

# 平等機會委員會

## EQUAL OPPORTUNITIES COMMISSION

平等機會委員會  
EQUAL OPPORTUNITIES COMMISSION

去一個**機會平等**及**沒有歧視**的社會。

之間、僱主之間、有家庭崗位和沒有家庭崗位的人士之間機會平等  
透過立法、行政措施和公眾教育消除基於性別、  
殘疾及家庭崗位而作出的歧視行為  
• 消除性騷擾以及對殘疾人士的騷擾和中傷

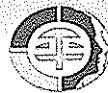


平、誠信、  
力、效率



- 透過法例確保實踐和改革
- 加強教育以提高公眾意識及改變社會觀念
- 加強與政府及社區團體的溝通，推動參與
- 構建夥伴關係，鼓勵推動平等機會政策及  
實務守則和採取防範措施
- 進行研究，指導未來方向

查詢電話：2511 8211



平等機會委員會  
EQUAL OPPORTUNITIES COMMISSION

### 性別 歧視條例



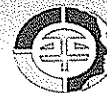
性別、婚姻狀況、懷孕歧視及性騷擾



- 僱傭
- 教育
- 貨品、設施及服務的提供
- 房屋的管理或管理
- 諮詢團體的投票資格及被選入或委任該等團體
- 會社活動、政府活動



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EQUAL OPPORTUNITIES COMMISSION

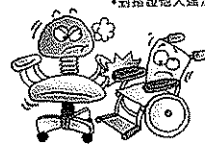
### 殘疾 歧視條例



身體或心智：全部或局部受損或失常

#### 違法行為

- 騷擾、騷擾或中傷殘疾人士的行為
- 對指證他人違法行為的人作出歧視行為（即使人受害的歧視



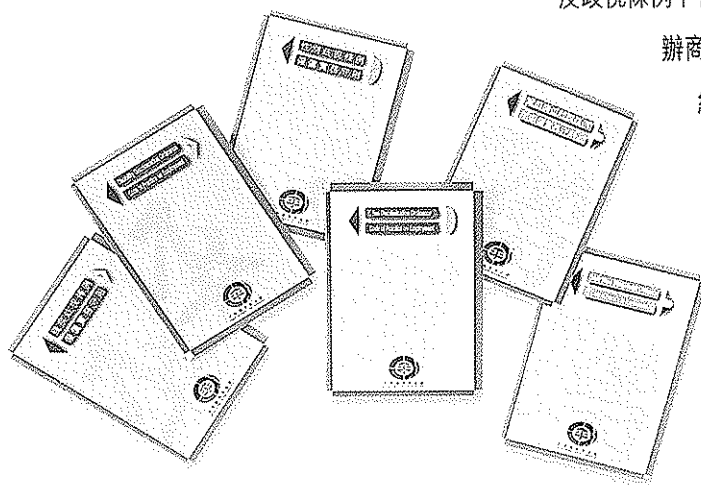
#### 適用範圍

- 僱傭
- 教育
- 進入處所
- 貨品設施及服務的提供
- 房屋的管理或管理
- 會社及體育活動、政府活動

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## 消除歧視

根據反歧視條例，任何人士基於性別、婚姻狀況、懷孕、殘疾或家庭崗位而歧視別人即屬違法。而在性別歧視及殘疾歧視條例下，性騷擾或因為別人的殘疾而作出中傷或騷擾的行為亦屬違法。同樣，刊載歧視性廣告，也屬違法。



反歧視條例中有關僱傭的條款不單保障僱員，亦保障求職者、經紀及承辦商。條款也涵蓋職業訓練、職業介紹、合夥人委任、專業組織及工會。非關僱傭的條款適用於多方面，包括教育、提供貨品或服務、參加會社、體育活動、處所的管理，以及政府活動等。

### 新條例及守則 - 家庭崗位歧視條例

家庭崗位歧視條例是香港第三條反歧視條例。目的是保障個人不會因為負有照顧其直系家庭成員的責任而遭受歧視。條例在九七年六月二十六日頒佈，並在同年十一月二十一日生效。



# COMMISSION



平等機會委員會  
EQUAL OPPORTUNITIES COMMISSION

## 家庭崗位歧視條例



### 定義

「家庭崗位」指對直系家庭成員負起照顧的責任的任何人而言。「直系家庭成員」指因血緣、婚姻、領養或姻親而與該人有關的任何人。

### 違法行為

基於某人的家庭崗位而作出歧視行為

### 適用範圍

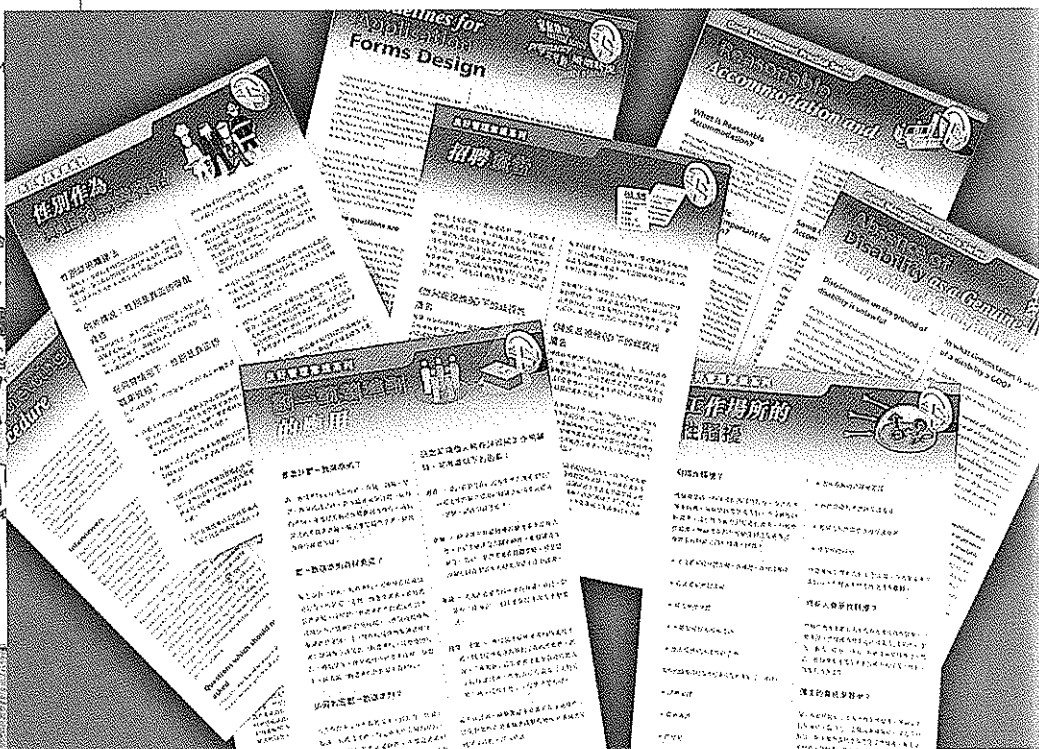
- 僱傭、教育、貨品、設施及服務的提供
- 處所的處置或管理
- 諮詢團體的投票資格及被選入或委任該等團體
- 會社活動、政府活動

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## Eliminating Discrimination

## 消除歧視

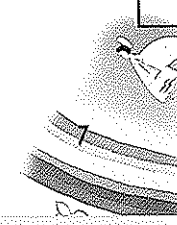


Under the anti-discrimination ordinances, it is unlawful to discriminate against anyone on the grounds of sex, marital status, pregnancy, disability or family status. Behaviour such as sexual harassment, or harassment and vilification on the grounds of disability are also unlawful under the Sex Discrimination Ordinance (SDO) and the Disability Discrimination Ordinance (DDO). Under these ordinances it is also unlawful to publish a discriminatory advertisement.

The employment-related provisions of the ordinances provide protection, not only to existing employees but also to job applicants, agents and contractors. They also cover activities relating to vocational training, employment agencies, partnership admissions, professional bodies and trade unions. The non-employment related provisions offer coverage in areas ranging from education and the provision of goods or services to participation in clubs and sporting activities, the management of premises and government activities.

### New Legislation and Code of Practice - the Family Status Discrimination Ordinance (FSDO)

The FSDO is the third anti-discrimination ordinance to be introduced in Hong Kong. Protecting individuals from being discriminated against because of their responsibility for the care of immediate family members, the ordinance was enacted on 26 June 1997 and came into effect on 21 November of the same year.



與性別歧視及殘疾歧視條例一樣，平等機會委員會同樣負責執行這條新條例。委員會因此制訂了家庭崗位歧視(調查及調解)規則及家庭崗位歧視(正式調查)規則，與新條例同時生效。

委員會亦為家庭崗位歧視條例訂了僱傭實務守則，協助僱主及僱員瞭解雙方在新條例之下的責任，並且就運作常規及制度提供實用指引，預防發生歧視的違法行為。

為了制訂實務守則，委員會在九七年十月至十二月期間進行了一系列的公眾諮詢。委員會廣邀市民大眾、臨時區議會、僱主組織、工會、社會服務機構及關注組織提供意見。委員會參考了三十三次有關諮詢會意見及三十五份書面意見後制訂了實務守則。此守則在九八年二月十八日提交臨時立法會，並在三月二十日生效。

### 現行條例檢討

委員會在九七年十二月開始檢討性別歧視條例及殘疾歧視條例。委員會的檢討工作正在進行，並會參考過去一年實施條

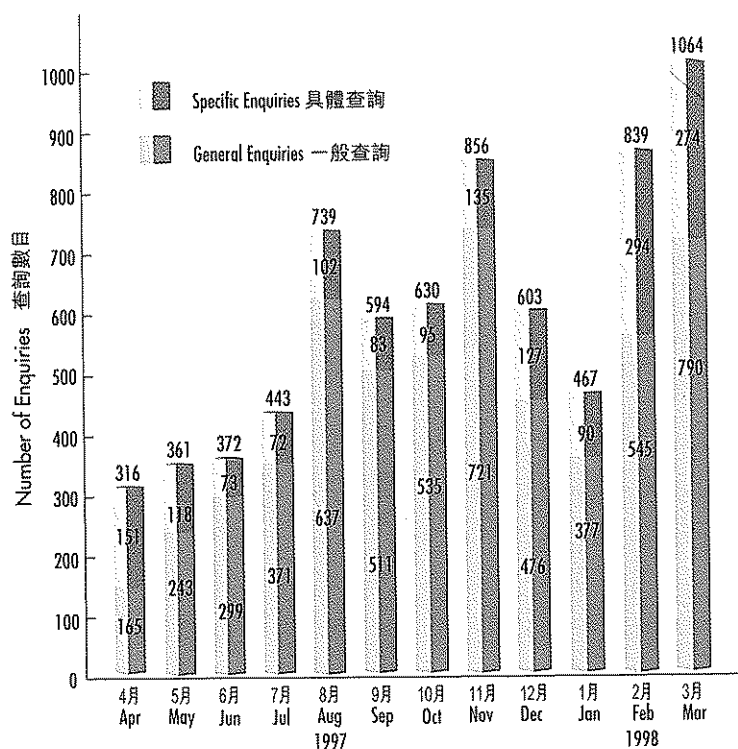
例所得的經驗，作出適當的建議，改善及修訂有關條例。

### 查詢

平等機會委員會成立至今，越來越多人知道我們的存在及認識我們的工作，亦對委員會的宗旨有更多的瞭解及支持，因此我們接獲的查詢及投訴種類亦相對增加。我們十分重視這些查詢，我們訓練有素的員工在九七年四月至九八年三月期間共處理了5,670宗一般查詢及1,614宗具體事項查詢。

一般的查詢包括索取平等機會委員會的資料、刊物及詢問委員會活動、角色及職能等；具體事項查詢方面，涉及查詢性別歧視的有608宗、殘疾歧視的699宗及112宗家庭崗位歧視。此外有41宗是查詢與委員會工作有關的事項，及154宗非關委員會管轄範疇的查詢，當中涉及年齡、種族、性傾向及宗教歧視問題。

一般查詢及具體事項查詢 (一九九七年四月一日至一九九八年三月三十一日)  
General and Specific Enquiries (1 April 1997 to 31 March 1998)





Similar to the SDO and the DDO, the EOC has the responsibility for implementing this new legislation. Also responsible for the statutory rules under FSDO, the Commission completed the Family Status Discrimination (Investigation and Conciliation) Rules and the Family Status Discrimination (Formal Investigation) Rules, which came into operation in November 1997 along with the introduction of the ordinance.

We also published the Code of Practice on Employment under the FSDO during the year, to help employers and employees understand their responsibilities under the new legislation and to provide practical guidelines on the processes and systems that can help prevent discrimination. Before the Code was finalized, we conducted a series of public consultations lasting from October to December 1997, inviting views from the public, the Provisional District Boards, employer associations, trade unions, social service organizations and other

concern groups. Comments from the 33 consultations held and 35 written submissions received were carefully evaluated and incorporated into the final version of the Code where appropriate. The Code was tabled before the Provisional Legislative Council on 18 February 1998 and came into effect on 20 March 1998.

### Review of Existing Legislation

The Commission commenced a review of the Sex Discrimination Ordinance and the Disability Discrimination Ordinance in December 1997, in view of the experience gained after a year's operation under the legislation. The review is currently in progress and appropriate recommendations will be made for amendment and improvement.

### Enquiries

As the community becomes more aware of our presence and our activities and grows in understanding and support of our objectives, the range of enquiries and complaints have correspondingly increased. Aware of the importance of these enquiries and the feedback that they provide, fully trained operators and officers responded to the 5,670 general and 1,614 specific enquiries that we received from 1 April 1997 to 31 March 1998.

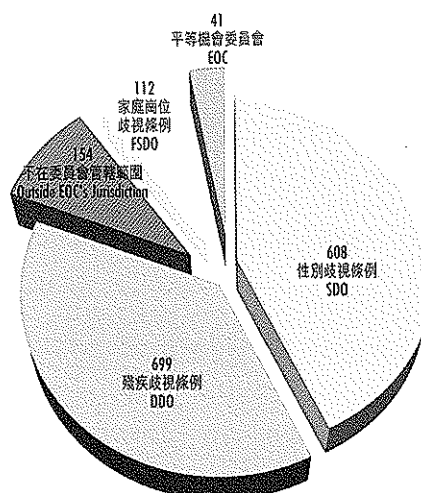
General enquiries included requests for information on the EOC, our events, publications, roles and functions while specific enquiries covered 608 enquiries on the SDO, 699 on the DDO and 112 on the FSDO. A further 41 related to the work of the Commission and the remaining 154 covered areas falling outside the jurisdiction of the EOC, which included discriminatory behaviour relating to age, race, sexual orientation and religion among others.

#### 具體事項查詢分類

(具體事項查詢總數：1614)

Breakdown of Specific Enquiries

(Number of Specific Enquiries: 1614)



## 投訴

### 調查及調解

在反歧視條例下，任何人士感到遭受違法歧視行為對待，即可親身或授權代表向平等機會委員會提出書面申訴。根據現行三條條例所賦予的權力，平等機會委員會是需要調查有關的投訴。

在調查期間，每宗投訴的有關雙方都會有機會就投訴提出意見及回應。平等機會委員會首先會用調解方式，協助雙方達成協議。如果雙方未能和解，平等機會委員會是會因應投訴人的申請，從投訴人能否自行應付的角度，及個案會否牽涉原則問題為考慮，決定是否提供其他協助。

協助的方式，可包括給予意見、法律協助或任何委員會認為適當的協助。過去一年有代表性的個案，包括成功調解、需要終止調查以及需要進一步協助的個案詳情，可參閱41頁至50頁及84頁。

經處理的投訴的狀況(1997年4月1日至1998年3月31日)  
Status of Complaints Handled (1 April 1997 to 31 March 1998)  
需作出調查及調解之投訴  
Complaints for investigation and conciliation

	總數 Total	調查 / 調解 Under Investigation/ Conciliation	終止調查 Discontinued <sup>(1)</sup>	調解成功 Conciliated	調解不成功 Conciliation Not Successful <sup>(2)</sup>
性別歧視條例 SDO	90				
僱傭範疇 Employment field	77	30	26	17	4
其他範疇 Non-employment field	13	2	2	8	1
殘疾歧視條例 DDO	136				
僱傭範疇 Employment field	84	39	22	17	6
其他範疇 Non-employment field	52	16	18	13	5
家庭崗位歧視條例 FSDO	1				
僱傭範疇 Employment field	1	1	0	0	0
其他範疇 Non-employment field	0	0	0	0	0
總數 Total	227	88	68	55	16

備註： (1) 基於下列因素：不屬違法行為；投訴人不願調查繼續進行；自該行為作出之日起計已逾十二個月；投訴不應以代表投訴方式作出；投訴屬瑣碎無聊、無理取鬧、基於錯誤理解或缺乏實質。  
(2) 平等機會委員會曾作出調解但未能達致和解。

Notes: (1) on the grounds of: no unlawful act; no desire to pursue complaint; lapsed over 12 months; should not be a representative complaint; being frivolous, vexatious, misconceived or lacking in substance.  
(2) conciliation efforts made but failed to bring about settlement



## Complaints

### Investigation and Conciliation

Under the anti-discrimination legislation, anyone who feels that he or she has been subjected to a discriminatory act that is unlawful, can seek redress by lodging a complaint in writing with the EOC, either personally or through a representative. Entrusted with implementing the three ordinances we are obliged to investigate all complaints that fall within our jurisdiction.

During the investigation, the facts of each case are looked into with both parties being given the opportunity to comment and respond to the allegations made. As a first step the EOC attempts to settle the matter through conciliation and to reach a mutual agreement between the two parties. If a settlement cannot be reached, the EOC may consider other forms of assistance, upon the application of the complainant. We look at each application individually, considering issues of principle as well as the ability of the applicant to deal with the case unaided. If successful, assistance granted can include advice, legal assistance or any other assistance which we feel is appropriate. Some typical examples of conciliated and discontinued cases handled during the year together with the list of cases seeking further assistance are included on pages 41-50 and page 84 of this Report.

In certain situations, the EOC can decide not to conduct or to discontinue an investigation for a variety of reasons – the act in question may not be unlawful, the complainant may not want to pursue a complaint or if more than 12 months have passed since the act was carried out. They also include occasions where the complaint should not be a representative complaint and situations where the EOC considers the complaint to be frivolous, vexatious, misconceived or simply lacking in substance.

Between 1 April 1997 and 31 March 1998, we received a total of 195 complaints with the highest percentage of complaints falling under the DDO. There were 77 complaints under the SDO, 117 under the DDO and one under the FSDO. Together with the complaints carried over from the previous year, we handled a total of 227 investigation and conciliation cases during the year – 90 under the SDO, 136 under the DDO and one complaint under the FSDO.

Of the 227 cases handled, we concluded investigations on 139 of the cases with 71 of them proceeding to conciliation. Out of this number, 55 of them (77%) were successful and 16 were not. Investigations on the remaining 68 complaints were discontinued because 47 (69%) of the complainants had no wish to pursue the matter while 12 cases (18%) were found to be frivolous or lacking in substance and the remaining 9 cases (13%) involved no unlawful acts.

The complaints covered a wide range of subjects with 77 of the SDO complaints being employment-related. The employment-related complaints concerned sexual harassment (25), sex discrimination (24), pregnancy discrimination (19) and discrimination on the grounds of marital status (5). The discrimination surfaced in areas such as recruitment, terms and conditions, promotion, dismissal etc. With regard to the non-employment related complaints, 8 of them involved sex discrimination in the provision of goods, services or facilities.

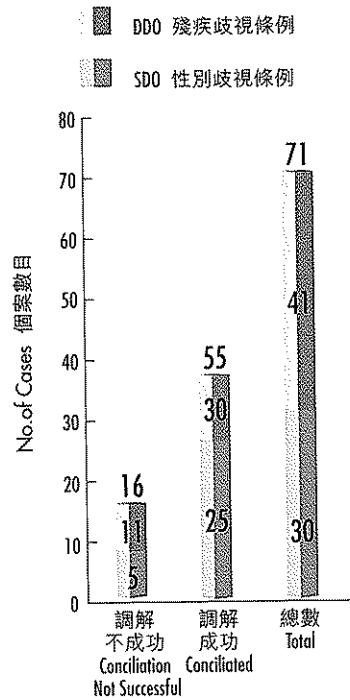
### 經調查及調解的投訴結果

(一九九七年四月一日至一九九八年三月三十一日)

### Outcome of Complaint Cases for Investigation and Conciliation (1 April 1997 to 31 March 1998)

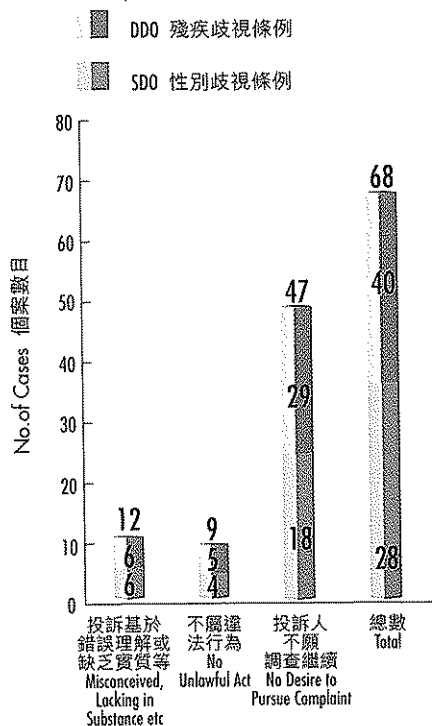
#### 經調解的個案結果分類

#### Conciliated Cases by Result



#### 終止調查個案的原因分類

#### Discontinued Cases by Reason



投訴歧視的個案涉及多方面。根據性別歧視條例而作的投訴之中，與僱傭有關的達 77 宗，其中 25 宗(32%)是性騷擾，24 宗(31%)屬性別歧視，19 宗(25%)涉及懷孕及 5 宗(6%)與婚姻狀況有關。歧視行為見於招聘、待遇、晉升及解僱等方面。至於非關僱傭範疇的投訴中，有 8 宗(62%)是涉及提供貨品、服務或設施的。

至於 136 宗殘疾歧視投訴中，與僱傭範疇相關及無關的分別為 84 宗及 52 宗。與僱傭相關的投訴中，73 宗(87%)是殘疾歧視，另外 11 宗(13%)屬騷擾性質，投訴最多的是關乎解僱，共佔 36 宗(43%)。非關僱傭範疇的投訴中，有 37 宗(71%)是殘疾歧視，其中 16 宗(31%)是涉及提供貨品或服務的，14 宗(27%)與進出處所有關；另外的 22 宗投訴則包括涉及教育和政府活動的騷擾、中傷及歧視。

至於一宗投訴家庭崗位歧視的個案，是關乎調職機會。

#### 其他投訴

平等機會委員會獲法例授權，關注違法的歧視行為，不論事件來自委員會的監察系統、或由公眾或第三者投訴及轉介，都會採取適當行動。在過去一年，我們因此記錄了 97 宗個案，其中 91 宗是歧視性廣告，6 宗主要是關於殘疾人士的進出設施問題。

#### 歧視性廣告

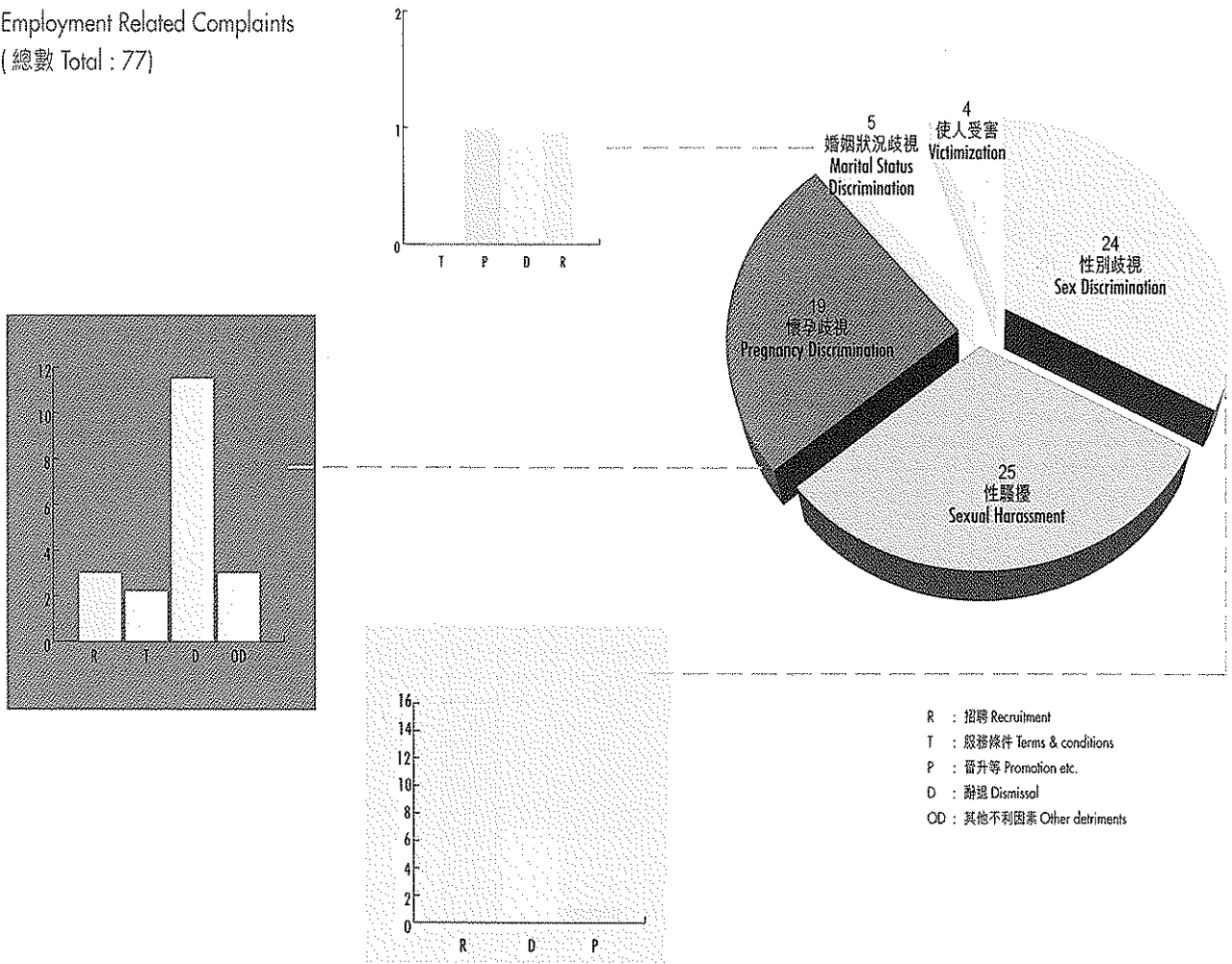
在反歧視條例下，廣告若顯示或有理由理解為含有性別、殘疾或家庭崗位歧視的意圖，均屬違法。出版人及廣告商有法律責任確保刊登的廣告不會顯示或含有歧視成份。

平等機會委員會不時監察招聘廣告，並且與出版人、廣告商及職業介紹所緊密聯繫，提醒他們注意其法律責任。在我們教育及宣傳工作的努力下，報章的歧視性廣告顯著減少，由九六年十二月高達百分之三十七滑落至目前不足一個百分點。

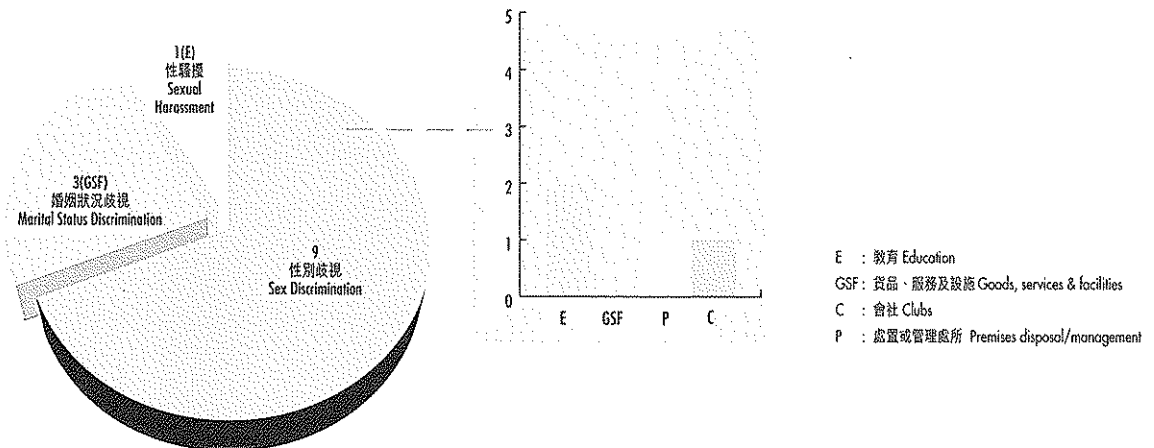
我們發覺，行內人士自律是最有效消除歧視性廣告的方法，我們的工作亦集中這方面。不過即使教育未能奏效，我們可以向區域法院申請要求向出版人及廣告商罰款。在過去一年，平等機會委員會就十八宗歧視性廣告，向屢犯的 5 張報章採取法律行動，出版人被判罰一千元至七千元不等。個案詳情請參閱 85 頁(平等機會委員會採取的法律行動)。

按《性別歧視條例》需作出調查及調解的投訴個案分類 (一九九七年四月一日至一九九八年三月三十一日)  
 Breakdown of Complaints Handled under SDO (1 April 1997 to 31 March 1998)

與僱傭有關的性別歧視投訴  
 Employment Related Complaints  
 (總數 Total : 77)



非僱傭範疇的性別歧視投訴  
 Non-employment Related Complaints  
 (總數 Total : 13)



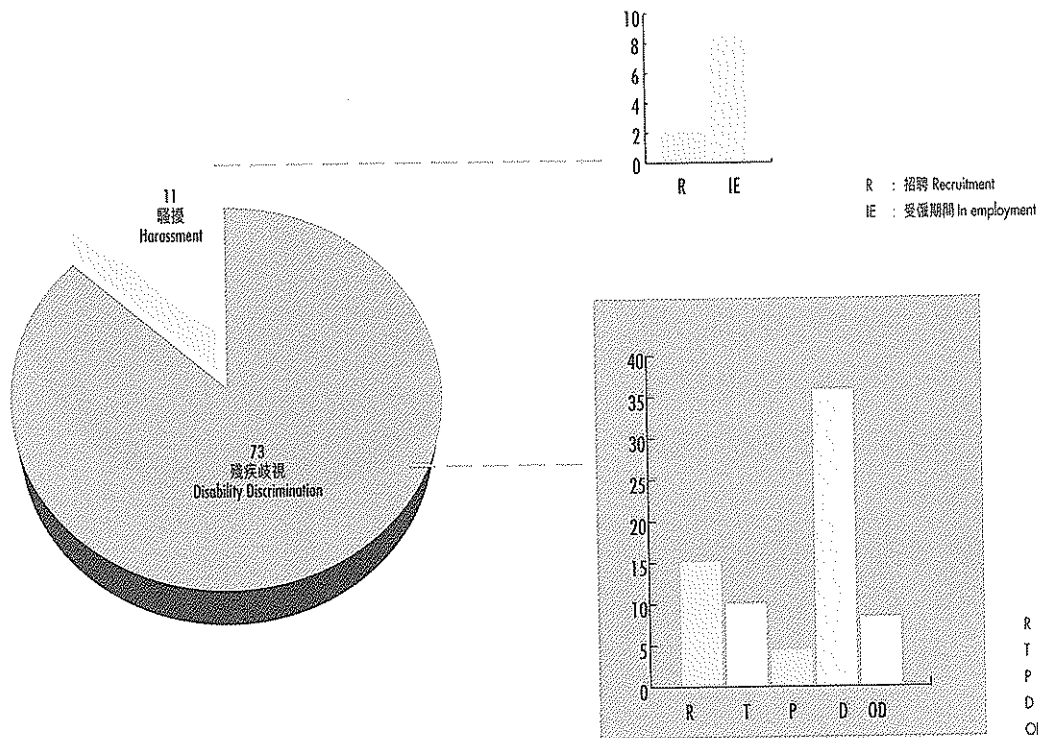


按《殘疾歧視條例》需作出調查及調解的投訴個案分類(一九九七年四月一日至一九九八年三月三十一日)  
Breakdown of Complaints Handled under DDO (1 April 1997 to 31 March 1998)

僱傭範疇方面投訴

Employment Related Complaints

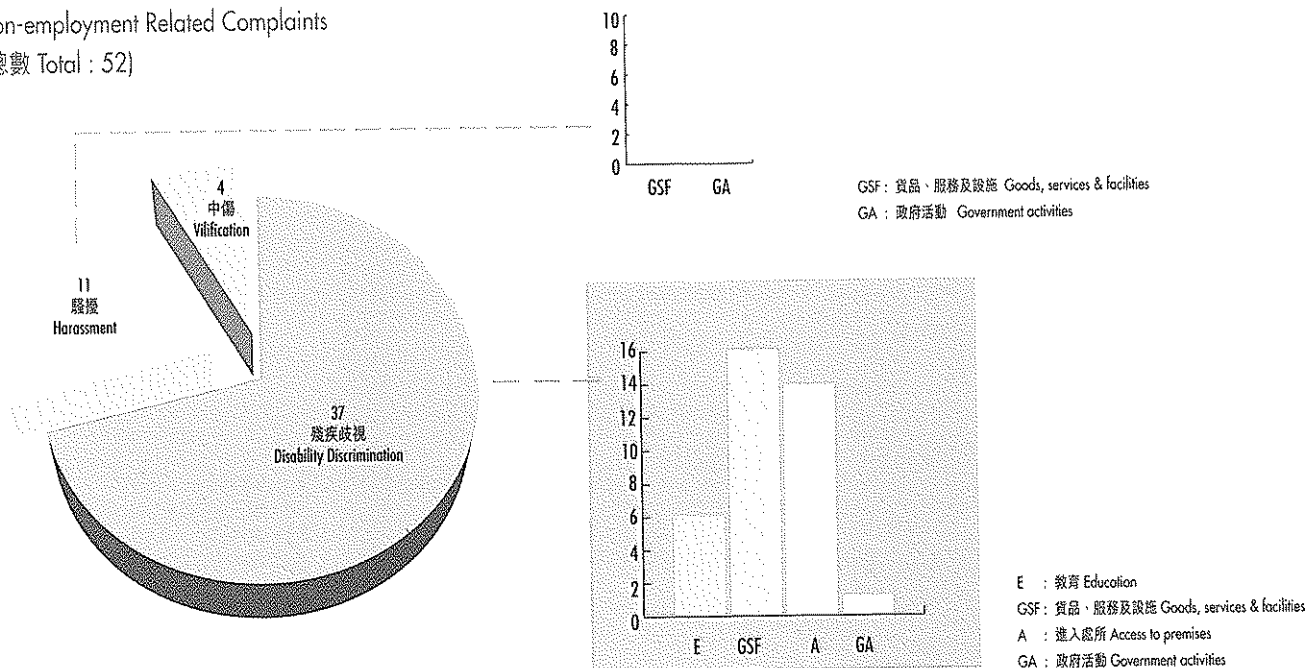
(總數 Total : 84)



非僱傭範疇方面投訴

Non-employment Related Complaints

(總數 Total : 52)



Under the DDO, the 136 complaints fell into 84 employment-related and 52 non-employment related complaints. Of the former, disability discrimination accounted for 73 (87%) while 11 (13%) were due to harassment. The 36 (43%) dismissal related complaints formed the largest portion of this group. The non-employment related complaints consisted of 37 (71%) disability discrimination cases broken down into 16 (31%) cases of discrimination on the provision of goods, services or facilities and 14 (27%) on accessibility. The remaining 22 complaints covered disability harassment, vilification and discrimination in the field of education and government activities.

The complaint under the FSDO related to discrimination with regard to opportunities in the transfer of employment.

#### Other Complaints

Under powers conferred by the legislation, the EOC also takes action on complaints involving other unlawful activities brought to our attention through our own monitoring systems or through general or third-party complainants. During the year, we recorded 97 such complaints -- 91 on discriminatory advertisements with the remaining 6 primarily concerning access facilities for persons with disabilities.

#### Discriminatory Advertisements

Under the anti-discrimination ordinances, advertisements that indicate or may reasonably be understood to indicate an intention to discriminate on the grounds of sex, disability or family status, are unlawful. Publishers and advertisers bear the legal responsibility for ensuring that advertisements published do not indicate any intention of discrimination.

At the EOC, we regularly monitor recruitment advertisements and work closely with publishers, advertisers and employment agencies to advise them of their legal responsibilities. As a result of our educational and publicity efforts, there has been a significant drop in the number of discriminatory advertisements in the print media, falling from a high of 37% in December 1996 to less than one per cent in the period under review.

We feel that self-regulation among the parties concerned is the most effective way to eliminate discrimination in this area and we have concentrated our efforts to this end. However, where education has failed to bring the desired results, we are able to apply to the District Court to impose financial penalties on both the publisher and the advertiser. During the year, the Commission has taken court action on 18 advertisements appearing in 5 newspapers, which have repeatedly published such discriminatory advertisements. As a result, fines ranging from HK\$1,000 to \$7,000 were imposed on the publishers concerned. Please refer to page 85 for Legal Action Cases commenced by the EOC in this area.

