

為歧視受害人討回公道——投訴處理

Providing Redress to Victims of Discrimination – Complaint Handling

平機會獲授權調查公眾根據四條反歧視條例提出的投訴，並鼓勵爭議各方進行調停。這些條例禁止基於性別、懷孕、婚姻狀況、餵哺母乳、殘疾、家庭崗位和種族的歧視。條例同時保障公眾免受性騷擾、基於餵哺母乳的騷擾，以及基於殘疾和種族的騷擾與中傷。

任何人士如感到自己遭受法例所指的歧視、騷擾或中傷，可透過平機會網頁的網上表格提出投訴，或透過郵遞、傳真或親臨平機會辦事處向平機會遞交書面投訴。

平機會在投訴處理程序各個階段，均採用「以受害人為本」的方針，除了恪守公平公正的原則，還同時留心 and 體恤受害人的特別需要。



The EOC is mandated to conduct investigation into complaints lodged under the four anti-discrimination ordinances, and encourage conciliation between the parties in dispute. These ordinances prohibit unlawful discrimination on the grounds of sex, pregnancy, marital status, breastfeeding, disability, family status and race. The ordinances also prohibit sexual harassment, breastfeeding harassment, as well as harassment and vilification on the grounds of disability and race.

Anyone who feels that he/she has been subject to discrimination, harassment and vilification, as specified in the ordinances, may lodge a complaint with the EOC – either by using the online form on the EOC website, or by submitting the complaint in writing through mail, fax or in person.

At all stages of the complaint-handling process, the EOC adopts a “victim-centric” approach, which recognises and pays attention to the special needs of victims while adhering to the principles of fairness and impartiality.

投訴處理 Complaint Handling

投訴處理機制及程序

平機會收到查詢或投訴後，會審視：

- (a) 投訴是否由受屈人或受屈人授權的代表提出；以及
- (b) 投訴是否包含在反歧視條例下屬於違法行為的指稱。

如符合上述條件，平機會會迅速編配個案主任跟進。

調查投訴時，平機會會審視所有與個案有關的資料。在合適的情況下，平機會鼓勵爭議各方進行調停。調停完全屬自願性質。

為了讓公眾易於了解投訴處理程序，平機會製作了一系列視聽資訊，包括有關投訴和調停的短片，以及有關投訴處理程序的語音檔案。所有視聽資訊皆備有廣東話、普通話和英文版本，可於平機會的網站觀看或收聽。

Complaint-handling Mechanism and Procedures

Upon receiving an enquiry or complaint, the EOC will verify if:

- (a) The complaint is lodged by the aggrieved person or by a representative authorised by that person; and
- (b) The complaint contains an allegation of unlawful act under the anti-discrimination ordinances.

Where the above conditions have been met, a case officer would be promptly assigned to follow up on it.

When investigating a complaint, the EOC would examine all information relevant to the case. Where deemed appropriate, the EOC would encourage the parties in dispute to settle through conciliation, which is entirely voluntary.

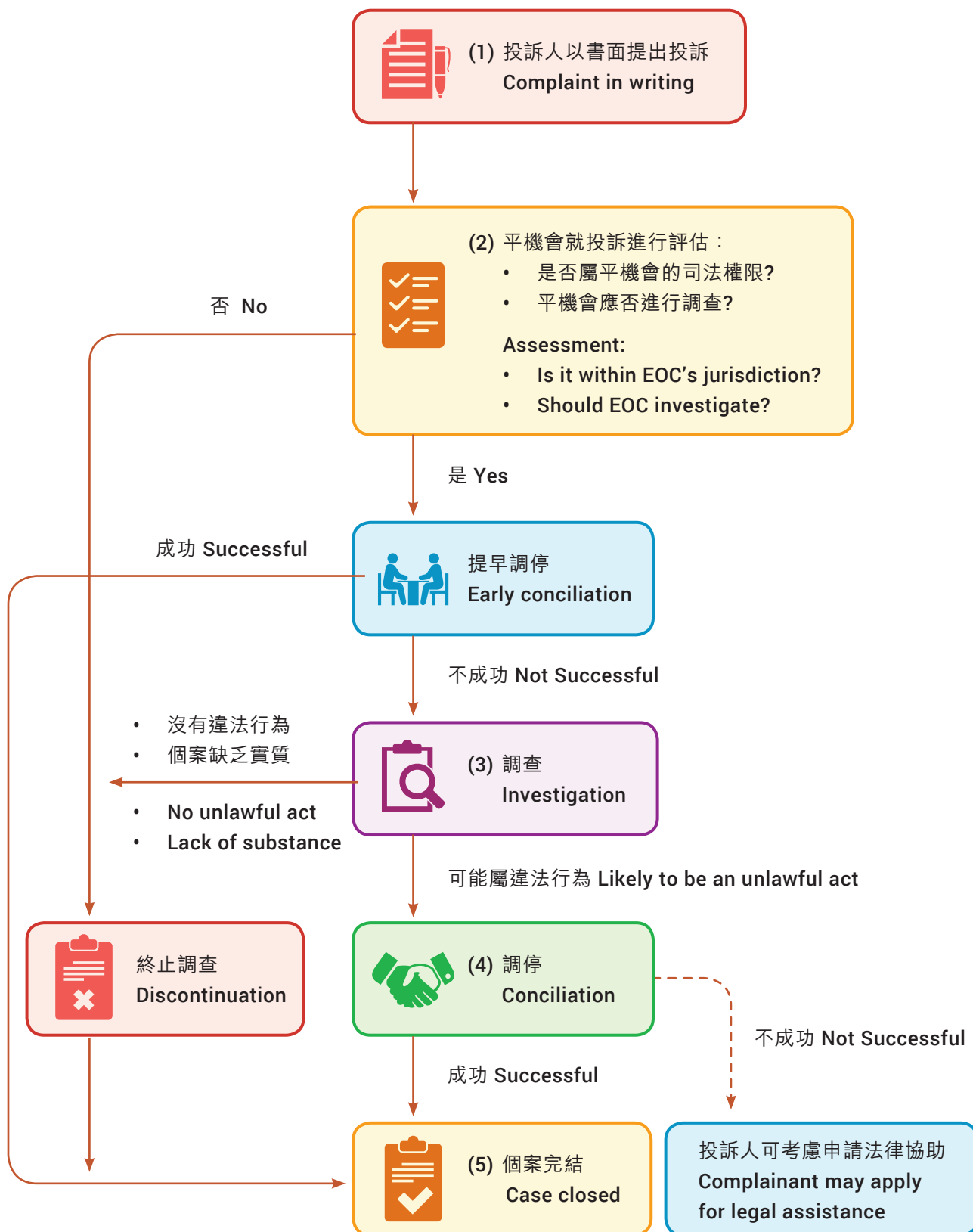
To enable the public to understand the complaint-handling procedures easily, the EOC has produced a series of audio-visual materials, including videos about complaints and conciliation, and audio tracks on the procedures. All these are available in Cantonese, Putonghua and English, and can be viewed or listened on the EOC website.

平機會採用「以受害人為本」的方針，
並恪守公平公正的原則。

The EOC adopts a “victim-centric” approach, while adhering to the principles of fairness and impartiality.

投訴處理程序流程圖

Flowchart on Complaint-handling Process



投訴處理 Complaint Handling

已處理的查詢及投訴

查詢

平機會不時收到有關歧視、反歧視條例及平機會工作的查詢。查詢經由平機會網站的網上查詢表格、平機會電話熱線、信件和面談提出，有聽覺障礙／語言障礙人士可透過短訊向平機會提出。

在2021-22年度，平機會共處理了10 124宗查詢，比2020-21年度減少58%。查詢個案下跌，主要由於平機會在2020年4月收到超過14 000封電郵，使2020-21年度的查詢個案基數龐大。那些電郵大部分由同一樣本電郵複製而來，內容不屬平機會的管轄範圍，或者無法跟進。

在2021-22年度所有查詢當中，有：

- 6 863宗為一般查詢，關乎反歧視條例的條文和平機會的活動；以及
- 3 261宗為具體查詢，關乎一些可能會演變為投訴的情況和事件。

Enquiries and Complaints Handled

Enquiries

From time to time, the EOC receives enquiries about discrimination, the anti-discrimination ordinances and its work from the public. These are submitted to the EOC through the online form on the EOC website, or through the EOC telephone hotline, writing and face-to-face interviews. People with hearing impairment/speech difficulties may also submit their enquiries to the EOC through SMS.

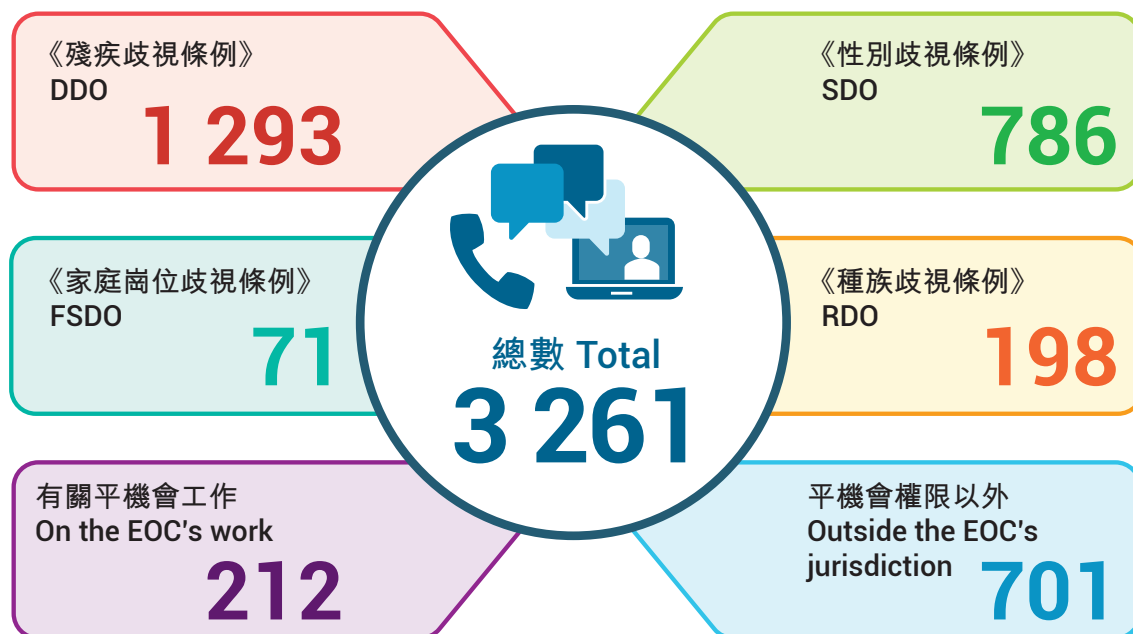
In 2021-22, the EOC handled a total of 10 124 enquiries, 58% less than in 2020-21. The drop was due to the exceptionally large base of enquiries in 2020-21, as caused by an influx of over 14 000 emails to the EOC in April 2020. These were largely derived from the same template, the subject matter of which was either outside the jurisdiction of the EOC or not pursuable.

Out of the total enquiries handled in 2021-22:

- 6 863 were general enquiries about the provisions of the anti-discrimination laws and events organised by the EOC; and
- 3 261 were specific enquiries about scenarios or incidents that might become complaints.

2021-22年度具體查詢數字(按條例分類)

Breakdown on Specific Enquiries by Ordinances in 2021-22



已處理的投訴

在2021-22年度，平機會收到977宗投訴，亦對涉及違法行為的事件或情況，以及根據法例可能引起歧視問題的事宜主動展開調查及／或作出跟進行動。有關事件是平機會留意到，或由第三方或不想參與調查或調停過程的個別受屈人士向平機會報告。在這些情況下，平機會會向有關方面查詢事件，解釋相關的法例條文，並建議他們改善情況。

Complaints Handled

In 2021-22, the EOC received 977 complaints. The EOC also initiated investigation and/or follow-up actions into incidents or situations involving unlawful acts, and issues that gave rise to concerns of discrimination under the law. These incidents were noticed by the EOC, or brought to the attention of the EOC by third parties or aggrieved individuals who did not wish to be involved in the investigation or conciliation process. Under these circumstances, the EOC would approach the concerned parties to inquire into the matter, explain the relevant legal provisions, and advise them on rectifying the situation.

投訴處理 Complaint Handling



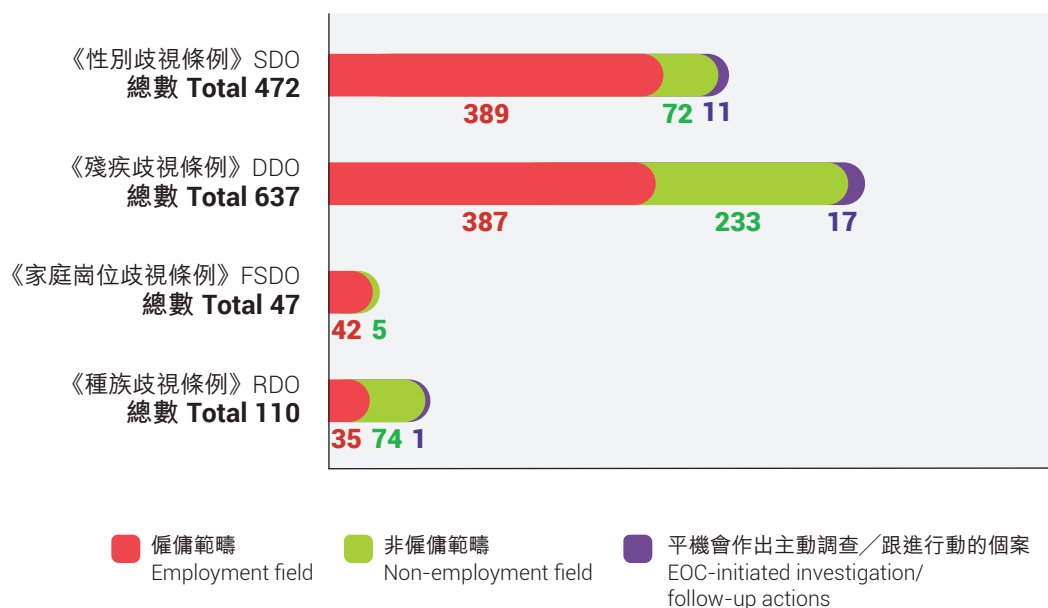
處理
Handled **1 266** 宗投訴
complaints

連同過往年度尚未完成的個案(包括平機會主動調查的個案), 平機會在2021-22年度共處理了1 266宗投訴, 比2020-21年度的1 179宗增加了7%。

Together with the complaints carried forward from previous years (including the EOC-initiated investigation), the EOC handled a total of 1 266 complaints in 2021-22, 7% more than the figure (1 179) in 2020-21.

2021-22年度已處理的投訴及平機會作出主動調查/跟進行動的個案總數(包括過往年度尚未完成的個案): 1 266宗

Total Number of Complaints and EOC-initiated Investigation/Follow-up Actions Handled in 2021-22 (including cases carried over from previous years): 1 266



有關《性別歧視條例》的投訴

- 大部分(約84%)有關《性別歧視條例》的投訴屬於僱傭範疇。性騷擾(202宗)和懷孕歧視個案(109宗)仍佔首兩位。

有關《殘疾歧視條例》的投訴

- 有關《殘疾歧視條例》的投訴中，有62%(387宗)屬於僱傭範疇，當中大多數涉及僱員因放病假和工傷而遭解僱。非僱傭範疇的個案則主要涉及提供貨品、服務及設施。

有關《家庭崗位歧視條例》的投訴

- 在47宗有關《家庭崗位歧視條例》的個案中，42宗屬於僱傭範疇，不少指稱涉及基於家庭崗位而遭解僱。

有關《種族歧視條例》的投訴

- 在109宗有關《種族歧視條例》的個案中，大部分屬於非僱傭範疇，主要涉及在提供貨品、服務或設施方面的歧視。

有關2019冠狀病毒病的投訴

就2019冠狀病毒病疫情及政府和其他界別實施的預防和管控措施，市民提出了不同查詢。在2021-22年度，平機會就疫症事宜收到160宗查詢和34宗投訴；就疫苗接種則收到236宗查詢和26宗投訴。投訴主要涉及僱傭範疇，部分關乎貨品、服務及設施的提供。

Complaints under the SDO

- A large majority (around 84%) of the complaints handled under the SDO belonged to the employment field. Sexual harassment (202 cases) and pregnancy discrimination (109 cases) continued to occupy the top two ranks of cases.

Complaints under the DDO

- Of the complaints handled under the DDO, 62% (387 cases) were related to employment, and the majority concerned the dismissal of employees due to sick leave and work injuries. For those cases not related to employment, the majority involved the provision of goods, services and facilities.

Complaints under the FSDO

- Of the 47 FSDO complaint cases, 42 were employment-related. A number of the allegations concerned dismissal on the grounds of family status.

Complaints under the RDO

- A large majority of the 109 RDO cases were non-employment-related, which mainly concerned discrimination in the provision of goods, services and facilities.

Complaints concerning COVID-19

The COVID-19 epidemic and the implementation of preventive and control measures by the Government and other sectors have led to various kinds of queries from the public. During 2021-22, the EOC received 160 enquiries and 34 complaints concerning the epidemic, and 236 enquiries and 26 complaints concerning vaccination. The complaints were mainly employment-related, while some concerned the provision of goods, services and facilities.

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例如，一名中醫師涉嫌拒絕為一名2019冠狀病毒病的康復者提供服務。經平機會調停後，該中醫師同意向投訴人發出書面道歉。

For example, a Chinese medicine practitioner allegedly refused to provide service to a person who had recovered from COVID-19. Upon conciliation by the EOC, the practitioner agreed to issue a written apology to the complainant.

根據《殘疾歧視條例》，服務提供者若基於某人的殘疾，包括冠狀病毒病和曾經存在的殘疾，拒絕向該人提供貨品、服務或設施，即屬違法。

Under the DDO, it is unlawful for a service provider to refuse the provision of goods, services and facilities to someone on the grounds of that person's disability, which definition covers both COVID-19 and past disability.

平機會的主動調查／跟進行動

如上文所述，平機會亦會對涉及違法行為的事件或情況，以及根據法例可能引起歧視問題的事宜主動展開調查及／或作出跟進行動。平機會在報告期內處理了29宗此類個案，大部分與《殘疾歧視條例》有關（主要是通道和服務提供的問題），其次是《性別歧視條例》（主要是招聘的問題）。

EOC-initiated Investigation/Follow-up Actions

As mentioned above, the EOC also initiated investigation and/or follow-up actions on incidents or situations involving unlawful acts, and issues that gave rise to concerns of discrimination under the law. During the year under review, the EOC handled 29 such cases, with the majority falling in the DDO category (mainly on accessibility and service provision), followed by the SDO (mainly on recruitment).

平機會就招聘廣告作出的主動調查 EOC-initiated investigation into recruitment advertisements



平機會留意到互聯網某平台上有太多則招聘廣告，註明某特定性別為遴選／調整起薪點的準則之一。平機會主動調查事件，聯絡有關方面解釋反歧視條例的條文，最終該平台移除了有關廣告。

A number of recruitment advertisements were observed on an online platform, which listed a specific sex as one of the selection and/or starting salary adjustment criteria. The EOC initiated investigation into the matter and contacted the parties concerned to explain the provisions of the anti-discrimination ordinances. As a result, the advertisements were removed from the platform.

吸取的經驗：

平機會透過主動採取行動，教育公眾，向大眾講解以性別為聘請或釐定僱傭條款的準則，有可能違反《性別歧視條例》。

Lesson learnt:

The EOC made use of self-initiated action to educate the public and promote awareness that using sex as a criterion in offering employment or determining terms of employment might be unlawful under the SDO.



平機會就銀行的通道問題作出的主動調查 EOC-initiated investigation into accessibility issue of a bank

某銀行的分行門前有數級梯級，使輪椅使用者無法進入銀行。平機會跟進個案，該銀行同意在該分行安裝爬樓梯機。

One of the branches of a bank allegedly had a few steps in front of its entrance, which hindered wheelchair users from entering the bank. The EOC followed up on the case and the bank agreed to equip the branch with a stair climber.

吸取的經驗：

即使這個案沒有受屈人提出投訴，平機會亦主動作出跟進，使通道問題得以改善，推動建構暢通無阻的環境。

Lesson learnt:

Even though no aggrieved person came forward in this case, the EOC initiated follow-up actions, leading to enhancement of the access and a barrier-free environment.

調停

在調查投訴個案的過程中，平機會致力協助投訴人和答辯人通過調停達成和解。調停的目的是讓各有關方面找出令各方滿意的方法解決爭議，讓各人不再受爭議困擾。

Conciliation

In the course of investigating a complaint case, the EOC will endeavour to help the complainant and the respondent reach a settlement by way of conciliation. The purpose of conciliation is to bring together the parties concerned to look for ways of resolving the dispute to the satisfaction of both parties, so that they can move beyond the dispute.

調停完全屬自願性質。和解的形式可以是道歉、支付金額、修改政策和慣例、檢討工作程序及其他安排。

Conciliation is completely voluntary, and the settlement can be in the form of apology, payment, change in policy and practice, review of work procedures and other arrangements.

在2021-22年度，有964宗投訴個案完結，當中166宗進行了調停，最終143宗成功調停，調停成功率為86%。這個比率是近年最高的，相對2020-21年度的成功率是84%。

Of the 964 complaint cases concluded in 2021-22, 166 proceeded to conciliation, with 143 successfully conciliated. This translated into a conciliation success rate of 86% – the highest in recent years – as compared to 84% in 2020-21.



86% 調停成功率
Conciliation Success Rate

投訴處理 Complaint Handling

和解個案案例

以下是平機會在2021-22年度處理的投訴個案案例。透過平機會的調停，投訴人和答辯人雙方進行討論，就解決投訴方法達成協議，無需再受爭執困擾。

Examples of Conciliated Cases

The following are examples of complaints handled by the EOC in 2021-22. Through conciliation facilitated by the EOC, the complainant(s) and the respondent(s) were able to discuss and agree on the ways of resolving the complaint, so that they can move beyond the dispute.



僱傭範疇的殘疾歧視 Disability discrimination related to employment

某外籍家庭傭工因其疾病(卵巢囊腫)而遭僱主解僱，於是向平機會和勞資審裁處提出投訴。

根據《殘疾歧視條例》，僱主若基於僱員的疾病而把他／她解僱，即屬違法。

經調停後，答辯人向投訴人支付一筆款項，以同時解決平機會和勞資審裁處的個案。

吸取的經驗：

這個案顯示雙方的意願和合作對於能夠迅速達致和解至為重要，而即使其中一方已離開香港，個案也能繼續獲處理和解決。

An employer allegedly dismissed a migrant domestic helper on the grounds of her illness (ovarian cyst). Besides lodging a complaint with the EOC, the complainant also filed her case at the Labour Tribunal.

Under the DDO, it is unlawful for an employer to dismiss an employee on the grounds of his/her illness.

Upon conciliation, a monetary sum was offered to the complainant by the respondent as a global settlement for both cases at the EOC and the Labour Tribunal.

Lessons learnt:

This case highlights the importance of willingness and co-operation from both parties to achieve a speedy settlement. Also, even one of the parties was no longer in Hong Kong, the case could still be pursued and settled.



與參與會社有關的種族歧視 Racial discrimination related to participation in clubs

某會社要求一名非華裔成員每一次使用會社設施前，均須簽署申報表，確認遵守各項防疫規定。該成員投訴會社作出種族歧視。

A club allegedly required a non-ethnic Chinese member to sign a declaration form to acknowledge various pandemic-control regulations every time before the member used the facilities of the club. The member lodged a complaint of racial discrimination against the club.

根據《種族歧視條例》，若會社基於某成員的種族而不讓該成員或限制該成員獲得或享用該會社提供的任何利益、服務或設施，即屬違法。

Under the RDO, it is unlawful for a club to discriminate against a person who is a member of the club on the grounds of race, by denying the person's access or limiting his or her access to any benefits, services or facilities provided by the club.

經平機會調停後，該會社向有關成員發出書面道歉，並安排所有僱員參加平機會有關反歧視條例的培訓課程，還有即時修訂會社政策和僱員手冊。

Upon conciliation by the EOC, the club issued a written apology to the member concerned. The club also arranged for all employees to attend a training session on the anti-discrimination ordinances by the EOC, as well as immediate change to the club's policy and employee's handbook.

吸取的經驗：

Lesson learnt:

這個案證明種族差別待遇不為社會接受。

This case underlines that racial profiling has no place in society.



有關通道問題的殘疾歧視 Disability discrimination concerning accessibility

某幢建於80年代的住宅大廈沒有任何無障礙通道讓輪椅使用者使用，該大廈一名居民向平機會提出投訴。

根據《殘疾歧視條例》，任何人在提供進出處所的方法上歧視殘疾人士，即屬違法。

經調停後，該大廈的業主立案法團同意提供設施和推行措施，包括安裝爬樓梯機、提供改裝的輪椅、特別訂造可攜式斜道，以及進行樓梯改裝工程，以克服大廈在地理環境上的限制。

吸取的經驗：

即使只有一名居民受影響，經調停後業主立案法團也願意作出改善，使大廈符合無障礙的環境。

A residential building built in the 1980s allegedly did not have any barrier-free access for wheelchair users. A resident of the building lodged a complaint with the EOC.

Under the DDO, it is unlawful to discriminate against persons with disabilities in relation to the means of access to premises.

Upon conciliation, the Incorporated Owners (IO) of the building agreed to provide a combination of facilities/ measures, including a stair climber; a modified wheelchair; a tailor-made portable ramp; and staircase modification work to overcome the geographical barrier.

Lesson learnt:

Through conciliation, the IO was willing to make an effort to achieve a barrier-free environment even when there was only one resident affected.

已完結個案

平機會的服務承諾是在180日或六個月內完成處理75%的投訴個案。在2021-22年度，平機會的表現超越目標，有87%的個案在六個月內完成處理，投訴的平均處理時間只是100日。

根據法例，平機會可基於以下任何一個原因，決定不對投訴進行調查或終止調查：

- 平機會信納，根據有關的條例，投訴所指稱的行為不屬違法；

Cases Concluded

The EOC's performance pledge is to conclude 75% of the complaints within 180 days or six months. In 2021-22, the EOC outperformed its target, with 87% of the complaints concluded within six months, and the average handling time of the complaints only at 100 days.

Under the ordinances, the EOC may decide not to conduct or to discontinue an investigation into a complaint for any of the following reasons:

- The EOC is satisfied that the alleged act is not unlawful by virtue of a provision under the ordinances;

- 平機會認為受屈人不願意進行或繼續調查；
- 有關行為在12個月前作出；
- 在代表投訴個案中，平機會決定投訴不應以代表投訴方式作出(以處理代表投訴的有關規則為依據)；或
- 平機會認為投訴屬瑣屑無聊、無理取鬧、基於錯誤理解或缺乏實質。
- The EOC is of the opinion that there is no desire on the part of the aggrieved person(s) for the investigation to be conducted or continued;
- More than 12 months have elapsed since the act;
- The EOC determines, in the case of a representative complaint, that the complaint should not be a representative complaint (in accordance with the relevant rules dealing with representative complaints); or
- The EOC is of the opinion that the complaint is frivolous, vexatious, misconceived or lacking in substance.

在2021-22年度，平機會決定不對181宗個案進行調查，並終止調查596宗個案。

In 2021-22, the EOC decided not to conduct investigation for 181 cases, and discontinued investigation for another 596 cases.

2021-22年度已完結的個案數字 (根據所採取的行動分類)

Breakdown on Cases Concluded in 2021-22 by Action Taken



投訴處理 Complaint Handling

服務使用者的正面回應

平機會不時接獲公眾的正面意見和鼓勵說話，這些公眾人士都曾使用平機會的服務，向平機會作出查詢和提出投訴，又或獲得平機會的法律協助，跟進他們的個案。他們具建設性的意見和正面評價印證了平機會的專業和優質服務水平，驅使平機會進一步提升表現。

Positive Feedback from Service Users

From time to time, the EOC receives encouraging and positive feedback from members of the public, who have lodged enquiries and complaints with the EOC, or received legal assistance in taking their cases forward. Their constructive feedback and positive comments are testimonials of the EOC's professionalism and service quality, and motivate the EOC to strive for even better performance.



「事件現已圓滿解決，實有賴貴會職員積極盡責、耐心分析指導，故此去信表揚，欣喜平機會能擁有精傑員工，能幹、明理、竭力維護平等公正原則，使香港市民樂享生活，並在國際社會維持良好形象，為世稱譽。」

“Thank you very much for all your help. I do feel relieved and somehow got what is due to me and got back my dignity, and that justice is served accordingly.”

“I am grateful that you have encouraged me to maintain an emotional balance in this process. Thank you for working hard on this process and making it fast, so that the pain and trauma for me are much less. Thank you again and the EOC for bringing light and hope to ordinary people like me.”

「我樂於見到三贏局面——平機會完成協調，投訴人釋懷以及我的放下。再次感謝你付出的時間和努力的協調。」

“We appreciate very much the assistance of the EOC and particularly the case officer, who gave us a lot of expert advice and facilitated us in the conciliation process...”

「感謝你們數個月來的熱心協助。」





「本人慶幸有平等機會委員會這個獨立法定機構，讓社會上受到不平等對待的人，有一個求助的渠道及機會。」

“Thank you so much for your assistance throughout, and I’m glad it ended in successful conciliation.”

「法律主任同個案主任同樣專業，在解釋法律條文、權利、責任各方面，都不厭其煩地詳加解說……本人同時祈望平機會日後繼續秉持宗旨，為弱勢社群，社會公義發聲。」

「感謝平機會及個案主任在此事上作出重大幫助，本人深表謝意。」

“Thank you very much for your attention and the time spent on this complaint. Your concern in the case is deeply appreciated.”

“May I take this opportunity to express our appreciation to you for providing us a channel to communicate with the complainant. Thank you very much.”

「很感謝個案主任在此投訴事件中付出過的努力和關心。」

“Thank you for your tremendous efforts in this conciliation, so that we can narrow the gap to finally reach an agreement...I really appreciate your effort and contribution!”

