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## 2E. Equal Opportunities Legislations

The Equal Opportunities Commission (EOC) is a statutory body set up in 1996 to implement:

- ✦ the Sex Discrimination Ordinance (SDO)
- ✦ the Disability Discrimination Ordinance (DDO)
- ✦ the Family Status Discrimination Ordinance (FSDO)
- ✦ the Race Discrimination Ordinance (RDO)

The Commission works towards the elimination of discrimination on the grounds of sex, marital status, pregnancy, disability, family status and race.

- ✦ Employers are legally responsible for the actions of their employees, done in the course of their employment, whether or not these were done with the employer's knowledge or approval. Therefore, employers have the responsibility to maintain the work environment free of harassment. Employers are recommended to have an Equal Opportunities (EO) policy in place, which should:
  - ✦ state clearly the commitment of the employer to maintain a working environment free of discrimination and harassment;
  - ✦ provide sufficient information on what kind of conduct would amount to discrimination and harassment and would not be tolerated;
  - ✦ state the procedure for making a complaint should an unlawful act of discrimination or harassment occur.

The employer should also appropriately communicate the EO policy to employees at all levels and where applicable and reasonably practicable, to job applicants. For a sample of an EO policy, visit the Equal Opportunities Commission website <http://www.eoc.org.hk> > Publicity & Training > EO Club > EO Essentials Kit for SME <http://www.eoc.org.hk/EOC/UPLOAD/SMEKIT/policy.pdf>

Managers and supervisors have the responsibility to stop harassment. If they become aware of harassment in their respective work area, or elsewhere in the organization, they must endeavour to stop it, whether or not a complaint has been made. Sample procedure for handling EO related problems is available from the Equal Opportunities Commission website <http://www.eoc.org.hk> > Publicity & Training > EO Club > EO Essentials Kit for SME <http://www.eoc.org.hk/eoc/graphicsfolder/showcontent.aspx?content=SMEContent>

Employers and managers should also ensure that employees are not victimised for raising a concern or lodging a complaint against unlawful discrimination and harassment.

Apart from having an EO policy, an employer should also establish a proper grievance handling mechanism so that investigation of complaints arising from discrimination issues is carried out fairly for both the complainant and the respondent. The procedures of the mechanism should be made known to all employees in order that they may seek timely help if discrimination or harassment is encountered in the workplace. This is to encourage discrimination disputes being resolved efficiently and effectively. Employers should protect employees who have lodged complaints of discrimination or harassment from being victimised.

The Equal Opportunities Commission has developed the following tools for employers' reference:

- Good Management Practice Series > Guidelines for Application Forms Design <http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=10068>
- Good Management Practice Series > Interviewing Procedures <http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=10069>

- Good Management Practice Series > Pre-employment Medical Examinations  
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=8888>
- Good Management Practice Series > Pre-hiring and Post-hiring Procedures  
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=10070>
- Good Management Practice Series > Recruitment Advertisements  
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=10071>
- Good Management Practice Series > The Use of Consistent Selection Criteria  
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=10072>
- Sample Equal Opportunity Policy  
<http://www.eoc.org.hk/EOC/UPLOAD/SMEKIT/2012/policy.doc>
- Sample procedure for handling EO related problems  
<http://www.eoc.org.hk/EOC/UPLOAD/SMEKIT/2012/procedure.doc>

## 2E.1 The Various Discrimination Ordinances

### a. Sex Discrimination Ordinance (SDO)

The SDO stipulates that discrimination on the basis of sex, marital status and pregnancy, and sexual harassment are unlawful.

Refer to the following information available from the Equal Opportunities Commission website <http://www.eoc.org.hk> > Discrimination Legislation to learn more about SDO:

- Code of Practice on Employment under the Sex Discrimination Ordinance  
[http://www.eoc.org.hk/eoc/graphicsfolder/showcontent.aspx?content=cops\\_sdo](http://www.eoc.org.hk/eoc/graphicsfolder/showcontent.aspx?content=cops_sdo)
- Preventing Sex Discrimination in Pay > An Illustration on Developing an Analytical Job Evaluation System Free of Sex Bias  
<http://www.eoc.org.hk/EOC/Upload/UserFiles/File/EPEV/EPEVBook1Web-e.pdf>
- Preventing Sex Discrimination in Pay > A Systematic Approach to Pay Determination Free of Sex Bias  
<http://www.eoc.org.hk/EOC/Upload/UserFiles/File/EPEV/EPEVBook2Web-e.pdf>
- Preventing Sex Discrimination in Pay > Easy Read Guide on Equal Pay between Men & Women Under the Sex Discrimination Ordinance  
[http://www.eoc.org.hk/EOC/Upload/UserFiles/File/EPEV/EPEV\\_guide\\_e.pdf](http://www.eoc.org.hk/EOC/Upload/UserFiles/File/EPEV/EPEV_guide_e.pdf)
- Preventing Sex Discrimination in Pay > Guide to Employers on Equal Pay between Men & Women Under the Sex Discrimination Ordinance  
<http://www.eoc.org.hk/EOC/Upload/UserFiles/File/EPEV/MainGuideWeb-e.pdf>
- Pregnancy Discrimination  
<http://www.eoc.org.hk/eoc/graphicsfolder/showcontent.aspx?content=pregnancy20discrimination>
- Good Management Practice Series > Sex as a Genuine Occupational Qualification  
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=8893>
- Good Management Practice Series > Sexual Harassment in the Workplace  
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=9881>

### b. Disability Discrimination Ordinance (DDO)

The DDO stipulates that it is unlawful for an employer to discriminate against or harass an employee on account of their disability in the course of the employee's employment with the employer. Protection begins from the pre-employment stage applicable to job applicants and extends to post employment on discriminatory acts encountered during the course of employment.

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Some disabilities are so serious making the persons having them genuinely incapable of carrying out the inherent requirement(s) of the jobs concerned. Most disabilities, however, could be overcome with workplace adjustments and reasonable accommodation by the employer and the employer is encouraged to make the necessary adjustment and accommodation unless there is unjustifiable hardship on their part in doing so.

Under the DDO an individual is personally liable for committing discrimination and harassment while an employer could be held vicariously liable for the unlawful conduct of their employees. The DDO also imposes vicarious liability on a principal for discriminatory act done by its agent. Additionally, liability for discriminatory act may also arise in contracting or sub-contracting working relationships where a contract worker is discriminated on account of his/her disability.

Refer to the following available from the Equal Opportunities Commission website <http://www.eoc.org.hk> to learn more about DDO:

- Easy Read Guide to the Code of Practice on Employment under the Disability Discrimination Ordinance (2011)  
[http://www.eoc.org.hk/eoc/Upload/UserFiles/File/EOC\\_AW.pdf](http://www.eoc.org.hk/eoc/Upload/UserFiles/File/EOC_AW.pdf)
- Code of Practice on Employment under the Disability Discrimination Ordinance  
[http://www.eoc.org.hk/eoc/Upload/UserFiles/File/ddocop\\_e.pdf](http://www.eoc.org.hk/eoc/Upload/UserFiles/File/ddocop_e.pdf)
- Good Management Practice Series > Absence of Disability as a Genuine Occupational Qualification  
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=8885>
- Good Management Practice Series > Reasonable Accommodation and Unjustifiable Hardship  
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=8891>

c. Family Status Discrimination Ordinance (FSDO)

Under the FSDO, it is unlawful for anyone or any organisation to discriminate against a person, male or female, on the ground of family status. Family status means the status of having a responsibility for the care of an immediate family member. An immediate family member is a person who is related by blood, marriage, adoption or affinity. The FSDO applies to seven different areas including employment.

Refer to the following available from the Equal Opportunities Commission website <http://www.eoc.org.hk> to learn more about FSDO: Family Status Ordinance Code of Practice on Employment  
[http://www.eoc.org.hk/EOC/GraphicsFolder/showcontent.aspx?content=cops\\_fsdo\\_content#C1](http://www.eoc.org.hk/EOC/GraphicsFolder/showcontent.aspx?content=cops_fsdo_content#C1)

d. Race Discrimination Ordinance (RDO)

The RDO protects people against discrimination, harassment and vilification on the ground of their race. Race in relation to a person means the race, colour, descent, national or ethnic origin of the person. The RDO applies to seven different areas including employment.

Refer to the following available from the Equal Opportunities Commission website <http://www.eoc.org.hk> to learn more about RDO:

- Race Discrimination Ordinance Code of Practice on Employment  
[http://www.eoc.org.hk/eoc/graphicsfolder/showcontent.aspx?content=cops\\_rdo](http://www.eoc.org.hk/eoc/graphicsfolder/showcontent.aspx?content=cops_rdo)
- Good Management Practice Series > Race as a Genuine Occupational Qualification  
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=9625>