

**Second Report of
the People's Republic of China
under the International Covenant
on Economic, Social
and Cultural Rights –**

**Part Two:
Hong Kong
Special Administrative Region**

**Third Report of the Hong Kong
Special Administrative Region of the
People's Republic of China
under the International Covenant on
Economic, Social and Cultural Rights**

Third Report of the Hong Kong Special Administrative Region of the People's Republic of China under the International Covenant on Economic, Social and Cultural Rights

Preamble

This report (the Report) is the third report of the Hong Kong Special Administrative Region of the People's Republic of China (HKSAR), under the International Covenant on Economic, Social and Cultural Rights (the Covenant). It forms part of the second periodic report of China under the Covenant. It updates the Committee on Economic, Social and Cultural Rights (the Committee) on developments since the submission of the second report of the HKSAR (the previous report), which formed part of China's initial report submitted in June 2003. It also responds to the Committee's Concluding Observations of 13 May 2005 (previous Concluding Observations), after the Committee's hearing in respect of the previous report at its 34th session held from 27 to 29 April 2005.

Following the issue of the previous Concluding Observations by the Committee in May 2005, we have widely disseminated it among all levels of society, including the Legislative Council (LegCo), relevant Government bureaux and departments, the Judiciary, non-governmental organisations (NGOs) and other interested parties. It has also been made available to the public through the Government website.

We have undertaken to provide a detailed response to the concerns and recommendations of the Committee expressed in respect of the HKSAR in the Report. In preparing the Report, we have, in accordance with past practice, set out in an outline the broad subject headings and individual topics that we envisaged to be covered in the report. The outline for consultation was widely issued to stakeholders, including the LegCo and members of the Human Rights Forum, Committee on the Promotion of Racial Harmony, Ethnic Minorities Forum and Children's Rights Forum (which cover human rights organisations, ethnic minorities groups children and youth groups, and NGOs), and was available on the Internet. The public were invited to submit during the period from 11 January to 19 February 2010 their views on Government's implementation of the Covenant in respect of the topics. The public were also invited to suggest additional topics that ought to be included in the Report.

The outline was discussed at two sessions of the Panel on Constitutional Affairs of the LegCo, and representatives of interested NGOs presented their views during one of the sessions. Discussion was also held with members of the Human Rights Forum, Committee on the Promotion of Racial Harmony, and Children's Rights Forum to seek their views. We have carefully considered the views and comments received in drafting the Report. As with the past practice, issues raised by commentators, together with the respective responses of the HKSAR Government where applicable, have been incorporated in the relevant sections of the Report.

As the initial report of the HKSAR submitted in 1999 (the initial report) and the previous report have already contained detailed information on the laws, policies and practices that are in place to ensure Hong Kong's compliance with the Covenant and many of them remain unchanged, or have changed only slightly, we have not repeated descriptions or explanations of such in this Report.

The Report will be made available to stakeholders, including the LegCo, members of the abovementioned forums and interested NGOs, and will be distributed to the public at the Public Enquiry Service Centres of the Home Affairs Department (HAD), public libraries and Government website.

Article 1: Progress and development of democracy

1.1 The latest position of Hong Kong's constitutional development will be addressed in HKSAR's Third Report in the light of the International Covenant on Civil and Political Rights (ICCPR), which is expected to be submitted within 2010.

Article 2: Progressive realisation of the rights recognised in the Covenant and the exercise of those rights without discrimination

Legislation against racial discrimination

2.1 As foreshadowed in paragraphs 2.4 and 2.5 of the previous report, the HKSAR had reviewed the issue of legislation prohibiting racial discrimination. After gauging the views of the public in a consultation exercise ended in February 2005, the Government had introduced the Race Discrimination Bill and the Bill was passed by the LegCo in July 2008 after detailed scrutiny.

2.2 The Race Discrimination Ordinance (RDO) (Chapter 602 of the Laws of Hong Kong, hereafter abbreviated as Cap. 602), which came into full operation in July 2009, aims at protecting the rights of individuals against discrimination, harassment and vilification on the ground of race. It renders unlawful both direct and indirect racial discrimination in prescribed areas of activity, including education, employment and the provision of goods, services, facilities and premises. It enshrines the internationally accepted principle of proportionality in determining whether there is indirect discrimination. It also makes racial harassment (i.e. engaging in unwelcome conduct in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated by that conduct) unlawful in the specified fields. In addition, the RDO prohibits other unlawful acts relating to racial discrimination, including discriminatory practices and advertisements, aiding, instructing or procuring others to discriminate, as well as vilification. While the RDO does not impose an obligation for affirmative actions, special measures designed to meet the special needs of persons of a particular racial group are specifically permitted under the law.

2.3 The Equal Opportunities Commission (EOC), an independent statutory body, is responsible for the implementation of the RDO. The EOC is entrusted under the RDO with the functions and powers to work towards the elimination of racial discrimination and promote equality of opportunity and harmony between persons of different racial groups. In relation to racial discrimination, it has the power to

conduct formal investigations and obtain information in accordance with the RDO. The EOC is empowered to deal with individual complaints and provide legal assistance. In addition, the EOC can make recommendations for changes in policies and procedures to any person, or recommendations to the Government on changes in the law or otherwise, in the light of the findings in its formal investigations.

2.4 The Government has provided additional resources to the EOC for undertaking these tasks. The EOC issued a Code of Practice on Employment under the RDO which came into operation in July 2009. It gives practical guidance to prevent racial discrimination and harassment, and to promote racial equality and harmony in employment-related matters.

2.5 Some commentators alleged that the RDO does not offer protection to some groups such as new arrivals from the Mainland of China. The Committee has also urged the Government to extend the statutory protection to this particular group. As a matter of fact, the RDO applies equally to all persons in Hong Kong, and safeguards their rights against discrimination on the ground of race. It does not exclude new arrivals from the Mainland from its ambit. New arrivals from the Mainland are equally protected by the RDO against discrimination on the ground of race.

2.6 It is worth noting that the difference between this group and the majority of other permanent residents in Hong Kong is not one based on “race”. The vast majority of new arrivals from the Mainland are of the same ethnic origin as that of most permanent residents in Hong Kong. The differences among some in accent, dialect or certain personal habits do not distinguish them as a separate racial group. This notwithstanding, the relevant Government bureaux and departments have been providing various support measures to facilitate new arrivals from the Mainland to settle in Hong Kong and integrate into the local community.

2.7 The Committee and some commentators also recommended amendments to relevant provisions of the existing immigration legislation governing entry into, period of stay in, and departure from HKSAR to ensure full conformity and consistency with the race discrimination

legislation. Section 55 of the RDO stipulates that the RDO does not affect any immigration legislation. Without such a provision, a person who does not have the right to enter or remain in Hong Kong and has been refused permission to land may take advantage of the RDO to challenge the relevant decision by lodging a claim with the District Court or making a complaint to the EOC. This would increase the risks of vexatious litigation and may undermine Hong Kong's effective immigration control.

2.8 In addition, "immigration status" is not a prohibited ground of discrimination under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Article 1(2) of ICERD states, inter alia, that "this Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens".

2.9 It is common practice internationally that each country or territory has its own immigration legislation under which a visa policy governing entry or stay of visitors may be formulated for effective immigration control. Any visa policy so formulated serves as an important tool to protect the interests and well being of its people.

2.10 Any person who is aggrieved by a relevant decision of the Immigration Department, such as a decision to refuse him/her permission to land or remain in Hong Kong, may lodge an objection under section 53 of the Immigration Ordinance (Cap. 115) with the Chief Secretary for Administration. The person may also seek leave from the Court for a judicial review of the relevant decision.

Discrimination on the ground of sexual orientation

2.11 In paragraph 78(a) of the previous Concluding Observations, there were concerns that the present anti-discrimination legislation does not cover, inter alia, discrimination on the basis of sexual orientation.

2.12 In *Secretary of Justice v Yau Yuk Lung* (Annex 2A), it was held by the Court of Final Appeal that discrimination on the ground of sexual orientation was plainly unconstitutional under both Article 25 of the Basic Law and Article 22 of the Hong Kong Bill of Rights which

implements Article 26 of the ICCPR.

2.13 Some commentators enquired on the plan and timetable to legislate against discrimination on grounds of sexual orientation. The Government has previously commissioned an independent consultant to conduct a survey to assess public attitudes towards homosexuals. According to the result of the survey released in March 2006, 35.4% of the respondents considered that the Government should not introduce legislation to outlaw discrimination on the ground of sexual orientation at this stage, while 28.7% thought otherwise. 33.7% of the respondents were neutral.

2.14 Taking into account the survey results, our considered view is the same as that in the previous report, i.e. at this stage, self-regulation and education, rather than legislation, are the most appropriate means of addressing discrimination in this area. We will continue to address discriminatory attitudes and promote equal opportunities on ground of sexual orientation through public education and administrative means, with a view to fostering in the community a culture of mutual understanding, tolerance and mutual respect.

2.15 We established in 1998 the Equal Opportunities (Sexual Orientation) Funding Scheme to provide funding support to worthwhile community projects which aim at promoting equal opportunities in relation to gender identity and sexual orientation. Over the years, we have approved \$6 million (all monetary figures in this Report are in Hong Kong currency) to fund activities dedicated to these objectives.

2.16 Some commentators considered that the limited resources allocated to the abovementioned Funding Scheme prevented wider public understanding on, for example, the Government's Code of Practice against Discrimination in Employment on the Ground of Sexual Orientation and other publicity activities. Some others considered that the Code of Practice was not up-to-date and had no parameters to measures its effectiveness. Apart from the abovementioned Funding Scheme, we have also conducted various publicity and education programmes to promote equal opportunities for people of different sexual orientations. In the past five years, we have approved \$6.9 million for various measures, including

publicity campaign and education programmes in this area.

2.17 The Code of Practice against Discrimination in Employment on the Ground of Sexual Orientation facilitates self-regulation on the part of employers and employees in eliminating discriminatory practices in employment on the ground of sexual orientation. The principles outlined in the Code of Practice are still valid today and we would continue to listen to the views of stakeholders and revise the Code of Practice as appropriate. We are also promoting the Code of Practice actively both within the Government and in the private sector through various channels such as the Human Resources Managers' Clubs organised by the Labour Department. We have received positive feedback from the Human Resources Managers' Clubs on the Code of Practice through the briefings held for them.

2.18 As an integral part of our effort to promote equal opportunities for people of different sexual orientation, we established the Gender Identity and Sexual Orientation Unit (GISOU) in May 2005 to provide dedicated service on this front. The GISOU operates a hotline for handling enquiries and complaints on issues relating to sexual orientation, and launches publicity and education programmes. Some commentators expressed concern on the effectiveness of the mediation effort rendered by GISOU in resolving complaints while some requested the Government to ensure that all allegations and reports of human rights violations based on sexual orientation or gender identity are promptly and impartially investigated and perpetrators held accountable and brought to justice. Each complaint case received by GISOU was handled seriously. Despite the various factors that would affect the mediation work including the complexity of the complaint cases and the concerned parties' willingness to cooperate, there were cases that were successfully mediated. We would continue to find the most appropriate ways to conduct the mediation work and provide suitable assistance to the complainants taking into account the different circumstances of each complaint case. We will also continue to promote the hotline operated by GISOU for receiving complaints.

2.19 Apart from the above, we will also continue to exchange views on issues concerning sexual minorities in Hong Kong with NGOs through the Sexual Minorities Forum, which was established in 2004.

Some considered that the Forum was not effective in serving as a platform for discussion between sexual minority groups and Government officials. Various Government bureaux and departments have attended the Forum since its establishment to exchange views with its members on a number of topics of interest, including policy and services in combating violence involving same sex cohabitants, promotion of sex education in schools, support services provided by the Social Welfare Department (SWD) to sexual minorities, and provision of social work services to students encountering sexual orientation discrimination in schools. The concerned bureaux and departments provided detailed information to facilitate discussion by members of the Forum. We will continue to invite relevant bureaux and departments to join the meetings as and when appropriate for discussion on topics of interest to the Forum.

2.20 On the treatment of children of different sexual orientation or gender identities in correctional and residential homes for children and the sufficiency of sensitivity training for law enforcement agencies raised by some commentators, we wish to point out that staff of residential homes for children are aware of the need for special attention to children of different sexual orientation or gender identities. Guidelines to staff have been developed by service providers to safeguard the interest of children under care. As for correctional home for children and juveniles, it was designed and constructed to provide flexibility to facilitate separation and management. Through appropriate scheduling, different children and juvenile groups will not interact with each other unnecessarily and under no circumstances will the children and juveniles be left unattended. Sufficient training is provided to the staff operating the correctional home so as to raise their awareness and sensitivity towards the multifarious needs of the juvenile and child residents, including those with different sexual orientation or gender identities. The SWD also subvents NGOs to provide residential places attached to school for social development. Staff operating these places are also provided with training in this regard.

2.21 As regards sensitivity training for law enforcement agencies, in the course of the induction training and the subsequent on-the-job training provided by the Correctional Services Department (CSD), the correctional staff are reminded to pay attention to the sexual orientation and gender identities of the persons under the CSD's custody. If an inmate

concerned needs any assistance, psychological counselling services will be provided. On the other hand, the Customs and Excise Department follows statutory requirements and policies promulgated by the Government in drawing up internal instructions and developing training courses in relation to equal opportunities.

Discrimination on the ground of age

2.22 We oppose age discrimination in employment, and attach great importance to safeguarding employees' rights and equal opportunities in employment. To this end, we have been encouraging employers to count on talent instead of age in this regard, and develop a set of consistent criteria to evaluate working performance of job seekers and employees. Further to the public opinion survey on age discrimination in recruitment we mentioned in paragraph 2.8 of the previous report, we have conducted a large-scale household survey on the importance of age factor in employment from December 2008 to March 2009 to gauge the views of the public. The survey revealed that the great majority of the community did not consider age an important factor in employment and age discrimination in employment did not seem prevalent. As such, we consider it appropriate to continue to promote equal employment opportunity through publicity and promotion, and strengthen training and re-training to enhance the employability of workers of all ages. We will monitor the situation closely through, for example, regular surveys.

Protection for same sex cohabitants from violence

2.23 The Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189), which came into operation on 1 January 2010, extends the scope of protection provided under the previous Domestic Violence Ordinance in the form of injunction against molestation to cover a cohabitation relationship between two persons, whether of the same sex or opposite sex, who live together as a couple in an intimate relationship.

2.24 On sensitivity awareness and training of social workers and the law enforcement agencies in handling violence cases concerning same-sex cohabitants, the "Code of Practice for Registered Social

Workers” issued by the Social Workers Registration Board, an independent statutory body in the HKSAR responsible for the registration of social workers, states clearly that social workers would respect the unique value and dignity of every human being irrespective of one’s sexual orientation. Social workers would handle all the cases in confidence according to the principles set out in the Code. On social workers’ training, some local tertiary institutions providing social work programmes have already incorporated the subject of understanding homosexuality into their social work curricula. The SWD and NGOs also provide in-service training to social workers and clinical psychologists, including courses on human sexuality, working with people with different sexual orientations, exploration of sexual orientation, sexual identity and attraction, gender identity issues and trauma and adolescents sexuality. Following the commencement of the Domestic and Cohabitation Relationships Violence Ordinance, the SWD has also stepped up its training for social workers on the understanding of violence involving same-sex cohabitants and the intervention skills. A series of briefings and training have been provided to social workers in this regard. The Hong Kong Police Force (the Police) have also, in the light of the Ordinance, conducted training to raise their officers’ sensitivity in handling such cases.

Protection for persons with disabilities

Promotion of inclusion of persons with disabilities

2.25 From 2002-03 to 2008-09, the Government has allocated over \$13 million on public education and publicity campaigns to promote inclusion of persons with disabilities (PWDs).

2.26 The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) has entered into force for China, including the HKSAR, since 31 August 2008. To promote the spirit and core values enshrined in the UNCRPD, the Government increased the allocation to about \$12 million in 2010-11 from \$2 million in 2009-10 for the relevant public education activities. Apart from organising various territory-wide major publicity activities, the Government also provides subsidies to NGOs and District Councils (DCs) for organising related promotional

activities in order to reach all sectors of the community. In 2009, 34 public education programmes were organised by the Government and various NGOs under the theme “All-round promotion of the spirit of the UNCPRD and cross-sectoral collaboration towards building an equal and inclusive society”. Territory-wide publicity activities were also launched to support World Mental Health Day and the International Day of Disabled Persons. Furthermore, the Government has strengthened civil service training to enhance civil servants’ knowledge in the application of the UNCPRD in their daily work.

2.27 To enhance public awareness of mental health, promote public acceptance of persons with mental illness and encourage social inclusion of persons recovering from mental illness, the Labour and Welfare Bureau (LWB), in collaboration with various Government departments, NGOs and the media, has been organising annually the “Mental Health Month” since 1995. During the event, a series of relevant territory-wide and district-based publicity campaigns are launched. The Rehabilitation Advisory Committee (RAC) also takes active steps at district level to encourage public acceptance of persons recovering from mental illness and promote public support for these people to integrate into society, including collaboration with the 18 DCs to launch publicity activities and provide subsidies to various community organisations in the districts to organise a wide range of public education programmes under the themes of “mental health” and “working towards an inclusive and barrier-free society for PWDs”, so as to foster community inclusion.

2.28 On the use of sign languages by persons with hearing impairment raised by some commentators, the LWB will continue to urge relevant Government bureaux and departments to critically review the policies and measures under their purview and to promote accessible modes of communication, including the use of sign languages. In this regard, the RAC is in the course of convening a working group to advise the Government on promoting the use of sign languages. Members of the working group comprise persons with hearing impairment, sign interpreters, representatives from the rehabilitation sector, education sector and relevant Government bureaux and departments. Measures and services provided to students with hearing impairment are detailed under Articles 13 and 14 in relation to the right to education.

Implementation of the Disability Discrimination Ordinance (Cap. 487)

Enquiries and complaints

2.29 From January 2007 to December 2009, the EOC received 7 085 specific enquiries (prospective complaints)¹ and investigated 1 853 complaints relating to the Disability Discrimination Ordinance (DDO) –

	2007	2008	2009
Specific Enquiries (prospective complaints)	2 362	2 362	2 361
Complaints investigation	601	592	660
<i>Nature of complaints</i>			
Disability Discrimination	510	524	584
Disability Harassment	69	47	50
Disability Vilification	9	10	17
Victimisation	13	11	9
<i>Field of complaints</i>			
Related to employment	470	467	498
Not related to employment	131	125	162
<i>Endeavour to Conciliate</i>			
Conciliation attempted	163	131	173
Conciliated	127	92	100
Conciliation not successful	36	39	73

Legal Assistance

2.30 The number of cases considered between 2007 and 2009 were –

Year	Granted	Not granted	Under consideration	Withdrawn	Total applicants*
2007	4	10	2	1	17
2008	9 [#]	7	8	0	23
2009	20	23	4	1	48

* Including the application brought forward from previous year

¹ The term “specific enquiries (prospective complaints)” refers to enquiries which, as the EOC assesses, are potential complaints. It carries the same meaning as the term “specific enquiries” in paragraph 12.52 of the previous report.

[#] Including one application which was not approved during 2007. Upon the applicant's request for review, the application was approved in April 2008.

Formal Investigation on accessibility

2.31 A significant proportion of the complaints lodged with the EOC under the DDO are related to accessibility, namely availability, connectivity and usability. In this connection, the EOC launched a formal investigation in December 2006 to examine the means of access to or use of premises and facilities in public rental housing estates and public facilities with a view to identifying shortfalls in various aspects of accessibility. Findings of the individual inspection were passed to relevant Government bureaux and departments for comments and improvement actions. Full report of the study is expected to be released in May 2010.

Revision of Existing Code of Practice on Employment under the DDO

2.32 With better and wider knowledge of the DDO among the public as well as expansion in the jurisprudence and increase in both the number and complexity of complaints, the EOC recognises that there is a need to enhance the Code of Practice on Employment under the DDO for the purpose that it can continue to serve as a useful reference tool for employers and human resources practitioners to implement equal opportunities in workplace. Public consultation on the draft revised Code is being conducted from 8 April 2010 to 8 July 2010. It is expected that the new revised Code will come into effect towards the latter part of 2010.

Research and Survey

2.33 Since the previous report, the EOC has commissioned a number of survey studies. Some that are in progress include the "Second Baseline Survey on Public Attitudes towards Persons with a Disability" and "Study on Equal Learning Opportunities for Students with Disabilities — the Integrated Education system". Findings of these survey studies help the EOC to gauge the public's awareness and perception on a range of equal opportunity issues that are related to the core areas of work

of the EOC. These survey studies also help the EOC to collect stakeholders' views on how best to improve its advocacy role and prioritise its work.

Employment of persons with disabilities

2.34 In 2009, the RAC reached out to different sectors, including the 18 DCs, the business sector and the welfare sector to promote the working capabilities of PWDs and the employment support services for PWDs provided by Government departments and rehabilitation organisations, and to solicit support for tripartite partnership. These efforts have received positive responses from welfare organisations, the DCs and the business sector.

2.35 Many DCs have also organised promotional activities relating to the employment of PWDs. The Organising Committee of the “International Day of Disabled Persons” adopted “Promotion of Employment for PWDs” as the theme of the event held in December 2008 and November 2009 and collaborated with the 18 DCs to give commendations to the “caring employers” of the 18 districts who support the employment of PWDs. A number of business corporations have responded promptly by offering jobs to PWDs with the assistance of relevant Government departments and rehabilitation agencies and by making wider use of products and services from PWDs. This shows that our efforts have started to bear fruit.

2.36 To reinforce the efforts in promoting employment for PWDs, the LWB and RAC continue to adopt “Promotion of Employment for PWDs” as one of the major themes of 2010’s publicity programme, and continue to launch a series of initiatives to enhance understanding of different sectors on the working capabilities of PWDs, as well as the provision of support services for employment of PWDs by various Government departments and rehabilitation organisations, with a view to strengthening cross-sectoral collaboration among business sector, local communities, Government departments and NGOs in promoting the employment of PWDs, thereby supporting the self-reliance of PWDs and their full integration into the community.

Access to premises

“Design Manual: Barrier Free Access 2008”

2.37 The Building Authority issued, in 1997, the Design Manual: Barrier Free Access 1997 (DM 1997) to provide guidance to practitioners of the construction industry. Over the years, there has been much advancement in building technology, improvement in quality of life of the general public and growing awareness of the community towards the needs of PWDs. Therefore, as mentioned in paragraph 2.14 of the previous report, the Government conducted a review of the DM 1997 with a view to enhancing the design requirements taking into account changes in building technology and expectation of the community.

2.38 Having conducted extensive consultation with the stakeholders, the LegCo and the public at large, and taken into account the views from the relevant parties, the Design Manual: Barrier Free Access 2008 (DM 2008) was put into effect on 1 December 2008 following the necessary legislative amendments. The DM 2008 introduces a series of new requirements, such as the provision of access to backstage facilities of auditoriums for PWDs; introduction of detailed requirements on the number, size and signage of parking spaces; improvement of directional signage; and specification of minimum illumination levels for corridor, stair and lift lobby for persons with visual impairment.

Improvements in Government premises

2.39 The Government continues to make active efforts in improving the barrier-free access of Government buildings. Government buildings with construction commencing after 1 December 2008 are required to meet the new standards in the DM 2008, and wherever practicable, are to achieve standards beyond those that are legally required. The Architectural Services Department (ArchSD) has put in place a design vetting mechanism to ensure that new projects receive thorough consideration of accessibility at the early stage of design. A design vetting committee under the ArchSD scrutinises the projects' accessibility proposals to ensure compliance with statutory requirements of barrier free design.

2.40 Since 2000, the Government has improved the access facilities of 147 Government premises. The total expenditure involved is about \$72 million. The ArchSD will implement a series of additional minor works, including improvements to barrier free access.

2.41 Individual Government departments and public bodies also carry out improvement works to provide barrier free facilities in venues under their management. For example, since 2006, the Leisure and Cultural Services Department (LCSD) has completed 133 improvement projects to provide suitable barrier free access and facilities for PWDs in its arts and recreational venues, including improvement to 12 venues for the 2009 East Asian Games. It will continue to carry out 40 new improvements works proposals.

2.42 The Housing Department (HD) has implemented the “Universal Design” concept in all new buildings since 2002 to provide a safe and convenient living environment for its various tenants, including the elderly and PWDs. The HD has commenced the improvement works to existing buildings by phases.

Establishment of the Guardianship Board under the Mental Health Ordinance (Cap. 136)

2.43 The situation in paragraphs 2.17 and 2.18 of the previous report remains valid.

Financial eligibility limit for legal aid

2.44 Since we submitted the previous report in 2003, changes have been introduced, pursuant to the reviews we mentioned in paragraph 2.22 of the previous report, to the legal aid financial eligibility limit assessment criteria by allowing more items to be deducted or disregarded from an applicant's income and capital when assessing an applicant's means. Additional items that can be deducted or disregarded now include (a) maintenance payment, (b) an amount to provide for the care of any dependants who are unable to take care of themselves by reason of their mental or physical conditions during the time when the applicant, whether self-employed or otherwise, is at work, irrespective of whether the

dependants are living with the applicant, and (c) insurance monies received by the applicant that are required to pay for the applicant's care or medical treatment following an injury to which the legal aid claim relates.

2.45 Some commentators proposed that the waiver on the limit of the financial eligibility should be applicable to legal aid applications where an inconsistency with, on top of the ICCPR, other international covenants (including this Covenant) is an issue. The fundamental legal aid objective, which is recognised universally and which also underpins the Government's legal aid policy, is that legal aid should only be granted to those who lack the means to take or defend legal action. Means testing in addition to merits testing is therefore necessary in determining eligibility. They are the two cardinal principles of legal aid which must be carefully guarded. In this light, the Director of Legal Aid's exemption power should be kept restrictive. To ensure access to justice for persons of limited means, the Government regularly reviews the criteria for assessing the financial eligibility of legal aid applicants and is in the midst of a consultative process over the recommendations of raising the financial eligibility limits for legal aid arising out of the latest review.

Protection for asylum seekers and refugees

2.46 The Committee has recommended the formulation of a clear and coherent asylum policy based on the principle of non-discrimination and some commentators called for more effective protection for asylum seekers and refugees. We have no plan to extend to Hong Kong the application of the 1951 United Nations Convention relating to the Status of Refugees and its 1967 Protocol. Hong Kong is small in size and has a high and dense population. Our unique situation, set against the backdrop of our relative economic prosperity in the region and our liberal visa regime, makes us vulnerable to possible abuses if the abovementioned Convention were to be extended to Hong Kong. We have a firm policy of not granting asylum and do not have obligation to admit individuals seeking refugee status under the 1951 Convention.

2.47 Refugee claims lodged in Hong Kong are dealt with by the Hong Kong Sub-Office of the United Nations High Commissioner for Refugees (UNHCR-HK). The HKSAR Government provides support to

and maintains close liaison with the Sub-Office.

2.48 On humanitarian grounds, the Government, in collaboration with NGOs and on a case-by-case basis, offers assistance-in-kind to asylum seekers facing deprivation of basic needs during their presence in Hong Kong. The types of assistance offered include temporary accommodation, food, clothing and other basic necessities. Medical fee waivers, counselling service and transportation expenses are provided in appropriate cases. The package of assistance offered to individual asylum seekers varies according to the unique needs and personal situations of the person concerned, including the availability of his/her own resources and the resources available to him/her from other sources.

2.49 Being a refugee or asylum seeker *per se* would neither disadvantage nor give immunity to a person in Hong Kong. For those asylum seekers with claims under processing by UNHCR-HK and remaining in Hong Kong without permission to stay, the existing prosecution policy for immigration offences allows withholding charges against them until their claims have been finalised if the relevant offence is directly related to their asylum claims.

Human rights institution

2.50 The Committee reiterated its concern about the absence of a human rights institution with a broad mandate. Some commentators also proposed to establish a similar commission with a clear mandate on children's rights. The issue of setting up an independent human rights institution has recently been considered by the Government in the context of the Review of jurisdiction of the Office of The Ombudsman.

2.51 The Review was conducted by The Ombudsman and the Review Report was submitted to the Administration in two parts in 2006 and 2007 respectively. The issue of whether The Ombudsman should assume the role of a human rights commission to protect and promote human rights was examined in Part 2 of The Ombudsman's Report. It pointed out that while The Ombudsman was not explicitly charged with human rights responsibilities, the essence of the Office's work was to ensure the protection of individual rights by public administration. Under

the existing mechanism for protection of human rights in Hong Kong, various statutory bodies, including The Ombudsman, the EOC and the Office of the Privacy Commissioner for Personal Data, had a role to play as provided for under the respective ordinances. The question of whether one single institution should be set up to oversee all issues on human rights protection in Hong Kong was a policy issue to be examined by the Government.

2.52 Having considered the Review Report, the Government is of the view that an extensive mechanism for the protection of human rights in Hong Kong is already in place. In addition to the statutory bodies mentioned above, Hong Kong possesses a strong legal system buttressed by judicial independence, professional legal services and quality legal aid services and a steadfast respect for the rule of law. Government policies and measures are also closely monitored by the LegCo, a vibrant and free media sector and the general public. There is no obvious need for establishing another human rights institution to duplicate the functions of or supersede the existing mechanism.

2.53 We, therefore, remain of the view that an additional independent monitoring mechanism is not necessary to give effect to the Covenant or its requirements.

Equal Opportunities Commission

2.54 The Government has recently conducted another round of review on the remuneration packages of the senior executives of the EOC mentioned in paragraph 2.19 of the previous report. The review found that in the period of 2007-09, remuneration packages of the executives at the top three tiers of the EOC are comparable to those of civil servants at equivalent ranks. The review will continue to be conducted on a regular basis.

2.55 Some commentators considered that the fact that the EOC Chairperson carried executive function was not consistent with the Paris Principle as this arrangement lacked accountability and monitoring.

2.56 The Government has considered this issue and discussed it with the LegCo. Members of the LegCo had diverse views. While most of the views were in favour of the separation of the Chairperson and the chief executive posts, there were reservations about the separation of the posts as well, in particular over the conversion of the position of the Chairperson into a non-executive post, in that this might affect the ability of the EOC in carrying out its functions. Whilst the majority of EOC members were inclined towards having a part-time non-executive Chairperson and a full-time chief executive, there were views among EOC members supporting both options of having a part-time non-executive Chairperson and having a full-time executive Chairperson.

2.57 After taking into account the comments received, we are of the view that at this stage, we should maintain the current position in respect of the Chairperson, and should create a Chief Operations Officer post to oversee the administrative and operational matters and to strengthen the governance of the EOC. We are prepared to consider the views of the EOC and the community if it is considered necessary to review the arrangements in future.

Article 3: Equal rights of men and women

Convention on the Elimination of All Forms of Discrimination Against Women and Women's Commission

3.1 We were simultaneously preparing the third report of the HKSAR under the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) at the time of finalising this Report. Our CEDAW report will form part of China's report under that Convention.

Women's Commission

3.2 Following the re-organisation of the Government Secretariat of the HKSAR on 1 July 2007, the Women's Commission (WoC) receives executive support from the LWB and continues to receive an annual funding of about \$20 million.

3.3 To achieve its mission of enabling women in Hong Kong to fully realise their due status, rights and opportunities in all aspects of life, the WoC continues to adopt a three-pronged strategy, namely, the provision of an enabling environment, empowerment of women through capacity building, and public education, in promoting the interest and well-being of women. Key initiatives taken in the respective areas include:

- (a) **gender mainstreaming:** efforts in promoting gender mainstreaming have continued. The Checklist developed by the WoC mentioned in paragraph 3.3(a) of the previous report has been introduced to 30 different policies/programmes since 2002. Taking into account the experience gained in applying the Checklist and in implementing the gender mainstreaming concept by the Government over the years, the WoC revised the Checklist with the assistance of various stakeholders in 2009. The revised Checklist would provide better assistance to Government officers in applying gender mainstreaming in different policy and programme areas. In addition, gender-sensitive training is provided to civil

servants of different grades and ranks to enhance the awareness of women's perspectives in the policy making process and service delivery. Networks of Gender Focal Points in the Government and DCs were also established in 2003 and 2008 respectively to facilitate promotion of gender mainstreaming in the Government and at the district level;

- (b) **empowerment:** the WoC continues to promote women's participation in the Government's advisory and statutory bodies (ASBs) mentioned in paragraph 3.3(b) of the previous report. At the WoC's suggestion, the Government set in 2004 a gender benchmark of 25% as an initial working target for appointments of women to the ASBs. Furthermore, the WoC works closely with the Government to reach out to, identify and cultivate potential women candidates for ASBs appointments. With these efforts, women's participation rate in the ASBs has risen from 22.6% in 2003 to 27.3% in December 2009. The WoC also published a booklet on examples of good empowerment programmes of the Government, NGOs, women service agencies and community groups in 2003 to encourage the development and adoption of innovative and positive initiatives for women's advancement. Separately, the WoC launched in 2004 the Capacity Building Mileage Programme as a key initiative in empowering women. The Programme is a flexible learning programme tailored to the needs and interests of women. It is mainly delivered through radio broadcasting and face-to-face courses delivered by more than 70 partnering women's groups and NGOs. The courses include subjects such as managing interpersonal relationships, finance management, health and other practical issues in daily life. The introduction of the Programme has encouraged women of different backgrounds and educational levels to pursue life-long learning and self-development. Up to 2009, the cumulative number of enrollments exceeded 35 000, together with a large network of audience who have been reached through the radio programmes; and

- (c) **public education:** the WoC has continued its public education efforts to mitigate gender prejudice and stereotyping, and to raise public awareness of women-related issues. It also focuses on promoting gender awareness in schools with a view to instilling into students at their young age the proper gender concepts to help eliminate gender stereotyping. Various publicity and public education activities comprising radio programmes, television drama and documentary series on the themes of empowerment and capacity building, exhibitions, conferences and seminars as well as competitions to promote gender awareness had been held since the submission of the previous report. In August 2009, the WoC organised its third large-scale conference entitled “Beyond Limits – Women in the 21st Century”. The conference was well attended and provided a good platform for reviewing the implementation of CEDAW in Hong Kong.

3.4 Some commentators were concerned that the role of the WoC would be weakened with the establishment of the Family Council (see paragraphs 10.5 and 10.6 below) in Hong Kong. The two advisory bodies perform their roles in closely related but different areas. The Family Council provides a high-level platform for cross-bureau and cross-sectoral discussion of major issues from the family perspective. It is responsible for advising the Government on policies and strategies to support and strengthen families. On the other hand, the WoC is a central mechanism responsible for promoting the well-being and interests of women. In view of the close correlation between family and women matters, the Chairperson of the WoC is appointed as an ex-officio member of the Family Council in order to offer views from women’s perspective and to facilitate communication and co-operation between the WoC and the Council. The WoC will work closely with the Family Council: it continues to deliver services or programmes related to family issues, and take on as appropriate new family support services and programmes endorsed by the Council. The Family Council advises the WoC on matters pertaining to family core values and family-based programmes. The WoC will take the advice into account in launching its programmes. Should the Family Council wish to initiate collaborative projects to foster

family-related support measures, the WoC would support the Council and devise relevant projects where resources permit. The WoC will propose family related issues for discussion at the Family Council.

3.5 The WoC will, inter alia, maintain its autonomous status with regard to women-specific subjects including the promotion of gender mainstreaming and gender equality, enhancing women's participation in Government advisory and statutory bodies and monitoring of implementation of the CEDAW.

Review of the Sex Discrimination Ordinance (Cap. 480)

3.6 Further to paragraph 3.7 of the previous report concerning the EOC's review of the Sex Discrimination Ordinance (SDO), the SDO was amended in 2008 as one of the consequential amendments under the RDO to extend unlawful sexual harassment to cover rendering the environment in which a person works, studies or undergoes training sexually hostile or intimidating. In parallel, the EOC and the Education Bureau (EDB) have jointly developed education and publicity materials on preventing sexual harassment in schools. Schools are encouraged to take reasonably practicable steps to ensure that the schools are free from any sexually hostile or intimidating environment. Training sessions were also conducted by the EOC in early 2009 with a total of over 600 school principals or teachers in attendance.

3.7 As for the remaining proposed amendments set out in the EOC's review report, some of them are of a technical nature, whereas the others may have implication on other anti-discrimination ordinances. The Government is considering how best to take forward the remaining proposals.

The "Small House Policy"

3.8 We will continue to take forward the review on Small House Policy. Since the Small House Policy involves a wide-range of complicated legal, human rights, land use and planning issues, the review needs to be carried out prudently and will take time. The Government will consult the rural and general community at large as appropriate when

specific proposals are drawn up.

Article 4: Permissible limitation of Covenant rights

4.1 The position for Article 4 remains as reported in paragraph 4.1 of the previous report. In short, the HKSAR Government does not subject the rights under the Covenant to any limitations other than those provided for in law. Such limitations, where they exist, are compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a free society.

Article 5: Prohibition on destruction of any rights and freedoms recognised in the Covenant

5.1 The position for Article 5 remains as reported in paragraph 40 of the initial report. That is, the HKSAR Government imposes no restrictions upon and makes no derogations from any fundamental human rights on the pretext that such rights are not recognised, or are only partly recognised by the Covenant.

Article 6: Choice of occupation and labour rights

6.1 The relevant constitutional protections, statutes, and policies remain as explained in paragraphs 41 and 42 of the initial report.

Employment services

6.2 The Labour Department provides convenient employment services free-of-charge to all job seekers through its Job Centres, Recruitment Centre for the Catering Industry, Telephone Employment Service Centre, Interactive Employment Service website and vacancy search terminals installed at various convenient locations throughout the territory. The Labour Department also administers special employment programmes to meet the specific needs of different categories of job seekers.

6.3 Further to the previous report, the Labour Department has implemented a number of new initiatives in the employment services area, including:

- (a) An Employment Programme for the Middle-aged was launched in May 2003 to assist those unemployed aged 40 or above to secure employment through the provision of a training allowance to encourage employers to hire them and to provide them with on-the-job training. In the face of the financial tsunami, the Programme was enhanced in June 2009 by raising the level of training allowance and extending the subsidy period so to boost the employment of the middle-aged;
- (b) A Work Orientation and Placement Scheme was introduced in April 2005 to enhance the employability and competitiveness of PWDs through pre-employment training and work trial placement. For each person with disabilities engaged under the Scheme, the participating employer will receive a financial incentive. Similarly, the Scheme was strengthened in June 2009 to enhance the employment of PWDs;

- (c) A Work Trial Scheme has been implemented since June 2005 to enhance the employability of job seekers who have special difficulties in finding employment. During the one-month work trial, participants will be arranged to work in participating organisations and will receive an allowance contributed by the Labour Department and the organisation;
- (d) To strengthen the employment services in remote areas, the Labour Department set up two new job centres in those areas in September 2006, bringing the total number of job centres in the territory to 12;
- (e) A dedicated recruitment centre for the catering industry was set up in February 2009 to offer employers and job seekers in the catering industry tailor-made job-matching service and on-the-spot interview arrangement to bridge their recruitment and employment needs efficiently and as early as possible;
- (f) With the merger of the two Employment and Guidance Centres for New Arrivals and the job centres in January 2005, new arrivals may now seek employment services in all the 12 job centres. Each job centre has set up a resource corner and conducts regular tailor-made employment briefings for new arrivals to facilitate their job search; and
- (g) To facilitate the use of the Labour Department's employment services by ethnic minority job seekers, the relevant publicity leaflet has been translated into various ethnic minority languages. Essential information on job vacancies is available in both Chinese and English and disseminated through various channels. All job centres offer employment services in Chinese and English and have set up resource corners and special counters to serve ethnic minority job seekers. Employment briefings tailor-made for them are organised from time to time. They may also join the Job Matching Programme for more intensive employment services, including career counselling, job-matching and referral for training courses tailor-made for ethnic minorities.

Interpretation services will be arranged, as necessary, for job seekers who do not speak Chinese or English.

Youth employment services

6.4 As in many other economies, young people of Hong Kong, particularly those with relatively low educational attainment and limited work experience, would find it difficult to secure employment in economic downturn.

6.5 Before September 2009, two employment programmes, namely Youth Pre-employment Training Programme (YPTP) and Youth Work Experience and Training Scheme (YWETS), were in place to provide pre-employment and on-the-job-training services to school leavers aged 15 to 24. Since the inception of the YPTP and the YWETS in 1999 and 2002 respectively, the YPTP has trained more than 90 000 young people, whereas the YWETS has assisted 62 200 to secure employment.

6.6 In September 2009, the YPTP and the YWETS were enhanced and integrated into a “through-train” programme, YPTP • YWETS, to provide seamless and comprehensive youth training and employment support. The revamped programme targets all young people aged 15 to 24 with educational attainment at sub-degree level or below. There is no ceiling imposed on enrollment capacity and all eligible young people will be admitted flexibly.

6.7 The revamped programme, starting from September 2009:

- (a) enrolls trainees on a year-round basis;
- (b) extends personalised career counselling services from 12 to 24 months for trainees who have found jobs; and
- (c) organises more tailor-made and value-adding training-cum-employment projects in collaboration with employers and training bodies.

6.8 There are diverse elements within the YPTP • YWETS to cater for the needs of youths with different backgrounds. For example, there are special projects tailor-made for new arrivals from the Mainland of China, ethnic minorities, juvenile delinquents and youths with learning difficulties. Under these special projects, personalised career counselling, case management service and pre-employment training courses tailor-made for the target groups are offered. The pre-employment training courses cover job search and interpersonal skills, team building, computer application and job-specific skills for a wide spectrum of trades and industries. By the end of 2009, about 10 700 applications for enrollment to the revamped programme have been received.

6.9 Apart from the above, the Labour Department set up in December 2007 and March 2008 respectively two Youth Employment Resource Centres to provide one-stop service on employment and self-employment to young people aged between 15 and 29. The two centres aim to provide support to young people to start their career on the right track, enhance their employability, facilitate their access to the latest labour market information and help them secure firm footing in the labour market for sustainable development.

Vocational training

6.10 As set out in paragraph 6.15 of the previous report, the Manpower Development Committee (MDC) has been advising the Government on vocational training and manpower developments so as to meet the changing needs of society.

Employees Retraining Board

6.11 As set out in paragraph 6.7 of the previous report, the Employees Retraining Board (ERB) has been retraining workers who had lost their jobs to acquire new skills and seek re-employment. Since its inception in 1992, and by end-2009, the ERB has provided about 1.38 million training places. During the three years from 2007-08 to 2009-10, the overall placement rate of trainees was about 80%.

6.12 In view of the prevailing manpower situation and in order to benefit more people by enabling them to maintain their employability in a knowledge-based society, since December 2007, the ERB has expanded its service targets from local residents aged 30 or above with an education attainment of Secondary 3 or below, to those aged 15 or above with education at sub-degree level or below. In other words, in addition to serving the original targets of the more matured and lower-skilled members of the workforce, those aged 15 to 29 with higher education attainment are also eligible for ERB services now. In 2008, the ERB conducted a strategic review on its future directions. Stakeholders, the public, as well as the MDC were consulted during the process. The recommendations of the strategic review were endorsed by the Government in early 2009. The ERB is in the course of implementing the recommendations, providing more comprehensive and diversified training and retraining to its service targets. To better reflect its new scope of services, the ERB has rebranded the “Employees Retraining Scheme” as “Manpower Development Scheme”. The number of utilised ERB training places increased from 87 000 in 2007-08 to 99 000 in 2008-09. The ERB planned to provide 143 000 places in 2009-10.

6.13 Eligible service targets, irrespective of gender, can apply for enrollment of ERB courses. ERB’s courses, which are designed to meet market needs, have been well received by female trainees in particular. For instance, in 2008-09, females represented 70% of the total number of trainees. The ERB is also committed to serving other specific target groups, including new arrivals from the Mainland of China, ethnic minorities and youths. The relevant services are set out in more detail below:

- (a) New arrivals are eligible to enroll in all the courses offered by the ERB. The ERB also provides them with dedicated courses. The ERB enhanced the Job Search Skills Course for New Arrivals mentioned in paragraph 6.8 of the previous report to a new “Module Certificate in Employment Set Sail” in end-2008. The enhanced course introduces community resources, local labour market and work culture to trainees. As of end-December 2009, about 135 240 new arrivals had completed training courses offered by the ERB;

- (b) Since mid-2007, the ERB has offered courses in English designed for ethnic minorities. Special support is provided, including allocation of resources to training bodies for employing ethnic minorities interpreters to facilitate learning and job search. In 2008-09, the full-time placement-tied courses and part-time generic skills training courses included “Workplace Cantonese Communication”, and “Module Certificate in Employment Set Sail” which helped the ethnic minorities to gain a deeper understanding of the local employment market, work culture, job search channels and skills. The ERB set up two focus groups in June 2008 to consult the relevant stakeholders regularly on ethnic minorities’ training needs and the means in reaching out effectively to the ethnic minorities. Focus group members comprise representatives of ethnic minorities organisations, NGOs and training providers. By 2009-10, more courses were offered, including 17 full-time placement-tied courses and 12 part-time generic skills training ones; and
- (c) Since December 2007, the ERB has developed a variety of courses catering for the diverse interests of the new service targets of young people. For instance, in September 2008, the ERB started a pilot Youth Training Programme (YTP) in collaboration with the Vocational Training Council (VTC) for non-engaged youths aged 15 to 20, which involved 51 training courses covering 18 industries. The programme aims to rekindle the youths’ desire to learn, enable them to understand their own aspirations, and motivate them to actively plan their career. To explore various training modes and expand the training network, the ERB launched 15 additional YTP courses in September 2009 to be delivered by nine additional training bodies. In order to meet the needs of the ethnic minority youth, the ERB has piloted the “Ethnic Minority Project” under the YTP. The courses aim to equip the ethnic minority trainees with career-oriented and language skills to enhance their employability and ability to integrate into society.

The Vocational Training Council

6.14 As explained in paragraph 13.43 of the previous report, the VTC is also a main provider of, and adviser to the Government on policies relating to vocational training. The VTC institutions which provide vocational training programmes include the Hospitality Industry Training and Development Centre, the Chinese Cuisine Training Institute, the Maritime Services Training Institute and 12 other training centres. In the 2008-09 school year, the 15 institutions offered about 22 700 full-time, part-time and self-study places. Enrolment statistics for the 2008-09 school year by mode and level of study are at Annex 6A. They update Annexes 13D and 13E of the previous report. Vocational education programmes provided by the VTC are elaborated under Articles 13 and 14 on right to education.

Apprenticeship

6.15 As regards apprenticeship, the position in paragraph 13.46 of the previous report remains valid. 1 675 contracts of apprenticeship were registered in 2009. These contracts covered 1 675 apprentices (as compared with 1 850 in 2002). At the end of 2009, some 3 300 apprentices were under training (4 150 in 2002).

Protection of employees against unreasonable dismissal

6.16 The position of the measures to protect employees against unreasonable dismissal remains the same as explained in paragraph 6.6 of the previous report. Notwithstanding this, to enhance employees' protection against unreasonable and unlawful dismissal, the HKSAR Government is, in consultation with relevant stakeholders, working on a draft amendment bill on reinstatement order to remove an employer's consent as the prerequisite to an order for reinstatement or re-engagement on a claim for remedies in cases of unreasonable and unlawful dismissal. In the process, we need to take into account the implications arising from a separate bill which, when enacted, can affect the operation of the reinstatement / re-engagement provisions. Stakeholders have expressed the wish to firm up the key features of the abovementioned draft amendment bill on reinstatement order only after that separate bill has

been finalised.

Employment statistics

6.17 Statistics on employment, unemployment and underemployment in the years 1987, 1992, 1997, 2002 and 2009 are at Annex 6B.

Importation of labour

6.18 Hong Kong has a liberal immigration regime towards the admission of talent and professionals. Talents and professionals from the Mainland of China or overseas can apply to work in Hong Kong under the Admission Scheme for Mainland Talents and Professionals or the General Employment Policy, provided that they are offered a job that cannot be readily taken up by the local workforce, and are remunerated at the prevailing market rate. Under the Quality Migrant Admission Scheme launched in June 2006, talented people from around the world can apply to settle in Hong Kong without first securing a local job offer. Starting from May 2008, non-local graduates of full-time locally-accredited programmes at degree or above levels can stay for one year in Hong Kong to take up employment freely. Those previously graduated in Hong Kong can also apply to return to Hong Kong to work, so long as their job is at a level commonly taken up by degree holders and is remunerated at the market rate.

6.19 As regards the Supplementary Labour Scheme, the position remains as mentioned in paragraph 6.18(b) of the previous report. As at 31 December 2009, some 1 500 imported workers were employed in Hong Kong under the Scheme.

Right to work: concerns about discrimination

6.20 The position with respect to discrimination on the grounds of race, sexual orientation and age is addressed in paragraphs 2.1 to 2.22 of this Report in respect of Article 2.

6.21 In respect of the alleged discrimination against women aged 30 or above in employment, the latest situation remains as explained in paragraph 6.21 of the previous report, i.e. such allegation is unfounded. Indeed, a large-scale household survey conducted from December 2008 to March 2009 did not indicate that there was discrimination against women on grounds of age in employment.

6.22 In 2009, of the 181 468 job seekers registered for Labour Department's employment services, 96 202 (53.0%) were female. Among these female job seekers, 46.6% were aged 30 or above. In the same period, 19 385 placements were secured through Labour Department's employment services. Of them, 10 753 were female job seekers, of whom 6 659 were aged 30 or over. The placement rates for female job seekers as a whole and for women aged 30 or over were respectively 11.2% and 14.9%. The respective rates for the corresponding groups of male job seekers were respectively 10.1% and 11.3%.

Article 7: Right to enjoy just and favourable conditions of work

Statutory Minimum Wage

7.1 In October 2006, the Government joined hands with employer and labour groups to launch the two-year Wage Protection Movement for Cleaning Workers and Security Guards (WPM) to provide wage protection to employees in these two sectors through voluntary and non-legislative means. While an overall review conducted in October 2008 indicated that the WPM had brought about a culture change, with the community acquiring a new understanding of wage protection and greater acceptance of corporate social responsibility, there were limitations in promoting wage protection through voluntary participation. Given the said limitations, the Government announced in October 2008 its decision to introduce statutory minimum wage (SMW). Since cleaning workers and security guards were not the only low income jobs and there was indeed worker mobility among different types of low-income jobs, the SMW would apply across the board.

7.2 The Government introduced the Minimum Wage Bill (into the LegCo in July 2009. In the course of drafting the Bill, we have undertaken an intensive and extensive engagement and consultation process with various stakeholders. We recognise that flexibility of wages and prices is crucial to Hong Kong's economic competitiveness and resilience to external shocks, given the high degree of external orientation of our economy and the linked exchange rate system. Nevertheless, safeguarding the interests of the vulnerable and enhancing social harmony are equally important social policy objectives. Therefore, the Minimum Wage Bill seeks to establish a SMW regime which would provide a wage floor to forestall excessively low wages but without unduly jeopardising our labour market flexibility, economic competitiveness and employment opportunities for the vulnerable workers.

7.3 We will adopt an evidence-based approach to setting and reviewing the SMW rate. Based on this approach, the Minimum Wage Commission, with members drawn from the labour sector, business community, academia and relevant Government bureaux/departments, will advise on the SMW rate by carrying out data research and analysis and

consulting stakeholders widely. A basket of various social, economic and employment factors that are relevant to, or affected by, the SMW level will be taken into account. We will also undertake an assessment of the possible displacement of disadvantaged workers and, in particular, supplement across-the-board surveys with those specifically designed to gauge the impact of the SMW on small and medium-sized establishments and the low-paying sectors which are likely to be more affected by wage fluctuations. The Minimum Wage Bill provides for the SMW at an hourly rate to help ensure that employees' pay would be commensurate with the duration that they are at work. Exclusion is provided for students who are undertaking internship in full-time locally-accredited programmes provided by specified education institutions and live-in domestic workers who dwell free of charge in the same dwelling as the employers (to be elaborated below in paragraphs 7.22 to 7.28). The Bill applies to employees with disabilities like their able-bodied counterparts, and provides a special arrangement for those with impaired productivity so as to minimise any possible adverse impact of SMW on their employment opportunities.

7.4 The LegCo has set up a Bills Committee to examine the Bill and eight meetings were held in 2009. In tandem with LegCo's scrutiny of the Bill, the Census and Statistics Department has conducted a new survey in the second quarter of 2009 to provide statistical data to support analysis related to the implementation of the SMW. The survey results were published on 18 March 2010. The data will also facilitate careful and objective deliberation by the Provisional Minimum Wage Commission, which is tasked mainly to advise the Government on the initial SMW rate by adopting an evidence-based approach through data research and analysis as well as extensive consultations with stakeholders. The Commission will acquire a statutory status upon the enactment of the SMW legislation.

7.5 Upon the passage of the Bill by the LegCo and enactment of subsidiary legislation on the initial SMW rate, and allowing some time for the public to gear up for implementation, the SMW will then take effect in Hong Kong.

7.6 Some commentators expressed concern that the Minimum Wage Bill was inconsistent with Article 7(a)(ii) of the Covenant in that it only prescribed a minimum wage instead of prescribing an SMW that would provide a decent living. The main object of the Bill is to provide for an hourly-rated minimum wage so as to forestall excessively low wages. The Bill further provides for the establishment of a Minimum Wage Commission tasked to make recommendation on the precise minimum hourly wage. As mentioned in paragraph 7.3 above, the Commission would adopt an evidence-based approach through data research and analysis as well as extensive consultations with stakeholders. The Bill stipulates that the Commission, in performing its functions, must strive to maintain an appropriate balance between the objectives of forestalling excessively low wages and minimising the loss of low-paid jobs, while sustaining Hong Kong's economic growth and competitiveness. Thus the Bill represents a major step taken by the Government to achieve the rights stipulated in Article 7, and the Bill is in conformity with the Covenant.

Employment protection: employees' rights and benefits

Protection under the Employment Ordinance (Cap. 57)

7.7 The position of various statutory benefits under the Employment Ordinance remains largely as explained in paragraphs 84, 87(c) and 87(d) of the initial report.

7.8 Since the amendment to the Employment Ordinance in July 2007, various statutory benefits under the Ordinance, including, inter alia, holiday pay, annual leave pay, maternity leave pay and sickness allowance, have been calculated on the basis of the employee's average wages in the preceding 12 months. By adopting a longer reference period of 12 months as the basis of calculation, the payment to employees can be more stable and predictable. The amendment has also made it clear that all components of wages as defined under the Ordinance, however designated or calculated, are to be included in the calculation of the relevant statutory benefits.

7.9 The protection provided by the Employment Ordinance regarding part-time workers and lay-offs remains as explained in paragraphs 113 and 114 of the initial report. Notwithstanding this, to cater for any possible development in the labour market in recent years, the Government is conducting a review of the definition of “continuous contract”² under the Employment Ordinance which comprises, inter alia, collection of relevant statistical data and information from employees and employers as well as consultation with relevant stakeholders. As “continuous contract” is the basis for determining an employee’s eligibility for certain statutory employment benefits under the Employment Ordinance, any amendment to this statutory definition may have far-reaching implications for the labour market and the community as a whole. Therefore, the Government will thoroughly consider the local circumstances in taking forward the review to ensure that a reasonable balance is struck between the interests of employers and employees.

7.10 To enhance wage protection for employees (including foreign domestic helpers(FDHs)), since March 2006, the maximum penalty for wage offences under the Employment Ordinance has been substantially raised from a fine of \$200,000 and imprisonment for one year to a fine of \$350,000 and imprisonment for three years.

7.11 In September 2002, the Labour Department established the “Employment Claims Investigation Unit” to conduct prompt and in-depth investigation into suspected breaches of the Employment Ordinance to facilitate early prosecution. Since then, the Labour Department has stepped up enforcement action on wage offences rigorously. In 2009, the number of convicted summonses on wage offences was 1 314, a substantial increase of 845% over 139 in 2002. The number of convicted summonses in respect of employers of FDHs who failed to pay wages or underpaid wages was 124 in 2009, compared with only one convicted summons in 2002.

² According to the Employment Ordinance, an employee engaged under a “continuous contract” is defined as one who has been employed under a contract of employment by the same employer for four weeks or more and has worked for 18 hours or more in each week.

7.12 Some commentators from the labour sector have expressed concerns over the problem of suspected false self-employment. The Government stresses that it is not the nomenclature (i.e. what the parties to an engagement call their relationship), but the substance, that matters. Even if an employer has engaged a person as a self-employed person, the employer still has to fulfil his obligations under the law where the relationship between the parties is in essence one of employer-employee. The employer will have to pay back statutory benefits retroactively to employees who are falsely labelled as “self-employed”. The employer may also have to bear the legal consequences for having committed an offence under the Employment Ordinance or the Employees’ Compensation Ordinance (Cap. 282).

7.13 In order to discourage employers from making use of self-employment contracts to evade their liabilities to grant employees’ rights and benefits, the Labour Department adopts a three-pronged approach to tackling the problem. This includes strengthening our promotional and publicity efforts to enhance the employers’ and employees’ awareness, targeting in particular employers of small and medium enterprises to enhance their awareness of the possible legal consequences of false self-employment. We will also provide a more user-friendly consultation and conciliation service to employees involved in disputes of false self-employment, and step up our enforcement action to safeguard employees’ statutory rights and benefits.

7.14 Employees who suspect that they are deprived of statutory rights and benefits by the employers under the pretext of self-employment may report their cases through the Labour Department’s complaint hotline or to branch offices of the Labour Relations Division. If it is found that an employer involved in suspected false self-employment fails to pay wages or statutory benefits to his employees, rigorous follow-up actions will be taken. Suspected breaches will be investigated and prosecution will be instituted against the offending employers if there is sufficient evidence.

7.15 The position of the Employment Ordinance and the Labour Department’s conciliation services remains as explained in paragraph 95 of the initial report.

7.16 Under the common law system in the HKSAR, given the different standards of proof in criminal and civil lawsuits, civil and criminal proceedings are separate and distinct. Employees may seek civil adjudication by the Labour Tribunal on employment claims against their employers. At the same time, if a suspected breach of the Employment Ordinance is detected, the Labour Department will take out criminal prosecution where there is sufficient evidence, irrespective of the progress of the employee's civil claims in the Labour Tribunal, if any. The Labour Department will continue to encourage employees to act as prosecution witnesses for employers' suspected breach of offences under the Employment Ordinance.

Imported workers and foreign domestic helpers

7.17 The Committee expressed concern in its previous Concluding Observations on the legal protection and benefits for foreign domestic workers. In this aspect, we emphasise that the Government attaches great importance to protecting the rights of all migrant workers (including imported workers and FDHs). In Hong Kong, FDHs enjoy the same rights and protection as local workers under the labour legislation. It grants equal statutory rights and benefits to migrant workers regardless of their race. In addition, the Government has long provided to migrant workers, especially FDHs, additional rights and benefits which are not usually enjoyed by local workers.

Same statutory protection to FDHs as local workers

7.18 Among others, the Employment Ordinance and the Employees' Compensation Ordinance, the two major pieces of labour legislation in Hong Kong, are applicable to both local and migrant workers. As such, FDHs enjoy the same and full labour rights and benefits as local workers, e.g. maternity protection, rest days, statutory holidays, annual leave, long service payment, and employees' compensation.

Additional contractual protection for FDHs not available to local workers

7.19 Apart from the statutory protection, FDHs in Hong Kong have long been protected by a Standard Employment Contract especially crafted for them. It is a mandatory contract for hiring FDHs. The Standard Employment Contract sets out the basic employment terms that the employers must provide to the FDHs, including a mandatory wage level not lower than the prevailing Minimum Allowable Wage (MAW) (please see paragraphs 7.20 to 7.21 below), provision of free accommodation with reasonable privacy, free food (or food allowance), free medical treatment and free return passage. These benefits are not usually available to local workers.

Minimum Allowable Wage for FDHs

7.20 The MAW for FDHs (currently set at \$3,580 per month and subject to regular reviews) has been in place since the early 1970s to safeguard the interest of FDHs.

7.21 Since the inception of the MAW, there have been 24 adjustments so far, among which, all but two were upward adjustments and five of them were increase of 20% or more each. In reviewing the MAW, the HKSAR Government adheres to a long-established mechanism, taking account of the prevailing general economic condition and employment situation in Hong Kong, as reflected through a basket of economic indicators.

Statutory Minimum Wage

7.22 In respect of the Minimum Wage Bill which provides an across-the-board SMW as detailed in paragraphs 7.1 to 7.5 above, having considered stakeholders' views and all the relevant circumstances, the Government proposes to exempt live-in domestic workers, local or foreign, from the SMW.

7.23 One of the major considerations is the distinctive working pattern of live-in domestic workers, i.e. residing in the employer's home and working and living in the same place, which renders calculating and

recording of working hours practically impossible, while the SMW is set on an hourly basis.

7.24 Some commentators were concerned that the proposed exemption would be inconsistent with Article 7(a)(i) of the Covenant. The proposed exemption does not render live-in domestic workers less protected than non-live-in workers, for their employment terms are distinctive, having in-kind benefits on top of wages. Hence, live-in domestic workers enjoy a higher level of disposable income compared with non-live-in workers. The exemption of live-in domestic workers reflects the justifiable difference, mainly involving different working patterns and provision of in-kind benefits arising from dwelling in the household of their employers free of charge, between these workers and other workers. Such in-kind benefits include provision of free accommodation and usually free food by the employers and savings from the transport cost.

7.25 For FDHs in particular, the Standard Employment Contract requires that, apart from free accommodation and free food (or food allowance), employers must provide free passage from and to the FDH's place of origin, free medical treatment, etc. Moreover, the MAW, while not statutory, has been mandatory since the 1970s, and has been proven effective in giving wage protection to FDHs. Wage offences against the MAW and the SMW (when enacted) are subject to the same penalty under the Employment Ordinance, i.e. a maximum fine of \$350,000 and imprisonment of three years.

7.26 Some commentators were concerned that the proposed exemption would constitute discrimination against imported workers. The exemption is based on whether the worker is a live-in domestic worker, not whether he/she is a migrant worker. There is no question of discrimination against migrant workers. In fact, other imported workers are covered by the SMW.

7.27 As aforementioned, migrant workers (including FDHs) and local workers enjoy the same employment rights and benefits under local labour legislation. Other legislation such as the Crimes Ordinance (Cap. 200) and the Offences Against the Person Ordinance (Cap. 212) also

apply to protect FDHs against violence. Regardless of their nationality, the FDHs are eligible to apply for the Legal Aid Scheme provided by the Government. FDHs seeking redress on labour disputes may apply for extension of stay.

7.28 To ensure that people who have reasonable grounds would have sufficient means to take or defend in proceedings, the Legal Aid Scheme is provided to those eligible applicants passing a means test and a merits test, regardless of whether or not they are Hong Kong residents, and regardless of their gender. The eligible applicant is provided with legal representation by a solicitor and, if necessary, a barrister in civil or criminal proceedings before the courts in Hong Kong. Legal aid is available, inter alia, to cases in the District Court, the Court of First Instance, the Court of Appeal and the Court of Final Appeal.

Enforcement of Employment Ordinance

7.29 If labour rights of a migrant worker are infringed, he/she may also approach the Labour Department for advice and assistance. Free conciliation services will be provided.

7.30 Alongside our conciliation and related services to assist FDHs to pursue their civil claims, the Labour Department takes rigorous enforcement action against offences, including wage offences under the Employment Ordinance. Prosecution action will be taken where there is sufficient evidence and where the aggrieved worker is willing to act as prosecution witness.

7.31 With enhanced enforcement by the Labour Department and greater success in persuading the FDHs to come forward as prosecution witnesses, the Labour Department secured 124 convicted summonses against FDH employers for wage offences in 2009. Among these wage offenders, it is noteworthy that one employer was sentenced to three-month imprisonment in 2009.

Promotion of labour rights

7.32 To reduce the incidence of inadvertent abuses out of ignorance, the Labour Department launches an abundance of promotional activities every year to raise the awareness of both the employers and FDHs. In 2009, the Labour Department staged a total of 12 exhibitions, in addition to seminars and information kiosks dedicated to this cause, with some held on public holidays at FDHs' favourite gathering places in order to reach out to the FDH community. The Government has also commissioned an NGO to distribute information kits, which included information on labour rights, to FDHs and other ethnic minorities upon their arrival at the airport, under the "Mobile Information Service" initiative.

7.33 In respect of alleged malpractices of the employment agencies, the Labour Department takes rigorous enforcement action against defiant employment agencies in Hong Kong, and takes out prosecution against them for charging FDHs excessive payment other than the prescribed commission (i.e. no more than 10% of the first month's salary upon successful placement) under the Employment Ordinance, where there is sufficient evidence and the victim is willing to testify in court. Like domestic laws of other places, Hong Kong's laws have no extra-territorial jurisdiction and we cannot regulate the employment agencies in the FDHs' places of origin. Nevertheless, we have repeatedly conveyed the concerns to the consulates general of the relevant countries in Hong Kong and appealed for their help to convey the same to their respective governments.

"Two-week rule"

7.34 The HKSAR Government attaches great importance to protection of workers, including migrant workers. The FDHs who are abused or exploited by their employers are encouraged to report to the relevant authorities, such as the Police, the Labour Department or the Immigration Department.

7.35 The “two-week rule” is necessary for maintaining effective immigration control. It helps to prevent frequent job-hopping and FDHs working illegally after premature termination of contracts. The policy does not preclude FDHs from working in Hong Kong again after returning to their places of origin. The cost of return flight is fully borne by the employer as stipulated under the Standard Employment Contract. Appropriate flexibility is allowed. Where the employer is unable to continue with the contract due to external transfer, migration, death or financial reasons, or where there is evidence that the FDHs have been abused or exploited, the Immigration Department may exercise discretion to permit the FDHs concerned to change employment without having to first return to their places of origin.

7.36 As regards the retirement benefits and protection of FDHs, our position is set out in paragraph 9.32 below.

Employment protection for women

7.37 In its previous Concluding Observations, the Committee has expressed concern over the wage disparity between men and women. It requested that the HKSAR provide, in its next periodic report, the results of the study of the EOC in this regard and the measures to follow up the findings of the study.

7.38 As explained in paragraph 81 of the initial report, the SDO renders discrimination on the grounds of sex, marital status or pregnancy unlawful in specified areas of activity including employment. In addition, the Family Status Discrimination Ordinance (FSDO) (Cap. 527), enacted in June 1997 and came into operation in November of the same year, renders it unlawful to discriminate against a person, including a woman, who has family status in specified areas of activity similar to those covered under the SDO. The FSDO provides protection to those who have responsibility for the care of an immediate family member.

7.39 The EOC has drawn up two sets of Code of Practice on Employment to provide practical guidance in facilitating compliance with the SDO and the FSDO by the public (including both employers and employees). Failure on the part of a person to observe any of the

provisions contained in the relevant Code does not automatically render him or her liable to any proceedings. However, if a person is accused of discrimination, sexual harassment or victimisation under the SDO or discrimination under the FSDO, the Code of Practice shall be admissible as evidence in a court of law.

7.40 As explained in the previous report, the Government considers that the question of equal pay for work of equal value (EPEV) is addressed under the SDO. Furthermore, the Code of Practice under the SDO specifically mentions that sex discrimination in pay may occur because women and men tend to be segregated into different jobs, and employers should maintain the principle of equal pay for equal work and are encouraged to consider progressive implementation of equal pay for equal value.

Study of the Equal Opportunities Commission on Equal Pay for Work of Equal Value

7.41 Further to paragraphs 7.7 and 7.8 of the previous report, the EOC considers that in view of the fact that there was no evidence of EPEV discrimination in respect of the jobs examined in the study it had commissioned, and taking into account the complexity of the issue, introducing new legislation on EPEV was not opportune for the time being. Instead, the EOC will promote and implement the principle of EPEV by continuing its regulatory roles through its complaint handling mechanism, addressing unequal pay for equal work through, if the situation so warrants, the self-initiated investigation mechanism, organising public education programmes and reviewing the Code of Practice on Employment under the SDO.

7.42 The EOC sees that a systematic and free of sex bias approach to pay determination is more advisable in the given context, taking into account the market forces and valid factors affecting individuals' pay such as performance, competencies and seniority.

7.43 To this effect, the EOC has undertaken studies on the issue of EPEV in Hong Kong, following which public education initiatives were undertaken to promote the concept of EPEV. In 2008-09, the EOC

published, for reference by employers and the general public, a set of guidebooks on EPEV, namely the Main Guide “Guide to Employers on Equal Pay between Men and Women under the SDO”, “An Illustration on Developing an Analytical Job Evaluation System Free of Sex Bias”, “An Equal Pay Self-audit Kit: A Proactive Approach for Employers to Achieve Equal Pay”, and “An Easy Read Guide”. These guidebooks provide practical guidance to employers on ensuring that their pay practices are free of sex bias. Following the publication of the guidebooks, EOC organised workshops and seminars to further promote EPEV. Both the publications and workshops were well received.

Safe and healthy working conditions

7.44 The Labour Department’s Occupational Safety Officers continue to be responsible for ensuring the safety and health of employees in factories, construction sites and other workplaces, through a multi-pronged approach of legislation and enforcement, training and education, promotion and publicity.

7.45 To help employees reconcile professional, family and personal life, the Labour Department has been encouraging employers to adopt family-friendly employment practices with a view to assisting employees to balance their work and family responsibilities. Channels to promote the theme include industry-based tripartite committees³ which comprise representatives of the Government, employers and employees or their respective organisations, Human Resources Managers Clubs formed in various trades, as well as promotional activities such as seminars, roving exhibitions at different locations, newspaper supplements and a booklet on real-life cases.

³ The Labour Department has set up nine industry-based tripartite committees, covering catering, property management, retail, construction, hotel and tourism, logistics, printing, cement and concrete as well as theatre industries. Through the meetings of these committees, the Department has provided a useful forum for representatives of labour unions, employers and their associations to discuss labour relations issues and general matters within the industry of mutual concern, and to seek means of addressing these issues.

Prevention of accidents and diseases in the workplace: legal protections

7.46 The Construction Sites (Safety) Regulations (Cap. 59I) and related safety legislation controlling the use of construction machineries were amended in 2003 to extend the duties imposed on the principal contractor to ensure a safe and healthy working environment, and to provide safe machinery for workers on site to other contractors and sub-contractors who have direct control over the construction work or machinery.

7.47 The Factories and Industrial Undertakings (Gas Welding and Flame Cutting) Regulation (Cap. 59AI) was brought into operation in 2003 to require proprietors to ensure that workers engaged in gas welding and flame cutting work have received recognised safety training and are in possession of valid certificates. The Occupational Safety and Health (Display Screen Equipment) Regulation (Cap. 509B) was also brought into operation in 2003 to protect the safety and health of employees who use display screen equipment at work for prolonged periods of time.

7.48 As regards developments in employees' compensation, the Pneumoconiosis (Compensation) Ordinance (Cap. 360) and the Occupation Deafness (Compensation) Ordinance (Cap. 469) have been amended to enhance compensation for persons suffering from mesothelioma and occupational deafness. Details of the amendments are set out in paragraphs 9.29 to 9.31 below.

7.49 Between 2000 and 2009, the number of confirmed cases of occupational diseases had dropped substantially from 504 to 268. Relevant figures are set out at the Annex 7A. Otherwise, the position remains as explained in paragraphs 7.3 and 7.4 of the previous report.

Article 8: Right to trade union membership

Trade Unions Ordinance (Cap. 332)

8.1 The position remains as explained in paragraphs 120 to 126 of the initial report.

Legislative protection against anti-union discrimination under the Employment Ordinance

8.2 The position remains as explained in paragraphs 128 and 129 of the initial report. Notwithstanding this, as mentioned in paragraph 6.16 above, to enhance employees' protection against dismissal for exercising their rights in respect of trade union membership and activities within 12 months immediately before such dismissal, the HKSAR Government is, in consultation with relevant stakeholders, working on a draft amendment bill to remove an employer's consent as the prerequisite to an order for reinstatement or re-engagement in cases of such dismissal.

Number and membership of trade unions

8.3 As at 31 December 2008, the number and declared membership of employees' unions in Hong Kong were –

Economic sector	2008	
	<i>No. of unions</i>	<i>Declared membership</i>
Agriculture and fishing	1	7
Manufacturing	83	60 768
Electricity, gas and water	4	2 015
Construction	36	28 414
Wholesale, Retail and Import/Export Trades, Restaurants and Hotels	56	59 556
Transport, Storage and Communications	117	120 005
Financing, Insurance, Real Estate and Business Services	35	68 896

Economic sector	2008	
	<i>No. of unions</i>	<i>Declared membership</i>
Community, Social and Personal Services	420	369 292
Total	752	708 953
Union participation rate in terms of salaried employees and wage earners		21.51%

Promotion of effective communication, consultation and voluntary negotiation between employers and employees

8.4 The Labour Department has been promoting voluntary and direct negotiation between employers and employees at both the enterprise and industry levels.

8.5 As elaborated in paragraph 8.12(a) of the previous report, at the enterprise level, employers are encouraged to maintain effective communication with their employees, consult them on employment matters and adopt good people management practices. At the industry level, nine industry-based tripartite committees have been set up to promote communication and cooperation among representatives of employees, employers and the Government. These tripartite committees meet regularly and conduct discussion on labour issues of mutual concern and promulgate industry-specific good people management practices through meetings and publication of booklets, etc. A variety of reference guides on employment issues were produced for catering, construction, printing and property management industries. Matters related to measures to help the industries on matters such as the outbreak of Severe Acute Respiratory Syndrome (SARS), Qualifications Framework promulgated by the Government and legislating for minimum wage and anti-racial discrimination are examples of issues deliberated.

8.6 The Labour Department also organises various seminars and talks for employers and employees and human resources professionals to promote effective labour management communication and related good people management practices. For instance, a large-scale seminar on good people management was co-organised by the Labour Department

and the Labour Advisory Board in June 2005. To promote partnership and dialogue between employers and employees, International Labour Organisation experts were invited to conduct a Workshop on Labour-Management Cooperation for tripartite committee members in March 2006. Tripartite committee members also participated in a number of large-scale seminars on various good people management themes such as tripartite cooperation, workplace cooperation, effective communication, employer-employee collaboration and family-friendly employment practices.

8.7 Some commentators considered that collective bargaining power by a trade union should be promoted with a view to furthering the development of trade union. We would like to emphasise that the Government is fully committed to the promotion of voluntary and direct bipartite negotiation between employers and employees or their respective organisations. The Labour Department has been continuously mounting a wide range of promotional activities at the enterprise and industry levels to create an environment and atmosphere conducive to voluntary and direct negotiation. For instance, a large-scale seminar was organised in September 2009 to promote employer-employee collaboration and effective communication.

The right to strike

8.8 As stated in paragraphs 6.6 and 8.5 of the previous report, the Employment Ordinance was amended in 2000 to clarify that the taking part by an employee in a strike is not a lawful ground of termination under section 9 of the Ordinance.

8.9 Article 27 of the Basic Law guarantees the right to strike. Article 27 of the Basic Law provides:

“Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike.”

Article 9 : Right to social security

An overview of the social security system in Hong Kong

9.1 The Comprehensive Social Security Assistance (CSSA) Scheme and the Social Security Allowance (SSA) Scheme continue to be the mainstay of Hong Kong's social security system. As explained in paragraph 134 of the initial report, both Schemes are non-contributory. The CSSA Scheme is means-tested and is designed to provide financial support to families in need to meet their basic needs. The SSA Scheme is largely non-means-tested and aims to help persons with severe disabilities and elders meet their special needs through the Disability Allowance and Old Age Allowance respectively. A person can receive assistance under the CSSA Scheme or one of the allowances under the SSA Scheme.

9.2 The standard payment rates under the CSSA Scheme and rates of allowances under the SSA Scheme are adjusted annually to maintain their buying power, in accordance with the movement of the Social Security Assistance Index of Prices (SSAIP). The SSAIP measures price changes in goods and services consumed by CSSA households. It is compiled by the Census and Statistics Department of the Government, and its weighting system (i.e. the relative expenditure shares of individual items of goods and services covered by the index) is updated every five years by the SWD on the basis of the findings of the Household Expenditure Survey (HES) on CSSA households. The survey collects information on the expenditure on all commodities and services consumed by CSSA households. All local CSSA households with at least one eligible member receiving the standard rate are covered in the survey. As at the time of drafting this Report, the SWD was conducting a new round of the HES on CSSA households for completion in September 2010.

9.3 An applicant for social security benefits under the CSSA and SSA Schemes must have been a Hong Kong resident for at least seven years and have resided in Hong Kong continuously for at least one year immediately before the date of application. Some commentators urged for the removal of the seven-year residence requirement from the eligibility criteria for the CSSA. We consider that this requirement provides a rational basis on which our public resources are allocated, helps sustain a

non-contributory social security system with increasing demand, and strikes a balance between the interests of various sectors of the community. Specifically, the seven-year residence requirement aims to encourage new arrivals who can work to be self-reliant rather than relying on welfare assistance. It underlines the need for potential immigrants to plan carefully and ensure that they have sufficient means to be self-supporting before settling in Hong Kong.

9.4. Some commentators were concerned that despite the adjustments based on SSAIP and HES findings, there was no timetable to review the basic standard of living for the welfare recipients since mid-1990s. On this, we would like to emphasise that the established rate adjustment mechanism in paragraph 9.2 above already ensures that the purchasing power of CSSA payments is maintained, and has been effective in serving this purpose all along. In fact, the average CSSA monthly payment of CSSA households is higher than the average monthly income of non-CSSA households in the lowest 20% income group in general. It is also higher than the average monthly expenditure of non-CSSA households in the lowest 25% expenditure group. These statistics suggest that the CSSA Scheme does provide a reasonable safety net for people in need.

Government expenditure on social security

9.5 In 2008-09, recurrent expenditure of the Government on social security was \$23.2 billion, equivalent to 10.8% of total recurrent Government expenditure and 1.4% of the Gross Domestic Product (GDP) for the year. By way of comparison, the corresponding figures 10 years ago for 1998-99 were \$17.9 billion, 10.4% of the total recurrent Government expenditure and 1.4% of the GDP, while the corresponding figures in the previous report, for 2001-02, were \$19.8 billion, 10% of total recurrent Government expenditure and 1.6% of the GDP.

9.6 In 2009-10, the Government would spend an estimated total of \$27.2 billion on social security - equivalent to about 11.9% of total estimated recurrent Government expenditure.

The Comprehensive Social Security Assistance Scheme

9.7 The CSSA Scheme remains our safety net for individuals and families who cannot support themselves financially for reasons such as old age, illness, disability, single parenthood, unemployment and low earnings. As at the end of December 2009, about 289 000 households (482 000 persons) were receiving assistance under the Scheme. In 2008-09, CSSA payments averaged \$3,623 a month for single persons and \$9,244 for families of four: respectively 35.2% and 89.8% of the median wage.

Eligibility criteria

9.8 As explained above, the CSSA Scheme is means-tested, and applicants for the CSSA must have been a Hong Kong resident for at least seven years and have resided in Hong Kong continuously for at least one year immediately before the date of application. We note the Committee has urged the Government to review the eligibility criteria to ensure that those in need are able to enjoy a decent standard of living. There will inevitably be persons who fail to meet the CSSA eligibility criteria for one reason or another, but we believe that the current eligibility criteria strike a balance between helping the needy and ensuring prudent and effective use of public money. This is important for maintaining the sustainability of a social security scheme which is non-contributory, has no quota, and is funded entirely out of the Government's general revenue.

9.9 The system, however, provides for certain exemptions and discretion such that in genuinely deserving or exceptional circumstances, the safety net can be extended to cover people in need. The special arrangement for new arrivals who cannot meet the residence requirements is a case in point. Apart from exempting those applicants for the CSSA aged below 18 from the residence requirements, in exceptional circumstance the Director of Social Welfare can exercise discretion to grant the CSSA to an adult who does not meet the residence requirements. Between 1 January 2004 and 31 December 2009, discretion was exercised for 6 780 CSSA applications in which the applicants did not meet the seven-year residence requirement. As at the end of December 2009, there were 24 925 CSSA recipients (including those in the 6 780 households

mentioned above and still on the CSSA) who were new arrivals having lived in Hong Kong for less than seven years.

9.10 In determining whether discretion should be exercised to waive the seven-year residence requirement, the Director of Social Welfare will take into account all relevant factors of the case to establish whether there is genuine hardship. Each case is considered on its own merits. The main factors that will be taken into consideration include the applicant's means of livelihood after arrival, the cause of his/her present hardship, resources and other assistance available to him/her, and the possibility of his/her returning to his/her place of origin.

9.11 Where an applicant not meeting the seven-year residence requirement works and is earning a monthly income of not less than \$1,630 to support his family members, discretion would normally be exercised in consideration of his efforts to become self-supporting. However, if the applicant is available for full-time work but is working less than 120 hours a month, he is required to join the Support for Self-reliance (SFS) Scheme (please refer to the ensuing section) as a condition of receiving assistance.

From welfare to self-reliance

9.12 As at the end of December 2009, there were 33 279 unemployed CSSA cases, accounting for near 12% of all households on the CSSA, which was similar to the situation 10 years ago.

9.13 As explained in paragraph 9.7 of the previous report, we introduced in June 1999 a package of policy measures to promote self-reliance. This included the SFS Scheme, which was designed to encourage and help unemployed able-bodied CSSA recipients return to work. Other new measures include strengthened controls to prevent fraud and abuse, and rationalisation of benefit levels for larger households to take account of economies of scale. These measures were taken in response to public concern about the rapid growth in the CSSA caseload and expenditure and the need to guard against the emergence of a dependency culture.

9.14 The SFS Scheme was enhanced in June 2003 to strengthen the welfare to self-reliance arrangements. Other than improvements to the Active Employment Assistance Programme and the Community Work Programme set out in paragraph 9.9 of the previous report, improvements to the disregarded earnings arrangement were implemented by the SWD in June 2003 with a view to providing more financial incentive to encourage CSSA recipients to seek and maintain in employment. The maximum level of the disregarded earnings was raised from \$1,805 to \$2,500 a month, and the no-deduction limit was raised from the first \$451 to the first \$600 of income for all categories of recipients in cases which had been on CSSA for at least three months. The eligibility criteria and amounts of the disregarded earnings had been further revised since December 2007, when we relaxed the eligibility criterion for the disregarded earnings from being on CSSA for not less than three months to two months, and raised the no-deduction limit of the monthly disregarded earnings further to the first \$800 of income. The maximum monthly disregarded earnings is \$2,500 at present.

9.15 The Special Training and Enhancement Programme was launched in 2006 to provide long-term CSSA able-bodied unemployed youth with employment assistance services that incorporated elements of structured motivational or disciplinary training. The objective is to help the participating youth enhance their self-image and self-confidence, and move towards self-reliance through taking up employment or returning to mainstream schooling. The SWD has implemented the new phase of the Programme since October 2009 to provide at least 700 unemployed CSSA recipients aged 15 to 29 with employment assistance services. Up to the end of December 2009, 1 007 young CSSA recipients had participated in the Programme. Among these participants, 406 (40.3%) had secured employment or returned to mainstream schooling for at least one month; and 335 (33.3%) had secured employment or returned to mainstream schooling for at least three months, of which 79 (37.8%) participants had left the CSSA net.

9.16 Single parents and child carers on the CSSA whose youngest child is aged between 12 and 14 are assisted to move towards self-reliance by engagement in paid employment under the New Dawn Project implemented since 2006 which replaced the Ending Exclusion Project in

paragraph 9.11 of the previous report. Project participants are assisted by NGOs commissioned by the SWD to actively seek paid employment of not less than 32 working hours per month. Up to the end of December 2009, a total of 18 698 CSSA recipients had participated in the New Dawn Project.

Views on the coverage of social security

9.17 Some commentators expressed concern that no Internet subsidy nor subsidies for learning related expenses were provided to the welfare recipients or children from low-income families, and that some students are not able to afford extra-curricular activities such as learning to play an instrument.

9.18 In this digital age, web-based learning and research on the Internet have become an integral part of education. To narrow the digital divide, the Government has proposed that convenient and suitable Internet learning opportunities be provided for students in need through tripartite collaboration between the community, the business sector and the Government. Specifically, the Government will adopt a two-pronged approach to help the primary or secondary schools students from low-income families with Internet learning, which includes granting them a subsidy for Internet access charges and encouraging the market to provide these families with economical Internet services. The subsidy is expected to be disbursed to the eligible families (including the eligible CSSA families) in the 2010-11 school year. To offer an affordable option to students and families receiving the subsidies, the Government will engage a non-profit making organisation to collaborate with Internet service providers and community organisations to provide the needy students and families with economical Internet access services and suitable computers that meet learning needs. This will bring market forces into play and make the policy more cost-effective. The organisation will also provide complementary services such as parent education and technical support.

9.19 The proposed Internet subsidy scheme above, together with other student financial assistance schemes such as the School Textbook Assistance Scheme, Student Travel Subsidy Scheme and Examination Fee Remission Scheme, already cover most of the learning-related expense

items of primary and secondary students and provide the needy students with suitable assistance.

9.20 Furthermore, to tie in with the Government's policy on poverty alleviation, the School-based After-school Learning and Support Programme has been implemented since 2005-06 to enable NGOs as well as primary and secondary schools in the public sector and under the Direct Subsidy Scheme to organise after-school activities for the disadvantaged students. Starting from 2010-11, the annual provision for the Programme will be increased from \$75 million to \$175 million. The increase in funding aims at further strengthening schools' and community's after-school support to the disadvantaged students, increasing their opportunities in joining school-based and community-based learning activities to increase their learning effectiveness, broadening their learning experiences outside the classroom as well as raising their understanding of the community and sense of belonging so as to facilitate students' whole-person and all-round development. The Programme includes a wide spectrum of activities such as tutorial service, cultural and art activities, sports, leadership training, voluntary service and visits.

The Social Security Allowance Scheme

9.21 The main features of the SSA Scheme remain essentially as explained in paragraphs 156 to 160 of the initial report. As at the end of December 2009, some 624 000 persons were receiving allowances under the SSA Scheme, of whom about 495 000 persons were receiving the Old Age Allowance at a rate of \$1,000 applicable since January 2009, and the other about 129 000 persons were receiving the Disability Allowance at a rate of \$1,280 (Normal Disability Allowance) or \$2,560 (Higher Disability Allowance). The above rate for Old Age Allowance was 60% and 42% higher than the previous rates of \$625 for recipients aged below 70 and \$705 for recipients aged 70 or above respectively.

Protection of wage payment and statutory rights and benefits

9.22 The position regarding entitlement to sickness days and sickness allowance under the Employment Ordinance remains largely as explained in paragraphs 162 to 164 of the initial report and paragraph 9.17 of the previous report.

9.23 With effect from December 2006, in addition to those medical certificates issued by a registered medical practitioner or a registered dentist which are already recognised for entitlement to sickness allowance, an employee who produces a medical certificate issued by a registered Chinese medicine practitioner will also be entitled to sickness allowance, subject to his/her fulfillment of relevant eligibility criteria under the Employment Ordinance.

9.24 Effective from July 2007, sickness allowance has been calculated on the basis of four-fifths of the employee's average wages in the preceding 12 months. By adopting a longer reference period of 12 months as the basis of calculation, the payment to employees can be more stable and predictable. The amendment has also made it clear that all components of wages as defined under the Employment Ordinance, however designated or calculated, are to be included in the calculation of the relevant statutory benefits.

9.25 The position of entitlement to long service payment under the Employment Ordinance remains largely as explained in paragraphs 165 to 167 of the initial report.

9.26 Since December 2006, an employee's right to long service payment has been enhanced with the recognition of the certificate issued by a registered Chinese medicine practitioner (in addition to that issued by a registered medical practitioner which is already recognised under the Employment Ordinance) on the employee's permanent unfitness for the present job.

9.27 Regarding the protection of wage payments, the position is as explained in paragraphs 7.10 and 7.11 of this Report.

Employees' compensation

9.28 The general position remains as explained in paragraphs 172 to 177 of the initial report. Since the previous report, amendments have been made to the Employees' Compensation Ordinance to enhance the protection for employees. Improvements made to the Employees' Compensation Ordinance were set out at Annex 9A.

Compensation for pneumoconiosis and mesothelioma

9.29 As mentioned in paragraph 7.48 above, the Pneumoconiosis (Compensation) Ordinance has been extended to cover persons suffering from cancerous mesothelioma. Eligible persons suffering from mesothelioma are provided with the same compensation and benefits as those catered for the pneumoconiotics. Accordingly, the Ordinance has been re-titled as the Pneumoconiosis and Mesothelioma (Compensation) Ordinance. Benefits provided by the Ordinance are set out in Annex 9B.

Compensation for occupational deafness

9.30 Since the previous report, two amendment bills to the Occupational Deafness (Compensation) Ordinance were passed by the LegCo, namely the Occupational Deafness (Compensation) (Amendment) Ordinance 2003 and the Occupational Deafness (Compensation) (Amendment) Ordinance 2010. Both amendment ordinances sought to, *inter alia*, improve the employee compensation benefits provided under the Occupational Deafness (Compensation) Ordinance.

9.31 Details of the improvements under the 2003 amendment ordinance are at Annex 9C while those under the 2010 amendment ordinance are at Annex 9D.

Retirement benefits and protection

9.32 The position regarding retirement benefits and protection largely remains as explained in paragraphs 9.23 to 9.26 of the previous report. The Committee and some commentators recommended that various groups, including women who are homemakers, persons with

disabilities, elders, the unemployed and domestic helpers should acquire pension rights through their inclusion in the Mandatory Provident Fund (MPF). As explained in the previous report, the MPF system, which is an employment-based retirement protection system, reflects the consensus of society after prolonged public discussion and detailed deliberation by the legislature. The MPF is just one of three pillars of Hong Kong's retirement protection system. Together with the non-contributory social security system (which comprises the CSSA Scheme and the SSA Scheme) and voluntary private savings, Hong Kong has adopted the three-pillar model for retirement protection.

9.33 The Government is studying the sustainability of the three pillars, and we will consider the findings of the study and other pertinent factors before deciding on the future course of action. Important factors to be considered will include safeguarding traditional family values, maintaining the overall economic competitiveness and simple tax system of Hong Kong, and ensuring the sustainable development of the existing social security system.

Article 10: Protection of the family

The family

Definition and situation in the HKSAR

10.1 The position, including the definition of the term “family”, remains as explained in paragraphs 198 and 199 of the initial report.

10.2 The 2006 Hong Kong Population By-census indicates that the percentage of unextended nuclear family households has increased from 66.2% in 2001 (according to the 2001 Population Census) to 67.0% in 2006. However, the average number of persons in those families has decreased from 3.4 to 3.3 over the same period. The updated position of paragraph 10.5 of the previous report on single parent families is as follows:

Year	Single mothers	Single fathers	Total
2006 [*]	57 613 (79.7%)	14 713 (20.3%)	72 326 (100%)
2001 ^{**}	45 072 (77.1%)	13 388 (22.9%)	58 460 (100%)
1996 [*]	30 402 (71.9%)	11 907 (28.1%)	42 309 (100%)
1991 ^{**}	23 059 (66.8%)	11 479 (33.2%)	34 538 (100%)

* By-Census

** Population Census

10.3 The percentage of single parents in paid employment increased slightly from 57% in 2001 to 58% in 2006. Closely related to this is the rising divorce rate, with the number of divorce petitions⁴ increasing from the 14 482 advised in paragraph 203 of the initial report to 15 380 in 2001 and further to 18 172 in 2006. The reasons for this continuing trend remain as explained in paragraph 203 of the initial report.

10.4 The definition of the child under the laws of the HKSAR was discussed in Chapter II of Part II of the second report of HKSAR under the Convention on the Rights of the Child (CRC), in respect of Article 1 of the Convention.

⁴ Including joint applications

Family Council

10.5 The Family Council is chaired by the Chief Secretary for Administration, and comprises four Government officials, namely Secretary for Education, Secretary for Home Affairs, Secretary for Labour and Welfare, and Head of the Central Policy Unit, and members from various sectors. While services to support families are financed and delivered by different relevant service providers and delivery agents, the Family Council, an advisory body to the Government set up in December 2007, provides a high-level platform for discussion of major issues from the family perspective and strategic directions and priorities on family-related policies.

10.6 The Family Council recognises that family is the cornerstone for social harmony. Towards this end, the Family Council has identified the following as the family core values and as the key elements to a healthy and happy family life – Love and Care; Respect and Responsibility; and Communication and Harmony. It has also discussed ways to achieve a pro-family environment. The Family Council will launch a territory-wide “Happy Family Campaign” to appeal to the public to build families that Hong Kong people treasure. Furthermore, we will liaise with the relevant stakeholders in setting up a multi-sectoral and cross-disciplinary “Happy Family Info Hub”, and build an e-platform collating family-related reference and educational materials, as well as disseminating information on family related activities, promoting family core values, and introducing family education and support services.

10.7 Some commentators considered that the Family Council focuses on publicity but lacks strategies and plans in consolidating various Government policies relating to family. The Family Council encourages the community to attach importance to the family, and to foster a culture of loving and happy families. While the Family Council would advise the Government on policies and strategies for supporting and strengthening the family, the related programmes and activities across different bureaux and departments would be implemented by the relevant bureaux/departments. In addition, the Happy Family Info Hub would provide an e-platform to collate useful information for the family and to facilitate sharing of family-related information and family core values,

which could serve as a useful tool and a focal point for exchanging views about the family issues.

Establishment of a Children's Commission

10.8 Some commentators considered that a Children's Commission or Child Ombudsman should be established to monitor the policy and legislation related to children's rights and the family. There are also calls for mandatory child impact assessment for legislation and policies.

10.9 As we explained in Chapter I of Part II of the second report of the HKSAR under the CRC, matters concerning children cover a wide range of policies. They are taken care of by the respective policy bureaux of the HKSAR Government. There are mechanisms within the Government which adequately serve the need of coordinating policies and measures among Government bureaux and departments, ensuring that adequate consideration is given to the interests of children.

10.10 In addition, as explained in paragraph 2.52 of this Report on Article 2 of the Covenant, we consider that an extensive mechanism for the protection of human rights in Hong Kong is already in place, and therefore remain of the view that an additional independent monitoring mechanism is not necessary.

Welfare services for families

Integrated family service centres

10.11 Before 2004, the first point of call for families which need help and advice was the family services centre. In paragraph 10.33 of the previous report, we reported that we were trial running a new integrated service model for our family services and were running 15 integrated family service centres (IFSCs) on a pilot basis. In 2004, noting that the new service model could meet service demands more effectively, the SWD started to consolidate all family services centres and other family service units to form the IFSCs by phases. The integrated family service model is considered an effective service delivery model which can provide services

to users in a holistic, convenient and easily accessible way.

10.12 As at 31 December 2009, there was an extensive network of 61 IFSCs in Hong Kong providing a continuum of preventive, supportive and remedial family services, including family life education, parent-child activities, enquiry service, outreach service, mutual support groups, counselling and referral service, for children or families in need. Manpower resources provided to the IFSCs have increased considerably after the restructuring, with the total number of frontline social workers rising from 896 in 2004-05 to 1 017 in 2009-10. The number of centre-in-charges/supervisors has also increased from 62 to 91 during the same period. The total number of frontline social workers and centre-in-charges/supervisors has increased by 15%.

Hotline services

10.13 Further to paragraph 10.34 of the previous report which mentioned that the SWD operated hotline service to facilitate access to welfare services, the SWD enhanced its hotline service in October 2008 through commissioning an NGO to operate the hotline and an outreaching service team after the SWD's office hour, such that the hotline can be operated on a 24-hour basis and after-office-hour outreaching service can be provided for needy cases. The enhancement facilitates early identification and hence prevention of family problems.

10.14 Since the global financial tsunami may affect some people's emotions and family relationships, the SWD allocated additional resources in October 2008 to two NGOs to subsidise them to set up the Financial Crisis Emotional Support Hotline. The hotlines are manned by registered social workers on a 24-hour basis. Social workers also provide face-to-face counselling services to individuals seeking assistance and organise support groups with a view to strengthening their skills in coping with stress and assisting them in facing their problems in a positive way. Where necessary, cases will be referred to the appropriate welfare services for follow-up.

Child Care Services

10.15 While it is the primary responsibility of parents to take care of their children, the Government understands that some parents may not be able to do so at times due to work and other reasons. Therefore, we continue to fund NGOs to provide various kinds of child care services to parents in need. We have enhanced/re-engineered our child care services in recent years to better meet the service demands. Key measures are as follows:

- (a) **standalone child care centre and kindergartens-cum-child care centre:** In the past, child care centres and kindergartens provided similar nursery and care services to the same target group of service users. For more effective use of resources, their services were harmonised and their target users were re-delineated in 2005. Standalone child care centres supervised by the SWD have been redefined as day care services for children under the age of three, whereas kindergarten-cum-child care centres which are administered by the EDB are for children aged below six. A Joint Office for Pre-primary Services staffed by both the EDB and the SWD was set up under the EDB to provide one-stop services to kindergarten-cum-child care centres. Occasional child care service (for parents who cannot take care of their children occasionally) and extended hour child care services (for parents who need day care services outside normal operating hours) continue to be available at some of these centres;
- (b) **New child care services:** New child care services which are flexible in operation mode and hours have been launched over the past few years to better meet the service demand. The new services include:
 - **Mutual Help Child Care Centres (MHCCCs):** The MHCCC service (mentioned in paragraph 10.31 of the previous report) is run by social welfare agencies, church bodies and women's associations. Since

January 2008, we have subsidised the MHCCCs to strengthen their operation in the evenings, at weekends and on holidays;

- **Day Small Group Home Service and Day Foster Care Service:** Previously, small group homes and foster care families only provided residential care services for children. In 2007, the SWD enhanced these two kinds of services. Their service hours are longer and more flexible (say, up to 10 p.m. in the evening) compared with other regular services; and
- **Neighbourhood Support Child Care Project (NSCCP):** In October 2008, the SWD launched the NSCCP on a pilot basis for three years. The project has two service components: (i) home-based child care service for children aged under six, and (ii) centre-based care group for children aged three to under six. Carers in the neighbourhood are hired and trained to take care of children at centres run by the service operators (centre-based care group) or at the carers' homes (home-based child care service). The operating hours of the two services under the NSCCP cover the evenings, some weekends and some public holidays.

10.16 Apart from the above, the various kinds of residential child care services (foster care, small group homes, residential nurseries/crèches, and residential homes) as mentioned in paragraph 10.35 of the previous report continue to operate. The number of foster care places, which was 600 in 1997-98 and 730 in 2003-04 as reported in the previous report, has increased to 970 in 2009-10. There were a total of 3 532 residential care places in December 2009, compared with 3 355 in April 2003 as reported in the previous report.

10.17 The updated figures relating to our family and child care services in paragraphs 10.32 and 10.36 of the previous report are provided as follows:

	Provision in 1997-98	Provision in 2002-03	Provision in 2009 - 10
Government and aided day nursery places	25 941 places	29 314 places	See Note (1)
Aided day crèche places	1 479 places	1 113 places	
Occasional child care units (three places per unit)	230 units (690 places)	243 units (729 places)	217 units (494 places) See Note (2)
Extended hours child care units (14 places per unit)	5 units (70 places)	115 units (1 610 places)	105 units (1 230 places) See Note (2)
Family aide workers	52 workers	44 workers	44 workers

Notes:

- (1) Following the harmonisation of child care services in 2005, Government and aided day nurseries and aided day crèche were transferred into standalone child care centres and kindergarten-cum-child care centres. In 2009-10, standalone child care centres and kindergarten-cum-child care centres provide 690 and 80 517 places respectively.
- (2) The number of occasional child care and extended hours child care service places have reduced over the past few years due to the declining service demand. The average utilisation of the two services during the period from April to December 2009 was only 49% and 74% respectively. To meet the demand of parents for flexible and occasional child care services, the SWD has introduced a number of new child care services which are flexible in both operation mode and hours over the past few years. Please refer to paragraph 10.15(b) above for details.

	Provision in 1997-98	Provision in 2002-03	Provision in 2009-10
Family caseworker	706	744	1 017 (social workers in IFSCs)
Family and child protective workers	29	105	168
Clinical psychologists	59	69	78
School social workers	286	466	484
Medical social workers	372	361	386
Foster care places	600	670	970
Small group home places	113	119	108

After School Care Programme

10.18 The After School Care Programme (ASCP) (mentioned in paragraphs 10.40 and 10.41 of the previous report) provides half-day care services for children aged 6 to 12 whose parents cannot take care of them outside school hours. The Programme is operated on a self-financing and fee charging basis by NGOs. Services provided under the programme include homework guidance, meal service, parent guidance and education, skill learning and other social activities. As at end-December 2009, there were 137 ASCP service units providing a total of 5 579 service places.

10.19 Some commentators were concerned about the problems faced by low income families on obtaining after-school caring services. The SWD continues to provide full fee waiving or half fee reduction subsidies under the ASCP for needy low income families and recipients of CSSA. The number of fee waiving quotas provided in 2009 was 1 540. As at the end of December 2009, there were still 198 unused fee waiving quotas. The SWD will continue to monitor the usage of the quotas and allocate them in accordance with the need of each district.

Comprehensive Child Development Service

10.20 In July 2005, the Comprehensive Child Development Service (CCDS) was launched for children aged five and below. The CCDS aims to identify and meet, at an early stage, the various health and social needs of children aged five or below and their families. Through inter-sectoral collaboration among the Department of Health (DH), the Hospital Authority (HA), the EDB, the SWD and NGOs at district level, comprehensive and timely support is provided to children and families in need. As Maternal and Child Health Centres (MCHCs) under the DH serve about 90% of newborn babies in Hong Kong, the CCDS uses these centres and other service units (including hospitals under the HA, the IFSCs, integrated services centres (ISCs) and pre-primary education institutions) as a platform to identify at-risk pregnant women, mothers with postnatal depression, families with psychosocial needs as well as pre-primary children with health, developmental and behavioural problems. Children and families in need are referred to appropriate service units for follow-up.

Maternity protection

10.21 The Employment Ordinance and the SDO continue to provide the legal basis for maternity protection for women.

Employment Ordinance

10.22 The position of the Employment Ordinance on maternity protection remains largely as explained in paragraphs 239 to 241 of the initial report.

10.23 A female employee employed under a continuous contract of employment (i.e. employed by the same employer for four weeks or more, with at least 18 hours worked in each week) immediately before the commencement of her maternity leave and having given notice of pregnancy to her employer is entitled to 10-week maternity leave. She is also eligible for maternity leave pay if she has been employed under a continuous contract for not less than 40 weeks immediately before the commencement of maternity leave.

10.24 The Employment Ordinance also provides for protection against dismissal during pregnancy and maternity leave for a female employee on continuous employment who has served a notice of pregnancy to her employer.

10.25 Under the Employment Ordinance, an employer may not allocate heavy, hazardous or harmful work to a pregnant employee upon her production of a medical certificate with an opinion as to her unfitness to handle such work, irrespective of whether the employee has been employed under a continuous contract or not. If the employee is already performing such work, the employer shall within 14 days remove her from that work.

10.26 The provisions under the Employment Ordinance apply to all female employees working in Hong Kong, including FDHS and other imported workers.

10.27 Effective from July 2007, maternity leave pay has been calculated on the basis of four-fifths of the employee's average wages in the preceding 12 months. By adopting a longer reference period of 12 months as the basis of calculation, the payment to employees can be more stable and predictable. The relevant amendment to the Employment Ordinance also made it clear that all components of wages as defined under the Ordinance, however designated or calculated, are to be included in the calculation of the relevant statutory entitlements.

Sex Discrimination Ordinance

10.28 The SDO protects women against discrimination based on marital status and pregnancy. It prohibits employers from using pregnancy or marital status as a criterion in the hiring or dismissal of women employees and as a reason for according different treatment to employees.

Other applicable legal provisions

10.29 The Occupational Safety and Health Ordinance (Cap. 509) and its subsidiary regulations seek to ensure the safety and health of

employees when they are at work. The legislation provides the same standard of protection of the health and safety of male and female employees in all sectors. Under the Occupational Safety and Health Regulation, pregnancy is specified as one of the factors to be considered in the risk assessment for manual handling operations.

10.30 The Factories and Industrial Undertakings Ordinance (Cap. 59) and its subsidiary regulations are HKSAR's principal law on industrial safety and health. They prescribe requirements for the prevention of accidents and diseases, including detailed rules for certain trades and work processes. The relevant provisions apply to industrial undertakings such as factories, mines, quarries, shipbuilding, construction work and catering establishments. Under the legislation, an employer has a general duty to ensure the safety and health of his/her employees and the same standard of protection is provided for male and female employees, including pregnant employees.

10.31 The Radiation (Control of Irradiating Apparatus) Regulations and the Radiation (Control of Radioactive Substances) Regulations under the Radiation Ordinance (Cap. 303) stipulate radiation dose limits specifically for female radiation workers with reproductive capacity and for the foetus of a pregnant radiation worker to minimise the risk of adverse pregnancy outcome arising from radiation exposure.

Paternity leave

10.32 There is at present no statutory provision for paternity leave in the HKSAR. Nevertheless, the Labour Department has been encouraging employers to adopt various family-friendly employment practices, including the provision of paternity leave, to help employees balance work and family commitments. Channels to promote the theme include industry-based tripartite committees which comprise representatives of the Government, employers and employees or their respective organisations, Human Resources Managers Clubs formed in various trades, as well as promotional activities such as seminars, roving exhibitions at different locations, newspaper supplements and a booklet on real-life good practice cases.

10.33 We are glad to note that the number of local enterprises which have paternity leave arrangements has been increasing in recent years. We will continue to act as a facilitator and seek partnership with the employer community to further promote good people management practices including the provision of paternity leave.

Maternity protection for women in prison

10.34 The position regarding pregnant prisoners largely remains as mentioned in paragraphs 242 to 245 of the initial report, i.e. pregnant prisoners receive special care on a 24-hour basis and arrangements are made for them to receive ante-natal care and consult obstetric doctors in hospital outside the prison at appropriate intervals or as required. There were 17 and 20 cases of pregnant prisoners giving birth in open wards in public hospitals in 2008 and 2009 respectively, while 74 and 65 children in 2008 and 2009 respectively were admitted into prison and remain with their mothers during the mammal period of lactation.

Births to illegal immigrant mothers

10.35 The number of babies born in Hong Kong to illegal immigrant mothers from the Mainland of China has drastically decreased. From 1998 to 2000, more than 1 000 babies were born to such mothers every year. From 2007 to 2009, the numbers were 43, 16 and 5 respectively. The decrease may be due to the fact that Mainland residents who wish to give birth in Hong Kong will now choose to enter Hong Kong legally, usually as visitors. According to the Basic Law, all Chinese citizens born in Hong Kong have the right of abode in Hong Kong.

New arrivals from the Mainland of China

10.36 Between 1 July 1998 and 31 December 2009, nearly 570 000 people from the Mainland of China settled in Hong Kong.

10.37 The Government continues to attach much importance to the early integration of new arrivals into the local community. Like other local residents, new arrivals are entitled to welfare services, such as child care, community support, financial assistance, and so forth. In addition,

the Government provides a series of public services for the new arrivals from the Mainland of China to facilitate their integration into the local community. Such public services include employment services, vocational training, welfare services, public housing, public healthcare services and educational support. The aim is to reduce adjustment problems and to encourage self-reliance. NGOs operate complementary projects, funded from sources such as the Hong Kong Jockey Club Charities Trust and Community Chest. These initiatives include community education, employment programmes and volunteer services.

Single parent families and split families

10.38 Services for single parent families and split families in Hong Kong were explained in paragraphs 10.7 and 10.8 of the previous report. Following the implementation of the integrated family service model in 2004, these families can have access to a continuum of comprehensive family services in one-stop at the 61 IFSCs and two ISCs in Hong Kong. Family services are now available to them in a much more convenient, accessible and holistic way. Social workers at the IFSCs/ISCs have the relevant experience and skills in supporting single parent families and split families. These social workers will thoroughly assess and take care of their needs and provide them with appropriate services. From time to time, programmes and activities targeting single parents families and split families are organised at these centres. Besides, the Family Support Network Teams continue to serve needy persons (including single parent families and split families) by identifying them for early intervention.

10.39 As mentioned in paragraph 10.7 of the previous report, single parent families continue to be entitled to Government aided child care facilities and other assistance, such as housing and financial support as reported last time. Single parents who are divorced/undergoing divorce may be recommended for compassionate rehousing/conditional tenancy respectively, if they have genuine housing needs and social/medical grounds. Some commentators expressed concerns on the situation of split families, including those in which the parents are divorced or deceased and are not eligible for applying for Permit for Proceeding to Hong Kong and Macao (the Permit), whereas the children were born in the HKSAR, having no carers in Hong Kong but are not entitled to citizen rights in the

Mainland, and need to travel across the boundary for schooling. For split families with members separated in Shenzhen and Hong Kong, an NGO, the International Social Service Hong Kong Branch, operates a family services centre in Shenzhen in collaboration with the Guangdong Provincial Government with funding from the Community Chest to provide dedicated services. The services provided include casework and group counselling, orientation and training programmes, English and computer classes, information giving and inquiry services and other social activities. The SWD has also allocated additional funding to the International Social Service Hong Kong Branch's Cross-boundary and Inter-country Casework Service from 2009-10 for proactively providing services to cross-boundary families, helping them tackle family problems by early identification and timely intervention.

Family reunification of split families

10.40 Some commentators continued to express concerns on the issue of family reunification of split families. Our position, including the legislative provisions for the entitlement of right of abode and the Certificate of Entitlement (CoE) Scheme, was set out in paragraphs 10.10 to 10.14 of the previous report. In dealing with the issues relating to right of abode, we have paid full regard to all pertinent factors.

10.41 The Basic Law stipulates that “for entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval” (Paragraph 4 of Article 22). Mainland residents who wish to settle in Hong Kong must apply through the Permit scheme which is administered by the Mainland authorities. The Permit scheme is predominantly a family reunion programme which ensures that the eligible candidates will come to Hong Kong for settlement in an orderly manner within the constraint of the social and economic infrastructure in Hong Kong.

10.42 The Mainland authorities have since May 1997 applied the “Points System” which has been refined from time to time to assess and determine the eligibility of applicants and the order in which they may settle in Hong Kong according to objective criteria. Except for CoE holders, the main considerations in examining and approving the Permit

applications include the separation time and the age of the applicants or their Hong Kong relatives. Mainland residents claiming right of abode under paragraph 2(c) of Schedule 1 to the Immigration Ordinance can apply for a CoE from the Public Security Offices in the Mainland where their household registration is kept.

10.43 Under the existing mechanism, among the daily 150 Permit quota, 60 places are allocated to holders of the CoE who enjoy the right of abode in Hong Kong while the rest of the quotas are allocated to the Permit applicants belonging to other categories including Mainland spouses and their accompanying children. Young CoE children may also choose to come to Hong Kong with the Mainland parents as accompanying children. In recent years, the Permit scheme has been refined, including relaxation of the age limit for applications by accompanying children of spouses from below 14 to below 18, and removal of the restriction that only one accompanying child was allowed in 2003. In January 2009, the waiting time for the Permit for spouses and their accompanying children was further shortened from five years to four years.

10.44 As at 31 December 2009, the CoE Scheme has facilitated the speedy and orderly admission of more than 180 000 Mainland residents whose right of abode in Hong Kong has been verified. From July 1997 to 31 December 2009, over 620 000 Mainland residents (including CoE holders) have settled in Hong Kong under the Permit Scheme.

10.45 Apart from entering Hong Kong for settlement on the strength of the Permit, Mainland residents may visit Hong Kong for sightseeing, conducting businesses and visiting relatives. Eligible Mainland residents can also apply for multiple journey exit endorsement for visiting relatives in Hong Kong, which enables them to stay in Hong Kong for 90 days on each entry.

Domestic violence

10.46 The Government has accorded high priority to the prevention of domestic violence and provision of support to victims of domestic violence. The multi-disciplinary approach, structure, services and prevention strategies on domestic violence remain largely the same as reported in paragraphs 10.42 to 10.46 of the previous report. Further developments and enhancements are explained below.

Amendments to the Domestic Violence Ordinance

10.47 On the legislative front, the Domestic Violence Ordinance (Cap. 189) enacted in 1986, as explained in paragraphs 231 to 232 of the initial report, enabled a party to a marriage, or a man and a woman in cohabitation, to obtain quick and temporary relief from molestation by applying to the court for an injunction order. The Domestic Violence (Amendment) Ordinance 2008 enhances protection for victims of domestic violence. It amended the Ordinance to extend the scope of protection provided under the Ordinance in the form of injunction against molestation to cover former spouses and former heterosexual cohabitants and their children; as well as other immediate and extended family members. Amongst other amendments, the amendment also empowered the court to: (a) vary or suspend an existing custody or access order in respect of the child domestic violence victim when the court makes an exclusion order under the DVO; (b) attach an authorisation of arrest in circumstances where it reasonably believes that the respondent will likely cause bodily harm to the applicant/child concerned; and (c) require the abuser to attend an anti-violence programme as approved by the Director of Social Welfare, with a view to changing his/her attitude and behaviour that lead to the granting of the injunction order.

Structure and measures to prevent and handle domestic violence

10.48 We have further enhanced our various collaborative efforts on prevention and handling of domestic violence, and enhanced the support services provided for victims of domestic violence. Additional manpower has been provided to the SWD to facilitate cases handling and various initiatives relating to combating domestic violence:

- (a) While the structure at the central level mentioned in paragraph 10.42 of the previous report remains in place, at the district level, the 13 District Co-ordinating Committees on Family and Child Welfare have been restructured into 11 Committees. In addition, to further enhance communication amongst the SWD, the Police and local services units, 13 District Liaison Groups on Family Violence were set up across the territory in March 2005, and were subsequently restructured into 11 Liaison Groups in mid-2007 for the professionals concerned to discuss measures to step up collaboration in handling domestic violence cases, in particular the high risk cases, at the district level;
- (b) Apart from training courses on handling domestic violence at the central level as mentioned in 10.43 of the previous report, relevant training is also provided at the district level to meet the specific needs of individual districts. Additional training has also been provided to frontline social workers and the Police officers in the light of the amendments to the Domestic Violence Ordinance (please see paragraph 10.47 above);
- (c) We have updated the guidelines on handling cases of child abuse, spouse battering and sexual violence for reference of the various professionals involved in handling domestic violence⁵;
- (d) Further to the referral mechanism mentioned in paragraph 10.44 of the previous report, the SWD has set up a 24-hour direct referral telephone line with the Police since 2006 to enable Police officers to seek urgent professional advice and/or immediate social work support in handling urgent and high-risk cases. The Police has also refined the procedures of handling domestic violence cases since 2006 in order to respond to the reported domestic violence cases more

⁵ ‘Procedural Guide for Handling Child Abuse Cases’ - Revised 2007 (English version); “Procedural Guidelines for Handling Battered Spouse Cases – Revised 2004”; and “Procedural Guidelines for Handling Adult Sexual Violence Cases” – Revised 2007.

promptly and professionally;

- (e) In March 2007, a crisis intervention and support centre operated by an NGO and funded by the Lotteries Fund was set up to provide timely, professional and specialised services to victims of both genders and their family members on a 24-hour basis. Services provided by the centre include short-term accommodation for adult victims of sexual violence and individuals/families facing domestic violence or in crisis, a 24-hour hotline for the public, counselling services and immediate outreaching/crisis intervention;
- (f) The SWD is in the process of implementing a new Victim Support Programme to provide support for domestic violence victims, particularly those who are undergoing the judicial process; and
- (g) Further to paragraph 10.46 of the previous report, the family support resource centres and family service centres were re-structured into IFSCs to provide services to needy families in a more effective manner.

Publicity

10.49 To enhance public awareness of the prevention of domestic violence and the importance of family solidarity, and to encourage victims to seek assistance at an early stage, a publicity campaign on “Strengthening Families and Combating Violence” has been launched by the SWD to promote, amongst other things, the prevention of child abuse, spouse battering, elder abuse and sexual violence. We will continue our public education efforts in this regard.

The Women’s Commission’s Women’s Safety Report

10.50 In view of the growing concerns over domestic violence, the WoC published a report entitled “Women’s Safety in Hong Kong: Eliminating Domestic Violence” in January 2006. It aimed to put forward a broad framework to conceptualise domestic violence in Hong Kong, and

to outline strategies to address victims' empowerment, prevention of violence, timely and effective intervention, as well as community education and support.

10.51 After consulting over 50 organisations and the relevant Government departments, the WoC recommended that a multi-disciplinary intervention model should be adopted in tackling domestic violence. The WoC recommended five key approaches, namely women's empowerment; prevention, education and community support; early identification and intervention; criminal justice responses; and research, data-sharing and dissemination of findings. The WoC also put forward 21 recommendations covering law reform, services, publicity, professional knowledge-sharing, gender mainstreaming and gender-related training, early identification and intervention.

10.52 In August 2009, the WoC published a supplement entitled "Women's Safety in Hong Kong: Eliminating Domestic Violence – An Update and the Next Step" to review the progress made since the first report issued in January 2006. The WoC was pleased to note that good progress was made on various fronts, such as amendments to the Domestic Violence Ordinance, new enhancement measures launched by the Police in handling domestic violence cases, strengthening of welfare services and support for victims of domestic violence and intervention programme for abusers, enhanced public awareness of the problem of domestic violence through public education, and training for frontline professionals. Besides, NGOs, community groups and women's organisations have launched programmes and activities at both the community and neighbourhood levels to complement the Government's efforts in strengthening community support network and enhancing public awareness of domestic violence.

10.53 The aforementioned reports have been widely distributed to the public, including the LegCo, the community groups and women's organisations. The reports are also available for public inspection at the website of the WoC (www.women.gov.hk).

Protection of children and young persons

Protection against child abuse

10.54 Child abuse is one of the common forms of domestic violence. Updates on our comprehensive policy to protect children against abuse in the context has been explained above.

10.55 The legal framework in respect of child abuse remains largely the same as explained in paragraphs 259, 260 and 262 to 264 of the initial report. The Offences Against the Person Ordinance and the Crimes Ordinance provide extensive legal protection for children against physical and sexual abuse. The Protection of Children and Juveniles Ordinance (Cap. 213) empowers the court to grant a care or supervision order in respect of a child or juvenile who has been abused, ill-treated, neglected, or is beyond control to the extent that harm may be caused to him or others.

10.56 Through the joint efforts of the SWD, NGOs and the Hong Kong Council of Social Service, a computerised record system entitled the Child Protection Registry has been devised. Under the administration of the SWD, the Registry carries functions of case registration, case checking as well as facilitating statistical research. All the SWD and NGO service units providing casework service are requested to report child abuse cases and children found at risk of abuse to CPR. The main objectives of CPR are to facilitate communication among Government departments and NGOs which handle child abuse cases and the planning and development of services which prevent child abuse, including the planning of public education programmes. The statistics on child abuse case and abuser's relationship with the victim recorded in the CPR are set out below.

Categories of child abuse cases in 2005-08

Types of abuse	2005	2006	2007	2008
Physical abuse	413	438	499	483
Neglect	41	77	114	78
Sexual abuse	234	233	270	277
Psychological abuse	23	12	20	15
Multiple abuse	52	46	41	29
Total	763	806	944	882

**Abuser's relationship with the victim
in child abuse cases in 2005-08**

Relationship with the victim	2005	2006	2007	2008
Parent	454 (63.6%)	521 (67.3%)	581 (67.1%)	535 (64.6%)
Sibling	24 (3.4%)	30 (3.9%)	16 (1.8%)	26 (3.1%)
Step-parent	36 (5.0%)	27 (3.5%)	29 (3.3%)	33 (4.0%)
Grandparent	12 (1.7%)	9 (1.2%)	9 (1.0%)	12 (1.4%)
Relative	21 (2.9%)	25 (3.2%)	17 (2.0%)	16 (1.9%)
Family friend/friend	35 (4.9%)	43 (5.6%)	52 (6.0%)	62 (7.5%)
Foster parent/house parent/childminder	20 (2.8%)	14 (1.8%)	23 (2.7%)	20 (2.4%)
Teacher/tutor/coach	15 (2.1%)	13 (1.6%)	11 (1.3%)	18 (2.2%)
Co-tenant/neighbour	16 (2.2%)	10 (1.3%)	11 (1.3%)	7 (0.8%)
Unrelated person	81 (11.3%)	79 (10.2%)	114 (13.2%)	84 (10.1%)
Unidentified person	0 (0.0%)	3 (0.4%)	3 (0.3%)	15 (1.8%)
Total	714	774	866	828

Note: The number of abusers is different from the number of victims as a abuser may abuse more than one child or a child may be abused by more than one abuser.

10.57 Furthermore, since the commencement of the Domestic Violence (Amendment) Ordinance 2008, minors who are under the age of 18 can apply for an injunction order in their own right by their next friends against molestation by their parents or relatives, whether or not they are residing with their abusive parents or relatives. The court also has power

to vary or suspend a custody or access order relating to a minor when it grants an injunction excluding the abuser from certain places.

Neglect of child

10.58 Some commentators called for legislation against leaving children unattended to provide a general protection against neglect and leaving children unattended. The Protection of Children and Juveniles Ordinance empowers the court to grant a care or supervision order in respect of a child or juvenile who has been, among others, neglected. Moreover, in accordance with the Offences Against the Person Ordinance, any person who unlawfully abandons or exposes any child, being under the age of two years, whereby the life of such child is endangered, or the health of such child is or is likely to be permanently injured; or any person over the age of 16 years who willfully assaults, ill-treats, neglects, abandons or exposes any child or young person under the age of 16 years under his custody, charge or care in a manner likely to cause such child or young person unnecessary suffering or injury to his health, shall be guilty of an offence. If convicted, the maximum penalty is imprisonment for 10 years.

10.59 Proposal of legislating against leaving children unattended at home, though well-intended to protect children from harm, may not achieve its desired objective. For instance, some parents may seek to circumvent the legal responsibility by asking their children to wait outside their homes or wander in shopping centres and on the streets. These situations cannot be prevented by the proposed legislation, and there are practical difficulties involved in implementing such legislation. On the contrary, the legislation on child neglect mentioned above focuses on whether a certain conduct has caused harm to the child, whether the person involved has a duty of care, whether he/she has an intent to neglect the child and is aware of the possible harm done to the child due to such conduct, etc., irrespective of where the child is located. We believe that the existing legislation is more effective in protecting the safety of children.

Corporal punishment

10.60 There are calls for legislation against corporal punishment of children in Hong Kong. At present, there are provisions under the Child Care Services Regulations (Cap. 243A) and the Education Regulations (Cap. 279A) which specifically prohibit corporal punishment of children in a childcare centre and mutual help childcare centre as well as corporal punishment of pupil by a teacher.

10.61 In relation to child abuse circumstances, the provisions under the Offences Against the Person Ordinance mentioned in paragraph 10.55 above will apply. A person who is convicted of an assault occasioning actual bodily harm or a common assault respectively under sections 39 and 40 of the Ordinance is subject as such to a maximum penalty of one to three years' imprisonment. Furthermore, pursuant to section 27(1) of the Ordinance, it is unlawful for a person aged over 16, including a parent, who has the custody, charge or care of a child or young person under the age of 16, to wilfully assault or ill-treat the child or young person, or causes such child or young person to be assaulted, ill-treated in a manner likely to cause such child or young person unnecessary suffering or injury to his health. If convicted, the person shall be liable to a maximum penalty of 10 years' imprisonment.

10.62 As to whether corporal punishment in the family that may not constitute criminal offences under the existing laws should be prohibited by law, we note that laws in other jurisdictions are developing, and the issue was proven to be a controversial one even in Western culture. We do not consider that legislation at this stage would be the most effective means of dealing with the issue in Hong Kong.

Abduction

10.63 Section 26 of the Protection of Child and Juvenile Ordinance makes it an offence to take or cause to be taken any child or juvenile out of possession and against the will of their parents or other persons having a lawful care or charge of them.

Hague Convention on the Civil Aspects of International Child Abduction

10.64 The Hague Convention on the Civil Aspects of International Child Abduction applied to Hong Kong on 1 September 1997. We continue to implement the Convention in Hong Kong through the Child Abduction and Custody Ordinance (Cap. 512) as stated in the initial report.

Child pornography and child sex tourism

10.65 As foreshadowed in paragraph 10.50 of the previous report, the Prevention of Child Pornography Ordinance (Cap. 579) was enacted in 2003. It strengthens protection to children against sexual exploitation in the forms of child pornography, child pornographic performance and child sex tourism. To effectively combat child pornography, the Ordinance targets demand at source. Possession of child pornography is a serious offence and is liable to a maximum penalty of imprisonment for five years and a fine of \$1 million. Offenders convicted of producing, publishing or advertising child pornography are liable to a maximum penalty of imprisonment for eight years and a fine of \$2 million.

10.66 The Ordinance also extends the application of 24 sexual offence provisions under the Crimes Ordinance to acts committed against children outside Hong Kong to combat child sex tourism. The 24 offences are listed in Schedule 2 to the Crimes Ordinance, which is reproduced in Annex 10A.

10.67 Moreover, any person making or advertising any arrangement relating to child sex tourism, or procuring a child for making pornography or pornographic performance, is liable to a maximum penalty of imprisonment for 10 years and a fine of \$3 million. In a judgment in 2008, the Court of Appeal provided four-level sentencing guidelines⁶ on a

⁶ The four-level sentencing guidelines laid down by the Court of Appeal in the case of *Secretary for Justice v Man Kwong-choi* [2008] 5 HKLRD 519 are as follows:
Level-1 (images depicting erotic posing with no sexual activity): Community service order, probation, or fine where the number of offending articles is small (say 20 or less); one to six months imprisonment where the number of offending articles is large or the depictions are extremely suggestive.
Level-2 (sexual activity between children, or solo masturbation by a child): An

first-time offender convicted of possession of child pornography. Under the guidelines, sentences will be considerably increased and the deterrent effect of the law further enhanced in future.

10.68 The Police has vigorously enforced the Ordinance to strengthen its action against child pornography, and will continue to maintain close liaison with overseas law enforcement agencies and local organisations to share information and intelligence, monitor the overall situation, and update the latest development on investigation skills for combating child pornography and child sex tourism activities.

Representation of children in care or protection cases

10.69 Further to paragraph 10.53 of the previous report, we have commissioned the Duty Lawyer Service to operate the Legal Representation Scheme for Children or Juveniles involved in care or protection proceedings since October 2003. The Scheme provides free legal representation service for children and juveniles involved in care or protection proceedings, and the requirements of Article 37(d) of the CRC which provides that every child deprived of liberty shall have the right to access to legal and other appropriate assistance are better complied with.

Commission on Youth

10.70 The Commission on Youth (COY), set up in 1990, is an advisory body under the Home Affairs Bureau (HAB) to advise the Government on matters pertaining to youth development. It exchanges ideas and information with other Government advisory bodies on youth matters.

10.71 Some commentators expressed the view that more young persons should be appointed to the COY. In the appointment of COY members, the Government has upheld the principle of appointing

immediate custodial sentence of up to nine months depending on the number of depictions but even a few depictions will generally attract a custodial sentence.

Level-3 (non-penetrative sexual activity between adults and children): 6 to 12 months' imprisonment depending on the number of depictions involved.

Level-4 (penetrative sexual activity between children and adults, sadism or bestiality): 12 months (even for a few images) to 36 months' imprisonment.

individuals on their merits. Due consideration is given to a candidate's ability, expertise, experience, integrity and commitment to public service. At present, COY comprises members of various backgrounds, including frontline youth workers, educators, scholars, businessmen, students, etc., in order to ensure that views from different perspectives can be taken into consideration.

10.72 The Government is keen to listen to the opinions of the youth. In consultation with members of the public on important policies, in particular those concerning the youth, dedicated measures will be considered to collect the opinions of the youth. In view of the extensive use of Internet and social networking websites by the youth, we will make use of these channels to communicate with them.

Youth welfare services

10.73 The SWD continues to provide core youth services as described in paragraph 10.19 of the previous report to meet young people's needs and provide a favourable environment for their healthy development. In order to identify and help students with academic, social and emotional problems, develop their potential and prepare them for responsible adulthood, the SWD has implemented the policy of "one school social worker for each secondary school" since September 2000. The school social workers work closely with school personnel, other welfare service units and stakeholders in the community to provide timely counselling to needy students and implement a wide range of preventive and developmental programmes to promote positive values. As at December 2009, there were 484 school social workers.

10.74 The Hong Kong Jockey Club Charities Trust has allocated \$750 million to implement the "Positive Adolescent Training through Holistic Social Programme to Adulthood: A Jockey Club Youth Enhancement Scheme" (PATHS) in secondary schools since the 2005-06 school year. The Scheme, jointly organised by the EDB, the SWD and five universities, provides comprehensive training programmes/activities for junior secondary students to promote positive values and enhance their resilience against adversities, contributing to the healthy development of the students.

Youth suicide

10.75 The causes of youth suicide are diverse. They can be attributed to the interplay of social and psychological factors including relationship problems and learning problems at school. As mentioned in paragraphs 10.22 and 10.23 of the previous report, we are committed to working closely with different sectors, including NGOs, professionals and academics to combat suicide. Through a range of preventive, supportive and remedial programmes and services, we help young people, families and other vulnerable groups to cope with adversities, and strengthen their support networks.

10.76 Besides the general youth services mentioned above, the Suicide Crisis Intervention Centre and Life Education Centre operated by the Samaritan Befrienders Hong Kong as mentioned in paragraph 10.28 of the previous report, have been providing services to the needy since 2002. Up to 30 September 2009, the Government-funded Suicide Crisis Intervention Centre had handled 8 281 cases with high/moderate suicidal risk and conducted 698 outreach or on-site visits.

10.77 Additional annual recurrent resources of \$0.84 million has been provided to the Suicide Crisis Intervention Centre starting from November 2009 to extend its service to include outreaching service and short-term counselling to family members of those who have died by suicide and to perform cyber patrol to identify those having indications of suicidal thoughts in Internet blogs. A further additional annual subvention of \$1 million for three years from 2010-11 will be provided to the centre to launch a web engaging service to develop a website which will serve as a common place to attract those in depressive mood to join and share, and as a platform to engage those in need of help to have further personal contacts with workers. In addition, a number of dedicated hotline services are provided by the NGOs and the SWD to those who may be contemplating suicide or are suffering from other forms of stress.

10.78 In 2006, we commissioned the University of Hong Kong to conduct a two-year research study on the epidemiology and etiology of suicide and the best practice for suicide prevention in Hong Kong. The research findings help enhance our understanding of suicide so as to better

enhance our suicide prevention work.

Employment of children and young persons

10.79 The position remains as explained in paragraph 10.55 of the previous report.

Age of criminal responsibility

10.80 Further to paragraphs 10.38 and 10.39 of the previous report, the minimum age of criminal responsibility was raised from 7 to 10 years of age on 1 July 2003, through the Juvenile Offenders (Amendment) Ordinance 2003 which was passed by the LegCo on 12 March 2003.

Juvenile homes

10.81 The Government runs residential homes that provide education and prevocational training for children and juveniles with behavioural or family problems, as well as correctional homes for young offenders. To improve the quality of care and supervision of the residents, as well as to simplify the staff structure for better utilisation of human resources, the Government re-located six correctional/residential homes into a modern multi-purpose residential complex in 2007. The newly-built Tuen Mun Children and Juvenile Home serves as a place of refuge, place of detention, remand home, probation home and reformatory school for children and juveniles in legal custody. With a capacity of 388 and equipped with state-of-the-art monitoring and home management facilities, it aims to provide a safe and secure environment for the children and juvenile residents. The services and programmes provided include education and vocational training tailor-made by the VTC, individual counselling and group work programmes, community service, recreational activities, medical and health care and clinical psychological service. Guardian visits will also be arranged.

Drug abuse

10.82 The issue of drug abuse especially among youths in Hong Kong is elaborated in the section on Article 12.

Trafficking in persons and sexual exploitation

10.83 The Committee, in its previous Concluding Observations, expressed concern about the situation of trafficking in persons, especially women and children, into HKSAR, mainly for the purpose of sexual exploitation. Over the years, cases of human trafficking for the purpose of sex exploitation reported are rare. Our experience shows that people came voluntarily due to the comparative economic prosperity of Hong Kong in the region, rather than being trafficked into Hong Kong by force, fraud, or coercion. The number of human trafficking cases reported in 2005 to 2008 is three, three, four and one respectively, and none of which involved children.

Relevant legal provisions

Trafficking

10.84 The Laws of Hong Kong have already put activities such as trafficking in persons as criminal offences. Section 126 of the Crimes Ordinance provides that it is an offence to take an unmarried girl under the age of 16 out of the possession of her parent or guardian, without lawful authority or excuse.

10.85 Sections 42 to 44 of the Offences Against the Person Ordinance prohibit taking away or detaining persons against their will with intent to sell them, leading or taking away any child under the age of 14 with intent to deprive their parents, guardians or other persons having the lawful care of them of the possession of that child; and transferring a person to another for a valuable consideration.

10.86 The provisions in relation to abduction were explained in paragraphs 10.63 and 10.64 above.

Sexual exploitation

10.87 Prostitution per se is not a crime in Hong Kong. However, the Crimes Ordinance protects children from procurement or coercions into prostitution. Section 122 makes it an offence for a person, male or

female, to indecently assault another person. A person under the age of 16 cannot in law give consent to such act. Section 124 makes it an offence for a man to have sexual intercourse with a girl under the age of 16. Section 146 proscribes acts of gross indecency with or towards a child under the age of 16. Section 118D makes buggery with a girl under 21 an offence. As mentioned above, the Prevention of Child Pornography Ordinance strengthens protection of children against sexual exploitation in the forms of child pornography and child sex tourism.

Law enforcement efforts

10.88 Notwithstanding the rare occurrence of human trafficking crimes in Hong Kong, the Government attaches great importance to combating human trafficking. We have a comprehensive policy, programmes and measures to prevent and combat human trafficking, including trafficking of children. Our law enforcement departments are taking concerted and co-ordinated efforts to halt human smuggling/trafficking. The Police will also continue to take proactive enforcement actions to combat illegal prostitution activities, and will adjust its strategies having regard to circumstances to ensure effective law enforcement. The details on our measures are elaborated in detail under Chapter VIII of Part II of HKSAR's second report under the CRC, in respect of Articles 34 to 36 of the CRC.

10.89 The HKSAR Government has been maintaining close partnerships with overseas governments to ensure that the safety of trafficking victims will be taken care of. Trafficking victims, irrespective of age, will be provided with various support and assistance services, such as urgent intervention, legal support, counselling, sheltering, medical and psychological assistances.

Care and support for the elderly

Elderly Commission

10.90 The role of the Elderly Commission remains as explained in paragraphs 299 to 301 of the initial report. It now has 19 non-official members. Recently, the Commission has focused on promoting "active

ageing” and advising on the means to further enhance long-term care services for the elderly.

Legislation

10.91 Hong Kong has sound legislation to protect all citizens, including elders, from abuse. The Crimes Ordinance and the Offences Against the Person Ordinance apply to protect older persons against violence. Regardless of their age, older persons are eligible to apply for the Legal Aid Scheme provided by the Government. They may also apply under the Domestic and Cohabitation Relationships Violence Ordinance to the court for an injunction order against molestation by their spouses, children or other relatives as specified in that Ordinance.

10.92 Besides, according to the Mental Health Ordinance, the Guardianship Board has the power to issue a guardianship order to appoint a guardian for making decisions on behalf of a mentally incapacitated person (including an elder) in respect of his personal or healthcare matters, or to hold, receive or pay a specified monthly sum on behalf of such person.

10.93 The FSDO provides protection to those who have responsibility for the care of an immediate family member. Immediate family member is defined under the FSDO, in relation to a person, to mean a person who is related to the person by blood, marriage, adoption or affinity. The FSDO provides protection to a person who has responsibility for the care of an elderly person who falls within the definition of “immediate family member” by minimising the conflict the person faces between his work and his family commitment in looking after the elderly person. The legislation enables the better caring of an elderly by his family member.

Supporting family carers

10.94 The Government’s policy is to assist the elderly to age in place as far as possible and to enable families to take care of them at home. We offer elders and their families services and support in accordance with their needs and circumstances.

10.95 There are over 200 elderly centres throughout Hong Kong. They provide support services for carers, including the provision of information, training and counselling, and assistance in forming carers' mutual-assistance groups; setting up of resource centres; and the provision and loan of rehabilitation equipment. In addition, all subvented residential care homes for the elderly and day care centres provide relief for carers through their respite services.

10.96 In recent years, the Government has implemented a number of new programmes which aim at helping family carers to discharge their family responsibilities and alleviating their stress. For example, the "District-based Scheme on Carer Training" equips participants with basic knowledge of elderly care, including skills in caring for frail and demented elders. The objective is to enhance carers' capability through training so as to alleviate their stress in caring for elders. The Scheme has been well received since its implementation in 2007. The Government has decided to extend the coverage of the scheme to the neighbourhood level so that more carers can be trained.

Services for elderly people living in the community

Community support services for the elderly

10.97 Apart from supporting family carers, elderly centres provide different kinds of support services to elders. These include counselling services, assistance in long-term care service applications, emotional support services, social and health education, meal services, outreaching, promotion of volunteerism among elders and arrangement of social activities.

10.98 The Government also provides a range of subsidised home-based and centre-based community care services to elders in need, with a view to helping them age in place as far as possible. These services include personal care (e.g. feeding and bathing), nursing care (e.g. measuring blood pressure and body temperature), meal delivery and escort services.

10.99 Furthermore, we launched two new programmes in 2008, targeting the specific needs of elders:

- (a) **Integrated Discharge Support Trial Programme for Elderly Patients:** Considering that some elders may have difficulties taking care of themselves after having been discharged from hospitals, we implemented a three-year trial scheme to provide integrated support services for elderly hospital dischargees, including transitional rehabilitation, home care, as well as carer training and support services, with a view to minimising the risk of unplanned hospital re-admission and facilitating these elders to continue staying in the community; and
- (b) **Home Environment Improvement Scheme for the Elderly:** This scheme assists elders who live in dilapidated homes with poor fittings and lack the financial means to improve their home conditions. The objectives are to enhance elders' home safety and living environment through the provision of home improvement works and essential fittings, and to facilitate their ageing in place. The scheme will last for five years.

Health care services for elderly living in the community

10.100 Further to the position mentioned in paragraph 10.82 of the previous report, the following services are in place:

- (a) **Community Geriatric Assessment Teams:** The Community Geriatric Assessment Teams of the HA visit residential care homes for the elderly to provide assessment and treatment services to elders residing in the homes. They also provide training to carers of the homes to help them provide more appropriate care to the elders; and
- (b) **Community Psychogeriatric Teams:** The Community Psychogeriatric Teams of the HA provide care and support as well as outreach visits to elders with mental illness.

Enabling the elderly to lead an active and productive life

10.101 As mentioned in paragraph 10.83 of the previous report, the Government has been promoting active ageing. We encourage elders to pursue lifelong learning, engage in community activities and enjoy healthy living so as to lead an enriched life. We also encourage elders to actively take part in community affairs such as joining volunteer service and fulfilling civic responsibilities. Major initiatives include:

- (a) **Community support services:** As mentioned in the previous report, this is a major Government initiative to provide holistic care and support to elders living in the community;
- (b) **Elder Academy Scheme:** Under this Scheme jointly launched by the Government and the Elderly Commission in early 2007, elder academies are run jointly by school-sponsoring bodies and social welfare organisations, and operate under the principles of inter-generational harmony and cross-sectoral collaboration. At present, there are 98 elder academies in primary and secondary schools. Together with the elder academies operating in tertiary institutions, the number of elder academies has exceeded 100. The Government has also allocated \$10 million to establish an Elder Academy Development Foundation to ensure the sustainable development of the Scheme;
- (c) **Neighbourhood Active Ageing Project (NAAP):** the LWB and the Elderly Commission jointly launched the NAAP in early 2008. With elders playing a leading role, the NAAP seeks to establish neighbourhood support networks and enable elders to become a new driving force in the community. Through cross-sectoral collaboration, the NAAP mobilises different organisations and individuals to promote active ageing as well as caring and respect for elders. A total of 75 district projects have been organised under the NAAP;

- (d) **Opportunities for the Elderly Project:** Through the Project, SWD supports community projects to promote a sense of worthiness among elders by encouraging them to actively take part in community affairs, making good use of their expertise and ample experience in life to further their contribution to society; and
- (e) **Senior volunteerism:** The SWD continues to subvent “Support Teams for the Elderly” to encourage elderly people to participate in voluntary work. As at the end of December 2009, over 8 400 elderly people had taken up the challenge. Interested elders can also register as volunteers with the SWD and other organisations for the provision of other services to the needy. As at the end of December 2009, about 117 000 elders aged 60 or above have so registered.

Financial support for the elderly

10.102 The social security schemes available to the elderly have been elaborated above in relation to Article 9. In addition, the Mandatory Provident Fund Schemes Ordinance was passed by the legislature in 1995, and has taken effect since the end of 2000. Together with the non-contributory social security system (which comprises the CSSA Scheme and SSA Scheme) and voluntary private savings, Hong Kong has since adopted the three-pillar model for retirement protection.

10.103 Of the three pillars, the social security system targets welfare resources to those most in need, including the elderly, to help them meet basic and special needs. Nearly 80% of elders aged 65 or above are receiving assistance or allowance of different types under the social security system.

10.104 As elaborated above in relation to Article 9. The Government is studying the sustainability of the three pillars, and we will consider the findings of the study and other pertinent factors before deciding on the future course of action.

Residential care services for the elderly

10.105 As at the end of 2009, we were providing over 25 000 subsidised residential care places for the elderly⁷. There were also about 45 000 places in private care homes (excluding over 6 600 subsidised places being bought by the Government), and over 4 700 self-financing places in self-care hostels, homes for the aged, care and attention homes and contract homes. We continue to provide infirmary beds for those who require medical and nursing care.

10.106 To meet the changing needs of elderly persons who cannot adequately be cared for at home, we will continue to integrate the various levels of long-term care traditionally provided by different institutions. The idea is for a single type of care home to provide a continuum of services, thus minimising the need for elderly people to change services when their health deteriorates.

10.107 To rationalise the use of public resource and concentrate on looking after elderly persons in need of care, we will continue to phase out subsidised places in self-care hostels and homes for the aged, and convert them into places that provide a continuum of care.

10.108 To foster service improvement, we will continue to encourage NGOs and the private sector to provide a mixed mode of service. Since 2001, we have been selecting operators of subsidised residential care homes through open tendering by involving both NGOs and the private sector. Contracts are awarded with a greater emphasis on quality rather than price. Operators are rigorously monitored to ensure that they comply with the terms of their contracts and the agreed performance standards.

10.109 As mentioned in paragraph 10.90 of the previous report, we commissioned a two-year consultancy study in 2002 on the establishment of an accreditation system for residential care homes for the elderly. The study was completed in 2004, which suggested that an accreditation

⁷ Comprising about 2 900 places in self-care hostels/homes for the aged providing basic care, 20 200 care and attention places providing personal and limited nursing care, and 2 100 nursing home places providing a higher level of nursing care.

system should be implemented based on voluntary participation by residential care homes, and proposed to use a non-statutory independent body to serve as the accreditation body. At present, there are two independent accreditation schemes in Hong Kong targetting at elderly care services. Service providers participate in the schemes on a voluntary basis.

Supporting vulnerable elderly people

Measures against abuse of the elderly

10.110 We have been promoting public awareness of the problem of elder abuse through publicity and education. We have also adopted various preventive and intervention measures, and provided training to frontline staff so as to provide appropriate support to abused elders.

10.111 Various service units of both the Government and NGOs (including the IFSCs, District Elderly Community Centres, Neighbourhood Elderly Centres, crisis intervention centres, Medical Social Services Units and the SWD's Family and Child Protective Services Units) provide a range of services for victims and perpetrators of elder abuse. These services include crisis intervention, hotline counselling, financial and accommodation assistance, and referral to respite services, emergency residential care and Refuge Centres.

10.112 The SWD also regularly organises training courses for its staff (including social workers, medical personnel and other non-professional staff) to enhance their knowledge of, and skills in, handling elder abuse cases. From 2007 to 2009, the SWD organised a total of 16 training events for nearly 900 participants. During the same period, the elderly service units of NGOs altogether provided more than 190 training sessions for their staff. The number of participants in these sessions was close to 2 400.

10.113 Furthermore, the SWD set up a multi-disciplinary Working Group on Elder Abuse in 2001 comprising representatives from the LWB, the SWD, the DH, the Police, the HA, the Elderly Commission and the Hong Kong Council of Social Service to examine the phenomenon of

elder abuse in Hong Kong and provide advice on strategies and ways of handling elder abuse. A Central Information System on Elder Abuse Case has been in operation since March 2004. It collects the general profile and characteristics of reported elder abuse cases, and provides statistical data for reference by professionals who provide services for the prevention and handling of elder abuse.

10.114 The LWB and the Elderly Commission also jointly launched the Pilot Neighbourhood Active Ageing Project - Caring for Elders in September 2008 to promote prevention of elder abuse in the community through education, prevention and support.

Other Supporting measures for vulnerable elderly people

10.115 Further to the measures in paragraph 10.81 of the previous report, initiatives in this area include:

- (a) **Pilot project on the prevention of elderly suicide:** LWB and the Elderly Commission jointly launched the two-year Pilot Neighbourhood Active Ageing Project - Prevention of Elderly Suicide in April 2009 to disseminate the message of cherishing life among elders, identify and support elders with suicidal tendency, and step up suicide prevention work through neighbourhood support networks. There are 33 district projects across the territory under the initiative;
- (b) **Strengthening outreaching services:** Additional resources have been provided to elderly centres for strengthening their outreach services to hidden and vulnerable elders, with a view to helping these elders reintegrate into the community; and
- (c) **Elderly suicide prevention programme of the HA:** This is a territory-wide initiative for early detection of problems at the community level, and prompt assessment and treatment at fast track clinics.

Article 11: Right to an adequate standard of living

General

Economic indicators

11.1 The Hong Kong economy expanded strongly during the four years to 2007, at an average annual rate of 7.2% in real terms. However, the intensification of the global financial crisis in the latter part of 2008 derailed this strong upturn. Economic growth slowed to 2.1% in 2008. Being a small and open economy, Hong Kong was inevitably affected by the plunge in world trade amidst the deep global recession in late 2008 and early 2009. The sharp decline in exports, mainly reflecting the severe recessions in the major overseas markets, put a significant drag on Hong Kong's overall economic performance. The several rounds of stimulus measures implemented by the Government to counter the crisis, nevertheless, provided some support to domestic demand.

11.2 After a sharp contraction in the first quarter of 2009, the economy staged a notable rebound in the second quarter and continued to improve in the rest of the year, benefiting from the bottoming out of the global economy and the return to faster growth in the Mainland of China. The economy attained a year-on-year growth of 2.6% in the fourth quarter. For 2009 as a whole, the economy contracted by 2.7%. Hong Kong's per capita GDP in 2009 stood at around \$233,200.

11.3 Inflationary pressures were modest over the past few years, except in the latter part of 2007 and the first three quarters of 2008, when surging food and oil prices in the international markets led to higher imported inflation. Consumer price inflation averaged at 1.1% during 2004 to 2007, before rising to 4.3% in 2008. Due to the global recession, both local and external inflationary pressures subsided in 2009. The relief measures implemented by the Government also contributed to lower consumer prices. In 2009, the Composite Consumer Price Index rose by 0.5%.

11.4 Amid the strong economic upturn that started in the latter part of 2003, the labour market improved progressively, with the seasonally adjusted unemployment rate fell to a 10-year low of 3.3% in mid-2008. However, as the economy was hit by the global recession, the seasonally adjusted unemployment rate rose to a high of 5.4% in the second quarter of 2009. Yet along with the economic recovery, unemployment came down gradually to 4.9% in the fourth quarter of 2009.

11.5 Labour income rose steadily during 2004 to 2008 when the economy was at an expansionary phase. However, the deterioration in the labour market brought about by the escalation of the global financial crisis in the latter part of 2008 exerted downward pressures on wages and incomes. Nevertheless, such pressures gradually eased towards the end of 2009 as economy improved. In December 2009, labour wages were 0.8% higher than a year earlier.

11.6 In the near-term, the global economy is likely to continue to emerge from the deep recession in 2009, with the Asian economies taking the lead in the recovery process. This should provide support to Hong Kong's external sector. Locally, consumer and business sentiments have been strengthening since the latter half of 2009. Public sector works, aided by infrastructure construction, are also expected to accelerate. The Hong Kong economy is forecast to grow by 4 to 5% in real terms in 2010.

Economic restructuring

11.7 As mentioned in paragraph 11.7 of the previous report, Hong Kong's economy has become increasingly service-oriented over the past two decades, as manifested by a continued rise in the share of the service sectors in GDP from 73% in 1988 to 86% in 1998 and further to 92% in 2008. The Mainland's open-door policy and economic reform have not only provided an enormous production hinterland and market outlet for Hong Kong's manufacturers, but also created abundant business opportunities for a wide range of service providers. The Closer Economic Partnership Arrangement between Hong Kong and the Mainland has further enhanced the economic links between the two places, and facilitated the restructuring of Hong Kong into a high-value-added, knowledge-based economy.

11.8 The diversification and restructuring of the economy will continue. The Government will consolidate the strengths of the traditional four pillar industries (namely financial services, tourism, trading and logistics, and professional services), and at the same time step up efforts to promote the growth of industries where Hong Kong enjoys clear advantage (including educational services, medical services, testing and certification services, environmental industries, innovation and technology, cultural and creative industries).

Income distribution

11.9 The Gini Coefficient for Hong Kong, as computed from the results of the 2006 Population By-Census, was 0.533 in 2006, higher than the 0.525 in 2001 and 0.518 in 1996. The widened income disparity, which was the cause of concern from some commentators, was partly related to profound restructuring of the Hong Kong economy towards knowledge-based and higher value-added activities, as well as changes in demographic structure in Hong Kong.

11.10 The transformation towards a knowledge-based economy has led to a shift in manpower demand in favour of higher-skilled and better educated workers, and henceforth larger income increases for higher-skilled workers than the lower-skilled segment. This in turn widened income disparity between the two segments. Increasing income disparity in the transition towards a knowledge-based economy has been likewise observed in many other major economies. Hong Kong is not alone in this aspect.

11.11 Widening household income disparity is also attributed to the ageing population, smaller household size and a significant increase in the number of single-member elderly households. Hence the number of low income households has increased over the past 10 years. Since the ageing trend is irreversible, the Government has been reviewing various social and income redistributive policies in order to improve the life of the poor and narrow income disparity. For instance, providing access to subsidised education, medical care and public housing as well as the “social security net” through the CSSA Scheme (see paragraphs 9.7 to 9.20 above and 11.17 below).

11.12 Sustained economic growth is the key to elevating the overall standard of living. Hong Kong's free market allows everyone the opportunity for upward mobility, through the exercise of talent and hard work over time. For this reason, we consider that the most effective means of raising economic growth and thereby reducing poverty and income disparity is to invest in human capital by raising the capability and productivity of the workforce. This has been complemented by heavy investment in education, training and retraining to help workers cope with the on-going structural changes. In addition, we will continue our efforts in attracting investment and creating job opportunities by improving our business environment. Meanwhile, the Government will continue to monitor the changes in income distribution and to motivate a tripartite collaboration among the Government, business and society to assist those who are difficult-to-employ to integrate into the job market. We have also facilitated transfer of social benefits to reduce income disparity through taxation and provision of social welfare.

11.13 Although widening income disparity is quite common during economic restructuring, different income groups can still benefit from growing economic prosperity. During the period of robust economic growth between 2004 and 2008, median monthly household income for all deciles recorded increases in real terms. Analysed by median monthly employment earnings over the same period, earnings for employees in all deciles also increased. This reflects that the Government's approach in poverty alleviation through driving economic growth (please see paragraph 11.17 below) is effective.

11.14 After discounting the redistributive effects of taxation and social transfer (including education, housing and medical benefits), Hong Kong's post-tax post-social transfer Gini Coefficient and its increase over the decade would have been somewhat smaller. The post-tax post-social transfer Gini Coefficients were 0.466, 0.470 and 0.475 in 1996, 2001 and 2006 respectively. This reflects that income re-distributed through taxation for the provision of social benefits has helped reduce income disparity by redistributing income from the upper end to the lower end. Combining the effects of the Government's income redistribution and after adjustment for household size, the per capita post-tax post-social transfer household income Gini Coefficient remained at the same level of

0.427 in 1996 and 2006. In 2008, the post-tax and post-social transfer monthly household income almost doubled the original one (increased from \$2,800 to \$5,600) for households in the lowest income decile group in Hong Kong.

11.15 In making international comparisons of the Gini Coefficient, it should also be borne in mind that Hong Kong is essentially a single-city economy, with a strong agglomeration of service oriented activities. Those activities are highly developed and well diversified, employing people with multifarious experience and skills. This reflects Hong Kong's role as a financial and business services hub serving the Mainland and the East Asian region at large. In these circumstances, income disparity in Hong Kong tends to be greater than that in national economies with a preponderance of manufacturing and agricultural activities.

The right to continuous improvement of living condition

Poverty alleviation

11.16 The Committee, in paragraph 98 of its previous Concluding Observations, urged the HKSAR to “strengthen its efforts to combat poverty and social exclusion, in particular with regard to the disadvantaged and marginalised groups, and older persons”. The Committee also recommended the adoption of an official poverty line and requested data on the number of people living in poverty, the progress made in reducing the incidence of poverty, and the impact that the Commission on Poverty (CoP) had on alleviating poverty in the HKSAR.

11.17 The Government attaches great importance to poverty alleviation work and, to this end, adopts a pragmatic and multi-pronged approach. We are committed to providing a safety net and a wide range of free or highly subsidised services in the areas of housing, healthcare and education etc. to help the disadvantaged and low-income groups meet their basic needs. We consider that the key to tackling poverty lies in promoting economic growth, thereby creating more job opportunities. We provide training and retraining opportunities to raise the competitiveness and skills of our workforce, in particular the middle-aged and low-income earners. At the same time, we continue to invest in education and child

development to enhance social mobility and reduce inter-generational poverty.

The Commission on Poverty and its follow-up work

11.18 The Government established the CoP in February 2005 to study, from a macro perspective, how to help the poor and alleviate poverty. Members of the CoP came from different sectors of the community, including Government officials, the legislature, businessmen, community leaders, representatives from NGOs and academics. The CoP had conducted extensive public engagement and various studies to enhance our understanding of poverty in Hong Kong, identified areas where immediate improvements could be made by examining relevant policies and measures, and made a total of 53 recommendations on the direction of future work to prevent and alleviate poverty. With the conclusion of the work of the CoP, the Government set up the Task Force on Poverty (TFP) in 2007, headed by the Secretary for Labour and Welfare, to monitor the progress in implementing recommendations of the CoP and co-ordinate efforts across the Government in tackling poverty-related issues.

11.19 The TFP has duly followed up the recommendations of the CoP, many of which have already been implemented, including launching the \$300 million Child Development Fund (CDF) which seeks to provide children from a disadvantaged background with more personal development opportunities and thereby reduce inter-generational poverty; strengthening training and retraining to enhance the skills and competitiveness of young people, middle-aged and low-income earners; strengthening efforts to reach out to hidden and singleton elders; providing short-term food assistance for those individuals and families who have difficulties coping with daily food expenditure; and implementing the Transport Support Scheme for employees living in remote districts. The TFP will continue to coordinate the Government's efforts and explore possible new initiatives and measures to assist the disadvantaged groups and people in need where necessary.

11.20 Some commentators were concerned that some children were in poverty and that the funding of mentorship programme should ensure

that they receive adequate support and attention. The Government set up the \$300 million CDF in April 2008 to try out an asset-based model which encourages the longer-term personal development of children from a disadvantaged background to reduce intergenerational poverty. The CDF seeks to consolidate resources from the family, the private sector, the community and the Government with a view to providing more development opportunities for these children, encourage them to plan for the future and develop a positive attitude. The three key components of CDF, namely personal development plans, mentorship programme and targeted savings, will enhance children's abilities to manage resources and plan for their own future. The NGOs operating the CDF projects will identify a personal mentor for each participating child to provide the child with guidance in drawing up and implementing his/her personal development plan. Mentors are also encouraged to share their life experience with the children and engage their parents/guardians in the process. The first batch of seven CDF pioneer projects, covering the whole territory, was rolled out in December 2008, benefiting a total of 750 children. To benefit more needy children from a disadvantaged background, the Government will roll out a second batch of 15 projects in the first half of 2010 covering another 1 500 needy children. We expect that CDF will eventually benefit not less than 13 600 children. Separately, the SWD has implemented the policy of "one school social worker for each secondary school" since September 2000 to identify and help students with academic, social and emotional problems and develop their potentials. Students in need may approach the school social workers, who work closely with school personnel, other welfare service units and stakeholders in the community, for support and assistance.

Poverty indicators

11.21 We note the views of the Committee as well as the concerns of some commentators on the adoption of a "poverty line". The CoP had deliberated fully the issue of how to measure poverty in Hong Kong. It was of the view that in an affluent city like Hong Kong, poverty could not be understood simply by the concept of absolute poverty or the lack of ability to afford minimum subsistence, nor could we rely upon a single poverty line to measure income poverty. We must take into consideration the actual situation and needs of the disadvantaged groups, including their

access to essential services and opportunities such as housing, healthcare, education and employment.

11.22 The Government agrees with the CoP, and has all along been adopting a set of 24 multi-dimensional poverty indicators that the CoP recommended for monitoring the overall poverty situation in Hong Kong. Among these 24 poverty indicators, 18 are life-cycle based, covering children and youth, working people and adults, as well as elders, while the remaining six are community based, reflecting the difference in poverty situation across districts. Using these indicators, we can monitor the poverty situation in Hong Kong from different perspectives and identify the needs of different disadvantaged groups and people across different districts, as a basis for the formulation and evaluation of policies to assist the needy. These indicators are updated regularly and released for the public's reference.

11.23 For those indicators relating to income, the CoP considered it appropriate to make reference to the average payment of the CSSA in considering whether an individual was living in poverty, as it was widely used and recognised as the threshold at which the basic living requirements in our community could be met. If such a benchmark is employed as the sole criterion to define the size of the poor population, a total of 517 000 persons aged 0-59 were in poverty in 2008. Taking into account also the poor elderly persons⁸, the size of the poor would come to 714 900. Although the total population of Hong Kong kept growing over the years, the size of its poor population had decreased by about 312 000 persons between 2003 and 2008. It is also worth noting that many people defined as poor are meeting their basic needs through CSSA and enjoying a wide range of free or highly subsidised services such as housing, healthcare and education provided by the Government.

11.24 Although the onset of the global financial crisis in September 2008 and the ensuing recession had led to a distinct worsening in employment and income conditions in 2009, which disrupted the trend of improvement in poverty situation between 2003 and 2008, the Government had introduced a number of special measures in 2008 and

⁸ Poor elderly persons refer to recipients of old-age CSSA and/or those living in private temporary housing and private shared units.

2009, amounting to \$87.6 billion (equivalent to 5.2% of the GDP), to help low-income households and people in need ease their economic burden. The Government will continue to closely monitor the poverty situation and implement measures to assist the needy as and when necessary.

The right to adequate food

Supply of food

11.25 The policy objective of the Government on food supply is to ensure food safety and a stable supply, which is conducive to maintaining stable prices. As a highly open economy, Hong Kong adheres to the principle of free trade in food import. Foods from all over the world, as long as they are fit for consumption, can be imported and distributed in Hong Kong according to market demand, thus promoting diversity in local food choices.

11.26 The livestock for consumption by the public mainly comes from the Mainland of China. To maintain a stable supply, the HKSAR has been maintaining close liaison with the relevant authorities in the Mainland and also the import agents. In July 2007, the market for importation of live pigs from the Mainland was opened up and the number of import agents increased from one to three by October 2007.

11.27 On stabilising food supply, the Government encourages the trade to diversify food sources so as to provide more food choices for consumers. Since the previous report, there has been notable increase in the consumption of both chilled/frozen meat and poultry as an alternative to fresh ones.

11.28 In order to encourage market transparency in food trading, supply information and wholesale prices of major fresh food items such as pigs, cattle, fishes and vegetables, are uploaded onto the Government website on a daily basis.

Rice control

11.29 With a view to enhancing trade liberalisation and competition within the rice trade, the Government liberalised the rice trade in 2003. Currently, the Government only maintains the necessary control to ensure a stable supply of rice and to keep a reserve stock adequate for about 15 days' consumption to cater for emergencies. Any person may register as an importer of rice. The entry requirements have been removed.

Short-term food assistance service projects

11.30 In February 2009, the Government allocated a sum of \$100 million to put in place five district-based projects covering the whole territory to provide short-term food assistance to individuals and families who had difficulties coping with daily food expenditure. These projects are expected to benefit at least 50 000 people eventually. Up to the end of 2009, over 24 300 people had already been served under the projects.

The right to water

Adequate and affordable access to water

11.31 Hong Kong enjoys one of the safest and most reliable water supply systems in the world. Continuous potable water is delivered to each and every household round-the-clock throughout the year. The water supply in Hong Kong comes from two main sources: 70% to 80% comes from the Dongjiang River in the Guangdong Province of China and the remaining from the local catchment of around 300 km². Such sources are adequate in the foreseeable future based on the current forecast demand and supply scenarios. Besides, adequate waterworks installations are in place to store, treat and distribute fresh water to the customers, including 17 impounding reservoirs, 21 water treatment works, 166 fresh water service reservoirs, 149 fresh water pumping stations and about 6300 km of fresh water mains.

11.32 The Government is subsidising the domestic water supply to the citizens. According to the current pricing policy, the first 12m³ of water for each household, per four months period, is free of charge.

Further, the average household water bill comes to about 0.3% of the average total monthly spending which is lower than that of many other major cities around the world.

Quality of water

11.33 All sources of raw water including Dongjiang water imported from Guangdong Province of China and water from local impounding reservoirs undergo appropriate and rigorous treatment to ensure that the treated water is clean, safe and wholesome before it is supplied to consumers. The Water Supplies Department (WSD) has put in place a water safety plan based on preventive risk management and multiple-barrier approach in accordance with the World Health Organization's Guidelines for Drinking-water Quality. This assures the quality of water from source, through water treatment to consumer taps for safe drinking. The quality of treated water supply in Hong Kong complies fully with the World Health Organization's Guidelines for Drinking-water Quality.

11.34 In addition, the WSD has implemented a comprehensive monitoring programme which covers Dongjiang water, catchwaters, impounding reservoirs, water treatment works, service reservoirs, trunk mains and consumer taps to safeguard the quality of water throughout the supply and distribution system. Representative samples are regularly taken from fixed and randomly determined points for chemical, bacteriological, biological and radiological testing.

11.35 Furthermore, the Advisory Committee on Quality of Water Supplies (ACQWS), an independent body comprising members from the academic and professional sector, DCs, green advocates, and related bureaux/departments of the Government, was set up in April 2000 to advise the Government on matters relating to the quality of water supplies. All water quality monitoring data are scrutinised and endorsed by the ACQWS for publication on the WSD's website for public reference at six-monthly intervals.

Conservation of water

11.36 The WSD has launched a public education campaign on water conservation. The focus is to promote the wider use of water saving devices and the voluntary Water Efficiency Labelling Scheme. The publicity and public education programmes include announcement-in the public interest on TV and radio, leaflets, seminars and exhibitions. For the young generation, the concept and knowledge on water conservation are introduced into the school curriculum.

11.37 The Water Efficiency Labelling Scheme is one of the key Government initiatives on water conservation. The aim is to inform citizens of the level of consumption and the efficiency of plumbing fixtures and appliances, thereby promoting a culture of conservation awareness among purchasers. At the same time, the WSD also leads by example to retrofit plumbing fixtures with water saving devices in Government buildings and schools.

Protection of water resources

11.38 Catchment areas for collecting local rainfall are precious resource and are protected from pollution through close monitoring and controlling of development activities within the water gathering grounds. Legislation which outlaws pollution to the waterworks (Waterworks Ordinance (Cap. 102)) and controls pollution to the waters of Hong Kong (Water Pollution Control Ordinance (Cap. 358)) is also in place to protect water resources in Hong Kong.

The right to adequate housing

Housing need

11.39 As at the first quarter of 2009, 40400 households (73 400 persons) were estimated to be inadequately housed⁹, as compared to 100 000 households (274 000 persons) in the first quarter of 2002 as

⁹ The term "inadequately housed" refers to those households or people living in temporary structures or non-self-contained housing units, as well as those involuntarily sharing housing accommodation with other households.

mentioned in the previous report.

Housing policy - the Government's commitment

11.40 Pursuant to the Government's repositioned housing policy in November 2002 as mentioned in paragraph 11.18 of the previous report, the main task of the Hong Kong Housing Authority (the Housing Authority) is to provide public rental housing (PRH) to low-income families who cannot afford private accommodation. Our policy objectives are as follows:

- (a) the focus of the Government's subsidised housing policy is on the provision of assistance to low-income families who cannot afford private rental accommodation;
- (b) the Government should minimise its intervention in the private property market; and
- (c) the Government should maintain a fair and stable operating environment for the private property market by ensuring adequate land supply and the provision of an efficient supporting infrastructure.

Provision of assisted rental housing

11.41 Some commentators were concerned about the waiting time for public housing and the assistance provided to applicants for the PRH in the course of waiting. As at December 2009, there were around 125 000 households on the waiting list for the PRH and the average waiting time for ordinary family applicants was 1.9 years. The Government will continue to provide subsidised rental accommodation to low-income families who cannot afford private rental housing and will continue to endeavour to maintain the average waiting time at around three years. For eligible applicants with pressing need for housing, they may apply for Express Flat Allocation Scheme or compassionate rehousing through recommendations by the SWD for earlier rehousing.

Housing legislation

11.42 The position remains essentially the same as that in the previous report, with the following developments.

Housing (Amendment) Ordinance 2007

11.43 The Housing (Amendment) Ordinance 2007 has been implemented since 1 January 2008. The Amendment Ordinance has introduced a new mechanism to provide for adjustment of the PRH rent according to the changes in the household income of the PRH tenants.

Landlord and Tenant (Consolidation) Ordinance (Cap. 7)

11.44 The Landlord and Tenant (Consolidation) Ordinance was amended to lift rent control and security of tenure in 1998 and 2004 respectively, with a view to enabling the rental market to operate in an open and healthy manner where landlords and tenants can agree mutually on the tenancy terms.

11.45 For tenants and landlords who may face tenancy problems, the Rating and Valuation Department provides free advisory and mediation services to them on tenancy matters under the above Ordinance.

Groups in special need

11.46 The position as mentioned in paragraphs 11.21 and 11.22 of the previous report remains essentially the same. Measures to address the needs of the elderly and PWDs are further elaborated below.

11.47 The Housing Authority public housing estates and domestic blocks are designed with barrier free access, having regard to safety and tenants' convenience. To promote universal accessibility and to meet the diverse needs of all ages and persons with or without a disability, the Housing Authority has been adopting the "Universal Design" approach in the PRH developments since 2002.

11.48 To facilitate the movement of all people including PWDs within the estates, the Housing Authority provide barrier free access route and tactile guide path connecting domestic blocks to major estate facilities such as transportation nodes, and commercial, welfare and community facilities.

11.49 To allow PWDs to orientate themselves and identify the tactile guide path leading to their destinations, the Housing Authority installs multi-sensory estate maps at strategic locations in the new housing estates fitted with high contrasting colours, tactile features, and braille and audible devices: high contrasting colours to assist the visually-impaired persons and audible devices to indicate the route of tactile guide path to assist those visually impaired who cannot read braille.

11.50 Features incorporated under the Universal Design approach include circulation routes of sufficient width for the use of wheelchairs and walking aids; non-slip floor tiles for corridors, kitchens and bathrooms to prevent slipping; lever type door handles, lever type mixer taps and vertical rod type sliding shower heads, sockets and large electrical switches and door bells at optimum locations to ensure easy reach and operation by the elderly, children and wheelchair users.

11.51 In public housing estates with large number of elderly tenants, facilities and landscape improvements are designed to cater for their need. Apart from additional facilities in common areas, the Housing Authority has also carried out flat alterations in accordance with the individual needs of elderly tenants. These involved lowering door thresholds, replacing thresholds with ramps and improving toilet layouts and shower facilities. These programmes are well received by the tenants and public.

11.52 To further improve pedestrian access, particularly for public housing estates on hillsides which are normally provided with staircases for connecting the different platforms within the estate or with the adjacent estate or public road, the Housing Authority has provided lifts or escalators to some of these estates over the past two years. The Housing Authority aims to take a holistic approach in formulating an overall work programme on the addition of lift towers, escalators, footbridges and other

lift improvement works in existing public housing estates, with a view to enhancing pedestrian circulation and allowing barrier free access for PWDs and elderly. It is planned to complete the programme by 2012.

11.53 We have implemented various priority schemes for the elderly living alone, with other elderly or with their families, to shorten waiting time for them.

11.54 For PWDs, we will allocate flats on floors that are accessible by elevators and arrange bigger flat size for households with wheelchair bound person(s) or tetraplegic patient(s). Tailor-made allocation and flat alteration works will also be arranged on a need basis for other kinds of disabilities upon production of medical certifications and recommendations.

Urban renewal

11.55 The position is essentially the same as mentioned in paragraphs 11.25 to 11.27 of the previous report. The objectives of the Government's urban renewal policy are to arrest the problem of urban decay, to improve the living conditions of the residents in older urban areas, and to achieve better utilisation of land in the dilapidated areas of the built environment to meet various socio-economic and development needs. In May 2001, the Government established the Urban Renewal Authority - under the Urban Renewal Authority Ordinance (Cap. 563) - to undertake those objectives. In November 2001, the Government, after extensive public consultations, published an Urban Renewal Strategy to provide a broad policy framework to guide the work of the Authority. The Authority adopts a holistic approach for the regeneration of old urban areas, involving redeveloping dilapidated buildings, rehabilitating old buildings, revitalising old districts and preserving buildings with historical, cultural or architectural value within its project areas. As at the end of 2009, the Urban Renewal Authority and its strategic partner, the Hong Kong Housing Society, had commenced 37 redevelopment projects and four preservation projects involving about 670 existing buildings. The statutory and administrative framework protecting the right to compensation of owners and tenants affected by resumption has not changed since the previous report.

11.56 Some commentators expressed concern that plan for urban renewal and railway development projects in recent years had affected people's right to housing. In order to respond to the changing public aspirations for urban renewal, the Government has launched a comprehensive review of the Urban Renewal Strategy since July 2008, with extensive and thorough public engagement. The review will be completed in 2010. The Urban Renewal Strategy will be revised in the light of the review findings.

Town planning

11.57 As foreshadowed in paragraph 11.28 of the previous report, taking into account the comments received on the proposed legislation, we introduced the Town Planning (Amendment) Bill 2003 into the LegCo in May 2003, which was subsequently passed on 7 July 2004. The main objectives of the Town Planning (Amendment) Ordinance 2004 are to streamline the plan-making process and planning approval procedures, enhance the openness and transparency of the planning system, and strengthen planning enforcement control in the rural New Territories. The Amendment Ordinance came into operation on 10 June 2005.

11.58 Since the implementation of the Town Planning (Amendment) Ordinance 2004 in June 2005, the planning system has become even more open and transparent, and there are more opportunities for public participation in the planning process. All documents submitted to the Town Planning Board (TPB), including planning applications and representations to town plans as well as applications for amendment of plan are now made available for public inspection and comments. All meetings of the TPB and its committees (except for the deliberation part and in special circumstances as set out in the TPB Procedure and Practice) are open to the public. All TPB papers and minutes (except in special circumstances as set out in the TPB Procedure and Practice) are also available to the public. In addition, planning studies prior to the preparation of statutory town plans are undertaken. The public are always encouraged to actively participate in various stages of the studies by way of public forums, Internet, exhibitions and meetings with stakeholders.

11.59 Some commentators suggested that the importance of “play” should be considered in town planning. The land use and standards on the provision of open space and Government, Institution or Community facilities such as library and indoor games hall in Hong Kong are set out in the town plans and the Hong Kong Planning Standards and Guidelines. The supply of land for Government, Institution or Community facilities and provision guidelines are reviewed and updated from time to time, taking into account the change in land use demand, population level, public aspiration and demands for recreational facilities.

New towns

11.60 Large-scale new town development in the New Territories began in the early 1970s. At present, nine new towns, namely, Tsuen Wan, Sha Tin, Tuen Mun, Tai Po, Yuen Long, Fanling/Sheung Shui, Tseung Kwan O, Tin Shui Wai and North Lantau are in various stages of development and will accommodate about four million people upon full development. Large-scale new towns will no longer be developed while new development areas with medium development density will be developed at Kai Tak and in the north east of the New Territories.

“Hong Kong 2030: Planning Vision and Strategy”

11.61 In paragraphs 11.30 and 11.31 of the previous report, we explained that the “Hong Kong 2030: Planning Vision and Strategy” was being conducted with a view to formulating an up-to-date integrated development, land use, transport and environmental strategy to guide Hong Kong’s development to 2030. The Study had been completed and the findings were promulgated in October 2007. The Study has adopted sustainable development as its over-arching goal. The recommended strategy, focusing on the three broad directions of providing a quality living environment, enhancing economic competitiveness and strengthening links with the Mainland of China, aims to help Hong Kong achieve its vision as “Asia’s world city”.

Measures to assist persons in need of adequate housing

Squatters, rooftop structures and bedspace apartments

11.62 There have been concerns from the Committee as well as some commentators on the living conditions of persons in squatters, rooftop structures and bedspace apartments¹⁰ (or “cage homes”). The Government has been providing low-income persons and families in need with a social safety net comprising social welfare and housing. Individuals and families who are unable to support themselves financially can apply for assistance under the CSSA Scheme to meet their basic needs. Low-income families who cannot afford private rental accommodation may apply for the PRH from the Housing Authority. Persons with genuine and pressing housing needs but who are incapable of meeting such needs themselves may seek assistance from the SWD or NGOs. The form of assistance may include provision of short-term financial assistance to meet rental and removal expenses, arrangement for admission to urban singleton hostels or temporary shelters operated by NGOs, or making recommendations to the Housing Authority for admission to the PRH for cases eligible for Compassionate Rehousing.

11.63 The HAD’s Singleton Hostel Programme run by NGOs was specifically launched to provide short-term accommodation for those displaced lodgers affected by the enactment of the Bedspace Apartments Ordinance.

11.64 At present, there are two singleton hostels, namely, Sunrise House managed by the Salvation Army in Sham Shui Po and High Street House managed by the Neighbourhood Advice-Action Council in Sai Ying Pun, under the Programme. The two hostels provide a total of 580

¹⁰ The Bedspace Apartments Ordinance (Cap. 447) enacted in 1994 provides for a licensing system to regulate the building and fire safety of bedspace apartments. According to the Ordinance, any premises in which there are 12 or more bedspaces used as sleeping accommodation for individuals under rental agreements must obtain licences before commencing operation, so as to ensure that the building and fire safety and sanitation of the apartments conform to the standards stipulated therein to safeguard the safety of the occupants. As at December 2009, there were 18 licensed bedspace apartments (including the two singleton hostels under the HAD’s Singleton Hostel Programme). The total number of bedspaces provided was about 1000 and the total number of lodgers was about 790.

bedspaces, with monthly charges ranging from \$700 to \$1,260 per person. As at December 2009, the occupancy rate of the hostels was around 85%. If bedspaces are still available in the two hostels after accommodating those eligible lodgers, they will also provide services to the singletons referred from the SWD and other social welfare agencies on compassionate ground.

11.65 The HD provides information to occupants of licensed private bedspace apartments on how to apply for the PRH via distribution of applications forms and information pamphlets. Apart from a Customer Service Centre, it also runs a Housing Information Centre in the urban area for the convenience of applicants for the PRH. The HD has been providing housing assistance to eligible clearances with genuine need affected by squatter and roof-structure clearance operations by other relevant Government departments.

11.66 Regarding roof top structures, the Buildings Department has continued its phased programme to clear illegal rooftop structures in some 5 500 single-staircase buildings. The HD is helping to rehouse occupants of illegal rooftop structures affected by these clearances and has taken proactive measures to encourage them to register on the Waiting List for the PRH.

11.67 For squatters, the Government's policy is to clear and rehouse squatters if their structures are exposed to immediate and obvious landslip dangers, or they are occupying land required for public development, and if there is a need to improve the environment or living standards of the clearances. It is our policy that no one will be rendered homeless by such clearance operation.

Disadvantaged and marginalised individuals affected by forced eviction

11.68 The Government has provided a safety net for people with genuine housing need including those disadvantaged and marginalised clearances affected by forced eviction operations of the Government, who are eligible to apply for a PRH flat/interim housing unit. For those who are ineligible but with urgent housing need, transit centres are provided as an interim housing arrangement. All public housing applicants, irrespective

of their ethnic group and gender, are treated on an equal basis and processed under the same set of application requirements.

Street sleepers

11.69 The number of street sleepers recorded in the computerised Street Sleepers Registry administered by the SWD has continued to decline in recent years, dropping significantly from 785 in December 2002 to 405 in December 2009.

11.70 Paragraph 11.24 of the previous report mentioned that since April 2001, the SWD had provided additional resources to three NGOs to operate a three-year “Action Plan to help Street Sleepers” which comprised a package of integrated street sleepers services. The Action Plan was completed in March 2004 and was found to be effective in helping street sleepers give up street sleeping. In the light of the effectiveness of the Action Plan, the SWD regularised the services for street sleepers by setting up three Integrated Service Teams for Street Sleepers in April 2004. The Integrated Service Teams which were operated by three NGOs provide a package of tailor-made and one-stop services, including day and late-night outreaching visits, emergency shelter and short-term hostel placement, counselling, employment guidance, personal care (e.g. bathing, hair-cutting and meal service), emergency relief fund, arrangement of long-term accommodation, aftercare service and service referrals. The Integrated Service Teams also collaborate with other NGOs such as the Society for the Aid and Rehabilitation of Drug Abusers and the Society for Rehabilitation and Crime Prevention, Hong Kong, to ensure that specialised services are effectively provided to street sleepers with special needs, e.g. drug addicts and ex-offenders.

11.71 Besides the establishment of the three Integrated Service Teams, welfare services for street sleepers have also been strengthened with the set up of –

- (a) five NGO-operated short-term food assistance service projects which started operation on 27 February 2009, as mentioned in paragraph 11.30 above. The projects provide

food assistance to needy persons, including street sleepers;
and

- (b) a Care and Support Networking Team operated by an NGO with subvention from the SWD which provides outreaching support, casework and group work services to help street sleepers and other vulnerable groups reintegrate into the community.

11.72 Meanwhile, IFSCs and ISCs, which have succeeded the functions of family service centres as mentioned in paragraph 11.24 of the previous report, continue to provide services for street sleepers on a need basis.

Article 12: The right to health

Health and healthcare

12.1 The position at the constitutional level is as explained in paragraph 412 of the initial report.

Policy

12.2 As explained in paragraph 413 of the initial report, the Government's policy is that no one should be prevented, through lack of means, from obtaining adequate medical treatment. To meet this commitment, the Government heavily subsidises various healthcare services and constantly reviews and upgrades them.

12.3 According to estimates under Hong Kong's Domestic Health Accounts (HKDHA)¹¹, public health expenditure in 2005-06 comprised \$36.9 billion¹², or 2.6% of GDP, which accounted for 51.6% of the total health expenditure.

12.4 The public and private sectors complement each other in the provision of healthcare services. In 2005-06, the private health expenditure was estimated at \$34.7 billion¹³, or 2.5% of GDP, and its share

¹¹ The HKDHA, like the National or Domestic Health Accounts of many other economies, is compiled in accordance with the framework of the International Classification for Health Accounts (ICHA) promulgated by the Organisation for Economic Co-operation and Development (OECD) in 2000. Thus estimates under HKDHA will facilitate comparison with other economies. HKDHA captures a more complete picture of public health expenditures in Hong Kong than the Government expenditure under the health policy area in the Government's General Revenue Account (GRA) because, apart from those already classified as health expenditure under the GRA, public health expenditures under the HKDHA framework also cover other health-related functions performed by other Government departments. For example, the HKDHA include health expenditure on nursing homes, rehabilitation and medical social services under the SWD, and ambulance service under the Fire Services Department and Auxiliary Medical Service, etc. These are not included in the Government expenditure under the health policy area in the GRA.

¹² Data come from Hong Kong's Domestic Health Accounts: Estimates of Domestic Health Expenditure, 1989/90 – 2005/06. This represents the most updated estimates available.

¹³ See footnote 12.

was 48.4% of the total health expenditure.

12.5 The Government has pledged and is in the process of increasing progressively its health budget from 15% to 17% of the Government's recurrent expenditure by 2012. We are making use of the increased budget to improve public healthcare services and implement the service reform measures (to be elaborated under paragraphs 12.47 to 12.49 below), which have received wide public support.

General health of Hong Kong's population

12.6 Hong Kong's health indices continue to compare favourably with those of developed economies -

	Infant Mortality Rate (per 1,000 live-births)	Maternal Mortality Rate (per 100,000 total births)	Life Expectancy	
			Male	Female
Hong Kong (2008)	1.8	2.5	79.3	85.5
Japan	2.6 (2008)	3.2 (2007)	79.3 (2008)	86.1 (2008)
UK	4.7* (2008)	7.3 (2007)	77.4 (2007)	81.6 (2007)
USA	6.5* (2008)	13.3(2006)	75.3* (2007)	80.4* (2007)

* Provisional figure.

12.7 The infant mortality rate fell from 3.2 per thousand registered live births in 1998 to 2.5 in 2004 and 1.8 in 2008. Life expectancy at birth for males increased from 77.4 years in 1998 to 79.0 in 2004 and 79.3 in 2008. For females it increased from 83.0 years in 1998 to 84.8 in 2004 and 85.5 years in 2008. Hong Kong's life expectancy levels remain amongst the highest in the world. In 2008, the maternal mortality ratio remained low at 2.5 per hundred thousand registered live births. The whole population has access to safe drinking water and adequate sewage disposal facilities. It also has access to trained personnel for the treatment of common diseases and injuries, for the care for women during pregnancy and delivery, and for child care. Also, the immunisation coverage rates of children against tuberculosis, hepatitis B, poliomyelitis, diphtheria,

pertussis, tetanus, measles, mumps and rubella have been maintained at over 95% according to regularly conducted immunisation coverage survey. The levels remain one of the highest among developed economies.

Provision of healthcare services and programmes

Primary healthcare services

12.8 The Government delivers primary healthcare services through clinics and health centres operated by its DH, as explained in paragraph 442 to 443 of its initial report. It follows the World Health Organisation (WHO) approach to the provision of primary healthcare services. Primary healthcare consists of a wide range of public health services, including health promotion and disease prevention.

12.9 Hong Kong's expenditure on primary healthcare, which includes spending on public general out-patient clinics, private out-patient services (general and specialist) and dental care, amounted to about \$21 billion¹⁴ in 2005-06, with the share of the public expenditure accounting for about 22%, focusing especially on providing public health services available free of charge or at very low fees to the general public.

Family health and health care of women of child-bearing age and children up to five years of age

12.10 The Government's Family Health Service (FHS) provides a comprehensive range of health promotion and disease prevention services for children from birth to five years and women below 65 years of age, through a network of 31 MCHCs and 3 Woman Health Centres.

12.11 Programmes offered to women of child-bearing age include antenatal and postnatal care, family planning service, and cervical cancer screening. Breast awareness and breastfeeding are major health issues and are actively promoted throughout.

12.12 The Child Health Service is delivered in the form of an Integrated Child Health and Development Programme. It comprises three

¹⁴ See footnote 12.

core components, namely the Parenting Programme, the Immunisation Programme and the Health and Developmental Surveillance Programme. The Parenting Programme aims to equip parents with the necessary knowledge and the skills to bring up healthy and well-adjusted children. A comprehensive immunisation programme is provided in the MCHCs to protect children from ten infectious diseases. The Health and Developmental Surveillance programme regularly monitors children to allow for early detection of growth, developmental or behavioural problems. Children with significant problems are referred to specialists or the Child Assessment Service for further management.

Woman Health Service

12.13 The Woman Health Service promotes the health of women and addresses their health needs at different life stages. The service aims to empower women to make life choices that are conducive to their health and seek appropriate health care or social services when necessary, through the provision of accurate and updated information on all woman health issues as well as relevant community resources. The Government has three Woman Health Centres and 10 MCHCs running the Woman Health Service, which provides health education, counselling, and assessment according to individual needs.

12.14 Some commentators recommended that the opening hours of the MCHCs should be extended for one to two days per week to facilitate visits by women at work. Woman health service in Woman Health Centres and MCHCs is provided in the morning of the second and fourth non-public holiday Saturdays of each month to facilitate working women. While DH has no plan to expand the woman health service or to introduce evening sessions at present, it is not the only service provider of woman health services. Other community organisations, including the Family Planning Association, Tung Wah Group of Hospitals, the Hong Kong Federation of Trade Unions and private medical practitioners, also provide women health services. In addition, DH runs a website (<http://www.fhs.gov.hk>) and a 24-hour hotline to disseminate comprehensive woman health information.

12.15 Some commentators urged the Government to promote regular breast check-up. We place great importance on woman's health. Health promotion and disease prevention strategies are employed to safeguard the health of women in Hong Kong. The Cancer Prevention and Screening Expert Panel under the Hong Kong Cancer Co-ordinating Committee makes recommendations on strategies for cancer prevention and screening based on the latest medical evidence. According to the recommendation of the Expert Panel, the Woman Health Centres of DH provide mammography screening to high risk women, for example those with a first degree relative suffering from breast cancer before the age of 50 and women aged 50 or above (as the chance of suffering from breast cancer increases with age).

12.16 Taking primary prevention measures for breast cancer by the public is important. DH has put in much effort in promoting the primary prevention of breast cancer. Measures include maintaining optimal body weight, regular exercise, sensible drinking, eating low fat food and plenty of fruits and vegetables, having the first child early and breastfeeding. In addition, DH advocates "Breast Awareness", which aims to encourage women to be more aware of their breasts and how they change at different times of the month. This enables early detection of any abnormal breast changes. DH's medical staff would provide physical examination, counselling and specialist referral for women who present with breast lumps and abnormal breast change.

12.17 The annual enrolment fee (\$315) for woman health service and additional fee (\$225) for screening mammography are heavily subsidised by the Government. For those who are recipients of the CSSA, the fees are waived.

Services for pregnant women from the Mainland of China

12.18 Some commentators suggested enhancing protection for pregnant women from the Mainland of China who were admitted to local hospital for delivery. The Obstetric Package for Non-eligible Persons provided by the HA, which covers pregnant women from the Mainland, includes one antenatal check up and a stay of two nights for delivery at public hospitals. The antenatal check up helps to reduce the risks of both

difficult labour for the women and unrecognised congenital anomalies and ensures that all essential investigations are conducted before delivery. If necessary, these pregnant women may continue to receive antenatal care at the obstetric out-patient clinics of public hospitals throughout pregnancy upon payment of the respective charges. The present arrangement is effective in reducing the incidence of pregnant women seeking emergency hospital admissions through Accident and Emergency Departments without essential antenatal care, thus reducing the risk to both the mother and the foetus.

Student Health Service

12.19 The Student Health Service of the DH provides a comprehensive range of promotive and preventive services to promote the physical and psychosocial health of Hong Kong's primary and secondary school children. School children can attend one of the 12 Student Health Service Centres for health assessments including physical examination and screenings for underlying medical problems, individual counselling, health education and referral to specialists, school guidance staff, school social workers, and other social welfare organisations for further assessment as appropriate.

Health of children and adolescents

12.20 The DH introduced the Adolescent Health Programme in 2001 as part of the Student Health Service. Its purpose is to help adolescents face challenges of growing up by developing their resilience, equipping them with the skills they need to cope with crises and stress, and fostering a positive attitude to life. Multi-disciplinary teams of doctors, nurses, clinical psychologists, social workers, and other professionals visit secondary schools to deliver health promotional programmes to students, teachers and parents.

12.21 Some commentators urged the Government to formulate a comprehensive child health policy, while some others expressed concern about the problems of obesity as well as the unhealthy eating habit and lifestyle of children and adolescents in Hong Kong. The Government attaches great importance to the health of children and adolescents.

Through DH and HA, we provide a comprehensive range of medical services including health promotion, disease prevention, early intervention and medical care for children. An Integrated Child Health and Development Programme is implemented in MCHCs of DH to promote the holistic (physical, cognitive, emotional and social) health and wellbeing of children from birth to five years. The core components of the integrated programme are parenting, immunisation, as well as health and developmental surveillance.

12.22 Evidences showed that breastfed children are less likely to develop childhood obesity. Programmes in promotion and supporting continuation of breastfeeding have been implemented in MCHCs. These include antenatal workshops, support groups, medical consultation for breastfeeding related problems and individual counseling and coaching on techniques of breastfeeding. Among infants born in 2008, 73.7 % of mothers initiated breastfeeding after delivery, and 12.7 % of infants were exclusively breastfed at 4 to 6 months.

12.23 The Integrated Child Health and Development Programme includes growth monitoring and guidance on child feeding. Parents are provided with anticipatory guidance on weaning and healthy eating. The information is also provided in the Happy Parenting workshops, parent education pamphlets and the website of the Family Health Service under the DH.

12.24 Currently the Family Health Service is developing a parenting programme on weaning. It aims to assist parents in adopting the healthy feeding practices as early as the weaning period to facilitate the children to adopt a healthy eating habit in the longer term.

12.25 For primary and secondary school students, the Student Health Service of the DH provides comprehensive, promotive and preventive health programmes according to their needs at various stages of development. It aims at promoting and maintaining the physical and psychological health of students.

Dental care

12.26 Curative dental services are mainly provided by the private sector and NGOs. The Government dental services are largely confined to emergency dental treatment, specialist oral care to public hospital patients and special need group, dental care for prisoners/inmates in correctional institutions, and basic dental treatment for primary school children through the School Dental Care Service.

12.27 In 2008-09, over 346 000 children - about 94.3% of the primary school population - participated in the School Dental Care Service. This represents an increase by 6% in participation rate compared to 2001-02, as reported in paragraph 12.16 of the previous report. The Government also strives to raise public awareness of oral health and help them develop good oral health habits through publicity and education. Since 2003, the DH has been launching an annual “Love Teeth Campaign” to strengthen its efforts on oral health promotion to the community.

Health education

12.28 We mentioned in paragraph 12.17 of the previous report that the Central Health Education Unit of the DH has incorporated a multidisciplinary team. The Unit works in partnership with the community to enhance the health of the population more comprehensively and effectively. Priority action areas include nutrition, physical activity, organ donation, injury prevention and mental health promotion.

Provision of public hospital services

12.29 As mentioned in paragraph 12.20 of the previous report, public hospital and related healthcare services in Hong Kong are mainly provided by the HA. At present, the HA manages 41 public hospitals and institutions, 48 specialist outpatient clinics and 74 general outpatient clinics. The provision of the services is organised into seven clusters.

Inpatient services

12.30 The HA provides inpatient services to patients with acute illnesses who require intensive treatment. As at 31 March 2009, the HA provides a total of 27 117 beds, including 20 416 general beds, 2 041 infirmary beds, 4 000 beds for the mentally ill and 660 beds for the mentally handicapped. Compared with the total number of hospital beds as at March 2002 as reported in paragraph 12.22 of the previous report, the slight decrease in the number of hospital beds was due to the gradual shift of the focus in healthcare services delivery from inpatient to ambulatory and community care, which is in line with international trend. Under this trend, the reliance on hospital beds has reduced. In 2008-09, the number of inpatient and day patient discharges in public hospitals was over 1.27 million. About \$23.4 billion were spent on the provision of such services in the hospitals of the HA in that year.

Spending on public hospitals and waiting lists for patients

12.31 We note the concern of the Committee on the spending on public hospitals and waiting lists for patients. The Government's allocation to the HA has been increasing in recent years from \$26.9 billion in 2005-06 to \$31.1 billion in 2008-09. To further enhance the healthcare services provided by the HA, the Government has also decided to increase the recurrent subvention for the HA by about \$870 million each year over the three years from 2009-10 to 2011-12. As regards the waiting time for patients at HA's specialist outpatient clinics, the HA has in place a triage system to arrange the date of appointment for new patients having regard to the urgency of their clinical conditions to ensure that patients with urgent medical needs are attended to within a reasonable time. More details are at paragraph 12.35.

Accident and emergency services

12.32 As at 31 December 2009, 16 public hospitals provide accident and emergency services to deliver services to patients requiring urgent medical attention and provide medical support in major disasters and incidents. About \$1.7 billion were allocated for the provision of such services in 2008-09.

12.33 In 2008-09, the number of attendances at the accident and emergency departments of public hospitals was around 2.12 million. Patients attending the accident and emergency departments are classified into five categories according to their clinical conditions: Critical (Category 1), Emergency (Category 2), Urgent (Category 3), Semi-urgent (Category 4), and Non-urgent (Category 5). This aims to enable patients with more urgent needs to be promptly attended to. In 2008-09, all patients in Category I were provided with immediate treatment and over 95% of patients in Category II were provided with treatment within 15 minutes.

Specialist outpatient services

12.34 The HA has specialist outpatient clinics in various clusters to provide specialist services. The services provided at these clinics include assessment of patients' symptoms, diagnosis, treatment and follow-up treatment. About \$6.5 billion were allocated in 2008-09 for providing such services.

12.35 In 2008-09, the number of attendances at the specialist outpatient clinics of the HA was 6.07 million. Under the triage system for new specialist outpatient cases in the HA, special outpatient services clinics will arrange the date of appointment for new patients having regard to the urgency of their clinical conditions, taking into account the patients' clinical history, the presenting symptoms and the findings of physical examination and investigations. Patients with Priority I and Priority II conditions can be seen within two weeks and eight weeks respectively. The triage criteria have been sent to private practitioners to facilitate their initial assessment of patients. A number of specialist clinics of the HA work with the family medicine specialist clinics within the same cluster to conduct preliminary assessment for patients with low-risk medical conditions so as to shorten the waiting time for the newly referred patients.

12.36 Patients with stabilised conditions will be referred back to the primary care practitioners in the private sector or the HA's general outpatient clinics for further follow-up and treatment.

Allied health services

12.37 The allied health service personnel of the HA, including clinical psychologists, physiotherapists and occupational therapists, provide rehabilitation and extended care services to patients to optimise their treatment outcome and facilitate their re-integration into the community. In 2008-09, the number of allied health outpatient attendances was around 1.9 million. On the other hand, medical laboratory technologists, diagnostic radiographers, medical physicists and medical scientific officers also assist doctors in carrying out medical diagnosis and monitoring treatment outcomes.

Ambulatory and community care

12.38 In the light of the international trend of focusing more on the development of ambulatory and community care services, the HA has stepped up the development of ambulatory and community care services. This is to reduce the reliance of the public on inpatient services and facilitate the rehabilitation of discharged patients in the community. The HA will also continue to enhance the training for family physicians and other community healthcare staff to improve community health care.

12.39 In 2008-09, the expenditure of the HA on community health services was \$800 million. In the same year, the HA conducted a total of 799 300 home visits and provided 831 700 outreach attendances to elderly people and patients with mental health problems.

Medical charges and fee waiver

12.40 Fees for public hospital services in Hong Kong are set at a level affordable by the general public. We note the concern of the Committee and some commentators on medical care received by low income patients under the current fee waiver system. Medical charges of public hospitals and clinics are highly subsidised by the Government with an average subsidy level of 95%. People receiving assistance under the CSSA are exempted from payment of public medical charges. Meanwhile, the Government has put in place a medical fee waiver mechanism to provide assistance to other needy groups. Recipients of the waiver include

low-income patients, chronically ill patients and elderly patients with financial difficulties.

Subsidy of drugs

12.41 We note the recommendation raised by the Committee and other commentators to revise the current subsidised drug list to meet the needs of the chronically-ill and the mentally ill.

12.42 The drug policy of the HA is to implement the Drug Formulary to ensure equitable access to cost-effective drugs of proven safety and efficacy through standardisation of the drug policy and drug utilisation in all HA hospitals and clinics. At present, there are about 1 300 standard drugs in the Formulary. All of them are proven to have clinical efficacy, therapeutic effectiveness and cost-effectiveness. Patients who meet the relevant clinical conditions will be prescribed the drugs by doctors and the drugs will be provided by the HA at standard fees and charges.

12.43 In accordance with established mechanism, the HA regularly appraises new drugs and reviews the list of drugs in the Formulary through its expert committees (including the Drug Advisory Committee and the Drug Utilisation Review Committee) which comprise doctors, clinical pharmacologists and pharmacists. Changes will be made to the Formulary as appropriate to the circumstances. The review process takes into account a number of considerations such as scientific evidence, cost-effectiveness, technology advances in treatment options concerned, actual experience in the use of the drugs, as well as the views of professionals and patient groups. To further enhance the protection for patients, we have earmarked additional recurrent funding of \$194 million to the HA in 2010-11 to expand the coverage of the Formulary by incorporating six drugs for rare genetic diseases and two drugs for cancer into the Formulary in that year. The clinical application of nine drug classes, including drugs for chronic diseases and mental illness, will also be expanded in the same year.

Working hours of healthcare personnel and patient safety

12.44 Some commentators were concerned about the long working hours of hospital personnel and possible implications on patient safety. The HA is committed to maintaining a motivated and competent workforce for provision of quality services to the public. To improve the working conditions of staff, the HA has implemented various initiatives in recent years, including the pilot programmes under the Doctor Work Reform which seeks to rationalise doctors' working hours while enhancing quality of patient care through better teamwork and sharing of responsibilities. The HA will continue to monitor the working conditions of its staff and identify ways to manage workload while ensuring the delivery of quality service to the public.

Handling of medical complaints

12.45 Some commentators showed concern on the effectiveness of the complaint mechanism on hospital services. The HA has in place a two-tier complaint system for handling of complaints in relation to medical services. All first-time complaints about hospital services will be handled and responded by the hospital directly. If the complainant is not satisfied with the handling/outcome of his/her complaint, he/she can file an appeal with the Public Complaints Committee (PCC) of the HA. The PCC comprises members from different sectors of the community and is responsible for considering and deciding on all appeal cases. Members of the PCC are not HA employees and the PCC has no direct line function with any hospital or operational departments/service units. This enables the PCC to handle all complaints fairly and impartially as an independent body. The HA has also implemented various initiatives to continuously improve the efficiency and effectiveness of its complaints management system, e.g. launching patient satisfaction surveys to engage patients and proactively collect patient feedback, establishing fast-track mechanism on handling of repeated appeals with a view to expediting and streamlining the processing of such cases.

Regulation of health care institutions

12.46 The Office for Registration of Healthcare Institutions of the DH registers private hospitals, nursing homes and maternity homes and monitors their services with respect to accommodation, manpower and equipment. The framework for the regulation and monitoring of private health care services includes both statutory and administrative measures implemented by the DH¹⁵. The framework is regularly reviewed to ensure that the private sector provides a high and consistent standard of service. Improvements are made where necessary, for example, the DH revised the Code of Practice for private hospitals, nursing homes and maternity homes which institutionalised standards of good practice in private hospitals in late 2009.

Reforming the health care systems

12.47 Further to the position as set out in paragraph 12.39 to 12.41 of the previous report, to meet challenges that arise from Hong Kong's ageing population, rising expectations of health care, and soaring medical costs due to technological advancement, the Government published the Healthcare Reform Consultation Document "Your Health, Your Life" in March 2008 and launched a three-month first-stage public consultation on healthcare reform. We put forward the following complementary reform proposals as an integral package:

- (a) enhancing primary care;
- (b) promoting public-private partnership in healthcare;
- (c) developing electronic health record sharing;
- (d) strengthening public healthcare safety net; and
- (e) reforming healthcare financing arrangements.

¹⁵ For example, the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165).

12.48 The first-stage public consultation on healthcare reform reflected a broad consensus of the community on the need to reform the healthcare system and for implementing reform proposals listed in the above paragraph to further improve healthcare service. The public also broadly recognised the need to address the issue of healthcare financing in order to ensure the sustainable development of the healthcare system.

12.49 In recognition of the challenges to healthcare financing posed by Hong Kong's ageing population and increasing medical costs, and taking into account the views collected in the first-stage public consultation on healthcare reform especially on financing, the Government is now working on a supplementary financing option based on voluntary participation, which will comprise insurance and savings components and will be standardised and regulated by the Government. The Government has also set aside \$50 billion to take forward healthcare reform. The objective is to enable a wider choice of private healthcare services for those who are willing and able to afford through voluntary health insurance and saving schemes, in turn easing the pressure on the public healthcare system and benefiting people in need of heavily-subsidised public healthcare services. We plan to consult the public on the detailed proposal in 2010.

Enhancing primary care

12.50 On enhancing primary care specifically, the Working Group on Primary Care set up by the Government made a number of initial recommendations in September 2009, which are outlined below:

- (a) developing conceptual models and clinical protocols for different chronic diseases and age/gender groups;
- (b) developing in phases a Primary Care Directory to provide adequate information about different primary care service providers to facilitate the public to choose the providers that best suit their needs, and to promote the family doctor concept; and

- (c) launching pilot projects in various districts to set up community health centres and networks through collaboration between the public and private healthcare sectors as well as NGOs, so as to provide more comprehensive one-stop primary care services to the public.

12.51 The Government will allocate additional resources to implement the above recommendations for enhancing primary care in HKSAR. We have also started implementing a series of pilot projects to enhance the support for chronic disease patients in both the public and private sectors in local communities. We are exploring through these pilot projects and other initiatives the scope for greater public-private-partnership in the provision of healthcare. Meanwhile, we will also strengthen the safety net of our public healthcare services so as to give better protection for patients requiring costly drugs and treatment.

To develop a territory-wide patient-oriented electronic health record sharing system as an essential healthcare reform infrastructure

12.52 As an essential infrastructure for implementing healthcare reform, the Government is joining hands with the public and private healthcare sectors, IT service providers and stakeholders in the community to develop a territory-wide, patient-oriented electronic health record (eHR) sharing system. A dedicated office was set up under the Food and Health Bureau (FHB) in July 2009 to co-ordinate the 10-year programme on the eHR development, by leveraging the HA's systems and know-how.

12.53 The objective of the eHR Programme is, through developing an eHR sharing system based on voluntary participation of the patients and healthcare providers, to enhance the continuity of care as well as better integration of different healthcare services for the benefits of individual patients. The Government is committed to developing the first phase of the sharing system by 2013-14 for connection with all public and private hospitals, and to having electronic medical/patient record systems and other health information systems available in the market for private doctors, clinics and other healthcare providers to connect to the eHR sharing platform. The Government will also formulate a legal framework for the eHR sharing system prior to its commissioning to protect data

privacy and security.

Traditional Chinese medicine

12.54 As mentioned in paragraph 12.26 of the previous report, Hong Kong has established a statutory framework to regulate Chinese medicine practice, and the use, trading and manufacture of Chinese medicine through the enactment of the Chinese Medicine Ordinance (Cap. 549) and the setting up of the statutory Chinese Medicine Council of Hong Kong. The Chinese Medicine Council of Hong Kong is supported by the Chinese Medicine Practitioners Board and the Chinese Medicines Board, which regulate the practice of Chinese medicine practitioners and the use, trading and manufacture of Chinese medicines respectively.

Regulation of Chinese medicine practitioners

12.55 The Chinese Medicine Ordinance stipulates a regulatory system for Chinese medicine practitioners. The system involves registration, examination and discipline, which protects the rights and health of patients, ensures the professional standards and conduct of Chinese medicine practitioners, and hence establishes the statutory professional status of Chinese medicine practitioners in Hong Kong.

12.56 Under the system, only those who have passed the Licensing Examination are eligible to become registered Chinese medicine practitioners. To ensure registered Chinese medicine practitioners keep abreast of updated professional knowledge, the registration system also requires that registered Chinese medicine practitioners must satisfy the requirement for continuing education under the Chinese Medicine Ordinance before their practising certificates would be renewed.

12.57 The Chinese Medicine Practitioners Board has also compiled the Code of Practice for Chinese Medicine Practitioners with a view to ascertaining the standard of professional practice and ethics of Chinese medicine practitioners.

12.58 As at end of November 2009, there were about 6 100 registered Chinese medicine practitioners in Hong Kong.

Regulation of Chinese medicine

12.59 As foreshadowed in paragraph 12.29 of the previous report, Hong Kong has established a regulatory system for Chinese medicines. The regulatory system for Chinese medicines encompasses four aspects including licensing of Chinese medicines traders, registration of proprietary Chinese medicines, import and export control on Chinese medicines, and a monitoring system for the safety of Chinese medicines.

12.60 For licensing of Chinese medicines traders, retailers and wholesalers selling Chinese herbal medicines, as well as manufacturers and wholesalers of proprietary Chinese medicines must apply for licences. The Chinese Medicines Board has drawn up practising guidelines for each category of Chinese medicines traders. All licensed Chinese medicines traders must comply with relevant legislation and practising guidelines. The Chinese Medicines Board has the authority to take disciplinary action against any Chinese medicines traders who violate the practising guidelines.

12.61 As at end November 2009, the Chinese Medicines Board has issued about 7 300 Chinese medicines trader licenses.

12.62 According to the Chinese Medicine Ordinance, all proprietary Chinese medicines must first be registered before they can be sold or manufactured in Hong Kong. The relevant sections are expected to commence in 2010. As at end of November 2009, the Chinese Medicines Board has received about 16 500 applications for registration as proprietary Chinese medicines.

12.63 From January 2008, applications for import or export of 36 Chinese herbal medicines and proprietary Chinese medicines under the Chinese Medicine Ordinance should be made to the DH. Any person importing or exporting the aforesaid Chinese medicines without a license may commit an offence under the Import and Export Ordinance.

12.64 In order to safeguard public health, the DH maintains surveillance on the safety and quality of Chinese herbal medicines and proprietary Chinese medicines on sale in the market. Healthcare personnel should report cases of adverse effects caused by medicines and the DH will investigate into such incidents and bring in appropriate preventive and control public health measures accordingly.

12.65 As mentioned in paragraph 12.29 of the previous report, the DH is developing reference standards for Chinese Materia Medica. The Hong Kong Chinese Materia Medica Standards project was launched in 2001, with the purpose of providing safety and quality reference standards for commonly used Chinese Materia Medica in Hong Kong. Research on the standard of 60 Chinese Materia Medica commonly used in Hong Kong has already been completed by phases. The standards of eight Chinese Materia Medica in phase I and 24 in phase II of the project were published in 2005 and 2008 respectively. For phase III, the standards of another 28 Chinese Materia Medica will be published in early 2010. The Chinese Materia Medica standards will be extended to cover some 200 commonly used Chinese herbal medicines in Hong Kong by 2012.

Structured training in Chinese medicine

12.66 Further to the position reported in paragraph 12.30 of the previous report, three universities provide Chinese medicine outpatient services, as well as full-time undergraduate courses and post-graduate degree courses on Chinese medicine.

Chinese medicine outpatient services

12.67 We started introducing Chinese medicine outpatient services in the public sector in December 2003. Our plan is to set up one public Chinese medicine clinic (CMCs) in each of the 18 districts in the territory. Up to early 2010, 14 CMCs have been put into operation. Plans to set up the remaining public CMCs are in the pipeline. The objectives of setting up public CMCs are to:

- (a) promote the development of “evidence-based” Chinese medicine practice through clinical research;

- (b) systematise the knowledge base of Chinese medicine;
- (c) develop a model for Chinese medicine training;
- (d) develop standards in Chinese medicine practice; and
- (e) develop models of interface between western and Chinese medicine.

Control of communicable diseases

12.68 The position is largely the same as set out in paragraphs 12.6 to 12.7 of the previous report, i.e. that we continue to maintain a well-established and effective system for surveillance of communicable diseases. The Prevention and Control of Disease Ordinance (Cap. 599) and its subsidiary legislation have come into operation since 14 July 2008, replacing the Quarantine and Prevention of Disease Ordinance (Cap. 141). The new Ordinance has brought the legislative framework in line with the development of the overall control mechanism for communicable diseases in Hong Kong and the requirements of the International Health Regulation (2005). As with the previous Ordinance, medical doctors are required to notify the Director of Health of cases of diseases specified in its First Schedule. In addition, the DH monitors trends of infectious diseases of public health importance such as influenza-like illness; hand, foot and mouth disease; acute diarrhoeal diseases; and acute conjunctivitis through various sentinel surveillance systems based at public out-patient clinics and general practitioners, Chinese medicine practitioners, child care centres and kindergartens, as well as elderly homes. The Public Health Laboratory Service Branch of the Centre for Health Protection also provides laboratory diagnostic services for disease surveillance and control.

12.69 The DH continues to work closely with the WHO and centres for communicable disease control in neighbouring and overseas countries. Such co-operation includes the prompt sharing of information, transfer of expertise, support, and collaboration.

Influenza A (H1N1) 2009 Pandemic (Human swine influenza)

12.70 The first case of Influenza A (H1N1) was confirmed in Hong Kong on 1 May 2009. Taking into account the experience gained in handling the confirmed cases and the latest scientific evidence, the Government has developed its strategy for prevention and control of the disease.

12.71 The strategy for preventing and controlling the Influenza A (H1N1) 2009 pandemic focuses on the following:

- (a) enhancing surveillance and controlling the disease in the community;
- (b) stepping up responses in hospitals and clinics and enhancing capacity;
- (c) mobilising the community to step up disease prevention effort;
- (d) maintaining transparency of information; and
- (e) fostering collaboration with the WHO, the Mainland of China and overseas health authorities.

12.72 To safeguard public health, the Government launched vaccination programmes starting from 21 December 2009 to provide free/subsidised vaccine for influenza A (H1N1) to target group including healthcare workers, persons with chronic illness and pregnant women, children between the age of 6 months and less than 6 years, elderly persons aged 65 years or above, and pig farmers and pig-slaughtering industry personnel.

12.73 The Government is closely monitoring the development of the global and local situations, as well as the latest information about influenza pandemic from the WHO to ensure that appropriate measures are implemented to safeguard the health of Hong Kong people.

Avian influenza

12.74 In paragraph 12.10 of the previous report, we informed the Committee of the avian influenza (AI) outbreaks occurred among poultry in 2001 and 2002 and the stringent control measures implemented subsequently at various levels to prevent recurrent H5N1 infection in poultry in Hong Kong and to prevent its transmission to humans. The Government has implemented a comprehensive surveillance programme for both local poultry and imported poultry since 1998. Since the end of 2002, the surveillance programme has been extended to cover wild birds, captive wild birds in recreational parks and pet birds in the market. Starting from October 2005, the Government also offered sick and dead wild bird collection service to the public as part of the surveillance programme.

12.75 There have been no locally infected AI cases in humans since 1998 and no AI outbreaks in commercial chickens between early 2003 and early 2008. In June 2008, H5N1 AI virus was detected in environmental swabs taken from four local retail markets. To minimise the public health risks posed by the AI, especially at the retail level, the Government introduced new and enhanced measures at all levels of the supply chain. These included prohibition of overnight stocking of live poultry at all retail outlets through legislation, and the launch of a buyout scheme to the live poultry trade which had significantly reduced the number of poultry farmers, wholesalers, transporters and retailers in Hong Kong. In December 2008, another AI outbreak occurred in a local chicken farm which led to a further tightening of biosecurity requirements in chicken farms.

12.76 The surveillance of influenza in the human population has been improved through a network of clinics, hospitals, and laboratories in the public and private sectors. Measures implemented in Hong Kong to reduce the risk of infection spreading from poultry to humans over the past years are listed in Annex 12A.

Enteric Infections and Vector-borne Diseases

12.77 With improved food, water and environmental hygiene in Hong Kong, the incidence of enteric diseases such as hepatitis A, bacillary dysentery, and cholera have dropped significantly in the past decades. Concerted efforts have been made from all sectors of the community to control various vectors. There is no locally acquired case of malaria and dengue fever reported since 1998 and 2003 respectively in Hong Kong.

Immunisation Programmes

12.78 To further enhance the protection offered to young children, acellular pertussis vaccine and inactivated poliomyelitis vaccine have replaced the whole cell pertussis vaccine and the oral poliomyelitis vaccine respectively since 2007. Moreover, pneumococcal conjugate vaccine has also been incorporated into the Childhood Immunisation Programme since 2009. In order to prevent influenza related complications in elderly, the DH has been providing free seasonal influenza vaccination annually to eligible elders since 1998. The Government further extended the programme in 2009 and renamed it as the "Government Vaccination Programme" under which seasonal influenza and pneumococcal vaccinations would be provided to all eligible elders aged 65 and above.

Prevention and control of HIV/AIDS

12.79 Prevention, care and control of HIV/AIDS continues to remain a high priority. As at 31 December 2009, 4 443 cases of HIV infection - mostly contracted through sexual transmission - had been reported to the DH. Of these, 1 106 had developed AIDS. In 2007, it was estimated that 3 600 persons aged 15 to 49 were living with HIV/AIDS¹⁶.

¹⁶ HIV/AIDS Surveillance Office, Special Preventive Programme, DH, 2007.

Advisory Council on AIDS

12.80 The role of the Advisory Council on AIDS is as explained in paragraph 420 of the initial report. The 1998 review mentioned in the report led to new strategy proposals that have since been revised and re-evaluated, most recently in 2006. The 2006 revisions set the strategic programme for the period 2007 to 2011.

Detection and treatment

12.81 Further to paragraph 12.34 of the previous report, it was estimated that about 2 500 patients were under HIV care in Hong Kong as of 2009.

The rights of sufferers

12.82 The situation remains essentially as explained in paragraph 422 of the initial report. The Government has been offering free HIV/AIDS testing and counselling to members of the public who are suspected to be infected. Besides, consultation and treatment are offered to local residents at heavily subsidised rates. In 2009, over 70% of people living with HIV/AIDS cared for in the public sector were receiving anti-HIV treatment.

Community involvement and education

12.83 The role of the AIDS Trust Fund was explained in paragraph 423 of the initial report. In response to the local epidemic, a two-year Special Project Fund devoted to HIV prevention for men who have sex with men was launched on 1 December 2006. Revision of funding guidelines to tie in with the priority areas as identified by the Advisory Council on AIDS was promulgated in May 2008. As of 31 March 2008, NGOs had received grants totalling over \$348.7 million from the Fund. This covered the costs of over 800 projects targeting such groups as men who have sex with men, youth, commercial sex workers, and cross-boundary travellers. The Fund also makes ex-gratia payments to persons who have contracted HIV through transfusion of contaminated blood products. The “Red Ribbon Centre” - whose role was also

explained in paragraph 423 of the initial report - has continued to be an UNAIDS Collaborating Centre for Technical Support.

Sexual and reproductive health programme

12.84 The DH safeguards the sexual and reproductive health through comprehensive preventive and promotive services provided by the FHS, the Student Health Service, Special Preventive Programme and Social Hygiene Clinics. Our response to the Committee's recommendation to develop a comprehensive sexual and reproductive health programme is set out in the ensuing paragraphs.

Sexual and reproductive health programme for women

12.85 The FHS, as mentioned in paragraph 12.10, includes a sexual and reproductive health programme. Women are provided with education on sexual health at various life stages. Safe sex is emphasised to reduce the chance of contracting sexually transmitted diseases and developing cervical cancer. The FHS also provides counselling and referral services for women with sexual problems.

12.86 Family planning services are provided at the MCHCs to women of childbearing age to enable them to decide freely and responsibly the number and spacing of children. Appropriate contraceptive method is prescribed according to individual needs. Counselling and referral services are provided for women with infertility problems or unwanted pregnancy, and for those who request sterilisation.

12.87 A comprehensive antenatal shared-care programme is available for pregnant women in the MCHCs, in collaboration with the Obstetric Department of public hospitals, to monitor the whole pregnancy and delivery process. Postnatal mothers are also provided with physical checkups and counselling.

12.88 To reduce the incidence and mortality from cervical cancer, the DH, in collaboration with health professionals in Hong Kong, launched a territory-wide Cervical Screening Programme in March 2004 to encourage and facilitate women to have regular cervical smears.

Sex education in schools

12.89 Sex education (including sexual health and reproductive health education) is an integral component of the school curriculum. A holistic curriculum, comprising knowledge, skills and attitudes has been developed to promote sex education in schools and students' whole-person development. Important priority values, including respect for others, responsibility and commitment, are nurtured in students to enable them to exercise proper value judgment when facing challenges arising from puberty and discussing sexuality issues.

12.90 Sex education is covered in different Key Learning Areas and subjects of both the primary and secondary curricula. Relevant themes include protecting the body, love and sex, contraception methods, consequences of premarital sexual relationship, and preparation for parenthood.

12.91 Some commentators considered that sexual and reproductive health education in school curriculum should be mandatory and made universal and not left optional. Sex education is an integral part of the school curriculum. Ample opportunities are provided for students to study about sex education in the core subjects, such as General Studies in primary schools and Liberal Studies in secondary schools as well as Moral and Civic Education in both primary and secondary schools.

12.92 Some commentators suggested that children should be given the opportunity to actively participate in the design, teaching and evaluation of such programmes. In the formulation of the curriculum guides for different Key Learning Areas and subjects, consultation seminars, focus groups meetings are held with various stakeholders to solicit their views and comments. Besides, schools are encouraged to take into account the needs of their students in designing educational programmes for them.

12.93 Apart from classroom teaching, schools also organise other life-wide learning activities, such as talks, forums, debates and visits through the class periods and assemblies so as to further strengthen students' understanding of sex, and enhance their ability to analyse and

judge sex-related social issues with rational and responsible attitudes. These approaches are consistent with recommendations of some commentators in focusing sex education on life stories and life situations and in an open manner. As advocated in the Curriculum Reform, schools are advised to adopt relevant authentic life experiences and social issues in the teaching of values-laden themes (such as sex education). Schools are encouraged to provide opportunities for students to discuss the issues from multiple perspectives.

12.94 Some commentators suggested strengthening effectiveness in conducting sex education by teachers. The EDB forges partnership with different organisations and stakeholders (e.g. doctors, sex educators, social workers, etc.) to organise teacher professional development programmes to enhance teachers' knowledge, skills and competency in promoting sex education. Examples of topics covered in these teacher professional development programmes include helping students face sexual impulse and pornography, and the consideration and consequences of premarital sexual relationship. Moreover, various theme-based websites and learning and teaching resource materials have been produced for teachers' reference and adoption, so as to support the implementation of sex education in schools.

12.95 Health education activities related to sex education are also provided by the Student Health Services of the DH, through distribution of various pamphlets and brochures on specific topics to primary and secondary students of designated forms and their parents. In addition, the Student Health Service Centres also organise health talks on the subject of puberty for primary and secondary students and their parents, explaining to them the physiological and psychological changes and the worries that might arise during puberty.

12.96 The Adolescent Health Programme provides out-reach school based sex education workshop to Secondary 1 to 7 students. The content of the workshops includes the consequence of pre-marital sex, knowledge on contraception methods and their limitations, correct attitudes towards sex, know-how to protect themselves against sexually transmitted diseases and HIV infections, and building an equal and respectful harmonious relation with the opposite sex.

HIV/AIDs prevention

12.97 The Special Preventive Programme under the DH conducts sexual health education through its HIV/AIDS prevention health promotion projects, which are carried out by the Red Ribbon Center or in collaboration with community partners. Television and radio announcements in the public interest, posters, leaflets, roving exhibitions, regular publications, a number of hotlines in different languages and for various target groups (for example, “Dr Sex Hotline 2337 2121”) and websites (for example, the AIDS Hotline Website www.27802211.com launched by the Red Ribbon Center) are extensively used for disseminating information pertaining to prevention of HIV/AIDS and sexually transmitted infections to the general public and different segments of the population. In 2008, the Special Preventive Program conducted 230 health education activities on prevention of AIDS, with a total of 80 878 participants, and distributed 582 841 educational and promotional materials to the public. In particular, Dr Sex Hotline contains general information on contraceptive methods, while the use of condom is generally promoted as a tool to protect HIV and sexually transmitted infections (STI).

12.98 In addition to direct planning and implementation of activities, the Red Ribbon Center also works with schools and community organisations to promote numerous activities. For example, the "Red Ribbon in Action" AIDS Education Funding Scheme provides funding and technical support to encourage local organisations to carry out HIV/AIDS educational activities among people in their respective groups. Various institutions including schools, community service units, elderly centres, women's centres, outreaching social work teams, youth centres, children and youth integrated teams and kaifong welfare associations may apply. The “Red Ribbon 100” activity enhances the participants’ understanding of HIV/AIDS, as well as prevention and care of HIV/AIDS in Hong Kong through talks, interactive activities and games.

Prevention of Sexually Transmitted Infection

12.99 The eight Social Hygiene Clinics/Centre under the DH provide free counselling and clinical services to members of public with STI, promote the use of condoms, carry out contact and defaulter tracing, as well as provide examination and treatment for STI. They also provide regular check up services every two to three weeks for female sex worker.

12.100 To educate the public in order to contain the spread of the STI, information pamphlets are made available for public in clinics, during outreach activities and roadside exhibition. These leaflets are also available on Internet.

12.101 The Social Hygiene Service of the Centre for Health Protection under the DH provides training to medical and healthcare professionals to set the benchmark for all health professionals who are involved in management of the STI and to maintain the good professional standard in the management of the STI. In addition, standard STI treatment guidelines are regularly updated and distributed to doctors in the private sector.

12.102 The Centre is also responsible for planning, development and conduct of various surveillance and survey programmes in the past years to study the prevalence and pattern of the STI in the community so as to guide the direction and to focus the effort of the DH to certain groups for tackling the STI/AIDS problems in the community. A scientific committee for AIDS and STI has been set up in the Centre for Health Protection to advise on research relating to the STI and HIV/AIDS.

The Family Planning Association of Hong Kong

12.103 Apart from Government departments, the Family Planning Association of Hong Kong (a Government subvented organisation) also advocates and promotes sexual and reproductive health, and provides related information, education and services for the community. Its scope includes provision of birth control service, vasectomy, termination of pregnancy, youth services, men's and women's health programmes, subfertility service, sex therapy and counselling.

Prevention of abuse of alcohol

Local situation on alcohol misuse

12.104 The DH has been monitoring the pattern of alcohol use through its Behavioural Risk Factors Surveillance System annually since 2004. According to the system, 8.4% of people interviewed in 2009 had history of binge drinking which is defined as reported drinking of at least five cans/glasses of alcohol on one occasion during the month prior to the study. The age group with the biggest proportion of binge drinking for both sexes was 25 to 34 years old.

12.105 The DH also records the number of alcohol-related deaths and alcohol-related hospital admissions and these figures have remained steady. In 2008, there were 2 422 hospital admissions in public and private hospitals where the principal diagnosis on discharge was alcohol-related. Mental and behavioural disorders due to use of alcohol (73.4%) accounted for the majority of these admissions. Alcoholic liver disease was the other major reason for admission (26.5 %). More men than women were affected and men aged 45 years and above accounted for 79.7% of the total alcohol-related registered deaths in 2008. Alcohol-related deaths comprised 0.2 % of locally registered deaths (69 out of 41 530 in 2008).

Existing interventions to prevent and control alcohol misuse and its harmful effect

12.106 In Hong Kong, restrictions and regulations are in place to control the harmful use of alcohol and its effects. It is illegal for a person to drive or attempt to drive a motor vehicle, or be in possession of a motor vehicle, on any road with the proportion of alcohol in his breath, blood or urine exceeding the prescribed limit. Random breath test has been in effect since 9 February 2009 and uniformed police officers can require a person who is driving or attempting to drive a vehicle on a road to perform an alcohol breath test without the need for reasonable suspicion.

12.107 Public awareness on the harm of alcohol misuse is enhanced through public education. The DH provides the public with health information in forms of printed materials, 24-hour education hotline, website and electronic publications to educate the public about prevention of alcohol misuse. The Transport Department, Road Safety Council, and the Police have produced announcements in the public interest about drink driving prevention which are broadcasted on TV and radio. Related slogans are displayed on banners and advertisement boards to remind the public not to drive if they drink. NGOs also provide health education materials and a helpline for the public.

12.108 Treatment, counselling and rehabilitation services are provided by hospitals, alcohol problems clinics, and NGOs including Alcoholics Anonymous for people with alcohol misuse problems.

Future plan

12.109 Alcohol misuse is one of the priority areas for action under the framework in the document “Promoting Health in Hong Kong: A Strategic Framework for Prevention and Control of Non-communicable Diseases (NCD)”¹⁷. A “Working Group on Injuries and Alcohol Misuse” was formed under the Steering Committee on Prevention and Control of NCD to discuss and recommend actions to promote sensible drinking and reduce the harmful use of alcohol, and to draw up targets and action plans.

Tobacco control

12.110 It is the Government’s policy to introduce tobacco control measures in line with world trends, the community’s wishes and the WHO’s Framework Convention on Tobacco Control (FCTC). The HKSAR Government adopts a step-by-step and multi-pronged approach

¹⁷ To strengthen our efforts in the prevention and control of non-communicable diseases, the DH launched the framework in October 2008. The Framework was developed with reference to the WHO’s guiding principles in disease prevention and health promotion, and in consultation with relevant stakeholders. A Steering Committee on Prevention and Control of NCD, led by the Secretary for Food and Health, was established to deliberate on and to oversee the overall roadmap and strategy for preventing and controlling NCD in Hong Kong. In this Framework, alcohol misuse is one of the priority areas for action.

comprising legislation, taxation, publicity, education, enforcement and cessation programmes to discourage smoking, contain the proliferation of tobacco use, and protect the public from passive smoking to the maximum possible extent. The number of smokers in Hong Kong has been on a decreasing trend thanks to the efforts taken in the past decades. According to the Thematic Household Survey conducted by the Census & Statistics Department in 2007-08, 11.8% of the Hong Kong population aged 15 or above are daily smokers, declining from 14% in 2005.

12.111 The Government has taken a series of legislative measures in the past few years to reduce smoking. According to the amended Smoking (Public Health) Ordinance (Cap. 371), smoking has been banned in all indoor areas of restaurants, workplaces and public areas as well as some public outdoor places such as beaches and parks since 1 January 2007. Starting July 2009, the smoking ban was extended to all bars, clubs, nightclubs, bathhouses, massage parlours, and mahjong and tinkau premises. The smoking ban was also extended to covered public transport interchanges from 1 September 2009 and is planned to be further extended to cover other open-air public transport interchanges in 2010. To strengthen enforcement, violation of the smoking ban has been subject to a fixed penalty of \$1,500 since 1 September 2009. Furthermore, with the transitional exemption granted to licensed hawkers for displaying tobacco advertisement expired on 1 November 2009, display of all forms of tobacco advertising is now completely banned.

12.112 Article 6 of the WHO FCTC obliges parties to the Convention to adopt tax and price measures to reduce tobacco consumption. After a slight increase of tobacco duty by 5% in 2001-02, the Government raised the tobacco duty by 50% in 2009-10. The aim is to further reduce the number of smokers and encourage smokers to quit smoking. At present, tobacco duty constitutes around 65% of the retail price of cigarettes in Hong Kong.

12.113 In 1987, the Hong Kong Government established an NGO, the Hong Kong Council on Smoking and Health (COSH), to provide advice on its tobacco control policy. COSH is also tasked to collect and disseminate information on tobacco dependence and its adverse effects in order to reduce smoking in Hong Kong. A majority of the publicity

programmes of COSH is targeted at youths and teenagers to encourage students to say no to smoking and to support actively a smoke-free environment.

12.114 To enhance and coordinate Government's tobacco control efforts, the Tobacco Control Office of the DH was established in February 2001 to act as a principal enforcement agency under the Smoking (Public Health) Ordinance.

12.115 Smoking cessation services are also provided by the DH, the HA and NGOs. Smoking cessation programmes in Hong Kong cover a comprehensive range of activities and services including smoking cessation services, education for the public, training for healthcare professionals and research projects.

Combating drug abuse

Rising Trend

12.116 The downward trend in the incidence of drug abuse among young people (aged 18 below), which we noted in paragraph 10.56 of the previous report, continued until 2005: from 3.33 per thousand among 11 to 17 year-olds in 2000 to 1.68 in 2004. Newly reported cases dropped from 1 581 in 2000 to 735 in 2004. However, this trend was reversed in 2005: the number of reported cases increased from 1.96 per thousand in 2005 to 2.22 in 2006, further to 2.77 in 2007 and 3.19 in 2008; and then dropped to 3.17 in 2009¹⁸. Similarly, the number of newly reported cases increased from 1,028 in 2005, to 1 397 in 2008 and then dropped to 1 335 in 2009.

¹⁸ The 2009 figure represents 1 797 individuals, or 12.9% of all cases of all ages reported to the Central Registry of Drug Abuse.

Profile of young drug abusers

12.117 We reported in paragraph 10.57 of the previous report that there were some 1 518 young abusers (aged 18 below) in 2002 whose average age was 16. In 2009, while the average age remained the same, 1 797 young abusers were reported. Most were abusing psychotropic substances: 84.7% had taken Ketamine, 19.1% had taken “Ice”, 14.2% had taken MDMA (“ecstasy”) (14.2%) and 6.8% had taken cannabis. 58.9% were male. 37.6% had previous convictions, 22.1% were employed and 49.5% were studying.

12.118 New cases remained much in line with the general trend. The average age was 15.4. Ketamine was the most popular drug at 82.9%, followed by “Ice” (19.9%), “ecstasy” (14.3%) and cannabis (6.8%). 57.2% were male. 34.8% had previous convictions and 20.3% were employed. Over 99% had received at least secondary education.

The Government’s response

12.119 We have followed the five-pronged approach as explained in paragraph 10.59 of the previous report in the fight against drug abuse. To arrest the rising trend of youth drug abuse, a high level inter-departmental Task Force on Youth Drug Abuse (Task Force), chaired by the Secretary for Justice, was formed in October 2007. The Task Force published a Report in November 2008, proposing more than 70 recommendations following the comprehensive five-pronged approach and seeking to foster a caring culture for the youth. In July 2009, the Chief Executive announced the further stepping up of the anti-drug campaign along five directions, namely community mobilisation, community support, drug testing, treatment and rehabilitation and law enforcement. Co-ordinated efforts are made across bureaux and departments and community stakeholders to pursue various measures vigorously.

Legislation and law enforcement

12.120 Statutory measures remain as explained in paragraphs 10.60 and 10.61 of the previous report. We continue to keep the laws under regular review and take vigorous enforcement actions.

12.121 To help schools fight drugs, 27 police school liaison officer posts were created in 2008. Plans are in hand to add another nine in 2010-11 to bring to a total of 94 officers. Communication has also been strengthened for the more effective sharing of information between schools, the Police and the EDB. The Police also set up in 2008 a dedicated team to carry out Internet patrol to combat drug offences.

12.122 To reduce the supply of drugs, law enforcement agencies of Hong Kong have enhanced intelligence exchange with their counterparts in the Mainland of China and conducted anti-drug operations. Moreover, to combat the problem of cross-boundary drug abuse, the Police have discussed with their Mainland counterparts arrangements for the sharing of information on Hong Kong youngsters caught abusing drugs in the Mainland. Raids were conducted by the Mainland authorities in places likely to be frequented by drug abusers in order to exert deterrent effect. Customs have enhanced their detector dog services and plainclothes operation at boundary control points. Moreover, anti-drug publicity measures at boundary control points have been enhanced during festive seasons.

External co-operation

12.123 Our participation in the relevant international organisations remains as explained in paragraph 10.62 of the previous report. Ketamine is now the most common illicit drug abused by youngsters in Hong Kong, yet currently not subject to the control of the three international anti-drug conventions. Hong Kong is contributing to the review process of the WHO Expert Committee on Drug Dependence in considering whether international control of Ketamine should be tightened. We have submitted information on the serious harms of Ketamine and the widespread abuse situation in Hong Kong.

12.124 The HKSAR is also working closely with our neighbours especially in Guangdong and Macau at the levels of law enforcement and policy formulation.

Preventive education and publicity

12.125 Our work in this area continues along the lines explained in paragraph 10.63 of the previous report. To tackle the rising trend in the number of young people taking psychotropic drugs, a two-year territory-wide campaign under the theme “No Drugs, No Regrets. Not Now, Not Ever” was launched in June 2008. The central publicity campaign, complemented by community efforts at the district level with the organisation of over a hundred anti-drug programmes, aimed to promote a no-drug atmosphere in the community. Other new initiatives included the launch of a “Path Builders” scheme which mobilised different sectors of the community to foster a caring culture for young people and the development of a one-stop anti-drug web portal tailored for youths, parents and anti-drug professionals. Continued efforts were made to promote use of the Hong Kong Jockey Club Drug Info Centre, the first-ever purpose-built exhibition centre dedicated to anti-drug prevention in Hong Kong. About 180 000 students, parents, teachers, NGOs and the public have visited the Centre since its opening in June 2004.

The schools

12.126 Schools are at the forefront of our fight against drug abuse. Our programmes in this area continue along the lines explained in paragraphs 10.64 and 10.65 of the previous report. Drug education remains an integral part of the school curriculum for various Key Stages of Learning and related topics have been incorporated in relevant subjects at primary and secondary levels. Student drug education programmes were strengthened with plans to extend coverage to 80% of all local upper primary school students (down to primary three) and 70% of students of international schools.

12.127 New initiatives include promotion of institutionalisation of a healthy school policy with an anti-drug element. Support for schools was enhanced including provision of structured training for teachers and key school personnel commencing from the 2008-09 school year with a view to strengthening their skills in delivering preventive drug education and identifying at-risk students for providing assistance. A resource kit for the

school sector was also developed and formally released in March 2010.

12.128 Parental education continues to play an important role in preventing youth drug abuse. We have developed a new resource kit for parents to help schools and parent-teacher associations plan and implement anti-drug programmes for parents. Over 90 seminars for parents have been arranged.

Research

12.129 Drug related research had been co-ordinated by a sub-committee of the Action Committee Against Narcotics as explained in paragraph 286 of the initial report. The sub-committee was replaced by the Research Advisory Group (RAG) in 2005. Being more flexible in terms of its logistical arrangement and membership, the RAG provides valuable guidance for the formulation of anti-drug policies. The function of the computerised Central Registry of Drug Abuse (CRDA) remains as explained in paragraph 10.66 of the previous report. To monitor the prevalence of drug abuse among students, a survey was conducted in the 2008-09 school year with results released in February 2010.

The “Beat Drugs Fund”

12.130 The position is as explained in paragraph 290 of the initial report. Between 2004 and 2009, the Beat Drugs Fund has supported 208 projects, with a total approved grant of \$99 million. To demonstrate the Government’s resolve and to take the lead in mobilising the community in the anti-drug cause, a new non-recurrent commitment of \$3 billion is proposed in the 2010-11 Budget to be injected into the Beat Drugs Fund.

Treatment and rehabilitation

12.131 Hong Kong continues to adopt a multi-modality approach to cater for the different needs of drug abusers as explained in paragraphs 294 to 298 of the initial report and paragraphs 10.69 to 10.71 of the previous report. Programmes include compulsory treatment programmes operated by the CSD, voluntary methadone out-patient programme offered by the DH, substance abuse clinics (SACs) operated by the HA,

counselling centres for psychotropic substance abusers (CCPSAs), voluntary residential treatment programmes in drug treatment and rehabilitation centres (DTRCs) run by NGOs and education services for young drug abusers. All services are provided to young drug abusers and other needy adults. The treatment and rehabilitation sector is also supported by generic services such as outreaching service, school social work service and the probation system.

12.132 The Fifth Three-Year Plan on Drug Treatment and Rehabilitation Services (2009-2011) was released on 2 April 2009. A host of medium-term recommendations in the Task Force Report have been further developed and taken forward therein. These include the development of a networking model on a cluster basis, provision of training for anti-drug workers, enhancement of the reintegration elements in treatment and rehabilitation programmes, improvement in capacity and quality of various programmes, and resources re-engineering.

12.133 In 2008-09, the Government injected additional resource of \$26 million to strengthen the outreaching, medical social work and residential treatment services. These include 101 additional subvented places in the DTRCs, enhanced medical social services in some SACs, two new SACs (totalling seven) and two new CCPSAs (totalling seven), and additional manpower to 34 outreaching social work teams in Hong Kong and five teams under the Community Support Service Scheme.

12.134 The Government further implemented two recommendations of the Task Force with additional resources in 2009-10. First, to enhance the treatment and rehabilitation services for young drug abusers, about \$4.8 million has been allocated for the provision of medical support services, including arrangement for voluntary drug testing in seven CCPSAs. Second, about \$0.9 million has been allocated for a two-year pilot scheme to provide more focused, structured and intensive probation service for convicted young drug offenders. In 2009-10, the HA has also injected additional resources of \$13 million to provide more consultation sessions in the seven SACs to cope with the anticipated increase in service demand.

12.135 In the 2010-11 Budget, the Government has earmarked \$41.5 million to open four more CCPSAs (totalling 11), to increase places in two DTRCs and to further strengthen the manpower of 16 outreaching teams. HA has also earmarked an additional funding of \$10 million to enhance the SAC services.

12.136 As part of the enhanced anti-drug campaign under the steer of the CE, we are ready to provide more treatment and rehabilitation facilities for young abusers. We intend to invite proposals for possible new and effective services in 2010.

Drug testing

12.137 Given the hidden nature of psychotropic substance abuse, the Task Force recommended drug testing proposals at three levels in a bid to enhance prevention and facilitate early identification and intervention of young drug abusers. In October 2009, the CCPSAs started to provide drug testing service as part of the enhanced medical support to help those who volunteer themselves. At the school level, in December 2009, the 23 public sector secondary schools in the Tai Po district launched a trial scheme on voluntary school drug testing for the 2009-10 school year which was accompanied by a parallel research project for evaluation, refinement and consideration of wider roll out of the scheme to other districts and schools. At the community level, a public consultation exercise on compulsory drug testing is planned for 2010.

12.138 We note that the different drug testing schemes are new concepts in Hong Kong and that some commentators have expressed concerns on the implementation and effectiveness of the schemes, and urged the Government to take them forward cautiously, particularly the school-based and compulsory schemes. We have to emphasise that the purposes of these schemes are not to facilitate prosecution of drug abusers, but rather to enhance early intervention and rehabilitation. In formulating and taking forward proposals for drug testing schemes, the Government has taken and will continue to take into account an array of factors and to consult stakeholders concerned on relevant issues. These include privacy, human rights, impact of the proposed scheme on children taking into account children's rights under the Covenant, and children's relationship

with parents and teachers.

12.139 The Government Laboratory was taking the lead in introducing and running a pilot hair drug testing service in Hong Kong starting 2010, with a view to transferring the technology to the industry in the future.

Food safety

Institutional framework

12.140 Further to the establishment of the Food and Environmental Hygiene Department (FEHD) mentioned in paragraph 12.42 of the previous report, the Centre for Food Safety (CFS) was established in May 2006, under the FEHD, to enhance food safety regulatory functions and to meet the growing public expectation for enhanced food safety.

Food safety programmes

12.141 The CFS adopts a risk analysis framework promulgated by the WHO which comprises risk assessment, risk management and risk communication. Risk assessment studies and research on food related hazards that are of public health significance are conducted regularly. In 2009, we completed a population-based food consumption survey to provide more comprehensive database for the evaluation of risks associated with food.

12.142 In risk communication, the CFS promotes tripartite collaboration among the Government, the food trade and the public in ensuring food safety. In fostering partnership, various channels, e.g. trade consultation forums and consumer liaison group, have been established to incorporate stakeholders' perspectives into communication and development planning. Food safety information is also communicated to the trade and the public in a timely and effective manner via different means, e.g. electronic information systems, the CFS website, briefings, seminars, roving exhibitions, and various publicity and educational materials.

12.143 To gear up community efforts in enhancing food safety, the CFS has been promoting the Five Keys to Food Safety since 2008. The Five Keys, namely choose, clean, separate, cook and safe temperature, are adapted from the food hygiene messages advocated by the WHO to prevent foodborne diseases. We have also implemented the Food Safety Charter, and invited members of the food trade to sign up to the Charter to join hands with us to disseminate the messages of the Five Keys.

Legislative initiatives

12.144 Taking into account local situation and international developments, the CFS conducts regular review on legal provisions on food standards and requirements for food labelling. Our objective is to establish up-to-date standards which can protect public health and are in harmonisation with the latest international development. Following the previous report in 2003, the Preservatives in Food (Amendment) Regulation 2008 was enacted in 2008 to harmonise the local standards with international development. In 2008, we have also introduced the Nutrition Labelling Scheme for pre-packaged food by enacting the Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008, which will come into force on 1 July 2010 after a two-year grace period. The Nutrition Labelling Scheme requires all applicable pre-packaged food to label the content of energy plus seven specified nutrients, namely protein, carbohydrates, total fat, saturated fat, trans fat, sodium and sugars, as well as any nutrient for which a claim is made, and regulates different types of nutrition claims.

12.145 The Government has been working on a Food Safety Bill to strengthen legislative control on food safety since 2007. In view of the public concern over food safety, we have expedited the legislation on food recall and passed a law in 2009 to enable the authorities to recall problematic food and to ban its sale and import. Since then, the Administration has continued to work on the remaining proposals in the Food Safety Bill. The Bill will be introduced into the LegCo in June 2010. It provides for new food safety tools including a mandatory registration scheme for food importers and distributors, requirement for food traders to maintain proper records on the movement of food so as to enhance

traceability, tightened import control of food, and power for the authorities to make orders to prohibit the import and supply of problematic food and order the recall of such food.

Services for persons with disabilities

12.146 SWD and subvented NGOs continue to provide and strengthen the rehabilitation services and other services for PWDs, as mentioned in paragraphs 12.46 to 12.49 of the previous report. As at 31 December 2009, there were:

- (a) 5 590 pre-school places;
- (b) 16 354 day training and vocational rehabilitation places; and
- (c) 11 098 residential places for persons with various disabilities.

Pre-school Services for Children with Disabilities

12.147 As at December 2009, there were 1 860 integrated programme places in ordinary kindergarten-cum-child care centres, 1 544 special child care centre places (including 110 residential places), and 2 186 early education and training centre places for children with disabilities. In addition, 56 places in small group homes were provided for mildly mentally handicapped children who could not be adequately cared for by their families.

Day and Vocational Rehabilitation Training Services

12.148 Further to paragraphs 12.47 to 12.48 of the previous report, as at December 2009, 1 645 supported employment places were made available for PWDs to work in open settings with support and assistance. In addition, 432 places for PWDs created under the “On the Job Training Programme for Persons with Disabilities” and 311 places for young persons with disabilities or early signs of mental illness under the “Sunnyway - On the Job Training Programme for Young Persons with Disabilities” were made available to assist them in securing jobs. Those not yet ready to compete for work in the open market were accommodated

in sheltered workshops where 5 113 places were provided. There were also a total of 453 places in integrated vocational training centres and 3 685 places in integrated vocational rehabilitation services centres.

12.149 To enhance the employment opportunities for PWDs, funding was allocated to 23 NGOs to enable them to set up 57 small businesses which provided jobs for 476 PWDs. In tandem, the Marketing Consultancy Office (Rehabilitation) assisted vocational rehabilitation services units to develop their marketing and business strategies and employment-aided services.

12.150 Day activity centres provided 4 485 places where persons with intellectual disability were trained on independent living skills. A total of 230 places were also provided in training and activity centres to help ex-mentally ill patients adjust to normal daily life.

Residential Care Services for PWDs

12.151 As at December 2009, there were 11 098 places providing residential care services for PWDs who were unable to live independently in the community, or whose families could not care for them adequately.

12.152 To regulate the service standard of residential care homes for PWDs, the Government is preparing a Residential Care Home (Persons with Disabilities) Bill and plans to introduce the Bill into the LegCo in the 2009-10 legislative session to implement a statutory licensing scheme for these residential care homes.

Community Support Services for PWDs

12.153 The SWD and NGOs provide emergency placement service for PWDs in need to prevent them from exposure to risks due to the lack of care and shelter. The target client group is persons with mental or physical handicap aged 15 or above who are homeless or destitute of care.

12.154 The SWD and NGOs also provide community rehabilitation day service for PWDs, including paramedical and psychosocial rehabilitation training services, with a view to helping them enhance their

physical functioning and self-care abilities, as well as strengthening their domestic and community living skills. Training programmes and educational courses for family members/carers of PWDs are also provided to strengthen their caring capacities and relieve their pressure, thereby improving their quality of life. At present, there are four Community Rehabilitation Day Centres providing services to newly-discharged patients with neurological or physical impairments. In addition, five Training and Activity Centres offer community rehabilitation day services to discharged mental patients.

Services for persons with mental health problems

Policy

12.155 The Government is committed to promoting mental health. We seek to ensure that a comprehensive range of mental health services, including prevention, early identification, medical treatment, rehabilitation and community support services, are provided to people in need on a continuous basis. We promote the use of a multi-disciplinary and cross-sectoral team approach in delivering mental health services with a view to catering for the needs of mental patients in a holistic manner. In the past few years, the resources allocated by the Government to mental health services each year has been increasing and the annual expenditure is over \$3 billion. The expenditure in 2008-09 amounted to \$3.6 billion. The Government reviews existing services through the Working Group on Mental Health Services chaired by the Secretary for Food and Health on an ongoing basis to consider making adjustment or improvement to the services as necessary. Members of the Working Group comprise stakeholders with relevant service experience in the medical, social welfare and other sectors.

12.156 Some commentators reiterated the request to establish a mental health council. At present, the FHB assumes the responsibility in coordinating policies and programmes on mental health. It works closely with the LWB and coordinates various Government departments and agencies including the HA, the DH and the SWD in the implementation of relevant measures. We seek to provide medical and rehabilitation services to patients with mental health problems through an integrated and

multi-disciplinary approach. Moreover, we also have a cross-sectoral mechanism, the Working Group on Mental Health Services, to review existing services on a continuous basis. The Government takes the views of the Working Group members into account in making adjustment to existing services or formulating new service initiatives. The existing system has worked well to provide coordinated and comprehensive services to mental patients. The FHB will continue to strengthen its coordinating role on matters relating to mental health and work closely with various departments and agencies in formulating appropriate policy and measures.

Services and facilities for persons recovering from mental illness

12.157 Allowing the early discharge of mental patients with stabilised condition to receive treatment in the community can facilitate their rehabilitation and reduce the chance of relapse of their illness. It is the international trend to focus on community and ambulatory services in the treatment of mental illness. Under this direction, the HA has implemented a number of new initiatives in recent years to strengthen community psychiatric services, including implementing the “Extending Care Patients Intensive Treatment, Early Diversion and Rehabilitation Stepping Stone” (EXITERS) project to provide rehabilitation training to long stay psychiatric patients with a view to facilitating their early discharge and re-integration into the community, launching a pilot programme to provide post-discharge community support to frequently readmitted psychiatric patients, implementing the “Recovery Support Programme” to provide recovery community support to discharged psychiatric patients in need, and enhancing psychogeriatric outreach services.

12.158 To further strengthen mental health services, the HA is launching two new initiatives in 2010-11 to support two categories of mental patients. With regard to persons with severe mental illness, the HA will pilot a case management programme in individual districts to provide continuous and personalised intensive support to them in the community settings. For persons with common mental disorders, the HA will enhance the treatment for them by providing more timely assessment and treatment services in psychiatric specialist outpatient clinics and primary care

settings.

12.159 To strengthen the community support services for persons with mental illness and their carers, the Government will revamp the existing community mental health support services mentioned in paragraph 12.49 of the previous report and set up Integrated Community Centres for Mental Wellness in all 18 districts, providing one-stop, comprehensive and convenient mental health services for residents in the districts.

12.160 On residential services for persons recovering from mental illness, as at December 2009, there were 1 407 places of Long Stay Care Home, 83 places of Supported Hostel and 1 509 places of halfway house. The Government will continue to provide additional subsidised residential places for mentally ill patients in the coming three years, including the additional provision of 175 places of Long Stay Care Home and 40 places of Supported Hostel.

12.161 Medical social workers also provide psychosocial educational and/or counselling services for persons recovering from mental illness and their families. These services enable them to understand the importance of receiving psychiatric treatment and help them overcome the psychological barrier arising from discrimination. Furthermore, the SWD and the HA promote mental health to the public through various community programme, such as Community Mental Health Link and the Child and Adolescent Mental Health Community Support Project.

Mental health of women

12.162 Women's mental health have great impacts on their families and the well being of their children. Therefore, early identification and intervention of mental illness in women is important. During the antenatal period, women with mood problems or suspected mental illness are identified in the MCHCs so that timely supportive services are integrated into their antenatal management plan. Postnatal depression (PND) is a common and significant disorder affecting approximately 12% of Hong Kong mothers after delivery. The MCHC nurses are trained to identify mothers with probable PND, and to provide them with supportive

counselling. Where necessary, mothers are referred to psychiatry departments in public hospitals for follow up or to Integrated Family Service Centres to receive social services support. The CCDS has been implemented in phases in selected communities since 2005. Using the MCHCs as the major platform, it ensures early identification of the varied needs of at-risk mothers, children and their families so that appropriate services can be made available to them in a timely manner. To make the psychiatric services more accessible, the MCHCs with the CCDS have visiting psychiatric nurses and psychiatrists from public hospitals to provide on-site counselling and specialist service support.

Mental health of children

12.163 Some commentators considered that the provision of child psychiatry services was insufficient to provide early and timely treatment for children in need. The HA has implemented the “Early Assessment and Detection of Young Persons with Psychosis” programme for the early detection and treatment of young people with psychotic illnesses since 2001-02. Under the programme, service teams are set up in various districts to provide treatment for young persons suspected to have psychosis with a view to reducing the lag time between the onset of severe mental illness and treatment. In 2008-09, around 1 000 young people with mental problems underwent assessment and 660 of them were identified and referred for treatment under the programme.

12.164 To further strengthen early identification and intervention services for children with mental health problems, the HA and the SWD have jointly implemented the “Child and Adolescent Mental Health Community Support Project” since 2005. The Project has been fully transferred to the HA for implementation since July 2009. In 2007-08 and 2008-09, the Project handled a total of 259 and 194 cases and organised 191 and 166 psycho-education activities and consultation services. In addition, the Project also establishes linkages with community organisations to provide child and adolescent psychiatric patients with personalised rehabilitation services as well as training and activities relating to daily living and vocational skills in community settings. This is to help them overcome the adverse impact of mental disorders and develop mental wellness.

12.165 In 2008-09, the median waiting time for urgent cases at psychiatric specialist outpatient clinics was around one week. On the other hand, patients who suffer from acute psychiatric conditions and require urgent care can be admitted to hospitals for treatment via the Accident and Emergency Departments. We will continue to closely monitor the utilisation of the services and make suitable adjustment or enhancement to the services as necessary.

Environment and industrial hygiene

12.166 The Government is committed to building a greener living environment in Hong Kong. From improved air quality and better sewage treatment, to cleaner energy sources and reduced waste loads, we have made headway in tackling some of our long-existing pollution problems at root and laid the foundation for future initiatives for key policy areas, including the long-term improvement of air quality and combat against climate change.

12.167 The position of the Sustainable Development Division (formerly called Sustainable Development Unit) and Sustainable Assessment System remains as explained in paragraphs 12.66 and 12.67 of the previous report.

Control of water pollution

Harbour Area Treatment Scheme

12.168 We undertook in paragraph 12.68 of the previous report to conduct trials and studies to assess the recommendations for the remaining stages of the Harbour Area Treatment Scheme following the completion of Stage 1 of the Scheme. The recommended option following the trials and studies is to convey all remaining harbour sewage to Stonecutters Island for centralised treatment. After consulting the public on the way forward for the Scheme in 2004, we decided in 2005 to implement the Stage 2 in two phases. We have commenced the construction of the sewage conveyance system of the Stage 2A in mid-2009 and aim to have the Stage 2A works completed by 2014. We shall also carry out a review on the implementation programme of Stage 2B in 2010-11.

Water quality at beaches and marine waters

12.169 The water quality in many beaches has been improving due to the progressive provision and improvement of local sewage treatment. The water quality of the 41 gazetted beaches is generally good, with majority (over 90%) of them in compliance with the objectives for bathing water. Works to improve the sewerage and sewage treatment works (including Stage 2A of the Harbour Area Treatment Scheme) are on-going so as to improve the water quality of a few beaches which were ranked as poor. Since 2007, none of the gazetted beaches has fallen into the very poor category.

12.170 The situation regarding improvement in water quality in marine waters was as explained in paragraph 12.70 of the previous report.

Waste Management

Disposal of Special Waste

12.171 Subsequent to the Waste Disposal (Amendment) Ordinance 2006, we are preparing the relevant subsidiary legislation to introduce controls over the handling, collection and disposal of clinical waste. We are installing additional facilities at the Chemical Waste Treatment Centre to receive and treat clinical waste and upgrading the air pollution control system to meet the latest European Union emission standards. The feasibility study for animal carcasses treatment facilities was completed in 2005. There is currently no plan to proceed with the project as there is no urgent need for such a facility. We will keep in view of the situation.

Waste reduction

12.172 Riding on the achievements of the Waste Reduction Framework Plan (paragraph 12.72 of the previous report), we published “A Policy Framework for the Management of Municipal Solid Waste in Hong Kong (2005-2014)” (the Policy Framework can be viewed at www.epd.gov.hk/epd/msw) in December 2005 to set out the strategy and measures to address the municipal solid waste problem in Hong Kong in the decade to follow. The Policy Framework proposes effective economic

tools that would create incentives for the community to recycle more and discard less. Our waste management strategy comprises waste avoidance and reduction, reuse and recycling; and the treatment and disposal of unrecyclable waste. Waste prevention and recovery remains to be the priority area.

Control of air pollution

12.173 The Government is determined and working closely with the community to improve air quality:

- (a) with the implementation of a comprehensive emission reduction programme (including replacing diesel taxis and minibuses with liquefied petroleum gas vehicles, adopting stringent Euro standards for vehicle emissions and ultra-low sulphur fuels, stepping up roadside enforcement against smoky vehicles and imposing heavy penalty against smoky vehicles), improvements in the pollution concentrations at roadside have been observed as compared with 1999. As an indication, the levels of respirable suspended particulates (RSP), nitrogen oxides (NO_x) and sulphur dioxide (SO₂) have been reduced by 33%, 31% and 48% respectively in 2009. The number of smoky vehicles spotted on the road has also reduced by about 80%; and
- (b) as mentioned in paragraph 12.76 of the previous report, to improve the air quality of the entire Pearl River Delta Region, we reached a consensus with the Guangdong Provincial Government in April 2002 to reduce the emissions of four major air pollutants in the region by 20% to 55% by 2010, using 1997 as the base year. As at end-2008, local emissions of these pollutants have already reduced by 13% to 54%.

12.174 In addition to the measures highlighted in paragraph 12.74 of the previous report, we are implementing the following major measures to further reduce local emissions:

- (a) electricity generation is the major local source of air pollution. We have banned all new coal-fired power plants since 1997 and imposed emission caps on power plants since 2005. More recently, we have linked the two power companies' rate of return to their environmental performance, stipulated the emission caps for power plants for 2010 and beyond in the law, and signed a Memorandum of Understanding with the National Energy Administration of the Central People's Government to enable an increase in the use of natural gas for power generation. In September 2009, we granted approval for CLP Power Hong Kong Limited, the major electricity provider in Hong Kong, to extend the contract for supply of nuclear electricity from the Mainland of China for another term of 20 years from May 2014. This provides an assurance of continued supply of cleaner electricity to Hong Kong at reasonable and affordable prices;
- (b) to further reduce emissions from the transport sector, we are implementing a grant scheme for replacing older diesel commercial vehicles and providing tax incentives to promote the use of environment-friendly vehicles and fuels. Actions are also in hand to promote the use of electric vehicles, ban idling vehicles with running engines and implement a statutory specification for biodiesel as motor vehicle fuel. We are also studying to control emissions from non-road mobile sources and local ferries;
- (c) to control emissions from other sources, we have mandated all industrial and commercial processes to use ultra low sulphur diesel. We have also imposed statutory limits on the volatile organic compounds content of selected products (such as paints and printing inks) and banned the imports of products containing hydrochlorofluorocarbons (such as refrigeration and air-conditioning systems) in phases from January 2010. At the same time, we are running a programme to assist Hong Kong-owned factories in the Pearl River Delta Region to adopt cleaner production technologies and processes; and

- (d) promoting energy conservation and energy efficiency also forms a major plank of our overall strategy. To enhance building energy efficiency, we have introduced the Buildings Energy Efficiency Bill into the LegCo for mandatory compliance with the Building Energy Codes. We are also implementing the buildings energy efficiency funding schemes to subsidise building owners to conduct energy-cum-carbon audits and energy efficiency projects at buildings, and plan to implement a district cooling system in the Kai Tak Development to provide energy-efficient air-conditioning services for the public. Furthermore, we have put in place both voluntary and mandatory Energy Efficiency Labelling Schemes for energy-consuming products to facilitate the public in choosing energy-efficient appliances.

12.175 At the same time, we are working hand in hand with Guangdong, our neighbouring province, to improve the air quality of the Pearl River Delta Region and relieve the regional smog problem. We are also discussing with the Guangdong Provincial Government to draw up a strategy to transform the Greater Pearl River Delta Region into a green and quality living area. Improving the regional air quality will be a major area of cooperation.

12.176 To further improve air quality, we commissioned a comprehensive consultancy study in June 2007 to review Hong Kong's Air Quality Objectives and develop a long-term air quality management strategy. Upon completion of the study, we launched a four-month public consultation in July 2009 to solicit the views of the community on the proposed new Air Quality Objectives and emission control measures. We are now carefully studying the views collected in order to decide on the way forward.

12.177 With the joint efforts with Guangdong, we are confident that the air quality in Hong Kong and the Pearl River Delta Region will gradually improve in the next few years upon the implementation of the measures.

Control of noise pollution

12.178 The provision under the Noise Control Ordinance (Cap. 400) to hold the management of a body corporate explicitly liable for noise offences committed by the body corporate, as mentioned in paragraph 12.77 of the previous report, came into operation in 2004. The purpose of the provision is to deter repeated offences.

12.179 The works under the retrofitting noise barrier programme, as explained in paragraph 12.78 of the previous report, continue to be in progress.

12.180 We expanded the Designated Areas established under the Noise Control Ordinance to extend the tighter control against noise from construction works to those newly covered areas, thereby providing better protection to the residents therein. The new Designated Areas have taken effect from January 2009.

Environmental education

12.181 The “Environment and Conservation Fund” continues its educational work and sponsors community organisations, schools and green groups to organise activities to promote environmental protection, as described in paragraph 12.79 of the previous report. We injected \$1 billion in early 2008 to attract more applications for innovative, worthwhile, large scale and long term projects. The Environmental Campaign Committee continues the work described in paragraph 490 of the initial report.

Environmental Impact Assessment

12.182 The position remains as explained in paragraph 491 of the initial report.

Occupational health

12.183 In 2005, SARS and Avian Influenza A were included as notifiable occupational diseases under Schedule 2 to the Occupational Safety and Health Ordinance (Cap. 509).

12.184 A second occupational health clinic was set up by the Labour Department in 2006 to strengthen its clinical services. Together, the two occupational health clinics now provide about 13 000 clinical consultations each year. Other than the above, the position remains as explained in paragraphs 98 to 101 and paragraphs 492 to 496 of the initial report.

Article 13 and 14: Right to education

13.1 The constitutional position remains as reported in paragraph 497 of the initial report. Education remains among the Government's highest priorities. Indicators of educational attainment are at Annex 13A.

13.2 Education also continues to receive the highest allocations in the annual budget. For 2009-10, total Government expenditure on education amounted to \$61.7 billion. The corresponding figures were \$61 billion in 2002-03 as set out in the previous report.

Pre-primary education

13.3 We maintain the position as explained in paragraph 507 of the initial report that pre-primary education is not compulsory and is essentially a matter of parental choice. While maintaining the established diversity and vitality of pre-primary education offered in a private market, the Government is committed to providing quality and affordable pre-primary education for all school-aged children. In the 2006 Policy Address, the Government announced a major financial commitment to further strengthen the quality of pre-primary education through the provision of fee subsidy to parents. The "Pre-primary Education Voucher Scheme" (PEVS) has been implemented since the 2007-08 school year to replace the former "Kindergarten Subsidy Scheme" mentioned in paragraph 507 of the initial report. The PEVS is non-means-tested and provides every child, aged between two years eight months and six years and with the right of abode or permission to stay, a voucher that pays towards their school fees in kindergartens. As of the 2008-09 school year, the percentage of children aged three to five attending kindergartens is up to 99.6%.

13.4 Some commentators considered that the voucher provided to children at kindergarten level is not sufficient to cover the school fee as well as other school expenses. Needy families may apply for additional fee assistance through the Kindergarten and Child Care Centre Fee Remission Scheme which provides additional fee remission to needy families with "social needs".

Primary and secondary education

New Senior Secondary academic structure

13.5 As Hong Kong develops into a knowledge-based economy, a new academic structure for the senior secondary education and higher education (three years in the senior secondary with the length of a normal undergraduate degree to be extended from three to four years) was implemented in September 2009 starting from Secondary 4. Under the New Senior Secondary (NSS) academic structure, all Secondary 3 graduates can directly proceed to senior secondary education. A new public examination, namely the Hong Kong Diploma of Secondary Education Examination (HKDSE), will be in place in 2012 to replace the current two public examinations respectively at the end of Secondary 5 and Secondary 7.

13.6 The objectives of the NSS, also known as “334” academic structure, are to (a) establish a vibrant and flexible education system that will widen the knowledge base of every student, provide an enabling environment for every student to attain all-round development and to achieve life-long learning in a diverse and complex environment; and (b) provide multiple progression pathways for further studies and career development, which articulate well with international higher education and the manpower requirements of the 21st century. Under the NSS, all students will have the opportunity to receive three years’ free senior secondary education (i.e. Secondary 4 to 6) as mentioned above. A broad, balanced and diversified NSS Curriculum is introduced to cater for a wide spectrum of students’ interests, needs and abilities.

12-year free education

13.7 The Government has been providing nine-year free and universal basic education (six years of primary education and three years of junior secondary education) through public sector primary and secondary schools since 1978. To demonstrate the Government’s commitment to the nurturing and education of our next generation and to better prepare students to cope with the increasingly diverse and complex environment of society in Hong Kong, free education has been extended to

include senior secondary education provided by public sector secondary schools starting from the 2008-09 school year. As senior secondary students studying at public sector schools do not have to pay school fees which are fully subsidised by the Government, paragraph 13.13 of the previous report regarding “level of subsidy at the senior secondary level” is no longer applicable.

13.8 The NSS academic structure and the extension of nine years of free education to 12 years have facilitated the access to education in Hong Kong.

Floating classes

13.9 It was pointed out in paragraph 13.10 of the previous report that we endeavoured to eliminate “flotation” and carried out school improvement works for increasing teaching space. At present, there is no floating class at Secondary 1 to Secondary 5 levels in public sector schools. With the implementation of the NSS academic structure, learning and teaching activities are no longer confined to traditional classrooms. Schools can also make use of the existing funding flexibility under the NSS to arrange various groupings of students for different learning activities, making the best use of the school accommodation (including laboratories and special rooms) to maximise the learning outcome. We will continue to provide advice to schools regarding strategic use of teaching space to optimise room usage.

Class size

13.10 Further to paragraph 13.11 of the previous report, the Government has, where circumstances permit, implemented small class teaching in public sector primary schools by phases, starting from Primary 1 in the 2009-10 school year and extending progressively to a higher level up to Primary 6 on a yearly basis. The objective is to improve the quality of teaching and learning in a small class setting. Schools implementing small class teaching are allocated 25 students per class under the Primary 1 Admission System while the remaining schools will be allocated 30 students per class. About 65% of the public sector primary schools have implemented small class teaching in the 2009-10 school year.

The percentage of schools to implement small class teaching will increase to 69% in the 2010-11 school year. The Government has, in accordance with the findings of the study on small class teaching, framed the professional development programmes in order to support teachers for the implementation of small class teaching in public sector primary schools.

Whole-day primary schooling

13.11 In paragraph 13.12 of the previous report, we stated that we aimed to ensure that almost all primary school children enjoyed whole day schooling by the 2007-08 school year. We have achieved the target and provide sufficient whole day school places.

Life-wide Learning

13.12 Some commentators suggested that the importance of “play” should be considered in school curriculum. Since 2002, the Curriculum Reform promotes “Life-wide Learning” to encourage students to learn in real context and authentic settings. Such experimental learning not only enables students to achieve certain learning goals that are more difficult to attain through classroom learning alone, but also enriches and extends classroom-based learning to achieve the aims of whole-person development and to nurture the life-long learning capabilities that are needed in our ever-changing society.

Language policy - biliteracy and trilingualism

13.13 As mentioned in paragraph 517 of the initial report, our language policy is that students should be literate in both Chinese and English and be able to speak fluent Cantonese, Putonghua and English. Biliteracy and trilingualism are persistently essential in Hong Kong.

13.14 In addition to measures set out in paragraph 518 of the initial report, other measures to achieve the objective include :

- (a) the implementation of the revised Chinese Language and English Language curricula at both primary and secondary levels, with “Reading to Learn” as one of the key emphases;

- (b) the provision of school-based language support services to help primary and secondary schools to implement the Chinese Language and English Language curricula with emphasis on teacher development and enhancement of student learning;
- (c) the inclusion of Putonghua as a core subject in junior secondary school curriculum, in addition to the primary school curriculum;
- (d) the introduction of Territory-wide System Assessment (TSA) to gauge students' attainment of basic competencies in the three core subjects (including Chinese and English Language) at the three key learning stages (Primary 3, Primary 6 and Secondary 3) so as to provide schools with solid reference for setting priorities in enhancing learning and teaching, and monitoring learning progress and standards;
- (e) the introduction of standards-referenced reporting to the existing Hong Kong Certificate of Education Examination (HKCEE) and the future the HKDSE in 2012 so that appropriate teaching strategies and learning targets could be set to work towards achieving the desired levels or standards;
- (f) the provision of reading grants to schools so as to promote reading in both languages at primary and secondary levels;
- (g) apart from the continuous enrichment and updating language learning and teaching resources in the Central Resources Centre, the Centre has been updating and managing lists of bilingual learning and teaching resources for the eight Key Learning Areas at the website of the Centre for teachers' reference;
- (h) the review of language education policy by the Standing Committee on Language Education and Research, a Government advisory body on language education issues, and implementation of the recommendations arising from the

review which was completed in 2003; and

- (i) Fine-tuning the medium of instruction arrangements for secondary schools (see the following paragraphs) to facilitate students to have more opportunities to be exposed to and to use English at junior secondary levels.

Medium of instruction

13.15 We have completed the review on the medium of instruction (MOI) policy foreshadowed in paragraph 13.19 of the previous report. The review recommended upholding mother-tongue teaching and enhancing students' proficiency in both Chinese and English.

13.16 In order to provide our students with more opportunities to be exposed to, and use, English at junior secondary levels so as to enhance their ability to learn in English and to better prepare them for further studies and work in future, we have decided to fine-tune the MOI arrangements for secondary schools with a view to allowing secondary schools the flexibility to decide professionally the appropriate MOI arrangements for their students.

13.17 Under the policy objective of upholding mother-tongue teaching and enhancing proficiency in Chinese and English, the Government announced the fine-tuning of the MOI arrangements for secondary schools in May 2009. With effect from the 2010-11 school year, starting with Secondary 1 and progressing each year to a higher level at the junior secondary stage, secondary schools will be given greater flexibility to decide professionally their school-based MOI arrangements having regard to students' ability and needs as well as school circumstances, including teachers' capability and readiness and school support measures. Secondary schools can enrich their English learning environment by introducing different MOI arrangements to suit the needs of their students and to increase students' opportunities to be exposed to and to use English. Students' ability to learn in English will be enhanced. They will be equipped to embrace the challenges facing Hong Kong in a globalised economy.

13.18 Some commentators were concerned that educational establishments was under no legal obligation under the RDO in modifying the MOI arrangements for non-Chinese speaking students. The Government firmly upholds the right of children to education, irrespective of their race or ethnic origin. All children have the right to 12 years of free and universal basic education. However, it is unlikely to be reasonably practicable for the schools to modify their arrangements regarding the MOI in order to cater for students of any racial group. For reference, in a decision of the European Court of Human Rights where French-speaking residents in the Dutch-speaking part of Belgium wanted their children to be educated in French, it was held that the right to education does not include a right to be taught in the language of the parents, nor a right of access to a particular school.

13.19 The position regarding teacher education to encourage mother tongue teaching and to improve language teaching standards is as mentioned in paragraph 13.20 of the previous report.

Vocational education

13.20 As explained in paragraph 13.43 of the previous report, the VTC is the main provider of - and adviser to the Government on policies relating to - vocational education and training. As regards vocational education, the VTC provides programmes for Secondary 3, Secondary 5 and Secondary 7 school leavers. The Hong Kong Institute of Vocational Education (IVE) and School of Business and Information Systems (SBI) provide self-guided programmes for Secondary 5 and Secondary 7 leavers up to Higher Diploma levels. Programmes provided by SBI emphasise on accountancy, business administration and information technology. Its assessment system and exit standards are identical to those of the IVE. A VTC Youth College with six sites of operation has been set up since 2004. The focus of Youth College is on the development of sub-diploma programmes for Secondary 3 leavers. Dedicated subvented vocational education programmes, including full-time certificate/diploma courses, are also provided for the ethnic minorities.

13.21 In the 2008-09 school year, the IVE/SBI/Youth College/Hong Kong Design Institute provided a total of about 44 800 full-time and about 2 650 part-time day and 13 550 part-time evening places and a wide range of short courses. Enrollment statistics for the 2008-09 school year by mode and level of study are at Annex 6A. They update Annexes 13D and 13E of the previous report.

13.22 Some commentators were concerned that most courses offered by the IVE, training courses conducted by the VTC as well as Project *Yi-jin* (PYJ) were in Chinese and therefore not accessible to non-Chinese speaking (NCS) persons. The VTC offers vocational education and training programmes to eligible persons irrespective of race or ethnic origin. Students who meet the basic entry requirements may apply for admission on competitive basis to courses offered by the IVE and the SBI and other members of the VTC Group. Post-secondary 5 level courses offered by the IVE and the SBI mainly use English as the medium of instruction, and may be supplemented with Chinese as when and where required and appropriate.

13.23 Apart from mainstream courses, ethnic minority students may also join other vocational education and training programmes offered by the IVE, Pro-Act Development Centre and Youth College specially designed for them. These courses include preparatory courses for trade tests for in-service personnel, full-time certificate/diploma courses for Secondary 3 and Secondary 5 school leavers, applied learning programmes for senior secondary students, and vocational development programmes for youths.

13.24 The PYJ programme is intended to offer a second chance for learners who do not do well in their mainstream studies at school by providing an alternative route to achieve an exit standard comparable to five passes in the HKCEE. One of its objectives is to provide training in English, Chinese, Putonghua and information technology and thereby build a firm foundation of knowledge and skills for work and further study. We are currently considering the merits and feasibility of having a PYJ-type programme to be implemented in 2012 under the NSS academic structure (as elaborated in paragraphs 13.5 and 13.6). It is not practicable to implement a new PYJ for NCS persons at this stage.

Private schools

13.25 The position in respect of private schools remains unchanged as described in paragraph 13.5 of the previous report. As for the Private Independent School Scheme introduced in 1999, eight such schools have been in operation on their allocated premises as at the 2009-10 school year. Other than a land grant at nominal premium and a capital grant for the construction of the school premises, each of these Private Independent Schools does not receive any recurrent subsidies from the Government.

Post-secondary education

Support for the sustainable development of post-secondary sector

13.26 In 2000, the Government announced that we aimed to provide 60% of our senior secondary school leavers with access to post-secondary education by 2010-11, as mentioned in paragraph 13.32 of the previous report. We have achieved the objective since 2005-06. In the 2008-09 school year, about 69% of the secondary school leavers enjoyed access to post-secondary education compared with the previously reported 42% in 2003. To ensure the healthy and sustainable development of the sector, we have enhanced Government support to self-financing post-secondary education providers in 2008 with a focus on quality. Other than the continuous provision of interest-free start-up loan for non-profit making educational institutions, accreditation grant to cover the institutions' accreditation expenses, land sites for the construction of purpose-built college premises, and student financial assistance, the Government also offers quality enhancement grants to support worthwhile initiatives dedicated to quality enhancement in teaching and learning.

Higher education

13.27 There are currently 12 degree-awarding institutions in Hong Kong. Nine are publicly-funded, of which eight are funded by the University Grant Committee (UGC), and one, the Hong Kong Academy for Performing Arts (see paragraph 15.31), is funded by Government subvention. The remaining three institutions are self-financing, two of which possess university title.

Admissions policy

13.28 The position regarding admission policy is essentially as described in paragraph 13.34 of the previous report. Tertiary education is accessible to prospective students on an equal basis and without discrimination. The admission criteria are the same for women and men. Of all the UGC-funded programmes, 54.6% of the students were female in the 2007-08 school year.

Supply of tertiary places

13.29 While the number of the UGC-funded first-year first-degree places has remained stable at 14 500 per school year, the UGC started to provide senior year undergraduate places to provide articulation opportunities for sub-degree graduates in the 2005-06 school year. There are close to 2 000 senior year places for intake in 2010-11. Altogether, the UGC-funded institutions provide 50 800 undergraduate degree places, 7 000 post graduate degree places and about 5 600 sub-degree places (in full-time-equivalent terms).

13.30 The self-financing sector has been going through healthy development in recent years and is playing an increasingly important role in the provision of higher education in Hong Kong. The self-financing sector currently provides around 3 000 undergraduate intake places and around 2 000 top-up degree intake places each year.

13.31 The tertiary participation rate (i.e. at degree level) among the 17 to 20 age cohort has increased from around 18% in 1997-98 to around 27% in 2009-10.

Fees and financial assistance for post-secondary and higher education students

13.32 As set out in paragraph 13.36 of the previous report, our policy remains that no qualified student is denied access to tertiary education because of a lack of means. In the 2008-09 school year, we provided financial assistance of around \$2.84 billion to students pursuing post-secondary and continuing education. Around 54 000 students or

40% of the post-secondary student population received financial assistance in the 2008-09 school year. We will continue to implement the various financial assistance schemes as set out previously. The details are at Annex 13B, which updates Annex 13C of the previous report.

13.33 The tuition fees for degree and higher programmes at the UGC-funded institutions continue to be frozen since the 1997-98 school year. They therefore remain at the levels explained in paragraph 531 of the initial report.

13.34 Some commentators considered that the application criterion of the Student Financial Assistance provided by the Government is too mean and the coverage of the assistance is too narrow. In 2008-09, the Student Financial Assistance Agency (SFAA) disbursed over \$3 billion of means-tested student financial assistance for students from pre-primary to post-secondary levels and about \$990 million of non-means-tested loans for students pursuing post-secondary and continuing education. We consider the existing means test of the SFAA adequate in providing suitable assistance to the needy students for pursuing their studies.

Adult education

Local opportunities for adult education

13.35 The Financial Assistance Scheme for Designated Evening Adult Education Courses was introduced in the 2005-06 school year to provide financial assistance to adult learners (aged 17 or above) attending senior secondary evening courses offered by the approved course provider(s) in designated centres. It was extended to cover junior secondary courses in the 2008-09 school year. Learners who meet the eligibility criteria (such as attendance) are eligible for 30% reimbursement of the tuition fees. Full reimbursement or half reimbursement will be provided for those who meet the eligibility criteria and pass the means test administered by the SFAA for full grant or half grant respectively. This updates paragraph 13.38 of the previous report. In the 2009-10 school year, there were 1 465 adult learners enrolled in evening secondary courses under the Scheme.

Continuing and professional education at the tertiary level

13.36 We explained the history and underlying philosophy of the Open University of Hong Kong in paragraphs 536 to 538 of the initial report and the subsequent development of the University in paragraph 13.39 of the previous report. In the 2009-10 school year, more than 17 000 students enrolled in the university's 158 degree and postgraduate programmes and 51 sub-degree programmes. The Li Ka Shing Institute of Professional and Continuing Education of the Open University of Hong Kong also offered 158 short courses and professional courses for more than 32 000 students in the same school year. The position for other providers of continuing education is as explained in paragraphs 13.40 to 13.41 of the previous report.

Quality Education Fund

13.37 As explained in paragraph 13.17 of the previous report, the main purpose of the Quality Education Fund was to support educational research and school-based initiatives to develop new curricula, and to improve the educational process. Since its establishment in January 1998 to mid-2009, the Fund has approved \$3.7 billion for some 7 700 projects from schools, education bodies, non-profit making organisations, public bodies and individuals.

Qualifications Framework

13.38 The Hong Kong Qualifications Framework (QF) was formally launched in May 2008 to promote lifelong learning with a view to enhancing the overall competitiveness of Hong Kong's workforce. The QF provides a seven-level hierarchy covering qualifications in the academic, vocational and continuing education sectors. The Hong Kong Council for Accreditation of Academic and Vocational Qualifications (HKCAAVQ) is specified as the Accreditation Authority under the Accreditation of Academic and Vocational Qualifications Ordinance (Cap. 592), and entrusted with the responsibility of assuring the quality of academic and vocational qualifications and their associated learning programmes. Information on qualifications and learning programmes that have been quality assured and recognised under the QF are uploaded on a

Qualifications Registry and made available over the Internet free of charge to the public.

13.39 To ensure relevancy to industry needs, the Government has been assisting various industries in setting up Industry Training Advisory Committees (ITACs), which comprise the major stakeholders from the industries concerned. So far, 13 ITACs have been set up with their first task to draw up the Specification of Competency Standards (SCS) for their respective industries, which maps out the industry's competency requirements and performance standards under different functional areas, and provides a basis for course providers to design training programmes to meet the needs of the industries.

Education for non-Chinese speaking students

13.40 The Government is committed to providing appropriate learning opportunities for all students to help them attain all-round development. We have elaborated the situation faced by NCS ethnic minority children in respect of their education in paragraphs 13.21 to 13.24 of the previous report. As further mentioned in paragraph 13.25 of the previous report, it is our policy to facilitate the early integration of NCS students, comprising largely of ethnic minority children settled in Hong Kong, into the local education system and the wider community. All eligible students, irrespective of race or language, have equal opportunities for admission to public sector primary and secondary schools under the existing school places allocation systems.

Education support for non-Chinese speaking students

13.41 We are mindful about the necessity to prevent lowering educational standards for the NCS students, which will jeopardise their competitiveness in the long run. In recognition of the need of these students, on top of the support services as mentioned in paragraph 13.30 of the previous report to facilitate adaptation to the local environment and education system including the Induction Programmes, Initiation Programme and School-based Support Scheme for the newly arrived NCS students, we have stepped up our efforts in recent years and put in place a series of educational support measures to enhance the learning and

teaching effectiveness of NCS students. The measures are elaborated below.

Designated schools

13.42 The Government has invited schools with a critical mass of NCS students to become “designated schools” and has been providing them with focused support to enhance the learning and teaching of NCS students, particularly in the subject of Chinese Language. To step up such support, the number of designated schools has increased progressively from 15 in the 2006-07 school year to 26 in the 2009-10 school year. We have not set a ceiling for the number of designated schools. Besides, starting from the 2008-09 school year, the annual grant for designated schools has been turned to a recurrent grant so that schools can make long-term plans on the usage of the grant and the ceiling of the grant has been raised for those designated schools with a higher intake of NCS students to help them implement school-based support programmes for these students.

13.43 The objective of providing focused support for designated schools is to facilitate their accumulation of experience and development of expertise in the learning and teaching of NCS students, so that they may serve as the anchor point for sharing good practices with other schools which have also admitted NCS students through an established support network.

Supplementary guide to the Chinese Language curriculum for non-Chinese speaking students

13.44 The Government's policy is to facilitate the early integration of non-Chinese speaking students into the local education system. Accordingly, all students of public sector primary and secondary schools are required to study Chinese Language and English Language as learning entitlement. Considering various aspirations and practical needs of NCS students, we have provided additional opportunity for them to take the GCSE (Chinese) Examination, as an alternative to the HKCEE and, in the future, the HKDSE. These students can attain an alternative qualification for satisfying the Chinese Language requirement for university entrance

purposes. Given the vastly different backgrounds of NCS students, as a complement to the common curriculum framework, we have developed the “Supplementary Guide to the Chinese Language Curriculum for Non-Chinese Speaking Students”, containing multiple curriculum modes, different learning levels and leading to multiple exits. This strategy has been widely accepted on sound pedagogical grounds. The Supplementary Guide caters for the holistic and personalised development of the NCS students without limiting the range of learning opportunities of students with different needs.

13.45 In tandem with the issue of the Supplementary Guide, while teachers are being trained on curriculum adaptation, the EDB has provided NCS students and schools with learning materials, covering both primary and secondary levels, by stages. Moreover, teaching reference materials, including self-learning packages, have been distributed to schools. To enhance assessment for learning, assessment tools will also be developed for schools to assess the Chinese standards of their NCS students.

Provision of training programmes for Chinese Language teachers in primary schools

13.46 As from the 2006-07 school year, training programmes have been provided by tertiary institutions for Chinese Language teachers in primary schools teaching NCS students. All teachers in designated or non-designated schools teaching Chinese Language to NCS students can participate in the relevant professional development programmes.

Support in Chinese Language Learning

13.47 The Chinese Language Learning Support Centre, run by a tertiary institution, provides remedial programmes to NCS students, particularly the late starters in Chinese learning, after school hours or during holidays. The Centre also assists in the development of related teaching resources and renders support to teachers of NCS students by organising professional development workshops.

13.48 To further enhance the support to ethnic minority students in their learning and homework, especially in learning the Chinese language,

starting from early 2010, the Constitutional and Mainland Affairs Bureau also sponsors three of the support service centres for the ethnic minorities to provide after-school tutorial classes for ethnic minority students from Primary 1 to Secondary 3 at the centres, schools and other premises identified by the centres.

Summer Bridging Programme

13.49 To facilitate the smooth integration of NCS Primary 1 children into the mainstream education system, a four-week Bridging Programme has been introduced in the summer of 2004 which aims at helping NCS children adapt to the new learning/school environment, widening their learning experience/exposure in using Cantonese as the MOI under real classroom situation and stimulating their interest in the Chinese culture. Starting from the summer of 2007, the Summer Bridging Programme has been extended to cover not only NCS Primary 1 entrants, but also NCS students proceeding to Primary 2, Primary 3 and Primary 4 in order to help them consolidate what they have learnt at Key Stage One (Primary 1 to Primary 3) and to prepare for their transition to Key Stage Two (Primary 4 to Primary 6).

Measures to address the aspirations of non-Chinese speaking students for higher education

13.50 Some commentators have concern that the opportunities of NCS students in accessing tertiary education have been affected in view of their standard in Chinese Language. To address NCS students' aspirations for higher education, various support measures have been implemented. Subsequent to the submission of the previous report, starting from 2007, the GCSE (Chinese) Examination has been administered in Hong Kong for students who wish to obtain alternative Chinese Language qualification(s) through the Hong Kong Examinations and Assessment Authority.

13.51 Public sector schools will take into consideration alternative Chinese Language qualification(s) under the Secondary 6 admission and make conditional offers to eligible applicants under specified circumstances pending the release of the relevant examination results.

Similarly, starting from 2008, the UGC-funded institutions would consider alternative Chinese Language qualification(s), such as those under the GCSE, General Certificate in Education (GCE) and International General Certificate of Secondary Education (IGCSE), in lieu of the general Chinese Language requirement based on the Hong Kong Advanced Level Examination (HKALE) for application under specified circumstances under the Joint University Programmes Admissions System (JUPAS).

Information for non-Chinese speaking parents/students

13.52 Information about the local education system, support measures as well as Secondary 1 and Primary 1 school places allocation has been translated into common ethnic minority languages in Hong Kong for the easy reference of the NCS parents.

Opportunities for the non-Chinese speaking students to learn their mother tongue

13.53 As explained in paragraph 13.25 of the previous report, we consider integration a better option than establishing schools specifically catering for NCS students to enhance their competitiveness for future academic and career opportunities. The Government encourages the teaching of the two official languages, i.e. Chinese and English, in public-sector schools to facilitate early integration. It does not mean that NCS students have to learn in the Chinese Language at all cost. Subject to the compliance of the prescribed criteria of teacher capability and school support measures under the prevailing MOI policy, schools which have admitted a critical mass of NCS students and have assessed that these students could indeed learn better in English, are given the flexibility to teach in English for the well being of the NCS students.

13.54 We fully respect the right of NCS children to use their own languages and to enjoy their own culture. On the other hand, we do not consider it feasible for all public sector schools enrolling the NCS students to offer corresponding ethnic minority language courses to NCS students in all our public-sector schools enrolling them - nor do we consider this obligatory for our public sector education. Notwithstanding this,

individual schools may redeploy resources to teach other languages to meet the needs of their students provided that the curriculum offered as a whole will continue to be broad and balanced. We understand that some schools have been offering ethnic minority language courses to their NCS students during or after school hours and arranging cultural activities for their students.

13.55 As mentioned in paragraph 13.25 of the previous report, we also acknowledge that some parents will wish to educate their children in non-mainstream schools. In this regard, there are educational alternatives to the public sector education for the NCS students. For example, there are privately-run schools offering non-local curricula at the primary and secondary levels. In the 2009-10 school year, 50 such international schools offer a range of curricula including those of the USA, Australia, Canada, England, France, Germany, Japan, Korea, Singapore and the International Baccalaureate.

Way forward

13.56 Overall speaking, it takes time for the support measures for the NCS students to take root and create a sustainable impact on them. We will continue to review the effectiveness of the various support measures and work closely with the stakeholders to address the genuine needs of the NCS students.

Education for students with disabilities

13.57 As explained in previous reports, children with special needs enjoy equal opportunity to receiving education in public sector ordinary schools and are provided with appropriate support and accommodations to help them develop their potentials. Those who have more complex needs or whose disabilities are so severe that they cannot benefit from education in mainstream schools receive education in public-sector special schools.

13.58 With the implementation of the NSS academic structure from the 2009-10 school year, all students in public sector ordinary and special schools, including special schools for children with intellectual disability (ID), enjoy equal opportunity to receiving free primary, junior secondary

and senior secondary education. Under the NSS academic structure, special schools for children with ID provide 12 years of free education, comprising six years of primary education, three years of junior secondary education and three years of senior secondary education. For students with normal intellectual ability pursuing the ordinary curriculum in special schools for children with hearing impairment (HI) and special schools for children with physically disability (PD), the ten years of basic education will be maintained to better prepare them for the three-year senior secondary education leading to the HKDSE.

13.59 Annex 13C, which updates Annex 13F of the previous report, sets out the recognised definitions of various forms of disability of students requiring additional support services. Annex 13D lists the support provided for children with disabilities studying in ordinary schools. It updates Annex 13G of the previous report.

13.60 In paragraphs 13.49 of the previous report, we explained that we encourage all ordinary schools to adopt the Whole School Approach to cater for learner diversity, including students with disabilities. To facilitate schools to adopt the Whole School Approach, we provide them with additional resources and professional support and encourage them to deploy the resources flexibly to cater for the needs of their students.

13.61 To enhance teachers' capacity in catering for learner diversity, we have put in place a five-year teacher professional development framework on integrated education since the 2007-08 school year. We expect that in five years, at least 10% of our teachers in each ordinary school will have received special education training under the framework. We also organise thematic training programmes for school principals, teachers and teaching assistants.

13.62 In terms of professional support, we provide schools with educational psychology service as well as specialist support from speech therapists and audiologists. We have, in collaboration with tertiary institutions, developed various assessment tools and diverse teaching resource packages for use by specialists and teachers. Inspectors and Special Education Support Officers of the EDB pay regular visits to schools to render professional advice on schools' special education policy,

measures, teaching strategies, resources deployment, home-school co-operation, etc. with a view to ensuring that the resources are used properly and students are being catered for appropriately. If schools have difficult cases requiring highly intensive support, we will consider providing additional teaching assistants to them. For students with serious emotional/behavioural problems showing no improvement upon receiving school-based support services, they will be referred to receiving more intensive pull-out remedial support under the Adjustment Programme run by the EDB or short-term attachment programmes run by Special Schools cum Resource Centres. At the same time, we have established an inter-school professional sharing and support network among schools, in which special schools as well as ordinary primary and secondary schools with good practices in the Whole School Approach are invited to serve as resource centres to provide on-site consultation and share their experience with other ordinary schools.

13.63 The position regarding accessibility of school buildings is as explained in paragraph 548 of the initial report. As mentioned in paragraph 2.38 above, the DM 2008, which sets out the revised design requirements for the provision of access and facilities to PWDs, came into operation on 1 December 2008, to replace the earlier version issued in 1997. All new public sector schools constructed after 2008 fully meet the requirements of the DM 2008.

13.64 As regards the access to tertiary education for students with disabilities, the position is as explained in paragraphs 549 and 550 of the initial report.

13.65 There are concerns from some commentators about the provision of assessment and remediation services for children with specific learning difficulties, the adequacy and effectiveness of integrated education for children with milder disabilities, and the waiting time for services for children with special needs, including the transition care services into adult programmes.

13.66 It is Government policy to support children with special educational needs (SEN) through “early identification” and “early intervention”. Under the current mechanism, medical professionals work

in partnership with parents to monitor the development of children from birth to the age of five and to identify any possible developmental problems. To further enhance such service, the CCDS has been launched since December 2005 to enable pre-primary educators, with the consent of the parents, to directly refer kindergarten children to the MCHCs of their respective districts for initial assessment. Where necessary, the children will be subsequently referred to the Child Assessment Centres or specialist units for follow-up to ensure that they receive timely intervention and support. Comprehensive and integrated support is also provided for parents in need.

13.67 In late 2008, the EDB, DH, and SWD jointly produced a Pre-primary Children Development and Behaviour Management – Teacher Resource Kit, consisting of textual and visual information, to familiarise teachers with the operation of the CCDS and the referral mechanism, and raise their awareness of common developmental and learning problems of pre-primary children, so as to facilitate early identification and referral of children in need for assessment and treatment.

13.68 On the delivery of pre-school services, it is the Government's policy to provide children, from birth to six years old, with disabilities or at risk of becoming disabled with early intervention to enhance their physical, psychological and social developments, thereby improving their opportunities for participating in ordinary schools and daily life activities and helping their families meet their special needs.

13.69 At present, the SWD provides a wide range of training programmes for pre-school children with disabilities, including:

- (a) The Early Education and Training Centre (EETC) which provides services for children with disabilities from birth to six years old. This programme aims to maximise the developmental functioning of children with disabilities by enabling their parents, through support and assistance, to accept, understand, care for and train their children with disabilities;

- (b) The Special Child Care Centre (SCCC) which provides services for children with moderate and severe disabilities aged between two and six. This programme aims to develop these children's fundamental developmental skills and intellectual ability, as well as their perceptual-motor, cognitive, communication, social and self-care skills to facilitate their smooth transition from pre-school education to primary education. Residential facilities are also available in some SCCC's to cater for the needs of children with disabilities who are homeless, abandoned or dwelling in abject living conditions or family environment;
- (c) The Integrated Programme in Kindergarten-cum-Child Care Centre (IP in KG-cum-CCC) which provides training and care to children aged between two and six with mild disabilities. This programme aims to facilitate their full integration into normal pre-school setting as far as possible so that they will stand a better chance of future integration into the mainstream education;
- (d) the provision of additional special child care workers at SCCC's to provide intensive individual or group training to autistic children;
- (e) provision of occupational therapy (OT), physiotherapy (PT) and speech therapy (ST) to enhance self-reliance of children with disabilities in daily living, correct deformities and prevent deterioration in health; and
- (f) support to EETCs, SCCC's and IP in KG-cum-CCC by the centre-based clinical psychologists (CPs) or CPs from the SWD. CPs assist in the assessment of psychological and intellectual functioning of children with disabilities, and devising training programmes to stimulate their normal emotional and behavioural development.

13.70 In 2010-11, we will continue to increase the number of places and provide early training and support for children in need and their families. There are 5 590 places at present. An additional allocation of \$11.7 million is proposed for providing 154 new places in 2010-11. Coupled with the allocation already earmarked in 2009-10, the Government will provide a total of 316 additional places for pre-school services in 2010-11.

13.71 As for school-aged children, the EDB operates the Early Identification and Intervention of Learning Difficulties Programme for Primary 1 Pupils in all public sector primary schools. Teachers are provided with the “Observation Checklist for Teachers” and the “Hong Kong SpLD Behaviour Checklist for Primary School Pupils” to facilitate early identification and intervention for Primary 1 pupils with learning difficulties. Those making poor progress in learning despite extra help or having severe difficulties will be provided with further assessment and support by educational psychologists. The EDB has also developed the “Observation Checklist for Students with Speech and Language Problems” to assist teachers in identifying primary school pupils with speech and language impairments and referring those in need to school-based speech therapists or the EDB for assessment and therapy service.

13.72 The number of identified SEN cases has been rising in recent years. This reflects that the current assessment mechanism and tools as well as the communication between Government departments and related organisations such as the DH and HA, are effective, and that there is increasing awareness of parents. We will continue to collaborate with tertiary institutions to improve and develop assessment tools for teachers and other professionals. We will also further enhance the understanding of special education among parents and members of the public. Our aim is to facilitate early identification of students with SEN for timely and appropriate support.

13.73 The Government is concerned about the adequacy and effectiveness of integrated education. In the course of development of integrated education, the EDB reviews the provisions and professional support for integrated education regularly to ensure its adequacy and

effectiveness. As mentioned in paragraphs 13.60 to 13.62 above, the EDB provides additional resources and professional support for schools to cater for students with SEN. Schools are accountable for their performance and monitored under a School Development and Accountability Framework which put emphasis on school self-evaluation in recognition of the school as the centre for improvement, with external school review playing the complementary role of validation. Schools are required to inform the stakeholders of the support services they provide for their students with SEN and to report on the progress. They are also required to report annually to the EDB on the implementation and effectiveness of the support measures, use of resources and the overall progress of students with SEN. Besides, the professional staff of the EDB pay regular visits to schools for support and monitoring the implementation of integrated education.

13.74 Some commentators suggested promoting the use of sign language as teaching aid in kindergartens for children with HI and incorporate such training into the certificate curriculum for teaching children with special needs. Under the existing education and rehabilitation policies, children with severe SEN or multiple disabilities (including students with severe or profound hearing loss) may be referred to the SCCC for intensive training and care, and/or the EETC for early intervention and parent support services, and to special schools, subject to the assessment and recommendation of specialists and parents' consent. Other children with hearing loss may be placed in ordinary kindergarten, including IP-in KG com-CCC, and ordinary primary and secondary schools. SCCC or EETC will employ the desirable medium of instruction such as oral, manual (including sign language) or total communication mode according to the abilities, learning and communication needs of the children. Speech therapists and training staff of SCCC or EETC will encourage HI students to use their residual hearing to enhance the oral language and lip read abilities so as to develop oral communication skills. Teachers of ordinary kindergartens will use different strategies in their daily teaching and communication with HI children including visual strategies and providing contextual cues to suit the communication and learning needs of the children. HI children are encouraged to use their residual hearing to learn and to communicate with their hearing counterparts.

13.75 Some commentators were concerned about the capacity of police officers and officers in the Judiciary in communicating with persons using sign language. The Police would provide persons with hearing disabilities and special needs with necessary assistance, such as the arrangement of a sign language interpreter to facilitate the communication. For providing interpreting services in courts, hand-sign interpreters are usually registered with the Judiciary upon the recommendation of relevant organisations of HI persons. Generally speaking, arrangements for hand-sign interpreters are made by the Judiciary. Litigants who have special requests may make applications to the presiding Judicial Officer concerned.

Vocational training and assessment service for persons with disabilities

13.76 Further to the position as explained in paragraphs 13.52 to 13.54 of the previous report, the skills centres operated by NGOs and the VTC provided 1 113 full-time places in the 2009-10 school year. The ERB has continued to provide vocational training courses to displaced workers, including PWDs, under the “Manpower Development Scheme”, which was previously known as the “Employees Retraining Scheme”. The ERB has expanded its service targets from those who are aged 30 or above with education attainment of Secondary 3 or below, to those who are aged 15 or above and with education attainment at sub-degree or below under the Scheme.

13.77 On vocational training provided to PWDs, the policy objective of the Government in assisting them in attaining employment is to ensure that they have equal access to and participation in productive and gainful employment in the open market. For those PWDs who cannot or who are not yet ready for open employment, the SWD renders vocational rehabilitation services to meet their various needs. These services include:

- (a) **Integrated Vocational Training Centre** which provides comprehensive and systematic vocational training for PWDs to assist them in achieving open employment and development their potential;

- (b) **Sheltered Workshop** which provides PWDs, who are not yet able to take up open employment, with appropriate vocational training in a specially designed environment, in which they can learn to adjust to normal work requirements, develop social skills and relationship, and prepare for potential advancement to supported and open employment;
- (c) **Supported Employment** which provides PWDs with vocational training, job matching, on-the-job coaching, follow-through guidance service and employment-related skills, etc. It serves as an avenue for upward mobility of sheltered workshop trainees and a necessary step towards social integration for those PWDs who otherwise cannot take up open employment;
- (d) **Integrated Vocational Rehabilitation Services Centre (IVRSC)** which is a new service delivery model which has been implemented since 2004 through re-engineering of the sheltered workshop and supported employment services. IVRSC provides a series of one-stop and integrated vocational rehabilitation services, including work skills training and development of social and interpersonal skills, with a view to preparing them for potential advancement to open employment; and
- (e) **On the Job Training Programme for PWDs and Sunnyway** which provide wage subsidy to employers to encourage them to provide job opportunities for PWDs. Under these programmes, services including job attachment, job matching, on-the-job training, job related counselling and post-placement support are provided to PWDs.

13.78 To facilitate the full integration of PWDs into society, we will continue to enhance day training and vocational rehabilitation services, with a view to helping them achieve independence and self-reliance and participate in society. At present, there are a total of 16 354 places for day training and vocational rehabilitation services. Additional funding of \$16.8 million will be allocated for providing 160 new places for day

training and 100 new places for vocational rehabilitation services in 2010-11. Coupled with the recurrent allocation already earmarked, the Government will provide a total of 290 additional places for day training and 420 additional places for vocational rehabilitation services in 2010-11.

Education of prisons inmates

13.79 The position is largely the same as explained in paragraphs 555 and 556 of the initial report. In gist, the CSD employs qualified teachers and instructors to provide general education and vocational training for inmates aged under 21. For adult inmates who wish to pursue studies after work, CSD will provide academic guidance and advice to them, as well as help them enroll in suitable courses and apply for relevant subsidies.

13.80 Some commentators considered that the training courses and subsidy for the inmates and prisoners at the correctional institutions are too limited and insufficient. Financial subsidy is provided to persons under CSD's custody who wish to pursue education. In order to provide more incentive to inmates, two new subsidy schemes, namely the "New Life Foundation" and "Prisoners' Education Subsidy Scheme" were set up in 2009. In 2009-10, 655 persons in CSD's custody received financial assistance for enrolling in distance learning courses and taking part in public examinations. We consider that the financial assistance being provided to persons under CSD's custody on this front is adequate.

Education for children with no right to stay

13.81 The Government takes into full account its obligation under the Covenant regarding the right to education. In response to paragraph 101 of the previous Concluding Observations, children with no right to remain in the HKSAR are subject to removal, so the question of their schooling in the HKSAR does not normally arise. Where removal of these children is unlikely in the short term, requests to allow them to attend school will be considered on a case-by-case basis by the Government, having regard to the obligation on the rights and interests of the children and other relevant factors. Factors to be considered for school placement

may include availability of school places, length of study, age and educational background of the child concerned. In appropriate cases, after the Director of Immigration gives an indication of no objection, arrangements for schooling may be made by the education authorities in accordance with established rules. The rights to education are adequately protected under the existing mechanism.

Education and qualifications assessment for new arrivals from the Mainland of China

13.82 The position is similar to that outlined in paragraph 13.59 of the previous report. Besides the induction programmes and initiation programme as mentioned, the measures that we have been taking to integrate newly arrived children include a School-based Support Scheme Grant for schools, which is a block grant of \$2,805 per primary student and \$4,160 per secondary student. It aims to help newly arrived students cope with the learning environment in local schools. Schools can flexibly make use of the grant to run school-based support programmes (e.g. supplementary language classes) for the students.

13.83 Furthermore, with effect from the 2008-09 school year, both initiation programme and induction programmes have been extended to newly arrived students up to the age of 18 (from the age of 15 previously). With the operation of new schools these years, the provision of school places has been adequate to meet the demand arising from the arrival of these students. We will continue to monitor the support measures to ensure smooth integration of these students into the local education system.

13.84 Some commentators considered that there should be a qualification recognition mechanism for academic or professional qualifications obtained from the Mainland. Under the Hong Kong Council for Accreditation of Academic and Vocational Qualifications Ordinance (Cap. 1150), HKCAAVQ provides qualifications assessment services by offering a professional opinion on whether the totality of the educational qualifications of the individual (i.e. the integrated learning outcomes of the highest and terminal qualification) meets the standard of a particular qualification obtained in Hong Kong. Individuals possessing

qualifications awarded by granting body/bodies operated outside Hong Kong (including the Mainland and overseas) may apply for qualifications assessment. Individual employers, organisations, or educational institutions have their own discretion on whether the qualification of any particular individual would be considered or accepted for employment, registration or study purpose.

13.85 Some commentators also considered that adaptation courses for newly arrived adults from the Mainland should be provided. The HAD has been in close collaboration with various NGOs and allocates resources to the NGOs for organising activities and programmes at district level, targeted at new arrivals from the Mainland, including adults, to enable them to integrate into the community. Examples include familiarisation courses and language classes in assisting those newly arrived in adapting to the life in Hong Kong.

Education for people of different sexual orientation and gender identities

13.86 Some commentators considered that EDB's programmes are not effective in facilitating an environment of respect for people of different sexual orientation and gender identities. In fact, through the provision of learning experiences via the school curriculum and learning activities, values including respect for others, non-discrimination and acceptance are emphasised in the process of teaching and learning.

Civic education, human rights education and education against discrimination

School curriculum

13.87 In the existing school curriculum, students are provided with ample opportunities to develop concepts and values in relation to human rights. Important concepts and values on human rights, such as the right to life, freedom (e.g. speech, religion), privacy, respect for all peoples (e.g. different nationalities and their cultures, ways of life), equality (e.g. gender equality), anti-discrimination and gender awareness (e.g. race, sex) are discussed and promoted through the teaching and

learning of various subjects in primary and secondary schools. Students' concepts and understanding of human rights are strengthened progressively from a basic understanding of the rights and responsibilities to more complex concepts of human rights.

13.88 The concepts and values related to human rights are further strengthened in different Key Stages under the Revised Moral and Civic Education Curriculum Framework implemented in 2008 and the new subject "Life and Society" to be offered in September 2012. These concepts include respect for others, fairness, harmony, open and accommodating attitudes to different ways of lives and religions, respect and appreciation to different nationalities and cultures, anti-discrimination, etc.

13.89 Civic education, human rights education and education against discrimination are integral to the curriculum. In 1998-99, "Civic education" was introduced as a specific subject at the junior secondary level. These curriculum areas have also been strengthened in the core subject of Liberal Studies implemented at senior secondary level from the 2009-10 school year. To support schools in promoting concepts and values pertaining to these curriculum areas, professional development programmes and resources support are provided to empower teachers' professional capability to implement these curricula. Relevant learning activities and programmes are provided to deepen students' understanding of the concepts and values relating to civic education, human rights education and education against discrimination.

13.90 Regarding commentators' view on evaluating the effectiveness of human rights education, school visits have been conducted by the EDB to gauge views of schools on the implementation of the school curriculum to promote students' understanding of human rights and the related values.

Programmes outside school

13.91 Students may also get acquainted with the concepts and values of human rights through various school-based programmes, such as class periods, assemblies, talks, as well as other learning experiences, such

as discussion forums, debates, services and visits.

13.92 The EDB has been organising human rights-related civic education seminars for teachers. Seminars on human rights-related themes, namely, “non-discrimination”, “freedom”, “human rights and the Basic Law”, “intellectual property”, “freedom of press and the media”, “equality and social harmony”, “rights and responsibilities”, etc. were organised to empower teachers’ competency in teaching related concepts and values.

13.93 Resource materials, including web-based resources, in support of the promotion of human rights education, have been produced for reference and use by schools. The Government has also produced bilingual booklets and leaflets on the human rights treaties with illustrations of the principal provisions and in languages which are easy to understand.

13.94 We have continued to raise public awareness and understanding of human’s rights through various means, including producing television advertisement and providing financial support for community organisations to carry out educational projects.

13.95 The Committee on the Promotion of Civic Education (CPCE) is an advisory body under the HAB set up in 1986 to promote civic education outside schools in liaison with relevant Government departments. The CPCE continues to promote public understanding of human rights as and when suitable opportunities arise, and provide sponsorship to community organisations to promote education on human rights.

13.96 Some commentators requested the Government to conduct a survey on human rights. Our view is that there are established channels to monitor the human rights situation in Hong Kong. We should continue to make use of these channels. Moreover it would be more effective to deploy the resources available to implement measures or activities which would promote the rights of individuals.

13.97 The EOC has been highlighting the importance of education through its promotional programmes. In addition to producing training kits on prevention of sexual harassment for use by schools and giving talks to students of different age groups, the EOC also engaged theatre troupes to stage plays and puppet shows at schools to promote the concept of inclusion of people with disabilities. PWDs who have achieved success in their chosen fields and people from different racial groups were also invited as mentors at EOC's Career Challenge programmes.

13.98 We note the recommendation of the Committee to ensure state officials and the judiciary are aware of human rights, in particular, economic, social and cultural rights. The Civil Service Bureau and the Civil Service Training and Development Institute organise seminars for Government officers at middle to senior ranks. These include seminars on the Basic Law, equal opportunities (in collaboration with the EOC) and other areas of human rights. The Department of Justice organises training sessions for Government legal officers. Some of those sessions deal with international human rights law and human rights protection under the Basic Law. Others focus on specific areas according to the specialised needs of the different divisions of the Department. For example, the Prosecutions Division of the Department of Justice organises criminal advocacy courses for prosecutors and during which prosecutors are acquainted with the Juvenile Offenders Ordinance (Cap. 226), the Protection of Children and Juveniles Ordinance, relevant international standards, and the court proceedings in relation to the juvenile justice system. Counsels of the Department also attend seminars and conferences organised by universities and academic institutions and overseas conferences on human rights. Professional development programmes are provided by the EDB to teachers to enhance their knowledge and skills to promote human rights education.

13.99 Human rights and equality principles are part of the foundation training for the Police's new recruits and probationary inspectors. The continued training programmes for in-service police officers also cover these topics. The Customs and Excise Department follows statutory requirements and policies promulgated by the Government in drawing up internal instructions and developing training courses in relation to human rights protection. All correctional staff in the

CSD have been made aware of the human rights related legislation/conventions, including the HKBORO (Cap. 383) and the United Nations Standard Minimum Rules for the Treatment of Prisoners, which are covered by their induction and in-service training. As regards the Immigration Department, all newly recruited staff will be provided with trainings on human rights. In addition, further trainings will be provided to those who are responsible for assessing torture claims.

13.100 Since May 2005, 45 Judges and Judicial Officers (JJOs) have attended eight seminars/talks/conferences on human rights as arranged by the Judicial Studies Board which provides training programmes for JJOs at all levels of the court. Suitable training programmes will continue to be arranged for JJOs in future. Talks on anti-discrimination ordinances and seminars on the Personal Data (Privacy) Ordinance are arranged regularly for the support staff of the Judiciary to enhance their understanding and knowledge on these ordinances and to raise their awareness on human rights, equal opportunities and protection of personal data. Staff also attend the training on Basic Law by the Civil Service Training and Development Institute.

Cultural identity and national values

13.101 Some commentators requested a report and review on education regarding cultural identity and national values. It is an established education policy of Hong Kong to develop students' national identity, which is stated as one of the curriculum goals in the curriculum documents. The promotion of cultural and national values such as national identity is implemented in school curricula, including General Studies and Chinese Language at primary level; Chinese Language, Chinese History, Civic Education and Geography at junior secondary level. In the NSS curriculum implemented in the 2009-10 school year, Liberal Studies as a core subject is the main vehicle for promoting these values. The EDB also enhances students' understanding of their culture and nation through organising interflow activities between the Hong Kong and the Mainland students regularly, inviting scholars and experts from the Mainland to give talks on issues of contemporary China, subsidising schools in organising interflow activities as well as organising project

award schemes on Thirty Years of Reform & Opening Up and the 60th National Anniversary. In line with the spirit of the current Curriculum Reform, schools are encouraged to adopt multiple perspectives and equip students with critical thinking skills in analysing issues on contemporary China.

13.102 Some commentators also requested review on the implementation of education on human rights and national values, particularly that specific classes on human rights are not required at present. Ample learning opportunities with adequate curriculum time are provided on national education and human rights education through classroom learning and life-wide learning activities, as mentioned above.

Public education on the Basic Law

13.103 To strengthen Basic Law education, a working group for teachers and students was formed under the auspices of the Basic Law Promotion Steering Committee, with members coming from the Steering Committee as well as representatives of primary and secondary schools and tertiary institutions. Teacher training and promotional activities were organised to enrich teachers' and students' knowledge of the Basic Law. Joint efforts have been made with relevant departments and bureaux to promote Basic Law education to students.

Article 15: Right to cultural life, scientific progress and its application

15.1 The constitutional and legal position in relation to the rights under Article 15 remains as explained in paragraph 581 of the initial report.

Policy on culture and arts

15.2 As explained in paragraphs 582 of the initial report, the Government's policy on culture and arts is to create an environment that is conducive to artistic expression and creation and that encourages public participation in cultural activities. In 2010-11, the Government's estimated expenditure on arts and culture is over \$2.8 billion (excluding estimated expenditure on capital works).

15.3 The West Kowloon Cultural District (WKCD) is a major initiative to implement the above policy by meeting the long-term infrastructure needs of the arts and cultural sector. The Government has established a statutory body, the West Kowloon Cultural District Authority (WKCDA), to implement the WKCD project. An upfront endowment of \$21.6 billion was approved by the Finance Committee of the LegCo in July 2008 for the implementation of the WKCD project.

15.4 The Government continues to provide infrastructural support for promoting cultural and arts activities, including the provision of cultural facilities and financing of the programmes. The Government, through the LCSD, manages a number of cultural facilities, including performing venues and community arts centres which are available to organisations at low charges. It also stages and sponsors various cultural and arts programmes and operates museums, public libraries as well as sports facilities in Hong Kong.

15.5 The Culture and Heritage Commission, which was tasked to advise the Government on the long-term development of culture in Hong Kong as mentioned in paragraph 15.3 of the previous report, submitted its policy recommendation report to the Government in 2003. Having regard to the recommendations, the Government is also stepping up efforts on arts programme development, audience building, arts education and

manpower training to strengthen our cultural software, through the continued partnership with the Hong Kong Arts Development Council (HKADC), the Hong Kong Academy for Performing Arts (HKAPA), and other partners in the arts sector.

15.6 Developments and updates on the WKCD, cultural facilities, heritage conservation and other programmes are elaborated in the following paragraphs.

Access to cultural and arts activities and programmes

West Kowloon Cultural District

15.7 The WKCD is pressing ahead with the preparation of the Development Plan for the WKCD and the planning of the core arts and cultural facilities. For the preparation of the Development Plan, the WKCD completed Stage 1 of the Public Engagement exercise to gauge the views of the public and relevant stakeholders in early January 2010 and released the findings on the Stage 1 of the Public Engagement exercise in end March 2010.

Cultural Facilities

Libraries

15.8 Further to paragraph 15.12 of the previous report, the network of public libraries managed by the LCSD has increased to 76 and carries a total stock of 12.34 million materials. The Hong Kong Central Library, opened in 2001, is equipped with the world's largest bilingual library automation system, a state-of-the-art multi-media information system, and a central reference library with six subject departments. The Central Library has fast become the principal centre for information and lifelong learning. The Hong Kong Public Libraries work continuously to improve the service through extending the opening hours, increasing the book stock, enhancing the reference and information services, leveraging on the use of information technology and promoting a reading culture. A Public Libraries Advisory Committee was also set up in May 2008 to advise the Government on the overall development strategy of libraries.

Museums

15.9 Further to the position mentioned in paragraph 15.13 of the previous report, developments regarding public museums include the opening of the Astropark in Sai Kung, one of the outreach projects of Hong Kong Space Museum, which was completed and opened to the public on 30 January 2010. At present, the LCSD manages 14 museums which acquire, research, conserve, exhibit and interpret tangible and intangible cultural heritage and collections related to Hong Kong's culture, history, the arts and science for the study, education and enjoyment of the public. The Department also manages a film archive. The Government has introduced measures to improve the services and operation of the public museums, with reference to the recommendations put forward by the Committee on Museums in May 2007.

15.10 We welcome and encourage the establishment of private museums, which complement public museums in maintaining a diverse museum presence in Hong Kong. We also welcome collaboration between public and private museums. Based on existing information, there are currently 12 private museums in Hong Kong.

15.11 Some commentators were concerned with the decision not to pursue an earlier proposal on the setting up of a statutory Museum Board to take over the management of the public museums under the LCSD. We have carefully examined all relevant factors and considered that the services of public museums could be further improved under the existing mode of governance. Overseas experience shows that different modes of governance have their own advantages and disadvantages. The historical and cultural context of a country or city has a bearing on the governance structure of its museums. It would therefore not be appropriate to advocate one single mode of governance that is universally applicable to and suitable for all museums. Different modes of governance could co-exist to suit the specific circumstances of the museums and local environment. Moreover, the LCSD museums are a fertile training ground for curatorial experts and professional staff by providing them with hand-on training in museum work. The decision of maintaining the current mode of governance would provide a more stable environment for nurturing museum professionals who will be in great demand in the near

future, in particular with the opening of M+¹⁹ at the WKCD.

15.12 Some commentators also suggested the setting up of children's museum. There is a children gallery in the Hong Kong Heritage Museum and a new one is being planned in the Hong Kong Science Museum. Furthermore, there are educational corners in our museums, worksheets and guided tours on exhibitions for school students and teaching kits for teachers to enhance students' interest and knowledge in museum exhibitions. Children's interests have been taken care of in our museum programmes.

Performing arts venues

15.13. There are a number of publicly or privately funded venues arts and cultural activities. The LCSD manages 15 performance facilities as focal points for cultural activities throughout the territory. They include two territory-wide performing arts venues, 11 district civic centres as well as two indoor stadia, with seating capacity ranging from 400 to 12 500. They are open for use by all sectors of the community and the general public. The Youth Square under the HAB opened in 2009 also provides performance space to promote youth activities.

15.14 Non-government venues also provide performing venues of different sizes at different locale, with diversity and versatility to suit performance groups of various art forms. Examples include the Jockey Club Creative Arts Centre and Cattle Depot Artist Village in renovated buildings, HKICC Lee Shau Kee School of Creativity, the Jockey Club Auditorium of the Hong Kong Polytechnic University and the Hong Kong Arts Centre.

15.15 The policy initiatives to encourage redevelopment and wholesale conversion of industrial buildings for non-industrial uses will provide readily available land and premises to meet the needs of various industries, including the arts and cultural sector, at reasonable rentals. Redevelopment and wholesale conversion of industrial buildings will also help address fire safety concerns arising from mixed industrial and

¹⁹ A new and forward-looking cultural institution focusing on 20th to 21st Century visual culture to be established in the WKCD.

commercial uses in the same building, and will provide a suitable operating environment for the arts and cultural sector.

Promotion and participation in culture and arts

Provision of programmes and support

15.16 As mentioned in paragraphs 15.9 and 15.10 of the previous report, the LCSD continues to provide a variety of cultural programmes and supports performing artists and groups. The Department stages programmes of various art forms throughout the year featuring local and visiting artists and arts groups from around the world. It enriches the cultural calendar by presenting entertainment programmes, arts education and audience building activities as well as hosting thematic festivals such as the International Arts Carnival and autumn thematic festivals. It also continues to subvent the Hong Kong Arts Festival.

15.17 The HAB provides more than \$2.6 billion every year to support the major professional performing arts groups to develop quality programmes, promote outreach programmes and advance cultural exchange activities. To promote the development of budding artists and small and medium-sized performing arts groups, the LCSD has formulated structured and sustainable strategies to enhance the performance opportunities and publicity for the productions by these groups/artists. For example, the LCSD offers reduced rates for non-profit-making organisations to hire the performance facilities (except the Hong Kong Coliseum) it manages for presenting arts-related events. Furthermore, the Venue Partnership Scheme was fully launched in April 2009 whereby partnering performing arts groups are provided support such as enhanced publicity arrangements and additional programme funding with a view to building up the character of the venues, developing venue-based marketing strategies to reach out to the neighbourhood and encouraging community involvement in the development of performing arts.

15.18 In partnership with arts groups and district organisations, the Government will continue to enrich the cultural programmes, present high calibre performers and commission new works by local artists. We will continue to encourage and facilitate arts and cultural exchanges with the

Mainland of China and overseas so that Hong Kong can be a melting pot of cultural endeavours. We will also draw up a scheme for displaying artworks at Government premises and launch more public art activities and programmes to bring arts to the community.

Support to the film industry

15.19 To provide a favourable environment for the long-term development of the film industry in Hong Kong, the Government set up a Film Services Office in April 1998 to facilitate local film productions and help promoting Hong Kong films locally and abroad. The Film Services Office is also responsible for regulating discharge of special effects materials for film shooting through a licensing mechanism.

15.20 To seek advice from the industry when formulating related policies and strategies, the Government established the Hong Kong Film Development Council (HKFDC) in April 2007. Apart from giving advice on promoting and developing the film industry, the HKFDC also advises the Government on administering the Film Development Fund which aims to partly finance small-to-medium film productions and to fund film-related activities/projects conducive to the long-term development of the industry.

15.21 In December 2008, the HKFDC launched a large-scale project entitled “Hong Kong Film New Action”. A series of activities have been organised to revitalise Hong Kong’s film markets, to promote Hong Kong’s new generation directors, and to promote the 3D film making technology and services in Hong Kong.

Intangible cultural heritage

15.22 For the preservation of local intangible cultural heritage (ICH), the Government is conducting a territory-wide survey of the ICH present in Hong Kong for the purpose of compiling the first ICH inventory. In July 2008, the “Intangible Cultural Heritage Advisory Committee” was set up to provide professional advice to the Government on the survey. The first phase of the survey has commenced.

15.23 Through the joint application by the governments of Guangdong, Macao and Hong Kong via the Central Government, Cantonese Opera was successfully inscribed onto the Representative List of the Intangible Cultural Heritage of Humanity of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in September 2009, making it the first world ICH item in Hong Kong.

15.24 The Government will continue its efforts in preserving, promoting and developing Cantonese opera through various channels, such as the LCSD, the HKADC and the HKAPA. The Cantonese Opera Development Fund was also set up in 2005 to raise fund to support programmes and activities on preservation, promotion and sustainable development of Cantonese opera. The Fund has so far granted about \$29.8 million in support of about 300 projects.

Hong Kong Arts Development Council

15.25 Over the years, the HKADC has continued to plan, promote and support the broad development of the arts including literary arts, performing arts, visual arts as well as film and media arts in Hong Kong. The HKADC has completed its three-year plan for 2001-04 as foreshadowed in paragraph 15.5 of the previous report, and has now embarked a new three-year plan for 2009-11 with development strategies to promote and support arts development through researches, audience building, arts education, supporting arts groups and artists, strengthening cultural exchanges, exploring community resources and fostering partnerships.

Access to cultural activities by all

15.26 The Government continues to attach great importance to ensure equal access to cultural activities. For instance, to enhance children's ability to appreciate arts and to stimulate their creativity, the LCSD presents year-round programmes that are suitable for children and young persons and offers half-price tickets of stage performances of various art forms to full-time students, and free or at low charges for educational programmes and workshops. During July to August every year, the LCSD presents the International Arts Carnival, which is a

territory-wide arts festival providing children, youth and family audiences with high quality, educational and entertaining stage programmes and extension activities in the summer vacation. Furthermore, an array of territory-wide audience building and arts educational schemes targeted to students, including the “School Culture Day Scheme”, “School Arts Animateur Scheme”, “Arts Experience Scheme for Senior Secondary Students”, and “Let’s Enjoy Cantonese Opera in Bamboo Theatre”, are implemented for participation by primary, secondary and special schools. A 50% discount on tuition fee is offered by LCSD to students of special schools in attending workshop series under the “School Arts Animateur Scheme”. Apart from full-time students, the LCSD also offers half-price tickets for senior citizens, PWDs and CSSA recipients so as to encourage them to attend regular performing arts programmes. The LCSD museums also offer half-price admission tickets for full-time students, PWDs and senior citizens aged 60 or above.

West Kowloon Cultural District

15.27 The planning design principles adopted by the WKCDA in planning the WKCD include, amongst others, “Accessibility” and “Connectivity”. The objectives are to make arts and culture accessible to everyone and connect the WKCD to the lives of the people. In preparing the Development Plan of the WKCD, the consultants of the WKCDA will consult and take into account the views of the public and stakeholders, including the youth, PWDs, different social groups, etc.

15.28 Moreover, 23 hectares within the WKCD would be planned as public open space for the free enjoyment of people of all walks of life.

Foreign performing/arts group

15.29 Some commentators were concerned about the policy in respect of issuing employment visa for members of foreign performing or arts groups. Persons who do not have the right of abode or right to land in Hong Kong and wish to enter for employment must apply for an employment visa. In general, an application for employment may be favourably considered if, among other criteria, the applicant possesses special skills, knowledge or experience of value to and not readily

available in Hong Kong. Other criteria to be considered include, but are not limited to, whether the job can be filled locally and whether it is justified for the employer to bring in an expatriate staff. Each and every application for employment will be considered individually and on its own merits in accordance with prevailing policy and established procedures.

15.30 There is an established mechanism for applicants to appeal if they are not satisfied with any of the decisions. Alternatively, they may seek legal recourse like judicial review, which will be considered by the independent Judiciary.

Education and development of culture and arts

Hong Kong Academy for Performing Arts and the Hong Kong Arts Centre

15.31 The position of the HKAPA and the Hong Kong Arts Centre remains as explained in paragraphs 15.6 and 15.7 of the previous report. They continue to further the development and education of various form of arts: the HKAPA in fostering and providing training, education and research in the performing arts and related technical arts; and the Hong Kong Arts School, set up by the independent Hong Kong Arts Centre, in running many award-bearing programmes in arts education. The HKAPA has now produced over 6 100 graduates since its inception in 1984.

School and professional education

15.32 The EDB has been advocating the learning of culture and the arts in schools. Students are entitled to learn the arts through appreciating, creating and performing at all school levels. In basic education, Music and Visual Arts are generally provided in schools while some other art forms, such as drama, media arts and dance are also offered to enrich students' arts experiences. To complement the learning in lessons, students are given ample life-wide learning activities such as visiting exhibitions and museums, attending arts performances and participating in orchestras, competitions and community arts activities. Other cross-curricular learning opportunities also enable students to investigate the arts from different perspectives and gain deeper insights into the arts and different subject areas.

15.33 Since 2009, the NSS curriculum has been providing every student with enhanced opportunities to further develop aesthetic sensitivity and foster a life-long interest in the arts, and to pursue in-depth development of culture and the arts through studying Music, Visual Arts and arts-related Applied Learning courses. The EDB also provides teachers with professional development programmes and learning and teaching materials on a wide range of themes, so as to enhance the capacity of teachers involved in teaching culture and the arts.

15.34 The EDB organises a number of activities for schools annually, including exhibition of students' visual arts work, and festivals on music, drama and dance. It also cooperates with other Government departments and NGOs to organise a greater variety of events, e.g. Hong Kong International Students' Creative Visual Arts Exhibition and Schools Speech Choir Showcase to broaden students' horizons in the arts and showcase their creative potential in authentic contexts.

15.35 In addition, besides the institutions mentioned in paragraph 15.31 above, our local tertiary institutions are providing a number of arts and culture-related programmes to nurture arts development expertise for the city, while institutions with teaching training faculties or departments are offering post-graduate diploma and post-graduate degrees related to arts education to develop the professional capacity of arts education in schools.

Policy on heritage conservation

15.36 In response to increasing public interest in built heritage conservation in Hong Kong in recent years, the Government announced a new heritage conservation policy and a package of initiatives to promote heritage conservation in October 2007 under the guidance of the following policy statement: "To protect, conserve and revitalise as appropriate historical and heritage sites and buildings through relevant and sustainable approaches for the benefit and enjoyment of present and future generations. In implementing this policy, due regard should be given to development needs in the public interest, respect for private property rights, budgetary considerations, cross-sector collaboration and active engagement of stakeholders and the general public."

Institutional setup for heritage conservation

Commissioner for Heritage's Office

15.37 The Commissioner for Heritage's Office (CHO) was set up in April 2008 under the Development Bureau of the Government as a dedicated office to take forward various initiatives for heritage conservation. These initiatives include:

- (a) implementing the Heritage Impact Assessment mechanism for all new Government capital works projects to ensure that their impact on heritage sites are avoided or minimised and mitigating measures are devised if impact is unavoidable;
- (b) launching the Revitalising Historic Buildings Through Partnership Scheme to put Government-owned historic buildings to adaptive re-use by non-profit-making organisations through the operation of social enterprises;
- (c) introducing appropriate economic incentives to facilitate conservation of privately-owned historic buildings;
- (d) implementing a financial assistance scheme to facilitate maintenance of privately-owned graded historic buildings; and
- (e) promoting public interest in and knowledge of heritage conservation through various community involvement and publicity programmes, and setting up a dedicated heritage website and publication of newsletters for the dissemination of heritage information.

Antiquities and Monuments Office

15.38 Further to paragraph 15.14 and 15.15 of the previous report, the Antiquities and Monuments Office (AMO) under the LCSD continues to provide professional and executive support to the Government and the CHO on heritage conservation matters. It also carries out restoration and

conservation projects for monuments and historic buildings, conducts archaeological research and preservation of archaeological sites, and organises education and publicity programmes.

15.39 As at end 2009, there were 94 declared monuments in Hong Kong, of which 70 were buildings and 24 were rock carvings, forts, archaeological sites and reservoirs. The in-depth assessment of 1 444 historic buildings in Hong Kong, which commenced in 2005, is expected to be concluded in 2010 with finalised gradings for the buildings to facilitate their future conservation.

15.40 In 2007, the AMO preserved and opened the Ping Shan Tang Clan Gallery cum Heritage Trail Visitors Centre in Ping Shan, Yuen Long. Converted from the two-storey Old Ping Shan Police Station with embracing arched veranda built in 1899, the Centre comprises three galleries i.e. the Ping Shan Tang Clan Gallery, the Gallery of Ping Shan Heritage Trail and the Community Heritage Gallery.

Education and publicity on heritage conservation

15.41 As foreshadowed in the previous report, the AMO set up a Heritage Discovery Centre in October 2005. It serves as a resource centre for heritage education and research. A series of exhibitions, public lectures and conferences, as well as archaeological workshops have been organised in the Heritage Discovery Centre for the promotion of heritage. A permanent exhibition on Hong Kong's cultural heritage will be opened in the first half of 2010.

15.42 In collaboration with the UNESCO Bangkok Office and the University of Hong Kong, the AMO staged an exhibition “Heritage Alive: Hong Kong Winning Projects of UNESCO Asia-Pacific Heritage Awards for Cultural Heritage Conservation” from November 2009 to February 2010 to celebrate those 12 Hong Kong projects which had won the UNESCO Asia-Pacific Culture Heritage Awards since 2000.

15.43 The CHO and the AMO are also jointly developing a teaching kit for the NSS curriculum on heritage conservation. The kit is expected to be launched by September 2010.

15.44 To facilitate public access to heritage information in the AMO website, the “Geographical Information System on Hong Kong Heritage”, “Virtual Heritage Explorer” and “Hong Kong Traditional Chinese Architectural Information System” were launched in 2005, 2007 and 2008 respectively.

Archives

15.45 In paragraphs 15.16 and 15.17 of the previous report, we explained the operation of the Government Records Service (GRS) in managing archival records and operating the Central Preservation Library for Government Publications through its Public Records Office. In particular, online access to various catalogues and selected images has been provided via the Internet since November 2002. To promote public awareness and appreciation of Hong Kong’s archival heritage, the GRS organises seminars, workshops and thematic exhibitions regularly. It also collaborates with the private sector and other Government bureaux and departments on a number of initiatives, including promoting the use of archives amongst teachers and students, staging photographic exhibitions in various districts showing the history of the districts, and the Hong Kong Memory Project which aims at preserving Hong Kong’s historical records through digitisation and providing one-stop free access to digital collections and records on Hong Kong’s history. The last initiative represents Hong Kong’s response to the “Memory of the World” Programme of the UNESCO.

15.46 Some commentators called for a review of the present arrangements on managing Government archival records. The Government has put in place administrative arrangements to facilitate the identification, transfer, preservation and management of and public access to Government records and materials with archival value. Access to archival records kept by the GRS is managed through the Public Records (Access) Rules 1996. In general, public access will be allowed to archival records containing open information and those containing classified information which have been closed for 30 years. Among the supporting staff of the GRS are officers from the Archivist Grade, Curator Grade and Executive Grade. As an ongoing effort, the Government keeps the current administrative arrangements under review and will continue to improve on

them where appropriate. We welcome suggestions from interested parties in the process.

Broadcasting

15.47 There are currently two commercial domestic free television programme service licensees and three domestic pay television programme service licensees in Hong Kong. There are also three commercial sound broadcasting licensees of which two are in operation. The public also has access to overseas programmes via satellite transmission. In addition to the commercial broadcasters, a publicly funded and editorially independent broadcaster, the Radio Television Hong Kong (RTHK), inform, educate and entertain the public through the provision of balanced and objective radio and television programmes.

15.48 Some commentators questioned a recent decision for the RTHK to continue to operate as a Government department, instead of being independent of the Government. The Government attaches great importance to the editorial independence of the RTHK. This will be clearly enshrined in the Charter, which will also set out the public purposes, mission and role of the RTHK and the RTHK's relationship with relevant parties including the Commerce and Economic Development Bureau, the Board of Advisors, and the Broadcasting Authority. The Board of Advisors to be set up will tender advice to the RTHK but the ultimate editorial responsibility for the RTHK rests with the Director of Broadcasting, being the head of the RTHK. The Board will have no executive power and will not be involved in the day-to-day operation of the RTHK.

15.49 Some commentators considered that the Government should review the existing broadcasting policy and practices with a view to facilitating community involvement in broadcasting and promoting the interests of minority groups. In this regard, the Government will set up a Community Broadcasting Involvement Fund under the RTHK and invite applications from NGOs, community and minority groups to facilitate community participation in broadcasting. The RTHK will manage this Fund, and provide a platform in its digital broadcasting channels and necessary technical assistance to these groups to facilitate their

community broadcasting.

Promotion of science and technology

15.50 The constitutional provisions remain as reported in paragraph 605 of the initial report.

Policy on promotion of science and technology

15.51 Developments have moved on from the position explained in paragraph 15.21 of the previous report. The Government has stepped up efforts to promote the development of innovation and technology. Support is provided through technological infrastructure, human resources, funding support and other programmes. Since the launch of the Innovation Technology Fund²⁰ (ITF) in 1999, a total of 1 781 projects involving funding support of \$4.8 billion have been approved. The construction work of Phase 2 of the Hong Kong Science Park under the Hong Kong Science and Technology Parks²¹ commenced in 2004 and is expected to be completed by early 2011. In 2006, the Government set up five research and development (R&D) Centres²² to support applied R&D in five technology focus areas, namely automotive parts and accessory systems; information and communications technologies; logistics and supply chain management enabling technologies; nanotechnology and advanced materials; and textiles and clothing. In 2009, the ITF earmarked additional resources to support the R&D Centres for conducting more projects and strengthening commercialisation activity. The Government announced in the 2009-10 Policy Address measures to promote the six industries where Hong Kong enjoys clear advantages, and one of them is the innovation and technology sector. A Research & Development Cash Rebate Scheme was launched in April 2010 to reduce R&D costs and encourage more company spending on R&D. The financial support given to companies and inventors in their first patent applications through the Patent Application Grant Scheme has increased by 50%, from \$100,000 to

²⁰ The Innovation and Technology Fund supports projects that contribute to innovation and technology upgrading in local industry.

²¹ The Hong Kong Science and Technology Parks offer one-stop infrastructural support services to technology-based companies and activities.

²² The R&D Centres conduct industry oriented research and provide a platform for technology transfer and commercialisation.

\$150,000.

15.52 To help foster stronger innovation and technology culture in the community, the Government has launched a wide variety of publicity and public education programmes including the annual Innovation Festival²³, Hong Kong Student Science Project Competition²⁴ and Innovation and Technology Student Club²⁵.

15.53 Some commentators expressed the view that the Government did not provide adequate support to some fields of research and their application, such as biotechnology and green technology. In addition to the support by the Government as described in paragraph 15.51, the Hong Kong Science Park has committed to promoting five technology clusters which include electronics, information technology and telecommunications, precision engineering, biotechnology and green technology since its establishment. Two purpose-built laboratory buildings in Phase 2 of its development are dedicated for supporting biotechnology research. As announced in the 2010-11 Budget, development of Phase 3 will be implemented and is targeted for completion in phases between 2013 and 2016. It will be built with specific focus on fostering the development of environmental technology and renewable energy.

Prevention of the use of scientific/technological developments for the purposes contrary to the enjoyment of human rights

15.54 The position is essentially as explained in paragraph 610 of the initial report. The report in respect of the HKSAR under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had been submitted to the Committee Against Torture as part of China's fourth periodic report and was considered by the

²³ The Innovation Festival comprises a series of roadshows, exhibitions and competitions to arouse the interest of the general public in innovation and technology.

²⁴ Hong Kong Student Science Project Competition aims to foster youth's interest in science and technology.

²⁵ Innovation and Technology Student Club aims to further develop young talent's potential in science and technology by offering various interactive activities such as future technology seminar series, research mentorship, technology reporter, summer camps and technology ambassador.

Committee Against Torture in November 2008.

Protection of intellectual property rights

15.55 The overall position remains as explained in paragraphs 613 to 617 of the initial report. Moreover, the World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performances and Phonograms Treaty (collectively referred to as the “Internet Treaties”) became applicable to the HKSAR on 1 October 2008. The Internet Treaties cover the latest international standards for protection of copyright and related rights in the light of new developments in digital technology.

Country parks and conservation areas

15.56 After the submission of the previous report, we have designated one more country park and two more special areas under the relevant statute. Apart from establishing protected areas to maintain a rich biodiversity in Hong Kong, to better conserve our rich diversity of geological resources and to raise public’s awareness about geo-science, we established the Hong Kong Geopark in November 2009. Besides joining the national geopark network, we have also established sistering relationship with four geoparks around the world, which provide an important overseas network for the promotion, management and development of geoparks.