

Report of the Advisory Group on Eliminating Discrimination against Sexual Minorities

Executive Summary

1. The Advisory Group on Eliminating Discrimination against Sexual Minorities (“Advisory Group”) was set up in June 2013 by the Government to advise on matters relating to concerns about discrimination faced by sexual minorities in Hong Kong, notably to advise on the aspects and extent of discrimination faced by sexual minorities in Hong Kong; and on the basis of that, to advise on the strategies and measures to tackle the issues identified with a view to eliminating discrimination and nurturing a culture of diversity, tolerance and mutual respect in the community. Since its establishment, the Advisory Group has met 14 times.

2. The Advisory Group has completed a series of stocktaking, fact-finding and collection of views summarised as follows¹:

- (a) Stock-taking of major developments in Hong Kong on issues of concern to sexual minorities over the past 30 years;
- (b) A qualitative study conducted through a consultant to ascertain, inter alia, whether sexual minorities are discriminated against in Hong Kong and, if so, the discrimination they experience in the domains of employment; education; provision of goods, facilities and services; disposal and management of premises; and other domains (“the Fact-finding Study”). The consultant interviewed a total of 214 sexual minority participants (including lesbian, gay, bisexual, transgender, post-gay and intersex participants) from diverse socio-economic backgrounds, and obtained information from them through focus group discussions and one-to-one interviews;
- (c) Desktop research on the experience in tackling discrimination on the grounds of sexual orientation and gender identity in selected jurisdictions, namely, Australia, Canada, New Zealand, Taiwan, the United Kingdom and the United States (“the desktop research”), which covers the

¹ Details are reported in Chapter 2 of the Report.

scope of the legislation concerned, including the domains and conducts covered, the exceptions / exemptions, relevant litigation / complaint cases, and areas of concern;

- (d) Meetings with stakeholder groups from different sectors in the community; and
- (e) Advising the Government's publicity measures to promote non-discrimination against sexual minorities.

3. In formulating strategies and measures to tackle discrimination against the sexual minorities, the Advisory Group has considered the information and views collected through the above work. The Advisory Group acknowledges that, while the Fact-finding Study is qualitative and hence the findings cannot be extrapolated to the community at large, it obtains reports by sexual minority participants on their experience of discrimination in four public domains, namely, employment; education; provision of goods, facilities and services; and disposal and management of premises. The discrimination reported mainly took the form of harassment (unwelcome verbal conduct primarily, but acts of unwelcome physical conduct were also reported) and direct discrimination. The Fact-finding Study also reveals that one of the major causes of discrimination is that the "discriminators" lacked sensitivity in relation to issues related to sexual orientation and gender identity.

4. In view of the findings of the Fact-finding Study, the Advisory Group supports introducing various strategies and measures to tackle discrimination, notably in enhancing public education and publicity and enhancing the sensitivity of relevant professional groups and practitioners in certain sectors. Members however had divergent views on whether legislation should be enacted to prohibit discrimination on the grounds of sexual orientation and gender identity. In this regard, the Advisory Group, through the desktop research, has taken a preliminary view of some common features of the legislation in other jurisdictions that prohibit discrimination on the grounds of sexual orientation and gender identity, as well as some issues in the implementation of such legislation (e.g., how to define "gender identity" and how to apply exemptions). The Advisory Group considers that there is a need for more in-depth studies to inform discussions on formulating proposals for legislation in Hong Kong. The Advisory Group also acknowledges the polarised views and concerns raised by different stakeholder groups during the collection of views over the issue of

whether legislation should be enacted.

5. The Advisory Group recommends the following five areas of strategies and measures²:

- (a) training and resources with focus on sensitivity towards sexual minorities for teachers; medical practitioners, associated professionals and frontline workers in hospitals and clinics; social workers; and human resources professionals, who have been identified by the Fact-finding Study as the professional groups having more direct interactions with sexual minorities, which should also be promoted and introduced to employees of the Government;
- (b) a charter on non-discrimination to be drawn up by the Government for voluntary adoption by employers; schools; providers of goods, facilities and services; and landlords / agents in charge of disposal and management of premises, which aims at enhancing sensitivity and friendliness towards sexual minorities in the respective domains;
- (c) enhanced publicity campaign to promote the message of non-discrimination against sexual minorities, including television and radio Announcements in the Public Interest and programmes; and commendation of best practices by public and private sector organisations that have pledged to adopt the charter proposed in paragraph 5(b) above;
- (d) a review by the Government in consultation with relevant service providers and sexual minorities to delineate gaps in support services for sexual minorities, with a view to improving the effectiveness of the existing support services and identifying the need for designated services for sexual minorities; and
- (e) a further study on the experience of legislative and non-legislative measures of other jurisdictions to inform future consultation on both legislative proposals and administrative measures to eliminate discrimination on grounds of sexual orientation and gender identity.

² Details are reported in Chapter 3 of the Report.