



## 執法

### Enforcing the Law



任何人士若認為自己受到反歧視條例中所指出的歧視、騷擾或中傷，可向平機會提出書面投訴。平機會將致力按「以受害人為本」的方針，並謹守公正持平的原則，處理市民的投訴。

Anyone who believes that he/she has experienced discrimination, harassment or vilification specified in the anti-discrimination ordinances may lodge a complaint with the EOC in writing. The EOC is committed to adopting a “victim-centric” approach, while adhering to the principles of fairness and impartiality in handling the complaint.



### 投訴處理

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、殘疾、家庭崗位和種族的歧視。由2021年6月19日起，基於餵哺母乳的歧視也屬違法。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，可向平機會作出書面投訴。投訴必須由受屈人或受屈人授權的代表提出，而且投訴必須包含對反歧視條例下違法行為的指稱。

### Complaint Handling

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, disability, family status and race, and with effect from 19 June 2021 onwards, breastfeeding. 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 in writing with the EOC. The complaint must be lodged by the aggrieved person or by a representative authorised by that person, and should contain an allegation of unlawful act under the anti-discrimination ordinances.



平機會收到查詢或投訴後，會先審視該查詢或投訴是否符合上述條件或基準。如果符合，便會正式將其歸類為投訴（投訴調查類別），並迅速編配個案主任跟進。

Upon receiving an enquiry or complaint, the EOC will verify if it has met the above conditions or threshold. If yes, it will be formally classified as a complaint (under Complaint Investigation), and a case officer would be promptly assigned to follow up on it.

平機會處理的投訴一般分為以下兩類：

Complaints handled by the EOC are generally classified into two categories:

- (a) 投訴調查 —— 如上文所述，這類投訴由受屈人或受屈人授權的代表提出；以及
- (b) 平機會作出的主動調查/跟進行動 —— 這類個案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。有關事件是由平機會留意到，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。

- (a) Complaint investigation – these are complaints lodged by the aggrieved person or by the representative authorised by the aggrieved person, as mentioned above; and
- (b) EOC-initiated investigation / follow-up actions – These are incidents or situations involving unlawful acts, and issues that gave rise to concerns of discrimination under the law. The 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.

## 投訴處理機制及程序

平機會致力按「以受害人為本」的方針處理投訴，同時恪守公平公正的原則。調查投訴時，平機會會審視所有與個案有關的資料，並讓涉案各方有充足機會作出回應。平機會致力在合適情況下，鼓勵爭議各方進行調停。調停完全屬自願性質。

## Complaint-handling Mechanism and Procedures

The EOC is committed to adopting a “victim-centric” approach, while adhering to the principles of fairness and impartiality in handling complaints. When investigating a complaint, the EOC would examine all information relevant to the case and give all involved parties adequate opportunities to respond. Where deemed appropriate, the EOC would encourage the parties in dispute to settle through conciliation, which is entirely voluntary.

## 執法 Enforcing the Law

為了讓公眾易於了解投訴處理程序，平機會製作了全新的短片，並於2020年7月發布。短片長15分鐘，講解平機會如何處理投訴，以及如何根據法例規定，在合適的情況下透過調停解決紛爭。短片以一宗虛構的殘疾歧視個案為背景，講述一名燈飾公司前僱員投訴僱主殘疾歧視，從而帶出平機會個案主任的工作，包括就投訴進行調查，會見投訴人、答辯人及證人，協助雙方收窄分歧，安排和解會議，讓雙方就賠償的形式及／或金額達成共識。

To enable the public to understand the complaint-handling procedures easily, the EOC produced and released a new video in July 2020. Lasting for 15 minutes, the video serves to illustrate how the EOC handles complaints and, when appropriate, endeavours to settle them by conciliation as mandated by the law. With the fictitious example of a disability discrimination complaint lodged by a former employee of a lighting company, the video walks viewers through the work of EOC's case officers – from investigating complaints and interviewing complainants, respondents and witnesses to narrowing disagreement between parties and conducting settlement meetings where the form and/or amount of compensation is agreed upon.

40

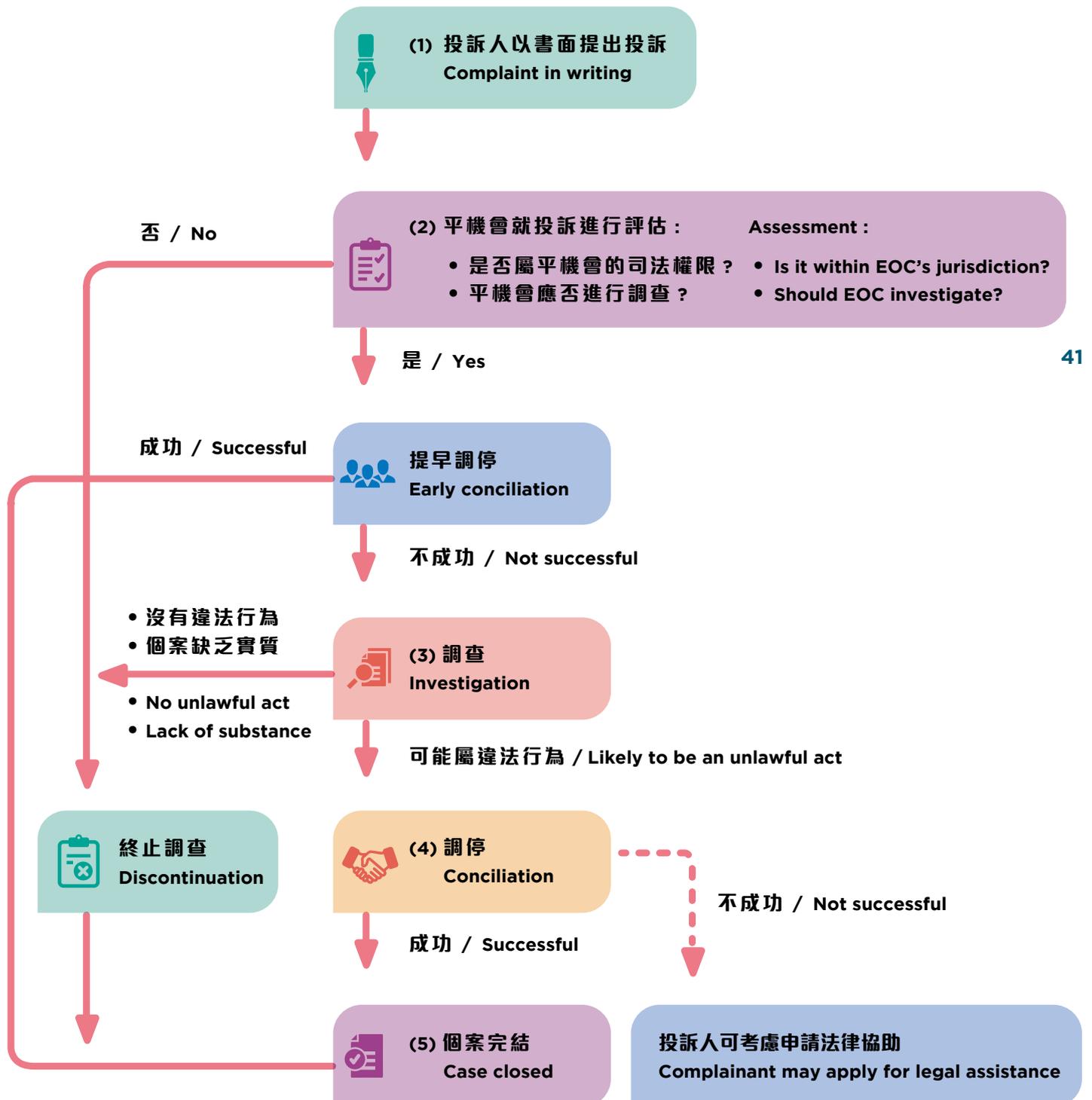


## 投訴處理程序流程圖

向平機會提出投訴

## Flowchart on Complaint-handling Process:

Taking a Complaint to the EOC



## 執法 Enforcing the Law

### 已處理的查詢及投訴

#### 改良網上查詢及投訴表格

平機會為了持續改善公眾服務，於2020年7月改良了網上查詢及投訴表格。市民如希望根據反歧視條例提出查詢或投訴，可由原來的電郵改為使用網上表格，或可透過郵遞、傳真或親臨平機會辦事處，提交書面查詢或投訴。

市民使用網上表格，可快捷方便地向平機會提出查詢及投訴，過程中系統會提示市民提交所需資料，以免因遺漏資料或提交無關資料而造成延誤，讓平機會可以迅速跟進查詢及投訴。

#### 查詢

在2020-21年度，平機會共處理了24 303宗查詢，比2019-20年度多112%。查詢個案大幅上升，主要由於平機會在2020年4月收到超過14 000封電郵，它們大部分由同一樣本電郵複製而來，內容關於一名執業大律師被指稱在社交媒體上發出歧視性的言論。然而，該個案不屬平機會的管轄範圍。

在整體查詢當中，有：

- 4 995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
- 19 308宗為具體查詢，關乎一些可能會演變為投訴的情況和事件。

公眾作出查詢的方法包括透過平機會的電話熱線作出查詢、書信，以及與平機會職員當面對談。

### Enquiries and Complaints Handled

#### Enhanced Online Enquiry and Complaint Forms

The EOC also refined its online enquiry and complaint-handling forms in July 2020, as part of its ongoing effort to enhance its services to the public. Members of the public who wish to lodge enquiries or complaints under the anti-discrimination ordinances may use the online forms instead of emails. Alternatively, they may submit their enquiries and complaints in writing to the EOC through mail, fax or in person.

The online forms provide convenient and user-friendly means for the public to lodge their enquiries and complaints with the EOC. While using the online forms, they will be prompted by the system to submit the necessary information, so that possible delay due to missing or irrelevant information can be avoided, and the EOC can follow up on the enquiries and complaints promptly.

#### Enquiries

In 2020-21, the EOC handled a total of 24 303 enquiries, 112% more than in 2019-20. The substantial increase was mainly attributed to an influx of over 14,000 emails to the EOC in April 2020. Largely derived from the same template, these emails concerned the allegedly discriminatory remarks made by a practising barrister on the social media platform, which fell outside the jurisdiction of the EOC.

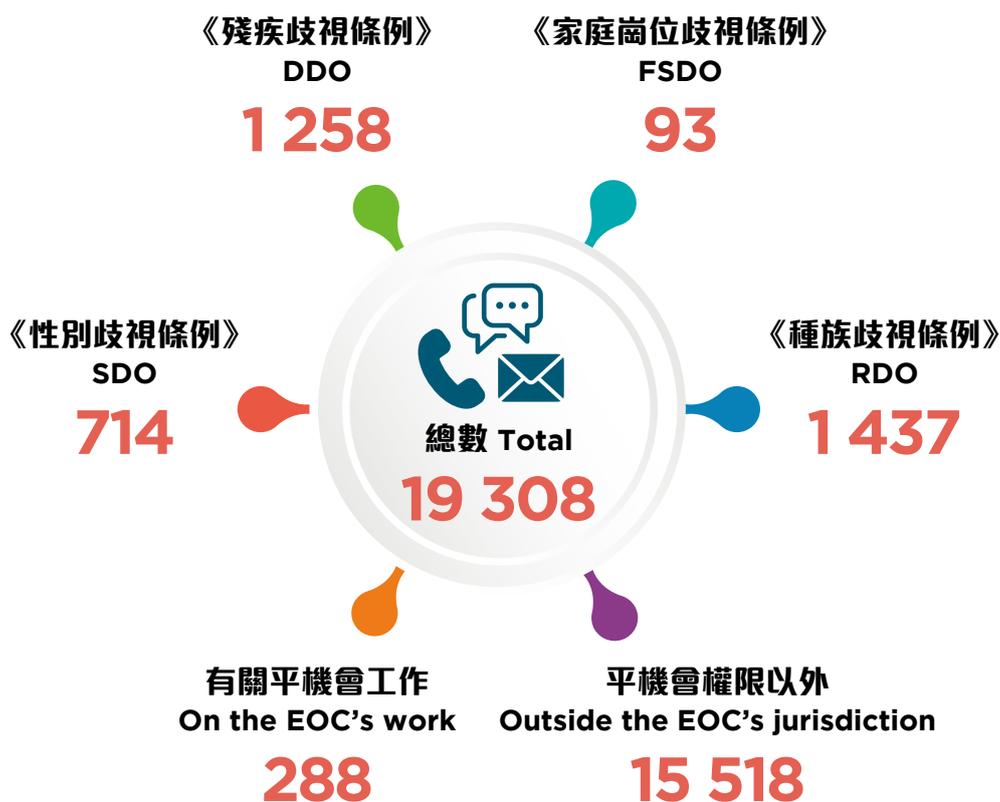
Out of the total enquiries handled:

- 4 995 were general enquiries about the provisions of the anti-discrimination laws and events organised by the EOC; and
- 19 308 were specific enquiries about scenarios or incidents that might become complaints.

The enquiries were made by the public through the EOC telephone hotline, writing and face-to-face interviews.

## 2020-21年度具體查詢數字 (按條例分類)

## Breakdown on Specific Enquiries by Ordinances in 2020-21



43

## 已處理的投訴

在2020-21年度，平機會收到875宗屬投訴調查類別的投訴個案，以及25宗屬主動調查類別的投訴個案。連同去年尚未完成的個案（包括投訴調查及主動調查的個案），平機會在2020-21年度共處理了1 179宗投訴，比2019-20年度減少23%。

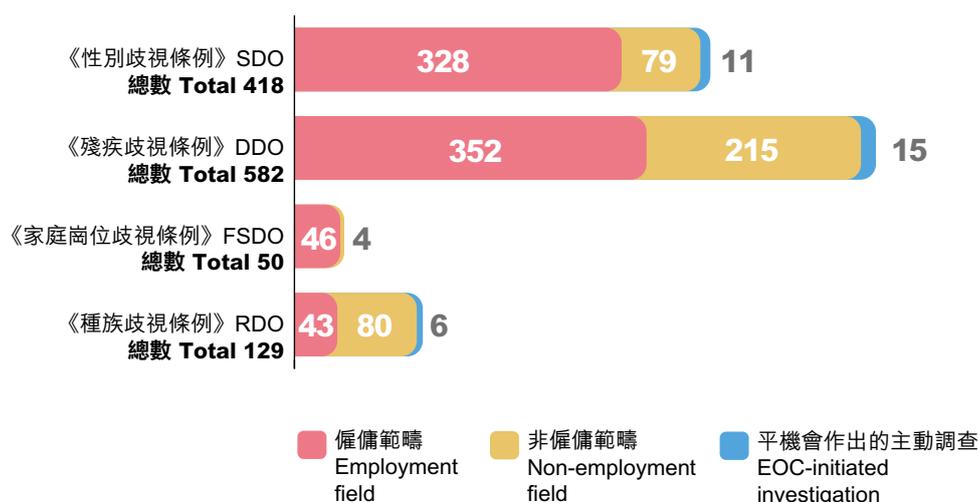
## Complaints Handled

In 2020-21, the EOC received 875 complaints under the Complaint Investigation category, while 25 fell under the EOC-initiated Investigation category. Together with the complaints carried forward from the previous year (both those under Complaint Investigation and the EOC-initiated Investigation), the EOC handled a total of 1 179 complaints in 2020-21, 23% less than in 2019-20.

## 執法 Enforcing the Law

2020-21年度已處理的投訴總數（包括2019-20年度尚未完成的個案）：1 179宗

Total Number of Complaints Handled in 2020-21 (including cases carried over from 2019-20): 1 179



### 有關《性別歧視條例》的投訴

- 大部分（約81%）《性別歧視條例》的投訴（投訴調查類別）屬於僱傭範疇。性騷擾（151宗）和懷孕歧視個案（125宗）仍佔首兩位。

### Complaints under the SDO

- A large majority (around 81%) of the complaints (Complaint Investigation) handled under the SDO belonged to the employment field. Sexual harassment (151 cases) and pregnancy discrimination (125 cases) continued to occupy the top two ranks of cases.

### 有關《殘疾歧視條例》的投訴

- 有關《殘疾歧視條例》的投訴（投訴調查類別）中，有62%（352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。

### Complaints under the DDO

- Of the complaints (Complaint Investigation) handled under the DDO, 62% (352 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.



### 有關《家庭崗位歧視條例》的投訴

- 在50宗《家庭崗位歧視條例》的個案中，46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123宗《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、設施或服務方面向內地人作出歧視和騷擾。

### 平機會作出的主動調查／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32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》（主要是招聘和服務提供的問題）。

### Complaints under the FSDO

- Of the 50 FSDO cases, 46 were employment-related. A number of the allegations concerned dismissal on the ground of family status.

### Complaints under the RDO

- A large majority of the 123 RDO cases were non-employment-related, which mainly concerned discrimination and harassment against the Mainlanders in the provision of goods, facilities or services.

### 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 32 such cases, with the majority falling in the DDO category (mainly on accessibility and service provision), followed by the SDO (mainly on recruitment and service provision).

## 執法 Enforcing the Law

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

在2020-21年度，投訴調查類別中的個案有887宗完結，當中155宗進行了調停，最終130宗成功調停，調停成功率為84%，相對2019-20年度的成功率是70%。

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

Of the 887 cases concluded under Complaint Investigation in 2020-21, 155 proceeded to conciliation, with 130 successfully conciliated. The conciliation success rate was 84%, compared to 70% in 2019-20.

84%

調停成功率  
Conciliation success rate

### 已完結個案

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；
- 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；

### Cases Concluded

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;
- 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;



- 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。

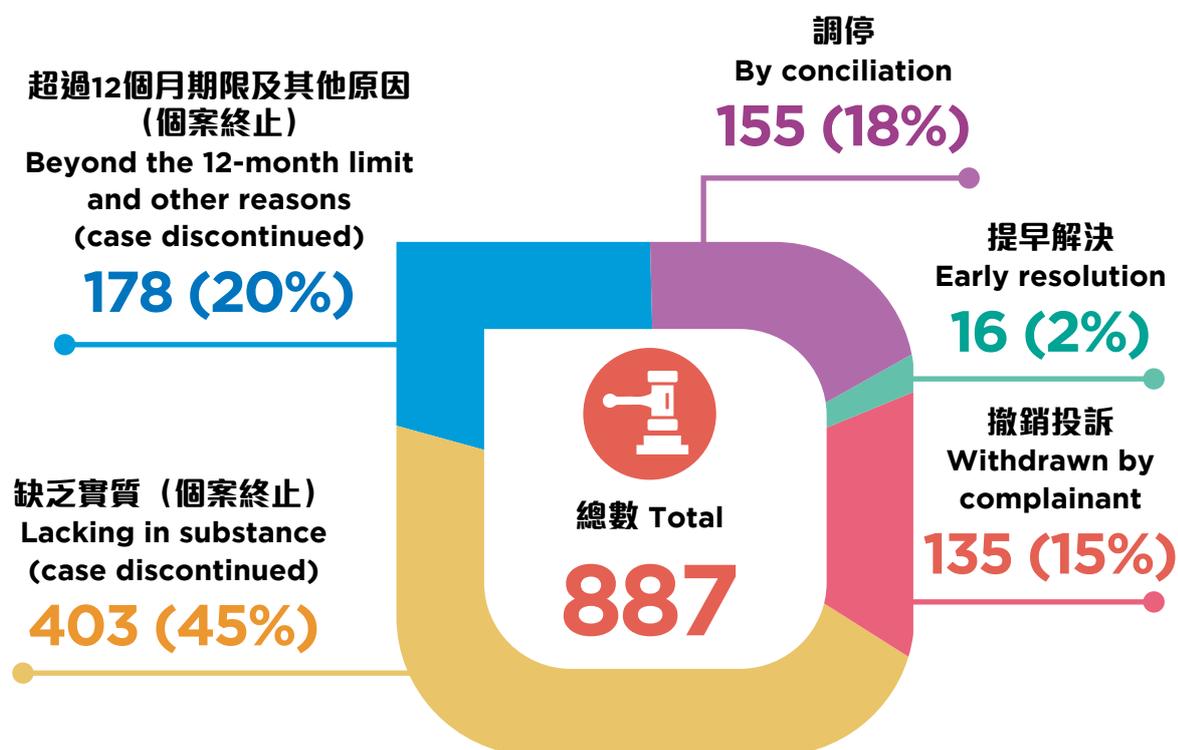
- The EOC determines, in the case of a representative complaint, that the complaint should not be a representative complaint (in accordance with the relevant rules dealing with representative complaints); or
- The EOC is of the opinion that the complaint is frivolous, vexatious, misconceived or lacking in substance.

整體而言，平機會在2020-21年度能達到在六個月內完成處理75%個案的服務承諾。

Overall, the EOC was able to fulfil its performance pledge of concluding 75% of the cases within six months in 2020-21.

### 2020-21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 2020-21 by Action Taken



## 執法 Enforcing the Law

### 法律服務科

投訴人作出投訴後，若未能達成和解，可向平機會申請協助，包括法律協助。平機會的法律服務科負責處理法律協助的申請，還會就反歧視條例的成效進行檢討，以及向平機會提供內部法律意見和支援。

### 向投訴人提供的協助

每當收到法律協助申請時，法律服務科會指派部門內一名律師處理有關申請。該律師會細閱與個案有關的所有文件和資料，進行法律研究，就應否給予法律協助擬備詳盡的意見書，提交予平機會管治委員會轄下的法律及投訴專責小組。該小組會根據平機會律師的法律意見和下文載列的原則，考慮並決定應否為個案提供協助。

若專責小組成員決定給予某個案法律協助，負責的平機會律師會採取一切所需的跟進行動協助申請人。有關協助包括由平機會律師向申請人提供法律意見、收集或評估進一步資料或證據，或由平機會律師或平機會聘任的私人執業律師在法律訴訟中代表申請人。

法律服務科的指定律師會擔任受助人的法律代表，擬備所需的法律文件，為受助人提起法律訴訟程序。法律服務科的律師會在各非正審聆訊 / 審訊中代表受助人出庭，或視乎案件的複雜和影響程度，延聘外間的獨立大律師代表受助人出庭。

### Legal Service Division

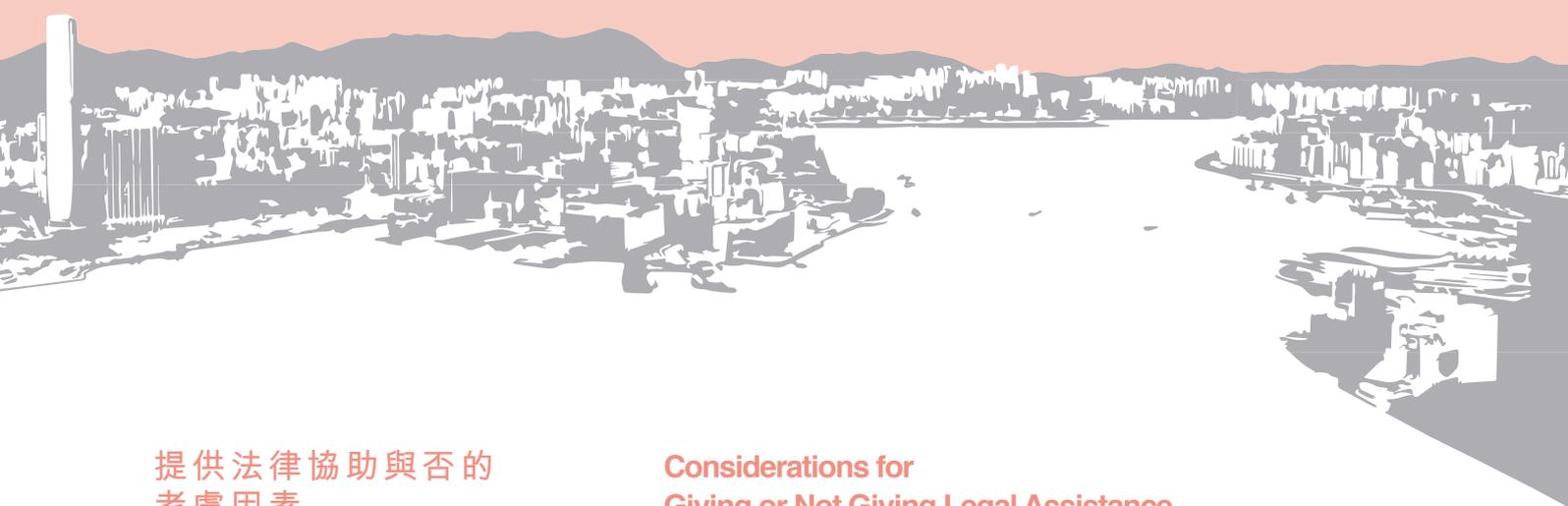
When a complaint has been lodged, but not settled, the complainant may apply to the EOC for assistance, including legal assistance. The Legal Service Division (LSD) of the EOC is responsible for handling applications for legal assistance, in addition to reviewing the effectiveness of the anti-discrimination laws and providing internal legal advice and support to the EOC.

### Assistance to Complainants

Whenever an application for legal assistance is received, a lawyer of the LSD will be assigned to deal with the application. The lawyer will peruse all documents and information in relation to the case, conduct legal research, and prepare a detailed submission to the Legal and Complaints Committee (LCC) of the EOC Board, advising whether legal assistance should be granted. Taking into account the advice of the EOC lawyers and the principles mentioned below, the LCC will consider and decide whether assistance should be given to a case.

If Members of the LCC decide to grant legal assistance to a particular case, the responsible EOC lawyer will take all necessary follow-up actions to assist the applicant. The assistance may include legal advice to the applicant by the EOC lawyers, legal services related to the gathering and assessment of further information or evidence, or representation in legal proceedings by the EOC lawyers or by lawyers in private practice engaged by the EOC.

The designated lawyer(s) of the EOC will act as the assisted person's legal representative and prepare the necessary legal documentation with a view to issuing legal proceedings on behalf of the assisted person. The lawyer(s) will appear in Court on behalf of the assisted person in various interlocutory hearings/trials or engage an independent counsel to do so, depending on the complexity and magnitude of the case.



## 提供法律協助與否的考慮因素

法律及投訴專責小組會考慮多項因素以決定是否提供法律協助，包括：

- 案件能否就重要法律問題確立先例？
- 案件會否喚起公眾關注香港仍然常見的歧視問題（如懷孕歧視和處所通道問題）？
- 案件會否鼓勵有關方面在制度上作出改革以消除歧視？
- 個案是否過於複雜，或雙方的相對位置過於懸殊（如權力不平衡），以致申請人難以處理？
- 證據是否足以在法庭獲得勝訴？
- 就某特定個案而言，法律訴訟是否消除歧視的最佳或最有效方法？

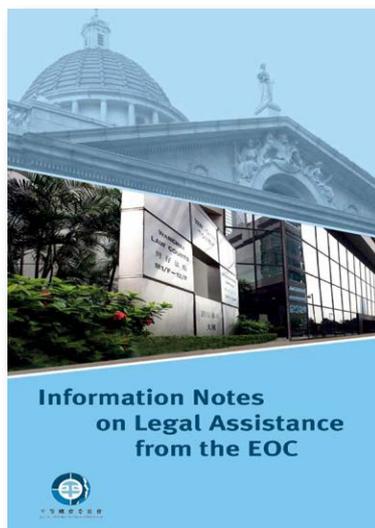
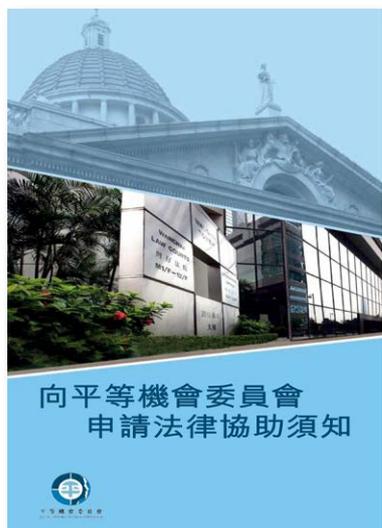
這些因素在每宗個案的適用程度不一，專責小組通常會綜合考慮各種原因才作出決定。

## Considerations for Giving or Not Giving Legal Assistance

In deciding whether or not to give legal assistance, the LCC considers a wide range of factors, including:

- Could the case establish a precedent on important legal issues?
- Would the case raise public awareness in areas of discrimination which are still prevalent in Hong Kong, such as pregnancy discrimination and accessibility to premises?
- Would the case encourage institutional changes to eliminate discrimination?
- Would it be difficult for the applicant to handle the case given its complexity and/or the relevant position of the parties (e.g. imbalance of power)?
- Is the evidence sufficient to support a good prospect for success in court?
- Is legal proceeding the best or most effective way to eliminate discrimination insofar as the particular case is concerned?

The applicability of these factors varies from case to case, and often a combination of reasons is involved in reaching a decision.



## 執法 Enforcing the Law

### 申請協助

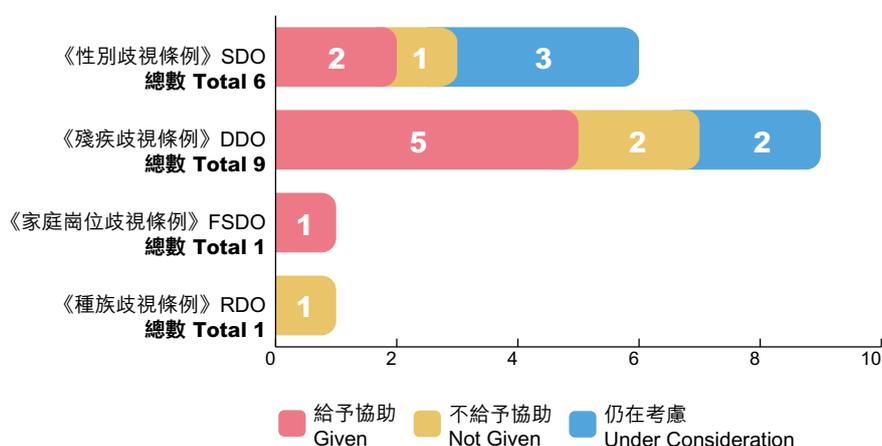
在2020-21年度，平機會共處理了17宗法律協助申請，當中八宗獲得協助，四宗不獲協助。截至財政年度完結時，尚有五宗申請仍在考慮。

### Applications for Assistance

In 2020-21, the EOC handled 17 applications for assistance. Of these, 8 cases were given legal assistance. A total of 4 cases were not given assistance, while 5 cases were still under consideration at the end of the fiscal year.

#### 按條例劃分的法律協助申請數字

#### Breakdown on Applications for Legal Assistance by Ordinance



### 法律協助的案例

**2020年4月15日** — 平機會根據《殘疾歧視條例》，代表一名患有妥瑞症的未成年人士（申索人）向區域法院提出法律訴訟。申索人指稱，他的四名同學模仿其因妥瑞症誘發的抽搐，以及在其他同學面前當眾嘲笑他，基於其殘疾而騷擾他。

**2020年5月25日** — 平機會根據《家庭崗位歧視條例》代表一名女士向區域法院提出法律訴訟。該女士曾受僱於一間公司，任職高級藝術總監，她聲稱該公司沒有提供適當的安排，讓她可以在工作地點集乳。該公司亦基於她的家庭崗位，即照顧初生孩子的責任，在她產假復職後把她解僱。

### Examples of Legally Assisted Cases

**15 April 2020** – The EOC issued legal proceedings in the District Court under the DDO on behalf of a minor with Tourette syndrome (Claimant). The Claimant alleged that four of his classmates harassed him on account of his disability, by mimicking his motor tics caused by the syndrome and making insulting remarks about his tics in front of other students.

**25 May 2020** – The EOC issued legal proceedings in the District Court under the FSDO on behalf of a woman who previously worked for a company as a senior art director. She claimed that her company did not provide appropriate accommodation for her to pump milk at work. Upon her return to work after maternity leave, she was dismissed by the company on the ground of her family status, that is, her responsibility of taking care of her newborn child.



**2020年12月22日** — 平機會根據《殘疾歧視條例》代表一名外籍家庭傭工提出法律訴訟。該外籍家庭傭工指稱，她的前僱主基於她的殘疾（宮頸癌）及相關病假，終止其僱傭合約。

**2021年1月22日** — 平機會根據《性別歧視條例》代表一名女士提出法律訴訟。該女士曾受僱於一間餐廳，負責洗碗工作，她聲稱於該餐廳任職廚師的兩名前同事曾多次性騷擾她。此外，她聲稱其前僱主並無採取任何合理切實可行的步驟，以防止其僱員作出性騷擾行為，因此須就該兩名廚師的性騷擾行為負上轉承責任。

**22 December 2020** – The EOC issued legal proceedings under the DDO on behalf of a foreign domestic helper, who alleged that her former employer discriminated against her by terminating her employment on the ground of her disability (cervical cancer) and related sick leave.

**22 January 2021** – The EOC issued legal proceedings under the SDO on behalf of a woman, who worked as a dishwasher in a restaurant. The woman claimed that two of her former colleagues, who worked as chefs in the restaurant, sexually harassed her on a number of occasions. She further claimed that her former employer was vicariously liable for the acts of the chefs, as he failed to take reasonable practicable steps to prevent them from doing the acts.

### 無需展開訴訟便已完結的受助個案

在2020-21年度，有14宗在該年度及之前已獲法律協助的個案，無需展開法律訴訟便已解決，或是因為個案的進一步發展及評估證據後未獲進一步協助。

另有七宗個案在2020-21年度及之前獲法律協助的個案仍在處理，至報告期完結時尚未有結果或未展開法律訴訟。

### Legally Assisted Cases Concluded without Commencing Legal Proceedings

In 2020-21, 14 cases, to which legal assistance was given before and during the year, were either resolved without the need to commence legal proceedings, or were given no further assistance upon further development and assessment of evidence.

A total of 7 other cases, to which legal assistance was given before and during the year, remained in process, with no outcome having been reached and no court proceedings having commenced yet at the end of the period under review.

## 執法 Enforcing the Law

### 法庭案件

平機會在2020-21年度共處理了13宗法庭訴訟，其中四宗有關《性別歧視條例》，六宗有關《殘疾歧視條例》，一宗有關《家庭崗位歧視條例》，另有一宗同時有關《性別歧視條例》和《家庭崗位歧視條例》，以及一宗同時有關《性別歧視條例》和《殘疾歧視條例》。

在平機會律師的協助下，一宗個案獲法庭判受助人勝訴（詳見下文「勝訴案例」），四宗個案在保密條款下成功和解而無需進行審訊，或因為個案的進一步發展及評估證據後未獲進一步協助。截至2021年3月31日為止，其餘八宗個案仍未完結。

### Court Cases

In 2020-21, the EOC handled 13 court proceedings – 4 under the SDO, 6 under the DDO, 1 under the FSDO, 1 under both the SDO and FSDO, and 1 under both the SDO and DDO.

With assistance from the EOC lawyers, 1 case successfully obtained a judgement against the respondent from the Court (see below “successful court case”), while 4 cases were either successfully settled on confidential terms without proceeding to trial, or were given no further assistance upon further development and assessment of evidence. For the remaining 8 cases, they were still ongoing as of 31 March 2021.

處理  
Handled

13

宗法庭訴訟  
court proceedings

#### 勝訴案例

在李國珍 對 徐培正經營東京電腦配件公司 [2020] HKDC 998一案，平機會代表申索人向她的前僱主（答辯人）提出申索。法庭於2020年11月裁定申索人基於懷孕/家庭崗位受到答辯人歧視，判申索人勝訴。這宗個案中，答辯人沒有向申索人發放年終花紅，並因為申索人的懷孕/家庭崗位而解僱她。因此，法庭向申索人判給港幣116,218元的賠償（包括港幣55,000元感情損害賠償、港幣55,218元收入損失賠償，以及港幣6,000元懲罰性賠償）。

#### Successful court case

In李國珍 v 徐培正經營東京電腦配件公司 [2020] HKDC 998, the EOC successfully obtained a judgement in November 2020 on behalf of the claimant against her former employer (respondent), holding that the respondent discriminated against the claimant on the ground of her pregnancy/family status. In this case, the claimant was not paid a year-end bonus and was dismissed due to her pregnancy/family status. As a result, the Court awarded the claimant a total sum of HK\$116,218 in damages (which was made up of HK\$55,000 as damages for injury to feelings, HK\$55,218 as loss of earnings and HK\$6,000 as punitive damages).



## 和解條款

雖然平機會致力協助有需要的個案展開法律訴訟，但亦重視透過和解解決爭議。經成功調停或獲法律協助後和解的個案，和解條款包括：

- 更改政策 / 慣例；承諾停止歧視措施；
- 提供福利，包括教育課程 / 培訓；提供貨品、服務及設施；或改善設施和無障礙通道；
- 限制日後再犯同樣行為；紀律處分；作出道歉；或投訴人接受答辯人 / 機構的解釋；
- 發出推薦信；金錢賠償；提供聘用機會；或復職；以及
- 向慈善機構作出捐款。

## 金錢賠償

在報告期內，平機會透過調停、法律協助和庭外和解方式，為受歧視的投訴人及申訴人取得的金錢賠償總額接近港幣513萬元。

## Settlement Terms

While the EOC endeavours to assist warranted cases by way of commencing legal proceedings, the EOC appreciates the value of resolving disputes through settlement. For those cases which were successfully conciliated or settled after legal assistance, the settlement terms included:

- Changes in policies/practices; undertaking to cease discriminatory practices;
- Provision of benefits, including education programmes/training; provision of goods, services and facilities; or improvement in facilities and accessibility;
- Restrictions on future acts; disciplinary action; apologies; or complainants accepting the respondents' explanation;
- Provision of reference letters; monetary compensation; offers of employment; or reinstatements; and
- Donations to charity.

## Monetary Compensation

The total monetary compensation secured by the EOC for complainants and claimants through conciliation, legal assistance and settlement out of court during the period under review reached almost HK\$5.13 million.

**金錢賠償總額接近**  
**Total compensation close to**

**港幣**  
**HKD \$5,130,000**

## 執法 Enforcing the Law

### 其他法律工作

平機會處理的法律工作涵蓋不同範疇，法律協助只屬其中一項。法律服務科還會就查詢及投訴向投訴事務科提供意見；草擬實務守則及其他指引；檢討反歧視條例及提出法例修訂建議；就相關的諮詢或立法建議擬備意見書提交予政府；審校合約及協議；以及提供其他形式的內部法律支援。

### 反歧視條例修訂

平機會於2016年就歧視條例檢討向政府提交意見書，提出了73項建議。政府其後提出《2018年歧視法例（雜項修訂）條例草案》，並於2018年11月刊憲，以落實平機會提出的其中八項建議。立法會於2020年6月11日通過該條例草案。除了有關餵哺母乳歧視的條文將於2021年6月19日生效之外，其餘所有條文已於2020年6月19日正式生效。

條例作出以下修訂，以加強公眾在四條反歧視條例下免受歧視和騷擾的保障：

- 在《性別歧視條例》的僱傭；提供貨品、服務和設施；教育；會社及處所等主要範疇，保障餵哺母乳的婦女免受直接及間接歧視，以及使人受害的歧視；

### Other Legal Work

Legal assistance is only one of the various branches of legal work at the EOC. The LSD also advises the CSD on the handling of enquiries and complaints; drafts codes of practice and other guidance; reviews the anti-discrimination ordinances and proposes legislative amendments to them; drafts submissions to the Government on relevant consultations or legislative proposals; vets contracts and agreements; and provides other forms of internal legal support.

### Amendments to the Anti-discrimination Ordinances

Following the EOC's submission on the Discrimination Law Review (DLR) in 2016, the Government introduced and gazetted the Discrimination Legislation (Miscellaneous Amendments) Bill 2018 in November 2018, which took forward eight of the 73 recommendations the EOC made in the DLR. The Bill was passed by the Legislative Council on 11 June 2020. All of the provisions came into force on 19 June 2020, except the breastfeeding discrimination provisions, which would come into force on 19 June 2021.

The Ordinance consisted of the following amendments, which served to strengthen the protection against discrimination and harassment under the four anti-discrimination ordinances:

- Provide protection from direct and indirect discrimination, as well as victimisation for breastfeeding women in key sectors, such as employment, the provision of goods, services and facilities, education, clubs and premises under the SDO;



- 在《性別歧視條例》、《殘疾歧視條例》及《種族歧視條例》下，禁止共同工作場所內沒有僱傭關係的場所使用者（例如寄售專櫃的員工、義工及實習人員）之間的性騷擾、殘疾騷擾及種族騷擾；
- 在《殘疾歧視條例》及《種族歧視條例》下，保障服務提供者免受顧客的殘疾騷擾和種族騷擾，包括在香港註冊的飛機和船舶上作出殘疾騷擾和種族騷擾，即使有關飛機和船舶在香港境外；
- 在《種族歧視條例》下，保障市民免被認定歸於某種族人士而遭直接和間接種族歧視，以及種族騷擾；
- 在《種族歧視條例》下，保障市民的有聯繫者免受直接種族歧視和種族騷擾；
- 在《性別歧視條例》及《殘疾歧視條例》下，保障會社成員或申請成為會社成員的人免受會社管理層的性騷擾和殘疾騷擾；以及
- 廢除《性別歧視條例》、《家庭崗位歧視條例》及《種族歧視條例》下，如間接歧視案中的答辯人能證明施加有關的要求或條件的意圖並不是基於歧視，便無需支付損害賠償的條文規定。
- Provide protection from sexual, disability and racial harassment in common workplaces where there is no employment relationship (e.g. consignment workers, volunteers and interns) under the SDO, DDO and RDO;
- Provide protection from disability and racial harassment where customers harass service providers, including where such acts occur on Hong Kong registered aircraft or ships and while they are overseas under the DDO and RDO;
- Introduce protection from direct and indirect racial discrimination and racial harassment by imputation under the RDO;
- Protect an associate of a person from direct racial discrimination and racial harassment under the RDO;
- Provide protection from sexual and disability harassment for members and prospective members of clubs, by the management of the clubs under the SDO and DDO; and
- Repeal requirements of an intention to discriminate as a pre-condition to awarding damages for acts of indirect discrimination under the SDO, FSDO and RDO.

另外，政府於2020年1月在憲報刊登《2020年性別歧視（修訂）條例草案》，保障餵哺母乳的婦女免受騷擾。有關修訂的保障範疇與餵哺母乳歧視的保障範疇相同，包括僱傭；提供貨品、服務及設施；教育；會社；處所及共同工作場所。立法會於2021年3月17日通過該條例草案。《2021年性別歧視（修訂）條例》將於2021年6月19日正式生效，即與餵哺母乳歧視的條文同日生效。

Separately, the Government gazetted another Bill – the Sex Discrimination (Amendment) Bill 2020 – to provide protection from harassment on the grounds of breastfeeding in January 2020. The amendments provide protection from breastfeeding harassment in the same sectors in which breastfeeding discrimination is prohibited, such as employment, the provision of goods, services and facilities, education, clubs, premises, as well as in common workplaces. The Bill was passed by the Legislative Council on 17 March 2021, and the Sex Discrimination (Amendment) Ordinance 2021 would come into force on 19 June 2021, the same date as the provisions on breastfeeding discrimination.

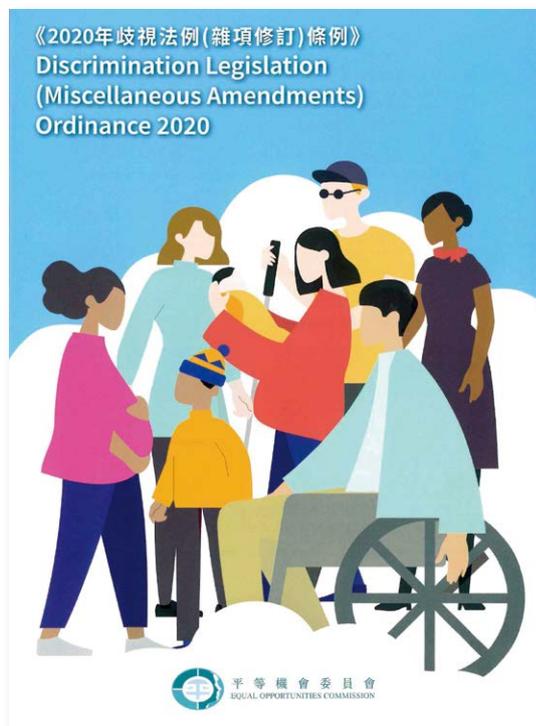
## 執法 Enforcing the Law

### 有關新修訂條文的指南和公眾教育

為了協助公眾認識四條條例的最新修訂，以及他們的權利和責任，平機會就所有新修訂條文擬備及發布了一系列詳盡指南和資料單張，並上載至平機會網站。各版本的指南亦已翻譯成多種語言，以便少數族裔持份者加深了解相關修訂。此外，平機會在全港推出宣傳，就條例的主要修訂內容進行公眾教育，以及為非政府組織和商界等不同持份者舉行講座及工作坊，解釋有關條文。

### Guidance and Education on the Amendments

To help the public understand the amendments to the ordinances and their rights and responsibilities under the law, the EOC prepared and released a series of detailed guidance and information leaflets on all the amendments, which are available on the EOC website. Versions of the guidance were also translated into a number of languages to help ethnic minority stakeholders better understand the amendments. Furthermore, education has been undertaken with a citywide publicity campaign on the key amendments, as well as talks and workshops arranged for different stakeholders, including NGOs and the business sector, to explain the provisions.





## 檢討性騷擾的保障

政府於2020年要求平機會全面檢討《性別歧視條例》下有關性騷擾的條文，以找出目前保障不足之處，並在適當時建議法例改革。平機會現正進行是項詳細法律檢討，待內部討論後，平機會計劃於2021年第四季向政府提交有關法例改革的建議。

## 就有關性罪行的法律改革提交意見書

平機會於2020年10月向政府提交意見書，回應政府就建議引入「窺淫、私密窺視、未經同意下拍攝私密處及相關罪行」進行的公眾諮詢。平機會贊成有關建議，認為在香港引入這些新罪行是適時和必要的，以阻嚇潛在罪犯，並為影像性暴力的受害者討回公道。平機會亦促請政府檢討已制定超過十年的「性罪行定罪紀錄查核機制」，為弱勢群體提供更全面的保障。

2021年3月，平機會就引入「窺淫、私密窺視、未經同意下拍攝私密處及相關罪行」再次提交意見書。政府於2021年3月24日向立法會提交《2021年刑事罪行（修訂）條例草案》進行首讀和二讀。該條例草案採納了平機會的建議。

另外，平機會於2021年2月向法律改革委員會提交意見書，回應該會就「性罪行檢討中的判刑及相關事項」發表的諮詢文件。

## Review of Protections from Sexual Harassment

In 2020 the Government requested the EOC to conduct a holistic review of the current protections from sexual harassment under the SDO, to identify gaps in protection and, where appropriate, make recommendations for legislative amendments. The EOC is in the process of conducting that detailed legal review, and after internal discussions, plans to make submissions to the Government on any proposals for legislative reform by the fourth quarter of 2021.

## Submissions on Legal Reforms Relating to Sexual Offences

The EOC made a submission to the Government in October 2020 in response to the public consultation on the proposed introduction of offences of voyeurism, intimate prying, non-consensual photography of intimate parts, and related offences. The EOC expressed support for the proposal, and viewed that the introduction of these new offences in Hong Kong was both timely and essential to deterring potential offenders and securing justice for victims of image-based sexual violence. The EOC also called for the need to review the scope of the decade-old Sexual Conviction Record Check (SCRC) Scheme, in order to better protect different vulnerable groups.

In March 2021, the EOC made a further submission to the Government on the proposed introduction of offences of voyeurism, intimate prying, non-consensual photography of intimate parts, and related offences. On 24 March 2021, the Government introduced the Crimes (Amendment) Bill 2021 into the Legislative Council for first and second reading. The Bill adopted the recommendations made by the EOC.

Separately, the EOC made a submission to the Law Reform Commission in February 2021 in response to the consultation on sentencing and related matters in the review of sexual offences.

## 執法 Enforcing the Law

### 研究如何立法處理基於未受保障特徵的歧視

如上文所述，平機會的法律服務科不時檢討反歧視條例，並在平機會認為適當的情況下提出法例修訂建議。平機會進行法律研究，向政府建議可行的法律框架，以打擊現行反歧視條例涵蓋範圍以外未受保障特徵的歧視。

### Studies on Possible Legislation for Addressing Discrimination on Grounds of Unprotected Characteristics

As mentioned above, the legal team of the EOC reviews the anti-discrimination ordinances from time to time, and where the EOC considers appropriate, proposes legislative amendments to them. The EOC conducts legal research and makes submissions to the Government on the possible legal framework for tackling discrimination on the grounds of unprotected characteristics not covered by the existing anti-discrimination ordinances.

### 香港人與中國內地來港人士及旅客之間的歧視

平機會跟進歧視條例檢討中提出的建議，以處理香港人與在香港的內地中國人（包括新來港人士及內地訪港旅客）之間的歧視。平機會進行了一項法律研究，審視有哪些法律條文，可以處理香港人與在港內地人之間基於居民身分或原居地地區的歧視、騷擾和中傷。這種歧視由來已久，而且有證據顯示在2019冠狀病毒病疫情下，情況更趨嚴重。平機會已完成報告，並於2021年3月向政府（政制及內地事務局）提交意見書，以供考慮。

### Discrimination between Persons from Hong Kong and New Immigrants and Visitors from the Mainland China

The EOC has followed up on the DLR recommendations to address the discrimination between persons from Hong Kong and Mainland Chinese in Hong Kong (including new immigrants and visitors to Hong Kong from the Mainland). The EOC undertook a legal study to examine the possible legal provisions for tackling discrimination, harassment and vilification between persons from Hong Kong and Mainlanders in Hong Kong on the grounds of residency status or regional origin. Such discrimination remains a longstanding issue, and there is evidence that it has worsened during the COVID-19 epidemic. The study was completed and submitted to the Government (Constitutional and Mainland Affairs Bureau) for consideration in March 2021.



## 性傾向、性別認同及雙性人身分歧視

平機會另一個法律研究範疇是基於性傾向、性別認同及雙性人身分的歧視。有關研究旨在審視可行立法方案，以處理僱傭、教育，以及提供貨品、設施及服務等公共範疇中基於上述原因的歧視。平機會並打算就其建議諮詢主要持份者，在考慮持份者的意見後，將擬備全面的研究報告，並提出建議，以供政府考慮。

## Discrimination on the Grounds of Sexual Orientation, Gender Identity and Intersex Status

Another area of the EOC's legal study is discrimination on the grounds of sexual orientation, gender identity and intersex status. The study aims to examine the possible options for legislating against discrimination, harassment and vilification on these grounds in public domains, such as employment, education, as well as the provision of goods, facilities and services. The EOC also intends to consult key stakeholders on its proposals. After considering the views of stakeholders, the EOC will compile a comprehensive research report with recommendations for the Government's consideration.

## 執法 Enforcing the Law

### 服務使用者的正面回饋

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，驅使我們進一步提升表現。

### 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 Commission, or received legal assistance in taking their cases forward. Their constructive feedback and positive comments are testimonials of our professionalism and service quality, and motivate us to strive for even better performance..

「感謝你們一直以來為這件事的周旋及付出，深深感受到你們的工作熱誠...，所以我答允和解。」

"Thanks so much for your help! This has been my very positive experience working with government body. Thanks for your patience and professionalism!"

60

「本人因病入院，及後遭無理解僱，其後本人向貴會尋求協助，職員熱心協助，並多次和公司作出溝通，可惜調解不成功。及後有幸個案轉介至貴會法律部，在平機會律師的協助下，公司終於願意和解，本人亦得到非常滿意的賠償金。」

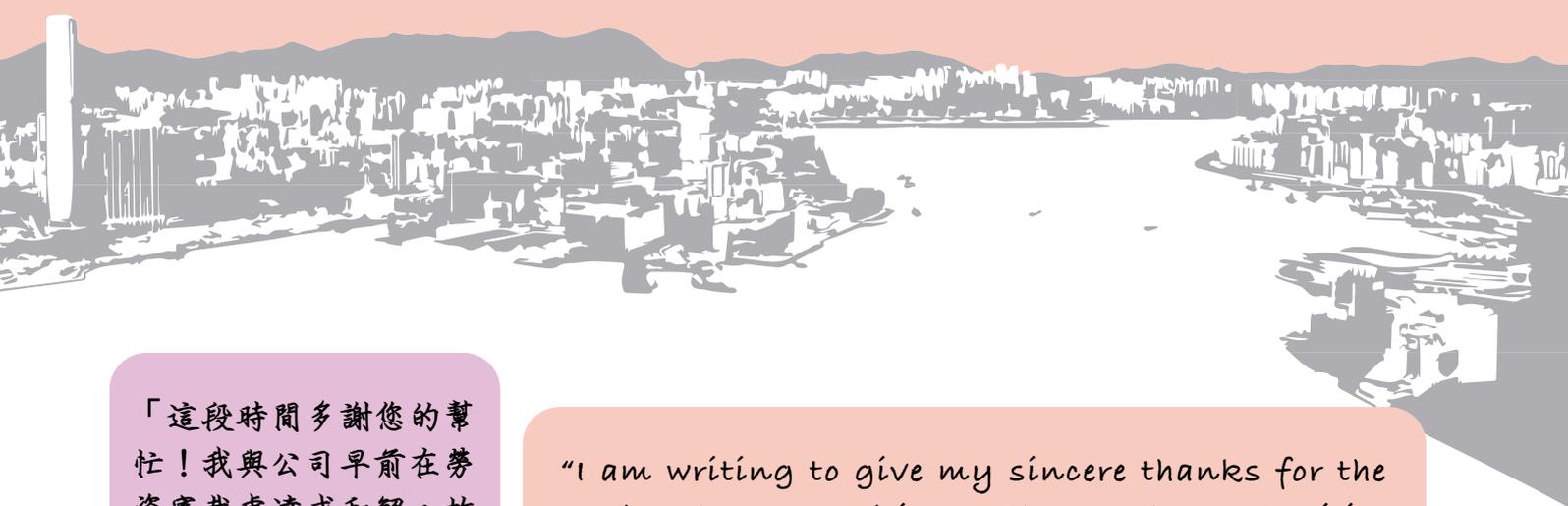
"I just wished to say thank you for your assistance and professionalism over the last year. I think we were very fortunate to have you as our case officer..."

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。」

"I am writing to express my sincere gratitude to the EOC officers for assisting me in my dispute with the company. They have been so thoughtful and patient to me, listening to my complaints and grievance and gave very professional advice."

「就投訴人的投訴，現清楚平機會的職能未能符合投訴人所想，故撤銷投訴，亦感謝平機會主任既專業及耐性解答及分析，謝謝及抱歉為你帶來麻煩。」

"We are pleased to inform you that A has signed the conciliation agreement...we would like to express our gratitude to you for assisting us to reach a settlement with A."



「這段時間多謝您的幫忙！我與公司早前在勞資審裁處達成和解，故我通知您我的個案需要取消。一直以來多謝您的協助及幫忙。」

「感謝你的協助，本人日前到該處時發現殘疾人士洗手間已回復正常運作，本人和廣大市民多謝貴會的協助。」

「本人同意和解協議的內容，真的感激你的幫忙，事件擾攘這麼久不好意思，多謝你。」

「這裡要特別讚揚個案主任的工作，保質保素，認真負責，我誠心感激不盡，感謝平機會的工作人員！」

老闆來和我道歉，講了很多次對不起，請求與我握手言和，我也同意了。在這裡寫信到平機會，撤銷告老闆。」

「本人已經和公司完成調解，本人很慶幸這期間能獲得閣下的各樣幫助，真的非常感激你，謝謝！」

"I am writing to give my sincere thanks for the good work you are doing at the Equal Opportunities Commission. My case of pregnancy discrimination was recently handled by your case officer. He was clear, personable and patient to explain the process and the work of the EOC to me, and with his efficient help I was able to close my case after successful early conciliation. Your work really makes a difference. Please keep it up!"

"Thank you very much for the successful conciliation, especially in early conciliation stage. With your exceptional professionalism, expertise, great effort and extra time, you successfully resolved the complex case, were able to solve the complicated dilemma between both parties. Your great effort helped to prevent the secondary damage and collateral damage to all parties."

"Thank you very much for organising the CCTV footage of the incident. After viewing the said footage, I am satisfied and accordingly would like to withdraw the complaint."

"Thank you for taking the time to handle my case. You always respond to me quickly and explain things thoroughly. I am grateful for your help and I wish you the best in your career."