

2022 Policy Address Public Consultation

Submission from Equal Opportunities Commission

Introduction

This paper aims at giving views and recommendations of the Equal Opportunities Commission (EOC) for the 2022 Policy Address on various equal opportunities matters related to support for students with special educational needs (SEN), sexuality education, persons with disabilities (PWDs) and non-ethnic Chinese population, support for carers, promoting family-friendly flexible working arrangements, strengthening the ability of small and medium-sized enterprises (SMEs) to prevent and combat workplace sexual harassment and introducing a positive duty on employers to take reasonable and proportionate steps to prevent and respond to workplace sexual harassment.

Support for Students with SEN

2. With the number of students with SEN increasing throughout the years, schools are facing challenges in building the right support and deploying resources. In the 2020/21 school year, the number of students with SEN in public sector ordinary schools reached around 56,640 (28,650 in primary schools and 27,990 in secondary schools)¹, which represented a significant increase from 33,830 students² in 2013/14. It has posed ongoing challenges to students, parents and schools when there are insufficient school-based professional support services and lack of legislation to ensure the rights of students of SEN in education.

Professional Support for Students with SEN

3. Schools in Hong Kong have been suffering from a long-term shortage of professional support for students with SEN, including counsellors, educational psychologists (EP) and speech therapists. There is a pressing need to train more

¹ Legislative Council (2021). *Administration's paper on Providing Professional Support to Ordinary Schools for Implementing Integrated Education (Follow-up paper)*. Retrieved from <https://www.legco.gov.hk/yr20-21/english/panels/ed/papers/ed20210604cb4-1701-1-e.pdf>

² Legislative Council (2019). *Statistical Highlights, ISSH22/18-19*. Retrieved from <https://www.legco.gov.hk/research-publications/english/1819issh22-special-educational-needs-20190219-e.pdf>

specialists to address the needs arising from the increasing numbers of students with SEN. While the Education Bureau (EDB) has implemented the Enhanced School-based Educational Psychology Service (SBEPS) from 2016/17, it enables the school-based EPs to pay more days of visit to schools. According to the EDB, about 25% of public sector ordinary primary and secondary schools have been provided with the Enhanced SBEPS in 2020/21, while the ratio of EPs to schools for the remaining schools is about 1:7 to 1:8. It was noted that the EDB would continue to improve the service, with a goal of reaching the ratio of EPs to schools to 1:4 in 60% of the mainstream schools in 2023/24.³ Training more EPs can speed up the provision of educational psychology services including assessments, counselling and accommodation arrangements for students with SEN in schools. Hence, the EOC recommends that the Government should consider providing more places and funding for universities to provide educational psychology, counselling and speech therapy programmes, creating designated academic modules on pedagogical support to students with SEN in teacher training or programmes like Postgraduate Diploma in Education, as well as enhancing existing policies to attract specialists from places outside Hong Kong.

Legislation on Education of Students with SEN

4. In Hong Kong, there is currently no legislation that explicitly spells out the statutory requirements to support students with SEN in education. PWDs are currently protected from discrimination under the Disability Discrimination Ordinance, including equal access to education. To safeguard the rights of students with SEN in receiving adequate support measures, the legislative approach would give a legal framework to guarantee the right and appropriate support provided by educational establishments and how the support should be given from early identification and assessment, individual educational plan to school arrangements and compliance.

5. While Hong Kong is implementing integrated education with administrative means, some overseas jurisdictions such as the UK and the US have legal framework

³ Legislative Council (2021). *Professional Support Provided to Ordinary Schools for Implementing Integrated Education*. Retrieved from <https://www.legco.gov.hk/yr20-21/english/panels/ed/papers/ed20210604cb4-1037-1-e.pdf>

for students with SEN on inclusive education. For example, the US has statutory requirements regarding funding for special education, qualifications of special education teachers, and a need to devise individual education plan for each student with SEN.⁴ By way of legislation, it will ensure that students are given the right support services that meet their actual needs. The EOC recommends that the Government should consider setting out a legal framework to protect the rights of students and set out the responsibilities of relevant stakeholders.

Funding for Equal Opportunities Office in Universities

6. The EOC also strongly proposes that the Government should provide universities with additional funding to set up Equal Opportunities Offices. With designated personnel and resources, universities can mainstream equal opportunities in tertiary education in students' activities and staff engagement at departmental and faculty levels. The integration of equal opportunities into university policies and practices are effective tools to reduce discrimination, which also creates a safe and inclusive place for study and work. The EOC welcomes the University Grants Committee (UGC)'s plan of regularising funding for UGC-funded universities to enhance support for students with SEN in the 2022-2025 triennium, as sustaining effort to mainstreaming students with SEN into campus life.⁵ With this acquired momentum, setting up Equal Opportunities Offices would enable universities to continue fostering equal opportunities by promoting inclusion and addressing concerns in areas such as family status, gender, and race, in addition to SEN and disability issues, in a more coordinated and effective way. It also better prepares students to be future leaders of diversity initiatives before and after they join the workforce.

⁴ Legislative Council (2014) *Information Note: Legislation on inclusive education in Taiwan, the United Kingdom and the United States*. Retrieved from <https://www.legco.gov.hk/research-publications/english/1314in15-legislation-on-inclusive-education-in-taiwan-the-united-kingdom-and-the-united-states-20140417-e.pdf>

⁵ University Grants Committee (2021). *UGC Newswire (February 2021)*. Retrieved from <https://www.ugc.edu.hk/doc/eng/ugc/about/publications/newswire/newswire202102.pdf>

Sexuality education

7. The EOC published a large-scale research report entitled “Break the Silence: Territory-wide Study on Sexual Harassment of University Students in Hong Kong” in January 2019.⁶ The report found that near one-fourth of students (23%) participated in the study indicated that they were sexually harassed within 12 months before the survey was conducted. It also found that one of the root causes of sexual harassment of university students was misconception about sex and relationship which had taken shape in their teenage years, and thus, a thorough reform of sexuality education is urgently needed.

8. The EOC is currently conducting “A Study on Comprehensive Sexuality Education in Secondary Schools of Hong Kong”, with a view to collecting solid data to paint an overall picture of implementation of sexuality education in Hong Kong, and will provide recommendations for the Government, schools and NGOs to map out a better overall strategy to improve sexuality education for all the youths in the city.

9. While detailed recommendations will be provided to the Government upon completion of the Study, the EOC would like to take this opportunity to reiterate some recommendations—raised by participants of the Roundtable on Reforming Sexuality Education in Hong Kong co-organised by the EOC and Lee Hysan Foundation in 2019—that were submitted to the Education Bureau previously:⁷

- To build the capacity of teachers, social workers and parents on sexuality education, such as providing on-the-job training, funding, awareness training, learning programmes and resources;
- To enhance and structure teaching materials for sexuality education, such as materials that are categorised into different topics and age groups;
- To provide a structured sexuality education curriculum, recommended lesson hours and funding for sexuality education coordinator; and
- To reactivate and update the 1997 Guidelines on Sex Education in Schools.

⁶ CHAN, James K.S., LAM, Kitty K.Y., CHEUNG, Christy C.M., LO, Jimmy T.Y. (2019). *Break the Silence: Territory-wide Study on Sexual Harassment of University Students in Hong Kong*. Hong Kong: Equal Opportunities Commission.

⁷ Equal Opportunities Commission (2019). *Submission to the Task Force on Review of School Curriculum of the Education Bureau*. Retrieved from <https://www.eoc.org.hk/eoc/upload/20191028115746386751.pdf>

Job opportunities for Persons with Disabilities

10. According to the Census and Statistics Department (C&SD), the overall prevalence rate of PWDs was 7.1% (i.e. 534,200 persons) of the total population in Hong Kong in 2020.⁸ The employment rate of PWDs was 17.6%, three times less than the overall employment rate of 55.5%.⁹ Their needs for meaningful employment are often unmet and disability inclusion is often the forgotten agenda even with the most progressive Environmental, Social and Governance (ESG) initiatives.

Tax Incentive for Inclusive Employment

11. The Government has training and retraining programmes and subsidy schemes such as Work Orientation and Placement Scheme in place to encourage hiring of PWDs. However, such subsidy schemes are restricted to employers who registered the job vacancies with relevant Government departments. Moreover, the schemes have so far generated temporary effect as the allowance period is up to nine months at maximum and retention rate was less than 40%.¹⁰ It was suggested by the Audit Commission that measures should be taken to help PWDs stay in their placements for longer period of time.¹¹ The EOC therefore recommends the Government consider regularising employment support to PWDs by introducing tax incentive for businesses in order to encourage employment of PWDs in the private sector.

12. A Pilot Scheme on Tax Deduction for employment of PWDs can be introduced to boost retention rate of PWDs in the labour force. When hiring a PWD who is a holder of the “Registration Card for People with Disabilities”, an employer of any size may claim tax deduction when filing tax return and the amount can correspond with the number of PWDs hired and the duration of their employment. This Pilot Scheme should be made available for a period of more than one taxable year with an aim to encourage longer term employment of PWDs. Simplifying and streamlining the procedure may incentivise employers to hire PWDs.

⁸ Census and Statistics Department (2021). *Special Topics Report No. 63: Persons with Disabilities and Chronic Diseases*. Retrieved from

https://www.censtatd.gov.hk/en/data/stat_report/product/C0000055/att/B11301632021XXXXB0100.pdf

⁹ *Ibid*

¹⁰ Audit Commission (2019). *Director of Audit's Report: Employment Services provided by the Labour Department*. Retrieved from https://www.aud.gov.hk/pdf_e/e72ch03.pdf

¹¹ *Ibid*

Social Procurement Framework

13. Another possible incentive for the private sector to hire PWDs would be the introduction of Social Procurement Framework. To encourage disability inclusion in the workplace, the Government is recommended to consider taking the lead to adopt social procurement across all Government procurement activities. The EOC is pleased to learn that the Government has implemented the Pro-innovation Government Procurement Policy in 2019.¹² The revised marking schemes for the procurement can promote adoption of innovative suggestions which can bring about positive values to the public such as enhancing social well-being by employing PWDs. The Government should consider assessing the effectiveness of the revised policy on supporting suppliers that provide inclusive opportunities.

14. Further measures should also be taken to raise the awareness of the suppliers on disability inclusion. As a first step, it is suggested to include requirements for “adoption of Equal Opportunities (EO) Policy” and “arrangement of EO training for staff members” in the tender document and/or clauses in contracts to incentivise suppliers to adopt and maintain inclusive business practices. A comprehensive Supplier Code of Conduct can be developed as a next step to commit suppliers to building an ethical, sustainable and socially responsible community. The Government may consider benchmarking against the Supplier Code of Conduct developed by some overseas jurisdictions such as Canada¹³, New Zealand¹⁴, the State of Victoria of Australia¹⁵ and the UK¹⁶. Standards such as adoption of inclusive hiring and employment practices by suppliers in their workplace and in their service provision, and adherence to anti-discrimination ordinances applicable in Hong Kong can be included.

¹² Government Secretariat Hong Kong (2019). *Financial Circular No.2/2019 – Pro-innovation Government Procurement*. Retrieved from

https://accessinfo.hk/en/request/533/response/1514/attach/6/FC02%202019.pdf?cookie_passthrough=1

¹³ Public Works and Government Services Canada (2021). *Code of Conduct for Procurement*. Retrieved from

<https://www.tpsgc-pwgsc.gc.ca/app-acq/cndt-cndct/cca-ccp-eng.html>

¹⁴ New Zealand Government Procurement (n.d.) *Supplier Code of Conduct*. Retrieved from

<https://www.procurement.govt.nz/assets/procurement-property/documents/supplier-code-of-conduct.pdf>

¹⁵ Victoria State Government, Australia (2018). *Victoria’s Social Procurement Framework*. Retrieved from

<https://www.buyingfor.vic.gov.au/sites/default/files/2018-08/Victorias-Social-Procurement-Framework.PDF>

¹⁶ Government Commercial Function, the United Kingdom (2019). *Supplier Code of Conduct v2*. Retrieved from

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf

Job Redesign Guide for Inclusive Employers

15. The EOC would like to reiterate the importance of promotion and development of guidelines on reasonable accommodation prior to legislating it into a statutory duty as raised in our submission to the 2020 Policy Address Public Consultation¹⁷.

16. In addition to accommodation at work, job redesign can be another useful tool to promote the inclusion of PWDs in the workplace. Singapore has launched the *Job Redesign Guide for Inclusive Employers* to help employers understand how to redesign jobs to better support and integrate employees with disabilities. It is reported that job redesign can also benefit employers by lowering the company turnover rate due to the more collaborative and innovative work culture.¹⁸ The Government is recommended to consider formulating a comprehensive Job Redesign Guide, to be designed from the human resources management perspective based on job-matching insights from the Labour Department for PWDs, and help employers identify the needs of employees with disabilities so as to create a diverse and inclusive workplace.

Other career paths for students with SEN to bring out the best of their abilities

17. Students with SEN often find it challenging to navigate in the mainstream education system despite additional resources allocated to schools under Integrated Education Policy. According to the 2021 Hong Kong Diploma of Secondary Education (HKDSE) Results statistics, 18.9% of candidates with SEN attained minimum qualifications for university admission, which amounted to only half of the percentage of all candidates in achieving the same qualifications (i.e. 36.5%).¹⁹ The difficult situation for students with SEN to go further for higher education is reflected by the figures.

¹⁷ Equal Opportunities Commission (2020). *2020 Policy Address Public Consultation: Submission from Equal Opportunities Commission*. Retrieved from <https://www.eoc.org.hk/eoc/upload/202092512262456717.pdf>

¹⁸ SG Enable (2019). *Job Redesign Guide for Inclusive Employers*. Retrieved from https://www.sgenable.sg/docs/default-source/default-document-library/resources-library/sg-enable_job-redesign-guide-for-inclusive-employers.pdf?sfvrsn=5f95e53b_1

¹⁹ Hong Kong Examinations and Assessment Authority (2021). *2021 HKDSE Results Statistics*. Retrieved from https://www.hkeaa.edu.hk/DocLibrary/HKDSE/Exam_Report/Examination_Statistics/dseexamstat21_3.pdf

18. Even when the students with SEN have attained higher education qualifications, they still face difficulties in employment. In 2020, only 43.5% of the PWDs with tertiary education qualifications were employed, while the employment rate of the overall population with the same qualifications is 69%.²⁰

19. Despite their special needs in learning, some students with SEN such as those with Autism Spectrum Disorder (ASD) might possess qualities such as high level of concentration or greater ability in mathematics or arts; or those with Attention Deficit Hyperactivity Disorder (ADHD) might be creative problem-solvers — traits that are desired by various industries. Their potential abilities can be unleashed into work capabilities with specific training and opportunities. The Government is recommended to launch upskill programmes enhancing the employability of students with SEN. The model of the “STEM Internship Scheme”²¹ organised by the Innovation and Technology Commission can be taken as reference for collaboration with the technology industry. As a pilot scheme, training on digital skills can be provided to prepare students with SEN for opportunities in tech jobs. Partnering companies shall provide job shadowing, internships and mentoring opportunities for the students with SEN.

Universal Design

20. The EOC expresses great concerns about the universal accessibility of the built environment to facilitate independent access of all people, including but not limited to PWDs, elderly, pregnant women and families with young children. The *Design Manual: Barrier Free Access 2008 (DM)* issued by the Building Department is one of the major guidelines promoting accessibility of the built environment of both public and private buildings. However, it mainly focuses on Barrier Free Access, and the principles of universal design are not fully incorporated in the manual.

21. While recognising the recommendations made in the “Consultancy Study for Enhancement of the Accessibility of Physical Environment in Hong Kong”²², the EOC

²⁰ See Note 8

²¹ Innovation and Technology Commission – STEM Internship Scheme. Retrieved from <https://www.itf.gov.hk/en/funding-programmes/nurturing-talent/stem-internship-scheme/>

²² Architecture Design and Research Group Ltd. (2022). *Consultancy Study for Enhancement of the Accessibility of Physical Environment in Hong Kong*. Retrieved from <https://www.lwb.gov.hk/en/highlights/rpp/Final%20Report.pdf>

believes the Government should start developing an all-in-one *DM* on Universal Accessibility for practitioners, developers and business owners who want to implement better design in practice but lack the technical expertise. The existing *DM* should be reviewed and updated with incremental changes by replacing gradually some of the Obligatory Design Requirements with the Recommended Design Requirements, which should include accessibility standards cater for user groups such as children, elderly, breastfeeding mothers, and parents with baby carriages. For example, with the growing population of powered wheelchair users, the width of access route should be raised to allow sufficient space for two wheelchair users to pass each other. Different levels of handrail should be provided to meet the needs of different users.

22. Principles and concepts of Universal Design should also be included in the all-in-one *DM* so that Universal Accessibility is not limited to Government premises but also extends to private buildings. The new *DM* should be formulated with practical guidelines and technical standards of implementing Universal Design throughout Hong Kong, covering the scopes of built environment, public open spaces and public passage, and transportation facilities. At the same time, Universal Design should be adopted in urban renewal projects.

23. In addition to physical environment, accessible information and services and assistive tools are equally important in promoting Universal Accessibility. Provision of positioning and navigation services in indoor venues can greatly enhance the independence of persons with visual impairment and elderly. Currently, some of the venues managed by the Leisure and Cultural Services Department (LCSD) and Immigration Department support indoor navigation via mobile phone application.²³ The Government should consider expanding the coverage of indoor navigation services to all government premises and facilities to enhance accessibility.

²³ Hong Kong Blind Union – Jockey Club Smart City Walk Project. Retrieved from https://scw.hkbu.org.hk/home/index_en/venue

Support for Carers

24. The EOC has long been advocating for the need of a holistic policy to support carers, in its multiple past submissions to both the executive and legislative branch.²⁴ It is because not only carers' unpaid caregiving services are essential to the wellbeing and daily living of many PWDs and elderly persons, but also a majority of carers themselves belong to groups—such as women, single parents, PWDs, etc.—who encountered discrimination and micro-aggression on a daily basis due to the caring responsibilities that they bore.

25. The Labour and Welfare Bureau released its report of the “Consultancy Study on Needs and Support Required of Carers of Elderly Persons and of Persons with Disabilities in Hong Kong” in June 2022.²⁵ While recognising that the Government has accepted in principle the directions and recommendations put forward in the study report and will follow up on them, the EOC would like to highlight below that a revamp of the over-subscribed respite care services is urgently needed, amongst the recommendations that were previously raised in our submissions.

26. In Hong Kong, the respite care services for elderly persons and PWDs are deeply inadequate. According to a survey conducted by the Hong Kong Council of Social Service (HKCSS) in 2021, 77.4% of the surveyed carers said they were “very difficult” or “quite difficult” to take a break from their caregiving responsibilities, with 56.6% of them quoting that the underlying reason was lacking available services that fit their

²⁴ Equal Opportunities Commission (2021). *2021 Policy Address Public Consultation: Submission from the Equal Opportunities Commission*. Retrieved from https://www.eoc.org.hk/Upload/submission/Submission%20for%202021%20Policy%20Address%20Public%20Consultation_E%20final_EOC%20website_3702.pdf;

Equal Opportunities Commission (2020). *Support for Carers and Provision of Residential Care Services for Persons with Disabilities*. Retrieved from <https://www.eoc.org.hk/eoc/upload/202092317313420601.pdf>;

Equal Opportunities Commission (2020). *2020 Policy Address Public Consultation: Submission from the Equal Opportunities Commission*. Retrieved from <https://www.eoc.org.hk/eoc/upload/202092512262456717.pdf>;

Equal Opportunities Commission (2020). *EOC Responds to Persons with Disabilities and Rehabilitation Programme Plan*. Retrieved from

<https://www.eoc.org.hk/eoc/GraphicsFolder/ShowContent.aspx?ItemID=16854>

²⁵ HKSAR Government (2022). *Government releases consultancy study report on support to carers*. Retrieved from <https://www.info.gov.hk/gia/general/202206/09/P2022060900338.htm>

needs. Also, near 70% of carers said they would like to have access to respite services, service hotline and support groups.²⁶

27. Hence, it is recommended that the Government should drastically improve the capacity of respite care and other support services to satisfactorily accommodate citizens' needs in this regard. The Government may also consider taking reference from other jurisdictions where at-home carers are entitled by law to a prescribed period of respite care services per year (e.g. Japan: 84 days; Australia: 63 days; Canada: 60 days; Taiwan: 21 days; etc.),²⁷ during which they can take some rest while the elderly will be taken care of by professional caregivers at home or in short-term residential care facilities.

Providing Family-friendly Flexible Working Arrangements

28. While flexible working arrangements have become more common under the pandemic, companies worldwide are seen to introduce measures to shorten the workweek or reduce working hours. In Spain, the Government launched a three-year pilot of a 32-hour workweek without cutting employees' pay from 2021, which signified a more permanent shift on work-life balance measures.²⁸ A good number of companies have been advocating and running similar pilot schemes of a four-day week in countries like Belgium, Canada, Germany, Japan, New Zealand, Sweden, the UK and the US.²⁹ Studies show that flexible working arrangements not merely improve employee wellness and productivity, they are also family-friendly measures supporting employees, in particular persons with family responsibilities, to take care of the needs of their family members.

²⁶ HKCSS (2021). *Study on the Respite Needs of Carers in Hong Kong*. Retrieved from <https://www.hkcss.org.hk/%e3%80%8a%e7%85%a7%e9%a1%a7%e8%80%85%e5%96%98%e6%81%af%e9%9c%80%e8%a6%81%e7%a0%94%e7%a9%b6%e3%80%8b/?lang=en>

²⁷ Legislative Council (2020). *Policy Support to Carers in Selected Places*. Retrieved from <https://www.legco.gov.hk/research-publications/english/1920rt07-policy-support-to-carers-in-selected-places-20200309-e.pdf>

²⁸ Forbes (2021). *Spain Is The Latest Country To Try A Four-Day Workweek*. Retrieved from <https://www.forbes.com/sites/jackkelly/2021/03/15/spain-is-the-latest-country-to-try-a-four-day-workweek/?sh=379c4ec0f1da>

²⁹ Euronews (2022). *Four-day week: Which countries have embraced it and how's it going so far?* Retrieved from <https://www.euronews.com/next/2022/06/06/the-four-day-week-which-countries-have-embraced-it-and-how-s-it-going-so-far>

29. Given the shift towards hybrid working caused by the pandemic, more and more companies are adopting a hybrid model which allows employees a new flexibility to a mix of home and office to work. According to Cisco Global Hybrid Work Study 2022, hybrid and remote working have enhanced social wellbeing, with 72% indicating that remote working has improved family relationships. In particular, Hong Kong is one of the markets where employees are most in favor of hybrid work, out of the 27 markets touching every continent.³⁰ Moreover, a Hong Kong's conglomerate and a statutory body have recently announced several pilot measures to help improve wellbeing and maintain a healthy work-life balance for its employees. The new initiatives include allowing employees to arrange their working hours and locations more flexibly, to choose to work remotely one day per week,³¹ as well as offering an additional rest day every fortnight so that employees could work an alternate four-day workweek.³²

30. According to an EOC's commissioned research on family status discrimination in the workplace, the biggest issue of workers with family caring responsibilities was leave application and leave taking. Employers viewed workers with family caring responsibilities as taking too many leaves while many employees reported difficulties in obtaining the leave they needed for caring for their family members.³³ In the long run, the dilemma can only be addressed by putting the right working arrangements in place. A recent study in Iceland shows that the world's largest ever trial of a shorter workweek in the public sector leading to more productivity and a happier workforce. The study highlights that worker well-being dramatically increased from perceived stress and burnout, to health and work-life balance.³⁴ For working parents or persons with caregiving responsibilities, they can schedule time to take care of family matters like medical appointments of younger kids or elder parents, or some employees with

³⁰ Cisco (2022). *Cisco Global Hybrid Work Study 2022*. Retrieved from https://www.cisco.com/c/dam/m/en_us/solutions/global-hybrid-work-study/reports/cisco-global-hybrid-work-study-2022.pdf

³¹ SCMP (2022). *Hong Kong's New World Group introduces four and a half day work week for better work-life balance*. Retrieved from <https://www.scmp.com/business/article/3184030/hong-kongs-new-world-group-introduces-four-and-half-day-work-week-better>

³² The Standard (2022). *Four-day work week for Construction Industry Council staff every other week*. Retrieved from <https://www.thestandard.com.hk/breaking-news/section/4/192119/Four-day-work-week-for-Construction-Industry-Council-staff-every-other-week>

³³ Center for Chinese Family Studies, Institute of Asia-Pacific Studies, The Chinese University of Hong Kong (2018). *A Study on Family Status Discrimination in the Workplace in Hong Kong*. Retrieved from <https://www.eoc.org.hk/eoc/upload/ResearchReport/20188211629521937156.pdf>

³⁴ Forbes (2021). *Iceland Tried A Shortened Workweek And It Was An 'Overwhelming Success'* Retrieved from <https://www.forbes.com/sites/jackkelly/2021/07/05/iceland-tried-a-shortened-workweek-and-it-was-an-overwhelming-success/?sh=53d1b7913ac8>

disabilities that might benefit from less commuting. As a result, shifting to a shorter workweek not only increases employees' productivity, satisfaction and retention, it also better balances work and family responsibilities or serve as a reasonable accommodation for some PWDs.

31. While the Government has implemented the five-day workweek since 2006, it is time to conduct a feasibility study on a more robust work model to benchmark with international markets. The EOC thus recommends that the Government should consider shortening the workweek and promoting the implementation of hybrid working model for both private and public sectors with a view to sustaining employee engagement and accommodating the needs of employees with family responsibilities or some employees with certain disabilities.

Reinforcement of Measures in Combating Sexual Harassment at Workplace

32. In the past three years, over 75% of sexual harassment complaints received by the EOC were employment-related.³⁵ Under the Sex Discrimination Ordinance (SDO) employers may be held vicariously liable for any unlawful acts of sexual harassment committed by their employees in the course of employment, even if they had no knowledge of it. Following law amendments in 2020, potential liability has further extended to persons engaging interns and volunteers where the intern or volunteer sexually harasses another workplace participant, and vice versa, at a common workplace. A defense may only be available if the employer can prove that they have taken reasonably practicable steps to prevent the act.

33. Despite the law amendments two years ago, the EOC's first city-wide survey on workplace sexual harassment in Hong Kong in 2022 still found that, one in eight respondents (11.8%) said they had encountered workplace sexual harassment in the past 24 months, with only one in seven of those people made a formal report.³⁶ While women between the ages of 18 – 34 were twice as likely to face sexual harassment at work (22.5%), 8.8% of men claimed to have been sexually harassed at work by colleagues,

³⁵ Equal Opportunities Commission (2021, August 26). E-News Issue 264. Retrieved from <https://www.eoc.org.hk/en/ENews/264>

³⁶ Ip, Chung Yan (2022). *A Territory-wide Representative Survey on Sexual Harassment in Hong Kong 2021: Report*. Retrieved from <https://www.eoc.org.hk/en/policy-advocacy-and-research/research-reports/2022-1>

clients, and employers. These numbers relating to sexual harassment at workplace are alarming.

Reinforce Employers' Positive Duty

34. According to the Trade and Industry Department, there are over 340,000 SMEs³⁷ in Hong Kong, as of 2 August 2022. They account for more than 98% of the total number of enterprises and employ more than 45% of Hong Kong's workforce in the private sector. Their performance is crucial to the development of the Hong Kong's economy.³⁸ While SMEs are the bedrock of the Hong Kong's economy, sexual harassment usually is not a priority for SME stakeholders, only rarely will one find formal policies, procedures, and practices in place in SMEs to address this issue.

35. Insufficient knowledge of sexual harassment and the lack of clear guidelines to tackle the issue leave many SMEs vulnerable to this form of interpersonal violence. The impact and steep economic cost of workplace sexual harassment are also far more than SMEs could imagine and afford. These costs include company reputational damage, lost company morale; other costs such as staff health and psychological care, investigations, and legal expenses.

36. Under the existing SDO, companies are not legally bound to establish an anti-sexual harassment mechanism. While providing support to SMEs concerning the matter is crucial, we suggest the Government consider a positive duty on employers to mandatorily take steps to prevent workplace sexual harassment, regardless of the size of their companies. These steps may include but are not limited to formulating an anti-sexual harassment policy and setting up a mechanism to handle sexual harassment complaints.

³⁷ Manufacturing enterprises which employ fewer than 100 persons and non-manufacturing enterprises which employ fewer than 50 persons are regarded as SMEs in Hong Kong. From Support and Consultation Centre for SMEs, Trade and Industry Department. Retrieved from https://www.success.tid.gov.hk/english/aboutus/sme/service_detail_6863.html.

³⁸ Hong Kong Trade and Industry Department. (2022). *Support to Small and Medium Enterprises*. Retrieved from https://www.tid.gov.hk/english/smes_industry/smes/smes_content.html#:~:text=There%20are%20over%20340%20000,the%20development%20of%20our%20economy.

Promoting Equal Opportunities for the Non-ethnic Chinese Population

Education

37. As repeated public surveys has clearly pointed out, one of the fundamental barriers impeding non-ethnic Chinese (NEC) people in Hong Kong from moving upwards in the social ladder is their insufficient Chinese language proficiency. Although the Government introduced the “Chinese Language Curriculum Second Language Learning Framework” in primary and secondary schools in 2014 and has substantially increased the additional funding to schools since then, with a view to strengthening the Chinese learning of non-Chinese speaking students, the effectiveness of these measures remains doubtful as indicated from the fact that not many NEC students ultimately completed their secondary education under the mainstream Chinese curriculum by sitting the conventional HKDSE Chinese examination³⁹.

38. Multiple study reports, including the “Closing the Gap” Report of the EOC’s Working Group on Education for Ethnic Minorities released in 2019⁴⁰, highlighted that the current Chinese language curriculum for NEC students is fragmented and insufficient for them to compete with others for jobs that require fluency in oral and written Chinese for business purpose. It is strongly suggested that the existing curriculum be critically reviewed and revamped for (i) a separate Chinese-as-a-second-language syllabus and programme complete with specific pedagogy, teaching tools and textbooks. etc., which are inadequate in the current Learning Framework; (ii) teaching second language learners as a compulsory component in pre-service training and in-service qualification requirements; and (iii) Chinese language examination options that can aspire NEC students for advancing their Chinese language proficiency level to meet with the practical workplace needs and are widely recognized by employers.

³⁹ In 2020/21, among 1,403 non-Chinese speaking students attending Secondary 6, only 111 entered the HKDSE (Chinese Language) examination.

Education Bureau, Replies to initial written questions raised by Finance Committee Members in examining the Estimates of Expenditure 2021-22 (Reply Serial No.: EDB112). Retrieved from <https://www.edb.gov.hk/attachment/en/about-edb/press/legco/replies-to-fc/21-22-w-edb-e.pdf>
Education Bureau, Replies to initial written questions raised Legislative Council Members in examining the Estimates of Expenditure 2022-23 (Reply Serial No.: EDB029). Retrieved from <https://www.edb.gov.hk/attachment/en/about-edb/press/legco/replies-to-fc/EDB-1-e1.pdf>

⁴⁰ Equal Opportunities Commission (2019). *Closing the Gap” Report of the Working Group on Education for Ethnic Minorities*. Retrieved from https://www.eoc.org.hk/EOC/upload/ResearchReport/Closing_the_Gap_Full_Report.pdf

Employment

39. The NEC population faces a number of barriers in securing jobs and building careers that align with their potential and skills. There are discriminations (against their racial backgrounds and religious practices, etc.) and tangible hurdles (e.g. language proficiency requirements) which stand in the way of achieving equal employment opportunities for many NEC community members.

40. In the 2021 Policy Address, the Government pledged to “set an example by taking the lead in providing ethnic minorities with more employment opportunities”. Removal of barriers that currently prevent them from joining the civil service as well as positive action in the Government will definitely set an example for other employers to follow.

41. One of the barriers faced by some NEC community members is the lack of accommodation for cultural or religious practices that impact their appearance or dress code, e.g. turban that is required to be worn by male members of the Sikh community (some Sikh women also wear turbans), kippah for Jewish men, hijab for Muslim women, etc. Restrictions on head gear in individual disciplined services impact these communities as South Asians in Hong Kong have a long history of being in those professions. We advise the Government to review and adjust the head gear requirements exercised in some Departments following the example of the Correctional Services Department which allows the turban to be worn as part of its uniform. Jurisdictions across the world including Canada and the UK have turban-wearing Sikhs in their police and military.

42. Riding on a few successful initiatives such as Project Gemstone run by the Yau Tsim Police District and Internship Programme for NEC University Students under the Civil Service Bureau, the Government is recommended to create trainee positions in civil services, especially for NEC graduates as a positive action to address their limited opportunities⁴¹. Training may include Chinese language learning with a view to

⁴¹ Equal Opportunities Commission (2009). *Code of Practice on Employment under the Race Discrimination Ordinance*, Section 5.3.18, p45. Retrieved from https://www.eoc.org.hk/Upload/cc26d004-b785-4ee7-8673-f92925df889f/RDO_CoP_Eng_1154.pdf

equipping them with adequate Chinese language proficiency for the Common Recruitment Examination.

43. We also recommend the Government to intensify the review of the Chinese language proficiency requirements in civil service recruitment, especially in professional grade positions, with the consideration of introducing in-service language enhancement schemes for candidates not meeting the Chinese requirement but excelling in other skills and expertise for the jobs.

Racial Integration

44. Racial bias and stereotyping is one of the primary reasons that prevents many employers from hiring NEC staff. A lack of interaction between communities leads to unfamiliarity and low awareness about NEC people, which further turns into biases and prejudices. Not only are platforms for interactions between communities limited, there is also very little public visibility of Hong Kong's diversity. Public messages, advertisements and communication do little to reflect the small though significant proportion of the population that is racially diverse and their contribution to society as a whole. In order to showcase Hong Kong's rich diversity, the Government is recommended to introduce the practice of making official announcements on the occasion of important festivals celebrated by the city's NEC communities, such as Diwali for Indians, Eid for Muslims, Dashain for Nepalese, Songkran for Thai, etc. This not only educates the mainstream public on the cultural practices of respective religious and racial groups, but also conveys a valuable message of respecting cultural differences and diversity.

45. To facilitate a mindset shift for accepting diverse races as part of Hong Kong, it is also recommended that the Government encourage public authorities to depict NEC community members in their publicity materials and communication. While a few government Departments and Bureaus have consistently included NEC faces in their publicity materials, more should be encouraged as well as required to do so. Another approach is having more NEC people in roles involving public interface. It will definitely effectively dispel the misconception that NEC staff is not hired for serving mainstream Chinese people in Hong Kong. In addition, more awareness, interactions

and mainstreaming will help with the integration of NEC population in the workplace and Hong Kong society as a whole.

Healthcare Services

46. The epidemic has undoubtedly increased the incidence of mental illness among the general population but cultural and language barriers bring additional hurdles to patients from the disadvantaged racial groups, including foreign domestic workers (FDWs), seeking treatment. To address these cultural and language barriers in accessing mental health support, dedicated units in the public medical and rehabilitation sectors should be set up to cater to the special needs of these groups, with practitioners trained in understanding and responding to the cultural differences in assessment and treatment. Language restrictions in hiring practitioners and paraprofessionals should also be reviewed so as to open up such vacancies to NEC community members who are qualified, proficient in the needed languages and familiar with the culture.

47. A further challenge for FDWs in accessing healthcare is the unavailability of most non-emergent public medical services on Sundays, which is the only day-off for the majority of FDWs. Basic health checks and mammograms, pap smears etc., which are so essential to prevent or detect major illnesses are virtually inaccessible, and checks are sometimes carried out after the onset of the problem when a visit to the doctor is too late. It is recommended that the public healthcare authorities, including the Department of Health and Hospital Authority, should make appropriate accommodations for FDWs taking into account their special working arrangements.

Interpretation & Translation Services

48. Multiple examples in the pandemic showed that slips-up in interpretation and translation services for the disadvantaged racial groups, including FDWs, deprive them of accessing essential epidemic control information, and lead to unnecessary confusions in their vaccination, quarantine, etc. This not only weakens their prevention efforts but may also jeopardize the community vigilance.

49. In “A Study on a Potential Model for Accreditation and Regulation of Interpreters and Translators in Ethnic Minority Languages in Hong Kong” issued by the EOC in

December 2021⁴², it is recommended that an accrediting and regulatory body endorsed and supported by the Government be established to introduce a quality assurance system on the interpretation and translation services in ethnic minority languages with the functions of registration, maintaining a directory of practitioners, handling complaints and exercising disciplinary actions, etc. This system will not only largely safeguard the NEC community from sub-standard language assistance but also facilitate the Government and other public bodies in identifying quality practitioners and speeding up their interpretation and translation exercises. It is fully aligned to the Administrative Guidelines on Promotion of Racial Equality and the Ombudsman's recommendations on this subject last year.

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September 2022

⁴² Equal Opportunities Commission (2021). *A Study on a Potential Model for Accreditation and Regulation of Interpreters and Translators in Ethnic Minority Languages in Hong Kong*. Retrieved from <https://www.eoc.org.hk/Upload/files/research-report/20211225/Study%20Report.pdf>