



平等機會委員會  
EQUAL OPPORTUNITIES COMMISSION

# **Preventing Discrimination in the Campus**

## **Roles and Responsibilities of Equal Opportunities Advisers**

**Hong Kong Baptist University**  
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# Objectives

- ◆ To identify discriminatory behaviour with reference to the existing laws on anti-discrimination in Hong Kong
- ◆ To understand the role and responsibilities of managers, supervisors and EO Advisers in preventing discrimination and harassment in the campus



# Anti-discrimination Ordinances

- ◆ Sex Discrimination Ordinance (SDO)  
《性別歧視條例》 1996
- ◆ Disability Discrimination Ordinance (DDO)  
《殘疾歧視條例》 1996
- ◆ Family Status Discrimination Ordinance (FSDO)  
《家庭崗位歧視條例》 1997
- ◆ Race Discrimination Ordinance (RDO)  
《種族歧視條例》 2009



# Liabilities: Impact vs Intent

- ◆ Establishes unlawful acts in law
  - ✗ Intention or subjective thinking of person(s) doing the act
  - ✓ Impact of behaviour on complainant
  
- ◆ Intention
  - Relevant to pain and suffering of complainant, i.e. redress sought



# Liabilities

- ◆ Personal liability
- ◆ Accessory liability
  - Pressure or instruct; Knowingly aid
- ◆ Principal's liability
  - Authorized agent (Authorization: Express or implied, precedent or subsequent)
- ◆ Employer's liability
  - Acts done by employees in the course of employment, whether with or without knowledge or approval
  - Defense: Reasonably practicable steps to prevent



# Discrimination

## ◆ Direct discrimination

- Less favourable treatment
- Racial segregation

## ◆ Indirect discrimination

- Impose same requirement or condition  
Unfair to some groups  
Cannot be justified



# Prohibited Grounds

- ◆ Sex
  - Male, female
- ◆ Pregnancy
- ◆ Marital status
  - Single, married, separated, divorced, widowed
- ◆ Family status
  - Having responsibility for care of an immediate family member, related by blood, marriage, adoption or affinity



# Prohibited Grounds

## ◆ Disability

- Wide definition, cover different types of disability
- Include present, past and future disabilities
- Include imputed disability
- Cover an associate's disability

## ◆ Race

- Race, colour, descent, national origin, ethnic origin
- Cover near relative's race





# Discrimination: Major Exceptions

## ◆ SDO

- Genuine occupational qualification

## ◆ RDO

- Genuine occupational qualification
- Training of skills to be used outside Hong Kong
- Special skills, knowledge or experience
- Local and overseas employment terms
- Performing domestic duties



# Discrimination: Major Exceptions

## ◆ DDO

- Genuine occupational qualification
- Inherent requirements of the job
  
- Unjustifiable hardship
- Infectious diseases

# Applicable Fields

## ◆ Employment

- Employment
- Contract workers
- Commission agents
- Vocational training
- Employment agencies
- Trade unions
- Qualifying bodies, etc.

## ◆ Non-employment

- Educational establishments
- Goods, facilities & services
- Access to premises (DDO only)
- Dispose & manage premises
- Government (except RDO)
- Public bodies, barristers, clubs, etc.



# Employment

## ◆ Cover

- Job application
- In employment

## ◆ Protection extends to those who work

- Full-time, part-time
- Permanent, temporary, casual
- In and outside the workplace
- Inside and outside Hong Kong

Must work wholly or mainly in Hong Kong



# Educational Establishments

## ◆ Include

- Universities
  - Schools (Post secondary colleges, secondary, primary, kindergarten)
  - Vocational Training Council, Clothing Industry Training Authority, The Construction Industry Council
- 
- Terms on admission as a student
  - Refuse or deliberately omit admission
  - Access to benefits, facilities or services
  - Expel

# Goods, Facilities and Services

- ◆ For payment or not
  
- ◆ Include
  - Refuse or deliberately omit to provide
  - Refuse to provide services of like quality, in like manner or on like terms
  - Deliberately omit to provide services of like quality, in like manner or on like terms



# Access to Premises

## ◆ Premises

- Deny access, require persons with disabilities to leave
- Means, terms and conditions of access

## ◆ Facilities in premises

- Deny use, require persons with disabilities cease to use
- Means, terms and conditions in use



# Unlawful Discrimination

- ◆ The university as an employer
  - Job applicant (e.g. Refused to employ)
  - Employee (e.g. Not promoted or dismissal)
  - Contract worker (e.g. Not allowed to do the work)
  
- ◆ The university as an educational establishment
  - Applicant (e.g. Not accepted an application for admission)
  - Student (e.g. Ways accessing to facilities or services)
  
- ◆ The university in providing services
  - Services user (e.g. Terms in providing the services)





# Harassment

- ◆ Person-to-person (Sexual harassment, disability harassment, racial harassment)
  - An unwelcome conduct, which a reasonable person, having regard to all circumstances, would have anticipated the person be offended, humiliated or intimidated
  
- ◆ Alone, or together with others, engages in conduct which create a hostile or intimidating environment for another person (Sexual harassment, racial harassment)

# Sexual Harassment

## ◆ Unwelcome conduct

- Sexual advance , request for sexual favours
- Conduct of sexual nature

## Examples

- Offensive sexual jokes
- Sarcastic comments about sexual activities, etc.
- Inappropriate physical touching, space violation
- Display or transmit of offensive sexist materials, posters, images, posters, texts, etc. (Include electronic means)
- Indecent assault, rape



# Disability Harassment

## ◆ Unwelcome conduct

- On ground of disability or associate's disability

### Examples

- Name-calling
- Offensive jokes/sarcastic comments about one's disability
- Abusive behaviour towards one's disability
- Bullying, exclusion



# Racial Harassment

- ◆ Unwelcome conduct
  - On ground of race or near relative's race

## Examples

- Name-calling
- Offensive jokes/sarcastic comments about one's racial background, accent, customs, etc.
- Bullying, exclusion
- Display or transmit of offensive racist materials, posters, images, posters, texts, etc. (Include electronic means)



# Unlawful Harassment

## ◆ In employment

- Job applicant
- Employee / colleague
- Contract worker

## ◆ In education

- Applicant
- Student / classmate
- Staff / member of the responsible body

## ◆ In providing services

- Services user
- Sexual harassment by service user (since Dec 2014)



# Preventing Discrimination and Harassment

## ◆ The University: Reasonably practicable steps

- Key: To prevent
- Should at least include:
  - Implement equal opportunities policies
  - Appropriate complaint resolution procedures
  - Appointed person(s) to take responsibilities
  - Regular staff training
- Consider:
  - Reasonableness = ?
  - What have been done?
  - What should have been done?



# Preventing Discrimination and Harassment

## ◆ Managers and supervisors

- Ensure workplace and educational environment free of discrimination and harassment
- Not condone any discriminatory behaviour or harassment by ignoring it
- Give support and advice (both the victims and offending individuals)
- Treat complaints with sensitivity and confidentially
- Seek advice from the university



# Preventing Discrimination and Harassment

- ◆ Supervisor, counsellor, senior staff member or Equal Opportunities Advisors
  - Advise on the university's policies and procedures
  - Try best to establish the facts of the case where appropriate
  - Advise complainants of the options available
  - Consider mediation





# Key Messages

- ◆ The university may be held liable for unlawful discrimination and harassment when it happened in the campus
  - As an employer
  - As an educational establishment
  - As a services provider
  
- ◆ Important to prevent
  - Go beyond the laws
  - Respect individual rights
  - All members share the responsibilities



# Equal Opportunities Commission

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