

活動及成果

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查詢

近年來，市民對委員會的工作和歧視問題的認識，已經越來越深。由1997年4月至1998年3月，我們僅接獲7,284宗查詢，其中包括5,670宗一般查詢和1,614宗具體查詢。相比之下，到2002/03年度，查詢數字已上升至10,399宗，其中包括5,895宗一般查詢和4,504宗具體查詢。

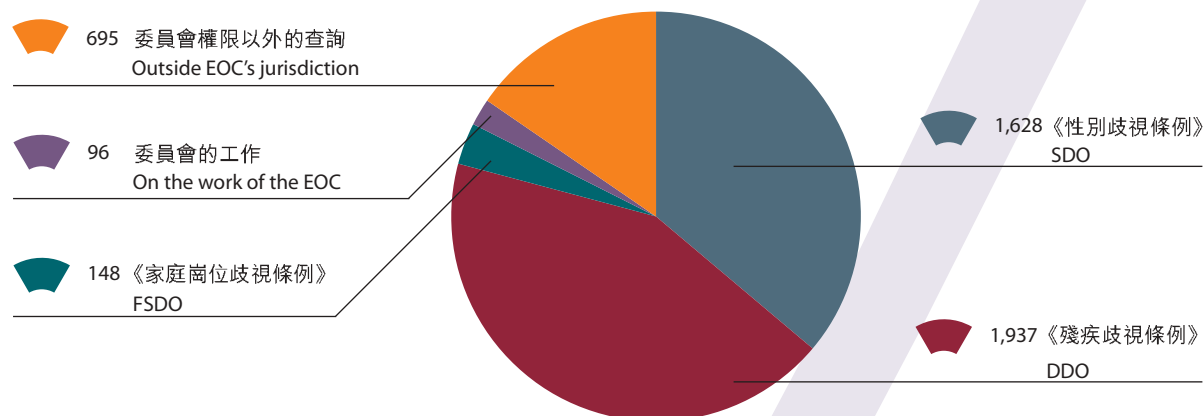
一般查詢涵蓋所有與委員會相關的工作；而具體查詢則與反歧視條例直接有關。在2002/03年度的4,504宗具體查詢當中，1,628宗關乎《性別歧視條例》，1,937宗關乎《殘疾歧視條例》，148宗關乎《家庭崗位歧視條例》，96宗關於委員會的工作，其餘695宗則涉及委員會權限以外的年齡、種族、性傾向和宗教等歧視問題(詳情見表1)。

Enquiries

Over the years, the public has gained an increasing awareness of issues related to the EOC's work and different kinds of discrimination in Hong Kong. From April 1997 to March 1998, we recorded a total of 7,284 enquiries consisting of 5,670 general and 1,614 specific enquiries. During the 2002/03 fiscal year, this number had grown to 10,399, consisting of 5,895 general and 4,504 specific enquiries.

General enquiries cover enquiries related to our overall activities while specific enquiries relate directly to the anti-discrimination ordinances. Of the 4,504 specific enquiries, 1,628 were related to the Sex Discrimination Ordinance (SDO), 1,937 to the Disability Discrimination Ordinance (DDO) and 148 to the Family Status Discrimination Ordinance (FSDO). An additional 96 covered the work of the EOC while a further 695 enquiries referred to areas falling outside our jurisdiction, such as age, race, sexual orientation and religion (See Figure 1).

表1 2002年4月1日至2003年3月31日的具體查詢分類(總數: 4,504宗)
Figure 1 Breakdown of Specific Enquiries from 1 April 2002 to 31 March 2003 (Total number: 4,504)



需進行調查及調解的投訴

根據反歧視條例規定，任何人士如認為受到違法的歧視，可親身或授權代表向委員會提出書面投訴。委員會在研究個案的情況後，會讓雙方就指稱的事宜提出意見和回應，並致力透過調解方式協助雙方和解。假若未能和解，委員會可應投訴人的申請，考慮提供其他形式的協助，例如給予法律意見、法律協助或任何委員會認為適當的協助。

經處理的投訴

委員會於2002/03年度接獲的投訴共有748宗，少於上一年的1,649宗。上一年接獲大量投訴，主要涉及中學學位分配辦法的性別歧視投訴。在748宗個案中，有396宗按《性別歧視條例》提出，320宗關乎《殘疾歧視條例》，另32宗關乎《家庭崗位歧視條例》。連同上年度未完結的個案，本年度共處理1,597宗投訴，對比2001/02年度的1,976宗，下降19%(詳情見表2)。不過，若撇除2001/02年度832宗關乎中學學位分配辦法的投訴，本年度處理的投訴個案便較去年上升40%。

Complaints for Investigation and Conciliation

Anyone who feels that he/she has been treated unlawfully under Hong Kong's anti-discrimination legislation can seek redress by lodging a complaint in writing, either personally or through a representative, with the EOC. After examining the facts of each case, both parties, the complainant and the respondent, are given the opportunity to comment and respond to the allegations. Every attempt is made to resolve the matter through conciliation. If this fails, further forms of assistance can be granted if the complainant applies to take the matter further. Assistance granted can include advice, legal assistance or any other assistance which is considered appropriate.

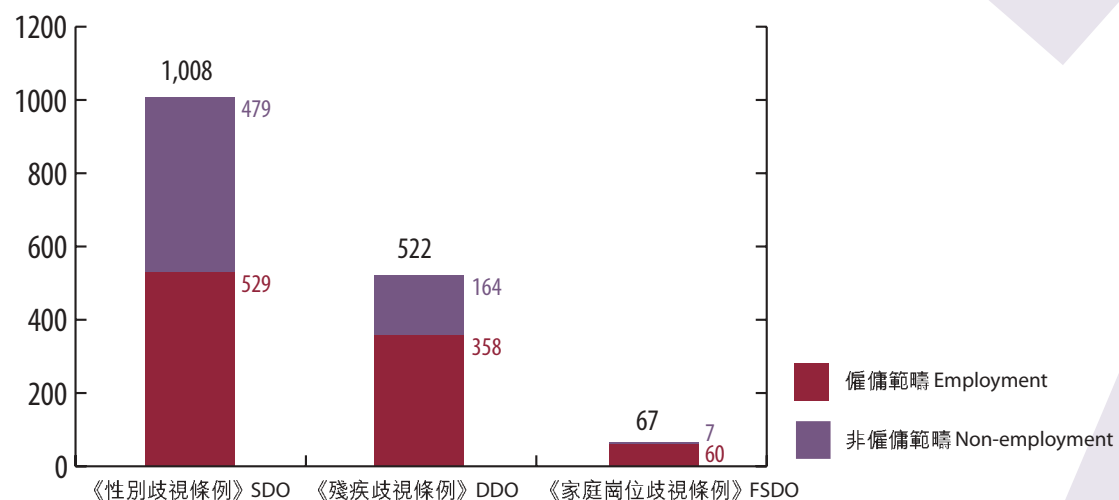
Complaints Handled

During the year we received a total number of 748 complaints, a decrease from 1,649 complaints received the year before. The high number received previously was due to the large number of complaints lodged with regard to the possibility of sex discrimination in the allocation of school places under the Secondary School Places Allocation (SSPA) System. Of the 748 cases, 396 complaints were received under the SDO, 320 under the DDO and 32 under the FSDO. Together with those carried forward from previous years, we handled a total of 1,597 complaints, representing a decrease of 19% as compared to 1,976 in 2001/02 (See Figure 2). However, excluding the 832 SSPA complaints in the previous year, the records still show an annual increase of 40%.

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表2 2002年4月1日至2003年3月31日需進行調查及調解的投訴(處理總數: 1597宗)
Figure 2 Complaints for Investigation and Conciliation from 1 April 2002 to 31 March 2003 (Total Number Handled: 1597)



2002/03年度，經處理的投訴中，有1,296宗已完成(比上一年度增加8.9%)(詳情見表2a)，當中有666宗(增幅為124%)曾進行調解，其中397宗調解成功(增幅為113%)，其餘269宗未能和解(詳情見表2b)。

In the year 2002/03, of the complaints handled, 1,296 cases (an 8.9% increase over the previous year) were completed (See Figure 2a) and 666 cases (a rise of 124%) proceeded to conciliation. Among these 666 cases, 397 (a 113% increase) were successfully conciliated while the remaining 269 cases were unsuccessful (See Figure 2b).

表2a 2002年4月1日至2003年3月31日需進行經調查及調解的投訴(處理總數: 1,296宗)
Figure 2a Cases completed after investigation and conciliation from 1 April 2002 to 31 March 2003 (Total Number: 1296)

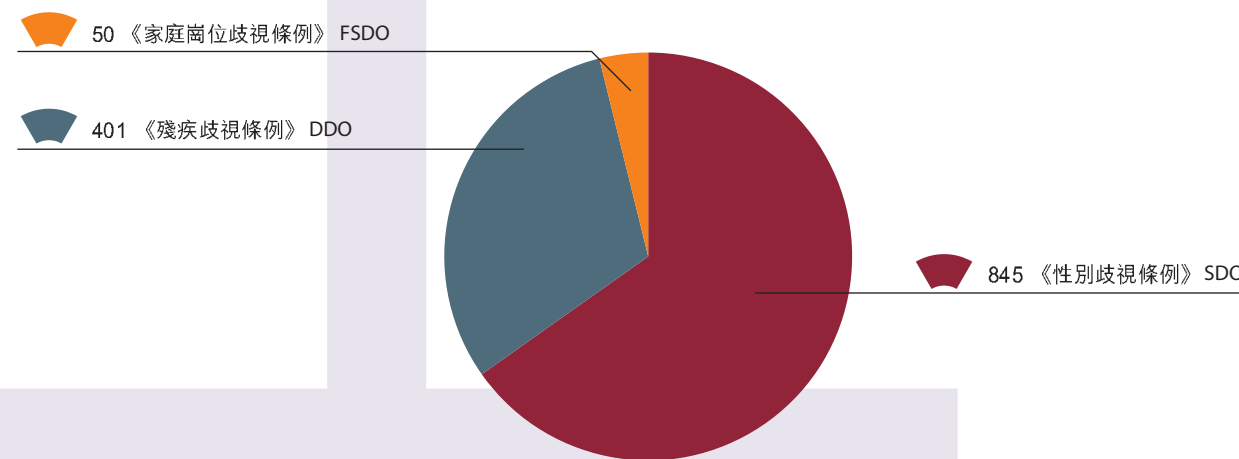
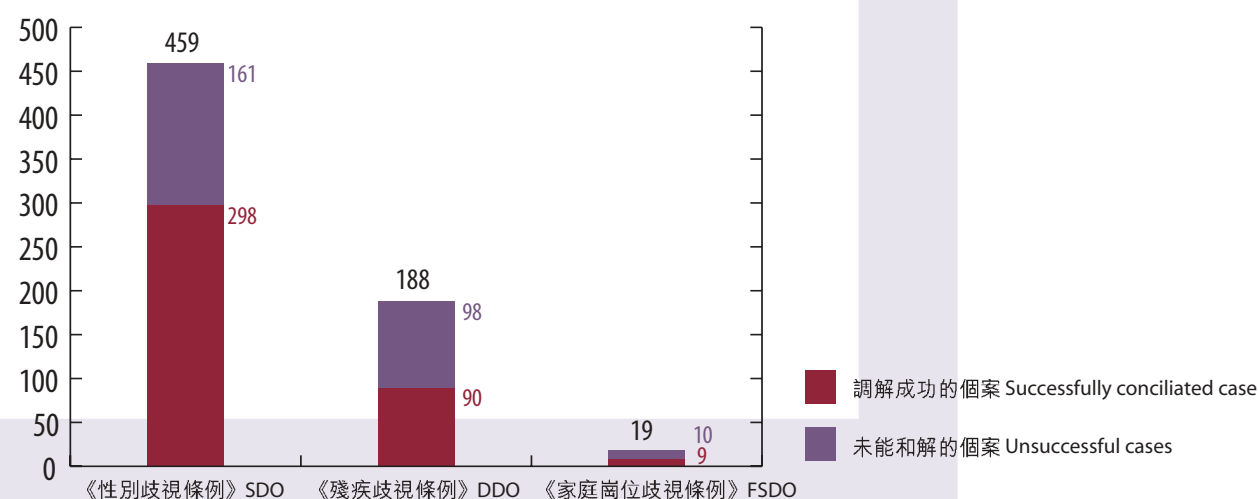


表2b 2002年4月1日至2003年3月31日曾進行調解的個案(總數: 666宗)
Figure 2b Cases Proceeding to Conciliation from 1 April 2002 to 31 March 2003 (Total Number: 666)



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其餘的投訴因各種原因而終止調查。委員會決定不進行或不繼續調查，原因是有關作為並不違法，或投訴人不想繼續追究，或受指稱的行為在投訴時，已超過12個月。此外，若投訴獲得提早解決，或委員會認為有關投訴屬瑣屑無聊、無理取鬧、基於錯誤理解或缺乏實質，委員會亦會終止調查。在終止個案方面，本年度有630宗，比上一年的893宗相比顯著減少(詳情見表3)。

The remaining complaints were discontinued for a variety of reasons. At times, the Commission may decide not to conduct, or to discontinue an investigation. This happens if the act in question is not unlawful, the complainant no longer wants to pursue the complaint, or if a period of over 12 months has passed since the act was committed. Investigation may also cease if the complaint is resolved through early resolution, or if the EOC considers the complaint frivolous, vexatious, misconceived or lacking in substance. There was a total of 630 discontinued cases, a significant decrease compared to the total of 893 cases last year (See Figure 3).

表3 2002年4月1日至2003年3月31日個案終止調查的原因
Figure 3 Discontinued Cases by Reason from 1 April 2002 to 31 March 2003

	不屬違法作為 No unlawful acts	瑣屑無聊 或缺乏實質 Frivolous or lacking in substance	投訴人不願 繼續追究 Complainants did not wish to pursue	投訴得到 提早解決 Complaints resolved through early resolution	超過12個月 的時限 Beyond 12-month time bar	總數 Total
《殘疾歧視條例》DDO	8	135	40	5	25	213
《性別歧視條例》SDO	14	111	120	140	1	386
《家庭崗位歧視條例》FSDO	2	21	8	0	0	31
總數 Total	24	267	168	145	26	630

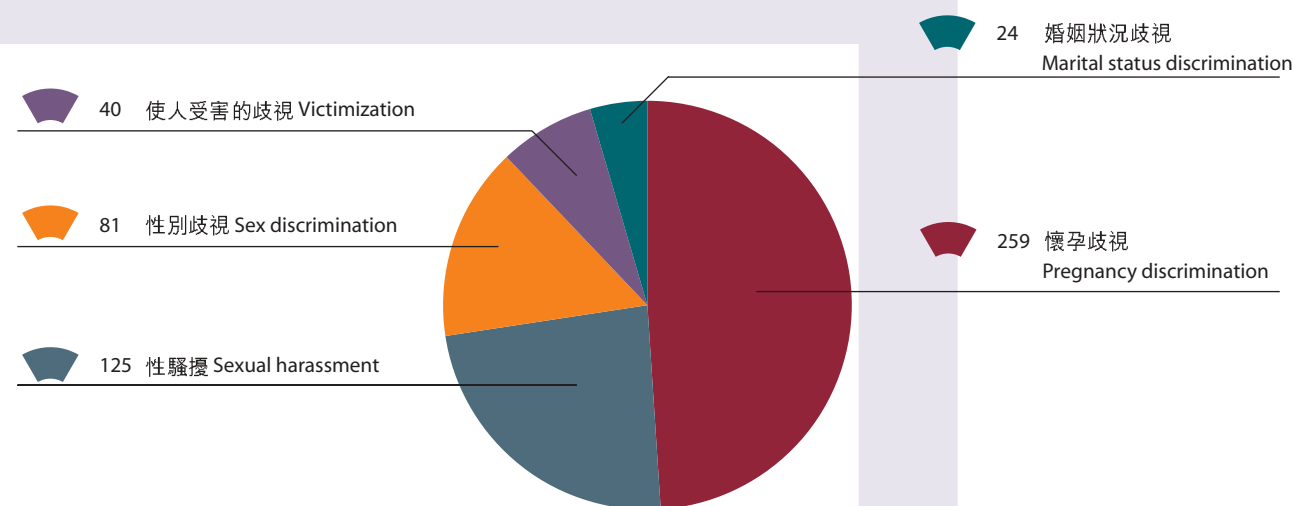
與《性別歧視條例》相關之投訴

- 本年度共處理了529宗涉及僱傭範疇的投訴個案，較上年度增加27%，數目最多的依然是懷孕歧視(259宗，佔49%)，其次是性騷擾(125宗，佔24%)(詳情見表4)。
- 本年度共處理了479宗涉及非僱傭範疇的投訴個案，其中457宗(94%)關乎性別歧視。由於約有半數「中學學位分配辦法」的投訴在去年完結，故此這類別的個案在本年度顯著減少(詳情見表5)。

SDO-related Complaints

- There were a total of 529 employment-related complaints handled, an increase of 27% over the previous year. Pregnancy discrimination continued to be the major cause for complaint (259 complaints, 49%) followed by sexual harassment (125 complaints, 24%) (See Figure 4).
- A total of 479 non-employment related complaints were handled; in which 457 (94%) cases were related to sex discrimination. Since almost half of the SSPA cases were concluded last year, the number of cases in this category dropped significantly this year (See Figure 5).

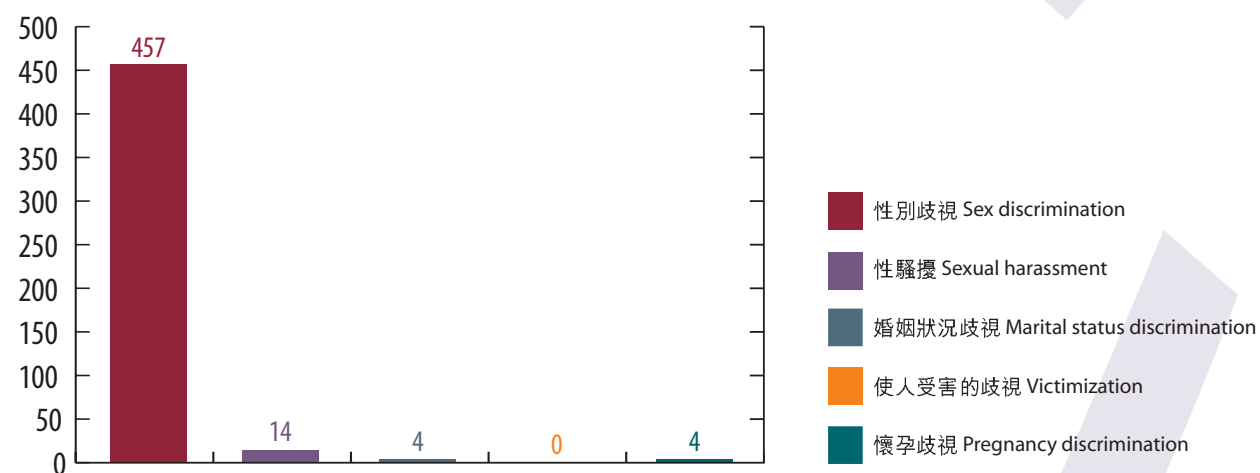
表4 2002年4月1日至2003年3月31日期間根據《性別歧視條例》提出，關乎僱傭範疇而獲處理的投訴個案分類(共529宗)
Figure 4 Breakdown of Employment Related Complaints Handled under the SDO from 1 April 2002 to 31 March 2003 (Total: 529)



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表5 2002年4月1日至2003年3月31日期間根據《性別歧視條例》提出，關乎非僱傭範疇而獲處理的投訴個案分類(共479宗)
Figure 5 Breakdown of Non-employment Related Complaints Handled under the SDO from 1 April 2002 to 31 March 2003 (Total: 479)



與《殘疾歧視條例》相關之投訴

- 委員會本年度處理了522宗與《殘疾歧視條例》相關的投訴，較上年度減少16%。
- 其中僱傭範疇個案達358宗，非僱傭範疇個案則有164宗。殘疾歧視個案佔最多，達456宗(佔總數的87.4%)(詳情見表6及表7)。

DDO-related Complaints

- A total number of 522 complaints were handled, representing a 16% drop over the previous year.
- Among both the 358 employment-related and 164 non-employment related cases handled, disability discrimination was the single largest cause for complaint, accounting for 456 cases (87.4%) of the total (See Figures 6 and 7).

表6 2002年4月1日至2003年3月31日期間根據《殘疾歧視條例》提出，關乎僱傭範疇而獲處理的投訴個案分類(共358宗)
Figure 6 Breakdown of Employment Related Complaints Handled under the DDO from 1 April 2002 to 31 March 2003 (Total: 358)



表7 2002年4月1日至2003年3月31日期間根據《殘疾歧視條例》提出，關乎非僱傭範疇而獲處理的投訴個案分類(共164宗)
Figure 7 Breakdown of Non-employment Related Complaints Handled under the DDO from 1 April 2002 to 31 March 2003 (Total: 164)

投訴類別 Type of complaint	投訴數目 Number of complaints
殘疾歧視 Disability discrimination	143
貨品、服務和設施 Goods, services and facilities	63
處所通道 Access to premises	54
教育 Education	14
政府 Government	9
處所的處置和管理 Disposal and management of premises	3
其他 Others	0
殘疾中傷、騷擾和使人受害的歧視 Disability vilification, harassment & victimization	21

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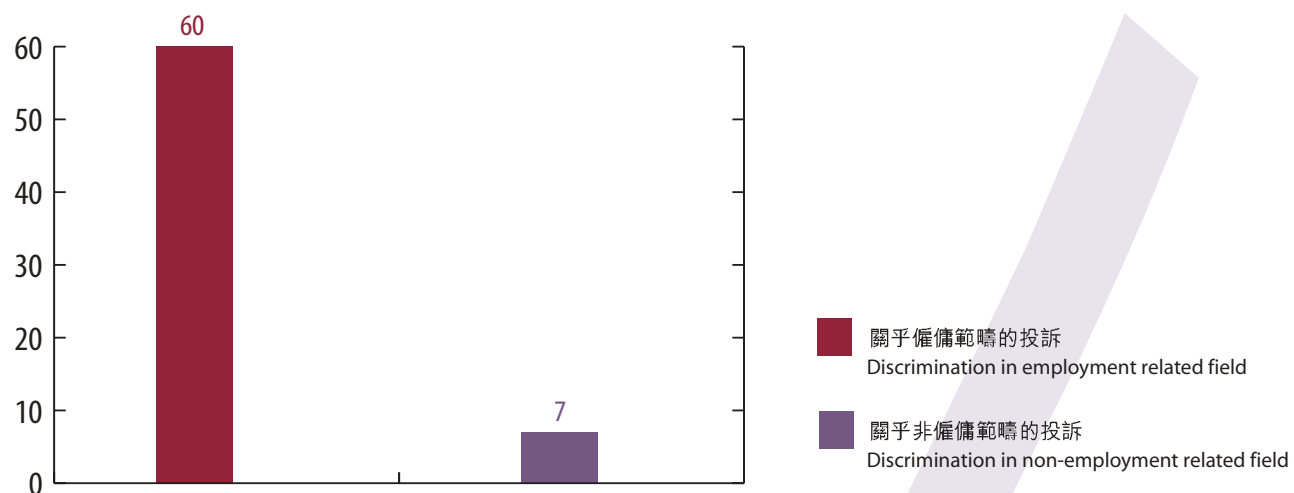
與《家庭崗位歧視條例》相關之投訴

- 委員會本年度處理有關《家庭崗位歧視條例》的投訴達67宗，當中60宗(90%)關乎僱傭範疇，7宗(10%)關乎非僱傭範疇(詳情見表8)。大部份(83%)關乎僱傭範疇的投訴，與基於家庭崗位的解僱有關。

FSDO-related Complaints

- During the year, a total of 67 FSDO complaints were handled, of which 60 (90%) were employment-related and 7 (10%) were non-employment related (See Figure 8). The majority (83%) of the employment-related complaints were related to dismissal on the grounds of family status.

表8 2002年4月1日至2003年3月31日期間根據《家庭崗位歧視條例》提出，而獲處理的投訴個案分類(共67宗)
Figure 8 Breakdown of Complaints Handled under the FSDO from 1 April 2002 to 31 March 2003 (Total: 67)



需跟進之投訴

對於由第三者或不想參與調查或調解的受屈人士所提出的違法行為投訴，委員會亦會採取行動。委員會會聯絡有關人士，向他們解釋法例，並建議他們加以糾正。這些需跟進的投訴近年有所遞減，相信是由於投訴人已經不懼怕用自己的身份作出投訴。委員會於本年度僅處理了45宗需跟進的投訴，其中19宗關乎《性別歧視條例》，25宗關乎《殘疾歧視條例》，1宗關乎《家庭崗位歧視條例》。

法律協助

如雙方未能達成和解，委員會可向有意提出訴訟的申請人提供多種協助。在收到協助申請後，委員會的律師會就個案證據是否有力及其他考慮因素作出評估，才向委員會提出意見。委員會再根據律師的法律意見，決定是否給予協助。協助的形式包括：由委員會的律師向申請人提供法律意見、協助申請人取得進一步資料或證據，以至由委員會律師或由委員會延聘私人執業大律師，在訴訟中擔任申請人的法律代表等。

在2002/03年度，委員會共收到68宗有關法律協助的申請，其中11宗獲委員會給予協助。在不獲協助的個案中，有兩宗轉介至免費提供服務的私營律師行。個案分類詳情請參閱「附錄5：法律協助」。

Complaints for Follow-up Action

We also take action on complaints with regard to unlawful acts brought to our attention by third parties, or aggrieved individuals who do not wish to be involved in the investigation or conciliation process. Under such circumstances, the Commission approaches the concerned parties to explain the relevant legislation, and advise them to rectify the situation. These complaints for follow-up action have steadily decreased in recent years as it appears that complainants no longer find the act of filing complaints under their own name intimidating. During the year only 45 complaints for follow-up action were handled, 19 under the SDO, 25 under the DDO and 1 under the FSDO.

Legal Assistance

If a complaint has been lodged and conciliation has not been successful, the EOC has the power to grant various forms of assistance to applicants who wish to take legal proceedings with regard to the complaint. When an application for assistance is received, our lawyers will conduct an assessment of the application before advising the Commission on the strength of the evidence as well as other considerations. Based on the legal advice of the lawyers, the Commission will decide whether or not to grant assistance. Assistance granted by the EOC may include legal advice to the applicant by the Commission's lawyers, legal services for the applicant to obtain further information or evidence, or representation in legal proceedings by the EOC's lawyers, or by barristers in private practice briefed by the Commission.

In 2002/03, we received 68 applications for assistance and granted assistance in 11 of them. Among the cases where assistance was not granted, 2 were referred to private firms on a pro bono basis. A further breakdown of the cases can be found under "Appendix 5: Legal Assistance".

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獲委員會給予法律協助的個案

在本年度，共有八宗獲委員會協助的個案在展開法律程序前得以解決(包括自上年度延續至本年度的個案)，解決原因包括個案雙方達成和解，或委員會因各種原因而撤回法律協助(例如委員會研究證據後，認為不宜繼續給予協助)，或個案的發展令委員會毋需繼續給予法律協助等。

此外，委員會還向另外21宗個案給予法律協助(包括自往年延續至本年度的個案)，這些個案在2002/03年度仍未展開法律程序(詳情見附錄6)。

法庭訴訟

本年度區域法院審結了一宗由委員會向原告人提供法律協助的案件，委員會提供了事務律師服務，並由委員會律師在訴訟中擔任原告人的法律代表。在此個案中，一名僱主被裁定需為招聘過程中的懷孕歧視負上責任，並需向原告人作出港幣155,000元的賠償。被告的僱主就此案提出上訴，委員會仍繼續跟進。在2002/03年，懷孕歧視仍是委員會所收到的主要投訴類別。

此外，原告人獲委員會協助展開法律程序的案件共有六宗，在2002/03年度終結時，均仍在進行中。

Legally Assisted Cases

During the year, eight cases, in which legal assistance had been granted (including cases carried over from previous years), were resolved without commencing legal proceedings. These included cases where the parties had reached settlement or the Commission had withdrawn assistance for various reasons, for instance, where upon further examination of the evidence, it was considered not appropriate to continue assistance, or when subsequent developments between the parties made it unnecessary for assistance to continue.

The Commission handled a further 21 other cases where legal assistance had been granted (including cases carried over from previous years). These cases had not yet commenced court proceedings in 2002/03 (See Appendix 6).

Court Cases

During the year, the District Court concluded the trial of one case in which the EOC had granted the plaintiff legal assistance. The EOC's lawyers provided both solicitor services and representation in court. In this case, a prospective employer was held liable for pregnancy discrimination and the amount of compensation the plaintiff was held to be entitled was HK\$155,000. This case is currently under appeal by the defendant's employer and is still being handled by the Commission. In 2002/03, pregnancy discrimination continued to be major ground for complaint to the EOC.

Legal proceedings commenced in six cases with plaintiffs receiving EOC assistance. All these cases were still ongoing at the end of 2002/03.

兩宗在2002/03年度之前展開法律程序的個案，在2003年3月底時仍在等候區域法院的進一步聆訊，其中一宗是殘疾歧視個案，關乎某紀律部隊的招聘，另一宗涉及某航空公司的前機艙服務員投訴公司的退休安排帶有性別歧視。

另兩宗在2002/03年度前展開的個案在2003年3月底時已經解決。其中一宗是殘疾歧視個案，涉及某私人住所沒有為輪椅使用者設立獨立通道。另一宗是僱傭範疇的家庭崗位歧視個案，當中的僱員因請假照顧患病孩子而被解僱(詳情見附錄7)。

Two cases, which commenced before 2002/03, were still pending further proceedings in the District Court at the end of March 2003. One of these is a disability discrimination case relating to the recruitment of an officer in one of the disciplinary services, while the other concerns a sex discriminatory retirement arrangement in respect of former cabin crew of an airline company.

Two further cases, which commenced before 2002/2003, were settled at the end of March 2003. One case was a disability discrimination case involving the lack of independent wheelchair access to residential premises, the other case was a family status discrimination case in which a woman's employment was terminated because she had to take leave to care for her sick child. Both cases settled out of court on confidential terms (see Appendix 7).

委員會法律工作撮要 2002/03 Summary of the EOC's Legal Activities 2002/03

申請法律協助的個案 Applications for legal assistance	申請數目 Received	68
	獲協助的申請 Granted	11
獲法律協助的個案 Legally assisted cases	已解決 Resolved	8
	進行中 Ongoing	21
轉介至提供免費服務的私營律師行的個案 Cases referred to private firms on a pro bono basis		2
獲委員會協助在區域法院審理的個案 District Court cases assisted by the EOC		1
獲委員會協助並在本年度內開始法律程序的法庭訴訟 EOC assisted court cases which commenced during the year		6
獲委員會協助並在本年度之前開始法律程序的法庭訴訟 EOC assisted court cases which commenced prior to the year	已和解 Settled	2
	進行中 Ongoing	2
正在上訴的個案 Cases under appeal		1