

**For information on
28 October 2005**

Sexual Minorities Forum

**Progress Report on the Work
of the Gender Identity and Sexual Orientation Unit**

Purpose

This paper provides a summary of works carried out by the Gender Identity and Sexual Orientation Unit (the Unit) since its inception in mid-May 2005.

Background

2. The Unit, which is a pilot scheme modelled on the Race Relations Unit, has been fully staffed since 25 May 2005.

3. The Unit's work covers five areas, namely administering the Equal Opportunities (Sexual Orientation) Funding Scheme, providing secretariat support to Sexual Minorities Forum, conducting public education, conducting research on issues regarding sexual orientation and gender identity, and managing a hotline for complaints and enquiries. These are discussed in the paragraphs that follow.

Complaints and Enquiries

4. The Unit is going to publish a guide to its procedures in Chinese and English at [Annex A](#). The Guide explains the scope of complaint, how to lodge a complaint, and describes the follow-up and mediation procedures. It is also available on the Bureau's website. (www.hab.gov.hk)

5. The Unit handled a total of 5 complaints and 25 enquiries for the period from 7 July to 30 September 2005. One of the complaints contains a list of names of 327 persons who jointly lodged the complaint. The Unit concluded that the evidence adduced in two complaints was insufficient and thus discontinued the follow-up. Regarding the third complaint, reply from the respondent has been received and the Unit awaits response from the complainant. The Unit has invited the respondent to reply in the fourth complaint and the fifth complaint is in the process of assessment.

Equal Opportunities (Sexual Orientation) Funding Scheme

6. This is an annual programme to encourage community-based initiative to spread the message of equal opportunity for persons of different sexual orientation. In 2005-06, we sponsored 8 projects at a total cost of \$0.48 million. The approved programme activities include dramas, street exhibitions, school talks, media awards on Tongzhi coverage, camps, student drawing competition, reports and researches.

Public Education and Publicity Programme

7. The item will be discussed in greater detail in a separate paper (SMF Paper no. 10/2005).

HOME AFFAIRS BUREAU
October 2005

C. Information required

To facilitate the smooth handling, please state clearly and succinctly the details of the complaint case such as -

- your name, address and contact details
- contact details for the person, people and/or the organisation you are complaining against
- relevant date, time, location and people involved

If you are making a complaint on behalf of another person, the relationship between you and the aggrieved person shall also be stated. You have to obtain written consent from the aggrieved person for authorisation.

D. Limitations on case follow-up

We will give a full assessment of each case. Under certain circumstances, we are not able to pursue a case, e.g. the subject matter is beyond the Unit's purview, insufficient information provided by the complainant, the complainant cannot recall events in sufficient details. In that case, we will inform the complainant the reason(s) why the case is not pursuable. If the Unit believes that another department or organisation should address your complaint, we will make sure you know how to get in contact with the proper department or organisation.

E. Procedure in Handling Complaints

In Hong Kong, the Hong Kong Bill of Rights Ordinance protects every citizen against any form of discrimination including sexual orientation. However, the Ordinance binds only the Government and public authorities or persons acting on behalf of the Government or a public authority. In other words, there is no existing legislation prohibiting private individuals or organizations to discriminate on the ground of sexual orientation. That is why we need the complainant's consent to proceed before we undertake to follow up a complaint. Before giving us that consent, the complainant should bear this point in mind.

The complainant must understand that we have no legal power to direct any individual or organisation to act in accordance with our request or suggestion. Having said that, we endeavour to provide any possible help to the complainant as follows:-

Follow-up

We will carefully study the cases received. We may explain to and seek clarification from the complainant if necessary. Where appropriate, we will send a letter of inquiry to the respondent setting out details of the complaint against him/her and inviting the respondent to reply.

Mediation

If possible, the Unit may attempt to work with both parties to negotiate an agreement that is acceptable to both. Meeting may be arranged between both parties. Mediation is completely voluntary and staff of the Unit acts as a neutral facilitator.

While we are processing the cases, if necessary, we may ask for further information from the complainant and respondent.

F. Performance Pledges

We endeavour to serve the community with sincerity and courtesy.

Since the Unit has been newly set up, we will review our performance pledges from time to time. For the time being, our target is to complete handling a complaint in about 3 months from receipt. More complex cases may take longer.

G. Statistics of Enquiries and Complaints

Statistics and classification of enquiries and complaints received and handled will be reported quarterly to facilitate the public's understanding of our work and achievement.

H. Personal Information Collection Statement

The Gender Identity and Sexual Orientation Unit (the Unit) respects personal data and is committed to fully implementing and complying with the data protection principles and all relevant provisions of the Personal Data (Privacy) Ordinance, Chapter 486.

Purpose of Collection of Personal Data

It is voluntary for you to supply to us your personal data. All personal data collected by us in the course of our handling of your enquiry or complaint made to the Unit will be used for one or more of the following purposes:

- purposes which are directly related to the enquiry or complaint;
- statistics and research purposes; and
- any other legitimate purposes.

Incomplete or inaccurate information provided in the course of our handling of your enquiry or complaint may affect the consideration and processing of your enquiry or complaint.

Transfer of Personal Data

The data collected in the course of our handling of your enquiry or complaint will be kept in confidence. They may however be transferred to parties who will be contacted by us during the handling of the case including the party being complained against, if express and voluntary consent to such transfer is given by you; or if such transfer is authorized or required by law.

Rights of Access to and Correction of Personal Data

You have the rights to request access to and correction of your personal data held by us. A charge will be made to cover the cost of photocopying the data supplied. Request for access or correction should be made in writing to the Unit Officer, Gender Identity and Sexual Orientation Unit, 31/F., Southorn Centre, 130 Hennessy Road, Wanchai, Hong Kong.

民政事務局
性別認同及性傾向小組
查詢／投訴熱線
投訴程序須知

一、接受投訴的範圍

如因投訴人本身的性別認同或性傾向而在教育、就業、使用服務、租住房屋方面遭受歧視，或他人因投訴人的性別認同或性傾向而對他／她作出冒犯的行為，投訴人都可以向我們作出投訴。投訴亦可由投訴人的獲授權代表代為提出。

二、投訴的方法

投訴人可循以下途徑，向我們提出投訴：

- 致電投訴熱線：2835-1565
辦公時間內的來電，會由職員接聽。小組辦公時間如下：
星期一至星期五：上午 9 時至下午 5 時
星期六：上午 9 時至中午 12 時
- 致函：香港灣仔軒尼詩道 130 號修頓中心 31 樓
「民政事務局性別認同及性傾向小組」收
- 傳真：2121-1716
- 電子郵件：gisou@hab.gov.hk

投訴人可使用投訴表格，表格可在我們的辦事處索取或從民政事務局的網站下載

<http://www.hab.gov.hk/>

三、投訴人需提供的資料

為方便從速處理投訴人的查詢或個案，請盡量扼要說明投訴事項，清楚地提出各項要點，並提供一切有關的資料，例如：

- 投訴人的姓名、地址和聯絡資料
- 被投訴的人或機構的聯絡資料
- 事件的詳情，包括有關的日期、時間、地點、人物

如投訴由獲授權代表提出，請說明投訴人與獲授權代表之間的關係，並提供投訴人的授權簽名。

四、處理投訴的局限

我們首先會對每宗投訴作出全面評估。在某些情況下，我們可能不可以跟進投訴，例如：有關投訴不在小組的職權範圍之內；投訴人提供的資料不足；投訴人記不起事件詳情等，以致我們無法採取行動。若出現上述情況，我們會通知投訴人無法跟進的原因。如認為投訴應交由其他機構或部門處理，我們會協助你聯絡他們。

五、處理投訴的程序

在香港，《人權法案條例》保障市民免受任何形式（包括性傾向）的歧視，但只對政府、公共主管當局或受僱於任何代表政府或公共主管當局行事的人具有約束力。換言之，現行法例未能禁止個人或私營機構的性傾向歧視行為。正因如此，我們必須先徵得投訴人的同意才可開始處理投訴。投訴人在同意我們提供協助之前，亦必須明白這情況。

此外，投訴人亦必須了解，我們現時無權強制被投訴的人士或機構按我們的要求或建議的方式行事。雖則如此，我們會竭盡所能向投訴人提供協助。在評估個案後，我們會考慮循下列途徑協助投訴人：

跟進

我們會先進行多方面的初步查訊，再向投訴人解釋及尋求澄清，然後致函被投訴的人士，說明投訴事項，並要求被投訴的人士作出回應。

調解

如果可行的話，我們會嘗試協助雙方和解，亦可安排投訴人與被投訴的人士／機構的代表會晤。調解過程會在雙方自願的情況下進行，本小組的員工負責協助調解。

在處理投訴的過程中，我們可能視乎需要，要求投訴人和被投訴人提供更詳盡的資料。

六、查詢／投訴的服務承諾

我們承諾以誠懇有禮的態度盡力協助市民。

鑑於小組剛剛開始運作，我們將不時檢討服務承諾，現時的目標是由接獲投訴至完成處理程序大約三個月；較複雜的個案，可能需要較長時間處理。

七、投訴數字

我們每三個月會發佈接收到的投訴及查詢數字分類，讓公眾了解我們的工作及成果。

八、收集個人資料聲明

性別認同及性傾向小組(下稱小組)尊重個人資料，並且全力執行及遵守保障資料原則，以及《個人資料(私隱)條例》(香港法例第 486 章)的各項有關規定。

收集個人資料的用途

你可自願向小組提供有關你的個人資料，而我們在處理你的查詢或投訴的過程中所收集的個人資料，只會用於下列一項或多項的用途：

- (甲) 與該查詢或投訴直接有關的用途；
- (乙) 作為統計及研究之用；及
- (丙) 其他合法用途。

在處理的過程中提供不完備或不正確的資料，會影響小組考慮及審理你的查詢或投訴。

轉移個人資料

本小組在處理你的查詢或投訴的過程中收集得來的個人資料會嚴格保密。然而，本小組在取得你自願給予的明示同意下，或會將你所提供的個人資料轉移給我們因處理有關個案而接觸的人士或機構，包括被投訴者；或根據法律授權或規定而作出該等轉移。

查閱及更正個人資料的權利

你有權要求查閱及改正小組所持有你的個人資料。本小組所提供的查閱個人資料服務，須收取影印費用。查閱或改正該等資料，你可用書面形式，寄往香港灣仔軒尼詩道 130 號修頓中心 31 樓性別認同及性傾向小組，向小組主任提出你的要求。