

Message from the Chairperson - Mainstreaming Equal Opportunities

Mainstreaming Equal Opportunities



Ms. Anna WU Hung-yuk, EOC Chairperson

In March this year, the Australian Bankers' Association launched a draft industry action plan that promised to make telephone banking, ATM's and the Internet accessible to persons with a disability (full details at www.bankers.asn.au/260301.htm). The plan aims to ultimately help persons with a disability and older people enjoy much better access to banking services. The rationale is similar to the vision of the Equal Opportunities Commission in Hong Kong, -- that is, everyone should have equal access to education, employment, services and facilities.

Creating an enabling environment

The right to equal opportunities is an inherent human right. Sometimes persons with a disability miss out on the benefits of new technology because of design problems, such as physically inaccessible ATM's, or because web pages were not constructed in a way to allow customers with a visual impairment to get information. These hurdles can be overcome. A new way of thinking, a different design, new technology or a change in attitude can often remove restrictions and barriers facing persons with a disability.

There are other disabling factors facing persons with a disability in other areas. The barriers could be physical, procedural or attitudinal. Policy makers and public officials just need to find ways making facilities and services more accessible. Providing a barrier-free environment and eliminating participation restrictions will equalize opportunities.

Since the establishment of the Equal Opportunities Commission in 1996, there is a growing awareness that an equal opportunities environment is essential for sustainable development. On the individual level, equal opportunities laws provide a framework whereby individual rights cannot be stripped by any majority wish. This allows an individual to develop his/her potential and rely on his/her own abilities as far as possible.

On the collective level, equal opportunity is about building a society based on meritocracy. An equal opportunity environment is good for the whole society, because its ultimate value is about using human resources effectively and developing our human capital. It is the only asset Hong Kong has.

Gender Mainstreaming

Similarly, the needs of women should also be taken into consideration in the policy formulation process. At the Fourth World Conference on Women in 1995, it was adopted by the Beijing Platform for Women that "governments and other actors should promote an active and visible policy of mainstreaming a gender perspective in all policies and programmes so that, before decisions are taken, an analysis is made of the effects on women and men respectively".

Men and women are, by definition, different. But the differences have by and large been defined by a male dominated society. For centuries, men see themselves as the norm and women as deviation from the norm. Society - and governments - take for granted that men are the rule and women the exception to the rule.

By mainstreaming women's perspective, policies and programmes are redefined to ensure they provide fair outcome for both men and women, and not only dwell on men as the norm.

There were examples of gender mainstreaming in Hong Kong. For instance, the government started to provide nine years of free compulsory education in the 1970's, increasing girls' access to education. However, women still fall behind in science and technology subjects and post-graduate programmes. A survey by the EOC in 1999 showed that about 85% of co-educational schools had restricted the study of Design & Technology to boys and Home Economics to girls. This restriction in our view contravened the Sex Discrimination Ordinance and would intensify gender stereotyping. The situation has improved since we pointed out the phenomenon. But the impact of this anomaly must be seen against the increasing demand for IT competency. Gender mainstreaming must be done properly to address women's critical areas of need including education, employment and freedom from violence.

Strategies in equalizing opportunities

We have found in our work that very often people are not aware of deep-seated prejudices embedded in systems, which have been in use for many years. We need to examine policies, programmes, procedures and practices from an equal opportunity angle, and remove arbitrary barriers and discriminatory standards.

When court judgments are handed down on discrimination cases, a standard was set for all to follow. But it is only when these standards are assimilated into the system that we see real progress. We would like to see the government carry out compliance assessment of their own volition. We want to see government use equal opportunities benchmarks at the policy-formulation stage. We want the government to assess the impact of those policies on disadvantaged communities such as persons with a disability, women and single parents.

There are measures that can contribute to the mainstreaming of equal opportunities, for instance, appointing persons with a disability to advisory boards, reviewing licensing regimes, conducting a judicial review or issuing a consultation paper. The government as the biggest buyer of goods and services could also build in scoring for equal opportunities practices in the tendering procedures.

The EOC has expanded its training and consultancy function to assist the government, employers and service providers in the areas of training and review of procedures. We have been developing training programmes for the civil service and disciplinary forces. We hope that training and sensitization to equal opportunities principles will achieve better compliance with equal opportunities laws.

The work of the EOC is about people - that they matter as individuals. The law must make a difference for them. The EOC will strive harder to promote mainstreaming of equal opportunities in partnership with government and the community.

Sexual Harassment Case - You have the right to say "NO"

Sexual Harassment Case

Mediation and conciliation is often a more efficient and cost-effective means to resolve disputes than litigation. By establishing a workable solution acceptable to all parties, conciliation tends to diffuse hostility. The following is an account of a sexual harassment case which, upon mutual agreement between the complainant and the respondents, was successfully conciliated at an early stage.



You have the right to say "NO"

The complaint

"I had worked for the estate management company as a cleaner since 1997. During an afternoon in mid-1999, my immediate supervisor molested me for the first time. We were discussing some job arrangements at the management office when he suddenly touched my breast. I was so angry and frightened that I left immediately. Nobody was around at that time.

This was only the beginning of a nightmare. Two weeks later, when there was nobody around the management office, he harassed me again. The same thing happened ten times in 1999. I remember clearly because I have put all these unhappy experiences in my diary. Despite my repeated rejections, he had no intention to stop and on the contrary, he became more offensive. There was once when he even followed me to the toilet. I hurt my back on the towel-hanger when I tried to stop him from entering. I cried loudly and he fled.

When I mentioned this to our boss, she told me not to pursue the complaint. Apparently she had done nothing with it. I was very upset and humiliated. It was so unbearable that I eventually resigned in mid-2000."

Besides her supervisor, the complainant also lodged a complaint of vicarious liability against the estate management company, which was the employer of the alleged harasser.

What the EOC did

Upon receipt of the complaint, the EOC suggested an early conciliation for all parties. The complainant and the respondents all agreed to the arrangement.

After a series of negotiations, the supervisor agreed to give a written apology. In accordance with the complainant's wish, the estate management company consented to investigate the case, inform staff of its sexual harassment policy as well as to conduct staff training. The case was then settled.

What the law says

Sexual harassment includes unwelcome conduct of a sexual nature in which a reasonable person would feel offended, humiliated and intimidated. Under the Sex Discrimination Ordinance, sexual harassment in employment is unlawful.

It is worth noting that although an employer might not encourage sexual harassment acts, or had no knowledge of it, the employer would nevertheless be held vicariously liable for the unlawful acts of its employees, unless the employer could prove that reasonable and practicable steps have been taken to prevent such offences from taking place.



UPDATE - The Code of Practice on Education under the Disability Discrimination Ordinance

Update

The Code of Practice on Education under the Disability Discrimination Ordinance



The public consultation of the proposed Code of Practice on Education under the Disability Discrimination Ordinance (COP) issued by the Equal Opportunities Commission (EOC) was completed on 31 March 2001. During the consultation period, five public meetings were held to collect the views of educational establishments, principals and teachers, disability groups, welfare and rehabilitation organizations, professionals and parents. EOC representatives also attended meetings of government advisory bodies and other organizations to introduce the COP and obtain their feedback.

In addition, the EOC received 63 written submissions, including those from educational establishments and educators, disability groups, individuals with a disability and their parents, social service organisations, medical and paramedical bodies, and political parties. Some submissions were signed by a group of individuals. There were 900 such signatures in total.

The EOC has categorized the opinions into two types: comments on the contents of the COP and comments on the support needed for the implementation of the COP.

In respect of the contents, some held the view that there should be clearer guidelines and examples in the COP on the concepts of "reasonable accommodation" and "unjustifiable hardship".

"Reasonable accommodation" means taking certain actions or practices to provide equal opportunities for persons with a disability, such as providing special assistive devices, services and facilities to meet their needs. If such accommodation would cause "unjustifiable hardship" to an educational establishment, the Disability Discrimination Ordinance (DDO) exempts the educational establishment from any liability. Examples and factors related to these concepts are outlined in the COP to assist educational establishments to consider using "unjustifiable hardship" as a defence.

In fact, a number of examples are given to explain the concept of "reasonable accommodation" under Part III "Practical Guidelines for Educational Establishments" in the COP. For instance, there is an example of modifying the curriculum to enhance the equal education opportunities of students with a disability.

The EOC will consider giving more examples on "unjustifiable hardship" to assist COP users to better understand this concept.

Some people suggest that the COP should emphasize the parents' responsibility to inform the school about their children's disability, so that the school is able to provide appropriate educational service to those in need. Although the parents of students with a disability agree that disclosing information will help their children receive appropriate support, however concerns about privacy and possible discrimination against the children have led the parents to argue they should not be forced to provide such information. Instead, parents should be encouraged to actively communicate with the school.

The EOC will address these concerns. Although under the section "Request for Information and Confidentiality" in the proposed COP, it is indicated that it is the responsibility of students with a disability to disclose the information about their disability if they require timely access to services or accommodations.

The problem of resources is the biggest issue facing educational establishments, educators and parents. They all point out that if the government does not provide sufficient resources to schools, it is impractical and infeasible for them to realise the concept of equal opportunities in education.

Many people believe that after the launch of the COP, more students with a disability will seek admission to regular schools. As a result, schools should be equipped with adequate manpower and resources to handle the special needs of these students. Relevant training programmes should be provided to in-service teachers and prospective teachers. Teachers have also proposed special support in teaching.

In addition, some people think that the implementation of the COP is related to the ongoing integrated education programme undertaken by the Education Department (ED), for children with a disability. Some people expect that complaint cases may increase, as persons with a disability are more aware of their rights about equal education opportunities. They suggest establishing a dispute-resolving mechanism that is independent of the EOC and the schools. If a school and parents disagree with each other on what is the best accommodation for a student with a disability, they can bring the case to this body.

The EOC has already anticipated these issues and discussed with the ED during the drafting stage of the COP. Recently a Working Group for the Implementation of the Code of Practice under the Disability Discrimination Ordinance has been formed. Its members include representatives from the ED, primary, secondary and special schools, and parents of students with or without a disability. One of the tasks of the Working Group is to give advice and recommendations on how the integrated education programme and the COP will complement each other.

The Working Group will also provide recommendations on the logistics and promotional strategies in the implementation of the COP. To promote the COP, the EOC and the ED are planning to publish a series of information leaflets addressing the needs of educational establishments, teachers, students with a disability and their parents.

In addition, the Working Group has discussed the issue of an independent dispute-resolving mechanism. Initially the ED will form a panel of experts to handle disputes. Members of the panel may come from the ED, parents' organizations, educational establishments, or they can be medical and legal professionals, social workers and educational psychologists. The ED is studying the feasibility and the proper operation model for the mechanism.

The EOC will revise the COP as necessary, taking into consideration the comments received in the public consultation. The revised COP will be submitted to the Legislative Council for negative vetting within the current LegCo year, so that it may come into effect at the beginning of the new academic year.



Mr. Frederick Tong (middle), Director of EOC's Disability Division explaining the proposed Code of Practice on Education under the Disability Discrimination Ordinance at one of the consultation sessions.

No Regrets! Interview - Charles Leung



No Regrets!

Interview - Charles Leung

Charles Leung remembered one long hot summer, when he was just one year old...he contracted polio. After he fell ill, life changed drastically.

"Ordinary people often do not cherish their health. People with disabilities take special care of themselves, as they need to spend so much extra effort, just to cope with every day life. Even though people with disabilities experience a great deal of frustration, they still have to overcome their difficulties and psychological barriers, to ensure their place in society."

Charles Leung's first step in this direction was his insistence on studying in a regular school. There was no "Integrated Education Program*" at that time, and schools generally lacked facilities to cater for the needs of students with disabilities. Despite these circumstances, he made every effort to overcome the myriad of difficulties facing him. He wanted to attend a regular school in order to meet other children, adapt to life in mainstream society and ensure his own integration into the community.

His loving and caring parents

Charles Leung's parents were not educated, and were uncertain about what would be best for their disabled but lovable son. They felt helpless that solutions were not readily available. They spent every cent of their savings to try and cure their son's disability. They even sent Charles to a physician in Guangzhou, in a bid to help him walk again. Eventually, they had to accept the fact that their son would not be able to walk for the rest of his life. Charles' mother then sent him to a special boarding school for children with disabilities.



Just a regular school

Charles became a top student in that special school. When it was time to attend secondary school, the Education Department and his school arranged for him to study in a special secondary school. Surprisingly however, Charles insisted on repeating primary six in a regular school, in order to sit for the secondary school entrance examination. Although he was young, Charles realized that he no longer wanted to spend his time in a protected environment. On the contrary, he was determined to live just like everyone else to earn his livelihood in the community. After much insistence, the Education Department arranged for him to study in a single-storey rural school which was accessible to Charles. After working extremely hard that year, Charles excelled in his examinations and gained a place in a regular school.

It was no easy task studying in the regular secondary school. Hardly any secondary schools were equipped with elevators at that time, and the school where Charles was studying was no exception. Charles had to rely on his own strength and his crutches to climb the stairs, up several floors, to attend lessons everyday. His classmates and teachers were eager to help and when Charles needed to go to classrooms on the different floors, his classmates would place his wheelchair by the staircase to await his arrival. His teachers also understood that it took him longer to reach the different classrooms.



Social work --?Helping others, helping himself

With his excellent results attained in the Hong Kong Certificate of Education Examination, Charles progressed through matriculation, later graduating from the Social Work Department of the Chinese University of Hong Kong. Charles' determination and hard work prove that people with disabilities do not have to depend on social assistance or the help of others. Actually they can help others and make a valid contribution to society.

Charles joined the Social Welfare Department as a social worker after graduation. Since then, he has been able to help many clients. His most unforgettable experience was a Form 4 student, who was suffering from a mental illness. The young student would not have his hair cut and was unwilling to leave his room for months on end. At first, he refused to talk to Charles, doubting whether this social worker in a wheelchair could offer any help. With the passage of time, he was more willing to accept Charles' counselling. He was tremendously impressed by Charles, and his love for life. The young student later visited Charles to express his gratitude. Sharing the joys and sorrows they had been through, they burst into tears.

Integrated Education in Hong Kong

For Charles Leung, Integrated Education came too late for him. It is only in recent years that Integrated Education has become a major trend. "Better late than never," he sighs. Charles states his support for Integrated Education as the program offers a choice for students with special needs, enabling them a chance to study in regular schools. "With the program, students with disabilities are able to live, learn and grow within the community." Charles emphasized.



As most tend to forget, Integrated Education also benefits students without disabilities, as they learn to accept people who are different from themselves. They become ready to accept and to care for others.

*"Integrated Education" establishes a caring school culture and encourages the acceptance of students with special educational needs. Based on the needs of students, individual education plans will be drawn up and necessary assistive device will be provided. The program aims to develop a sense of "Inclusion and Equality for All".

A World Traveller Comes to EOC

A World Traveller Comes to EOC

Mr. Wichian Pinkesorn, a renowned Thai cyclist, visited the EOC and met with EOC Chairperson, Ms Anna WU, on 4 May 2001. At the meeting, both parties shared their experiences in promoting equal opportunities for people with a disability.



Mr. Pinkesorn, whose right hand was amputated at the wrist in an accident, was cycling from Guangzhou to Hong Kong. He began his world tour on 19 February 2001 in Bangkok, and he plans to travel to 42 countries in the next 3 to 4 years.

Pregnancy Discrimination – Landmark Case: Pregnancy Discrimination

Landmark Case: Pregnancy Discrimination

The Equal Opportunities Commission (EOC) welcomes the judgment on Hong Kong's first case of pregnancy discrimination, which makes it clear to employers that, not only are they liable for their own unlawful discriminatory acts, but they are also liable for the acts of their employees.

The Judgment

The District Court ruled on 26 February 2001 that the defendant, a pharmaceutical company, had discriminated against its former product manager because of her pregnancy. The judge also ruled that the plaintiff was unlawfully victimized, after she lodged a complaint with the EOC. The company had breached the Sex Discrimination Ordinance.



The Case

The plaintiff's supervisors forced her to either resign or be demoted after she told them of her pregnancy. She lodged a complaint of pregnancy discrimination against the defendant with the EOC in October 1997. She also complained that her supervisors had victimized her for approaching the EOC. The acts of victimization included untrue and unjustified criticism, an increase in workload and denial of a pay rise. According to the defendant, there was no company policy of discrimination against pregnant employees (indeed pregnant employees were granted various benefits by the company), and the reason for the plaintiff's treatment was her substandard performance. The Court accepted that there was no company policy and culture of pregnancy discrimination, but rejected that the plaintiff's poor treatment at work was a result of her performance. The Court held that the plaintiff's supervisors disliked the plaintiff, and saw her pregnancy as an opportunity to force her out. The Court held that the defendant was liable for the unlawful discriminatory acts committed by the supervisors.

The parties settled for an undisclosed amount after the Court ruled in favour of the plaintiff.

Conclusion

The case made it clear that although an employer, in this case the company, did not discriminate against a pregnant employee, the employer would nevertheless be held vicariously liable for the unlawful acts of its employees i.e. the plaintiff's supervisors. The EOC urges all employers to adopt a policy on eliminating discrimination at work so as to ensure a culture of mutual respect amongst employees.

Around the World...

Around the World...



A number of travel agencies in Japan are marketing barrier-free tours for the physically disabled. These packages are designed for special needs, and consumers are offered choices in transportation, meals, destinations and services such as assistance in the immigration of guide-dogs. One example is a travel plan for people with diabetes which offers special menus and a nurse on duty throughout the whole trip. Another tailor-made wheelchair tour of Los Angeles includes in its itinerary visits to a research center for spinal-cord damage, a rehabilitation hospital, a healthcare equipment store as well as a chance to watch a wheelchair-basketball practice. However, as the fees for these tours tend to be expensive, whether they will succeed in the long-run will depend largely on costs.

More information

<http://jin.jcic.or.jp/trends/honbun/tj000427.html>

By helping employees achieve a better balance between work and family responsibilities, Woolworth (New Zealand) Ltd. successfully reduced its team turnover by 7.94% from 1996 to 2000, saving approximately NZ\$6 million. These family-friendly practices included two weeks' paid parental leave to both men and women, bereavement leave, and three days' domestic leave after 6 months' continuous service. It also introduced a sexual harassment policy and since then no complaints or personal grievance claims have been made to the Human Rights Commission.



More information

http://www.eeotrust.org.nz/worklife/case2000_a.shtml

For the first time in their lives, those who are blind in Australia will cast their first secret ballot when NRMA Limited introduces the option of voting online in September. It will be the first major election in Australia with an online component in addition to the traditional way of using a postal ballot paper. Prior to the election, test-runs will be arranged for people with a print disability to ensure that the system is accessible.



More information

http://www.hreoc.gov.au/media_releases/2001/01_06.html

The National Minimum Wage in Britain will go up from 3.70 to 4.10 an hour from October this year. As it was founded that women still tend to work in the lowest paid jobs and because of childcare responsibilities many go into part-time jobs, the increase was regarded as a move to improve the quality of life of many women and a tool for government to help close the gender pay gap. It was reported that over 70% of those benefiting from minimum wage are women.

More information

http://www.eoc.org.uk/html/pressreleases2001/press_releases_2001_8.html



Saturday Talks organized by the Equal Opportunities Commission (June 2001)

Saturday Talks organized by the Equal Opportunities Commission (June 2001)

The Equal Opportunities Commission (EOC) will organize talks on equal opportunities in June 2001. For enrolment, please complete the following registration form and return to us. Places are limited and are available on a first come first served basis.

Registration Form - Saturday Talks

(to return the form by fax, by post or e-mail to eoc@eoc.org.hk)

To: Equal Opportunities Commission
Unit 2002, 20/F., Office Tower, Convention Plaza, 1 Harbour Road, Hong Kong
Fax: 2877 7600

Name :

Fax. No.:

Tel. No.:

Mobile phone / Pager:

Organization :

Position :

E-mail Address:

Address :

I would like to attend the following Saturday Talk(s):

Priority No	Date	Topic and content outline
<input type="checkbox"/>	9-6-2001	Preventing and Dealing with Sexual Harassment - definition of sexual harassment
<input type="checkbox"/>	16-6-2001	- formulating policies & guidelines on preventing sexual harassment - steps and skills in handling sexual harassment complaints
<input type="checkbox"/>	23-6-2001	An introduction to the Anti-discrimination - definition & application of the anti-discrimination ordinances - examples and complaint cases on discrimination

I would like to attend English session if it could be arranged.

Details of the Talks

Time : 10:00a.m. to 12:00noon

Venue : EOC Conference Room

Unit 2002, 20/F., Office Tower,

Convention Plaza,

1 Harbour Road, Wan Chai, Hong Kong

Language : mainly Cantonese

For enquiries, please call the EOC Hotline on 2511 8211.

Roadshows & Performances: Integrated Education in Hong Kong

Integrated Education in Hong Kong

The EOC and Pegasus Social Christian Organization jointly organized the "Integrated Education in Hong Kong" Roadshow at MacPherson Playground, Mongkok, on 1 April 2001. It promoted integrated education and the Code of Practice on Education under the Disability Discrimination Ordinance which is expected to come into effect later this year. The roadshow also featured two IT trucks from Pegasus which served as mobile IT training centers. One of the trucks was accessible to the disabled. Over 300 people were able to attend the training sessions.



Dr. Chan Yee-shing danced with the children.

Let's draw a LONGGGGG equal opportunities picture together!



Officiating guests of the opening ceremony (from left to right): Dr. CHAN Yee-shing, Committee Member of Support Group on Integrated Education (also one of the comperes of the roadshow), Mr. Frederick TONG, Director (Disability) of the EOC; Ms. Betty IP TSANG Chui-hing, Assistant Director (Education Services) of Education Department; Mr. Augustine CHOI, District Officer (Yau Tsim Mong District); Mr. Stephen HUI Chin-yim, Chairman of Hong Kong Subsidized Secondary Schools Council; Mrs. Peggy LAM, Convenor of the EOC's Community Participation and Publicity Committee; Mr. LAM Seung-wan, Principal of SKH Yat Sau Primary School; Dr. Stevenson FUNG, Convenor of the EOC's IT Task Force and Ms. Anna WU, Chairperson of the EOC; Ms. Carman LIANG, Chairman of Pegasus; and (front) Mr. Charles LEUNG, Social Worker. Miss Shadow CHAN (far right), staff member of the EOC, was the comperer of the event.

Roadshows & Performances: Equal Opportunities Olympics

Equal Opportunities Olympics



More than 7000 primary school students enjoyed the "Equal Opportunities Olympics" performed by the Jumbo Kids' Theatre. The play, commissioned by the EOC, depicted how EO kids defeated a "Discrimination Monster" at their school's Sports Day. A total of 30 performances were held from January to March 2001.

Two EO kids in the play discussed a strategy to defeat the "Discrimination Monster". The Monster was trying to disqualify girls and students with a disability to participate in the Equal Opportunities Olympics. Finally, everyone had an equal and fair chance to participate.



Roadshows & Performances: “Equal Opportunities Cup” – 1st Inter-University Bilingual Speech Contest

“Equal Opportunities Cup” 1st Inter-University Bilingual Speech Contest

"A Beautiful World - A World Without Discrimination" was the theme of the "Equal Opportunities Cup" 1st Inter-University Bilingual Speech Contest held on 12 April 2001. More than 500 university and secondary school students attended the annual event.



Commenting on the performance of the contestants in the Cantonese section, Mr. Chung King-fai stressed the importance of pronunciation in delivering a speech.

After intense competition, Dr. Eden Woon, one of the adjudicators of the contest, shared with the contestants his views on the importance of language skills in the business world. He pointed out that presentation skills was a major factor to determine whether a staff would be promoted.



Winners of the contest:

English Language Section

Champion: Ms. Virginia Wan (3rd from right)
(Hong Kong Baptist University)
1st Runner-up: Ms. Wong Hang-yin (2nd from right)
(Hong Kong University of Science & Technology)
2nd Runner-up: Ms. Amanda Lau (1st right)
(University of Hong Kong)

Cantonese Language Section

Champion: Mr. Wong Sai-kit (3rd from left)
(University of Hong Kong)
1st Runner-up: Mr. Ma Man Tak (2nd from left)
(Lingnan University)
2nd Runner-up: Ms. Carinna Cheung (1st left)
(Hong Kong Polytechnic University)