

Minutes of Eleventh Meeting of the Advisory Group on Eliminating Discrimination against Sexual Minorities

Date : 2 September 2015
Time : 4:30 p.m.
Venue : Conference Room 1, G/F, Central Government Offices
2 Tim Mei Avenue, Tamar

Members Present

Professor Fanny CHEUNG, JP (Chairperson)
Hon. CHAN Chi-chuen
Mr Tommy CHEN
Dr Andy CHIU
Dr Joseph CHO
Ms Shirley HA
Professor KWAN Kai-man
Ms Joanne LEUNG
Ms YEUNG Wai-wai

Members Absent

Mr Reggie HO
Professor KUNG Lap-yan
Ms Lavinia LAU
Dr Hon. Priscilla LEUNG, SBS, JP
Hon. James TO

In Attendance

Representatives from Constitutional and Mainland Affairs Bureau (“CMAB”)
Mr Gordon Leung, JP Deputy Secretary for Constitutional and
Mainland Affairs (“DS(CMA)”)
Ms Phidias TAM Principal Assistant Secretary for
Constitutional and Mainland Affairs
 (“PAS(CMA)”)
Mr Ronald CHAN Political Assistant to Secretary for
Constitutional and Mainland Affairs
Mr Eric LEE Assistant Secretary for Constitutional and
Mainland Affairs (“AS(CMA)”)
Ms Elaine IP Assistant Secretary for Constitutional and
Mainland Affairs (Secretary)
Mr LAI Wing-yiu Unit Manager, Gender Identity and Sexual
Orientation Unit

Representative from Social Welfare Department (for Agenda Item 3 Only)
Ms Jackie LAU Senior Social Work Officer (Domestic
Violence)

Before proceeding to the agenda items of the meeting, the Chairperson recapitulated the progress of the Advisory Group's discussions and the broad timeframe of finalising its recommendations to the Government:

- (a) at the meeting of 27 April 2015, it had been agreed that the Advisory Group would make recommendations to the Government in four areas, namely (i) training and resources for personnel in specific fields, (ii) code or guidelines for service providers in both public and private sectors, (iii) public education, and (iv) further study on overseas experience of legislative and non-legislative measures. One Member also proposed a fifth item, which was support services for sexual minorities, which the Advisory Group had not discussed in detail yet;
 - (b) at the last meeting held on 22 July 2015, members had discussed and agreed on the specific topics to be covered under the recommendation for conducting further studies to inform discussions on formulating proposals for legislation in Hong Kong. Recommendations in the remaining four areas would be discussed in more details at this meeting; and
 - (c) the Secretariat had invited members to reserve four more meeting slots in their diaries on 23 October, 13 November, 11 and 14 December 2015. If members could conclude deliberations of the recommendations at this meeting, the Secretariat would circulate the first draft of the Advisory Group's final report in mid-October for members' consideration at the meeting of 23 October 2015. The meeting slots in December were reserved for contingency in case the discussions would take longer.
2. The Chairperson also informed members that the Secretariat had recently enquired with the Equal Opportunity Commission ("EOC") on the latest position of its Feasibility Study on Legislating against

Discrimination on the Grounds of Sexual Orientation, Gender Identity and Intersex Status (“Feasibility Study”). Members noted that the consultant of the Feasibility Study had completed all fieldwork and was preparing the draft report. While it was uncertain whether the study report would be completed and serve as reference during the preparation of the Advisory Group’s report, the Advisory Group would proceed on the basis of its own work at its own pace. The Chairperson also asked members to start giving thoughts to the publicity arrangements for releasing the final report of the Advisory Group to prepare for future discussion on this.

Agenda Item 1: Confirmation of minutes of meeting held on 22 July 2015

3. The minutes of the meeting held on 22 July 2015 were confirmed without amendment.

Agenda Item 2: Matters arising

4. Members noted that there were no matters arising from the minutes of the last meeting.

Agenda Item 3: Recommendations on strategies and measures to tackle discrimination against the sexual minorities
[Paper No. 6/2015]

5. In connection with the proposal for providing support services for sexual minorities, the Chairperson welcomed Ms Jackie Lau from the Social Welfare Department (“SWD”) and invited her to introduce the assistance that SWD was currently providing to sexual minorities in need. Ms Lau briefed members on the relevant support services being provided by SWD as set out in the paper, which included (a) the procedural guidelines developed by SWD for handling domestic violence cases and sexual violence cases; (b) shelter service; and (c) the training for frontline social workers to enhance their understanding of sexual minorities, working skills and sensitivity.

6. As regards SWD’s existing support services for sexual minorities, some members raised the following views and concerns:

- (a) a member said that, according to his knowledge, the resources available for SWD-subvented non-governmental organisations (“NGOs”) to provide support services for victims of domestic or

sexual violence and families in need were very tight. He opined that SWD should inject more resources to assist NGOs in delivering these services;

- (b) another member opined that all frontline social workers in Integrated Family Service Centres (“IFSCs”), Integrated Services Centres (“ISCs”), etc. should receive training on sexual orientation and transgender issues; and
- (c) one other member said that victims of domestic or sexual violence should normally be admitted to refuge centres located in a district different from their place of residence in order to lower the chance for the victim being located by the abuser. Since only Multi-purpose Crisis Intervention and Support Centre (named as CEASE) could provide single room for transgender victims, the ‘out-of-district’ arrangement would not be feasible if the victim’s residence was in the same district as CEASE. He also expressed that social workers should not refer people of different sexual orientation to any provider of conversion therapy.

7. In response to members’ questions, Ms Lau advised that:

- (a) it had been the objective of SWD to assist all families and individuals in need by providing appropriate services regardless of their sexual orientation and gender identity;
- (b) since the passage of the Domestic Violence (Amendment) Bill 2009, SWD had launched new services and allocated more resources to meet the needs of the victims. SWD and its subvented NGOs had also enhanced publicity and public education to promote the message of prevention of domestic and sexual violence, with sexual minorities being one of the target groups. Nevertheless, there was no breakdown of the resources used on services for sexual minorities;
- (c) given the unique circumstances and needs of sexual minorities, refuge centres would make appropriate accommodation arrangement for them as far as possible. CEASE could provide temporary accommodation and support services for victims of abuse by same-sex cohabitants and transgender victims, while same-sex cohabitants in crisis or distress could get a placement

at the Family Crisis Support Centre;

- (d) in addition to handling domestic violence and sexual violence cases, SWD also provided counselling service to sexual minorities through other service units, e.g. IFSCs, ISCs and Medical Social Services Units. Cases of various nature were handled professionally by social workers regardless of the clients' sexual orientation or gender identity. In assigning cases to suitable social workers, the officer-in-charge of the centre/unit would take into account their expertise and experience;
- (e) in 2013 and 2014, the shelter service had seven and four sexual minority users respectively. SWD had no statistics on the number of sexual minority users of other support services because the statistical reports did not capture the sexual orientation of the service users;
- (f) in the past five years, SWD had organised a total of 12 training courses on sexual orientation and transgender issues to enhance frontline social workers' understanding of and sensitivity towards sexual minorities. About 680 participants, including social workers from SWD, NGOs and the Hospital Authority ("HA") had attended these courses. Other than the training provided by SWD, NGOs also arranged suitable training for their frontline staff to meet operational needs;
- (g) the Central Information System on Spouse/Cohabitant Battering Cases and Sexual Violence Cases ("CISSCBSV") maintained by SWD collected data on cases of spouse/cohabitant battering and sexual violence handled by different departments and organisations. The reporting agencies at present included service units operated by SWD and NGOs, HA, the Police, Department of Health and Legal Aid Department. To ensure data accuracy, CISSCBSV did not accept data reporting by individuals and groups. When handling a domestic violence or sexual violence case, the frontline social workers and professionals of the departments and organisations concerned would conduct a professional assessment on the nature of the case and report it to the CISSCBSV. The data input form of the CISSCBSV was last revised in 2013, and the particulars to be reported included the type of abuse, the victim's and abuser's gender, age, years of residence, ethnicity, academic qualification, occupation, and the abuser's relationship with the victim. The causes of the abuse

were not among the particulars to be reported as it would be difficult to make judgment within a short time on the contributing factors and motivations which could be complex. In 2014, there were 3,917 reports of spouse/cohabitant battering, of which 17 involved same-sex cohabitants or ex-cohabitants; and

- (h) regarding the request of sexual minority groups to include their representatives in the Working Group on Combating Violence (“Working Group”) under SWD, the Working Group was tasked to map out strategies and approaches in handling and combating domestic violence and sexual violence problem; given its extensive purview, it had already had a total of 23 members comprising representatives from relevant government bureaux and departments and NGOs serving victims of domestic/sexual violence. As there was already a balanced representation of the relevant stakeholders in the Working Group, further expansion of the Working Group was not advisable for its effective operation and function. That said, SWD had been keeping a dialogue with the LGBT Against Domestic Violence Alliance since 2011 and would continue to communicate with sexual minority groups on the issues of domestic/sexual violence and related support services.

(As members required no further input from the representative of SWD, she left the meeting at this juncture.)

8. The Chairperson invited members to offer views on whether there were service gaps that justified a recommendation to introduce support services dedicated to sexual minorities.

9. Members’ views were as follows:

- a member was of the strong view that there should be dedicated support services for sexual minorities because sexual minorities were reluctant to use the support services provided by SWD and subvented NGOs which, in particular those with a religious background, were considered not LGBT-friendly. He also opined that there should be dedicated temporary shelters for sexual minorities. Other than sexual minorities who were victims of domestic violence, transgenders who had accommodation problem should also be provided with shelter service. Another member also considered that sexual minorities had unique circumstances and needs that deserved specialised services for

them;

- one other member indicated that as SWD had no information on the number of users of their support services who were sexual minorities and the breakdown of the resources used in services for sexual minorities, it was difficult to evaluate whether these services could meet the needs of the sexual minority community. He also considered there was a need to have social workers specialising in cases involving sexual minorities; and
- one another member opined that in order to dispel the qualm about whether SWD-subsented NGOs could provide appropriate support services for sexual minorities, SWD should encourage the NGOs to pledge to adopt the Code of Practice against Discrimination in Employment on the Ground of Sexual Orientation She was also of the view that the number of battering cases involving same-sex cohabitants reported to the CISSCBSV was below the number in reality since some cases might have been overlooked by the frontline staff of the reporting agencies due to a lack of understanding of the circumstances of same-sex cohabitants.

10. Having regard to members' views and SWD's available services, the Chairperson said that it might be more desirable for the Advisory Group to recommend SWD to provide support services for sexual minorities in a dual-track mode, i.e., in addition to the existing services provided through IFSCs, ISCs and other specialised service units for all individuals and families, SWD might also provide dedicated services for sexual minorities in a delivery mode that SWD deemed fit.

11. Two members raised that other than the services mentioned above, the Advisory Group should also recommend setting up dedicated support centres for sexual minorities, similar to those for ethnic minorities currently operated by NGOs through government funding. They opined that these centres might provide counselling and outreaching services, referral services and recreational programmes for sexual minorities. DS(CMA) advised that the support service centres for ethnic minorities were operated to facilitate the integration of ethnic minorities into the community and enhance their access to public services through the provision of language courses, translation services etc. Elaborations on what services and why the need for such services for dedicated support centres for sexual minorities had to be provided. The Chairperson suggested and members agreed to discuss the need for relevant services at

the next meeting when more information could be provided to members for reference and consideration.

12. Upon the Chairperson's invitation, AS(CMA) presented the details of the other recommendations proposed in the paper. He also recapitulated that the proposed recommendations were developed based on the broad strategies and measures agreed by the Advisory Group at the meeting of 27 April 2015; and those broad strategies and measures were formulated on the basis of the needs and issues identified from the different sources of information considered by the Advisory Group, including (a) the qualitative study conducted by Policy 21 on the discrimination experienced by sexual minorities in Hong Kong; (b) desktop research on the experience of six other jurisdictions in tackling discrimination on grounds of sexual orientation and gender identity; and (c) views and concerns expressed by stakeholder groups.

13. In reply to a member's query about the conduct of the further study on overseas experience of legislative and non-legislative measures, PAS(CMA) advised that, with reference to some past experience, the Government could commission a consultant to carry out the further study and it might take about one and a half years to complete the studies on all the topics. The member concerned suggested enriching the recommendation on further study with these details as well.

14. On the list of topics to be studied, two members suggested that in addition to the topics listed in the paper, the feasibility of legislating against discrimination on the grounds of sexual orientation and gender identity in Hong Kong's context should also be included.

15. Some members considered that the recommendation to conduct further study was too conservative and would disappoint those stakeholders, in particular the sexual minority community, who expected the Advisory Group would recommend introducing legislation. They requested to set out more specifically in the recommendation that the purpose of the further study was to prepare for a public consultation about the enactment of legislation. Some members said that they might choose to withdraw from the Advisory Group should the Advisory Group fail to make more progressive recommendations in this regard.

16. AS(CMA) reminded members that the Advisory Group's agreed position at the last two meetings was to recommend further study to inform whether there was an acceptable basis for formulating viable legislative proposal for consultation in future. Two members suggested

that the purpose of conducting further study should be to construct an acceptable basis for formulating viable legislative proposals for consultation in future, instead of to inform whether there was an acceptable basis for doing so.

17. The Chairperson reiterated that it had been agreed at the last two meetings that the Advisory Group would make recommendations to the Government in different areas, and insofar as the strategies and measures relating to legislation were concerned, the recommendation was to conduct more in-depth studies on the experience of other jurisdictions in tackling discrimination on the grounds of sexual orientation and gender identity, with a view to informing further discussions on the proposal to enact legislation; the Advisory Group should focus discussions on what issues should be further studied with a view to providing the community with more comprehensive and in-depth information to further consider legislative proposals in future. Specific wording on the purpose of the study could be discussed in subsequent meetings.

18. Regarding the recommendations in other areas, some members expressed the following views and suggestions:

- (a) a member supported developing sensitivity training resources for personnel in specific fields if such resources could complement the inadequacy of the existing training programmes;
- (b) another member said that on top of developing training resources, evaluation of the effectiveness of these training resources was also important;
- (c) one other member suggested that publicity campaigns to promote equal opportunities for sexual minorities could be launched in collaboration with the RTHK. He also suggested the Government to consider establishing another platform to advise on the implementation of the Advisory Group's recommendations; and
- (d) the Chairperson advised to coordinate the development and distribution of the training resources with other publicity and educational programmes, with a view to achieving maximum coverage and impact.

19. A member said that she had further inputs for the details of the recommendations in some areas. The Chairperson requested members to

approach the Secretariat after the meeting should they have more concrete suggestions on the recommended strategies and measures to tackle the problems identified so that the Secretariat could collate members' inputs and prepare the Advisory Group's draft report for deliberation at the next meeting.

Agenda Item 4: Any other business

20. The discussion ended at 7:30 p.m. The next meeting will be held at 4:30 p.m. on 23 October 2015.

**Constitutional and Mainland Affairs Bureau
October 2015**