

EO Files (January 2019)

“THINGS WE DO, PEOPLE WE MEET – Reflections in Brief”

Disability shouldn't be a barrier in Hong Kong, unless society makes it one

Accessibility has become a less obscure concept in recent years, but in a report released two months ago the Audit Commission laid bare the continued inadequacy of barrier-free facilities on Government premises. It criticised the Leisure and Cultural Services Department and the Food and Environmental Hygiene Department on poor maintenance of tactile paths at parks and a lack of Braille signs next to emergency push buttons at public toilets respectively.

The Architectural Services Department was also blamed for delaying retrofitting works, with 30 work orders postponed for 730 days to more than 1,095 days.

While impeded access to built environments disempowers persons with disabilities (PWDs) from navigating the city freely and independently, it is but one of many struggles they undergo. Recently, the Equal Opportunities Commission (EOC) received enquiries regarding PWDs' participation in shareholder meetings held regularly by listed companies, a commonplace and hassle-free activity in the eyes of able-bodied investors.

Disability not a reason to be excluded from shareholder meetings

Currently, it is not uncommon for companies to issue meeting notices that only contain information on the time, place and agenda of the meeting, with no mention of barrier-free routes to the venue, the barrier-free facilities available there, or the accommodating measures – if any – to be arranged during the meeting.

If the venue does not come with barrier-free access, then wheelchair users will not be able to attend; likewise, people with hearing impairment will be excluded from discussions if there is no sign language interpretation service.

Evidently, PWDs are being placed at a disadvantage, deprived of the opportunity to exercise their rights as shareholders – to receive information pertinent to their investment, weigh in on the exchange, elect directors, etc. – on an equal basis with others.

According to section 26 of the Disability Discrimination Ordinance (DDO), it is unlawful to

discriminate against PWDs by refusing to provide them with goods, services or facilities, paid or otherwise.

Unless there is unjustifiable hardship in addressing their needs, failure to provide PWDs with reasonable accommodation – whether it is picking an inaccessible meeting venue or declining requests for assistive devices or arrangements – may constitute indirect discrimination and lead to civil liability.

The EOC issued a letter to the Hong Kong Institute of Chartered Secretaries (HKICS) in October 2018, spelling out companies' legal obligations under the DDO and recommending that all meeting notices include a reply slip for potential participants to indicate any special needs they might have. This practical solution would allow companies to plan ahead and make accommodating arrangements.

The letter was forwarded to nearly 10,000 people on the HKICS network, and hopefully it would go on to inspire a stronger commitment to equal rights for PWDs among organisers of all kinds of meetings, from conferences and seminars to business pitches and public consultation sessions.

Leisure and recreation just as important for PWDs

The right to participate fully in all aspects of life and society is a fundamental one, enshrined under the United Nations Convention on the Rights of Persons with Disabilities (CRPD). Article 9 of the CRPD further states that governments must take appropriate measures to ensure equal access to premises, transport systems, information, communication technologies, as well as public facilities and services for PWDs.

Despite being a ratifying party, Hong Kong seems to hang on to a narrow conception of disability rights. Policymakers tend to skew the conversation towards employment opportunities and accessibility of physical environments, rather than adopting a holistic approach to promoting a barrier-free life for PWDs that encompasses everything from arts and culture to sports and entertainment.

Therefore, it comes as no surprise that audio description (AD) for movies, which refers to narration of the happenings on screen when there is no dialogue, is still far from common in our city.

Movie buffs with visual impairment often have no option but to attend one-off screenings with live narration specially arranged by NGOs, instead of getting to choose from numerous time slots like regular moviegoers.

Although pre-recorded AD tracks can be a quick fix, film distributors often lack incentives to produce them since there are a limited number of cinema operators equipped with the devices needed to transmit those tracks.

Other examples abound, from poorly situated wheelchair spaces at cinemas and misuse of accessible seating at concert venues to the dearth of “beach wheelchairs” at Government-run beaches. What feels like an ordinary night out or an effortless pastime to able-bodied individuals may be a painstaking challenge for PWDs – not because of their condition, but rather due to an unaccommodating culture and society.

Fundamental change needed for our minds and our laws

Before we get our policies right, we must get our philosophy right. Again, one may draw inspiration from the CRPD, which clearly states that “disability results from the interaction between persons with impairments and attitudinal and environmental barriers”. In other words, what is truly disabling stems not from PWDs themselves, but from our attitudes, beliefs, and the environments and policies (or lack thereof) they create.

Naturally, our laws must reflect the same conviction. In 2016, under the Discrimination Law Review, the EOC recommended the Government to introduce an express provision in the DDO to make reasonable accommodation for PWDs a distinct statutory duty in the fields of employment, education, provision of goods, facilities and services, and disposal of premises.

Reference could be made to the British model which adopts a broad definition of accommodation, covering changes to the physical environment, provision of auxiliary aids, and formulation of measures and policies (such as allowing employees with a temporary mobility impairment to work from home).

In fact, Hongkongers’ demand for barrier-free design in various aspects of life is only getting more and more acute. By 2041, almost one in every three Hongkongers will be 65 years old or above. Our rapidly ageing population means that people with mobility difficulties or other

forms of impairment will soon become the majority. Only with an immediate and fundamental shift in our thinking and policymaking can we prepare ourselves effectively for the impending challenge and build an inclusive, sustainable city where everyone can enjoy all life has to offer.

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