complaints under the DDO, the nature of the complaints was even more diverse. For the 9 employment-related complaints under the DDO, they covered discrimination in recruitment, dismissal, promotion, job allocation, benefits, provision of vocational training and harassment on the ground of disability. For the 10 non-employment-related complaints, 5 complaints concerned access of premises by persons with a disability while the remaining 5 complaints concerned discrimination in the provision of goods and services, exercise of government's powers, and disability harassment.

As the two ordinances have come into full operation on 20 December 1996, most of the complaints were received by the EOC in the last three months during the period under report. As at 31 March 1997, a few complaints were near settlement.

其他投訴

委員會還處理一些其他投訴，它們不屬於需要調查及調解的投訴。這些投訴主要涉及歧視性廣告、執行歧視性常規、指示或引導別人作出法例所指的違法行為等。委員會會對這些其他投訴向法院提出民事法律行動。

由非受屈人士提出的投訴，或投訴人不想參與調解時，如投訴涉及違法行為，而事件又有需要作出跟進時，委員會將採取行動。這類其他投訴包括進出處所的通道、或向有殘疾人士提供貨物及服務等。在這類個案中，委員會會與有關的方面設法糾正情況或解決事件。

即使有些投訴不屬於委員會的司法管轄範圍，委員會也會把事件轉介有關當局，促他們關注及採取行動。

其他投訴主要關乎《性別歧視條例》及《殘疾歧視條例》第 43 條所指的歧視性廣告，大部份是委員會職員日常監察廣告時識別出來的。

截至 1997 年 3 月 31 日為止，委員會共處理一百六十五宗其他投訴，其中一百五十五宗關乎歧視性廣告。已經解決的其他投訴共一百三十四宗（即 81.2%）。

Other Complaints

There are other complaints dealt with by the EOC which fall outside the complaints mechanism involving investigation and conciliation. These complaints relate to unlawful acts such as publishing discriminatory advertisements, applying a discriminatory practice, instructing or inducing someone to commit an unlawful act under the legislation and the like. The EOC deals with these Other Complaints by taking civil action in the courts.

The EOC will also take action on other complaints involving unlawful acts which are brought to our attention by complainants who are not the aggrieved persons, or who do not wish to be involved in conciliation but where matters could be followed up. These Other Complaints may include matters such as access to premises or provision of goods and services to persons with a disability. In these cases, the EOC will work with the parties concerned to rectify the situation or resolve the matter.

Even when complaints are outside EOC's jurisdiction, the EOC may refer the matter to the relevant agencies for their attention and possible action.

Most of the Other Complaints related to discriminatory advertisement within the meaning of s.43 of the SDO and the DDO. They were identified by the Commission through routine monitoring of advertisements.

As at 31 March 1997, there were 165 Other Complaints of which 155 concerned discriminatory advertisements. Among all the Other Complaints, 134 cases (81.2%) were resolved.

投 訴 分 類

(投訴總數：32)

Breakdown of Complaints

(Number of Complaints: 32)

10 (31%)

殘疾歧視 (非僱傭範疇) DDO (Non-employment Related)

11 (35%)

性別歧視 (僱傭範疇) SDO (Employment Related)

9 (28%)

殘疾歧視 (僱傭範疇) DDO (Employment Related)

2 (6%)

性別歧視 (非僱傭範疇) SDO (Non-employment Related)

- 性別歧視 (僱傭範疇) SDO (Employment Related)
- 性別歧視 (非僱傭範疇) SDO (Non-employment Related)
- 殘疾歧視 (僱傭範疇) DDO (Employment Related)
- 殘疾歧視 (非僱傭範疇) DDO (Non-employment Related)

