



**Convention on the Rights  
of Persons with Disabilities**

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**Committee on the Rights of Persons with Disabilities**

**Implementation of the Convention on the Rights  
of Persons with Disabilities**

**Initial reports submitted by States parties under article 35 of  
the Convention**

**Hong Kong, China\*, \*\***

[30 August 2010]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

\*\* For the initial report submitted by the Government of China, see document CRPD/C/CHN/1.

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## List of abbreviations

ADA	Arts with the Disabled Association Hong Kong
AD/HD	Attention Deficit/Hyperactivity Disorder
APIs	Announcements in the public interest
ArchSD	Architectural Services Department
ASBs	Advisory and Statutory Bodies
ATM	Automated Teller Machines
Basic Law	The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China
BD	Buildings Department
BO	Buildings Ordinance
BORO	Hong Kong Bill of Rights Ordinance
B(P)R	Building (Planning) Regulations
C for R	Commissioner for Rehabilitation
C&SD	Census and Statistics Department
CAS	Child Assessment Service
CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CBMP	Capacity Building Mileage Programme
CCCs	Child care centres
CCA	Committee on Child Abuse
CCDS	Comprehensive Child Development Service
CCSO	Child Care Services Ordinance
CEDAW	United Nations Convention on the Elimination of All Forms of Discrimination against Women
CMP	Case Management Programme
CNL	Nationality Law of the People's Republic of China
CO	Crimes Ordinance
CoMHIP	Community Mental Health Intervention Project
CP	Clinical Psychology
CPJO	Protection of Children and Juveniles Ordinance
CPMS	Central Para-medical Support Service
CPO	Criminal Procedure Ordinance
CPSS	Central Psychological Support Service
CRC	Convention on the Rights of the Child

CRDC	Community Rehabilitation Day Centre
CRR	Central Registry for Rehabilitation
CSD	Correctional Services Department
CSSA	Comprehensive Social Security Assistance
DA	Disability Allowance
DACs	Day activity centres
DCCs	District Co-ordinating Committees
DCRVO	Domestic and Cohabitation Relationships Violence Ordinance
DDO	Disability Discrimination Ordinance
DH	Department of Health
DLGFV	District Liaison Groups on Family Violence
DLS	Duty Lawyer Service
DM	Design Manual: Barrier-free Access
DP	Development Plan
DPPP	Disabled Person's Parking Permit
DSCs	District Support Centres for Persons with Disabilities
DSM-IV	American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, fourth edition, 1994
DVDs	Digital Video Discs
DVO	Domestic Violence Ordinance
E.A.S.Y.	Early Assessment Service for Young People with Early Psychosis
EDB	Education Bureau
EETC	Early Education and Training Centre
EHS	Elderly Health Service
EMSC	Emergency Monitoring and Support Centre
EOC	Equal Opportunities Commission
EPA	Enduring power of attorney
EPAO	Enduring Powers of Attorney Ordinance
EPEV	Equal pay for work of equal value
ERB	Employees Retraining Board
ESF	English Schools Foundation
ESS	Enhanced Support Service
EXITERS	Extending Care Patients Intensive Treatment, Early Diversion and Rehabilitation Stepping Stone
EYE	Extension of years of education
FCPSUs	Family and Child Protective Services Units

FHB	Food and Health Bureau
GOPC	General Outpatient Clinic
GSO	Government-subsidised organisations
HA	Hospital Authority
HAB	Home Affairs Bureau
HAD	Home Affairs Department
HD	Housing Department
HKAB	Hong Kong Association of Banks
HKBOR	Bill of Rights
HI	Hearing impairment
HI schools	Schools for children with hearing impairment
HKADC	Hong Kong Arts Development Council
HKJCCT	Hong Kong Jockey Club Charities Trust
HKMA	Hong Kong Monetary Authority
HKSAR	Hong Kong Special Administrative Region
HKSIL	Hong Kong Sports Institute Limited
HyD	Highways Department
IA	International Abilympics
ICCMW	Integrated Community Centre for Mental Wellness
ICCPR	International Covenant on Civil and Political Rights
ICESER	International Covenant on Economic, Social and Cultural Rights
ICF	International Classification of Functioning, Disability and Health
ICT	Information and communication technologies
ID	Intellectual disability
IDDP	International Day of Disabled Persons
ID school	School for children with intellectual disability
IQ	Intelligence quotient
ISD	Information Services Department
IE	Integrated education
IFIA	International Festival of Inclusive Arts
IFSCs	Integrated Family Service Centres
ImmD	Immigration Department
IP	Integrated Programme
ISCs	Integrated Services Centres
iSPS	Interactive Selective Placement Service
IVRSC	Integrated Vocational Rehabilitation Services Centres

IVTC	Integrated Vocational Training Centre
JJOs	Judges and judicial officers
JUPAS	Joint University Programmes Admissions System
KG-cum-CCCs	Kindergarten-cum-child care centres
LAD	Legal Aid Department
LCSD	Leisure and Cultural Services Department
LD	Labour Department
LegCo	Legislative Council
LSC	Learning support classes
LT	Labour Tribunal
LWB	Labour and Welfare Bureau
MCHCs	Maternal and Child Health Centres
MDCC	Multi-disciplinary Case Conferences
MHCCCs	Mutual Help Child Care Centres
MHO	Mental Health Ordinance
MOI	Medium of instruction
MSWs	Medical social workers
MTRCL	MTR Corporation Limited
MWO	Minimum Wage Ordinance
NCS	Non-Chinese speaking
NGOs	Non-governmental organisations
NSCCP	Neighbourhood Support Child Care Project
NSS	New Senior Secondary
GCIO	Government Chief Information Officer
PATHS	Positive Adolescent Training through Holistic Social Programmes to Adulthood: A Jockey Club Youth Enhancement Scheme
PCJO	The Protection of Children and Juveniles Ordinance
PDPO	Personal Data (Privacy) Ordinance
PE	Public engagement
PLB	Public light bus
POA	Primary One Admission
POH	Pok Oi Hospital
Police	Hong Kong Police Force
PPCR	Pan-Pacific Conference on Rehabilitation
PRCs	Parents/Relatives Resource Centres
RAC	Rehabilitation Advisory Committee

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RAS	Rent Assistance Scheme
REO	Registration and Electoral Office
RPP	Hong Kong Rehabilitation Programme Plan
RSP	Resource Support Programmes
RTHK	Radio Television Hong Kong
RTO	Road Traffic Ordinance
SAS	Special Admission Scheme
SBs	Statutory bodies
SBEPS	School-based educational psychology service
SCCC	Special Child Care Centre
SDO	Sex Discrimination Ordinance
SE	Supported Employment
SEN	Special Education Needs
SHBTS	Specialised Home-based Training and Support Service
SHIPS	Self-help Integrated Placement Service
SHOs	Self-help organisations
SMW	Statutory minimum wage
SOPCs	Specialist outpatient clinics
SpLD	Specific Learning Difficulties
SPS	Selective Placement Services
SQS	Service Quality Standards
SSA	Social Security Allowance
SSP	School Sports Programme
SSPA	Secondary School Places Allocation
SSRC	Special Schools cum Resource Centres
SWs	Sheltered Workshops
SWD	Social Welfare Department
TAC	Training and Activity Centre for Ex-mentally Ill Persons
TCO	Tobacco Control Office
TD	Transport Department
TPDM	Transport Planning and Design Manual
Code	Code on Access to Information
Convention	United Nations Convention on the Rights of Persons with Disabilities
Task Force	Task Force on Digital Inclusion
TRANSED	International Conference on Mobility and Transport for Elderly and Disabled Persons

UGC	University Grants Committee
UN ESCAP	United Nations Economic and Social Commission for Asia and the Pacific Concern for the Disabled
VHTs	Visiting Health Teams
VI	Visual impairment
VI school	School for children with visual impairment
VRS	Voluntary Registration Scheme
VTC	Vocational Training Council
WGCV	Working Group on Combating Violence
WHCs	Woman Health Centres
WKCD	West Kowloon Cultural District
WKCDA	West Kowloon Cultural District Authority
WoC	Women's Commission
WOPS	Work Orientation and Placement Scheme
WSA	Whole School Approach

## Part 2

### **Hong Kong Special Administrative Region, People's Republic of China**

#### **Preamble**

1. This is the initial report of the Hong Kong Special Administrative Region (HKSAR) under the United Nations Convention on the Rights of Persons with Disabilities (Convention). It constitutes Part 2 of the initial report of the People's Republic of China under the Convention.
2. In line with the established practice for the preparation of reports for other United Nations conventions, we have outlined the broad subject headings and individual topics to be covered in the report. Following consultation with the Rehabilitation Advisory Committee (RAC), the outline for consultation was widely issued to stakeholders, including the Legislative Council (LegCo) and the rehabilitation sector, which includes groups of persons with disabilities, parent groups and non-governmental organisations (NGOs), and was made available to the general public on the Internet and at all Public Enquiry Service Centres of District Offices of the Home Affairs Department (HAD). The public were invited to submit their views during the period from 17 February to 31 March 2010 on the implementation of the Convention in respect of those topics, and to suggest any additional topics that they considered should be included in the Report. The HKSAR Government and the RAC also jointly convened a public consultation session on 12 March 2010. The outline was also discussed at the LegCo Panel on Constitutional Affairs on 19 March 2010 and interested parties also presented their views at the meeting.
3. We have carefully considered the views and comments received in drafting the Report. Issues raised by commentators during the consultation exercise, together with the respective responses of the HKSAR Government where applicable, have been incorporated in the relevant sections of the report.
4. This report will be made available to stakeholders, including the LegCo, members of RAC and interested groups of persons with disabilities, parent groups and NGOs, and will be distributed to the public at the Public Enquiry Service Centres of HAD and public libraries. Electronic version will also be made available at HKSAR Government website.

#### **Treaty specific document**

##### **Articles 1 to 4**

##### **Purpose, definitions, general principles and general obligations**

##### **Strategic development directions of the rehabilitation services in Hong Kong**

1.1 The HKSAR Government is fully committed to promoting, protecting and ensuring the full and equal enjoyment of human rights and fundamental freedoms by all persons with disabilities in accordance with law, and to promoting respect for their inherent dignity. The overall objective of the rehabilitation policy in Hong Kong is to prevent disabilities; to help persons with disabilities develop their physical and mental capabilities as well as their ability to integrate into the community; and to create a barrier-free environment through a comprehensive range of effective measures, with a view to ensuring that persons with

disabilities can participate in full, and enjoy equal opportunities both in terms of their social life and personal growth.

1.2 Development of rehabilitation services in Hong Kong has gained momentum since the 1970s. Having regard to the fact that rehabilitation services then still had ample room for expansion to facilitate the full integration of persons with disabilities into the community, the Government published the first Hong Kong Rehabilitation Programme Plan (RPP) in 1976, and the first White Paper on Rehabilitation entitled “Integrating the Disabled into the Community: A United Effort” in 1977, putting forward recommendations on the sustainable development of Hong Kong’s rehabilitation services.

1.3 Between the late 1970s and early 1980s, Rehabus, providing accessible transport for wheelchair bound users, and Selective Placement Division of the Labour Department (LD), providing employment services for persons with disabilities, came into operation. In 1981, the Office of the Commissioner for Rehabilitation was set up under the then Health and Welfare Branch to co-ordinate the formulation of rehabilitation policy and provision of rehabilitation services. In mid 1980s, major rehabilitation services experienced rapid development, both in terms of quality and quantity, including, pre-school training, day activity centres (DACs), hostels for mentally handicapped persons, half-way houses for discharged mental patients and vocational rehabilitation services. In 1985, mandatory requirements for barrier-free access were first imposed on various kinds of buildings under the Buildings Ordinance (Cap. 123) (BO).

1.4 The 1990s marked a milestone in the promotion of full equal opportunities for participation of persons with disabilities in the community in Hong Kong. In 1995, the Disability Discrimination Ordinance (Cap. 487) (DDO) was enacted to ensure equal opportunities for persons with disabilities in areas such as employment, education, housing and daily living in the community. In the same year, the Government also published the second White Paper on Rehabilitation entitled “Equal Opportunities and Full Participation: A Better Tomorrow for All” to reiterate its commitment on the sustainable development of rehabilitation services. Meanwhile, self-help groups for persons with disabilities also started to mushroom in the early 1990s.

1.5 In 1997, the Mental Health Ordinance (Cap. 136) (MHO) was amended to provide necessary legal safeguards for persons with mental disorder and/or mental handicap as well as their carers. In the same year, the Government also introduced the policy on integrated education (IE) and the new design standards under the Design Manual (DM) 1997. In tandem with the efforts by the Government and the rehabilitation sector, public transport operators also put in place a number of supportive measures, including the introduction of low-floor buses and improvement to the access facilities at MTR stations. In 1999, the HKSAR Government, in collaboration with the rehabilitation sector, conducted a review of the RPP to formulate a development plan to take Hong Kong’s rehabilitation services into the new millennium.

1.6 The new millennium saw Hong Kong breaking new ground in community-based rehabilitation services through the provision of necessary care and support to persons with disabilities and their families to facilitate their living in the community. Moreover, social enterprises were developed through the tripartite efforts of the HKSAR Government, the rehabilitation sector and persons with disabilities to create more employment and vocational training opportunities for persons with disabilities.

1.7 During 2005 to 2007, the RAC, together with the rehabilitation sector and the HKSAR Government, completed a new round of review of the RPP. The latest version of the RPP set out the proposed way forward with long-term and short-term goals for the development of rehabilitation services in Hong Kong, in accordance with the following two strategic directions:

(a) To promote cross-sectoral collaboration in providing a barrier-free environment and diversified services for persons with disabilities so as to facilitate their integration into the community; and

(b) To empower persons with disabilities and their carers, so as to help them become valuable social capital.

The development directions, objectives and measures set out in the RPP have been taken forward through enhanced collaboration amongst the HKSAR Government, the rehabilitation sector, the business sector and the community at large.

1.8 It has all along been the objective of the HKSAR rehabilitation policy as well as the strategic directions of the RPP to help persons with disabilities develop their abilities and to create a barrier-free environment with a view to ensuring that they can participate in full and enjoy equal opportunities both in terms of their social life and personal growth. These are also the spirit and core values enshrined in the Convention. Promotion and implementation of the Convention is an ongoing initiative. It is also the direction of continued development of rehabilitation services in HKSAR. The HKSAR Government will continue to collaborate with the RAC, the Equal Opportunities Commission (EOC), groups of persons with disabilities, parent groups, the rehabilitation sector and other sectors in the community to ensure compliance with the Convention.

### **Definition of “Disability”**

*Definition of disability under the laws of the Hong Kong Special Administrative Region*

2.1 “Disability” is defined in various pieces of legislation to afford maximum protection for persons with disabilities. Details are set out below.

#### Disability Discrimination Ordinance

2.2 DDO is the anti-discrimination law safeguarding the equal rights of persons with disabilities in HKSAR. Recognising the diversity of persons with disabilities, a broad definition of “disability”, which includes minor and temporary disability (*L v. Equal Opportunities Commission & Ors*, DCEO 1&6/1999) (see Annex 1), is adopted under DDO<sup>1</sup> in order to provide the widest protection for persons with disabilities against discrimination. It encompasses not only disability that presently exists and previously existed, but also disability that may exist in the future. A disability that may exist in the

<sup>1</sup> Pursuant to section 2(1) of the DDO, “disability” (殘疾), in relation to a person, means:

- (a) Total or partial loss of the person’s bodily or mental functions;
- (b) Total or partial loss of a part of the person’s body;
- (c) The presence in the body of organisms causing disease or illness;
- (d) The presence in the body of organisms capable of causing disease or illness;
- (e) The malfunction, malformation or disfigurement of a part of the person’s body;
- (f) A disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
- (g) A disorder, illness or disease that affects a person’s thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour, and includes a disability that:
  - (i) Presently exists;
  - (ii) Previously existed but no longer exists;
  - (iii) May exist in the future; or
  - (iv) Is imputed to a person.

future refers to the risk of recurrence of a past disability, but not a genetic risk, or any kind of risk, of acquiring any disability (*K & Ors v. Secretary for Justice* [2000] 3 HKLRD 777) (see Annex 2).

#### Building (Planning) Regulations (B(P)R) under Building Ordinance and Design Manual 2008

2.3 To ensure that persons with disabilities can enjoy equal opportunity in entering premises and using facilities therein, the B(P)R set out the statutory requirements for the provision of access and facilities in private buildings for persons with disabilities. The statutory design requirements as stipulated in B(P)R, together with recommendations for best practice for the provision of barrier-free access, have also been incorporated in DM 2008. Under B(P)R and DM 2008, ‘persons with a disability’ refers to persons who on account of injury, disease or congenital deformity, are impaired in vision, hearing or locomotion.<sup>2</sup> Such persons shall include persons with ambulant disabilities, wheelchair users, persons with visual impairment, the blind, persons with hearing impairment and the deaf.

#### Mental Health Ordinance

2.4 MHO contains provisions which provide legal protection to persons with mental disabilities. Under MHO, “persons with mental disabilities” includes persons with mental handicap (弱智),<sup>3</sup> mental disorder (精神紊亂)<sup>4</sup> and mental incapacity (精神上無行為能力).<sup>5</sup>

#### *Interpretation of “Persons with Disabilities” in the delivery of rehabilitation services*

##### Rehabilitation programme plan

2.5 Given that persons with different disabilities require different rehabilitation services, RPP adopts the following 10 categories of disability in mapping out the strategic directions for development of rehabilitation services:

- (a) Attention deficit/hyperactivity disorder;
- (b) Autism;

<sup>2</sup> Under Regulation 2 of the B(P)R, “disability” (殘疾), in relation to a person, means impairment in vision, hearing or locomotion because of injury, disease or congenital deformity.

<sup>3</sup> Under section 2 of MHO, mental handicap (弱智) means sub-average general intellectual functioning with deficiencies in adaptive behaviour, and “mentally handicapped” shall be construed accordingly.

<sup>4</sup> Under section 2 of MHO, mental disorder (精神紊亂) means:

- (a) Mental illness;
- (b) A state of arrested or incomplete development of mind which amounts to a significant impairment of intelligence and social functioning which is associated with abnormally aggressive or seriously irresponsible conduct on the part of the person concerned;
- (c) Psychopathic disorder; or
- (d) Any other disorder or disability of mind which does not amount to mental handicap, and “mentally disordered” (精神紊亂) shall be construed accordingly.

<sup>5</sup> “Mental incapacity” (精神上無行為能力) means:

- (a) Mental disorder; or
- (b) Mental handicap, and “mentally incapacitated” (精神上無行為能力) shall be construed accordingly.

- (c) Hearing impairment;
- (d) Intellectual disability;
- (e) Physical disability;
- (f) Mental illness;
- (g) Specific learning difficulties;
- (h) Speech impairment;
- (i) Visceral disability; and
- (j) Visual impairment.

A detailed explanation of the above categories of disability is set out in Annex 3.

2.6 At the World Health Assembly held on 22 May 2001, World Health Organisation Member States endorsed a set of new classification of disability entitled International Classification of Functioning, Disability and Health (ICF). It classifies functioning, disability and health-related components from the perspective of the body, the individual and society in two basic lists:

- (a) Body Functions and Structures; and
- (b) Activities and Participation.

Disability is an umbrella term for impairments, activity limitations and participation restrictions. The classification of disability under the RPP generally follows the first list.

2.7 HKSAR Government bureaux/departments make reference to the categorisation of disability in RPP in developing their policies and measures in relation to persons with disabilities with due consideration to the specific nature of their services. Some of the examples are set out below.

#### Central Registry for Rehabilitation (CRR)

2.8 The Labour and Welfare Bureau (LWB) maintains CRR, which is a database of basic demographic profile of persons with disabilities in HKSAR. It aims at providing useful statistics to the HKSAR Government and NGOs for the planning and delivery of rehabilitation services and for research purposes. CRR has the same coverage of disabilities as RPP as set out in paragraph 2.5 above.

#### Survey on persons with disabilities

2.9 The Census and Statistics Department (C&SD) conducted two territory-wide surveys on persons with disabilities and chronic diseases, one in 2000 and another in 2006–07, to estimate the total number and prevalence rate of persons with selected types of disability and chronic disease. The survey also collected information on the basic profiles of persons with disabilities and information about their carers.

2.10 The definition of ‘disability’ for the surveys was drawn up with reference to RPP, CRR and having regard to the definitions adopted by other countries/territories for surveys of similar nature. In the survey, “persons with disabilities” were defined as those who:

- (a) Had been diagnosed by qualified health personnel (such as practitioners of Western medicine and Chinese medicine, including herbalists, bone-setters and acupuncturists) as having one or more of the following 9 conditions; or

(b) Had perceived themselves as having one or more of the first 4 of the following 9 conditions which had lasted, or were likely to last, for a period of 6 months or more at the time of enumeration:

- (i) Restriction in body movement;
- (ii) Seeing difficulty;
- (iii) Hearing difficulty;
- (iv) Speech difficulty;
- (v) Mental illness/mood disorder;
- (vi) Autism;
- (vii) Specific learning difficulties;
- (viii) Attention deficit/hyperactivity disorder; and
- (ix) Intellectual disability.

2.11 C&SD plans to conduct the next surveys on persons with disabilities and chronic diseases around 2012. In determining the types of disability to be covered in the surveys, consideration on the practicability of international comparison and meeting the local needs were particularly important. C&SD will revisit the definition of ‘disability’ in the coming survey having regard to the international trends, prevailing circumstances of HKSAR and views of relevant stakeholders.

#### Social Security

2.12 The Comprehensive Social Security Assistance (CSSA) Scheme and the Social Security Allowance (SSA) Scheme (including Disability Allowance (DA)) form the backbone of HKSAR’s social security system. Both schemes are non-contributory and are funded entirely by public revenue.

2.13 DA, which is non-means tested, under the SSA Scheme helps persons with severe disabilities meet their special needs regardless of their financial, social and economic circumstances. An applicant will be considered to be severely disabled for the purpose of DA if he/she is certified by a public medical officer as being in a position broadly equivalent to a person with a 100% loss of earning capacity according to the criteria in the First Schedule of the Employees’ Compensation Ordinance (Cap. 282) (see Annex 4).

2.14 Persons with disabilities who cannot support themselves financially may apply for the means-tested CSSA Scheme which provides financial support for families to meet their basic needs. The CSSA Scheme takes into account the special needs of persons with disabilities by providing higher standard rates, special grants and supplements. There are three different standard rates for disabled CSSA recipients, including rate for recipients with 50% disabilities, 100% disabilities and those requiring constant attendance. Similar to the criteria for assessing eligibility for DA, an applicant will be considered to be having 50% or 100% disabilities for the purpose of CSSA if he/she is certified by a public medical officer as being in a position broadly equivalent to a person with the corresponding degree of loss of earning capacity according to the criteria in the First Schedule of Cap. 282. In determining one’s need for constant attendance, the level of attention and/or supervision required will be considered by public medical officers having regard to the level normally required by a person of the same age and sex. More details of CSSA and DA can be found in Article 28.

## Rehabilitation services and support

2.15 The Social Welfare Department (SWD), directly or through subvention to NGOs, provides a wide range of subsidised rehabilitation services for persons with disabilities with welfare needs. With reference to the categorisation of disability under RPP, SWD draws up service programmes to meet the diversified needs of different groups of persons with disabilities and their different stages of rehabilitation in the provision of pre-school training, day care, vocational rehabilitation, residential care and community support services.

## Education services

2.16 The Education Bureau (EDB) provides education services for all eligible children, including those with Special Education Needs (SEN). Students with SEN are, generally speaking, those who need special education services because they have learning difficulties including specific learning difficulties, intellectual disability, autism spectrum disorders, attention deficit/hyperactivity disorder, physical disability, visual impairment, hearing impairment and speech and language impairment.

2.17 For higher education, the Joint University Programmes Admissions System (JUPAS)<sup>6</sup> provides a Sub-system for Applicants with a Disability. The Sub-system intends to enable applicants to find out as early as possible the special assistance and facilities the institutions could provide to them on their admission. It also helps institutions identify applicants with a disability so that they could provide help and advice at an early stage. In the context of this Sub-system, the term “disability” refers to the following types of disabilities, which are generally in line with those of RPP:

- (a) Physical disability;
- (b) Hearing impairment;
- (c) Visual impairment;
- (d) Visceral disability;
- (e) Speech impairment;
- (f) Autism;
- (g) Mental illness;
- (h) Attention deficit/hyperactivity disorder; and
- (i) Specific learning difficulties.

2.18 Noting that different definitions of disability are adopted in various pieces of legislation and by different Government bureaux and departments in the delivery of services to persons with disabilities, some commentators considered it advisable for the HKSAR Government to consider adopting ICF in formulating policies and providing services to persons with disabilities.

2.19 Indeed, the idea had been thoroughly discussed by the “2005–2007 Rehabilitation Programme Plan Review Working Group” in the context of a comprehensive review of the RPP during 2005 to 2007. The said Working Group agreed that while application of ICF could become an international trend for classification of disabilities in the future, it had not been commonly used in other countries, partly owing to technical problems in

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<sup>6</sup> The scheme and the main route of application are designed to assist students with Hong Kong Advanced Level Examination results (past and/or current) to apply for admission to tertiary education institutions.

implementation. Having regard to the recommendation of the Working Group, the HKSAR Government would keep in view the experience of other countries in the implementation of ICF and continue to explore the feasibility of implementing ICF in HKSAR. In this regard, C&SD will consider the feasibility of the application of ICF, with suitable adaptation to local circumstances, in its coming survey on persons with disabilities in 2012 having regard to overseas experience.

#### **Definition of “Discrimination on the Ground of Disability”**

2.20 “Direct discrimination” is established under DDO when a person is treated less favourably on the ground of his disability. In *Ma Bik Yung v. Ko Chuen* [2000] 1 HKLRD 514 (see Annex 5), direct discrimination by a taxi driver against a paraplegic passenger was not established where it was not shown whether the driver would have acted differently towards an able-bodied person with heavy luggage. However, subject to any further case law development, it is not necessary to show that a person knows of the existence of the disability and it is enough to show that he has discriminated because of a manifestation of a disability (*M v. Secretary for Justice*, DCEO 8/2004, [2009] 2 HKLRD 298 ) (see Annex 6).

2.21 “Indirect discrimination” is established under DDO if a person applies to another person with disability a requirement or condition which he applies equally to a person without disability but which is such that the proportion of persons with disabilities who can comply with it is considerably smaller than the proportion of those without disability and which he cannot show to be justifiable. In *Siu Kai Yuen v. Maria College* [2005] 2 HKLRD 775 (see Annex 7), indirect discrimination was established where a school applied the requirement to attend work to a teacher suffering from cancer.

2.22 Discrimination is also established under DDO where a person treats another person less favourably on the ground of the disability of an “associate” of that other person. “Associate” includes a spouse, a relative and a carer. In *K & Ors v. Secretary for Justice* [2000] 3 HKLRD 777 (see Annex 2), discrimination of this kind was established where the HKSAR Government refused to offer the plaintiffs employment on the ground that their parents suffered from schizophrenia.

#### **Definition of “Reasonable Accommodation”/“Disproportionate and Undue Burden”**

2.23 A person does not commit an act of unlawful discrimination under DDO if he can show that:

- (a) A person with disability would require services or facilities not required by a person without disability; and
- (b) The provision of such services or facilities would impose on him unjustifiable hardship.

2.24 For the purpose of DDO, in determining what constitutes unjustifiable hardship, all relevant circumstances of the particular case are to be taken into account, including:

- (a) The reasonableness of any accommodation to be made available to a person with a disability;
- (b) The nature of the benefit or detriment likely to accrue or be suffered by any persons concerned;
- (c) The effect of the disability of a person concerned; and
- (d) The financial circumstances of and the estimated amount of expenditure (including recurrent expenditure) required to be made by the person claiming unjustifiable hardship.

2.25 In determining what constitutes “unjustifiable hardship”, the court would take into account the “reasonableness of any accommodation” to be made available to a person with disability. For example, while the law requires an employer to provide reasonable services and facilities that are external to the employment, it does not require an employer to alter the nature of the employment so as to accommodate the disabled person as it would otherwise impose on him unjustifiable hardship (*M v. Secretary for Justice*, DCEO 8/2004) (see Annex 6). In the area of education, though there is no court case in relation to DDO, the concepts and principles of reasonable accommodation and unjustifiable hardship illustrated above equally apply to educational establishment. That is, educational establishments have the obligation to make reasonable accommodation in order to meet students’ special learning needs, unless providing such accommodation would cause the establishment unjustifiable hardship. However, the type and extent of accommodation may vary depending on the specific requirements of the students and other relevant circumstances.

### **General principles**

3.1 The HKSAR Government acknowledges the general principles set out in Article 3 with regard to implementing the Convention.

### **General framework for the protection of basic human rights**

3.2 The general framework for the protection of basic human rights in the HKSAR was elaborated in paragraphs 38 to 60 of the HKSAR section of the Common Core Document submitted in June 2010 (HRI/CORE/CHN/2010 (Part. II – A) (hereafter the “HKSAR Common Core Document”). In particular, Article 4 of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China (Basic Law), our constitutional document, provides that the HKSAR shall safeguard the rights and freedoms of residents of the HKSAR and of other persons in the Region in accordance with law. The Basic Law guarantees a wide range of freedoms and rights, including equality before the law (Article 25), 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 27); freedom of the person (Article 28) and freedom of conscience (Article 32). Furthermore, Article 39 of the Basic Law provides that the provisions of the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and international labour conventions as applied to HKSAR shall remain in force and shall be implemented through the laws of the HKSAR. The Hong Kong Bill of Rights Ordinance (Cap. 383) (BORO) specifically gives effect in local law to the provisions of the ICCPR as applied to HKSAR.

3.3 The protection of human rights is buttressed by the rule of law and an independent judiciary, as elaborated under paragraphs 26 to 31 of the HKSAR Common Core Document. In addition, there is an extensive institutional framework of organisations which help promote and safeguard different rights. These include a comprehensive legal aid system, EOC, the Office of the Privacy Commissioner for Personal Data, the Ombudsman, the Independent Police Complaints Council, as well as various administrative channels for complaints and redress. The effectiveness of these mechanisms and organisations is closely monitored by the LegCo, the media and the public.

3.4 The framework on promotion of human rights in the HKSAR, including the dissemination of human rights treaties applicable in the HKSAR (which includes, besides this Convention, ICCPR, ICESCR, the Convention on the Rights of the Child (CRC), and the United Nations Convention on the Elimination of All Forms of Discrimination against

Women (CEDAW), was elaborated under paragraphs 61 to 86 of the HKSAR Common Core Document.

### **General obligations**

4.1 It has always been the policy of the HKSAR Government to ensure and promote the full realisation of human rights and fundamental freedom for all persons with disabilities without discrimination of any kind on the basis of disability in accordance with law. In achieving this policy objective, the HKSAR Government has been collaborating closely with different sectors of society, and has taken various administrative and legislative measures. In ensuing sections of this report, we will elaborate these measures and in what manner the general principles and obligations established under Articles 3 and 4 of the Convention have been implemented. We will also elaborate on their effectiveness through statistical data, as well as the degree of involvement of the public (in particular persons with disabilities) where applicable.

4.2 To facilitate the integration of persons with disabilities into society, the HKSAR Government will continue to allocate the necessary resources in providing them with a full range of rehabilitation services according to their needs and enhance these services having regard to changing demands. During the period from 2007–08 to 2010–11, the expenditure for these services has increased from HK\$16.7 billion to HK\$19.9 billion, an increase of around 19%. The total expenditure in rehabilitation services for persons with disabilities represents about 6.3% of the total Government expenditure of the HKSAR.

## **Article 5**

### **Equality and non-discrimination**

5.1 The HKSAR Government recognises that all persons are equal before the law with entitlement to equal protection and benefit of the law on equal grounds without any discrimination. In this regard, we have put in place a proper legal framework to provide persons with disabilities with equal and effective legal protection against discrimination.

### **General framework for the protection of fundamental rights of all persons**

5.2 The general framework for the protection of fundamental rights of all persons, including persons with disabilities, is explained in paragraphs 3.2 to 3.4 of this report, and the relevant sections of the HKSAR Common Core Document have been referenced therein.

5.3 In addition to the protection under the Basic Law and the BORO, protection against discrimination is accorded by the Sex Discrimination Ordinance (Cap. 480) (SDO), DDO, the Family Status Discrimination Ordinance (Cap. 527) and the Race Discrimination Ordinance (Cap. 602). The coverage of these ordinances is explained in paragraphs 93 to 96 of the HKSAR Common Core Document. The ordinances offer protection to all (including persons with disabilities) from discrimination, harassment and vilification on the corresponding grounds.

5.4 The HKSAR Government also promotes equality and non-discrimination through various administrative measures, which are outlined in paragraphs 102 to 114 of the HKSAR Common Core Document.

## Relevant legislation

### *Disability Discrimination Ordinance (Cap. 487)*

5.5 DDO was enacted in August 1995. It has been in full operation since December 1996. DDO provides the legal means to ensure equal opportunities for persons with disabilities and to facilitate their integration into the community to the fullest extent possible. As explained in paragraphs 2.20 to 2.22 above, it gives persons with disabilities and their associates the legal safeguard for equal opportunities and protecting them against discrimination, harassment and vilification. DDO makes it unlawful to discriminate against or harass persons with disabilities and their associates in the areas of:

- (a) Employment;
- (b) Membership of trade unions, qualifying bodies, clubs and access to partnerships;
- (c) Education;
- (d) Access to premises;
- (e) Provision of goods, services and facilities;
- (f) Accommodation;
- (g) Sporting activities; and
- (h) Exercise of Government powers and performance of its functions.

5.6 DDO also makes it unlawful to vilify persons with disabilities or their associates.

5.7 The EOC is an independent statutory body established in May 1996. It is responsible for enforcing the anti-discrimination ordinances, including handling complaints, conducting formal investigations, encouraging conciliation between parties in dispute and providing assistance to aggrieved persons in accordance with these ordinances. The role of the EOC is explained in further detail in paragraphs 97 to 101 of the HKSAR Common Core Document. EOC enforces DDO and actively undertakes public education and researches to promote equal opportunities for persons with disabilities. The EOC has issued a number of code of practice and guidelines relating to the DDO including:

- (a) A Code of Practice on Employment to provide guidance on the procedures and systems which can help prevent disability discrimination, harassment, vilification and victimisation in employment. Persons who have experienced these treatments — whether in employment or in other contexts — may complain to the Commission which will then investigate the matter and seek to reconcile the parties;
- (b) A Guideline for Taxi Services which lists out points that need to be observed by taxi drivers and passengers with disabilities so as to help eliminate unlawful discriminatory acts occurring in the course of the provision of taxi services;
- (c) A series of eight leaflets entitled “DDO & I” on the rights of persons with different types of disability;
- (d) Seven leaflets of the Good Management Practice Series for employers’ and employees’ information; and
- (e) A Code of Practice on Education.

5.8 Sections 80 and 81 of the DDO vest the EOC with statutory power to investigate and endeavour to settle by conciliation complaints lodged under the DDO. Through this mechanism, the EOC provides assistance to persons with disabilities and/or their associates who have experienced discrimination, harassment, vilification or victimisation. A person

may lodge a complaint to the EOC which will then investigate the complaint and encourage conciliation between the parties in dispute. If the complaint cannot be resolved, the EOC may also provide, on application, other forms of assistance including legal advice or legal assistance in proceedings should the aggrieved person decide to take his/her case to court. In addition to the complaints lodged, the EOC initiated investigation into potential or suspected incidents of disability discrimination.

5.9 EOC's statistics on complaints relating to DDO during 2007 to 2009 are shown in the table below.

	2007	2008	2009
Specific enquiries (prospective complaints) <sup>7</sup>	2 362	2 362	2 361
Complaints handled	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
Conciliation successful	127	92	100
Conciliation not successful	36	39	73

5.10 The table below shows the number of cases of legal assistance considered by EOC between 2007 and 2009.

Year	Granted	Not granted	Under consideration	Withdrawn	Total applicants*	Applications brought forward (from previous year)	Applications received during the year
2007	4	10	2	1	17	0	17
2008	9 <sup>#</sup>	7	8	0	23	2	21
2009	20	23	4	1	48	8	40

\* Including applications brought forward from previous year.

<sup>#</sup> Including one application which was not approved during 2007; upon the applicant's request for review, the application was approved in April 2008.

#### *Mental Health Ordinance (Cap. 136)*

5.11 MHO provides the necessary legal safeguards for mentally incapacitated persons, including persons who are mentally disordered or mentally handicapped. Provisions therein cover various aspects including the care for these persons, the management of their property and affairs, the guardianship of these persons, the giving of consent for treatment

<sup>7</sup> The term "specific enquiries (prospective complaints)" refers to enquiries which, as the EOC assesses, are potential complaints.

and the removal of objectionable terminology relating to mental incapacity in other statutory provisions.

*Criminal Procedure Ordinance (Cap. 221) (CPO)*

5.12 Under CPO, mentally incapacitated persons are provided with the right to be cross examined by way of a live television link and to give evidence-in-chief by video-recorded interviews. The mentally incapacitated witnesses can also be accompanied by other persons when giving testimony in court to ease their fear.

5.13 CPO and MHO also provide courts and magistrates with additional disposal options, apart from hospital orders for detention in mental hospitals, for accused people who are found not guilty by reason of insanity, or who are found to be under disability and unfit to be tried in criminal proceedings. These additional disposal options include guardianship orders, supervision and treatment orders and absolute discharge.

5.14 Section 57 of CPO stipulates that for cases of assaulting, causing the death, injury to, or threat of injury to a child of the family who is mentally incapacitated, the husband or wife of the accused party shall be compelled to give evidence for the prosecution.

5.15 Section 79E of CPO also allows a magistrate, under the application of a party to the proceeding, to take deposition in writing from the mentally incapacitated persons, including a mentally incapacitated person who is a defendant.

*Crimes Ordinance (Cap. 200) (CO)*

5.16 To better protect mentally incapacitated persons from sexual abuse, section 128 of CO prohibits any person, without the permission of the parent or guardian, from taking a mentally incapacitated persons out of the possession of the parent or guardian with the intention of making the mentally incapacitated person perform any unlawful sexual act. Offenders will be liable to a maximum penalty of 10 years' imprisonment upon conviction.

*Building Ordinance (Cap. 123) – Building (Planning) Regulations (Cap. 123F)*

5.17 B(P)R under BO prescribe design requirements so as to ensure that privately owned buildings are accessible to persons with disabilities, and that suitable facilities within the buildings are provided to meet their needs. B(P)R apply to newly constructed or substantially altered private buildings.

5.18 While BO is not applicable to premises under the management of the HKSAR Government or the Housing Authority, section 84 of the DDO stipulates that notwithstanding any provision in any other Ordinance, a public authority which has the power to approve building works, which includes the Director of Lands, the Building Authority, the Housing Authority and the Director of Architectural Services, shall not approve building plans, whether for a new building or for the alterations or additions to an existing building, unless the public authority is satisfied that reasonable access will be provided for persons with disabilities. In this regard, it has been the established policy for the HKSAR Government and the Housing Authority to comply with the requirements in B(P)R and the DM, and where practicable, achieve standards beyond the statutory requirements in the provision of barrier-free facilities.

*Legislation and administrative arrangements on driving concessions*

## Concession to disabled drivers

5.19 To enhance the mobility of disabled persons<sup>8</sup> who are within the meaning of section 2 of the Road Traffic Ordinance (Cap. 374) (RTO) and fit for driving, they are exempted from payment of the following fees charged by the HKSAR Government:

- (a) Learners' driving license fee in respect of private car, motorcycle or motor-tricycle;
- (b) Driving test fee in respect of private car, motorcycle and motor-tricycle;
- (c) Probationary driving licence fee in respect of private car, motorcycle and motor-tricycle;
- (d) Full driving licence fee in respect of private car, motorcycle and motor-tricycle;
- (e) Annual vehicle licence fee in respect of a private car, the cylinder capacity of the engine of which does not exceed 1,500 c.c. and of which he/she is the registered owner (should the engine cylinder capacity exceeds 1,500 c.c., the licence fee payable will be the difference between the ordinary licence fee payable in respect of his vehicle and that payable in respect of a private car with an engine cylinder capacity not exceeding 1,500 c.c.); and a motorcycle or a motor-tricycle of which he/she is the registered owner;
- (f) Transfer of ownership fee of a private car or motorcycle/motor-tricycle if at the time of delivery of notice of transfer of ownership, he/she is not the owner of another motor vehicle in respect of which the transfer of ownership fee has been waived;
- (g) Toll charges for Government tunnels, Tsing Ma Control Area and Tsing Sha Control Area;
- (h) The holder of a Disabled Person's Parking Permit (DPPP) is entitled to park at on-street designated disabled person parking space and metered parking free of charge; and
- (i) The holder of a DPPP is entitled to enjoy 50% discount of monthly parking, hourly parking, day park and night park at car parks managed by Transport Department (TD).

5.20 Under the Motor Vehicles (First Registration Tax) Ordinance (Cap. 330), a disabled person<sup>9</sup> within the meaning of section 2 of the Ordinance and fit for driving is exempted from the payment of first registration tax on the first HK\$300,000 of the taxable value of a motor vehicle for which he is applying for first registration. No exemption will be granted if he has, within the previous five years, registered a motor vehicle without payment of tax or subject to exemption.

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<sup>8</sup> Under section 2 of the RTO, a disabled person means a person who is the holder of a certificate signed by or on behalf of the Director of Health or the Hospital Authority within the meaning of the Hospital Authority Ordinance (Cap 113) stating that such person is suffering from a permanent disease or physical disability that causes him considerable difficulty in walking.

<sup>9</sup> Under section 2 of the Motor Vehicles (First Registration Tax) Ordinance (Cap.330), a disabled person means a person who holds a certificate signed by or on behalf of the Director of Health or the Hospital Authority established under the Hospital Authority Ordinance (Cap 113) stating that the person is suffering from a permanent disease or physical disability that causes him considerable difficulty in walking and who is able to satisfy the Commissioner that he is fit to drive a motor vehicle.

5.21 Under the Dutiable Commodities Ordinance (Cap. 109), duty payable on hydrocarbon oil for use by a disabled person within the meaning of section 2 of RTO in a private car, invalid carriage, motor cycle or motor tricycle owned and driven by him shall be waived. Such waiver will be subject:

- (a) In the case of a private car or an invalid carriage, to a limit of 200 litres per month; and
- (b) In the case of a motor cycle or motor tricycle, to a limit of 100 litres per month.

Certificate for picking up or setting down of passengers with disabilities in restricted zones

5.22 It is an offence in law for a driver to pick up or set down passengers in restricted zones. However, for the convenience of persons with disabilities, the Police would exercise discretion to allow drivers of taxi, private car, private light bus and private bus to pick up or set down passengers with disabilities in restricted zones (except expressways and 24 hours restricted zones), provided that no hazard or major disruption is caused to other road users.

Parking certificate for drivers who carry people with mobility disabilities

5.23 To better serve persons with disabilities, the pilot scheme of Parking Certificate for Drivers who carry People with Mobility Disabilities to park in designated parking spaces in Government car parks managed by the TD was made permanent on 1 January 2004. Currently, the holder of the Certificate is entitled to park in designated parking spaces for the disabled at over 100 car parks under the management of TD, Housing Authority, Housing Society, Airport Authority; and some of the private car parks.

*Enduring Powers of Attorney Ordinance (Cap. 501) (EPAO)*

5.24 EPAO provides for the creation of a special type of power of attorney known as enduring power of attorney (EPA). Unlike an ordinary power of attorney, an EPA is not revoked by reason of the mental incapacity of the donor of the power subsequent to its creation. The EPA arrangement is a relatively simple, effective and inexpensive mechanism to manage the property and financial affairs of a person who might become mentally incapacitated, thus avoiding the more complicated procedures in the appointment of a committee of estate by the Court of First Instance.

## **Article 6**

### **Women with disabilities**

6.1 HKSAR Government takes suitable legislative and administrative measures to ensure the development, advancement and empowerment of women (including women with disabilities), thereby facilitating their enjoyment of the Convention rights and fundamental freedoms.

#### **General framework for protection of the rights of women and men**

6.2 As outlined in relevant sections of the HKSAR Common Core Document and paragraphs 3.2 to 3.4 of this report, the Basic Law and BORO recognise the basic human rights of all HKSAR residents. Article 1 of the Hong Kong Bill of Rights (HKBOR) provides that the rights recognised therein shall be enjoyed without distinction of any kind.

6.3 Since the extension of the CEDAW to HKSAR in October 1996, we have been adhering to the principles in promoting public awareness of CEDAW. The legal and

administrative measures to protect women (including women with disabilities) against discrimination are set out in the ensuing paragraphs.

### **Relevant legislation**

6.4 SDO came into full effect in December 1996. It prohibits unlawful discrimination on the grounds of sex, marital status or pregnancy in specified areas of activity, such as employment and education. The Ordinance outlaws sexual harassment as well as discriminatory practices, including the publication of discriminatory advertisements. Similar to DDO, EOC is tasked to enforce SDO and promote gender equality of opportunities between men and women.

### **Administrative measures to promote the well-being and interests of women**

#### *The Women's Commission (WoC)*

6.5 The WoC was established in January 2001 as a high-level central mechanism to promote the well-being and interests of women in HKSAR. The WoC comprises 20 non-official and 3 ex-officio members and is chaired by a non-official. Appointed by the Chief Executive of the HKSAR, the Commission is tasked to:

- (a) Advise the HKSAR Government on the development of a long-term vision and strategies related to the development and advancement of women;
- (b) Advise the HKSAR Government on the integration of policies and initiatives which are of concern to women, which fall under the purview of different policy Bureaux;
- (c) Keep under review, in the light of women's needs, services delivered within and outside the HKSAR Government and to identify priority areas for action, and monitor the development of new or improved services;
- (d) Initiate and undertake independent surveys and research studies on women's issues and organise educational and promotional activities; and
- (e) Develop and maintain contact with local and international women's groups and service agencies with a view to sharing experiences and improving communication and understanding.

6.6 The WoC receives executive support from the LWB and receives an annual funding of about HK\$20 million.

6.7 To achieve its mission of enabling women (including women with disabilities) in HKSAR to fully realise their due status, rights and opportunities in all aspects of life, the WoC has adopted 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.

#### *Gender mainstreaming*

6.8 The aim of gender mainstreaming is to ensure that gender's needs and perspectives are taken into account in legislation, policies or programmes so that women and men have equitable access to, and benefit from, society's resources and opportunities. To this end, the WoC has drawn on overseas experience and developed a checklist to facilitate gender sensitive analysis and to evaluate the possible gender impact of policies and programmes since 2002. So far, the checklist has been introduced to over 30 different policy and programme areas. Taking into account the experience gained in applying the checklist and in implementing the gender mainstreaming concept by the HKSAR 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 HKSAR Government officers in applying gender mainstreaming to different policy and programme areas. In addition, gender-sensitive training is provided to civil servants of different grades and ranks to promote their awareness of women's perspectives in the policy-making process and service delivery. Networks of Gender Focal Points in the HKSAR Government and District Councils were also established in 2003 and 2008 respectively to facilitate the promotion of gender mainstreaming in the HKSAR Government and at the district level.

#### *Empowerment*

6.9 The WoC sees engaging women in community decision-making processes as an important step towards the empowerment of women. It believes that there is a need and potential for women to participate more actively in the HKSAR Government's advisory and statutory bodies (ASBs), which are an important part of HKSAR's policy and decision-making structure. At the WoC's suggestion, the HKSAR Government set a gender benchmark of 25% as an initial working target for appointments of women to ASBs in 2004. Furthermore, the Commission works closely with the HKSAR Government to reach out, identify and cultivate potential women candidates for ASB appointments. With these efforts, women's participation rate in ASBs had risen from 22.6% in 2003 to 27.3% in December 2009. The Commission also published a booklet on examples of good empowerment programmes from the HKSAR 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.

6.10 Another key initiative in empowering women is the Capacity Building Mileage Programme (CBMP) launched by the WoC in 2004. CBMP 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 CBMP has encouraged women of different backgrounds and educational levels to pursue life-long learning and self-development. The flexible learning mode of CBMP provides convenience to women who wish to empower themselves. Up to 2009, the cumulative number of enrolments exceeded 35,000, in addition to the large network of audience who have been reached through the radio programmes.

#### *Public education*

6.11 The WoC seeks to raise public awareness on gender issues and reduce gender stereotyping. To this end, the Commission has strived to mitigate gender prejudice and stereotyping through various public education efforts, with the focus on promoting gender awareness in schools to instil into students at their young age the proper gender concepts and eliminate gender stereotyping. Such publicity and public education activities comprise 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, etc. In August 2009, the WoC organised its third large-scale conference entitled "Beyond Limits – Women in the 21<sup>st</sup> Century" to provide a platform for reviewing the implementation of CEDAW in HKSAR.

#### *Services for women with disabilities*

6.12 Women with disabilities receive rehabilitation services and assistance provided under RPP (e.g. medical, welfare and education services, etc.) on an equal basis as other persons with disabilities. Details of these services and assistance are set out in the following Articles of this Report.

## **Article 7**

### **Children with disabilities**

#### **General framework for protection of the rights of children**

7.1 As outlined in the relevant sections of the HKSAR Common Core Document, the Basic Law and BORO protect the rights of all HKSAR residents, including children.

7.2 CRC has been applicable to Hong Kong since 1992 and the authorities have been striving to adhere to the principles contained therein. The best interests of the child underpin all relevant decision-making of the HKSAR Government. The general administrative framework to protect the rights of children (including children with disabilities) is outlined in paragraphs 109 to 111 of the HKSAR Common Core Document. Further details of the legal and administrative measures are set out in the ensuing paragraphs.

#### **Relevant legislation**

7.3 The various pieces of legislation which provide protection to children apply to both children with and without disabilities, including the following:

##### *The Protection of Children and Juveniles Ordinance (Cap. 213) (PCJO)*

7.4 PCJO provides for the protection of children or juveniles (including those with disabilities) who have been, or are suspected to have been, abused physically, psychologically, sexually or through neglect. Early investigation is made possible through the issue of a Child Assessment Order requiring the child's parent(s) or guardian(s) to take the child concerned for medical, psychological or social assessment. Other protection provide for under this Ordinance will be further elaborated under Articles 16 and 24.

##### *The Child Care Services Ordinance (Cap. 243) (CCSO)*

7.5 The CCSO and its Regulations provide for the registration, control and inspection of child care centres and the control of childminders. The Ordinance applies to day child care centres for children under the age of three, residential child care centres for children under the age of six, as well as special child care centres which cater for children with disabilities under the age of six.

##### *The Adoption Ordinance (Cap. 290)*

7.6 The Adoption Ordinance governs the local and intercountry adoption arrangement and provide for the implementation of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption in Hong Kong. Children (including those with disabilities) whose parents are unwilling and unable to take care of them can be provided with a permanent and stable home. It explicitly states that during the entire adoption process, the best interests of the child should be the paramount consideration.

#### **Administrative measures to cater for the needs of children with disabilities**

7.7 To ensure equal enjoyment of Convention rights and fundamental freedoms by children with disabilities, HKSAR Government provides a range of services to cater for their developmental needs.

##### *Pre-school services for children with disabilities*

7.8 With the delivery of pre-school services, it is the HKSAR Government's policy to provide children, from birth to six years old, and with disabilities or at risk of becoming

disabled, with early intervention to enhance their physical, psychological and social development, thereby improving their opportunities for participating in ordinary schools and daily life activities and helping their families meet their special needs.

7.9 At present, the HKSAR Government provides a wide range of pre-school services for children in need and their parents. We will elaborate on the support service for parents of children with disabilities and pre-school service in the sections on Article 23 and Article 24 respectively.

*Education services for children with special education needs*

7.10 Regarding school-age children, the HKSAR Government undertakes to ensure that all children with SEN, regardless of their ethnic background, gender and abilities, enjoy equal opportunities to receive education in public sector schools in the HKSAR. Subject to the assessment and recommendations of specialists or medical practitioners and upon parents' consent, students with severe or multiple disabilities may be placed in special schools for more intensive support. Other children with SEN are offered places in ordinary schools. The EDB provides additional resources and professional support for public sector schools to help them cater for the needs of their students. Details of the education services for these children are provided under Article 24 of this Report. The principle of equal opportunity is being, and will continue to be, upheld in the HKSAR.

*Parent education activities and support*

7.11 The Parents/Relatives Resource Centres (PRCs) and pre-school rehabilitation services centres funded by SWD will continue to provide parents with parent education activities and support.

7.12 In addition, the Department of Health (DH) has coordinated a series of promotional activities, including public education programme, radio interviews as well as publication of articles in local newspapers to enhance awareness of childhood developmental disabilities.

7.13 EDB organises seminars every school year for parents of prospective Primary One children with SEN, explaining to parents the education services available in ordinary and special schools, including support measures in ordinary schools for students with SEN and the characteristics of special schools, points to note when choosing schools for their children, etc. and highlighting the importance of home-school cooperation on supporting students with SEN. At the same time, we require schools to establish a structured mechanism to keep parents informed of their children's progress in school and to involve them in the development and implementation of support plans for their children.

7.14 With a view to promoting parents' involvement in supporting students with SEN, EDB has produced a "Whole School Approach (WSA) to Integrated Education Parent Guide" for parents, which introduces principles and practices of inclusion as well as support strategies that can be adopted by parents. Recently, the EDB website has been revamped with more information on SEN so that the public can browse and search for the relevant information more efficiently and effectively. Moreover, we regularly publish an online newsletter to provide parents and the public with updated special education information and promote inclusive practices. In the 2009–10 school year, a series of 10 television episodes entitled "Parenting" has been produced jointly with Radio Television Hong Kong (RTHK) and DH. "An Inclusive School – It All Begins with Our Hearts" publicity drive was also jointly organised by EDB, DH and the Primary Schools Councils. We have produced Digital Video Discs (DVDs) on the television episodes and publicity drive with suggestions and resource materials on extended activities. These DVDs have been distributed to schools for further promotion of the inclusive culture among students and parents.

## Article 8

### Awareness-raising

#### Policy objective

8.1 The policy objective of the HKSAR Government in respect of public education on rehabilitation is to organise comprehensive public education programmes that would raise public awareness of the rights and needs of persons with disabilities and their contributions to the community. These programmes are devised to promote two main objectives of rehabilitation policy, namely, full participation and equal opportunities.

#### Administrative measures to raise public awareness

8.2 From 2002–03 to 2008–09, the HKSAR Government allocated over HK\$13 million to public education and publicity campaigns to promote inclusion of persons with disabilities. LWB, in collaboration with the RAC, spearheaded promotional campaign for the RPP and forged tripartite partnership of the business sector, rehabilitation sector and the HKSAR Government in providing equal opportunities for persons with disabilities and facilitating their integration into the community. Territory-wide publicity activities were also launched to support the World Mental Health Day and International Day of Disabled Persons (IDDP).

8.3 To tie in with the implementation of the Convention in HKSAR, from 2009–10 onwards, LWB substantially increased the allocation for public education activities from about HK\$2 million in the past years to over HK\$12 million, so as to promote the spirit and core values of the Convention.

8.4 RAC and its Subcommittee on Public Education on Rehabilitation have been assisting the HKSAR Government in promoting the Convention and monitoring its implementation in the territory. In doing so, the RAC has taken proactive effort in mobilising persons with disabilities, the rehabilitation sector, the business sector, local organisations, Government departments and the public to organise and participate in public education programmes.

#### *Territory-wide publicity programmes for raising public awareness*

8.5 In collaboration with the RAC, LWB has launched a series of territory-wide publicity programmes to promote the spirit and core values of the Convention to the general public including:

(a) A TV variety show for kicking-off the public education campaign of the Convention was held in mid-2009, together with an award presentation ceremony of the “Awards for Outstanding Volunteers and Carers of Persons with Disabilities”. Music video on the theme song for promoting the Convention was also premiered on the day of the event. Over 600 guests from various sectors of the community, including groups of persons with disabilities, the rehabilitation sector, the social welfare sector, the business sector, District Councils, Government departments, statutory bodies and the general public, attended the event. An audience of over 500,000 had viewed the programme on TV;

(b) Since mid-2009, as part of a major publicity drive co-ordinated by the LWB on promotion of the Convention, two TV and two radio announcements in the public interest (APIs) promoting the rights of persons with disabilities for a barrier-free world and equality for all have been launched. New APIs will be produced in late 2010 to enhance understanding of the Convention in the community. In tandem, another API has been produced by the LD in early 2010 to promote the employment of persons with disabilities;

(c) Over 100,000 copies of publicity materials on promotion of the Convention such as posters, leaflets, souvenirs and cartoon booklets have been distributed to members of the public through various channels;

(d) Advertisements on MTR and bus stations, public buses, etc. have also been launched since 2009–10 to promote the spirit and core values of the Convention;

(e) A 10-episode TV docudrama series and various radio programmes jointly produced by the LWB and RTHK were broadcast in the first quarter of 2010. A sign language version of the docudrama series was broadcast on TV from June to August 2010;

(f) Adopting a multi-media platform including the Internet, periodicals and television, a theme song singing contest aiming at further promoting the spirit and core values of the Convention to the public, in particular the younger generation, was launched in November 2009; and

(g) A roving exhibition for promoting the Convention has been staged in popular shopping malls and Government buildings since mid-2009. To promote awareness and understanding of the Convention among students and youths, the roving exhibition has been extended to primary and secondary schools since February 2010.

#### *Cross-sectoral collaboration in promotion of the Convention*

8.6 Apart from territory-wide publicity programmes, LWB seeks to put across the message of inclusion and equal opportunities for persons with disabilities to different sectors of the community through close collaboration with the NGOs, public organisations, District Councils and other non-profit-making bodies. In this regard, LWB has been providing funding support to NGOs, District Councils and other local organisations in organising public education activities, including the annual celebration of the IDDP since 1993 to promote integration of persons with disabilities into society.

8.7 To step up cross-sectoral collaboration in the promotion of an inclusive society upon application of the Convention to HKSAR, LWB has provided additional funding in 2009–10 to subsidise these organisations in organising a wide range of public education activities in various districts under the theme of “All-round promotion of the spirit of the Convention and cross-sectoral collaboration towards building an equal and inclusive society”. To sustain momentum, LWB has continued to provide additional funding in 2010–11 to encourage these organisations to organise diversified publicity activities in local communities to spread the message of barrier-free environment and equal opportunities for persons with disabilities.

8.8 As an on-going initiative, the District Offices of SWD also encourage local organisations to organise various kinds of inclusive activities for people of all strata, so as to promote the message of social inclusion and the spirit of the Convention at district level. These activities take place in a variety of forms, including experiential community care schemes, young ambassadors of social inclusion schemes, summer programmes for young persons with disabilities, expos on social enterprises, carnivals for promotion of rehabilitation services, barrier-free life orientation and actualisation schemes and sports days for all, etc. Over 700 community inclusive activities were organised in the 18 districts in 2009.

8.9 Since 2001, SWD has been providing financial support to self-help organisations (SHOs) of persons with disabilities/chronic illness aiming at promoting the spirit of self help and mutual help among persons with disabilities and their families. Programmes/activities are organised to foster full integration of persons with disabilities into the community. Altogether 56 SHOs benefitted from the funding support scheme during the period from 1 April 2008 to 31 March 2010.

*Inculcating an inclusive culture for the younger generation*

8.10 EDB promotes actively the development of mutual respect and acceptance of individual differences among students through the school curriculum and various learning experiences on an ongoing basis. We advise schools to implement the WSA to IE whereby schools should cultivate an inclusive school culture and establish IE policy and measures to support students with SEN. We also encourage schools to involve parents in designing and reviewing support strategies and measures for students with SEN. The EDB has produced a “Whole School Approach to IE Operation Guide” and a “Whole School Approach to IE Parent Guide” for schools and parents respectively, which introduce the principles and good practices of IE. The EDB website on special education has been revamped so that the public can gain access to the relevant information more efficiently and effectively. Moreover, we regularly publish an online Newsletter to provide parents and the public with updated special education information and promote IE experiences. We also organise from time to time various promotion activities, for instance:

(a) We held an inter-school video production and broadcasting contests named “An Inclusive School – It All Begins with Our Hearts” in 2009. A set of DVDs of the winning entries of the IE Contests with suggestions of extended activities to promote the inclusive school culture had been distributed to all schools with a view to further sustaining the effect of the activities. To further promote public awareness, the DVDs were also distributed to Child Assessment Centres, NGOs and tertiary institutes and uploaded onto the website of the Hong Kong Education City;

(b) The EDB, in collaboration with DH and RTHK produced a television documentary series entitled “Parenting” in 2009 which tell the real-life experiences of parents of students with SEN. A set of DVD package containing the programmes and suggestions of extended activities was distributed to all primary and secondary schools. Teachers were encouraged to make use of the programmes and the extended activities to promote respect and acceptance of individual differences among students and to develop an inclusive school culture; and

(c) In addition, we co-organise activities every year with NGOs in support of the World Autism Awareness Day designated by the General Assembly of the United Nations, such as book report writing competitions.

8.11 In various public education activities sponsored by LWB, schools are one of the major targets in promoting the Convention and inclusion. These include drama workshops for primary and secondary schools under the “Programme for Schools and Drama-in-Education Workshop for Promotion of the Convention” organised by the Joint Council for People with Disabilities and life education school visits under the programme entitled “Can’t See, Can Marathon for Inclusive Society” organised by an NGO.

8.12 In 2010–11, LWB will continue to provide financial support to programmes targeting school students. In addition, we will organise an education programme jointly with a social enterprise with a view to enabling students and youths to have a correct understanding of various capabilities of persons with disabilities, and learn to respect differences and the inherent dignity of persons with disabilities through interesting workshops, experiential activities and inter-school competitions, so as to foster a discrimination-free culture and encourage them to work together to create a barrier-free society.

8.13 Some commentators suggested that the HKSAR Government should incorporate the core values of the Convention into the Liberal Studies of the New Senior Secondary (NSS) Curriculum and the stories of persons with disabilities as part of life education. In fact, the core values of the Convention have already been incorporated in the Liberal Studies of the

New Senior Secondary. The resources that EDB provides for the curriculum also include stories of persons with disabilities.

*Raising awareness among civil servants*

8.14 The HKSAR Government will continue to see to the effective promulgation of the policy on employment of persons with disabilities in the civil service, as well as cultivating peer acceptance of staff with disabilities. Practical guidelines on how to work with staff with disabilities are issued to Bureaux/Departments. These requirements are also incorporated into the various training courses for human resources managers and new recruits to the civil service. For example, “Equal Opportunities for the Disabled” has been an essential module in all induction workshops organised for new recruits to civil service since 2004. An introduction to the objectives and principles of the Convention is also part of the induction courses of the Administrative Officer, Executive Officer and Clerical Officer Grades since 2008–09. In addition, to enhance the awareness on equal opportunities for persons with disabilities among civil servants, five seminars on the “United Nations Convention on the Rights of Persons with Disabilities for Government bureaux/departments” targeting both supervisory and frontline staff have been conducted since June 2009, and additional seminars are being scheduled for 2010–11. We will launch new thematic training courses in 2010–11 for staff working in Government departments with day-to-day interface with members of the public to enhance their awareness and understanding of the needs of persons with different types of disabilities.

*Public education on mental health*

8.15 The HKSAR Government strives to enhance public awareness on mental health, promote public acceptance of persons with mental illness and encourage social inclusion of persons recovering from mental illness with a view to eliminating stigmatisation and assisting them to re-integrate into society.

8.16 Since 1995, LWB, in collaboration with various Government departments, public organisations, NGOs and the media, has been organising annually a “Mental Health Month” in support of the World Mental Health Day. During the event, a series of territory-wide and district-based publicity campaigns are launched to enhance the public’s understanding of mental health and encourage them to accept mental patients, with a view to facilitating the re-integration of persons recovering from mental illness into society. The RAC also takes active steps at district level to encourage public acceptance of ex-mentally ill persons and promote public support for these people to integrate into society, including collaboration with the 18 District Councils 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”.

8.17 Mental health promotion also forms part and parcel of DH’s wide-ranging health promotion and disease prevention activities. Our goal is to promote physical and psycho-social health by maximising people’s functional capacity through early life interventions, slowing down functional decline in adulthood, and improving the quality of life of those falling below the disability threshold. In this regard, DH has produced a variety of health education materials to promote mental health. Other effective means of information dissemination include the use of 24-hour health education hotline, online publications, newspaper articles and media interviews, etc.

8.18 The Men’s Health Programme of DH provides useful information concerning various men’s health issues, including mental health problems. Health promotion is conducted through website, pamphlets and brochures, and publicity campaigns. Topics include stress, depression, suicide, pathological gambling, insomnia and anxiety. These

promotional efforts aim to raise public awareness on the importance of mental well-being and to help improve skills in coping with stress and emotions.

8.19 Meanwhile, hospitals and psychiatric departments of the Hospital Authority (HA) also organise educational programmes on mental health to enhance public awareness of mental disorders such as depression and anxiety disorders. These on-going activities help promote a correct understanding of mental health problems and the social inclusion of persons with mental health problems.

8.20 To enhance the self confidence, capabilities and contributions of ex-mentally ill persons, the HKSAR Government provides a range of residential care services and community support service for the ex-mentally ill persons through which support programmes and social and recreational activities, such as peer support groups, community visits, volunteer services, etc., are arranged. To promote social inclusion, various kinds of interactive programmes are organised with local organisations in order to encourage mutual understanding and acceptance.

## **Article 9**

### **Accessibility**

#### **Policy objective**

9.1 The overall policy objective of the HKSAR Government in respect of access and transport is to create a barrier-free physical environment for persons with disabilities, which permits their free access to all buildings and use of public transport. We also aim at supporting persons with disabilities in the use of information and communication technologies (ICT) in their daily lives so as to enhance their capacity to lead an independent life, thereby improving their quality of life and facilitating their integration into the community.

9.2 We are keenly aware of public expectations and commentators' views as expressed during the public consultation on the need for continuous improvements in various aspects of provision of barrier-free facilities for persons with disabilities. While we have put in place various legislative and administrative measures with a view to facilitating persons with disabilities with reasonable access on an equal basis with others to physical environment, transportation, information and communications, and to other facilities and services provided to the public, the HKSAR Government, in collaboration with the rehabilitation sector, the business sector and the community, will continue to strive for sustainable improvements in various aspects of accessibility in HKSAR. The legislative and administrative measures in place are elaborated in the ensuing paragraphs.

#### **Relevant legislation**

##### *Disability Discrimination Ordinance (Cap. 487)*

9.3 Under the DDO, it is unlawful for a person to discriminate against another person with disability by refusing to allow that other person access to or the use of any premises or facilities therein, or by requiring that other person to leave such premises or cease to use such facilities, except where:

- (a) The premises are so designed or constructed as to be inaccessible to a person with disability; and
- (b) Any alteration to the premises to provide such access would impose unjustifiable hardship.

9.4 Furthermore, under the DDO, a public authority shall not approve building plans for certain buildings, unless it is satisfied that such access as is reasonable in the circumstances to the building or premises will be provided for persons with disability, having regard to whether the provision of such access would impose unjustifiable hardship.

9.5 Under the DDO, it is also unlawful for a person to discriminate against another person with disability:

- (a) By refusing to provide;
- (b) In the terms or conditions on which he provides; or
- (c) In the manner in which he provides, goods, services or facilities, except where the provision of such goods, services or facilities would impose unjustifiable hardship.

*Building Ordinance (Cap. 123) – Building (Planning) Regulations (Cap. 123F)*

9.6 B(P)R under BO prescribe design requirements so as to ensure that privately-owned buildings are accessible to persons with disabilities, and that suitable facilities within the buildings are provided to meet their needs. It applies to newly constructed or alterations and additions to existing buildings. Following the introduction of accessibility related statutory requirements in 1984, B(P)R were amended in 1997 and 2008 to introduce improved design requirements to address the needs of persons with disabilities in light of changing circumstances. Where there is unjustified hardship in compliance with the statutory requirements, e.g. insurmountable structural constraints, applications for exemptions from the regulations can be made to the Building Authority. The Building Authority will consider individual applications on their own merits and by taking into account the advice given by the Advisory Committee on Barrier Free Access which comprises, amongst others, representatives of persons with physical disability, visual impairment and hearing impairment.

9.7 B(P)R are supplemented by the DM. DM sets out both mandatory and recommended design requirements for barrier-free access and facilities.

9.8 The DM was first published in 1984 and updated in 1997. Over the years, there has been much advancement in building technology, improvement in the quality of life of the general public and growing awareness of the community towards the needs of persons with disabilities. The HKSAR Government therefore conducted a review of the DM 1997 with a view to enhancing the design requirements, taking into account the advancement in building technology and expectation of the community.

9.9 Having conducted extensive consultation with the stakeholders, the LegCo and the public at large and considered the views from the relevant parties, the DM 2008 was put into effect on 1 December 2008. The new DM introduces a series of new requirements, such as the provision of access to backstage facilities of auditoriums for persons with a disability; 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, etc.

**Administrative measures taken by various government departments**

*Subcommittee on Access under RAC*

9.10 With a view to ensuring that the design of buildings and public places, the application of information technology, and the provision of public transport, sports and recreational facilities have taken into account the needs of persons with disabilities, a Sub-

committee on Access is set up under the RAC to advise the HKSAR Government on the following:

- (a) To advise on the special needs of persons with disabilities in terms of building design, external environment, transport facilities and access to information technology and related media;
- (b) To examine the existing areas of deficiency in terms of the design of buildings, the external environment, public transport and access to information technology and related media in relation to the needs of persons with disabilities and to recommend necessary improvement;
- (c) To monitor and review efforts made in improving the design of buildings, external environment, public transport system and access to information technology and related media as well as looking into its new development;
- (d) To examine the needs of disabled drivers and car owners;
- (e) To advise on special schemes for providing transport facilities geared to the needs of persons with disabilities;
- (f) To advise on the special needs of persons with disabilities under the Compassionate Rehousing Scheme;
- (g) To examine how ordinary and special types of sports and recreational facilities are utilised to meet the requirements of different types of persons with disabilities; and to recommend how these services and facilities may be developed, expanded and funded;
- (h) To advise on the respective roles of Government departments and NGOs in providing for the sports and recreational needs of persons with disabilities; and
- (i) To make recommendations for improvements on the above matters.

The Subcommittee comprises members with different kinds of disabilities (including hearing impairment, visual impairment and physical disabilities), from different activity sectors (including the business sector, rehabilitation sector and education sector, etc.), and representatives from relevant Government departments. Such membership ensures that the Subcommittee could take into account the views of services users (i.e. persons with disabilities) and people from different sectors of society, and enhance collaboration and co-ordination amongst relevant Government departments and stakeholders.

#### *Access to premises*

##### **Buildings in general**

9.11 In respect of accessibility of buildings, as stipulated under section 84 of the DDO, the public authority<sup>10</sup> which has the power to approve building works will not approve building plans for new buildings or alterations and additions to existing buildings<sup>11</sup> unless such access as is reasonable in the circumstances to the building or premises will be provided for persons with disabilities. In considering whether reasonable access will be provided, the public authority will take into account whether it is practicable to provide such access within the curtilage of the building bearing in mind the physical location and immediate environs of the building and whether providing such access would impose

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<sup>10</sup> "Public authority" includes the Director of Lands, the Building Authority, the Housing Authority and the Director of Architectural Services.

<sup>11</sup> Excluding buildings of 13m or less in height which are used for occupation by a single family.

unjustifiable hardship on the person seeking approval or on any other person. Examples of the provisions include access to the main entrance, ramps or lifts for changes in level, toilets for persons with disabilities.

9.12 The Buildings Department (BD) will take appropriate enforcement actions under BO in accordance with the enforcement policy on unauthorised removal or alteration of approved access or facilities for persons with disabilities in private buildings. If an owner does not carry out the rectification works upon the service of a statutory order under BO, he may be liable on conviction to imprisonment for one year and a fine of HK\$200,000. For continuing offences, there is a further daily fine of HK\$20,000.

#### Government buildings

9.13 The HKSAR Government makes active efforts to improve barrier-free access to Government buildings. All new Government buildings with construction commencing after 1 December 2008 will meet the mandatory requirements as set out in DM 2008, and wherever practicable, achieve a standard beyond the statutory requirements. For renovation of existing Government buildings, the Architectural Services Department (ArchSD) will work with the management departments of the buildings concerned to include facilities for barrier-free access as far as practicable. The ArchSD has put in place a design vetting mechanism to ensure that all new projects receive thorough consideration of accessibility at the early stage of design. A design vetting committee under ArchSD scrutinises the projects' accessibility proposals to ensure compliance with the statutory requirements of barrier-free design.

9.14 Regarding existing Government buildings, ArchSD carries out improvement works every year to upgrade the barrier-free facilities of Government premises that are frequently visited by persons with disabilities on the advice of the Sub-committee on Access under the RAC. Since 2000, HK\$72 million has been spent on improving the access and facilities of 147 Government premises.

9.15 Individual Government departments and public organisations will also carry out improvement works to upgrade the barrier-free facilities in venues under their management. For instance, since 2006, the Leisure and Cultural Services Department (LCSD) has completed 133 improvement projects to provide suitable access and facilities for persons with disabilities in its cultural and recreational venues, including improvements to 13 venues for the 2009 East Asian Games, and will continue to carry out 40 new improvement works projects.

9.16 Public housing estates and domestic blocks of the Housing Authority are designed with barrier-free access, having regard to safety and tenants' convenience. Since 1998, the Housing Authority has applied the design requirements of the DM in the design of public housing estates to provide barrier-free access and facilities for persons with disabilities. To promote universal accessibility and to meet the diverse needs of all ages and persons with disabilities, the Housing Authority has adopted universal design principles in public housing developments since 2002. To facilitate movement of all people including persons with disabilities within the estates, the Housing Authority has provided barrier-free access route and tactile guide path connecting domestic blocks to major estate facilities such as transportation nodes, commercial, welfare and community facilities, etc. It has also commenced building improvement works in stages to improve the barrier-free facilities of existing buildings. Such improvement works have been completed in around 150 public housing estates. The Housing Authority is aware of the public concern that some tactile guide paths do not cover public areas beyond the purview of the Housing Authority, such as

The Link's<sup>12</sup> shopping centres and the pedestrian ways managed by the Highways Department (HyD) or the MTR Corporation Limited (MTRCL), etc. The Housing Authority will actively enhance communication and discussion with the concerned departments and organisations to ensure that the facilities are accessible by persons with disabilities.

9.17 The Hong Kong Police Force (Police) has made continuous efforts to upgrade the facilities in police stations to facilitate barrier-free access for persons with disabilities. When police stations were renovated in the late 1990s, various facilities to enable barrier-free access of persons with disabilities were installed. These facilities include ramps for the access of wheelchairs, video-phones installed at the main entrance to facilitate communication between persons with disabilities and police officers, and toilets for the disabled. Other miscellaneous facilities such as door handles, lift control panels, specially designed public telephones were also replaced to make them more user-friendly for persons with disabilities. The Police will continue to upgrade the barrier-free facilities in their premises in tandem with the renovation programmes.

9.18 For public medical institutions, DH has always endeavoured to meet the objectives of the HKSAR Government's rehabilitation policy to create a barrier-free physical environment to facilitate the integration of persons with disabilities into the community. Regarding measures to ensure persons with disabilities to approach, enter and leave the clinic buildings and to use the clinic facilities/services without assistance or undue difficulties, DH has established the following mechanisms with the ArchSD regarding provision of the necessary barrier-free access facilities in clinic buildings:

(a) For existing clinic premises, ArchSD has assessed and advised if any improvement/maintenance works are needed in line with the latest barrier-free access requirement/standard (e.g. accessible route/ramp/lift, tactile guide path, handrails and public information/service counter, etc.). Based on ArchSD's assessment and advice, works for provision of barrier-free access facilities have been arranged for the clinic premises which required substantial improvement works. For the rest of the clinic premises, barrier-free access facilities will be included as far as practicable when carrying out refurbishment, alteration and improvement works; and

(b) In planning new clinic projects, it is the current practice to incorporate barrier-free access facilities into the works projects in accordance with the mandatory requirements stipulated in the latest DM on barrier-free access.

9.19 The HA also seeks to ensure accessibility to premises under its management by persons with disabilities. Having regard to the guidelines in the DM 2008, HA is conducting an audit on its existing facilities and will carry out upgrading works where necessary to meet the design requirements set out in the manual as far as possible. In view of public criticism regarding the lack of provision of barrier-free connection between public transport facilities and the public hospital, HA will continue to explore the feasibility of installing barrier-access facilities in consultation with relevant Government departments.

9.20 Appropriate barrier-free access and facilities such as lifts and toilets for persons with disabilities have been provided to public-sector schools where circumstances permitted, under the School Improvement Programme during the period from 1997 to 2006. Since 1997, all new school building projects are designed according to the prevailing DM on barrier-free access at that time. Upon the introduction of DM 2008, all new public sector schools constructed after 2008 would fully meet the requirements therein. Schools may also

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<sup>12</sup> The Link Real Estate Investment Trust (The Link) is HKSAR's real estate investment trust with a portfolio of 180 retail and carpark facilities located near public rental housing estates.

apply to the EDB for a top-up fund to carry out minor conversion works in school to cater for students with disabilities on a need basis.

#### Recommendations of EOC's Report on Accessibility in Publicly Accessible Premises

9.21 EOC has released a Formal Investigation Report on Accessibility in Publicly Accessible Premises on 7 June 2010 which made extensive comments on the design and management of Government facilities and premises. In the report, EOC has made a number of recommendations on how accessibility of Government facilities and buildings can be further improved.

9.22 In response, the HKSAR Government has set up a Task Force to co-ordinate the Government's efforts to follow up on the recommendations. The Task Force comprises representatives from LWB and the Chief Secretary for Administration's Office as well as various works departments and departments responsible for venue management. The Task Force will examine EOC's recommendations with a view to taking prompt, timely and sustainable follow-up action where appropriate to enhance the accessibility of Government premises and facilities and improve the co-ordination amongst Government departments.

#### *Barrier-free transportation system*

9.23 As regards accessibility in the transport systems, the HKSAR Government's policy objectives aim to ensure:

(a) The development of a barrier-free physical environment, which permits access to all buildings and facilities for all persons with disabilities; and

(b) The development of a transport system which includes provisions to meet the needs of persons with disabilities so as to enhance their ability to move around at will in society and to facilitate their full participation and integration into the community.

9.24 As one of the agencies that oversee and implement the above two policy objectives, TD provides accessible public transport services and on-street facilities to promote access to transport. With the support from the community of persons with disabilities and public transport operators, TD formulated a new vision "*Transport for All*" and adopted a "*5-Betters Strategy*" in late 2002 to guide the stakeholders and to provide clear directions for planning and making transport services and facilities as accessible as practical. The "*5-Betters Strategy*" covers:

(a) *Better accessible transport services for all* – further expansion of accessible railway, franchised bus, ferry, taxis, public light bus (PLB) as well as optimising the efficiency of Rehabus services;

(b) *Better public transport infrastructure and facilities for all* – provision of accessible public transport interchanges, bus termini, taxi stands, ferry piers and railway stations and other ancillary facilities which would facilitate easy interchange with public transport services;

(c) *Better streets and pedestrian areas for all* – provision of better pedestrian facilities like electronic audible traffic signals at signalised crossings, tactile guide paths to connect major public transport interchanges and community facilities for persons with disabilities, more lifts at suitable footbridges and more extensive pedestrian areas;

(d) *Better planning standards, guidelines and procedures* – updating *Transport Planning and Design Manual (TPDM)* and guidelines to meet changing needs and new circumstances; and

(e) *Better partnership for actions and results* – developing advisory channels on new initiatives and new areas of needs, launching public education programmes to promote

the concept of “*Transport for All*” and partnering with overseas/international organisations to facilitate the personal mobility of persons with disabilities.

9.25 To achieve the above objectives, TD, in collaboration with the transport operators, concerned Government departments, the rehabilitation sector and organisations of persons with disabilities have made continuous efforts to advocate the “*Transport for All*” vision. Through the “*5-Betters Strategy*”, public transport services and transport facilities have become more user-friendly and accessible to persons with disabilities. This is elaborated in detail in the following paragraphs.

9.26 According to TPDM, as mentioned in paragraph 9.24(d) above, barrier-free routes shall be provided, wherever it is feasible, within 400 metres from the following areas and buildings to enhance accessibility by persons with disabilities and people in need, including the elderly:

- (a) Major business or commercial areas, shopping streets and large shopping arcades;
- (b) Public transport interchange and terminus, and particularly franchised bus terminus, PLB stands, taxi stands, railway stations, tram platforms, ferry piers and airport;
- (c) Government offices and buildings of public interest, to which the general public normally require access, e.g. Post Offices, police stations, sport and cultural centres, etc.;
- (d) Markets;
- (e) Hospitals and clinics;
- (f) Any building particularly provided for persons with disabilities, e.g. rehabilitation centres, and workshops, etc.;
- (g) Car parking spaces particularly provided for drivers with disabilities;
- (h) Major Residential estates; and
- (i) Parks, open spaces, etc.

9.27 In accordance with TPDM, the following design requirements should be complied with when providing barrier-free accessible routes:

- (a) The width of all footways should be wide enough to take care of pedestrians with walking aid (including wheelchair);
- (b) Dropped kerbs should be available at all at-grade crossing points;
- (c) Grade-separated crossing points should have ramps;
- (d) Gradient of footways should follow the specified standard;
- (e) Signal controlled crossing should be equipped with audible signals;
- (f) Ramps should be provided as an alternative to steps or staircases. In case of site constraints, consideration should be given to the provision of lifts;
- (g) Street furniture should be regularly arranged and should not obstruct the passage;
- (h) Pedestrian tactile warning strips may be provided at crossing points to alert the visually impaired of the potential hazard ahead. At needed places (e.g. heavily trafficked large podium floor), tactile guide paths may be provided to facilitate orientation of the visually impaired; and
- (i) Proper signage should be provided.

9.28 TPDM also requires that, with respect to grade-separated crossing facilities, access for persons with disabilities must be provided for all new footbridges, elevated walkways and subways either by provision of ramps or lifts. Besides, there is an ongoing programme for retrofitting lifts to existing footbridges.

#### Railway services

9.29 All railway stations (except Racecourse Station) are provided with at least one barrier-free access with facilities like lifts, stairlifts, ramps and wheelchair aids to facilitate those in need in travelling in and out of the station and to and from the platform. For the benefit of passengers with different types of disabilities, facilities such as wide gates, tactile guide paths, next stop announcement systems, tactile station layout maps, escalator audible signals, passenger information display systems, etc. have been installed at various stations.

#### Franchised bus services

9.30 Five franchised bus companies with a total fleet of about 5,800 buses are providing bus services to the travelling public. As at the end of 2009, over 2,900 or over 50% of these buses were wheelchair accessible. They are equipped with fixed ramps and wheelchair parking spaces inside the compartment for carriage of wheelchair bound passengers. Next bus stop announcement and display system are also provided in over 4,200 buses for the benefit of passengers with visual and hearing impairment. Ancillary facilities such as wheelchair space with back rest and restraint lap belt, front kneeling capability with wide entrance, high colour contrast and textured handrail system inside compartment, super low floor covered with non-slippery floor material, easily reached bell; priority seats for passengers with disabilities, large electronic destination and route number display on the front, large electronic route number display on the side and rear, closing door buzzer and warning lamp at exit and Braille registration number plate and customer service hotline inside compartment are equipped in most buses to facilitate persons with disabilities in using bus services.

9.31 Some commentators suggested that to provide accessible services for persons with visual impairment, franchised bus operators should install external bus stop announcement system. The HKSAR Government is mindful of this request and has reflected it to franchised bus operators. We have always encouraged public transport operators to continuously enhance the accessibility of their transport facilities, including facilities for persons with visual impairment.

#### Ferry services

9.32 Ferry services, provided by licensed and franchised operators, are accessible to most persons with disabilities, including wheelchair users. Call bells are provided at the entrances of most ferry piers. Anti-skid gangplanks and grooves on the landing ramps are provided to facilitate the movement of wheelchairs. Wheelchair spaces are also available on most ferry vessels.

#### Tram and peak tram services

9.33 As regards the tram service provided by the Hong Kong Tramways, people with visual or hearing impairment and people with minor mobility difficulties can board a tram via the front door with assistance from the tram driver. Priority seats for passengers with disabilities are provided inside compartments. "Tram Break Down – Please Alight" sign and an accompanying warning buzzer in the upper deck are provided on all trams. In addition, a buzzer is also installed at the rear boarding door to indicate that the door is about to close.

9.34 As for the peak tram service offered by the Peak Tramways Company Limited, special facilities such as ramps, special access gates, yellow edge marking and call bells are available on platforms. In addition, electronic information displays and audio announcement are provided for people with hearing and visual impairment.

#### Taxi services

9.35 Taxis provide the most convenient point-to-point transportation services for persons with disabilities. Most taxis are equipped with Braille and tactile vehicle registration number plate and talking taxi meters in Cantonese, Putonghua or English to facilitate passengers with visual impairment.

9.36 Some commentators urged the HKSAR Government to introduce accessible taxis. In this regard, TD has made an active effort to help the taxi trade search for suitable models. However, it is the taxi trade and the manufacturers' commercial decision as to the actual models and the number of wheelchair accessible taxis to be introduced, and when to introduce such taxis into the market. The HKSAR Government will, in response, provide support and follow up on related matters as appropriate.

#### PLB services

9.37 Most persons with disabilities generally can use the PLB services conveniently. Since 1997, operators of new green minibus routes have been required to install call bells inside compartment to facilitate passengers alighting. Moreover, the operators are encouraged to upgrade facilities on board, such as Braille registration number plate, handrails, non-slippery floor and priority seats for persons in need, to facilitate passengers.

#### Rehabus service

9.38 The Rehabus service, operated by a non-government agency, the Hong Kong Society for Rehabilitation, provides a territory-wide transport network that enables persons with disabilities to travel to work and school, or to participate in social and recreational activities. The fleet comprises 115 specially adapted private light buses and provides door-to-door service for passengers who have difficulties in using normal modes of public transport services including wheelchair users. Rehabus service is operated under HKSAR Government subvention. It is an important and well-recognised transport service to persons with disabilities. In 2010–11, the HKSAR Government will allocate funding for the procurement of four additional new rehabuses. With the expansion of the Rehabus fleet, it is estimated that the passenger volume of Rehabus will increase from around 680,000 in 2009 to over 710,000 passenger trips in 2010.

#### Accessible hire car

9.39 With the support of the HKSAR Government, Hong Kong Society for Rehabilitation has, through the Chief Executive's Community Projects List, successfully secured funding of HK\$15.24 million (including the operating cost for 3 years) under the Hong Kong Jockey Club Charities Trust (HKJCCT) to purchase 20 wheelchair accessible hire cars and launched a car renting service – the Accessible Hire Car Service. Since October 2008, Accessible Hire Car Service has commenced operation, providing more choices for persons with disabilities in addition to existing transport services. Wheelchair users could use the round-the-clock personal transport services by appointment. Such services could facilitate their contact with families and the community and promote their full integration into society.

#### Enhanced communication

9.40 To facilitate communication among representatives of persons with disabilities, public transport operators and the relevant Government departments, TD set up the Working Group on Access to Public Transport by People with Disabilities in 1993. The Working Group has provided a useful forum for the exchange of views and discussion on issues of common concern. It also takes the lead in tackling problems common to all public transport operators, such as establishing common standards and guidelines on the provision and modifications of facilities. The Working Group will continue to identify new initiatives and monitor implementation of agreed programmes to improve the access of persons with disabilities to public transport.

#### *Road facilities*

9.41 HyD has made every effort to meet the needs of all road users, including persons with disabilities in the provision of public roads and associated facilities having regard to barrier-free access policy. As such, guidelines are published to remind its designers and planners that suitable provisions should be made in the design, construction and maintenance of public roads and associated facilities. For instance, to facilitate persons with disabilities to use pedestrian footbridge and subway, barrier-free facilities are provided for all new footbridges and subways either by provision of ramps or lifts, or an alternative at-grade crossing facilities in the vicinity.

9.42 Since 2001, HyD has commenced investigation into those footbridge and subway structures without access facilities for persons with disabilities in stages so as to confirm whether access facilities in the form of lifts or ramps need to be provided, and whether the retrofitting works are technically feasible. Various rehabilitation bodies have been consulted regarding the structures to be selected for investigation. After investigation, for those footbridges and subway structures where retrofitting is found feasible, works will be implemented in stages after priorities are set.

#### *Advisory service on barrier-free facilities*

9.43 The Environmental Advisory Services, operating under the Rehabaid Society with Government's subvention, is a community based architectural consultancy service which provides specialist information and consultation service on the design and modification of buildings, urban services and amenities in respect of the environmental needs of persons with disabilities, including persons with physical disability, sensory disability (including the partially sighted), mental illness and intellectual disability, and also of the elderly. The service is staffed by architectural professionals complemented by occupational therapists and physiotherapists of the Rehabaid Centre. Advisory services are provided free for clients with disabilities, Government departments and voluntary agencies, while project management services, as required, are charged on a cost-recovery basis.

#### *Information and communications technologies and systems*

9.44 The HKSAR Government is firmly committed to transforming HKSAR into a digitally inclusive society. We have the conviction that all sectors of the community, including persons with disabilities, are entitled to benefit from the advancement of science and technology, and in particular ICT, which increasingly plays a key role in enhancing the quality of life. The Government programme for bridging the digital divide is three-fold:

- (a) Improving accessibility of IT facilities, particularly by persons with disabilities and disadvantaged groups;
- (b) Raising IT awareness and knowledge; and

- (c) Enhancing the accessibility and usability of HKSAR Government web sites.

The major measures to facilitate the usage of ICT by persons with disabilities are set out in the ensuing paragraphs.

#### District Cyber Centres pilot scheme

9.45 The District Cyber Centres pilot scheme aims to enable different needy groups in the community, including persons with disabilities, to access and use ICT through strengthening the provision of computer facilities, Internet connectivity, training and technical support to the cyber centres. Out of the 33 centres having joined the scheme, 4 centres target persons with disabilities as their serving groups.

#### Digital Solidarity Fund of the Hong Kong Council of Social Service

9.46 The Government Chief Information Officer (GCIO) has been actively sponsoring various community activities through the Digital Solidarity Fund of the Hong Kong Council of Social Service and different programmes of ICT professional associations to promote the ICT adoption among underprivileged groups (including persons with disabilities), as well as the awareness among public and private websites of the design and presentation needs to address the accessibility requirements of persons with disabilities.

#### Accessibility guidelines and best practices in the design of web pages and electronic services

9.47 In July 2009, the HKSAR Government updated a set of accessibility guidelines and best practices in the design of web pages and electronic services with reference to international standards and input from the industry and disabled groups. We will provide further details in this respect in paragraphs 21.6 to 21.8.

#### Digital 21 Strategy Advisory Committee

9.48 The Digital 21 Strategy Advisory Committee advises the HKSAR Government on the strategies and programmes facilitating the implementation of the Digital 21 Strategy, the blueprint for ICT development in HKSAR. Helping the underprivileged groups integrate into the information world is one of the important areas under the Digital 21 Strategy. The Advisory Committee has established a Task Force on Digital Inclusion (the Task Force) under the chairmanship of the GCIO. The Task Force acknowledges that there are special needs among the different persons with disabilities groups in access to information and service. To better understand the use of ICT by persons with disabilities especially on their specific barriers and needs, three workshops were organised in December 2009 with community organisations and representatives of three persons with disabilities groups, namely persons with restrictions in body movement, seeing and hearing difficulties. Strategies and initiatives are being formulated to address the specific ICT needs of persons with disabilities.

#### The Hong Kong ICT Awards

9.49 The Hong Kong ICT Awards were established in 2006 under a collaborative effort amongst the industry, the academia and the HKSAR Government. Championed by the Office of the Government Chief Information Officer, the Awards aim at building a large scale and internationally recognised branding of ICT awards of Hong Kong. Aiming at helping the disadvantaged group (including persons with disabilities) to catch up with the information society development, different sectors have been conducting and developing a range of products, software applications and services. These projects are vitally important in the digital inclusion work. In this connection, the category “Best Digital Inclusion

Award” has been set up to acknowledge the contribution of these projects in promoting digital inclusion and building a just and caring information society as well as to raise the public awareness about digital inclusion.

Financial assistance for persons with disabilities to acquire computer and software

9.50 With an initial allocation of HK\$1 million from the Special Coins Suspense Account, SWD has set up the “Central Fund for Personal Computers” since 1997 to encourage persons with disabilities to take up self-employment or supported employment. It aims to assist eligible persons with disabilities in acquiring the required computer facilities for implementation of their business plans and ensuring that needy persons with disabilities will not be denied access to facilities of information and communications. Up till March 2010, a total of about HK\$4.1 million was granted to 320 applicants.

9.51 In 2005, the HKJCCT contributed HK\$7.15 million for setting up the Jockey Club IT Scheme for People with Visual Impairment, which is under the administration of SWD. The Scheme is to support organisations to acquire high-performance Chinese screen readers and Braille displays at the communal access points of people with visual impairment and to subsidise individual PVI who, with genuine financial difficulty requires information technology for the purpose of studies or employment. Up till March 2010, a total of around HK\$4 million was granted to 28 organisational applicants and 123 individual applicants.

9.52 To take forward the above initiative, the HKSAR Government will, in collaboration with relevant NGOs and Task Force members, develop an action plan to implement specific measures over the coming months, including holding a regular large scale forum to enable focused exchange of views and insights among groups of persons with disabilities, the ICT related research and development sectors as well as providers of ICT products and services and of content. The forum will not only raise the awareness of the ICT needs of persons with disabilities but also encourage different sectors to consider how the latest ICT development can be adopted in their facilities and services to facilitate the usage of persons with disabilities.

#### *Accessibility of other major government projects*

9.53 The HKSAR Government has established a statutory body, West Kowloon Cultural District Authority (WKCDA), to take forward the West Kowloon Cultural District (WKCD) project. The WKCDA is pressing ahead with the preparation of the Development Plan (DP) of the WKCD, and finished the three-month Stage 1 Public Engagement (PE) exercise in early January 2010. During the Stage 1 PE exercise, views of persons with disabilities on the planning of the WKCD and their requirements for the facilities in the arts and cultural venues of the WKCD were collected through focus group meetings. The consultants of the WKCDA will take into account those views in preparing the DP of the WKCD and the Schedules of Accommodation of the arts and cultural facilities within the WKCD to ensure provision of a barrier-free environment, both in terms of hardware and software, in this major project to facilitate equal rights and opportunities for enjoyment of the facilities by persons with disabilities.

9.54 The Tamar Development Project, comprising the design and construction of the Central Government Complex, the LegCo Complex, two elevated walkways and an open space of no less than two hectares, is scheduled for completion in 2011. The Project has complied with the relevant provisions of the 2008 DM and certain facilities incorporated therein even go beyond the requirement of the manual. The HKSAR Government has given due consideration to the special needs of persons with disabilities and has consulted the Subcommittee on Access under RAC.

**Public education**

9.55 Some commentators suggested that the HKSAR Government should promote the concept of the development of a barrier-free society to the public. In this regard, we have already been actively promoting barrier-free environment through continuous public education programmes. For example, the Sub-committee on Public Education on Rehabilitation under RAC has, since 2003, adopted “Working towards an inclusive and barrier-free society for persons with disabilities” as one of the main themes for its annual public education programmes and made an active effort to promote to members of the public the importance of a “barrier-free environment” for persons with disabilities. From May 2008 to January 2009, RAC visited all the 18 District Councils to promote RPP. In the course of the visit programme, RAC solicited their support in the promotion and provision of barrier-free facilities in their districts. In the coming year, RAC will continue to promote, as one of the foci for public education, the building of a barrier-free environment.

**Statistics on accessibility complaints received by the Equal Opportunities Commission**

9.56 From 1996 to 30 June 2010, EOC received 315 complaints concerning accessibility, accounting for about 7% of the total complaints received for investigation and conciliation under the DDO. Conciliation was attempted in respect of 60% of these complaints. In the same period, 24 applications for legal assistance were received by EOC and 19 were granted.

**Article 10  
Right to life**

10.1 The HKSAR Government recognises the inherent right to life of all persons (including persons with disabilities) on an equal basis with others. To safeguard this right, we have put in place a legal framework providing protection to the right to life and survival of persons with disabilities on an equal basis with others, as well as suitable measures to prevent suicide.

**General framework for protection of the right to life**

10.2 The inherent right to life is protected by Article 2 of the HKBOR which stipulates that such right shall be protected by law, and no one shall be arbitrarily deprived of his life.

**Relevant legislation**

10.3 In accordance with the Offences against the Person Ordinance (Cap. 212), any person who is convicted of murder shall be imprisoned for life. Any person who is convicted of manslaughter shall be liable to imprisonment for life and to pay such fine as the court may award.

**Administrative measures to protect the right to life and prevent suicide**

10.4 The causes of suicide are diverse. They can be attributed to the interplay of social and psychological factors, with each individual case having its uniqueness. The HKSAR Government is committed to working closely with different sectors, including NGOs, professionals and academics to prevent suicide. We provide a range of preventive, supportive and remedial programmes and services through Integrated Family Service Centres (IFSCs), Integrated Services Centres (ISCs), medical social services units in hospitals and clinics, school social work service, integrated children and youth service centres, as well as outreaching social work teams, in order to help young people, families

and other vulnerable groups, including persons with disabilities, with suicidal risk to cope with adversities, and strengthen their support network.

10.5 Since 2002, SWD has been financing the Samaritan Befrienders Hong Kong, a NGO operating a Suicide Crisis Intervention Centre, to provide outreaching, immediate intervention and intensive counselling services to persons in need. With the funding support of HKJCCT, the Samaritan Befrienders Hong Kong has operated a Life Education Centre with the aim to promote suicide prevention and the message of treasuring life to the general public, especially the young people in schools. In addition, a number of dedicated hotline services are provided by NGOs and SWD to those who may be contemplating suicide or are suffering from other forms of stress.

10.6 The HKJCCT has allocated HK\$750 million to implement the “Positive Adolescent Training through Holistic Social Programmes to Adulthood: A Jockey Club Youth Enhancement Scheme” (PATHS) in secondary schools since the 2005–06 school year. PATHS, jointly organised by EDB, 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. We also provide other support services including various debt counselling projects for persons facing debt problems, as well as services of Community Mental Health Link and Community Mental Health Care Service for ex-mentally ill persons and their family members.

10.7 To enhance public awareness of the importance of strengthening family solidarity and to encourage early help for prevention of family crisis and domestic violence, SWD has launched a publicity campaign on “Strengthening Families and Combating Violence” since 2002. Suicide prevention is one of the themes of the publicity campaign.

#### **Death in custody under law enforcement agencies**

10.8 All deaths of persons under Correctional Services Department (CSD)’s custody are reported to the Police. In accordance with section 15 of the Coroners Ordinance (Cap. 504), a coroner shall as soon as practicable hold an inquest into such deaths. In 2007, 2008 and 2009, the number of deaths under CSD’s custody was 18, 14 and 25 respectively and none of the deceased were persons with disabilities. In the last five years, there were no cases of death of persons with disabilities in Immigration Department (ImmD)’s and Police’s custody.

### **Article 11**

#### **Situations of risk and humanitarian emergencies**

11.1 Relevant Bureaux and Departments of the HKSAR Government strive to ensure the protection and safety of people, including persons with disabilities, caught in situations of risk like humanitarian emergencies or natural disasters, and inclusion of persons with disabilities in emergency protocols.

#### **Hong Kong Special Administrative Region emergency response system**

11.2 The HKSAR Government is committed to providing an effective and efficient response to all emergency situations which threaten life, property and public security. To this end, we have in place an emergency response system to ensure that we can always provide an appropriate response.

11.3 In the event of a major incident involving widespread threats to life, property and security and where extensive Government emergency response operations are required, the

Emergency Monitoring and Support Centre (EMSC) will be activated upon the direction of the Secretary for Security or a designated senior Security Bureau official. Other security committees (e.g. the Chief Executive Security Committee and the Security Control Committee) may be convened as necessary. With the co-ordination of EMSC, various departments will perform their role and provide appropriate assistance to victims of disasters (including persons with disabilities). Some major examples of duties of relevant departments in major incident are summarised in the ensuing paragraphs.

11.4 HAD will be the “Disaster Relief Coordinator” working through the headquarters emergency control centre and the District Offices. The District Offices will coordinate disaster relief efforts at the local level, in cooperation with SWD, HD and others as necessary. District Offices of the HAD will be responsible for coordinating emergency relief work in their districts and setting up help desks at the scene, or at other suitable locations. Each District Offices will set up a District Emergency Control Centre with 24-hour manning. The Emergency Hotline of HAD Headquarters will be manned 24 hours a day to answer public enquiries of a non-technical nature. HAD will ensure that community halls/suitable venues are available for use as temporary shelters for displaced persons where necessary.

11.5 HA is responsible for providing emergency medical services during an emergency. If the situation warrants, and on the request of Fire Services Department, HA will send a Medical Control Officer and Medical Team(s) to provide on-site triage of casualties, and emergency medical treatment. HA will also provide medical advice on the casualty evacuation plan.

11.6 HD, in conjunction with the relevant District Officer(s) of HAD and the Director of Social Welfare, will be responsible for providing emergency accommodation for victims made homeless. Sanitation and latrine facilities in transit centres and emergency accommodation in Interim Housing provided by HD are of similar standard to public rental housing estates and are accessible to persons with disabilities.

11.7 SWD, in conjunction with the relevant District Offices of HAD and the HD, will be responsible for providing food, blankets and other emergency items when victims of a disaster are found to be in need. Social workers of SWD will stand-by at the sites to provide assistance to persons in need, including victims with disabilities, to ensure that emergency items are accessible to them. SWD has five emergency relief duty teams in Hong Kong, Kowloon and the New Territories respectively, which can be deployed in an emergency. HAD will also ensure that sanitation and latrine facilities in temporary shelters are accessible to persons with disabilities as far as practicable.

#### **Charitable trust funds**

11.8 Currently, the Secretary for Home Affairs Incorporated/the Secretary for Home Affairs is the trustee/member of the board of trustees of a number of charitable trust funds. Among these trust funds, the Brewin Trust Fund and the Li Po Chun Charitable Trust Fund provide lump sum grants to the LD and/or SWD for providing financial assistance to persons in need, including persons with disabilities.

##### *Brewin Trust Fund*

11.9 Brewin Trust Fund was established in 1906 with HK\$50,000 raised by members of the Chinese community to start a trust fund in honour of Mr A.W. BREWIN, the then Secretary for Chinese Affairs. The Fund was reconstituted under the Brewin Trust Fund Ordinance (Cap. 1077) after the Second World War. The Secretary for Home Affairs is the Chairman of the statutory committee which administers the Fund. The objective of the fund is to provide assistance for:

- (a) Maintenance and benefit of widows, widowers and orphans; and
- (b) Relief of hardship of workers employed in HKSAR who have become wholly or partly incapacitated for work by reason of age, sickness, disability or otherwise.

11.10 While SWD receives and considers applications for miscellaneous or maintenance grants not provided for under CSSA and SSA, LD receives and considers applications for grants to employees injured in the course of employment but cannot meet the eligibility requirements for employee compensation.

#### *Li Po Chun Charitable Trust Fund*

11.11 Li Po Chun Charitable Trust Fund, founded by the late Mr Li Po-chun, was established under the provisions of the Li Po Chun Charitable Trust Fund Ordinance (Cap. 1110). The Secretary for Home Affairs is the Chairman of the statutory committee which administers the Fund. Approximately two-thirds of the annual grant made out of the Fund is used for scholarships, and the balance is paid to the Director for Social Welfare for the relief of distress cases in which no adequate assistance is available from other sources.

#### **Welfare services for persons with disabilities in situations of risk and humanitarian emergencies**

11.12 Regarding welfare services, SWD renders emergency welfare services including shelter/accommodation with proper and accessible hygiene and sanitary facilities, provision of food and other basic necessities, financial assistance, counselling, etc. to help persons in need overcome and tide over difficulties. The shelter/accommodation has in place barrier-free facilities to persons with disabilities as appropriate. There are also staff on duty providing 24-hour service daily for provision of assistance to the needy persons, including persons with disabilities. To ensure the protection and safety of people, including persons with disabilities, in situations of risk, SWD has put in place contingency plans and operational guidelines of various nature, including Contingency Plan for Influenza Outbreaks, Contingency Plan Against SARS, and Operational Guidelines on Disaster Management for Medical Social Services Unit.

11.13 SWD has also put in place measures for ensuring the protection and safety of persons with disabilities in situations of risk by providing temporary residential care for the destitute and homeless adults with disabilities to prevent them from exposure to risks owing to the lack of immediate care and shelter.

11.14 To protect the safety of disabled CSSA recipients and to enable them to seek help in situations of risk and emergencies, special grants are payable to them to cover the monthly service charges for the use of a telephone, and that for the emergency alarm system for senile disabled recipients meeting the prescribed eligibility criteria. Apart from financial assistance provided under the CSSA Scheme, other forms of services are provided at times of emergency to victims, including persons with disabilities, of natural disasters, such as fire, tropical cyclone, etc. The provision of emergency relief service includes issue of cash grants and distribution of relief articles and hot meals.

## **Article 12**

### **Equal recognition before the law**

12.1 In HKSAR, everyone, including persons with disabilities, have the right to recognition as persons before the law. To this end, the HKSAR Government has put in place a suitable legal framework and administrative measures to ensure that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.

**General framework for protection of the right of equal recognition before the law**

12.2 As mentioned in paragraph 39 of the HKSAR Common Core Document, Article 25 of the Basic Law provides that all HKSAR residents (including persons with disabilities) shall be equal before the law. Furthermore, Article 35 of the Basic Law provides that HKSAR residents shall have the right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel. Article 10 of HKBOR provides for the right of equality before courts and right to fair and public hearing.

12.3 Specifically on disability discrimination, a claim that an unlawful discrimination has been committed under the DDO may be pursued in civil proceedings brought in the District Court and the remedies obtainable in such proceedings shall be those that would be obtainable in the Court of First Instance.

**Legal aid framework**

12.4 Our legal aid policy is to ensure that no one (including persons with disabilities) with reasonable grounds for taking or defending legal action in a HKSAR court is prevented from doing so because of a lack of means. Legal aid is granted to any person, whether resident or non-resident, who satisfies the relevant criteria, namely the means test and the merits test. Legal aid service in HKSAR is provided by the Legal Aid Department (LAD) and the Duty Lawyer Service (DLS). The Legal Aid Services Council is a statutory body that supervises the provision of legal aid services in HKSAR provided by LAD and to advise the Chief Executive on legal aid policy.

12.5 LAD provides legal aid in legal representation for civil proceedings and criminal proceedings in District Court and above. Legal aid is also available for committal proceedings in the Magistrates' Courts for criminal proceedings. To qualify for legal aid, an applicant has to pass both the means test and the merits test. Persons with disabilities will be offered assistance where justified on an equal basis with others.

12.6 DLS is incorporated as a company limited by guarantee, independently managed by the Hong Kong Bar Association and the Law Society of Hong Kong through a governing Council. It is subvented by the HKSAR Government. DLS implements three legal assistance schemes to complement the legal aid services provided by LAD. The Duty Lawyer Scheme provides legal representation to defendants in Magistrates Courts, Juvenile Courts and Coroners Courts. Applicants have to pass a simple means test and pay a handling charge.

12.7 The Free Legal Advice Scheme provides free preliminary legal advice to members of the public in the evening at 9 District Offices. Members of the public can make appointments through over 150 locations. The Tel-Law Scheme is a 24-hour free telephone enquiry service, which provides taped legal information on various topics of interest, including matrimonial, landlord and tenant, criminal, financial, employment and administrative law matters. There is also an on-line version of the Tel-Law Service on the website of DLS.

**Other relevant legislation***Enduring Powers of Attorney Ordinance (Cap. 501)*

12.8 As mentioned in paragraph 5.24 above, the EPAO provides for the creation of EPA. A conventional power of attorney can only be made by a person who is mentally competent, and any such power of attorney will lapse if the donor subsequently becomes mentally incompetent. On the contrary, EPA can be executed while the donor of the power is mentally capable but continues to have effect after the donor becomes incapable. At present, under section 8 of this Ordinance, the powers which may be delegated under an

EPA in HKSAR cover decisions relating to the property and financial affairs of the donor. The Law Reform Commission of HKSAR is conducting a consultation to consider whether the scope of EPA should be extended beyond the donor's property and financial affairs to include matters relating to the donor's 'personal care'.

*Guardianship Board under Mental Health Ordinance (Cap. 136)*

12.9 The Guardianship Board is authorised under MHO to appoint guardians for adults at 18 years of age and over who are mentally incapable of making their own decisions about their personal affairs, financial matters or medical or dental treatments, in order to promote and protect their interests and welfare. In normal situation, application for guardianship will be processed only where there are no effective informal arrangements already in place or such an arrangement cannot be made. The Board may decide to appoint a private guardian (a family member or friend) or the public guardian (Director of Social Welfare). In addition, the Board may give the guardian the legal power to make important decisions relating to personal circumstances for such adults, e.g. about his/her place of residence or consenting to his/her medical or dental treatment. The guardian may also be given legal power to manage a limited amount of that person's money, which currently is a maximum of HK\$10,500 per month. The number of new applications of guardianship in 2007, 2008 and 2009 was 278, 280 and 305 respectively.

## **Article 13**

### **Access to justice**

13.1 The HKSAR Government fully recognises the right of persons with disabilities to have effective access to justice on an equal basis with others, without being excluded from legal proceedings. To ensure the effective access to justice at all stages of the legal process by all persons with disabilities, the HKSAR Government has set out in relevant legislation the special mechanism and provision of reasonable accommodation to allow effective access of persons with disabilities to justice in legal process. We also provide suitable training to personnel in the justice and prison system to enhance their understanding and awareness of the needs of persons with disabilities in legal proceedings.

#### **General framework for access to justice**

13.2 As mentioned in paragraph 12.2 above, the right to access to justice is provided for under the Basic Law and the BORO.

#### **Relevant legislation**

*Mental Health Ordinance (Cap. 136)*

13.3 MHO provides that if a mentally disordered person is convicted or charged with an offence, the court or magistrate may order the admission of the person to the CSD Psychiatric Centre or a mental hospital for treatment subject to the evidence provided by medical practitioners. Where such an order has been made, the court or magistrate cannot impose a sentence of imprisonment or a fine in respect of the offence. This Ordinance also provides legal safeguards for mentally incapacitated persons in other areas, such as the management of their property and affairs, the reception, detention and treatment of mental patients in mental hospital, guardianship and consent to medical treatment.

*Legal Aid Ordinance (Cap. 91)*

13.4 Applicants granted with legal aid will obtain legal representation by a solicitor and, if necessary, a barrister in proceedings before the courts of HKSAR. The scope of services covers proceedings in the District Court, the High Court (consisting of the Court of First Instance and the Court of Appeal) and the Court of Final Appeal. In addition, legal aid is also available for committal proceedings at the magistrates' courts, applications at the Mental Health Review Tribunal and certain types of death inquests in the Coroner's courts. Details of the operation of legal aid framework are set out under the section on Article 12 of this Report.

*Official Solicitor Ordinance (Cap. 416)*

13.5 The Official Solicitor is a public officer who looks after the interests of persons under a disability of age or mental capacity (persons under disability) in civil proceedings. These persons cannot legally act for themselves in civil proceedings and must bring/make or defend a claim in court proceedings through a third party, i.e. by his next friend or a guardian ad litem. Subject to appointment by the Court or the discretion of the Official Solicitor as appropriate, the Official Solicitor can act as next friend/guardian ad litem to any person under disability in proceedings before any courts in HKSAR. This is to ensure that a person under disability will not be denied access to justice simply because no one is willing to act as his next friend/guardian ad litem in court proceedings.

*Enduring Powers of Attorney Ordinance (Cap. 501)*

13.6 As mentioned in paragraphs 5.24 and 12.8 above, a conventional power of attorney can only be made by a person who is mentally competent and any such power of attorney would lapse if the donor subsequently becomes mentally incompetent. The EPAO creates a special type of power of attorney called the EPA which would be executed while the donor of the power was mentally capable but would continue to have effect after the donor became incapable.

**Legislation on the provision of reasonable accommodation in legal process***Criminal Procedure Ordinance (Cap. 221)*

13.7 As mentioned in paragraphs 5.12 and 5.13 above, CPO provides special rules and procedures designed to protect mentally disordered and mentally handicapped persons in criminal proceedings involving them as victims or suspects of a crime.

13.8 With a view to protecting mentally incapacitated adults involved in criminal procedures, SWD has put in place the "Procedural Guide for Social Workers on the Handling of Mentally Incapacitated Adults Arising from the New Provisions in the Criminal Procedure (Amendment) Ordinance 1995" to ensure consistency in practice among social workers in both SWD and NGOs in helping mentally incapacitated adults involved in criminal procedures.

13.9 SWD has also put in place the "Operational Guidelines on Procedures Arising from Provisions in the Mental Health Ordinance Cap. 136" for SWD staff to carry out duties in relation to the MHO, which include the provision of legal safeguards for mentally incapacitated persons who, for example, are suspected to be financially abused by their relatives. In such case, the SWD social worker should follow the procedures laid down in the said Operational Guidelines to consider initiating application for Guardianship Order under Part IVB, MHO so as to protect the best interest of the person concerned.

### **Legislation on age-related accommodation to ensure effective participation of children and young persons with disabilities**

#### *Legislation to protect mentally incapacitated person against sexual abuse*

13.10 To better protect mentally incapacitated person from sexual abuse, section 128 of the CO prohibits any person, without the permission of the parent or guardian, from taking a mentally incapacitated person out of the possession of the parent or guardian with the intention of making the mentally incapacitated person perform any unlawful sexual act. Offenders will be liable to a maximum penalty of 10 years imprisonment upon conviction.

#### *Legislation to protect mentally incapacitated person in criminal proceedings*

13.11 Section 57 of CPO stipulates that for cases of assault, causing the death of, injury to, or threat of injury to a child of the family who is a mentally incapacitated person, the husband or wife of the accused party shall be compelled to give evidence for the prosecution.

13.12 Section 79E of the same Ordinance allows a magistrate, under the application of a party to the proceeding, to take a deposition in writing from the mentally incapacitated person, including a mentally incapacitated person who is a defendant.

13.13 This Ordinance also provides safeguards to facilitate mentally incapacitated person witnesses giving testimony in the court. Section 79B allows cross-examinations of mentally incapacitated person witnesses to be conducted through live television link, section 79C allows mentally incapacitated witnesses to give evidence-in-chief by video-recorded interviews, and the mentally incapacitated witnesses can be accompanied by other persons when giving testimony in the court to ease their fear according to section 79D and Rule 3 of CPO Subsidiary Legislation J.

### **Administrative measures to ensure effective training of personnel in the justice and prison system**

13.14 The Judicial Studies Board provides training programmes for judges and judicial officers (“JJOs”) at all levels of the court. Every year, it organises and coordinates their participation in various professional training courses, international/local conferences, seminars and visits. In November 2009, arrangements were made for a JJO to attend a local conference on “Inclusion in Education: The Implementation of Article 24 of the United Nations Convention on the Rights of Persons with Disabilities”. As part of its on-going efforts to update JJOs on issues of public concern, new legislation and crime trends, the Judiciary will continue to organise suitable training programmes for JJOs. Regarding training for non-JJO support staff, the Judiciary invited the EOC to conduct a talk on laws on anti-discrimination in 2008. The talk will be re-run in 2010.

13.15 All newly-recruited and serving staff members of CSD are provided with training on the handling of prisoners with disabilities through the Induction Training and In-service Training. CSD has also promulgated a set of guidelines to all staff members to ensure that suitable services are provided to prisoners with disabilities under CSD’s custody. To better attend to the special needs of prisoners with disabilities, special training is arranged for CSD’s officers. For example, sign language courses are made available to officers providing services to prisoners with hearing impairment.

## **Article 14**

### **Liberty and security of the person**

14.1 We have put in place legislative and special administrative measures where required to ensure that all persons with all forms of disabilities enjoy the right to liberty and security of person in accordance with law.

#### **General framework for protection of the right to liberty and personal security**

14.2 At the constitutional level, Article 28 of the Basic Law guarantees that “the freedom of the person of HKSAR residents shall be inviolable. No HKSAR resident shall be subjected to arbitrary or unlawful arrest, detention or imprisonment. Arbitrary or unlawful search of the body of any resident or deprivation or restriction of the freedom of the person shall be prohibited. Torture of any resident or arbitrary or unlawful deprivation of the life of any resident shall be prohibited”.

14.3 Article 39 of the Basic Law stipulates that the provisions of the ICCPR as applied to Hong Kong shall remain in force and shall be implemented through the laws of the HKSAR. Article 5 of HKBOR gives domestic effect to Article 9 of the ICCPR. The right to liberty and personal security of all persons in the HKSAR, including persons with disabilities, is protected by law.

#### **Administrative measures to protect persons with disabilities and mentally incapacitated persons in arrest and detention**

14.4 In addition to the rights to be enjoyed by all persons under arrest or detention, the Police have adopted special procedures for handling arrested persons with disabilities. The procedures require officers to make every effort to ascertain the detailed conditions of an arrested person with disabilities including his/her medical condition and any restrictions to his/her mobility. Particular attention should be paid to a person with disabilities who has lost full motor ability and relies on the aid of a wheelchair for mobility. When transferring these arrested persons with disabilities, appropriate means of transportation should be arranged through either the Auxiliary Medical Service or the Hong Kong Society for Rehabilitation.

14.5 The Police will also provide arrested persons with disabilities who have communication difficulties with necessary assistance, such as the provision of a sign language interpreter to facilitate communication. When detaining a mentally incapacitated person, an appropriate adult who is a relative, guardian or other person responsible for the care or custody of that person or someone has experience with dealing with a person with a special need, but not a police officer or someone employed by the Police, must be present to provide assistance to that mentally incapacitated person.

#### **Administrative measures to protect prisoners with disabilities**

14.6 Measures have been put in place to ensure that prisoners with disabilities are provided with the required reasonable accommodation, and benefit from the same procedural guarantees as all other persons to enjoy fully their human rights.

14.7 As at 31 March 2010, there were 510 prisoners with disabilities under the custody of the CSD. To attend to the special needs of the prisoners with disabilities, the following measures have been put in place:

(a) Prisoners with disabilities are detained in institutions with adequate facilities that are necessary for their care and treatment. The facilities include modified toilet and bathing facilities, crutches, wheelchairs and light weight roll-in chair cots, etc. At present,

all major correctional institutions provide these facilities. In addition, special services/facilities, such as physiotherapy and mechanical aids, are provided to prisoners on a need basis;

(b) Medical Officers, Clinical Psychologists and Rehabilitation Officers of CSD are deployed as appropriate in providing rehabilitative services to disabled prisoners; and

(c) NGOs are invited to visit to prisoners with disabilities, and to render assistance to them in making discharge arrangements, e.g. in respect of accommodation and employment.

## **Article 15**

### **Freedom from torture or cruel, inhuman or degrading treatment or punishment**

15.1 The law of HKSAR and the Code of Professional Conduct of medical practitioners provides for the protection to persons with disabilities from medical or scientific experimentation without consent and the inclusion of persons with disabilities in strategies and mechanisms to prevent torture.

#### **General framework to protect all persons from torture or cruel, inhuman or degrading treatment or punishment**

15.2 Article 28 of the Basic Law protects HKSAR residents against arbitrary or unlawful arrest, detention or imprisonment, arbitrary or unlawful search of the body of any resident or deprivation or restriction of the freedom of the person, and torture of any resident or arbitrary or unlawful deprivation of the life of any resident. Article 3 of HKBOR also stipulates that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

15.3 Furthermore, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) is applicable to the HKSAR. The Crimes (Torture) Ordinance (Cap. 427) gives effect in domestic law to the relevant provisions of CAT. The fourth and fifth reports of the People's Republic of China under CAT, which were submitted in 2006, included a section on the HKSAR, providing information on the general position regarding HKSAR's compliance with CAT.

#### **Relevant legislation**

15.4 Under the Crimes (Torture) Ordinance (Cap. 427), a public official or person acting in an official capacity, whatever his nationality or citizenship, commits the offence of torture if in HKSAR or elsewhere he intentionally inflicts severe pain or suffering on another in the performance or purported performance of his official duties. In HKSAR, there have been no prosecutions under the Crimes (Torture) Ordinance (Cap. 427) and no cases involving the torture of persons with disabilities since its enactment.

#### **Administrative measures to protect against medical or scientific experimentation without free and informed consent of persons with disabilities**

15.5 The Code of Professional Conduct has been issued by the Medical Council of Hong Kong to provide guidance in professional conduct of registered medical practitioners. Principles for new medical procedures and clinical research have been set out in the Code. Transgressing accepted codes of professional conduct may lead to disciplinary action by the Medical Council. According to the Code, doctors may apply new methods of treatment for

appropriate patients under appropriate circumstances. Doctors are reminded that the human rights of the patient, irrespective of whether he/she is a person with disabilities, must be protected and his/her dignity respected.

15.6 Regarding the practice of clinical research, doctors should also follow the principles of good clinical practice. Before a trial is initiated, foreseeable risks and inconveniences should be weighed against the anticipated benefit for the individual trial subject and society. A trial should be initiated and continued only if the anticipated benefits justify the risks.

15.7 New medical procedures and clinical research should be conducted in accordance with the ethical principles that have their origin in the Declaration of Helsinki, and that are consistent with good clinical practice and the applicable regulatory requirements.

15.8 In practice, HA has in place a governance and oversight mechanism for clinical research. HA and the medical faculties of the University of Hong Kong and the Chinese University of Hong Kong have jointly formulated a set of common policy and standard operating procedures for vetting, approving and monitoring clinical trials having regard to relevant international standards and guidelines. These guidelines provide that the clinical trials should not engage vulnerable persons, including persons with disabilities, as subjects as far as possible. The guidelines also provide that special precautions should be taken in vetting applications of clinical trials involving vulnerable subjects to ensure protection to them. For example, ethics review should be conducted by full panel review in a formal meeting.

## **Article 16**

### **Freedom from exploitation, violence and abuse**

16.1 The HKSAR Government strives to protect persons with disabilities (in particular women and children with disabilities) from all forms of exploitation, violence and abuse, both within and outside the home through legislative, administrative, social and educational measures.

#### **Relevant legislation**

16.2 To protect people facing domestic violence and their children from abuse and to deal with offences as they arise, the relevant legislation is reviewed from time to time, and updated where necessary.

#### *Domestic Violence and Cohabitation Relationships Ordinance (Cap. 189)*

16.3 Victims of domestic violence are protected by the Domestic and Cohabitation Relationships Violence Ordinance (DCRVO), formerly the Domestic Violence Ordinance (DVO). The DVO, was enacted in 1986 to enable 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. In 2008, we made a number of amendments to the DVO through the Domestic Violence (Amendment) Ordinance 2008 (the Amendment Ordinance 2008) to enhance legal protection for victims of domestic violence. The scope of the DVO was extended to include former spouses, former heterosexual cohabitants and their children; as well as other immediate and extended family members. Amongst other amendments, the Amendment Ordinance 2008 also empowered the court to:

(a) Vary or suspend an existing custody or access order in respect of the child concerned when the court makes an exclusion order under the DVO;

(b) Attach an authorisation of arrest in circumstances where the court 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.

16.4 In 2009, we further extended the scope of the DVO through the Domestic Violence (Amendment) Ordinance 2009 to include same-sex cohabitants and former same-sex cohabitants and their children. The DVO was renamed as DCRVO and took effect from 1 January 2010.

*The Protection of Children and Juveniles Ordinance (Cap. 213)*

16.5 The PCJO empowers the court to grant a care or protection order in respect of a child or juvenile (including those with disabilities) who have been abused, ill-treated, neglected, or beyond control to the extent that harm may be caused to them or others.

16.6 SWD renders “Place of Refuge” for needy children and juveniles, including those with disabilities. It is to provide temporary accommodation and care for children and juveniles, including those with disabilities admitted under the provision of PCJO. To ensure service accessibility, children and juveniles can be admitted on a “round-the-clock” basis.

**Investigation of cases related to violence and abuse**

16.7 Our criminal law tackles all acts of violence, irrespective of the relationship between the abuser and the victim, and independent of where the violent acts occur. The Police handles all abuse reports professionally, and conducts thorough investigation according to the circumstances of each report. With sufficient evidence of an offence, the Police will take firm and decisive action to effect arrest and prosecution as appropriate. The prosecuting authorities also accord priorities at all stages of the legal proceedings, and implement various measures to facilitate fast-tracking of cases involving vulnerable witness.

16.8 In investigating cases involving mentally incapacitated persons, the Police will adopt a multi-disciplinary approach to collaborate with other professionals such as the clinical psychologists and social workers of SWD, HA, forensic pathologist of DH, etc.

16.9 The Police have established protocol to ensure timely referral of persons with disabilities and mentally incapacitated persons who are in need to SWD for counselling and welfare services.

16.10 To ease the anxiety of victims who are mentally incapacitated persons in recounting their ordeals, Vulnerable Witness Interview Suites have been set up to provide the victims with a friendly environment and ‘one-stop’ facilities for conducting video-recorded interviews and, if necessary, forensic examinations under one roof.

16.11 Multi-disciplinary Case Conferences (MDCC), participated by the Police and other agencies such as SWD, HA and DH who also provide supporting services to mentally incapacitated persons, will also be held to formulate suitable welfare plans to protect the safety and welfare of the victims.

## **Administrative measures against domestic violence**

### *Services and programmes*

16.12 The HKSAR Government is committed to combating domestic violence. Our strategy is to provide a continuum of preventive, supportive and specialised services at the primary, secondary and tertiary levels to tackle family problems and domestic violence. Specific measures include:

(a) *Preventive services*: to enhance public awareness on the prevention of domestic violence and the importance of family solidarity, and to encourage victims to seek early assistance through public education, publicity campaign and outreaching programmes. A publicity campaign on “Strengthening Families and Combating Violence” has been launched by SWD to promote, among other things, the prevention of child abuse, spouse battering, elder abuse and sexual violence;

(b) *Supportive services*: to provide information/resources/support to needy families through IFSCs/ISCs, and to provide residential care for children in need. We have devoted manpower and resources to SWD to facilitate cases handling and various initiatives relating to domestic violence. Apart from the services provided by the IFSCs/ISCs mentioned above, SWD is in the process of implementing a new Victim Support Programme to enhance support for victims of domestic violence, particularly those who are undergoing the judicial process. Under the programme, victims will be provided with emotional support and relevant information such as community resources, accommodation and judiciary proceedings, etc.

(c) *Accommodation services*: to address the accommodation needs of the victims concerned, the HD provides conditional tenancy for victims referred by SWD under the Compassionate Rehousing Scheme, whose scope of service users has been extended to cover victims of domestic violence or divorced couples who either have no offspring, or who do not bring dependent children with them when they leave their matrimonial home since November 2001. Ever since June 2005, an enhanced referral mechanism between SWD and HD has been in place to enable speedy assistance to needy families (e.g. those in need of compassionate rehousing, counselling service, financial or legal assistance) including those with persons with disabilities; and

(d) *Specialised services*: to provide crisis intervention services for battered women and their dependent children, through refuge centres, family crisis support centres, and specialised units (Family and Child Protective Services Units) of SWD. In March 2007, a crisis intervention and support centre operated by a NGO 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 (including abused children) facing domestic violence or in crisis, a 24-hour hotline for the public, counselling services and immediate outreaching/crisis intervention, etc. The above short-term residential services have the facilities such as handrails and ramps to facilitate the mobility of disabled victims of domestic violence while e-mail and fax line are also available to receive service enquiries.

### *Multidisciplinary approach*

16.13 We adopt a multi-disciplinary approach to tackle the problem of domestic violence and a well-established mechanism has been set up for this purpose. The Committee on Child Abuse (CCA) and the Working Group on Combating Violence (WGCV) are responsible for devising strategies and measures in addressing the problem of child abuse, spouse battering and sexual violence. The Committee and Working Group are chaired by

SWD and attended by representatives of other Government bureaux/departments, NGOs and professionals such as social workers, medical practitioners and clinical psychologists. At the district level, there are 11 District Co-ordinating Committees (DCCs) on Family and Child Welfare coordinating services relating to domestic violence. In addition, 11 District Liaison Groups on Family Violence (DLGFV) have been set up across the territory for better communication amongst SWD, the Police and local service units, as well as for the professionals concerned to discuss measures to step up collaboration in handling domestic violence cases, particularly high risk cases, at the district level.

16.14 Since January 2003, SWD and the Police have adopted a new referral mechanism designed to expedite professional intervention in cases of domestic violence for the benefit of the victims and their families. Under the new system, incidents of domestic violence satisfying certain conditions are referred to SWD for follow-up even if neither victims nor the alleged offenders have given consent. Moreover, 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. Since 2006, the Police have refined the procedures to respond to the reported domestic violence cases more promptly and professionally.

16.15 We collaborate with the relevant professionals, NGOs and community groups in combating domestic violence. Apart from inviting professionals and representatives of NGOs to sit on the CCA, WGCV and DCCs, SWD also updated guidelines on handling cases of child abuse, spouse battering and sexual violence in consultation with the relevant parties so as to assist the professionals involved to handle domestic violence cases.<sup>13</sup> The Department also provides multi-disciplinary training programmes to foster a common understanding of domestic violence among various professionals. Apart from coordinating training courses at the headquarters level, SWD also provides training at the district level to meet the specific needs of individual districts. Additional training has also been provided to frontline social workers and police officers in the light of the amendments to the DVO mentioned above.

16.16 In view of the growing concerns over domestic violence, WoC published a report entitled “Women’s Safety in Hong Kong: Eliminating Domestic Violence” in January 2006. 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, etc.

16.17 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 issuance of the first report. The WoC was pleased to note that good progress was made on various fronts, such as amendments to the DVO, 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, etc. Besides, NGOs, community groups

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<sup>13</sup> ‘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.

and women's organisations also launched programmes and activities at both the community and neighbourhood levels to complement the HKSAR Government's efforts in strengthening community support network and enhancing public awareness of domestic violence.

#### **Drafting of procedural guideline for handling abuse cases**

16.18 SWD has formed a working group to devise a procedural guideline for reference of professionals in handling adult abuse cases involving persons with intellectual disability and/or mentally illness. The guideline aims to enhance the identification of risk factors, prevent the incidence of abuse, enhance inter-disciplinary cooperation, set out the intervention procedures for different professions and for reporting abuse cases, etc. so as to safeguard the welfare of persons with intellectual disability and/or mental illness.

### **Article 17**

#### **Protecting the integrity of the person**

17.1 The HKSAR Government has put in place suitable legislative framework to protect persons with disabilities from medical treatment given without consent, including protection from forced sterilisation and forced abortions.

#### **General framework for protection of the integrity of all persons**

17.2 Article 37 of the Basic Law provides for the right to raise a family freely. Specific legislation rendering protection to persons with disabilities from medical treatment without free/informed consent, forced sterilisation and abortions are set out in the ensuing paragraphs. Article 3 of the HKBOR stipulates that no one shall be subjected without his free consent to medical or scientific experimentation.

#### **Relevant legislation**

17.3 The Human Organ Transplant Ordinance (Cap. 465) stipulates that a prospective donor should fully understand the procedure and the risks involved as well as his entitlement to withdraw consent at any time. It also prohibits organ donation by persons below the age of 18 years (or 16 years if married) – parents and guardians cannot give consent for organ donation on behalf of their children or minors under their care. In addition, approval from the statutory Human Organ Transplant Board is required for transplantation of human organs between living persons who are not genetically related or a couple whose marriage has subsisted for not more than three years. To ensure full protection to mentally incapacitated persons who are incapable of giving consent, part IVC of MHO has provided clarifications that it shall not be construed as enabling the removal of organs from adult mentally incapacitated persons, who are incapable of giving consent, for transplant purposes.

17.4 Under the Offence Against the Person Ordinance (Cap. 212), any person who, with intent to procure the miscarriage of any woman (including women with disabilities), whether she is or is not with child, unlawfully administers or causes to be taken by her any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, shall be guilty of an offence triable upon indictment.

17.5 Under the MHO, consent to the carrying out of treatment, including abortion, in respect of an adult mentally incapacitated person who is incapable of giving consent may be given by the guardian of that person or the Court. Without such consent, treatment may only be administered if the registered medical practitioner who intends to carry out or supervise the treatment considers that the treatment is a matter of urgency; or that the

treatment is necessary and in the best interests of the person. On the other hand, the MHO provides that consent to the carrying out of special treatment can only be given by the Court. Special treatment means medical or dental treatment or both of an irreversible or controversial nature as specified by the Secretary for Food and Health. Sterilisation is currently specified as special treatment under the MHO.

### **Code of professional conduct**

17.6 Apart from the legislation above, requirement for obtaining consent to medical treatment has been set out in the Code of Professional Conduct issued by the Medical Council of Hong Kong. According to the Code, consent to medical treatment is part of quality care and also a legal requirement. Consent has to be given voluntarily by the patient after having been informed of the relevant aspects of the medical procedure including the general nature, effect and risks involved. A patient has the right to refuse to treatment provided that the patient is able to exercise his judgment clearly and freely. The refusal should be respected and preferably documented.

## **Article 18 Liberty of movement and nationality**

### **General framework of protection of freedom of movement**

18.1 Article 31 of the Basic Law stipulates that HKSAR residents shall be free to travel and to enter or leave the HKSAR. Unless restrained by law, holders of valid travel documents shall be free to leave the HKSAR without special authorisation. Disability does not affect a person's entitlement to these rights under the Basic Law.

### **Nationality**

18.2 Article 4 of the Nationality Law of the People's Republic of China (CNL) provides that any person born in China whose parents are both Chinese nationals, or one of whose parents is a Chinese national, shall have Chinese nationality. Article 6 of the CNL states that any person born in China whose parents are stateless or of uncertain nationality and have settled in China shall have Chinese nationality. The Standing Committee of the National People's Congress Explanations, adopted on 15 May 1996, provide inter alia that HKSAR residents who are of Chinese descent and born in Chinese territory (including HKSAR), and others who satisfy the conditions prescribed in the CNL, are Chinese nationals.

18.3 Regarding foreign nationals or stateless persons who wish to naturalise as a Chinese national, the stipulated requirements and factors to be considered are laid down in Articles 7 and 8 of the CNL and "A Guide for Applicants on Naturalisation as a Chinese National" issued by the ImmD of the HKSAR. Applications for naturalisation are considered on a case-by-case basis.

### **Birth registration**

18.4 According to the Births and Deaths Registration Ordinance (Cap. 174), if a child (including a child with disabilities) is born in HKSAR, the hospital in which the child was born is required to report such birth to the registry. The parent is obliged to register the birth at a birth registry. No registration fee is payable if the birth is registered within the 42-day period.

18.5 Births occurred in HKSAR will be registered in accordance with the Births and Deaths Registration Ordinance (Cap. 174), regardless of whether the person concerned has disabilities. The name and nationality of the child are registered upon birth registration.

#### **Travel documents**

18.6 Article 154 of the Basic Law stipulates that the Central People's Government shall authorise the Government of the HKSAR to issue, in accordance with law, passports of the HKSAR of the People's Republic of China to all Chinese citizens who hold permanent identity cards of the Region, and travel documents of the HKSAR of the People's Republic of China to all other persons lawfully residing in the Region. Disability does not affect, and is irrelevant to, a person's eligibility to obtain, possess and utilise travel documents.

### **Article 19**

#### **Living independently and being included in the community**

##### **Policy objective**

19.1 The HKSAR Government fully recognises the right of persons with disabilities to live independently and to participate in the community and is committed to providing the required community support and residential services to persons with disabilities to facilitate their continued living in the community. Hence, the policy objective of the HKSAR Government in respect of the provision of the day care and community support services for persons with disabilities aims at making available training and support to persons with disabilities in response to their needs, assisting them in developing their potential, enabling them to continue to live independently at home and preparing them for full integration into the community. These services also aim at strengthening the carers' caring capacity and relieving their stress so as to provide a better quality of life for persons with disabilities and themselves.

19.2 For those persons with disabilities who cannot live independently and those who cannot be adequately cared for by their families, the HKSAR Government provides them with appropriate residential care and necessary training and support services, with a view to improving their quality of life and helping them develop independent living skills. In addition, special schools also provide boarding service to cater for the long-term boarding needs of students with disabilities and to facilitate their school education.

##### **Day care and community support services**

###### *Services and programme*

19.3 SWD provides a wide range of community care and support services which seek to assist persons with disabilities in developing their physical, mental and social capabilities to the fullest possible extent, to promote their integration into the community as well as to relieve the stress of their family members/carers. These services include:

(a) *Day Activity Centres* which provides day care and training for persons with severe intellectual disabilities aged 15 and above who are unable to benefit from vocational training or sheltered employment. They will be trained to become more independent in their daily lives and to prepare them for better integration into the community or for transition to other forms of service or care where appropriate. Training programmes provided by a DAC include self-care, social and interpersonal skills and simple work skills;

(b) *Community Rehabilitation Day Centre (CRDC)* which provides both professional rehabilitation training service and psychosocial rehabilitation services to

discharged patients. It aims to enhance patients' physical functioning and self-maintenance abilities, strengthen their domestic living and community living skills, help them restructure a healthy lifestyle and productive life roles so as to facilitate their integration into the community. CRDC also provides day respite care service for discharged patients, training programmes and educational courses for their family members/carers to strengthen their caring capacities and relieve their pressure so as to improve their quality of life;

(c) *Day Care Service for Persons with Severe Disabilities* which provides centre-based day care service for persons with severe disabilities. Its objective is to promote care in the community by strengthening the caring capability of families/carers through the provision of regular day care including nursing, rehabilitation, social and personal care services so as to enhance opportunities of persons with severe disabilities to continue living in the community;

(d) *Parents/Relatives Resource Centres* which provides emotional support and practical advice to parents and relatives of persons with disabilities so as to enhance their acceptance of their disabled dependants, and to strengthen their abilities in securing appropriate training opportunities for them as well as in taking proper care of them at home;

(e) *Transitional Care and Support Centre for Tetraplegic Patients* which provides time-defined and goal-oriented community-based rehabilitation programmes to tetraplegic patients discharged from hospital/medical rehabilitation settings to facilitate their return to community living with a view to improving their physical, cognitive, communicative, behavioural, psychological and social functioning in a non-medical setting. Training and support services will also be provided to family members/carers of tetraplegic persons to strengthen their caring capacity;

(f) *Community-based Support Projects for Persons with Disabilities* which provides a wide range of community-based support services, including home care service, personal development programme, specialised programme for persons with autism and mentally handicapped persons with challenging behaviour, support scheme for newly blind persons, home-based rehabilitation training service, junior gateway club and support service for on-the-job disabled persons. These services aim at providing care and support services for persons with disabilities, enhancing the caring capacity for the carers, relieving their stress and improving their quality of life;

(g) *Community Rehabilitation Network* which provides assistance to patients with visceral disability/chronic illness to establish a supporting network in the community and to live a meaningful life through the provision of on-going support in the form of educational and training programmes, social networking and social support services;

(h) *Residential Respite Service* which provides family members/carers of persons with disabilities a planned short break so that they may attend to their personal business such as undergoing a medical operation or taking a vacation tour. Its purpose is to make life for those involved in routine care for persons with disabilities less stressful and more stimulating;

(i) *Rehabilitation and Training Centre for Visually Impaired Persons* which provides comprehensive rehabilitation training programme for visually impaired persons to develop skills for independent living and help them regain self-confidence. The programme covers orientation and mobility training, communication and social skills, home management, work practice and community life education;

(j) *Library Services* for visually impaired persons which provide reading aids, talking or Braille books/magazines/CDs to meet their educational and recreational needs;

(k) *Multi-service Centre for Hearing Impaired Persons* which provides various services, including casework and counselling services, sign language interpretation

services, ear-mould production and repair services and audiological and speech therapy services;

(l) *Specialised Home-based Training and Support Service (SHBTS)* which renders territory-wide specialised support services to persons with severe physical or mental disabilities. In addition to short-term and intensive therapy or maintenance exercises for service users, SHBTS also assists persons with disabilities to overcome adaptation problems at homes so as to enhance their quality of life;

(m) *Agency-based Occupational Therapy Service* which provides occupational therapy, advice and assistance to persons with disabilities of DACs, sheltered workshops and integrated vocational rehabilitation services centres to help them overcome problems in their daily lives and develop their potential to the fullest extent their disabilities permit;

(n) *Agency-based Clinical Psychology Service* which provides psychological support services to people with developmental disabilities. Clinical Psychologists offer professional advice and advisory services to staff of rehabilitation units in regard to the training and management of service users with challenging behaviour. They also provide training to the parents/carers so as to facilitate the rehabilitation process of service users;

(o) *Central Psychological Support Service (CPSS)(Adult Service)* which renders visiting psychological service and expert support to staff of rehabilitation units such as DACs, Sheltered Workshops, and hostels where no agency-based CP service is available;

(p) *Central Para-medical Support Service (CPMS)* which provides occupational therapy professional advisory and support services for DACs and Sheltered Workshops/Integrated Vocational Rehabilitation Service Centres. It also provides direct occupational therapy service for autistic persons to improve their behavioural, communication, independent living and social skills and abilities, and advisory service on physiotherapy for DACs;

(q) *Social and Recreational Centre for the Disabled* which organises a variety of activities to fulfil the social, recreational and developmental needs of persons with disabilities and assists them in integrating into the community; and

(r) *Occasional Child Care Service* for children with disabilities which provides a safe venue for parents or carers to place their children with disabilities from 2 to 6 of years of age for temporary care so as to enable them to attend to personal or urgent matters.

#### *District Support Centres for persons with disabilities (DSCs)*

19.4 We are mindful of public expectations and commentators' views expressed during the public consultation for enhancing district support services for persons with disabilities living in the community. In this regard, we strive for continuous enhancement in the provision of community care and support services for persons with disabilities and their carers and have launched a series of new initiatives in recent years. Since January 2009, SWD has set up 16 DSCs through re-engineering existing community support services. Under this district-based approach, DSCs provide persons with disabilities and their family members/carers with one-stop community support services which aim at enhancing the domestic and community living skills of persons with disabilities, thereby facilitating their integration into the community. DSCs also provide training and support services to the family members/carers of persons with disabilities so as to strengthen their caring capacity and to relieve their stress.

#### *Pilot scheme on home care service for persons with severe disabilities*

19.5 Given the conditions of persons with severe physical and/or intellectual disabilities and the level and intensity of care they require, the HKSAR Government is mindful of their

special care needs and the immense pressure faced by their family carers at home. To strengthen the support for this most vulnerable group, the HKSAR Government has earmarked HK\$163 million under the Lotteries Fund<sup>14</sup> to implement a three-year pilot scheme for providing persons with severe disabilities who are living in the community and are on the waiting lists for subvented residential care services with home care services.

19.6 Under this pilot scheme, persons with disabilities who are on the waiting lists for subvented residential care service of Hostel for Severely Mentally Handicapped Persons, Hostel for Severely Physically Handicapped Persons, and Care and Attention Home for Severely Disabled Persons will be provided with a package of home-based support services to meet their care and training needs including personal care and escort service, occupational therapist/physiotherapist rehabilitation training service and nursing care service. These enhanced support services seek to facilitate home living of these persons with disabilities while waiting for residential care services, and help relieve the stress of their family carers. The pilot scheme will commence in the fourth quarter of 2010–11.

*Community support services for ex-mentally ill persons*

19.7 In recent years, SWD has launched a number of new initiatives to enhance community support services for persons with mental health problems and their families and carers. The services cater for the different stages of the social rehabilitation of the service users, and seek to improve their social adjustment capabilities, prepare them to re-adjust to community living, help them develop their social and vocational skills and raise public awareness of the importance of mental health. These schemes include:

(a) *Community Mental Health Intervention Project (CoMHIP)* which provides specialised social work intervention, including casework, outreaching visits, therapeutic and supportive group services with a view to assisting persons aged 15 and above living in the community with suspected mental health problems and/or their family members to deal with problems arising from their poor mental health conditions. CoMHIP adopts a multi-disciplinary and district-based approach in service delivery through close collaboration among SWD, the HA and NGOs;

(b) *Community Rehabilitation Day Services* which provide a time-defined outreaching occupational therapy training to those ex-mentally ill persons living in the community with a view to helping them minimise relapse to hospitalisation and better re-integrate into the community. The OT training programmes include a variety of skills training in the areas of self care, home management, health management and community living;

(c) *Community Mental Health Care Services* which provide care and support to ex-mentally ill persons in the community. These services, which consist mainly of outreaching visits, aim to provide continuous support to mental patients newly discharged from psychiatric wards/hospitals and halfway houses so as to help them solve their adjustment problems and re-integrate into the community;

(d) *Training and Activity Centre for Ex-mentally Ill Persons (TAC)* which is set up to enhance the social adjustment capability of ex-mentally ill persons. It aims to help them become more independent in their daily living and develop social and vocational skills. A social club is attached to each centre to provide them with social and leisure activities; and

<sup>14</sup> The Lotteries Fund was created in June 1965 by Resolution of the LegCo for the purpose of financing social welfare services. The fund is primarily used to finance the capital expenditure of welfare projects and provide one-off grants to experimental projects with limited duration.

(e) *Community Mental Health Link* attached to halfway houses or TAC which provides additional care and support to ex-mentally ill persons and their families/carers in the community. The district-based services include tangible service (e.g. meals, laundry and shower), outreaching visits, consultation on employment, counselling, networking to local resources, social/recreational/educational programmes, programmes for families/carers and public education programmes.

19.8 For further service enhancement, SWD set up the first Integrated Community Centre for Mental Wellness (ICCMW) in March 2009 to provide one-stop, accessible and integrated community mental health support services to discharged mental patients, persons with suspected mental health problems, their families and carers and residents living in the district. These integrated services range from early prevention to risk management through casework counselling, outreaching visits, therapeutic groups, day training, occupational therapy training, supportive groups, public education programmes and, where required, direct liaison with the cluster-based community psychiatric service of HA for urgent medical consultation.

19.9 In light of the successful experience of the pilot operation of the ICCMW, SWD has secured an additional annual provision of about HK\$70 million to expand this integrated service model across the territory. SWD is in the course of finalising the operational logistics with the concerned NGOs and aims to put in place this integrated service model in all the 18 districts within 2010–11.

19.10 The ICCMWs will work closely with HA to provide timely community support to persons with severe mental illness discharged from hospitals under HA's Case Management Programme (CMP). In tandem, SWD and HA have also strengthened their collaboration by setting up communication and co-ordination platform both at the headquarters and district levels, with participation of relevant stakeholders, e.g. the NGOs, Government departments, etc. in order to develop strategies and enhance co-ordination in handling problems relating to mental health services. To complement HA's new initiatives in providing support for newly discharged psychiatric patients, SWD has also secured additional funding of about HK\$6 million to provide 14 additional medical social workers (MSWs) to strengthen the psychiatric medical social service for psychiatric patients and their family members/carers.

### **Residential care services**

#### *Provision of subsidised residential care services*

19.11 SWD provides a wide range of subsidised residential care services for persons with different types and levels of disabilities who are unable to live independently in the community or adequately cared for by their families. These services include:

(a) *Hostel for Severely Mentally Handicapped Persons* which provides home living for persons with severe intellectual disability who lack basic self-care skills and require assistance in personal and nursing care. As at March 2010, there were 3,058 such places in the HKSAR;

(b) *Hostel for Moderately Mentally Handicapped Persons* which provides home living for persons with moderate intellectual disability who are capable of basic self-care but lack adequate daily living skills to live independently in the community. As at March 2010, there were 2,178 such places in the HKSAR;

(c) *Supported Hostel* which provides group home living for persons with disabilities who can only live semi-independently with a fair amount of assistance from hostel staff in daily activities. As at March 2010, there were 400 such places in the HKSAR;

(d) *Care and Attention Home for Severely Disabled Persons* which provides home living for persons with severe intellectual disability or severe physical disability who are in need of nursing and intensive personal care. As at March 2010, there were 857 such places in the HKSAR;

(e) *Hostel for Severely Physically Handicapped Persons* which provides home living for persons with severe physical disability who lack self-care skills and require assistance in personal and nursing care. As at March 2010, there were 528 such places in the HKSAR;

(f) *Long Stay Care Home* which provides residential care for chronic mental patients who are in stable or controlled medical and mental conditions requiring no active medical treatment but some nursing care. As at March 2010, there are 1,407 such places in the HKSAR;

(g) *Halfway House* which provides a transitional period of residential care to facilitate ex-mentally ill persons to achieve an optimal level of functioning for the purpose of community reintegration. As at March 2010, there were 1,509 such places in the HKSAR;

(h) *Care and Attention Home for the Aged Blind* which provides residential care, meals, personal care and limited nursing care for elderly blind persons who suffer from poor health or physical/mental disabilities with deficiency in daily living activities but are mentally suitable for group living. Some care and attention homes for the aged blind have infirmary care unit, in which the level of care provided is equivalent to infirmary. As at March 2010, there were 825 such places in the HKSAR;

(i) *Small Group Home for Mildly Mentally Handicapped Children/Integrated Small Group Home* which provides home-like residential care service to school-age children with mild intellectual disability whose families cannot give them adequate care. There are two modes of operation either in a group of eight children with mild intellectual disability or in a mix of one child with mild intellectual disability to seven ordinary children. As at March 2010, there were 64 such places in the HKSAR;

(j) *Residential Special Child Care Centre* which provides residential care to children with disabilities in order to protect and promote their health and well-being, and nurture their growth and development with regard to their physical, social, emotional and intellectual needs. As at March 2010, there were 110 such places in the HKSAR; and

(k) *Integrated Vocational Training Centre (IVTC) (Residential Service)* which provides residential service to those persons with disabilities receiving comprehensive vocational training and rehabilitation services at the Centre. It aims at developing their social and economic potential, and enabling them to integrate into the community. There are two IVTCs and one of which provides residential service. As at March 2010, there were 170 such places in the HKSAR.

As at March 2010, there were a total of 11,106 subsidised residential care places in the HKSAR.

#### *Initiatives to enhance the provision of residential care services*

19.12 The HKSAR Government is mindful of the increasing demand for various residential care services for persons with disabilities, in particular those for persons with severe disabilities which have longer waiting lists, and the public expectations in increasing the supply of residential care places for persons with disabilities. In this regard, we have been adopting the following three-pronged approach in accordance with the strategic directions set out in RPP 2007 in order to encourage participation from different sectors in providing residential care services for persons with disabilities:

- (a) Continuing to steadily increase the number of subsidised residential care home places;
- (b) Regulating the residential care homes for persons with disabilities (RCHDs) through a statutory licensing scheme, so as to ensure their service quality on one hand and help the market develop residential care homes of different types and operational modes on the other; and
- (c) Supporting NGOs to develop self-financing homes.

19.13 In line with the policy directions, the HKSAR Government has been continuously increasing the provision of subsidised residential places in recent years. As mentioned above, at present, there are about 11,100 subsidised residential care places for persons with disabilities, representing an increase of about 74% over the number of places in 1997. Over the past three years, we have provided 517 additional subsidised places in RCHDs. The HKSAR Government expenditure on rehabilitation and medical social services under SWD has also risen from HK\$1,395 million in 1997–98 to HK\$3,378 million in 2009–10, representing an increase of 142%. As of 2009–10, 37.4% (or HK\$1,263 million) of the expenditure is for the provision of residential care services for persons with disabilities.

19.14 To meet the increasing demand, the HKSAR Government has stepped up efforts to provide additional subsidised residential care places as undertaken in the 2009–10 Policy Address and announced in the 2010–11 Budget. In this regard, the HKSAR Government has earmarked sites in public housing estate developments, projects under the Urban Renewal Authority as well as vacant Government premises, etc. for provision of residential care services. We estimate that an additional 939 residential care places, of which 460 (or about 50%) are for hostels for persons with severe disabilities which have a longer waiting time, will come on stream in the coming two years. This amounts to 14% of the 6,700-plus persons with disabilities on the waitlist. We are fully committed to overcoming difficulties encountered in identifying suitable premises for setting up new rehabilitation facilities including RCHDs and will continue to solicit greater local support for setting up of these facilities.

19.15 While the HKSAR Government will maintain its commitment to increasing the number of subsidised residential care home places, we will continue to encourage NGOs to develop self-financing homes through providing assistance in identifying suitable premises, support for concessionary rental and funding for fitting-out cost in setting up self-financing homes. To this end, a total of 325 residential places for persons with various degrees and types of disabilities operated on self-financing basis are being provided.

19.16 According to information available at March 2010, we estimate that there will be an additional provision of around 1,400 subsidised residential care places for persons with disabilities in the next five years, subject to the progress of project planning and preparation works. We will continue to step up our efforts in identifying new resources and suitable sites for setting up new RCHDs in order to maintain a steady increase in the provision of subsidised residential places for persons with disabilities.

*New initiatives to enhance the service quality and increase the supply of places in residential care homes for persons with disabilities*

19.17 As at the end of 2009, there were altogether 304 RCHDs, providing around 14,330 places in the HKSAR. These included 228 subvented and two Government-operated homes providing about 11,100 subsidised places; 20 self-financing homes providing about 325 places; and 54 private homes providing about 2,905 places. While private homes have been making contribution to the care for persons with disabilities, the quality of their services, which is not always satisfactory, has been a subject of public concern.

19.18 At present, there is no statutory framework to monitor the operation of RCHDs. The service standards of subvented homes are monitored under the Service Performance Monitoring System of SWD since 1999. A Code of Practice, issued by SWD in 2002, serves as a guide on the service standards for all RCHDs, including subvented, self-financing and private homes. These service standards are not mandatory as the Code of Practice does not have legal backing. SWD has also implemented a Voluntary Registration Scheme (VRS) for private RCHDs as an interim measure to encourage private RCHD operators to enhance their service quality. In spite of SWD's efforts in promoting VRS and implementing the non-statutory Code of Practice in the last few years, the response from the private RCHDs to VRS has been lukewarm. A number of RCHDs are known to be operating below the service standards set out in Code of Practice.

19.19 Having regard to the views of LegCo, groups of persons with disabilities and their parents and the rehabilitation sector, and bearing in mind that we have had in place since 1995 a statutory licensing scheme for the elderly homes, the HKSAR Government has decided to regulate all RCHDs through a statutory licensing scheme such that all RCHDs are required to meet a set of basic service standards as stipulated in the legislation to ensure service quality. The legislation which governs the statutory licensing scheme, namely the Residential Care Homes (Persons with Disabilities) Bill, has been introduced into LegCo on 30 June 2010.

19.20 In tandem with the legislative proposal, we will introduce suitable complementary measures, including a pilot Bought Place Scheme (BPS) for private RCHDs to be introduced prior to the implementation of the statutory licensing scheme. The pilot BPS aims at upgrading the service standards of these homes through enhanced requirements in staffing and space standards, helping the market develop more service options for persons with disabilities, and increasing the supply of subsidised residential care places. SWD will adopt a two-phased approach in purchasing BPS places over the 4-year pilot period from private RCHDs, with an initial purchase of around 100 places in the first year, building up to a total of 300 from the second year onwards. Having regard to the response of service users, the number of new homes coming on stream, the quality of places to be provided by and the response of private RCHDs, etc., SWD will consider suitable adjustment to the number of places to be purchased.

#### **Constraints in the development of rehabilitation services**

19.21 Some commentators raised concern over the difficulties encountered by the HKSAR Government in identifying suitable sites and obtaining the local community's support for the development of RCHDs, setting up of ICCMWs and other rehabilitation services. There are a number of constraints in identifying suitable sites. We need to take into consideration a number of factors, including whether the site is accessible by public transport, whether the space and building structure of the vacant premises can conform to the statutory requirements on fire safety, barrier-free access, ventilation and natural lighting, whether there is sufficient space to provide the full range of services, e.g. space for matching day training services in addition to bed space, etc. In this regard, SWD will continue to step up efforts in identifying on an ongoing basis suitable sites at the planning stage of development projects and vacant premises and public housing units for conversion into RCHDs and other rehabilitation service units.

19.22 After a site is identified, SWD conducts local consultation to ensure that there is local support for the project. The process is not always a straightforward one. To secure local support, SWD will continue to solicit assistance of relevant stakeholders, including psychiatrists, rehabilitation NGOs and groups of persons with disabilities and parents where appropriate, in explaining the nature of proposed rehabilitation services to members of local consultative bodies such as District Councils, mutual aid committees, and local residents.

As detailed under Article 8 of this Report, we will also continue to collaborate with local communities, rehabilitation NGOs, groups of persons with disabilities and other sectors to step up public education programmes to promote the core values of the Convention and build an inclusive society.

### **Public housing**

#### *Relaxed allocation standard for persons with disabilities*

19.23 To facilitate the integration of persons with disabilities into the community, HD has put in place a special arrangement to relax the allocation standard of public rental housing for persons with disabilities. For Waiting List applicants and sitting public housing tenants alike, when housing allocations are made for households with members who are persons with disabilities, exceptional allocation of a particular type of flat or a flat in specific areas will be made on individual merits to cater for their social or medical needs where resources permit. A larger flat will be offered (i.e. one-head up for a family with one member with disabilities) if a family member:

- (a) Has non-temporary need for indoor use of wheelchair;
- (b) Suffers from hyperactivity problem;
- (c) Requires Continuous Ambulatory Peritoneal Dialysis treatment at home; or
- (d) Suffers from tetraplegia.

#### *Rent Assistance Scheme (RAS)*

19.24 After receiving 25% or 50% rent reduction continuously for 3 years, ordinary RAS beneficiaries living in newer block types are required to move to cheaper accommodation if there are suitable flats available. Suitable flats refer to those in the same District with monthly rent at least 20% less than the full monthly rent of the flats occupied by the RAS beneficiaries concerned. Households with members with disabilities (e.g. deaf, blind, mental illness, intellectual disability) are, however, exempted from the requirement to move.

#### *Underoccupation policy*

19.25 To safeguard valuable public housing resources, the Housing Authority initiates measures to transfer seriously under-occupied households to smaller flats since May 2007. Households with members with disabilities may, however, be allowed to stay-put. If they transfer to smaller flats voluntarily, concessionary measures (e.g. opportunity to move to new estates, grant of Domestic Removal Allowance) applicable to general under-occupied households will also be offered to them.

## **Article 20**

### **Personal mobility**

20.1 As mentioned in paragraphs 9.1 to 9.56 above, the HKSAR Government has been making active efforts to develop a barrier-free environment for persons with disabilities. To facilitate persons with disabilities to fully utilise the barrier-free facilities independently, the HKSAR Government, the business sector and NGOs have been working closely in developing assistive technologies and providing persons with disabilities with suitable assistance with a view to enhancing their personal mobility.

### Services for acquiring an assistive device

20.2 With the improvement in technology in recent years, design for assistive devices has become more user-focused and can effectively facilitate a more self-directed and independent daily living. The HKSAR Government has put in place proper mechanisms to enable persons with disabilities to acquire suitable assistive devices to meet their special needs.

20.3 Prior to discharge from public hospitals, patients would be assessed and advised by a multi-disciplinary team, comprising doctors, nurses, allied health staff and/or MSWs, on the formulation of a discharge plan which covers advice on the appropriate assistive device(s) needed, ranging from utensils and appliances to home renovation, to facilitate their community living.

20.4 In parallel, the SHBTS under SWD provides territory-wide home-based specialised support to persons with severe physical disabilities or mental disabilities. Apart from therapy and maintenance exercises, the multi-disciplinary teams also assist clients to overcome adaptation problems at their homes, and provide professional advice and assistance in acquiring rehabilitative equipment, adaptive aids/devices and home modifications.

20.5 In addition, the Jockey Club Rehabilitation Engineering Centre, which is associated with the Hong Kong Polytechnic University, has been conducting researches and development of assistive device and rehabilitation technology and providing user-focused services to make available such technology to the public. The Jockey Club Rehabilitation Engineering Centre has also invented a number of award-winning devices over the years. An example is the “Electronic Bat Ears”, which, through ultrasound transmission, serves as an effective assistive device for persons with visual impairment to identify auxiliary equipment and the traffic system.

20.6 Apart from acquiring their required assistive device from a wide range of private vendors and professionals in the market, persons with disabilities may also approach a number of rehabilitation NGOs for specialised advice and services to meet their special needs. Apart from provision of professional advice by occupational therapists and physiotherapists, these rehabilitation NGOs also operate various workshops to tailor-make assistive equipment for persons with disabilities. Examples of services provided by NGOs in facilitating persons with disabilities in acquiring suitable assistive devices include:

(a) Rehabilitation seats and wheelchairs and other home rehabilitation provided by NGOs serving persons with physical disabilities;

(b) Reading aids, talking or Braille books/magazines, development of suitable computer softwares and provision of the required training and technical support by NGOs serving persons with visual impairment;

(c) Audiological assessment and advice on suitable assistive device such as amplified telephone, induction loop system, alerting device, etc. and ear-mould production and repair services by NGOs serving persons with hearing impairment; and

(d) Technical aid consultancy, assessment and loan services by the Technical Aids and Resource Centre and the Skills Centres of the Vocational Training Council (VTC).

20.7 With the co-ordinated efforts of NGOs, the business sector, professional bodies, academic institutions and the rehabilitation sector as well as funding subsidies from the HKSAR Government and charitable funds, we have been striving to enhance the communication and access to information of persons with disabilities in light of advancement of technologies. For example, with the financial support from charitable

funds, technical support by a telecommunications and information services company and active participation by Government departments, public organisations and the business sector, an NGO has developed a “3G barrier-free hotline system” to facilitate persons with hearing impairment to access to interactive information (e.g. weather forecast information, online appointment for services, counselling services, etc.) through the text display system of 3G phone.

20.8 To facilitate the use of Automated Teller Machines (ATMs) by persons with visual impairment, the Hong Kong Association of Banks (HKAB) has carried out a pilot project to install protruding symbols to ATMs. The project is taken forward in consultation with the NGOs concerned to ensure the applicability and effectiveness of the design of the protruding symbols for persons with visual impairment. From 1 June 2009, 82 ATMs with protruding symbols are available in HKSAR on a pilot basis to enable more visually impaired customers to better enjoy the convenience of ATM services. HKAB has recently announced the full launch of 2,800 ATMs with protruding symbols starting in early July 2010. The banking industry has also started introducing touch-screen ATMs and currently around 10% of the ATMs in HKSAR are of the touch-screen type. Recognising the difficulty which may be faced by the visually impaired in using touch-screen ATMs, the Hong Kong Monetary Authority (HKMA) has written to the banking industry reminding authorised institutions to ensure that the needs of the visually impaired are catered for while introducing the new service. Different banks have been consulting the visually impaired community in studying other potential solutions including the provision of “short-cut keys” to offer an alternative for visually impaired customers to operate touch-screen ATMs using keypad input.

20.9 HKMA is also committed to promoting the accessibility of HKSAR currency notes to the visually impaired. From meetings with the visually impaired groups, the HKMA was able to get their views on how the accessibility features should be enhanced. Taking into account such views and findings of research into the practice of other countries, Braille numeral and tactile lines are introduced for the first time to HKSAR banknotes. The tactile lines provide an alternative way of identification for those who cannot read Braille. In addition, a new note measuring template is introduced to facilitate differentiation of the denominations. This note measuring template is a handy plastic device to measure the length of a banknote, which differs by denominations. It is available for distribution free of charge through voluntary agencies serving the visually impaired community. A telephone info line has been set up for the visually impaired to understand the accessibility features of the new banknotes and the guide to use the new note measuring template. New notes bearing the above accessibility features will be put into circulation by phases, starting with HK\$1,000 notes in the fourth quarter of 2010.

20.10 EDB also encourages schools to use assistive technology to support students with disabilities. A top-up fund is available for ordinary schools to procure special furniture and equipment for individual students with disabilities on a need basis. At the same time, special schools have been using various assistive technology devices to cater for the learning needs of their students with visual impairment, hearing impairment, physical disability and intellectual disability. More information of this measure is also provided in paragraph 24.34.

20.11 Some commentators pointed out that the telephone appointment system for medical services and the announcement system of public clinics do not accommodate the needs of persons with hearing impairment. Introduced in 2006, the phone appointment system of HA for its General Outpatient Clinic (GOPC) service is primarily targeted at the under-privileged and vulnerable groups. The system has addressed the problem of long queues at GOPCs and minimised the risk of cross-infections when patients are queuing at the clinics for appointment. In view of the specific needs of patients with hearing impairment, HA has

implemented a series of measures to assist them in using GOPC services. Such measures include setting up help desks in each GOPC to render assistance to these patients; posting notices in GOPCs to assist patients with hearing impairment in identifying themselves at registration counters; placing special communication cards at registration counters for use by patients with hearing impairment to facilitate communication with HA's staff; and issuing guidelines to HA's staff to ensure that appointments will be arranged for patients with special needs as early as possible. Meanwhile, HA is piloting at some clinics the booking of GOPC service by facsimile and will roll it out to more clinics subject to the evaluation of the pilot. As for the announcement system in GOPCs, individual clinics have launched a number of measures such as setting up electronic screen display boards to assist patients with hearing impairment. As a long-term improvement, HA has planned to install more electronic screen display boards in its future improvement works projects.

#### **Financial assistance to acquire an assistive device**

20.12 HKSAR Government also provides financial assistance to facilitate persons with disabilities in acquiring appropriate assistive devices through the following means, based on the financial needs of individual applicants:

- (a) Non-means tested monthly DA is provided to all eligible persons with severe disabilities to meet special needs arising from their disability;
- (b) Those under the CSSA Scheme, subject to medical recommendation, may seek reimbursement of the costs for acquiring the necessary assistive devices; and
- (c) Several charitable funds also provide financial assistance for acquiring assistive devices.

MSWs under the SWD offer assistance to persons in need in acquiring the service of NGOs and applying for the above financial assistance where required. They could also help patients with genuine needs, prior to their discharge from hospital, to apply for public housing with home facilities renovated to suit their specific needs.

#### **Adaptation work in domestic flats**

20.13 Patients who have genuine relevant medical and social needs, and whose home environment has been assessed as no longer fit for future living, may apply for "Compassionate Rehousing" to suitable public rental flats, through MSWs of SWD. Home modifications for the flats are provided by HD free of charge. Patients who have already been living in public housing can also apply for special transfers to suitable flats. For eligible applicants who are not allocated suitable flats immediately after discharge, support services will be arranged by SWD to cater for their specific needs in the interim.

20.14 On obtaining a medical practitioner's recommendation on allocation of public rental housing for persons with disabilities, HD will liaise closely with the medical practitioner concerned and provide detailed information on the flat proposed for allocation. Actual offer of flat will be made on confirmation that the flat is suitable for allocation.

20.15 Since March 1982, the Housing Authority has undertaken to bear the expenses of adaptation work in flats allocated to persons with disabilities to facilitate their access to and mobility within the flat. Typical adaptation work includes:

- (a) Replacement of Asiatic-type water closet with pedestal type;
- (b) Provision of handrails inside lavatory;
- (c) Raising balcony floor level to that of the living area and tiling the raised balcony floor;

- (d) Widening doorway and providing new door;
- (e) Taking down toilet wall and door and replacing with folding plastic door;
- (f) Provision of ramps to flat or toilet;
- (g) Installation of flashing door bell; and
- (h) Additional sanitary washing basin for disinfection.

20.16 Estate staff will, in consultation with relevant parties concerned (e.g. medical officer, physiotherapist, occupational therapist, MSW), decide the type of work to be undertaken and arrange for the adaptation work to be carried out expeditiously so as to minimize inconvenience to the disabled.

#### **Rehabilitation engineering services**

20.17 Allied health staff of HA, including professionals in occupational therapy, clinical psychology, physiotherapy, audiology, prosthetic-orthotic, speech therapy and podiatry, etc., provide various rehabilitation treatment and training to patients, including persons with disabilities. These services aim to improve their physical mobility and body functions as well as help them make use of aids to cope with their daily needs and manage their own affairs. Allied health staff also provides assessment, treatment and education in the community. Outreach visits and home assessment are also provided depending on the needs of patients to help them adapt to living in the community.

20.18 Schools for children with physical disability and schools for children with severe intellectual disability are also provided with occupational therapists and physiotherapists who would provide the required training for the students with a view to improving their mobility. Mobility instructors are also provided for schools for children with visual impairment to develop the orientation and mobility skills of the students.

### **Article 21**

#### **Freedom of expression and opinion, and access to information**

21.1 The HKSAR Government recognises the rights of persons with disabilities to freedom of expression and opinions, including the freedom to seek, receive and impart information and ideas through all forms of communication of their choosing in accordance with law. In this regard, we have taken suitable measures to ensure that information provided to the general public is accessible to persons with disabilities and that persons with disabilities can have suitable means of communication in official interaction and access to information.

#### **General framework to protect freedom of expression and opinion**

21.2 Freedom of expression and freedom of the press are fundamental rights enjoyed by all residents in the HKSAR. These rights are enshrined in Article 27 of the Basic Law and Article 16 of HKBOR. The HKSAR Government is firmly committed to protecting freedom of speech and of the press, and maintaining an environment in which a free and active press can operate under minimum regulation. Freedom of the press is indispensable to HKSAR's status as an international city and the continual development of our economy.

21.3 In HKSAR, there are several platforms, both within the Government and in the public, providing channels specifically for persons with disabilities to express their opinions. Further information is provided under Article 29.

## **Administrative measures to protect the freedom to seek and receive information**

### *Right to obtain information and code on access to information*

21.4 It is the HKSAR Government's policy to make available as much information as possible to the public to enhance their understanding of the formulation and implementation of policy. To this end, we introduced the Code on Access to Information (the Code) in March 1995, initially on a pilot basis which served as an administrative framework for the provision of information held by Government bureaux/departments. By December 1996, the Code was implemented across the entire HKSAR Government.

21.5 Under the Code, information held by the HKSAR Government is made available to the public, either routinely or on request, unless there are valid reasons — related to public or commercial interests, third party or privacy of individuals — to withhold it. Members of the public who are dissatisfied with a department's response under the Code may complain to the Ombudsman. All members of the public, including persons with disabilities, receive the same treatment under the Code. For information made available routinely to the public at the homepages of departments, departments follow the "Guidelines on Information Dissemination through Government Websites" issued by Home Affairs Bureau (HAB) when designing their homepages to facilitate access by the visually-impaired (please see paragraphs 21.6 to 21.8 below). As regards information provided upon request, departments will provide soft copies in Word or PDF format, as far as possible, for visually impaired persons at their request.

### *Access to Government announcement and information*

21.6 All bureaux/departments of the HKSAR Government have their homepages (in English and in Chinese), providing information such as policy initiatives, details of services, contact method, announcements, etc. for the public.

### *Accessibility of websites*

21.7 To ensure the user-friendliness of the homepages, HAB has issued the "Guidelines on Information Dissemination through Government Websites" for the compliance of all bureaux/departments when designing official homepage. The said Guidelines require bureaux/departments, among others, to make appropriate use of new Internet technologies to enhance accessibility to users while at the same time catering for the needs of Internet users with visual impairment. An inter-departmental committee, comprising representatives of HAB, ISD, and Office of the GCIO has been set up to monitor compliance with the revised Guidelines and advise bureaux/departments on ways to attain and maintain the standards promulgated in the Guidelines. It will also keep under review and, if necessary revise the Guidelines. Since 2003, web sites of Government departments have complied with the Guidelines. To keep in pace with international standards and web technology development, the latest revised version of the guidelines was released in July 2009.

21.8 GovHK (<http://www.gov.hk>) is the one-stop portal of the HKSAR Government. In developing GovHK, we have accorded priority to its accessibility. To ensure that the design of GovHK can cater for the needs of persons with disabilities, we have consulted organisations representing persons with disabilities, conducted usability tests and focus group discussions involving persons with disabilities. A range of features has been built into GovHK to facilitate use by persons with disabilities, including the following:

- (a) Conformity to the World Wide Web Consortium's internationally recognised Web Content Accessibility Guidelines 1.0 to priority 2 level (Double-A conformance);

- (b) Tested against and optimised for the common screen readers and screen magnifying software used by the visually impaired in HKSAR, including Chinese JAWS 10 and Windows Light 2007;
- (c) Tested on screen magnifying softwares such as ZoomText;
- (d) Users who may be less adept at using mouse, such as persons with visual impairment or those with neuromuscular impairments, may need to use the keyboard without a mouse to browse a website. GovHK is designed in such a way that one can use the keyboard exclusively to access all features and content;
- (e) Accessible by Popular Browsers and Operating Systems: The HTML 4.01 standard has been applied to the webpages on GovHK, and users can access them with the leading browsers at popular versions that comply with the standard; and
- (f) User selectable choice of text size, presentation colours to cater for persons with visual impairment.

21.9 In producing APIs, ISD will ensure that they are produced with sub-titles to facilitate the understanding of message by persons with hearing impairment. Government announcement is also uploaded to ISD's website for easy access by the hearing impaired.

21.10 Noting that captions are provided in some of the television programmes and sign language interpretation is provided in a few selected programmes, some commentators considered that captions should be provided more extensively and sign language interpretation, as a step forward, should be provided for live broadcast of meetings of LegCo, announcement of Policy Address and Budget of the HKSAR Government and other major announcements. In January 2010, the LegCo Commission launched a pilot video webcasting service which can accommodate 100 web viewers at any one time to cover some of the meetings of LegCo and its committees. As part of this service, simultaneous sign language interpretation is provided for Council proceedings on Question Time, the delivery of Chief Executive's Policy Addresses, Chief Executive's Question and Answer Sessions and the delivery of Financial Secretary's Budget Speeches. As the HKSAR plan is to relocate the LegCo Complex to the Tamar Development Project as mentioned in paragraph 9.54, the said pilot scheme provides valuable experience for formulating and implementing the webcasting strategies in the new LegCo Complex to cater for the needs of the general public, including persons with hearing impairment. For domestic free television programme services, the licensees are required under the directions issued by the Broadcasting Authority pursuant to their respective licences to provide subtitling in designated types of programmes and in designated time-slots to cater for the needs of the hearing-impaired persons. At present, the licensees are required to provide subtitling for the analogue and simulcast digital channels for all news and weather programmes, current affairs programmes and emergency announcements on both their Chinese and English language services. In addition, on the Chinese analogue channels, Chinese subtitles must be provided for all programmes shown between 7:00 p.m. and 11:00 p.m. On the English analogue channels, the licensees are required to provide subtitles for the two-hour English programmes on a weekly basis with educational value for teenagers. The subtitling requirements also apply to the simulcast digital channels. As regards the simulcast digital channels, the licensees are allowed to provide the subtitles in closed captioning to allow viewers to display the subtitles on screen according to their need. Starting from 2010, the licensees are required to provide subtitling for all drama programmes carried on the analogue/simulcast Cantonese channels. By the end of 2012, they will provide English subtitling for all programmes broadcast on the analogue/simulcast English channels between 8:00 p.m. and 11:30 p.m.

### Use of sign language

21.11 Under HKSAR Government subvention, rehabilitation NGOs currently provide sign language interpretation service not only to persons with hearing impairment, but also the Judiciary, Government departments such as the Police, CSD, SWD, and other public organisations such as HA, Ocean Park, the Hong Kong Disneyland to facilitate their communication and effective delivery of services to persons with hearing impairment. Rehabilitation NGOs, in collaboration with Government departments, local communities and groups of persons with hearing impairment also regularly conduct sign language training for persons with hearing impairment, sign language interpreters, staff of Government departments and public organisations and members of the public, publish training manuals on Hong Kong Sign Language and organise publicity activities to promote the use of sign language with a view to enhancing the integration of persons with impairment into the community.

21.12 Under the HKSAR Government's subvention, the Social and Recreational Centres for the Disabled also organise sign language training courses to develop skill learning of persons with hearing impairment with a view to strengthening their communication with hearing people. Interpretation service for Government departments, NGOs and hearing impaired persons in relation to job interviews, court hearing, marriage registration, medical consultations and public examinations, etc. are also provided. Multi-service Centre for the hearing impaired persons (MSC) also provides a full range of social rehabilitation services for the hearing impaired persons, including counselling, sign language interpretation services and training courses, ear-mould production and repair services as well as audiological and speech therapy services. NGOs have incessantly placed efforts in promoting the use of sign language through organisation of mass programmes and publication of sign language reference books for the public.

21.13 As echoed by some commentators during the public consultation, groups of persons with hearing impairment and servicing NGOs considered that the HKSAR Government should further promote the use of sign language, e.g. to expand the scope of provision of sign language interpretation service for persons with hearing impairment in delivery of services where required by Government departments, public bodies and business organisations. As mentioned in paragraph 21.11 above, the Judiciary, HA, various Government departments such as the Police, CSD, ImmD and other organisations such as Ocean Park and Hong Kong Disneyland will arrange for sign language interpretation service as required to facilitate communication with persons with hearing impairment. In this regard, 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 language. Furthermore, to promote the wider use of sign language and enhance inclusion, the RAC has set up a working group to assist it in advising the HKSAR Government on ways to promote the use of sign language. Members of the Working Group comprise RAC members, persons with hearing impairment, sign language interpreters, representatives of rehabilitation NGOs, representatives of education sector and representatives of relevant Government bureaux and departments. The Working Group will consult persons with hearing impairment and other relevant stakeholders in mapping out the strategic directions in promoting the use of sign language with a view to enhancing support for persons with hearing impairment in their daily lives and building an inclusive community.

21.14 Some commentators also expressed concern over the inadequate provision of sign language training for persons with hearing impairment and suggested including sign language in the syllabus of special schools for children with hearing impairments. The aim of education for children with hearing impairment is to help them develop their potential to the full for life-long learning and achievement, and grow up well-adjusted and independent

so that they can integrate into society as far as possible. They are, therefore, encouraged to use their residual hearing to develop as much language as possible so that they can master adequate communication skills for everyday interaction with their hearing counterparts. To this end, the medium of instruction for special schools for children with hearing impairment is aural/oral, manual (which includes signing) or total communication with due regard to the educational needs of students. Special schools will organise relevant training for teachers to enable them to adopt the most appropriate mode of communication that best suits the students' abilities and needs.

## **Article 22**

### **Respect for privacy**

#### **General framework to protect personal privacy**

22.1 The HKSAR Government recognises the right of all persons (including persons with disabilities) of the protection of their private life, honour and reputation. Article 30 of the Basic Law provides that the freedom and privacy of communication of HKSAR residents shall be protected by law. No department or individual may, on any grounds, infringe upon the freedom and privacy of communication of residents except that the relevant authorities may inspect communications in accordance with legal procedures to meet the needs of public security or of investigation into criminal offences. In addition, Article 14 of HKBOR guarantees the protection of privacy, family, home, correspondence, honour and reputation.

#### **Relevant legislation**

*Personal Data (Privacy) Ordinance (Cap. 486) and the work of the Privacy Commissioner for Personal Data*

22.2 We take suitable measures to protect the privacy of personal data of individuals, including that of persons with disabilities. The Personal Data (Privacy) Ordinance ("PDPO") came into force in December 1996. It protects the privacy of individuals (including persons with disabilities) with respect to personal data. The PDPO covers any data relating directly or indirectly to living individuals, including persons with disabilities, from which it is practicable to ascertain the identity of the individual and which are in a form in which access or processing is practicable. An individual (including persons with disabilities) who suffers damage, including injured feeling, by reason of a contravention of the PDPO in relation to his or her personal data may seek compensation from the data user concerned.

22.3 The enforcement of the PDPO is overseen by the Office of the Privacy Commissioner for Personal Data, an independent statutory body established by the PDPO. The Office is headed by the Privacy Commissioner of Personal Data who is appointed by the Chief Executive. His functions and powers include monitoring and supervising compliance with the provisions of the PDPO; promoting and assisting bodies representing data users to prepare codes of practice for guidance in complying with the provisions of the PDPO; promoting awareness and understanding of the requirements under the PDPO; and carrying out inspections, including inspections of any personal data systems used by data users which are departments of the HKSAR Government or statutory corporations.

#### **Administrative measures for the protection of privacy of users of welfare, medical and education services**

22.4 Under the Service Performance Monitoring System as administered by SWD, NGOs providing subvented welfare services including those for persons with disabilities have to

comply with the Service Quality Standards (SQS) which, amongst others, stipulate that the service unit should respect the service users' rights for privacy and confidentiality. In complying with the SQS, the service unit concerned is required to develop and implement policy and procedures to ensure that the privacy and dignity of individual service users, irrespective of their disabilities, are respected and activities are conducted in accordance with this principle.

22.5 As mentioned in paragraphs 19.17 to 19.20 above, the HKSAR Government has introduced a Residential Care Homes (Persons with Disabilities) Bill into the LegCo to implement a statutory licensing scheme for RCHDs to ensure service quality. As an integral part of the licensing mechanism, a Code of Practice will be issued for compliance by all RCHDs. The requirement that the dignity and privacy of residents should be respected, e.g. partitions such as a screen or curtain should be used during the delivery of personal care services, will be incorporated into the Code of Practice.

22.6 For medical services, HA has put in place a set of established practices to protect the personal data privacy of persons using the services at its hospitals and institutions. The practices are implemented by all hospitals and institutions of HA and are applicable to all persons irrespective of whether they have disabilities. Some examples of these practices include adequate but not excessive personal data of individuals should be collected by lawful and fair means for lawful purposes, personal data which are no longer necessary for the purposes for which they are to be used should be erased, personal data should not be used for any purpose other than the purposes or directly related purposes for which the data were to be used at the time of collection (unless there is consent from the individual concerned or the alternative use if permitted by the law). Meanwhile, the DH also has adequate procedures to protect personal data privacy of clients using its services. Measures are put in place to prevent improper disclosure or amendment of the information contained in the medical records of clients and to ensure that unauthorised persons do not have access to the information.

22.7 For education services, the EDB and all schools strictly follow the requirements of PDPO in handling personal data of all students, including those with SENs. Parents' and/or students' consent is obtained before making referrals for assessment and/or support services and transferring students' personal data between schools or to relevant service organisations.

## **Article 23**

### **Respect for home and the family**

#### **Policy objective**

23.1 The HKSAR Government regards the family as a vital component of society that provides the intimate environment of physical care, mutual support and emotional security necessary to the healthy development of children. The family provides support and strength for the infirm, elderly, persons with disabilities and the delinquent. It remains our policy to preserve and strengthen the family as a basic social unit. In this regard, we have in place legal framework to safeguard an individual's (including persons with disabilities) freedom of marriage and to found a family. We also value greatly the contribution made by home carers to their family members. Hence, we strive to provide suitable support services for parents with disabilities and those who need to take care of children with disabilities with a view to facilitating them to discharge family duties. Such policy is also enshrined under Article 19 of HKBOR which states that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

**General framework to protect the right to marry and to found a family on the basis of full and free consent**

23.2 Freedom of marriage is protected under the Basic Law. Article 37 of the Basic Law provides for HKSAR residents' freedom of marriage and their right to raise a family freely shall be protected by law. Furthermore, Article 19 of HKBOR provides, inter alia, that the right of men and women of marriageable age to marry and to found a family shall be recognised. Marriages in HKSAR are governed by the Marriage Ordinance (Cap. 181). Every marriage under the Ordinance shall be the voluntary union for life of one man and one woman to the exclusion of all others. Under the Ordinance, any persons, whether with or without disabilities, are allowed to marry if all the legal requirements are met. The Ordinance makes no distinction as to whether the parties involved have disabilities.

**Policy and administrative measures to provide support for parents and children with disabilities**

23.3 The overall objectives of family welfare services in the HKSAR are to preserve and strengthen the family as a unit, to develop caring interpersonal relationships, to enable individuals and family members to prevent personal and family problems and to deal with them when they arise, and to provide for needs which cannot be met from within the family. Adopting the guiding principles of "child-centred, family-focused and community-based" in our planning and provision of family welfare services, we place great emphasis on meeting the needs of children at different developmental stages and ensuring that they are adequately cared for and protected. We believe that children are best protected and nurtured in a loving family, and, as stated above, our policy is to preserve and strengthen the family as a unit. A family that functions well provides an intimate environment in which physical care, mutual support and emotional security are available for the development of children, irrespective of the children's abilities and disabilities, into healthy and responsible members of society.

23.4 To this end, we cater for family needs through the provision of a continuum of preventive, supportive and remedial services to ensure that parents with disabilities are provided with adequate support in their child-rearing responsibilities, that no child is separated from his/her parents because of the disability of either the child or one or both of the parents unless the separation is for the benefit of the child, and to prevent concealment, abandonment, neglect or segregation of children with disabilities.

*Integrated family service centres and integrated services centres*

23.5 Some commentators suggested that the HKSAR Government should enhance support services for parents with disabilities in taking care of their children. There is currently a wide range of community support services providing welfare support for parents and/or families. Among others, the 61 IFSCs and two ISCs operated by SWD and NGOs covering the whole territory provide persons in need, including parents and children with disabilities, with a continuum of preventive, supportive and remedial welfare services. Social workers of the centres will thoroughly assess their needs and provide appropriate services in a holistic manner. Services provided include counselling, supportive/mutual help group, developmental programmes, family aid service, family life education and parent-child activities to enhance the parents' skills in parenting, stress handling and problem solving, including skills in dealing with difficulties arising from their/their children's disabilities, etc. Persons in need will also be referred to apply for supportive community services (e.g. financial assistance), child care services, etc. as appropriate.

23.6 IFSCs and ISCs also collaborate with other sectors and professionals to develop support networks in the community with a view to providing holistic support to families as

well as to achieve early identification of problem and timely intervention for families that are at risk.

#### *Parent education*

23.7 SWD and NGOs in the HKSAR have been providing parent education to the general public including parents with disabilities, as well as parents who have children with disabilities. Being preventive and developmental in nature, parent education aims to strengthen parents/parents-to-be to fulfil their parental roles and duties, promote harmonious family relationship and help families function effectively. Areas covered in parent education programme include understanding the needs of children at different developmental stages, effective parenting skills, enhancement of parent-child relationship, child care and supervision skills, stress management for parents, etc.

#### *Protection of children with disabilities*

23.8 The PCJO empowers the courts to grant care or protection order in respect of children or juveniles (including those with disabilities) who have been abused, or who are beyond control to the extent that harm may be caused to them or others, or whose health, development or welfare has been or is being neglected.

23.9 The Director of Social Welfare can be appointed as the legal guardian under such an order. The child concerned is then committed either to the care of a person or institution fit for that purpose or to the supervision of a social welfare officer. Alternatively, the parent or guardian may be ordered to enter into a recognisance to exercise proper care and guardianship.

23.10 The PCJO also provides that the Director of Social Welfare or any officer authorised by him may enter any premises with a view to removing any child or juvenile who appears to be in need of care or protection for the purpose of medical, psychological or social assessment.

#### *Child care services*

##### Residential child care services

23.11 Residential child care services are provided for children and young persons under the age of 21 who cannot be adequately cared for by their families because of various reasons such as behavioural, emotional or relationship problems, or family crises arising from illness, death and desertion.

23.12 The development of residential child care services is based on the principle that a family setting is the preferred choice over an institutional setting, particularly for children below their teens. Non-institutional care in the form of foster care and small group homes takes precedence over institutional care, but a diversity of options will be made available so that children can be placed in the facility that best suits them.

23.13 Non-institutional care includes foster care services and small group homes and institutional care includes residential crèche, residential nurseries, children's reception centre, children's homes, boys'/girls' homes and boys'/girls' hostels. These centres provide a total of 3,532 places. Applications can be made by the social worker responsible for the case through the respective central referral system and the service is free of charge.

##### Day child care services

23.14 To provide support to families who cannot take care of their young children temporarily because of work or other reasons, the HKSAR Government provides

subvention to NGOs for them to run various kinds of child care services for the needy families. We also strive to increase the flexibility of such services. Regular care services are provided through standalone child care centres (CCCs, for children aged below three) and kindergarten-cum-child care centres (KG-cum-CCCs, for children aged below six). Occasional child care service and extended hours service are provided at some CCCs and KGs-cum-CCCs to support parents who are unable to take care of their children temporarily because of important or sudden engagements on an occasional basis.

23.15 Besides, SWD has also proactively introduced new child care services which are more flexible and with operating hours covering evenings, weekends and holidays to better meet service demands. These include:

(a) Subsidising foster homes and some small group homes, which originally provided only residential care services, to provide day care services since October and December 2007 respectively;

(b) Subsidising Mutual Help Child Care Centres (MHCCCs) to provide services in the evenings, at weekends and on holidays since January 2008; and

(c) Implementing the Neighbourhood Support Child Care Project (NSCCP) through NGOs/district organisations since October 2008 with a view to providing needy parents with more flexible child care services in addition to the regular services and, at the same time, fostering mutual help and care in the community. The NSCCP has two service components:

(i) Home-based child care service for children under six; and

(ii) Centre-based care group for children aged three to under six. Under the project, carers in the neighbourhood are recruited 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).

23.16 As mentioned under paragraph 7.4, the child care centre services are regulated by the CCSO and its Regulations. They are under the supervision of Child Care Centres Advisory Inspectorate of SWD. The Ordinance and Regulations provide for a system of registration, inspection and control for child care centres and for mutual help child care centres. They also regulate childminding activities by prohibiting unsuitable persons from acting as childminders. The Advisory Inspectorate visits the centres and offers advice as necessary in the interest of the safety and well-being of the children in their care.

23.17 MSWs are stationed in public hospitals and specialist clinics to provide timely psychosocial intervention to patients and their families and help them cope with problems arising from illness, trauma and disabilities. MSWs, being members of the clinical teams, play an important role in linking up the medical and social services to facilitate patients' rehabilitation and reintegration into the community. In order to assist patients to rehabilitate in their home environment as far as possible, MSWs offer counselling to their family members to accept their disabilities, as well as to handle their caring, relationship, rehabilitation problems etc. arising from the disabilities.

23.18 We will further elaborate on the provision of pre-school training to children with disabilities in the section on Article 24.

#### **Financial support to family carers of persons with disabilities**

23.19 Some commentators considered that the HKSAR Government should provide financial support in the form of a special allowance to family carers of persons with disabilities.

23.20 Currently, section 31A of the Inland Revenue Ordinance (Cap.112) provides that a taxpayer may claim a Disabled Dependant Allowance for maintaining a disabled dependant to provide tax concessions to those with special needs.

23.21 Furthermore, persons with disabilities may approach SWD and apply for the non-means-tested DA so as to meet their special needs arising from severe disabilities. Persons with disabilities who are unable to support themselves financially can meet their basic needs with the financial assistance provided under the CSSA Scheme. At present, the CSSA Scheme provides higher standard rates for persons with disabilities together with a range of supplements and special grants. These include “Grant to cover fees for Home Help Service/Integrated Home Care Service”, “Grant to cover costs of Enhanced Home and Community Care Services” and “Grant to cover costs of Community-based Support Projects for People with Disabilities and Their Families” which are granted for those requiring special caring needs. For those medically certified to be in need of constant attendance, a “Care and Attention Allowance” may also be provided to cover the costs of care and attention services at home (including the cost of hiring a carer) on social worker’s recommendation.

23.22 The HKSAR Government is mindful of the stress and needs of family carers of persons with disabilities and, as mentioned in paragraphs 19.3 to 19.10 above, provides a range of community care and support services for persons with disabilities and their carers to relieve their pressure and facilitate their community living. The various types of support services provided by the HKSAR Government to family carers aim at helping them discharge their family responsibilities and alleviating their stress, rather than substituting family functions. We believe that our existing support services can reflect social values and, compared to the provision of subsidies, can better meet social circumstances and needs. We will keep a close watch on the needs of persons with disabilities and their carers and continue to provide them with diversified community support services with a view to helping persons with disabilities integrate into society.

## **Article 24**

### **Education**

#### **Policy objective**

24.1 The HKSAR Government recognises the right of persons with disabilities to education on the basis of equal opportunity. In this regard, we have taken suitable measures to ensure early identification of persons with disabilities and their education needs; that children with disabilities have access to early-stage education, and free primary and secondary education as well as higher education. The provision of services and measures relating to early identification, pre-school and school services are illustrated in the ensuing paragraphs. The section on Article 27 deals with the provision of vocational rehabilitation and skill training services for graduated students with disabilities.

24.2 The HKSAR Government is mindful of the increasing demand for services for children with SEN, including concerns expressed by some of the commentators about the provision of assessment and remediation services, the adequacy and effectiveness of Integrated Education (IE) and the waiting time for some of the services for children with disabilities. In this regard, we will strive for continuous enhancement of our services in response to service demands and changing circumstances.

**Relevant legislation***Disability Discrimination Ordinance (Cap. 487) and Code of Practice on Education*

24.3 Under the DDO, it is unlawful for an educational establishment to discriminate against a person with disability by refusing his application for admission, denying or limiting his access to any benefit, service or facility, or expelling him, except where:

(a) The educational establishment is established for students who have a particular disability and the person does not have that particular disability;

(b) The person would require services or facilities not required by students without disability and the provision of such services or facilities would impose unjustifiable hardship on the educational establishment;

(c) The person is not reasonably capable of performing the actions or activities reasonably required by the educational establishment; or

(d) The students who participate in those actions or activities are selected by a reasonable method.

24.4 Since September 1996 when the DDO came into operation, there were many enquiries from the school authorities, teaching professionals, parents and students relating to discrimination in education. Hence, the EOC decided to issue a Code of Practice on Education under the DDO with a view to helping them understand their rights and obligations under the law, and providing practical guidelines on how to comply with the legal requirements. The Code was published in July 2001 and served as a useful reference by stakeholders. According to EOC's statistics, a total of 137 complaints related to education had been received under the DDO from 1996 to June 2010. The major areas of complaints included admission, accommodation for students with special learning needs, accommodation in examination and harassment on the ground of disability. The EOC also commissioned a survey in late 2009 to assess the implementation of equal learning opportunities for students with SENs under the IE system in HKSAR. The survey is expected to be completed by 2011.

**Administrative measures to assist children with special education needs***Identification of children with special education needs*

24.5 DH provides universal hearing screening for newborns, developmental surveillance service for pre-school children and a mechanism for early identification of school children with learning difficulties and behavioural problems to ensure that early detection and intervention will prevent critical physical, psychological and social developmental anomalies. The Comprehensive Child Development Service (CCDS) uses Maternal and Child Health Centres (MCHCs) of DH, specialist services under HA, IFSCs/ISCs operated by SWD and NGOs and pre-schools as platform to identify, amongst other, pre-primary children with health, development and behavioural problems. Children and families in need are referred to appropriate service units for follow-up. The CCDS was piloted in July 2005. By March 2009, it had been extended to eight districts, covering about 50% of the target population.

24.6 In late 2008, DH, together with the EDB and SWD, produced a resource kit on "CCDS – Resource Kit on Child Development and Behaviour Management for Pre-primary Teachers" to facilitate their early identification and referral of children with physical, developmental or learning problems to MCHCs for assessment and management. In addition, the referral system between pre-primary institutions and MCHC has been extended to cover all districts in HKSAR since December 2008. Furthermore, the Child

Assessment Service (CAS) of DH has continued to produce publications on disability categories and their management specifically for reference by front-line medical personnel. Relevant fact sheets have been uploaded onto CAS's website as well as distributed to professionals at clinical meetings and conferences. CAS also provides professional support for visits to its centres and gives lectures to medical and allied health staff both in pre-service and in-service training, where sharing of clinical information and related service pathways in HKSAR is made.

24.7 The EDB has established a network of information transfer with DH to ensure that, with parents' consent, information on the children assessed by Child Assessment Centres to have SEN are provided through EDB to their schools upon admission to Primary One so that timely support can be provided. Starting from the 2007–08 school year, there have been regular meetings among EDB, DH and HA to discuss issues about assessment and education services, etc. for pre-school children with SEN with a view to strengthening inter-departmental communication and coordination.

24.8 Children identified as having persistent hearing impairment are referred to the EDB for follow-up services, which include provision of hearing aids and related services, guidance and counselling on management of hearing impairment, communication and learning strategies, and audiological reassessments, etc. As for other SEN, each year, the EDB operates the Early Identification and Intervention of Learning Difficulties Programme for Primary One 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 One pupils with learning difficulties. Those making little 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 Teachers (Primary School)" and the "Observation Checklist for Teachers (Secondary School)" for primary and secondary schools respectively to assist teachers in identifying primary and secondary school pupils with speech and language impairment and referring those in need to school-based speech therapists or the EDB for assessment and therapy.

24.9 The number of identified SEN cases has been rising in recent years. This indicates 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 on the part of parents. We will continue to collaborate with tertiary institutions to improve and develop assessment tools for teachers and other professionals to identify students with SEN. We will also further enhance the understanding of special educational needs amongst parents and members of the public. Our aim is to facilitate early identification of students with SEN for timely and appropriate support.

#### *Preschool services*

24.10 It is the HKSAR 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.

24.11 For pre-school children who have been identified as having SEN, the HKSAR Government provides a wide range of training programmes, including:

- (a) Early Education and Training Centre (EETC) which provides services for children with disabilities from birth to two years old as well as those aged between two and six who need EETC service or those who are on waiting list for other pre-school services.

The objective of these services is 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) Special Child Care Centre (SCCC) which provides services for children with moderate and severe disabilities aged between two and six. The objective of these services is to develop these children's fundamental developmental skills and intellectual ability, as well as the 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) 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 with a view to facilitating 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) Services specific for children with autistic features. These include 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, physiotherapy and speech therapy to enhance self-reliance of children with disabilities in daily living, correct deformities and prevent deterioration in health. At present, centre-based OT, PT and ST services are available in EETCs and SCCC's. For IP in KG-cum-CCC, OT and PT services are provided by the Central Para-medical Support Service Unit of SWD whilst ST service by district-based speech therapist teams;

(f) Support to EETCs, SCCC's and IP in KG-cum-CCC by the agency-based clinical psychologists or that from SWD. They provide consultation to centre staff on the training and management of children with disabilities and training for the workers and parents;

(g) PRC which provides a wide range of support services to parents and relatives of children with disabilities;

(h) Respite service for children with disabilities which provides parents and carers with a safe place to temporarily place their children with disabilities so that they can have a short break to handle important personal business;

(i) Children Gateway Clubs which provide social and recreational activities for children with disabilities to help them to integrate into the community; and

(j) Support and education services which are made available to hearing impaired pre-schoolers, including following up on children issued with free hearing aids, parent counselling and professional consultation.

24.12 As at March 2010, SWD provided a total of 2 306 EETC places, 1 616 SCCC places (including 110 residential places) and 1 860 IP in KG-cum-CCC places. 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. An additional allocation of HK\$11.7 million is earmarked to provide 154 new places in 2010-11. Coupled with the allocation already earmarked in 2009-10, we will provide a total of 316 additional places for pre-school services in 2010-11.

*School education*

24.13 The policy objective of school education for students with SEN is to provide a conducive learning environment so as to facilitate their education, help them develop their potential to the full, enhance their independence and enable them to become well-adjusted individuals in the community.

24.14 All eligible children, irrespective of ethnic origin, gender and physical or intellectual ability, have the right to enjoy equal opportunity to receive an education in public-sector schools in the HKSAR. Since 1978, the HKSAR Government has been providing nine years of free and universal basic education (6 years of primary education and 3 years of junior secondary education) in public-sector schools. Starting from the 2008–09 school year, free education has been extended to include senior secondary education in public-sector secondary schools and special schools which operate senior secondary classes. Subject to the assessment and recommendations of specialists or physicians and upon parents' consent, students with severe or multiple disabilities may be placed into special schools for more intensive support. Other children with SEN are offered places in ordinary schools. Under the DDO, all schools have the obligation to admit students with SEN and provide appropriate education and support to them.

24.15 In recent years, with the improvement in assessment tools and services and the increasing awareness among teachers and parents about SEN, the number of students identified as having SEN in ordinary schools has been on the rise. The number of students with SEN studying in ordinary schools and the number of school and boarding places in special schools in the past four years can be found in Annex 8. For figures on students with disability in UGC-funded sub-degree and undergraduate programmes, please refer to Annex 9.

*Education services for children with special education school in ordinary schools*

24.16 If parents of pre-school children with SEN choose to enrol their children in ordinary primary schools, they could apply for a Primary One place through the Primary One Admission (POA) System and specify the children's SEN on the application form. EDB would acquire the children's assessment information from the Child Assessment Centres under DH or HA, or the specialists who conduct the assessment for the children. After the release of POA results, and with the consent of parents, EDB would send the information to the primary schools concerned for follow-up. Starting from the 2006–07 school year, EDB has further improved the arrangement. After the announcement of POA results, professional officers of EDB would dispatch in person the children's assessment information to their prospective primary schools and explain to the schools the SEN of their Primary One students so as to facilitate the schools in providing early and appropriate support for them. Likewise, to ensure that Primary Six students with SEN will continue to receive suitable support after their admission to secondary schools, with parents' consent, primary schools will transfer relevant information on these students to the secondary schools concerned as early as possible.

24.17 The HKSAR Government advocates adoption of a Whole School Approach (WSA) towards inclusion to cater for students with SEN, emphasising an alignment of inclusive school policy, culture and practices in each school. At the operational level, schools should capitalise on the following five principles, namely, early identification, early intervention, WSA, home-school cooperation and cross-sectoral collaboration, to guide their day-to-day activities and to coordinate efforts to support students with SEN. Schools are advised to adopt a 3-tier intervention model as differentiated by the needs of students to support students SEN, consisting of:

- |                |   |
|----------------|---|
| Tier-1 support | Quality teaching in the regular classroom to supporting students with transient or mild learning difficulties;        |
| Tier-2 support | “Add-on” intervention for students assessed as having persistent learning difficulties, including those with SEN; and |
| Tier-3 support | Intensive individualised support for students with severe learning difficulties and students with SEN.                |

24.18 Ordinary schools are provided with additional resources to support students with SEN. Additional resources include a per capita Learning Support Grant, IE Programme and Intensive Remedial Teaching Programme, Enhanced Speech Therapy Grant, additional teachers to cater for low academic achievers, top-up fund for procurement of special furniture, equipment or carrying out minor conversion work for students with disabilities, etc. Also, additional teaching assistants may be provided for schools with hardcore cases requiring highly intensive support.

24.19 Apart from the additional resources, professional support is also provided as follows:

(a) Educational Psychology Service which covers the following support services to schools:

- Assessment for students with learning and/or behavioural/emotional difficulties
- Support and consultation to schools on the provision of appropriate remediation for students with SEN
- Support to schools on adopting a WSA to cater for students’ diverse educational needs
- Development of teaching resources to support students with diverse educational needs
- Training and networking activities for school personnel and various stakeholders to promote understanding and to enhance knowledge and skills in meeting the diverse educational needs of students
- Crisis management support for schools

Starting from the 1993–94 school year, school-based educational psychology service (SBEPS) has been introduced, under which schools are provided with comprehensive educational psychology service at the school system, teacher and student levels delivered through regular visits. SBEPS has been extended to around 300 needy schools with effect from the 2008–09 school year. It is anticipated that an additional number of about 100 primary and secondary schools will benefit in the 2010–11 school year.

(b) Speech Therapy Service which covers the following:

- Assessment and diagnosis services for students with speech and language impairments
- Support service for students with speech and language impairment through school-based support programmes, and provision of training and counselling to teachers and parents
- Professional consultation and support to schools regarding the communication problems of students and monitoring of school-based speech therapy services
- Professional consultation to speech therapy personnel in special schools

- Organising training and networking activities and developing assessment tools and resource packages
- (c) Audiological Service which covers the following:
- Audiological services for children with hearing impairment
  - Professional support and consultation to schools having children with hearing impairment
  - Training and counselling to school personnel and parents on the management, education and services of children with hearing impairment
  - Development of resource packages for supporting the educational needs of children with hearing impairment
- (d) Resource Teachers for Students with Visual Impairment (VI) and Hearing Impairment (HI): students with VI and HI in public-sector primary and secondary schools are supported by the Resource Support Programmes (RSP) and the Enhanced Support Service (ESS) respectively. The RSP consists of on-site learning support and production of Braille materials for students with VI, and advisory support for teachers. ESS focuses on remedial teaching and speech and language training, and psychosocial counselling for students with HI;
- (e) On-site Consultation: a professional officer from EDB is assigned to each public-sector primary school to serve as a resource person to advise schools on issues related to promotion of the inclusive culture and school-based policy and strategies for supporting students with SEN. The service has been extended to secondary schools since the 2007–08 school year;
- (f) Centre-based Support: students with emotional/behavioural problems showing no improvement after receiving school-based support services are referred to more intensive pull-out remedial support in the Adjustment Programme run by EDB or short-term attachment programmes run by Special Schools cum Resource Centres;
- (g) Support Network: EDB has established an inter-school professional sharing and support network among schools, in which special schools as well as ordinary schools with good practices in the WSA are invited to serve as resource centres and resource schools respectively to provide on-site consultation and share their experience and effective strategies/practices with other ordinary schools. In the 2009–10 to 2010–11 school years, six (6) primary Resource Schools, four (4) secondary Resource Schools and 18 Special Schools-cum-Resource Centres (SSRC) have been provided for. Some SSRC also offer short-term attachment programmes mainly for ordinary school students with intellectual disability and severe adjustment difficulties on a need basis;
- (h) Special Education Resource Centre which provides a digital platform for teachers to share information and resources on special education. It also provides computers, multi-media equipment and library service for teachers where they can make use of the learning and teaching resources available to produce teaching materials;
- (i) Development of assessment tools and resource packages: EDB has been, mostly in collaboration with tertiary institutions, developing various assessment tools and diverse teaching resource packages for use by specialists, teachers and parents; and
- (j) Professional Development to enhance teachers' capacity in catering for students with SEN, EDB has put in place a 5-year teacher professional development framework on IE in the 2007–08 school year, under which structured courses are conducted for teachers. We expect that in five years, at least 10% of teachers in each ordinary school will have received special education training under the framework. EDB also organises

training programmes targeted at school heads, school management, teaching assistants, etc. to provide school personnel at different levels with training of varying depth and breadth. In addition, theme-based seminars and workshops are conducted throughout the year with a view to updating teachers with the latest development of special education.

#### *Education services in special schools*

24.20 Having regard to the special needs of the students in special schools arising from their disabilities, the HKSAR Government has different provisions for various types of special schools. Apart from teaching staff, we also provide the schools with professional staff, including speech therapists, physiotherapists, occupational therapists, etc., to cater for the needs of the students and to facilitate their learning. Before the implementation of the NSS academic structure, schools for children with intellectual disability (ID) offered six-year primary and four-year junior secondary education and, since the 2002–03 school year, a two-year Extension of Years of Education (EYE) Programme on a voluntary basis, adding up to 12 years of schooling. As children are generally admitted to ID schools at the age of six, based on the above structure, these students normally leave school at the age of 18. Hence, all along, the HKSAR Government has used the age of 18 as a reference point to assess whether a student should leave school and a mechanism has been in place to allow students in need to extend their stay at school. With the implementation of the NSS academic structure from the 2009–10 school year, special schools offer a 12-year academic structure (including 6 years of primary, 3 years of junior secondary and 3 years of senior secondary education) for their students with ID. As for students with normal intelligence pursuing ordinary curriculum in schools for children with physical disability or schools for children with hearing impairment, it is an academic structure of 13 years (including 10 years of basic education and 3 years of senior secondary education).

24.21 To tie in with the implementation of the NSS academic structure and to make the mechanism on extension of years of study more responsive to the actual needs of students and the operation of the special schools, EDB has deployed resources to implement the improvement measures from the 2010–11 school year progressively, after consultation with the special education sector, parents and other stakeholders. The improvement measures include providing quotas for special schools concerned and empowering schools to exercise school-based professional judgment and arrange for students with such a need and valid reasons to extend their years of study based on the objective criteria jointly set by EDB and the sector. Students of special schools under the NSS academic structure will graduate from school upon completion of Secondary Six. For those who need to extend their years of study, arrangements will be made in accordance with the mechanism under the improvement measures. The improvement measures have been implemented smoothly. Schools have established school-based mechanism for handling the extension of years of study.

#### **Judicial review case on school leaving arrangements**

24.22 The dossier, *Tong Wai Ting v Secretary for Education*, HCAL 73/2009 is an application for judicial review by an 18-year-old student of a school for children with ID (ID school). Counsel for the Applicant argued that it was a rule of the HKSAR Government that unless for special reasons specified by the HKSAR Government and the approval of the Permanent Secretary for Education was obtained, and unless there were vacancies at the relevant ID school to accommodate the application for an extension of study, an ID student who was already or would be 18 years old in the coming school year must leave school. As a result of the rule, the Applicant was discriminated under section 6(a) of the DDO on the ground that owing to his ID, he was treated less favourably than a mainstream student seeking to repeat in a mainstream secondary school, who was not subject to the age restriction of 18. The Court found that the purported age restriction of 18 does not exist as

an absolute rule barring schooling beyond 18. The uncontradicted evidence shows that the HKSAR Government has been using the age of 18 as a point of reference and review in relation to its provision of free education to students with ID for the purpose of budgetary planning. 18 is the age when normally students with ID, having started at age 6, are expected to have completed their 12 years of free education and to leave school. The Court noted that like an ID student, a mainstream student is not, as of right, entitled to repeat. The HKSAR Government policy is that repetition in a mainstream school should be an exception. It is also subject to the availability of vacancies and is merit-based. The Court concluded that the Applicant failed to establish that in terms of the requirements for approving an application for an extension of study or repetition, he was in a worse position than a comparable counterpart in a mainstream school in getting the application approved. The application was heard on 4 and 5 August 2009 and was dismissed by the Court of First Instance on 24 August 2009.

### **Further learning opportunities for persons with disabilities**

#### *Tertiary education*

24.23 Higher education institutions are committed to offering equal opportunities to all applicants. The admission decisions of institutions are based on the holistic assessment of the merit of the applicants. Applicants with disabilities would not be discriminated against. Applicants who fail to meet some of the entrance requirements (e.g. languages) but demonstrate outstanding performance in other aspects (including interviews) will be considered on a case-by-case basis. As with admission of other students, such admission decision falls within institutional autonomy.

24.24 To maximise opportunities for students with disabilities for higher education, the University Grants Committee (UGC)-funded institutions introduced in 1997 a new sub-system under the JUPAS for the admission of students with disabilities to bachelor degree programmes. The sub-system establishes contact between applicants with disabilities and the UGC-funded institutions and enables the applicants to establish at an early date what assistance and facilities are available to them at the institutions of their choice. It also helps the UGC-funded institutions to establish how many potential students are persons with disabilities, and in what ways, so as to enable them to advise such applicants what forms of help they can provide. Candidates applying through the sub-system do not compete with other JUPAS applicants. Applicants who receive offers under the sub-system are not obliged to accept them immediately. Their applications will continue to be considered together with those of other applicants with a view to the possibility of more attractive offers.

24.25 A number of tertiary institutions have in place special arrangements and support services for accommodating students with special needs with regard to their particular disability and their field of study. The support services provided by the institutions include assignment of academic advisor; provision of counselling and guidance in academic studies; special examination arrangements (e.g. special venue, special examination paper, wider line spacing in examination books, longer examination hours, additional breaks during examination, provision of computer for answering questions instead of writing on answer books, alternative forms of assessment); flexibility in course registration; special study aids (e.g. enlargers, computers, additional tutorial sessions, advance copies of lecture notes, etc.); suitable on-campus housing, study facilities and amenities; scholarship/financial assistance; acquisition and provision of appropriate equipment or instruments; and career counselling in job search, etc.

*Special Admission Scheme (SAS)*

24.26 VTC offers a wide range of vocational education and training programmes, through its member institutions, for school leavers at different levels and adult learners to acquire skills and knowledge to enhance their employability.

24.27 VTC administers a SAS for students with SEN. Under SAS, students applying for VTC's course will be given an offer if they are able to meet the minimum entry requirements for the course concerned and have passed an interview. VTC organises a briefing session on the Scheme for interested students, their parents and teachers to provide necessary information and assistance before the recruitment commences.

24.28 Upon admission under SAS, students and their parents will be invited to attend tailor-made orientation programmes which introduce the services and support measures available at VTC for them. These include the provision of essential technical aids, counselling service and coaching. Depending on the nature of their disabilities, students may apply for and be considered for exemption from completing some specific modules. In some cases, more time is allowed and/or other special arrangements are arranged for these students when they undergo assessments where necessary.

*Provision of specific skills-training services*

24.29 EDB provides various categories of special schools with speech therapists, physiotherapists and occupational therapists to provide various skills training for students according to their needs. For instance, the school for children with visual impairment (VI school) provides training in the use of Braille as well as orientation and mobility training for their students. The special schools for children with hearing impairment (HI schools) provide training and support in the use of hearing aids for their students. The schools also organise school-based training on sign language, aural/oral approach and total communication approach for their teachers. The schools for children with moderate or severe intellectual disability provide training in the use of augmentative and alternative communication for their students who cannot communicate through speech. The schools for children with physical disability and severe intellectual disability provide mobility training for their students who have mobility problems.

24.30 EDB provides ordinary schools with additional resources and professional support to help them support their students with SEN. Schools should deploy the resources flexibly to hire additional staff and/or procure professional services, such as speech therapy services, to cater for the needs of their students. As mentioned in Para. 24.16 to 24.19 above, children with visual impairment and those with hearing impairment studying in ordinary schools are also provided with additional support from resource teachers of the VI school and HI schools respectively.

**Training for teachers and professionals in the education system**

24.31 Some commentators opined that teachers in ordinary schools did not have sufficient knowledge of the special needs of students with disabilities. As a matter of fact, over 95% of the primary and secondary teachers in public-sector schools are professionally trained, and catering for diversity/SEN or inclusive education is a core module and/or an elective in degree and post-graduate courses in education run by tertiary institutions. Moreover EDB has put in place a 5-year teacher professional development on IE starting from the 2007–08 school year to enhance the professional capacity of school personnel in catering for students with SEN.

24.32 Under the five-year teacher professional development framework on IE, we expect that in each ordinary school, about 10% of teachers will have completed the basic course, at least three teachers will have completed the advanced course, at least one English subject

teacher and one Chinese subject teacher will have attended the thematic course on Specific Learning Difficulties, and at least one teacher will have completed the related course on the types of SEN that the school has to cater for. EDB also organises training programmes targeting school heads, school management, teaching assistants, etc. to provide school personnel at different levels with training of varying depth and breadth. Trained teachers are expected to promote collaboration with their colleagues in support of students with SEN under the WSA. We have also established inter-school professional sharing and support network to facilitate experience sharing within the sector.

### **Teaching languages, strategies and communication modes**

24.33 The two official languages in HKSAR are Chinese and English. To enable students to be biliterate (i.e. master written Chinese and English) and trilingual (i.e. speak fluent Cantonese, Putonghua and English) to meet the challenges of a globalised economy, the HKSAR Government has decided to fine-tune the medium of instruction (MOI) arrangements for secondary schools, starting from the 2010–11 school year at Secondary 1 level and progressing each year to a higher form at junior secondary levels. Secondary schools are given the flexibility to decide professionally the appropriate MOI arrangements with regard to students' learning ability, teachers' readiness and schools' support measures to suit the different needs of their students. The ultimate aim is to enhance students' exposure to English and its use in schools. Non-Chinese Speaking (NCS) students, including those with SEN, are encouraged to study in public-sector schools to facilitate their integration into the local education system and community as early as possible. That said, studying under the local education system does not mean that the NCS students are forced to learn in Chinese at all costs. NCS students may seek admission in public-sector schools adopting English as the MOI in all or some subjects, if the NCS students concerned (some of whom may not have English as their mother tongue) could indeed learn better in English. The HKSAR Government ensures that there are sufficient school places in public-sector schools to cater for all eligible children, including NCS children with SEN. We have pledged to help all eligible students, including NCS students with SEN, and provide them with places in public-sector schools so as to ensure that their right to education is suitably protected. The schools are obliged to cater for the diverse needs of their students and the HKSAR Government provides additional resources and professional support to facilitate these schools to adopt the WSA in catering for students with SEN. See Annex 10 for further information on the support services for NCS children.

24.34 To address the diverse learning and communication needs of students in the classroom, teachers are encouraged to deploy various teaching strategies such as the use of visual cues, contextual cues, multi-sensory approach and various resource materials. Braille books, other optical amplification device and learning materials are available for students with VI. Resource Support Programme for Students with VI subvented by the EDB provides rehabilitation training and skills training, such as low vision training, tactile skills, reconceptualization, braille literacy and use of visual aids to those students with VI in ordinary schools. For students with HI, EDB has provided audiological assessment, one free hearing aid with fitting and maintenance, and FM system to alleviate their difficulties in communication and learning. Some commentators requested the Government to allocate more resources to provide free binaural hearing aids to students with HI. EDB has been actively considering the request and exploring the possibility of improving the provision by phases in the 2010–11 school year.

24.35 Teachers in schools for students with HI adopt communication modes that best suit their students' ability, learning and communication needs, which include oral, manual (including sign language) or total communication mode. To this end, the schools organise school-based training on sign language, aural/oral approach and total communication approach for their teachers. The schools for children with moderate intellectual disability

and severe intellectual disability use various augmentative and alternative communication methods such as using picture and signs to supplement speech. The schools for children with physical disability use computers and various adaptive devices to facilitate students' learning.

## **Article 25**

### **Health**

#### **Policy objective**

25.1 The policy objective of the HKSAR Government in respect of medical rehabilitation is to restore patients' functional capacity to the maximum potential, to facilitate independent living and reintegration into the community. Besides, we strive to enhance preventive measures, which are integral to the rehabilitation programme and can reduce the disability prevalence rate. Such measures can be divided into three levels as follows:

- (a) Minimising the incidence of impairment among the public (primary prevention);
- (b) Preventing the development of disability once an impairment has occurred (secondary prevention); and
- (c) Preventing the daily lives of persons with disabilities from being undermined by their disabilities and complications through a wide range of rehabilitation measures, including medical, educational and social interventions (tertiary prevention).

25.2 In this regard, we have taken suitable measures to ensure that persons with disabilities have the same access to quality health services, including access to early detection and intervention programmes, disability-related health rehabilitation and appropriate health services to prevent and minimise the emergence of secondary disabilities.

#### **Health services for persons with disabilities**

25.3 It is the HKSAR Government's health care policy that no one should be prevented, through lack of means, from obtaining adequate medical treatment. To meet this commitment, the HKSAR Government heavily subsidises various health care services and constantly reviews and upgrades them. In 2009–10, recurrent public expenditure on health care amounted to HK\$35.7 billion, representing 14.8% of total recurrent public expenditure. The services are available to all persons, irrespective of whether they have disabilities. Details of the health care services are set out in the ensuing paragraphs.

#### *Prevention and Family Health Service*

25.4 The Family Health Service of DH provides a comprehensive range of health promotion and disease prevention services for children from birth to 5 years, and women 64 years of age or younger, through a network of 31 MCHCs and three (3) Women's Health Centres (WHCs) in HKSAR. The MCHCs and WHCs act as a major and easily accessible contact point for all families and their children. Prevention and early detection of disabilities is carried out through various means, for example, raising public awareness through health education, providing screening service for children and women and providing immunisation programme for children. DH is well aware of the need for clients with disabilities to have easy access to health services. Most of the MCHCs and WHCs have provision to cater for persons with disabilities and there are ongoing projects to further improve the barrier-free facilities in the health centres, e.g. provision of more wheelchair accessible gynaecological examination tables in MCHCs.

25.5 The Child Health Service comprises three core components: the Parenting Programme, Immunization Programme and Health and Developmental Surveillance Programme. It aims to promote the holistic health (physical, cognitive, emotion and social) and well-being of children. Anticipatory guidance is provided for parents and caregivers. Hearing screening is provided for newborn babies (for those who have not been screened in the birthing hospitals) and vision screening by optometrist/orthoptist is offered to pre-school children. Health-care professionals work in partnership with parents to carry out structured observations to monitor the physical health, growth and development of children. A referral and reply system has been established between MCHCs and all pre-primary institutions since December 2008 to facilitate pre-primary teachers to identify and refer children with physical, developmental or behavioural problems to MCHCs for preliminary assessment. Children with significant health and development problems are referred to specialist clinics of HA or the CAS of DH, where appropriate, for diagnosis and early intervention. Relevant statistics can be found in Annex 11.

25.6 In 2009, about 10,000 newborn babies (not screened before discharge from the birthing hospitals) received hearing screening in MCHCs, and about 3.1% of these babies required referral for further assessment. In the same period, about 27,000 pre-school children were screened for their vision and some 2,400 were referred to ophthalmologist for management. About 8,600 developmental assessments were performed by doctors in MCHCs and about 4,000 children with developmental problems were referred to CASs for detailed assessment and rehabilitation plan.

25.7 Services for women include antenatal and postnatal care, family planning, cervical cancer screening and women health services. A comprehensive antenatal shared-care programme is provided at MCHCs, in collaboration with the public hospitals, to monitor the whole pregnancy and delivery process. Postnatal care, including supportive service to adapt to motherhood, is also provided. Women are also encouraged to join the cervical screening programme and have regular cervical screening tests. As women's mental health have great impacts on their families and the well being of their children, early identification and intervention of mental illness of women is important. The MCHC nurses are trained to identify pregnant women with mood problems, suspected mental illness, and mothers with probable postnatal depression to provide them with supportive counselling. Any at-risk women identified are referred to the appropriate secondary and tertiary service for assessment and intervention.

25.8 In 2009, around 2,600 women with postnatal depression were identified and 1 500 women were referred to psychiatric service for management.

25.9 Family Health Service regularly organises training for its medical and nursing staff to enhance their knowledge on issues related to child, maternal and women's health (e.g. training on childhood developmental problems and postnatal mental health problems have been conducted) to facilitate early identification of client's health problems and arrangement of appropriate management.

25.10 As mentioned in paragraph 24.7, CAS aims at contributing to the rehabilitation of children with developmental-behavioural problems or disorders through a multidisciplinary approach. It operates six centres in Kowloon and New Territories to provide assessment for children under age 12. The team, comprising paediatricians, health nurses, clinical psychologists, social workers, speech therapists, physiotherapists, occupational therapists, audiologists and optometrists, works together to:

- (a) Provide comprehensive physical, psychological and social assessment for children with developmental anomalies;
- (b) Formulate rehabilitation plan after developmental diagnosis;

(c) Assist to arrange appropriate pre-school and school placements for training, remedial and special education where necessary; and

(d) Provide interim support to parents and the children through counselling, talks and support groups.

25.11 CAS works towards streamlining the coordination of assessment and placement service (including interim support at clinic and community settings) with respective service providers. It also focuses on strengthening the public and professional education activities. CAS has established an official website to introduce clinical knowledge in relation to child development and disabilities, public health education, clinic operations and activities to the public, with a view to improving public awareness and practice standards for the benefit of children with developmental challenges.

25.12 To equip front-line primary care staff with more disease prevention and treatment training, we have put in place the following arrangements:

(a) The Visiting Health Teams (VHTs) of DH's Elderly Health Service (EHS) regularly visit residential care homes for the elderly to provide training and support for their health care workers to enhance their skills in caring for the elders;

(b) Family Health Service of DH regularly organises training for its medical and nursing staff to enhance their knowledge of issues related to child, maternal and woman health (e.g. training on childhood developmental problems, postnatal mental health problems, etc. have been conducted) so as to facilitate early identification of client's health problems and arrangement of appropriate management; and

(c) On-going HA nursing training was conducted, including the management of various diseases/disabilities, e.g. diabetes, cardiac, orthopaedic, neurological, respiratory, geriatric, mental problems/diseases, as well as knowledge and skills in disease prevention and therapeutic communication with patients and carers.

25.13 In order to improve the disease surveillance system, we have implemented the following initiatives:

(a) To strengthen surveillance of health risk factors, DH has established the Behavioural Risk Factor Surveillance System which aims to collect information on major health-related behaviours, such as smoking, level of physical activity, intake of fruits and vegetables, alcohol use and cervical screening participation, among the local adult population aged 18–64 through a series of telephone surveys conducted systematically and periodically. It is envisaged that the information will be useful for monitoring the trend of health-related behaviours, which is important for identifying emerging health issues and for planning and evaluating health promotion and disease prevention programmes; and

(b) The Public Health Information System captures different health-related data from various sources including HA and other Government departments. The System contributes significantly to the data collection, in-depth analysis, surveillance and risk communication processes for disease prevention and control.

25.14 To strengthen health promotion and disease prevention in medical and health care services, we have taken the following measures:

(a) The DH's Central Health Education Unit collaborated with medical organisations and professional groups to promote Exercise Prescription by doctors. About 400 doctors were trained;

(b) EHS of DH provides health education on fall prevention for elders and their carers through outreach visits by the VHTs and production of various health education materials;

(c) Family Health Service of DH has produced a Child Health Information and Resource Kit (0–5 years old) for distribution to community practicing paediatricians, family physicians and general practitioners; child care workers in pre-primary institutions, and social service providers in IFSCs/Integrated Services Centres. The kit aims at providing updated health, social and education information and resources in the community to facilitate child health/care partners in the delivery of their services. The kit includes a series of information leaflets and DVDs on parenting, child development, child protection, etc.; and

(d) The HA Head Office coordinates all clusters and mobilises community resources, initiates disease prevention projects to enhance public understanding of serious illnesses and their prevention. Current projects include smoking cessation and obesity tackling through maintaining ideal body mass index. On top of a wide range of disease prevention activities, a new patient information website has also been developed to empower patients and their carers as well as members of public with knowledge and skills for disease prevention and self-care for better disease management.

#### *Student Health Service*

25.15 The Student Health Service of DH provides a comprehensive range of promotion and preventive health services to all primary and secondary school students, including special school students. Enrolment is free of charge and voluntary. Enrolled students attend one of the 12 Student Health Service Centres for annual health assessments. Such assessments include physical examination, mop-up immunisation, screening for health problems related to vision, hearing, nutrition, blood pressure, spinal curvature and psychosocial health, individual counselling and health education (including sex education). Students with problems detected would be referred to specialists, school guidance staff, school social workers, and other social welfare organisations for detailed assessment, treatment and follow-up as appropriate. Lifts, toilets for persons with disabilities, tactile for the blind, induction loop system for persons with hearing impairment and registration desks with lowered level are provided in most service centres to minimise access barriers to students with disabilities.

#### *Elderly Health Services*

25.16 DH has set up 18 elderly health centres and 18 visiting health teams to enhance primary health care for the elderly, improve their ability to care for themselves, encourage healthy living and strengthen family support to minimise illness and disability of the elders. The Elderly Health Centres provide comprehensive primary health care service for people aged 65 or older. Services include health assessments, physical check-ups, counselling, curative treatment, and health education. The 18 Visiting Health Teams outreach into the community and residential care settings to conduct health education for the elderly and provide training for carers to enhance their health knowledge and skill in prevention of disabilities and caring for the elderly.

#### *Inpatient, ambulatory and community support services*

25.17 HA provides a range of treatment and rehabilitation services to patients, including persons with disabilities. Health care staff arranges for patients to receive the services in suitable settings depending on their clinical conditions and treatment needs.

25.18 In general, after a patient is admitted to hospital, health care staff will first deal with their acute clinical needs. When the conditions of the patient begin to stabilise, health care staff will arrange for the patient to rehabilitate in the appropriate environment. For patients who need to continue to be hospitalised for observation and treatment, health care staff will provide extended care to them in the hospitals. Patients with suitable clinical conditions

will be discharged and arrangements for ambulatory or community rehabilitation services are made depending on their needs, including follow-up consultation at the outpatient departments or outreach services. Before the discharge of the patient, health care staff will make pre-discharge preparations by arranging physiotherapists and occupational therapists to assess the home environment of the patient to ensure that the environment is conducive to the rehabilitation and daily activity of the patient.

25.19 Having regard to the needs of individual categories of patients, HA also provides specialty-led rehabilitation programmes in its extended care hospitals, ambulatory care or outpatient departments. Examples of these programmes include pulmonary rehabilitation, orthopaedic rehabilitation, geriatric rehabilitation and cardiac rehabilitation. HA also works closely with the Community Rehabilitation Day Centres of SWD and the rehabilitation organisations of the social welfare sector to ensure that patients in the community receive appropriate care.

*Mental health services*

25.20 The HKSAR Government is committed to promoting mental health through the provision of a comprehensive range of mental health services, including prevention, early identification, medical treatment, rehabilitation and community support services, to people in need. 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. The Food and Health Bureau (FHB) assumes the overall responsibility of coordinating mental health policies and service programmes by working closely with LWB, HA, SWD, NGOs and other relevant parties. The services for persons with mental health problems have been strengthened and the funding allocation by the HKSAR Government on mental health services has been increasing in recent years. While the annual HKSAR Government expenditure on mental health services had been consistently over HK\$3 billion in the past few years, the expenditure has increased to HK\$3.6 billion in 2008–09, and to HK\$3.77 billion in 2009–10. From 2001–01 to 2009–10, the HKSAR Government has provided additional funding of HK\$283 million to HA and HK\$85.1 million to SWD to implement a series of new initiatives.

25.21 Among the major initiatives implemented are the use of psychiatric drugs with less disabling side effects, intensive rehabilitation service in home-like settings for long stay mental patients in hospitals, early assessment for young persons with psychosis, prevention of elderly suicide through early detection of depression, support to discharged mental patients, particularly the frequently readmitted patients, psycho geriatric outreach services for the elderly in private elderly homes, psychiatric consultation-liaison service at accident and emergency departments and the setting up of triage clinics at psychiatric specialist outpatient clinics (SOPCs). We have also enhanced the manpower for mental health services by increasing the number of psychiatrists, psychiatric nurses, MSWs, etc.

25.22 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 therefore the international trend to focus on community and ambulatory services in the treatment of mental illness. Under this direction, 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 psycho geriatric outreach services.

25.23 To further strengthen mental health services, HA is launching new initiatives in 2010–11 to support two categories of mental patients, namely persons with common mental disorder and persons with severe mental illness. For persons with common mental disorders, HA will foster closer collaboration between its psychiatric SOP service and primary care service in order to provide these patients with the appropriate assessment and treatment services.

25.24 On the other hand, patients with severe mental illness who reside in the community have various needs in their daily life. Their conditions call for the adoption of a coordinated approach to provide personalised care to them. To enable the provision of intensive, continuous and personalised support to these patients, HA has launched the CMP for persons with severe mental illness. Each patient covered by CMP has a designated case manager to follow up on his/her care. The case manager will establish a close service relationship with the patient and develop an individual care plan having regard to the patient's needs and risk profile. The case manager will maintain contact with the patient throughout the recovery journey, coordinate and arrange for the delivery of appropriate services to the patient. He/she will at the same time monitor the progress of recovery and make prompt arrangements for the patient to receive treatment when there is a sign of relapse of mental illness. In discharging his/her functions, the case manager will work closely with various service providers, particularly the ICCMWs (details of ICCMW can be found in paragraph 19.8). The CMP has been launched as pilots in three districts where relatively more patients with severe mental illness reside. The target is to serve 5,000 patients in 2010–11. Subject to the evaluation of the pilot programme, HA will roll it out to other districts in the coming years.

25.25 Some commentators suggested setting up a Mental Health Council to oversee and co-ordinate the overall mental health policy and services. At present, 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, DH and SWD in the implementation of relevant measures. We seek to provide medical and rehabilitation services to patients with mental health problems through a multi-disciplinary and cross-sectoral team approach. The mental health services are kept under review on a continuous basis by the Working Group on Mental Health Services. The Working Group is chaired by the Secretary for Food and Health and its members comprise academics, relevant professionals and service providers. The HKSAR Government takes into account their views in making adjustment to existing services and 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.

25.26 Some commentators suggested that HA should provide evening services at psychiatric SOPCs in each hospital cluster to enable ex-mentally ill persons who work during the daytime to schedule their consultations in the evening. HA implemented psychiatric SOPC evening consultation service on a trial basis in Kwai Chung Hospital in the Kowloon West Cluster from 2001 to 2005. During that period, among the 35,000 patients receiving psychiatric SOPC services in Kowloon West Cluster each year, only 0.2%, i.e. 60–80 patients, used the evening consultation service. After reviewing the effectiveness of the service and having considered that patients may receive more comprehensive support services such as day hospital, allied health and social services during the daytime, HA terminated the evening consultation service in 2006. Nonetheless, to facilitate consultation services for patients who work during daytime, HA has extended

from 2007 the service hours of its psychiatric SOPCs on Mondays to Fridays. It will continue to monitor the service utilisation and make adjustments where necessary.

25.27 Some commentators requested enhancement of support service for young people with early psychosis. At present, HA has in place the E.A.S.Y. (Early Assessment Service for Young People with Early Psychosis) Programme for young people suffering from early psychosis. Apart from conducting educational campaigns to raise the public's awareness about early psychosis and its symptoms, the Programme also offers a one-stop, open-style service that enables those seeking medical attention to obtain early assessment and treatment in an appropriate setting.

*Programmes for prevention and early intervention of secondary disabilities*

25.28 To minimise the occurrence of secondary disabilities, HA has implemented various measures to provide prevention and early intervention to high-risk groups (such as elderly and chronic disease patients) in the primary care and community settings. Examples of these measures include the Community Fall Prevention Programme and the Hypertension Awareness Programme.

25.29 With additional funding provided by the HKSAR Government, HA has also piloted new initiatives to enhance the support for the management of chronic diseases. These initiatives include the provision of multi-disciplinary Risk Factor Assessment and Management programme to hypertension and diabetes mellitus patients, implementation of the Patient Empowerment Programme in collaboration with NGOs to raise chronic disease patients' awareness of the diseases and enhance their self-care ability, and the provision of specific care support services to chronic disease patients, such as fall prevention, handling of respiratory problems, wound care and mental health support, etc. in selected nurse and allied health clinics.

**Health education**

25.30 The Family Health Service of DH provides a comprehensive range of information on women and children health issues. The information is disseminated to the public through various means to suit the different needs of clients. These include individual counselling, interactive workshops, leaflets, audiovisual materials, telephone hotlines and the internet.

25.31 To promote healthy eating among primary school students and to reduce children's risks of developing non-communicable diseases, DH launched the EatSmart@school.hk Campaign in all local primary schools since the 2006–07 school year. The objectives of the Campaign are to raise public awareness and concern about healthy eating among children, and to create an environment that is conducive to healthy eating in schools and the community. Under the campaign, DH and EDB co-organised a new EatSmart School Accreditation Scheme in the 2009–10 school year, placing emphasis on fostering healthy eating policy and enforcing nutritional guidelines in primary schools. As at June 2010, 168 primary schools were enrolled in the Scheme. Separately, the EatSmart@restaurant.hk Campaign was launched throughout HKSAR in April 2008 to encourage restaurants to provide a greater variety of menu choices that are rich in fruit and vegetables as well as low in oil, salt and sugar content. As at June 2010, over 600 restaurants took part in the programme. In the long run, DH aims to increase the number of schools and restaurants taking part in the two campaigns. Furthermore, conducting pilot projects to promote healthy eating will be considered in pre-primary institutions and business corporations in 2010–11.

25.32 In 2009–10, the Tobacco Control Office (TCO) of DH continued to reinforce publicity, health education and promotional activities on tobacco control through TV and radio announcements in public interest, giant outdoor advertisements, seminars and interactive online programmes targeting youth on TCO website. To further strengthen its

efforts on smoking prevention and cessation, DH has started collaboration with the Tung Wah Group of Hospitals on a 3-year pilot community-based smoking cessation programme from 2009 to 2011. The programme covers a comprehensive range of activities and services including smoking cessation service, education for the public, training for health-care professionals and research projects. DH has also entered into a funding and service agreement with Pok Oi Hospital (POH) for the provision of a one-year smoking cessation pilot programme using traditional Chinese medicine with effect from 1 April 2010. Free smoking cessation service including counselling and acupuncture will be provided by POH Chinese medicine practitioners in ten mobile clinics which serve 48 locations at different districts.

25.33 All 18 Districts in HKSAR have established and implemented healthy cities projects to various extents. DH works with Government departments and local agencies to support the undertakings of the healthy cities projects. DH will continue to play a health advisory and partnership role, rendering professional input on matters relating to public health and health promotion.

25.34 LD has adopted a multifarious approach to disseminate messages on occupational safety and health to the public. These include publicity through different media such as television and radio, public transport such as buses and trains as well as LD's website. In addition, LD also organises a wide variety of educational and promotional programmes and activities in partnership with various stakeholders, including the Occupational Safety and Health Council, other Government departments, trade associations and labour unions to raise the awareness of work safety and instil the concept of self-regulation among employers and employees as well as the public at large. These include the Catering Industry Safety Award Scheme, Construction Industry Safety Award Scheme, Occupational Safety Charter, Occupational Safety and Health Programme, sponsorship schemes to help small and medium sized enterprises to acquire safety equipment, as well as various seminars, talks, exhibitions and publications. These initiatives also enhance the knowledge of employers and employees on health hazards and occupational diseases, and help them take suitable precautionary measures against work injuries and occupational diseases.

25.35 HA has also established the Smart Patient Website as a one-stop internet platform to provide information about major diseases and health-care procedures for patients, carers as well as the general public. The Smart Patient Website has features to enable visually impaired persons to access the information. The website aims to enhance the understanding of the public about major diseases and help patients to better manage their diseases. It also contains information on patient self-help groups to promote mutual support among patients.

### **Training of health-care professionals**

25.36 In order to reinforce health care staff's awareness in providing patient-centred care and enhance their sensitivity in taking care of patients with special needs, HA and DH have been organising training programmes or arranging their staff to attend relevant training on a continuous basis to enhance staff's communication skills and their awareness in respecting patients' rights and feelings. Topics covered by the training include patient communication and equal opportunities, etc.

25.37 Some commentators raised the concern that the supply of health-care professionals is inadequate to meet the increasing demand of rehabilitation services and urged the HKSAR Government to step up efforts in training health-care professionals. In this regard, FHB has been providing advice on manpower requirements for health-care professionals (including physiotherapists, occupational therapists, nurses, etc.) in accordance with the triennial student places allocation and funding requirement planning cycle of the UGC. In projecting the manpower requirements, the HKSAR Government will take into account the views of the major employers of health-care professionals, including HA, DH, welfare

service providers and private hospitals. These organisations and departments will take note of the number of retirees each year and the trend of wastage in future, and make an assessment on the future service demand having regard to such factors as population ageing, demographic changes and the special needs of the community for particular areas of services.

25.38 The HKSAR Government will also take into account the health care service delivery model and other related policies such as the development of primary care and promotion of private hospital development and their implications on manpower requirements for projection of the overall manpower requirements for health-care personnel. Besides, DH conducts statistical studies on the manpower resources of health-care professionals regularly to collect the latest information on the numbers, features and employment of health-care professionals and keep track of changes in the trend.

25.39 The HKSAR Government will continue to monitor the manpower requirements for health-care professionals closely and make recommendations to UGC on future publicly-funded student places for reference by the institutions in academic planning.

## **Article 26**

### **Habilitation and rehabilitation**

26.1 The HKSAR Government, in line with its established rehabilitation policy and strategic directions, has been implementing various habilitation and rehabilitation programmes in the areas of health, employment, education and social services to enable persons with disabilities to attain and maintain maximum independence, full physical, mental and social ability and full inclusion and participation in all aspects of life.

26.2 As illustrated in previous sections, the HKSAR Government provides a wide range of community care and support services for persons with disabilities and their carers to assist them in developing their potential so as to enable them to continue to live independently at home and to prepare them for full integration into the community. For those who cannot live independently and those who cannot be adequately cared for by their families, we provide a range of residential care services to improve their quality of life and to help them to develop independent living skills. Details of those residential and community support services are provided under Article 19 of this report. Habilitation and rehabilitation programmes in the areas of education and health are set out under Article 24 and Article 25 of this report, respectively. We will deal with rehabilitation programmes and support measures in the areas of employment for persons with disabilities under Article 27 below.

26.3 We will continue to keep a close watch on the needs of persons with disabilities and their carers and continue to provide them with diversified programmes with a view to helping persons with disabilities integrate fully into society.

## **Article 27**

### **Work and employment**

#### **Policy objective**

27.1 The policy objective of the HKSAR Government in assisting persons with disabilities obtain employment is to ensure that they have equal access to participation in productive and gainful employment in the open market. To this end, we have in place suitable legislative measures against disability discrimination in the workplace and in employment. We also provide a wide range of employment support and vocational training

services for persons with disabilities, including selective placement services by LD to assist persons with disabilities secure open employment, vocational rehabilitation training by SWD and VTC, as well as re-training programmes by the Employees Retraining Board (ERB). To enhance their employment opportunities, LWB has also been collaborating with the RAC and various sectors of society to promote the working abilities of persons with disabilities and encourage different organisations and the business sector to employ persons with disabilities or purchase the products/services provided by them. The HKSAR Government is fully aware of the concerns expressed by some commentators about the difficulties encountered by persons with disabilities in securing employment in the open market, and will continue to enhance employment support and vocational training services, enlist cross-sectoral collaboration, and implement suitable initiatives to promote the employment of persons with disabilities.

### Relevant legislation

#### *Disability Discrimination Ordinance (Cap. 487)*

27.2 Under the DDO, it is unlawful for an employer to discriminate against a person with a disability by refusing to offer him employment, denying or limiting his access to opportunities for promotion, transfer, training or to other benefits, services or facilities, or dismissing that person, except where the person:

- (a) Is unable to carry out the inherent requirements of the employment; or
- (b) Would require services or facilities not required by persons without disabilities and the provision of such services or facilities would impose unjustifiable hardship on the employer.

The scope of employment under the DDO is essentially wider than what is generally understood as employment under common law and/or the labour legislation. Basically, it covers full-time, part-time, permanent or temporary employment. Protection begins with the pre-employment application and extends to post-employment situations when the person has left the employment.

27.3 The following court cases provide further information on whether provisions under the DDO are contravened under certain circumstances in employment. In *K & Ors v Secretary for Justice* [2000] 3 HKLRD 777 (Annex 2), the District Court found that the degree of risk of the plaintiffs' genetic liability to develop a disease from which their parents suffered did not present a "real risk" to the safety of their workplace and so they were each able to carry out the requirements of their work. On the other hand, in *M v Secretary for Justice*, DCEO 8/2004 (Annex 6), the District Court found that the plaintiff was unable to carry out the requirements of his work without a reduced workload, minimised distraction, and a pampered and protected working environment. The District Court found that the plaintiff was in effect asking the employer to lower or alter the inherent requirements of his work and considered that such request would impose unjustifiable hardship on the employer.

27.4 Starting from December 1996, when the employment-related provisions of the DDO came into force, up to 31 January 2010, a total of 3,288 complaints in relation to employment had been lodged with the EOC, amounting to 71% of the total complaints received. Out of the total number of complaints entering into conciliation, 58% had been successfully settled. Up to 30 June 2010, 231 applications for legal assistance had been received by EOC, of which 81 cases (35%) were granted.

27.5 In January 1997, the EOC issued the Code of Practice on Employment under the DDO in accordance with section 65 of the DDO immediately after the DDO came into full force. The Code helps both employers and employees understand the requirements of the

DDO, and provides guidelines for legal compliance. It also explains the concept and principle of “equal pay for work of equal value” (EPEV) and encourages employers to progressively implement EPEV. The public has gained better and broader knowledge of the DDO over the last decade, and there have been developments in legal jurisprudence and an increase in the number of complaints lodged with the EOC. It is considered timely to revise the Code with more case illustrations and good practice suggestions so that it will continue to serve as a useful reference for complying with the legal requirements and cultivate a discrimination-free workplace. The draft revised Code was published for public consultation in April 2010.

*Employment Ordinance (Cap. 57) (EO)*

27.6 All employees, including workers with disabilities, are protected under the Employment Ordinance (Cap. 57) (EO). They enjoy the same employment rights and benefits and may seek redress if they are deprived of benefits and protection under the EO or their employment contracts. An employee who has been unreasonably dismissed may claim for remedies against his employer, as provided by the EO, if he has been employed under a continuous contract for a period of not less than 24 months and his employer does not have a valid reason for dismissing him.

27.7 Where unreasonable dismissal is established, the Labour Tribunal (LT) may order reinstatement or re-engagement subject to the mutual consent of the employer and the employee. If no such order is made, the LT may make an award of terminal payments to be paid by the employer as it considers just and appropriate in the circumstances.

27.8 Where it is established that the dismissal is both unreasonable and unlawful<sup>15</sup> and there is no order for reinstatement or re-engagement, the employee may be awarded compensation of up to a maximum of HK\$150,000, irrespective of whether or not there is an award of terminal payments.

**Vocational rehabilitation and training services for persons with disabilities**

27.9 The HKSAR Government strives to provide a wide range of vocational rehabilitation and training services for persons with disabilities so as to equip them with job skills that meet market requirements and assist them in securing suitable employment commensurate with their abilities. These services are detailed in the following paragraphs.

*Skills Centres of Vocational Training Council*

27.10 The three VTC Skills Centres offer a variety of market-driven training courses/programmes for persons with disabilities aged 15 or above, who have been assessed as having the ability to work in the open market, with a view to enhancing their

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<sup>15</sup> Dismissal in the following circumstances is unlawful as it contravenes the specified provisions of the EO (Cap. 57), the Factories and Industrial Undertakings Ordinance (Chapter 59) or the Employees’ Compensation Ordinance (Cap. 282):

- (a) Dismissal after the employee has served a notice of pregnancy to the employer;
- (b) Dismissal for trade union membership and activities;
- (c) Dismissal whilst the employee is on paid sick leave;
- (d) Dismissal by reason of the giving of evidence or information by an employee in any proceedings or inquiry in connection with the enforcement of EO, industrial accidents or breach of work safety regulations; and
- (e) Dismissal of an injured employee before the parties have entered into an agreement for employee compensation or before the issue of a certificate of assessment.

employment prospects and equipping them for open employment. These include courses in commercial and retail services, basic catering service, computer and network practice, design and desktop publishing, printing, packaging service, office practice, logistics service, massage service, among others. The Skills Centres offer a total of 660 full-time training places, of which 120 are provided with boarding facilities.

27.11 Apart from full-time courses, the Skills Centres also offer part-time evening courses and tailor-made short courses of flexible attendance mode to meet the specific needs of persons with disabilities. Sixty part-time evening course training places and 300 tailor-made short course training places are provided annually. Currently, most applicants can be admitted to the Skills Centres' training programmes within a short time after the completion of the application and vocational assessment process. In 2009, the average waiting time was about two weeks.<sup>16</sup>

27.12 The training courses/programmes of the Skills Centres are subject to regular reviews and moderation by the Course Sub-committee under the purview of VTC's Committee on Vocational Training for People with Disabilities. Members of the Committee and the Sub-committee include representatives from the Special Schools Council, IVTCs, employers' associations, relevant Government departments and NGOs. They provide valuable input for the design of the training programmes to ensure that these programmes match the local occupational skills requirements and meet the needs of persons with disabilities and the employment market.

*Day training and vocational rehabilitation services provided by the Social Welfare Department*

27.13 To assist persons with disabilities improve their social adjustment capabilities and enhance their social and vocational skills, SWD provides them with various day training and vocational rehabilitation services. At present, there are a total of 16,384 places for these services. In 2010-11, there will be an additional provision of 137 places in DACs and 438 places in Integrated Vocational Rehabilitation Services Centres (IVRSCs). Details of these services are as follows:

(a) IVTCs

IVTCs provide comprehensive and systematic vocational training for persons with disabilities to assist them in obtaining open employment and developing their potential. At present, there are two IVTCs operated by NGOs with Government subvention, providing a total of 453 training places.

(b) Sheltered Workshops (SWs)

SWs provide persons with disabilities, who are not yet able to take up open employment with appropriate vocational training in a specially designed work environment, in which they can learn to adjust to normal work requirements, develop social skills and relationships, and prepare for potential advancement to supported and open employment. As at March 2010, there were 35 SWs providing 5,133 places.

(c) Supported Employment (SE)

SE provides persons with disabilities with vocational training, job matching, on-the-job coaching, follow-through guidance services and employment-related skills, etc. It serves as an avenue for upward mobility of SW trainees and a necessary step towards social

<sup>16</sup> The average time for completing Specific Vocational Assessment Programme and Comprehensive Vocational Assessment Programme is 3 to 5 days and 2 to 3 weeks, respectively.

integration for those persons with disabilities who otherwise cannot take up open employment. As at March 2010, there were 27 NGOs providing 1,645 places.

(d) IVRSCs

Since 2004, SWD implemented the new service delivery model of IVRSC through re-engineering the SW and SE services. IVRSCs provide a series of one-stop and integrated vocational rehabilitation services including work skills training and development of their social and interpersonal skills with a view to preparing them for potential advancement to open employment. As at March 2010, there were 23 IVRSCs providing a total of 3,685 places.

(e) On the Job Training Programme for Persons with Disabilities, and Sunnyway: On the Job Training Programme for Young Persons with Disabilities

These two programmes provide wage subsidy to employers to encourage them to provide job opportunities for persons with disabilities. Under these programmes, services including job attachment, job matching, on-the-job training, job-related counselling and post-placement support, etc. are provided to persons with disabilities. As at March 2010, a total of 743 places were offered under these programmes.

(f) DACs

For persons with severe intellectual disability who are unable to receive vocational training or sheltered workshop services, DACs provide them with day care and training in daily living skills and simple work skills. As at March 2010, there were 78 DACs providing 4,495 places.

27.14 When students with disabilities reach the age of 15, they can apply for these services and be put on the waiting lists when they are still studying at school. Referrals/applications can be made by school social workers, MSWs, family caseworkers and staff of rehabilitation service units to SWD's Central Referral System for Rehabilitation Services.

*Training courses provided by employment retraining board*

27.15 The service targets of the ERB have been expanded since 1 December 2007 to cover those HKSAR residents aged 15 or above and with education at sub-degree level or below. ERB programmes, including those for persons with disabilities, can be grouped under two major categories, namely full-time placement-tied job-specific skills training courses and part-time generic skills training courses. Placement-tied courses provided the unemployed with training on vocational skills free of charge. A training allowance is also granted to course attendees. To help trainees enter the labour market, training bodies are required to provide trainees with six-month placement follow-up service. Non-placement-tied generic skills training courses conducted in part-time mode cover information technology applications and vocational languages, etc. These courses are heavily subsidised and designed to enhance the competitiveness of the employed or unemployed persons, including those with disabilities.

27.16 At present, placement-tied courses designed for persons with disabilities include telemarketing, desktop publishing, homepage design, customer service, cleaning service, retail and warehouse operation, courier service, clerical work, etc. They are offered through the district networks of 15 appointed training bodies of ERB. The ERB offers three placement-tied training courses, namely, "Certificate in Cleaning Assistant Training", "Certificate in Sales and Store Management" and "Certificate in Courier Training" which are also suitable for adults with mental disability. In 2009–10, around 1 350 persons with disabilities enrolled in the above courses. In order to serve more persons with disabilities, ERB has reserved a total of 2,000 training places for this target group in 2010–11, and

provides altogether 47 training courses, including 40 placement-tied courses and seven generic skills training courses.

#### *Selective Placement Services*

27.17 The Selective Placement Services (SPD) of LD administers the Work Orientation and Placement Scheme (WOPS) and Self Help Integrated Placement Service (SHIPS) to enhance the employment opportunities for persons with disabilities who are ready to work in the open labour market. Details of the WOPS and SHIPS are set out below.

#### Work Orientation and Placement Scheme (WOPS)

27.18 WOPS was launched in April 2005 with a view to encouraging employers to offer job vacancies to persons with disabilities through a three-month trial placement. To further improve the employment opportunities of persons with disabilities amidst the economic downturn in 2009, the HKSAR Government has enhanced the WOPS by raising the ceiling of the financial incentive to employers (i.e. from HK\$3,000 to HK\$4,000 per month) and extending the subsidy period. As at 31 March 2010, the WOPS achieved 1,713 work placements.

#### Self-Help Integrated Placement Service (SHIPS)

27.19 SPD also administers SHIPS to encourage and help job-seekers with disabilities to be more proactive and independent in their job search. SHIPS was first launched in April 2000. As at 31 March 2010, 5,793 job seekers with disabilities participated in SHIPS and made a total of 17,529 self-initiated job applications.

#### Interactive Selective Placement Service (iSPS)

27.20 SPD of LD has since January 2003 established the “Interactive Selective Placement Service” website to provide enhanced employment services to job-seekers with disabilities and their prospective employers through the Internet. The website enables persons with disabilities to register for SPD’s placement service, browse vacancies available and perform preliminary job matching. It also enables employers to place vacancy orders with SPD, identify suitable job seekers with disabilities to fill their vacancies, or request SPD to refer candidates for selection interviews.

27.21 To facilitate browsing by persons with disabilities and employers, the layout and design of the website was revamped on 31 December 2009 for easier retrieval of information relating to employment and recruitment services rendered by SPD.

27.22 As indicated by the placement data of SPD, from 1 April 2006 to 31 March 2010, SPD recorded 13,788 registrations, with 61,159 job referrals made and 9,944 placements achieved.

#### Reaching out to graduates with disabilities

27.23 To facilitate graduates with technical and vocational skills to register with SPD for placement services, SPD conducts Careers Seminar cum Registration Day at the Skills Centres of the VTC regularly. In addition, self-learning kits are also sent to the various member institutions of VTC for distribution to graduates with disabilities to equip them with job-hunting techniques.

## Measures to promote employment opportunities for persons with disabilities

### *Partnership with business and local communities*

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

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

27.26 To reinforce the efforts in promoting employment for persons with disabilities, LWB and RAC continue to adopt “Promotion of Employment for Persons with Disabilities” as one of the major themes of publicity programme in 2010. They will continue to launch a series of initiatives to enhance the understanding of different sectors in the working capabilities of persons with disabilities, as well as the provision of support services for employment of persons with disabilities by various Government departments and rehabilitation organisations. The aim is to strengthen cross-sectoral collaboration among the business sector, local communities, Government departments and NGOs in promoting the employment of persons with disabilities, thereby supporting the self-reliance of persons with disabilities and their full integration into the community.

27.27 In 2001–02, SWD was granted a one-off provision of HK\$50 million to implement a project entitled “Enhancing Employment of People with Disabilities through Small Enterprise” Project (3E’s Project). Through the payment of grants as seed money, NGOs are provided assistance to set up small enterprises/businesses to create employment opportunities for persons with disabilities, and provide them with genuine employment in a carefully planned and sympathetic work environment. In these small enterprises/businesses, the number of employees with disabilities should not be less than 50% of the total number of employees and a proper employer-employee relationship is expected. Each funded project will be offered a grant not exceeding HK\$2 million for the first two years of its operation and the business is expected to become self-sustaining thereafter. As at March 2010, around HK\$34.4 million has been granted under the 3E’s Project to support NGOs in setting up 60 businesses of various nature, including cleaning, catering, car beauty, massage, retail shops, vegetable supply and processing, household service, travel agency, etc. These businesses have created a total of 488 jobs for persons with disabilities.

27.28 SWD has also established the Marketing Consultancy Office (Rehabilitation) to enhance employment and training opportunities for persons with disabilities through innovative, effective and efficient business development and marketing approaches. Services of the Office include assisting NGOs in setting up small businesses under 3E’s Project, promoting work abilities of persons with disabilities and strengthening NGOs’ cooperation with the HKSAR Government and private sectors.

27.29 SPD of LD also regularly organises public education and publicity activities to promote the work capability of persons with disabilities and enhance their employment opportunities. These activities include conducting special promotional campaigns to targeted trades to canvass vacancies, organising seminars and exhibitions to reach out to employers, advertising in the mass media, producing videos on success stories as well as publishing leaflets and guidebooks on employment of persons with disabilities.

*Measures by Government subvented organizations and statutory bodies*

27.30 LWB has been proactively encouraging Government departments, Government subvented organisations (GSOs) and statutory bodies (SBs) to adopt a host of measures to further promote the employment of persons with disabilities. These measures include setting up indicators for the employment of persons with disabilities on a voluntary basis; formulating policies and procedures regarding the employment of persons with disabilities by drawing reference to those for the civil service; publishing the numbers of employees with disabilities and related initiatives in their publications; and priority use of the services and products provided by social enterprises of the rehabilitation sector. To track the progress of public organisations in promoting employment of persons with disabilities, tracking surveys were conducted in 2004, 2006 and 2007 to collect relevant information from the GSOs and SBs. A new round of tracking survey has already been conducted in 2010 and LWB is in the process of consolidating and analysing the data received.

27.31 To step up the efforts in encouraging GSOs to employ persons with disabilities, RAC has, since 2008, met the management of the leading organisations of the social welfare sector to encourage them to establish measures for promoting the employment of persons with disabilities. These welfare organisations have responded positively and have undertaken to set employment indicators and taken various measures to promote the employment of persons with disabilities (see Annex 12 for more details on such measures).

*Administrative measures within the Hong Kong Special Administrative Region Government*

27.32 Some commentators considered that the HKSAR Government should take the lead in employing persons with disabilities. Indeed, the HKSAR Government seeks to place persons with disabilities in appropriate jobs whenever possible and welcomes applications from them for both civil service and non-civil service vacancies. Applicants with disabilities who meet the basic entry requirements for a post will not be subject to any further shortlisting criteria and will be automatically invited to attend a selection interview. Candidates with disabilities will also be given an appropriate degree of preference in order to enable them to compete with able-bodied candidates on equal grounds. Once candidates with disabilities are considered suitable by the selection board to carry out the duties of a particular post, they would normally be recommended for appointment even though they may not be able, owing to their disabilities, to perform the full range of duties of every post in the same rank. As at 31 March 2010, there were 3,316 civil servants with disabilities. Over the years, the number of civil servants with disabilities remained at over 2% of the strength of the civil service. Our policy on the employment of persons with disabilities is proactive, offering preferential treatment to candidates with disabilities in their application for Government jobs. We will continue to encourage persons with disabilities to apply for Government jobs, and to place them in appropriate jobs whenever possible.

27.33 Government bureaux and departments provide on-the-job assistance to their staff members with disabilities to facilitate them in carrying out their duties. Such assistance may take the form of modifications of work areas and facilities (e.g. modifying the office door to facilitate smooth passage of wheelchairs), appropriate changes to job design or work schedules (e.g. placing staff with intellectual disability in less demanding jobs and not

assigning excessive outdoor duties to staff with physical disability) and provision of necessary equipment, etc.

27.34 In April 1996, a central fund of HK\$4.4 million was established in the Government to finance the purchase of technical aids to facilitate staff with disabilities to better perform their duties in the workplace. So far, a total of about HK\$3.9 million has been disbursed from the fund for the purchase of technical aids such as computer with Braille display, screen reading software, telephone amplifier, etc. for employees with disabilities.

27.35 To enhance civil servants' understanding of the policy on employing persons with disabilities, all Government bureaux and departments were invited to a seminar in April 2010 to refresh and update them on prevailing practices and guidelines relating to the employment of persons with disabilities. There were experience-sharing by departments with staff with disabilities, introduction to technical aids available to facilitate the work of persons with disabilities, and promotion of the services provided and products produced by persons with disabilities.

#### **Minimum Wage Ordinance (Cap. 608) (MWO)**

27.36 The MWO was passed by LegCo on 17 July 2010. It aims to establish an optimal statutory minimum wage (SMW) regime which provides a wage floor to forestall excessively low wages without unduly jeopardising HKSAR's labour market flexibility, economic growth and competitiveness or causing significant loss in low-paid jobs. If everything proceeds well and allowing time for the community to gear up for implementation, it is hoped that SMW will come on stream in the first half of 2011.

27.37 On the treatment of persons with disabilities under the SMW regime, LD has conducted consultation sessions with more than 50 rehabilitation organisations and over 30 employers with ample experience in employing workers with disabilities, and with the participation of EOC. The majority view gauged is that while SMW should be applicable to employees with disabilities like their able-bodied counterparts, a special arrangement should also be put in place for those with impaired productivity so as to minimise any possible adverse impact of SMW on their job opportunities. Under the MWO, employees with disabilities enjoy the same entitlement to SMW as able-bodied workers. The Ordinance also provides a special arrangement so that employees with disabilities may choose to have their productivity assessed in the authentic workplace. The assessment serves to determine the extent, if any, that the disabilities affect the degree of productivity of the employees in performing their work so as to determine whether they should be remunerated at no less than the SMW level or at a rate commensurate with their productivity. To forestall abuse, the right to invoke the assessment is vested in the employees with disabilities rather than the employers.

#### **Employment quota**

27.38 Some commentators suggested the introduction of mandatory employment quota for employment of persons with disabilities. Indeed, this idea was thoroughly discussed by the rehabilitation sector and a number of meetings at LegCo and RAC. According to studies by the European Commission in 2000 and the International Labour Organisation in 2003 on measures to promote employment of persons with disabilities, such an employment quota system has not been proven successful overseas in helping persons with disabilities secure employment and some countries had abolished their quota system. The international trend has moved away from employment quota system to anti-discrimination legislation, provision of incentives for employers and enhanced support measures for persons with disabilities. Indeed, under a mandatory employment quota system, persons with disabilities would be perceived as a liability, making them difficult to be accepted by their peers at work which is not conducive to their integration into the community. We consider that

persons with disabilities should be assisted to find appropriate jobs on the basis of their abilities rather than disabilities. In this regard, apart from providing vocational training and employment support for persons with disabilities, we would continue to adopt positive encouragement measures, such as giving recognition to good employers, sharing of good practices and providing incentive and assistance to employers etc. to enhance the job opportunities of persons with disabilities.

## **Article 28**

### **Adequate standard of living and social protection**

28.1 To ensure access by persons with disabilities to services, devices and other appropriate assistance at affordable prices, including the availability of programmes that cover disability-related extra financial costs, the HKSAR Government has put in place financial assistance schemes, medical waiver, housing scheme and subsidised rehabilitation services for persons with disabilities in need.

#### **Financial assistance**

28.2 The CSSA Scheme and the SSA Scheme form the mainstay of HKSAR's social security system. Both schemes are non-contributory and funded entirely by public revenue.

28.3 The CSSA Scheme is means-tested and designed to provide financial support to families in need to meet their basic needs. The Scheme takes into account the special needs of persons with disabilities and thus provides higher standard rates, special grants and supplements to them. The current standard rates for disabled CSSA recipients range from HK\$1,990 to HK\$4,010 per month which is higher than those for able-bodied adults by HK\$675 to HK\$2,180 respectively. As at the end of March 2010, 109,315 persons with disabilities were receiving assistance under the CSSA Scheme.

28.4 There are also special grants for disabled CSSA recipients, including allowances to cover expenditure on glasses, dentures and removal, fares to hospitals/clinics, medically recommended diets and appliances. Besides, supplements for disabled CSSA recipients include long-term supplement and community living supplement, etc.

28.5 DA under the SSA Scheme also helps persons with severe disabilities meet their special needs, but is non-means-tested. An applicant will be considered to be severely disabled for the purpose of DA if he/she is certified by a public medical officer as being in a position broadly equivalent to a person with a 100% loss of earning capacity according to the criteria in the First Schedule of the Employees' Compensation Ordinance (Cap. 282). Recipients of Normal DA receive a monthly allowance of HK\$1,280. Persons meeting the eligibility criteria for Normal DA and also certified to be in need of constant attendance from others and not receiving care in a Government or subvented residential institution can receive Higher DA at a rate of HK\$2,560 a month. As at the end of March 2010, 113 257 and 16 617 persons with severe disabilities were receiving Normal DA and Higher DA respectively.

28.6 A monthly transport supplement has also been provided under the welfare programme to recipients of DA aged between 12 and 64, and recipients under the CSSA Scheme in the same age group with 100% disability since July 2008. In addition to existing measures in meeting the basic transport needs of persons with disabilities, the purpose of providing transport supplement is to encourage persons with disabilities to participate in activities away from home, thereby facilitating their integration into society. In 2009-10, 114,757 people received transport supplement, and total expenditure amounted to HK\$275 million. The estimated expenditure in 2010-11 is HK\$293 million.

28.7 In 2009–10, total recurrent expenditure of the HKSAR Government on social security (including CSSA and DA) for persons with disabilities was HK\$8,820 million,<sup>17</sup> equivalent to 31.6%<sup>17</sup> of the total CSSA and SSA expenditure and 4.0%<sup>17</sup> of the HKSAR Government's total recurrent expenditure for the year. This shows a substantial increase compared with 2001–02 where total recurrent expenditure of the HKSAR Government on social security for persons with disabilities was HK\$5,562 million, equivalent to 28.3% of the total CSSA and SSA expenditure and 2.8% of the HKSAR Government's total recurrent expenditure for the year.

28.8 Persons with disabilities with financial difficulties who are non-CSSA recipients can apply for immediate and short-term financial assistance from charitable funds for purchasing necessary rehabilitative and medical appliances (e.g. Yan Chai Tetraplegic Fund administered by Yan Chai Hospital Board, Samaritan Fund administered by the HA, Li Po Chun Charitable Trust Fund, Tang Shiu Kin and Ho Tim Charitable Fund, Brewin Trust Fund and Kwan Fong Trust Fund for the Needy administered by the SWD). They can approach MSWs, social workers of IFSCs or NGOs to apply for the charitable funds. Social workers will assess the conditions of the applicants including their financial resources in accordance with the respective criteria and categories of charitable funds and provide them with appropriate assistance.

28.9 Social security field units operate in all Districts and are equipped with suitable facilities to provide easy access for persons with disabilities to make applications for financial assistance in their vicinity. For recipients with mobility difficulty, home visits and direct delivery of cash payment can be arranged by the staff of social security field units.

#### **Rehabilitation services**

28.10 Most of the rehabilitation services for persons with disabilities are heavily subsidised by the HKSAR Government and provided either free of charge or at a reasonable charge. For those services where a fee is charged, NGOs operating the Government subvented services have put in place a fee reduction/fee waiver mechanism for persons with disabilities who have financial difficulties so that persons with disabilities can access to these services at affordable prices.

#### **Waiver of medical fee**

28.11 It has always been the HKSAR Government's fundamental principle that no one will be denied adequate medical care owing to lack of means. In this regard, recipients of CSSA will be waived from payment of their public health care expenses. Non-CSSA recipients who cannot afford medical expense at the public sector can apply for a medical fee waiver at the Medical Social Services Units of public hospitals and clinics or IFSCs and the Family and Child Protective Services Units (FCPSUs) of SWD. The MSWs or Social Workers of IFSCs/FCPSUs of SWD will assess the applications with due consideration given to the financial, social and medical conditions of the applicants on a household basis.

#### **Housing scheme**

28.12 The existing housing mechanism enables persons with urgent housing needs, including persons with disabilities, to gain immediate access to public rental housing through the 'Compassionate Rehousing' Scheme. It also allows us to locate flats according to the physical conditions of the disabled persons to suit their needs. Taking persons with

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<sup>17</sup> The total recurrent Government expenditure used in the calculation of the percentage is the revised estimate for 2009–10.

disabilities of lower limb(s) as an example, in arranging allocations, Housing Department (HD) will identify estates with barrier-free access and allocate flats on lift-landing floors. If they are proven to require larger living space, e.g. if they are non-temporary wheelchair users, HD will arrange allocation of a flat of larger size.

## **Article 29**

### **Participation in political and public life**

29.1 In recent decades in HKSAR, an important paradigm shift has taken place in the approach to dealing with disability issues, from welfare to the rights-based approach. The emphasis is on capacity building and empowerment of persons with disabilities to the effect that they can independently participate and integrate into society at large. In line with this development trend, the HKSAR Government has taken suitable legislative and administrative measures to encourage participation of persons with disabilities in the formulation of policies, particularly in rehabilitation policies and initiatives, and to guarantee their enjoyment of political rights.

#### **Legislative framework**

29.2 According to Article 26 of the Basic Law, permanent residents of the HKSAR (including those with disabilities) shall have the right to vote and the right to stand for election in accordance with law. The Legislative Council Ordinance (Cap. 542) and the District Councils Ordinance (Cap. 547) also provide for the right to vote of all eligible persons, including those with disabilities. Under the relevant legislation, all HKSAR permanent residents aged 18 or above and who ordinarily reside in HKSAR are eligible to apply to be registered as electors and vote in LegCo and District Council elections.

#### **Engagement of persons with disabilities in policy formulation**

##### *Participation in Advisory and Statutory Bodies (ASBs)*

29.3 Among other things, persons with disabilities or their carers are appointed to RAC and its subcommittees and working groups. In addition, they are involved in the working group tasked with the responsibility for the drafting of the RPP. Since 1977 RAC has been serving as the principal advisory body to the Hong Kong Government on matters pertaining to the rights of persons with disabilities, and the development and implementation of rehabilitation policies and services in HKSAR. It also co-ordinates the public education efforts made by Government departments, public bodies and NGOs including promotion of the RPP. In formulating major policy initiatives and development strategies relating to the wellbeing of persons with disabilities, the HKSAR Government needs to consult RAC and take into account their views in finalising the policy proposals. This arrangement can, on one hand, recognise persons with disabilities' contribution in the development of rehabilitation policy and services in HKSAR, and ensure that the formulation of rehabilitation policy can take into consideration the needs of service users on the other.

29.4 To advise on the strategies for promoting the employment of persons with disabilities, SWD set up an "Advisory Committee on Enhancing Employment of People with Disabilities" in 2001. The Committee comprises representatives of persons with disabilities and members of the community from public and business sectors. Persons with disabilities and their carers are also appointed to the Committee on Vocational Training for People with Disabilities of the VTC to advise on their service needs and development of the Skills Centres in enhancing the employment capacity of persons with disabilities.

29.5 SWD also administers the Hong Kong Paralympians Fund which provides financial support to athletes with disabilities and the sports associations offered training to athletes with disabilities for their pursuit of sports excellence. The Fund is overseen by a Management Committee comprising, among others, retired athletes with disabilities.

29.6 On transport needs of persons with disabilities, TD conducts regular meetings of its “Working Group on Access to Public Transport by People with Disabilities” and invites groups of persons with disabilities, relevant Government departments and public transport operators to attend so as to have a better understanding of the needs and opinions of persons with disabilities on their use of public transport services, and take follow-up actions where necessary.

29.7 On accessibility of buildings, BD sets up an Advisory Committee on Barrier Free Access. Persons with disabilities are appointed as members of the Committee to offer advice to the Building Authority in relation to plans submitted for a new building or for alteration and addition to an existing building as to whether reasonable access will be provided in the building for persons with disabilities.

29.8 Members of the EOC (the role of which is explained in paragraph 5.7 above) and other persons joining its various committees represent a fairly balanced mix of expertise and representatives of various sectors including the interests of persons with disabilities, women, ethnic minorities, employment, social services sector, legal professionals, accounting professionals, academics and the community at large.

29.9 While upholding the fundamental principle of appointment by merit, the HKSAR Government will continue to encourage the appointing authorities to enhance diversity in ASBs so that members of ASBs can reflect the opinions of different sectors in the community including persons with disabilities.

*Engagement of persons with disabilities in service development and major Government projects*

29.10 Apart from inviting participation of persons with disabilities in ASBs, it has been the established practice of Government bureaux and departments to consult, where appropriate, groups of persons with disabilities and their carers and rehabilitation NGOs on issues affecting the well-being of persons with disabilities in service development and major projects.

29.11 In this regard, SWD engages persons with disabilities in formulating strategies of service development in the early planning stage. For examples in setting up DSCs and launching the Pilot Scheme on Home Care Service for Persons with Severe Disabilities, SWD has conducted extensive consultations with different SHOs of persons with disabilities, parents’ associations and NGOs on the service scope and directions. In preparation for the introduction of a statutory licensing scheme for RCHDs, SWD also set up a Working Group comprising, amongst others, representatives of persons with disabilities and parent groups to formulate proposals for inclusion in a Code of Practice for future compliance by RCHDs.

29.12 Persons with disabilities have been heavily involved in drawing up the requirements for inclusion in the DM. On public housing facilities, it is the Housing Authority’s established practice to consult associations for persons with disabilities and rehabilitation organisations in its design and provision of facilities for persons with disabilities in its estates.

29.13 As mentioned in paragraphs 9.53 and 9.54, the HKSAR Government also engages groups of persons with disabilities and the RAC in the planning stage of major projects, such as the WKCD project and the Tamar Development Project.

### **Voting arrangement for persons with disabilities**

29.14 To ensure that persons with disabilities can enjoy the right to vote in an election, the Registration and Electoral Office (REO) has put in place the following measures:

(a) Polling stations will be set up at venues that are accessible to persons with disabilities as far as possible. If there is no other suitable choice and a venue which is not readily accessible to persons with disabilities has to be used, REO will try to provide, where circumstances permit, temporary ramps to increase the accessibility of the polling stations to electors with disabilities;

(b) Whether the polling stations allocated to electors are accessible to persons with mobility difficulty will be specified in a location map attached to the poll cards sent to electors. Electors with disabilities may contact the REO to arrange to vote at a special polling station designated for such electors. If necessary, transportation arrangements can also be made to facilitate electors with disabilities to vote at the designated polling stations;

(c) Braille templates will be provided to visually impaired electors to mark their own ballot papers in the polling stations;

(d) Sample Braille templates will be provided to the Electoral Information Centre of the REO before the polling day so that visually impaired electors may practise using the Braille templates before the election;

(e) Hotline service will be provided through which the candidates' election platforms will be read to visually impaired electors before the polling day; and

(f) Polling staff will stand ready to assist electors, including electors with disabilities, to mark their ballot papers or to use a Braille template to mark the ballot papers.

29.15 Some commentators expressed concern that not all polling stations are accessible to persons with disabilities. As mentioned above, in identifying venues for use as polling stations, the REO will arrange for venues accessible to persons with disabilities as far as practicable. In the 2010 LegCo By-election, 443 out of the 516 (over 85%) ordinary polling stations were accessible to persons with disabilities. This is an improvement over the 2008 LegCo Election in which 434 (82%) were suitable for use by persons with disabilities. It is noteworthy that in individual districts, the design of some venues in suitable locations may not include facilities to cater for persons with disabilities. Moreover, the availability of these venues is subject to the consent of their owners. That said, arrangements mentioned above should provide the necessary convenience to persons with disabilities to enable them to cast their votes. The REO will continue to make every effort to identify venues accessible to persons with disabilities for use as polling stations in future elections.

### **Measures to promote the development of self-help organisations**

29.16 The policy of the HKSAR Government on promoting the development of SHOs for persons with disabilities aims at promoting the spirit of self-help and mutual help among persons with disabilities and their families/carers, and encouraging the active participation of persons with disabilities and SHOs in the formulation of rehabilitation policies so as to ensure that planned services meet the special needs of persons with disabilities.

29.17 Since 2001, SWD has been providing funding support to SHOs of persons with disabilities through the "Financial Support Scheme for Self-help Organisations of People with Disabilities." The Scheme aims at supporting the operation of SHOs, and promoting the spirit of self-help and mutual support among persons with disabilities and their families. The new phase of the scheme ran from April 2010 to March 2012. Altogether, 56 SHOs benefitted from the Scheme, and the total allocation was about HK\$17 million.

## **Article 30**

### **Participation in cultural life, recreation, leisure and sport**

#### **Policy objective**

30.1 The policy objective of the HKSAR Government in promoting the participation of persons with disabilities in recreational, sports, cultural and arts activities is to provide appropriate activities and facilities to persons with disabilities, with a view to giving them opportunities to develop their potentials, improving their quality of life, and facilitating their active participation in community activities and full integration into the community. In this regard, we have taken suitable measures to facilitate persons with disabilities to take part on an equal basis with others in cultural life, and ensure that cultural, leisure, tourism and sporting facilities are accessible to persons with disabilities.

#### **Legislative framework**

30.2 Under the DDO, it is unlawful for a club to discriminate against a person with disability by refusing his application for membership, denying or limiting his access to any benefit, service or facility, or depriving him of membership, except where:

- (a) The person requires benefit, service or facility to be provided in a special manner which cannot be so provided by the club without unjustifiable hardship; or
- (b) Membership of the club is restricted to persons with a particular disability, and the person does not have that disability.

Furthermore, it is unlawful for a person to discriminate against a person with disability by excluding that person from a sporting activity, except where:

- (a) The person is not reasonably capable of performing the acts reasonably required in relation to the sporting activity;
- (b) The persons who participate in the sporting activities are selected by a reasonable method; or
- (c) The sporting activity is conducted only for persons with a particular disability and the person does not have that disability.

30.3 There are provisions in the Copyright Ordinance (Cap. 528) which facilitate the enjoyment of copyright works by persons with disabilities without infringing the copyright of the copyright owners if the requirements of the provisions are met, e.g. sections 40A to 40F (permitted acts for the benefit of persons with a print disability) and section 83 (designated bodies permitted to provide sub-titled or otherwise modified copies of television broadcast or cable programmes for the benefit of people who are deaf or hard of hearing, or physically or mentally handicapped in other ways).

#### **Administrative measures to encourage participation in cultural life**

30.4 The HKSAR Government is committed to promoting art and culture to all members of the community, regardless of their disabilities, and encouraging them to participate in cultural activities for a diverse and enriched life. Some examples of programmes organised by the HKSAR Government and various organisations to encourage persons with disabilities' participation in cultural and art activities are provided in the paragraphs below.

30.5 LCSD plans and manages performance venues and organises cultural and entertainment programmes to promote art and culture in HKSAR. The department recognises the right of persons with disabilities to take part on an equal basis with others in cultural life, and has been presenting/sponsoring various performing arts programmes to

promote the integration of persons with disabilities. In 2010–2011, the HKSAR Government plans to organise some 27,000 art and cultural activities/programmes for about 8,610,000 participants including persons with disabilities.

30.6 Besides, in launching the programme “*From the Sky above the Museum: For a Better Tomorrow*” of our Social Harmony Project, the Hong Kong Heritage Museum has provided a platform for different communities, including persons with disabilities, to take part in an array of art and cultural activities, including guided tours of exhibitions, demonstrations, workshops, and thus to widen their perspective and to strengthen community involvement. Through the programme, the museum also strives to forge a close partnership with non-profit-making social service organisations that care for members from different communities. In addition, Hong Kong Film Archive selects suitable programmes and offers free or concessionary tickets for special school students and encourages their active participation in the programmes and activities. The Hong Kong Museum of Art plans to stage a major exhibition “*Touching: Dance with the Sculptures from the Louvre Museum*” from the Louvre Museum, Paris, which features fine reproductions of famous sculptural works in the Museum’s collection in the fall of 2010. The exhibition aims to provide disabilities, in particular the visually-impaired, a fresh experience in touching sculptural works for artistic appreciation.

30.7 To promote the creative, artistic and intellectual potential of persons with disabilities, Hong Kong public libraries also provide venues for the Hong Kong Joint Council of Parents of the Mentally Handicapped to organise exhibitions on information of rehabilitation agencies and institutions and displayed works of persons with disabilities. Moreover, information on publicity programmes and barrier-free facilities is provided to persons with disabilities and updated on a regular basis.

30.8 Under the principle of “One Curriculum Framework for All,” students with disabilities are provided with equal opportunities to have all-round development in ethics, intellect, physique, social skills and aesthetics through a broad and balanced curriculum and gain the five essential learning experiences, including moral and civic education, intellectual development, community service, physical and aesthetics development, and career-related experiences under Other Learning Experience which is one of the three essential components of senior secondary education.

30.9 The Jockey Club Arts for the Disabled Scheme, funded by the HKJCCT and administered by LWB, is a pilot project initiated in June 2003 with the objective of enhancing the art and cultural development for persons with disabilities. Through providing support and assistance to persons with disabilities in the development of creative and intellectual potential in the art and culture, the Scheme aims at helping persons with disabilities to excel through their artistic abilities and perseverance. Every year, over 6,000 school children with disabilities and 1,000 persons with disabilities receive art and cultural training under the Scheme. The training courses will be completed by the fourth quarter of 2010.

30.10 SWD has provided funding support to Arts with the Disabled Association Hong Kong to provide a time-limited personal development programme for 3 years since 2009. It provides opportunities for persons with disabilities to develop their art potential and abilities and improve their quality of living by assisting them in building up self-confidence and esteem through art. The project provides training, consultation, job referral and supporting services for persons with disabilities. The project also provides trainers’ training so that more practitioners can bring arts to persons with disabilities.

30.11 The existing residential care services and community support service units for ex-mentally ill persons such as social clubs of the Community Mental Health Link and TACs provide a range of social/recreational/sports/cultural programmes including concerts,

aerobic dance, handicraft classes, football teams, Chinese calligraphy, etc. so as to develop and demonstrate their creative, artistic, sportive and intellectual potentials.

30.12 All local organisations can apply for grants from the Hong Kong Arts Development Council (HKADC). Grant schemes offered by the HKADC cover a wide range of arts projects, including those aimed at encouraging the participation of persons with disabilities in artistic creation. Since 1995, HKADC has approved 31 projects involving artists with disabilities. For instance, the Arts with the Disabled Association Hong Kong (ADA) was awarded Multi-project Grants for 2008–10 and 2009–11 at approved budgets of HK\$420,000 and HK\$354,193 respectively. During 2008–10, the ADA held a photographic exhibition featuring works by both disabled and able-bodied persons, dance and drawing demonstrations, a “Mini Festival Showcasing New Performing Artists with Disabilities” and Playback Theatre workshops. Activities scheduled for 2009–11 include the Accessible Arts Project intended for art promotion and audience building, the Playback Theatre at Integrated School Project, and seminars on the integration of different communities through art. The objective of these activities is to create an inclusive society by engaging people with and without disability in the appreciation and creation of art.

30.13 The Arts Development Fund administered by HAB has all along been supporting outbound cultural exchange activities of local artists. During the five years from 2005 to 2009, the Fund has granted some HK\$570,000 to support 20 outbound exchanges involving artists with disabilities, out of a total of 161 exchanges sponsored under the Fund.

#### **Administrative measures to encourage participation in sports**

30.14 To promote “Sports for All,” LCS D provides all citizen, regardless of gender, age, ability, socio-economic status or ethnicity, with opportunities to participate in physical activities. To this end, the department organises a wide range of sports training courses, sports competitions and recreational activities to the general public. In 2010–2011, the HKSAR Government plans to organise some 36,000 recreation and sports activities for about two million participants including persons with disabilities.

30.15 In order to encourage persons with disabilities to participate more in recreation and sports activities, the HKSAR Government, in collaboration with relevant NGOs, will organise different types of free and tailor-made activities for their participation. In 2010–2011, a total of 1,150 programmes will be specially organised for the participation of 66,000 persons with disabilities. In addition, persons with disabilities and their minders can enjoy a 50% discount of the normal programme fee for enrolment in regular recreation and sports activities.

30.16 Since 2001, LCS D has launched the School Sports Programme (SSP) which targets at all primary, secondary and special schools students in HKSAR. To enable students to participate in the activities in their schools during their leisure time, activities under SSP are well-planned to avoid clashes with the daily schedule of schools.

30.17 Under one of the subsidiary schemes of SSP – the “sportACT Award Scheme” which aims to encourage students to participate in sports activities or sports training regularly, students can apply for different awards from LCS D through their schools. To further encourage students with disabilities to participate in sport, we have put in place a set of tailor-made standards for students of special schools under the “sportACT Award Scheme” having regard to their disability conditions.

30.18 Besides, the HKSAR Government grants subventions to national sports association and sports organisations including those associations for persons with disabilities for participating in international sports events, organising sports training and development programmes as well as sports competitions. In 2009–2010, the HKSAR Government will

provide subvention to five national sports association and sports organisations for organising around 460 sports programmes for more than 14,400 persons with disabilities.

30.19 The Hong Kong Paralympians Fund administered by SWD provides financial support to athletes with disabilities and the sports associations offering training to the athletes with disabilities for their pursuit of sports excellence. Grants are disbursed for development of target sports, provision of subsistence grant to athletes with disabilities who temporarily resign from work or suspend their study to pursue sporting excellence and provision of employment facilitating grant for retired athletes to develop a career.

30.20 The Social and Recreational Centres for the Disabled also provide persons with disabilities with opportunities to participate in recreation and sports activities and organise activities to meet their social, recreational and developmental needs.

30.21 In order to strengthen the support to HKSAR's elite athletes including those with disabilities, the HKSAR Government has since 2007–08 provided additional resources to the Hong Kong Sports Institute Limited (HKSIL) for the implementation of the Direct Financial Support Schemes, which also covered athletes with disabilities. In 2009–10, 59 elite athletes with disabilities were provided with monthly financial support under the Schemes, which amounted to HK\$2.51 million for the year. As at 30 June 2010, 134 athletes with disabilities were given training, competition and other athletes' support services by the HKSIL.

30.22 To enhance the support for participation in sport by persons with disabilities, about HK\$5.4 million were granted under the Arts and Sport Development Fund in the past five years for 10 sports projects, which mainly catered to the preparation for and participation in major international or national multi-sports games by athletes with disabilities, as well as the staging of major local international sports events for them. To encourage athletes to strive for their best performance, the Sports Commission endorsed a proposal in 2009 for the HKSIL to substantially increase the levels of incentive awards for medallists at major sports games including the Paralympic and Asian Para Games. In the same year, HKSIL also launched the "Youth Athletes Scholarship Award" for athletes achieving outstanding results at the Youth Olympic Games, Asian Youth Games and Asian Youth Para Games. Under the scheme, 26 young athletes with disabilities were awarded a total of HK\$184,000 following their performance at the Tokyo Asian Youth Para Games in September 2009.

30.23 On facility support, HKSIL, which is undergoing major re-development at present, will provide integrated sports training and ancillary facilities for athletes with disabilities so that they may have training and receive other athletes' support services alongside their able-bodied counterparts. The integrated sport training facilities include field and track, swimming pool, wheelchair fencing pistes, table tennis tables, badminton courts and hard court for boccia, whilst ancillary facilities cover hostel rooms specially designed for athletes with disabilities, disabled toilets and changing rooms, and wheelchair storage, etc. Moreover, a new covered walkway connecting the new multi-purpose building and other key facilities of the HKSIL will be provided.

#### **Administrative measures to improve accessibility of cultural and recreational venues**

30.24 LCSD provides a wide variety of recreation and sports facilities (such as basketball courts, badminton courts, squash courts, turf pitches, tennis courts, swimming pools, parks and playgrounds) for use by the public of all ages and abilities including persons with disabilities. Besides, barrier-free access facilities such as designated seats/spaces for audiences in wheelchairs, stair lifts and ramps for wheelchair patrons, tactile guide path, Braille signs, speaking message to passengers in the passenger lift, etc. for persons with visual impairment, induction loop system for persons with hearing impairment, etc., have also been provided at many cultural venues. LCSD strictly follows the HKSAR

Government's policy to provide persons with disabilities with barrier-free access and facilities to enable their full integration into society. At present, all Government cultural, recreation and sports venues constructed after 2008 are in compliance with the requirements of the DM 2008. We will continue to further enhance the barrier-free access facilities of the existing venues where technically feasible and practicable.

30.25 Separately, at present, 31 public libraries in HKSAR are provided with workstations equipped with special aid devices for the visually impaired. These include screen magnification software for persons with visual impairment, Cantonese and English screen readers and Easy Dots, Chinese input software that is customised for the visually impaired. Over 80 Internet Express Terminals, equipped with screen magnification software and adjustable height feature for the wheelchair users, are provided in 64 public libraries. Refreshable Braille display devices are also available at the Hong Kong Central Library and at the City Hall, Kowloon, Sha Tin, Tsuen Wan and Tuen Mun Public Libraries. In the Hong Kong Central Library and some major and district public libraries, all enquiry counters are installed with "Induction Loop System" to cater to the needs of persons with hearing impairment.

30.26 We provide a wide range of play equipment in the playgrounds, which meet the latest safety standards for children with disabilities and all other children. Unless there is site constraint, play equipment at all playgrounds are accessible to all including wheelchair-bound users.

#### **Administrative measures to promote barrier-free tourism**

30.27 The HKSAR Government embraces the principle of barrier-free tourism. Facilities for visitors with disabilities are provided in our major tourist attractions including the Peak, Ocean Park, Hong Kong Disneyland, Ngong Ping 360 and Hong Kong Wetland Park. We also aim to provide such facilities in new tourist projects in future, such as the new cruise terminal.

30.28 We have also put in place measures to facilitate visits by persons with disabilities, such as providing wheelchair access, inductive loop systems and tactile guide paths. Staff would provide assistance to visitors with specific needs so that everyone can enjoy the facilities and attractions. Barrier-free access is an important feature at all major tourism areas such as shopping malls, restaurants and hotels.

30.29 Special schemes are rolled out by tourism operators from time to time for visitors with disabilities. For instance, persons with disabilities can enter the Ocean Park for free while one accompanying guest can enjoy half-price admission. From January to July 2010, the Hong Kong Disneyland offered free tickets for persons with disabilities and their carers.

30.30 In addition, with subvention from LWB, the Hong Kong Society for Rehabilitation, in collaboration with groups of persons with disabilities, has conducted check walk to tourist spots and compiled a tourist guide for persons with disabilities. It has worked together with the Hong Kong Tourism Board in creating online platforms on the Internet to provide useful tourism information for persons with disabilities to facilitate their barrier-free travel and stay in HKSAR. In the International Conference on Mobility and Transport for Elderly and Disabled Persons (TRANSED) 2010 (more details about TRANSED can be found in Article 32 of this Report), HKTB has set up dedicated booths with a view to showcasing HKSAR as an accessible destination and promoting tourism products for visitors with disabilities.

## **Article 31**

### **Statistics and data collection**

#### **Surveys on persons with disabilities and chronic diseases by Census and Statistics Department**

31.1 To facilitate formulation of policies and planning for services for persons with disabilities by the respective Government bureaux and departments and servicing agencies, the C&SD conducts Surveys on Persons with Disabilities and Chronic Diseases every 5 to 7 years. The latest round of survey was conducted in 2006–07 and the next round is scheduled for around 2012. The 2006–07 Survey aimed at providing a comprehensive picture of persons with selected types of disability in HKSAR so as to facilitate the planning and delivery of rehabilitation services. Specifically, the objectives of the Survey were to:

- (a) Estimate the total number and prevalence rate of persons with selected types of disability;
- (b) Furnish information on the demographic and socio-economic profiles of such persons; and
- (c) Furnish information about those who provide care to such persons.

31.2 To ensure that the survey met the intended objectives, apart from making due reference to the experience of the previous survey conducted in 2000, a series of consultations with stakeholders (including relevant Government bureaux/departments and public bodies, NGOs and academia) were conducted before the survey. These consultations served to collect expert views and advice on the scope and coverage of disability as well as the operational definitions of individual types of disability.

31.3 Various channels had been used to disseminate the results of the Survey. Detailed survey results were published in the Special Topics Report No. 48<sup>18</sup> released in December 2008. The Report is available for free download from the website of the C&SD ([www.censtatd.gov.hk/products\\_and\\_services/products/publications/index.jsp](http://www.censtatd.gov.hk/products_and_services/products/publications/index.jsp)). A summary of the key findings of the Survey is contained in Annex 13. In addition, the key survey findings were presented in the February 2009 issue of the Hong Kong Monthly Digest of Statistics, which is also available for free download from the website of the C&SD. Relevant statistics with more detailed breakdown were also provided to interested parties, such as Government bureaux/departments and NGOs, etc. for reference.

## **Article 32**

### **International cooperation**

32.1 To enhance international cooperation on promoting the well-being of persons with disabilities, and to provide various platforms for different sectors to exchange experiences with overseas counterparts in the development of rehabilitation services, the HKSAR Government, NGOs, groups of persons with disabilities and their carers, professional bodies, academic institutions, etc. have been actively organising and participating in international events. Some of these examples are provided in the ensuing paragraphs.

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<sup>18</sup> The results of the special topic enquiries conducted via the General Household Survey (see footnote 1) are released in a series of Special Topics Report.

### **Regional co-operation**

32.2 As a staunch supporter of United Nations Economic and Social Commission for Asia and the Pacific (UN ESCAP) Concern for the Disabled and the Asian and Pacific Decade of Disabled Persons, the HKSAR hosted the Conference of the Campaign for the Asian and Pacific Decade of Disabled Persons in 1998. Government officials, representatives of RAC, NGOs and groups of persons with disabilities have participated actively in the various conferences and programmes run by the UN ESCAP on disability matters, such as High-Level Intergovernmental Meetings on the Asian Pacific Decade of Disabled Persons for 2003–2012 held in 2002 and 2007, meetings of the Thematic Working Group on Disability-related Concerns in 2003 and 2004, Biwako Millennium Framework for Action Towards an Inclusive, Barrier-free and Rights-based Society for Persons with Disabilities in Asia and Pacific in 2006 and Regional Workshop on Promoting Disability Data Collection through the 2010 Population and Housing Censuses in 2008. Since 1993, the Hong Kong Joint Council for People with Disabilities and other NGOs in HKSAR have also actively participated in the annual campaigns and related activities organised by the Regional NGO Network for Promotion of the Asian and Pacific Decade of Disabled Persons to echo the UN ESCAP movement.

### **Participation in international events**

#### *International Day of Disabled Persons*

32.3 Since 1993, territory-wide activities have been organised annually in HKSAR to celebrate the IDDP. With the co-ordination of the Hong Kong Joint Council for People with Disabilities and extensive support from the 18 District Councils in the territory, rehabilitation NGOs, groups of persons with disabilities and their carers, business sector and Government departments, a series of territory-wide and community promotion activities of IDDP are successfully launched every year to promote a positive image of persons with disabilities amongst the general public and raise public awareness on the equal rights of persons with disabilities in such areas as employment, access to premises and services and other aspects of social life.

#### *Paralympic Games*

32.4 The HKSAR was the co-host of the Equestrian Events of the Beijing 2008 Paralympic Games. Through the organisation of the Games, we promoted the Paralympic spirit and achievement and talents of athletes with disabilities.

32.5 To assist athletes with disabilities in participating in international competitions, such as Paralympic Games and the World Championships, the Hong Kong Paralympians Fund administered by SWD disburses grants to sporting organisations for hiring of coaches and enhancing technical support.

#### *International Conference on mobility and transport for elderly and disabled persons*

32.6 TRANSED was started by a group of professionals in 1978 and aims at developing new strategies to enable seniors and persons with disabilities to maintain their independence and participate fully in everyday life. This international event provides a valuable opportunity for practitioners and stakeholders of the international community to share their knowledge and experiences in promoting accessible transportation and travel. The 12th TRANSED, organised by the Hong Kong Society for Rehabilitation and sponsored by the HKSAR Government and a charitable fund, was held in Hong Kong during 1 to 4 June 2010. Under the theme “Sustainable Transport and Travel for All,” the 12th TRANSED offered a variety of activities, including seminars, exhibitions, plenary sessions and workshops for over 600 local and overseas participants from various

disciplines, including social service, logistics, transport, rehabilitation, travel, groups of persons with disabilities and Government officials, as well as attracting over 100 exhibitors from overseas and Mainland China.

#### *Rehabilitation International*

32.7 The HKSAR hosted the 11th Rehabilitation International Asia & the Pacific Regional Conference cum Campaign for the Asian and Pacific Decade of Disabled Persons in 1998. The Conference was organised by an NGO with sponsorship from the HKSAR Government of more than HK\$7.5 million. It was a useful and important international forum for persons with disabilities and persons engaged in rehabilitation services in networking with other nations/regions and exchanging ideas and experiences in the development of rehabilitation services. The Conference was attended by over 1,600 delegates and more than 45,000 visitors from 36 countries.

32.8 Representatives of the rehabilitation sector of the HKSAR have served in the leadership and all along actively participated in the activities of the Rehabilitation International. They are currently members of its Executive Committee, as well as chairpersons of its various commissions.

#### *International cooperation of artists with disabilities*

32.9 To encourage persons with or without disabilities to cooperate and to exchange experiences in arts activities, thereby promoting a more caring and inclusive society, the HKSAR Government and the Arts with the Disabled Association Hong Kong organised the International Festival of Inclusive Arts (IFIA) in 2006. The week-long events of IFIA included a series of indoor and outdoor performances, carnival, visual arts exhibitions, symposium, workshops and other cultural and arts activities. Apart from local artists with or without disabilities, we had also invited artists with disabilities from overseas and the Mainland to perform or to exhibit their art work in HKSAR. Workshops were also organised for local and overseas artists with or without disabilities to share and to exchange their experiences in the arts.

#### *International Abilympics (IA)*

32.10 To demonstrate the skills, abilities and potentials of persons with disabilities and with the aim of improving their vocational skills as well as promoting participation in socio-economic activities, the IA was first held in Japan in 1981 to commemorate the United Nations' International Year of Disabled Persons and Hong Kong hosted the third IA in 1991. A variety of vocational, leisure and living skills like painting, poster designing, jewellery making, ceramics, wood carving, cooking, floral art are included in the contests of IA. In support of IA, the local Hong Kong Abilympics, co-ordinated by the Hong Kong Council of Social Service and Hong Kong Joint Council for People with Disabilities, has also been launched since 1981 by which winners are nominated to participate in the Hong Kong Team for IA. In the past seven IAs, Hong Kong contestants achieved notable results by winning a total of 59 medals.

#### *The Pan-Pacific Conference on Rehabilitation (PPCR)*

32.11 PPCR was inaugurated in August 1998 with the aim of encouraging scientific exchange and facilitate collaboration in the field of rehabilitation. Organised every two years, the 6th PPCR was successfully held in HKSAR in October 2008, with more than 300 delegates from local and overseas countries including Australia, Japan, Korea, Malaysia, Nigeria, the Philippines, Saudi Arabia, Sweden, Taiwan, Thailand, Turkey and USA presenting their latest research findings.

32.12 The 7th PPCR, with the theme “Mind, Brain and Body”, and jointly organised with The Hong Kong College of Family Physicians, will be held in HKSAR during 23 to 24 October 2010. Active participation of local and overseas health-care professionals, including physiotherapists, occupational therapists, family physicians, doctors, nurses, social workers, psychologists, researchers and administrators is expected.

#### *International cooperation in health services*

32.13 The HKSAR Government also actively promotes international exchange and collaboration in formulating its health policy and services. FHB, HA and DH regularly participate in international conferences and visits to overseas countries to keep abreast of the latest development in the health care sector.

32.14 The annual “Hospital Authority Convention” is one of the largest health care conferences in the Asian Pacific region. It serves as an international forum in which health-care professionals, managers and policy-makers around the world share their knowledge and experience as well as the latest research findings. The “Hospital Authority Convention 2010” with the theme “Happy Staff Healthy People” was attended by over 3,000 experts and professionals from the local, Mainland China and international health care sector.

32.15 Furthermore, as mentioned under Article 8 of this Report, LWB has been, in collaboration with various Government departments, public organisations, NGOs and the media, organising territory-wide public education activities annually, namely the “Mental Health Month” in support of the World Mental Health Day since 1995.

### **Article 33 Implementation and monitoring**

33.1 The HKSAR Government has taken proactive measures to promote and monitor the implementation of the Convention. We have also put in place co-ordination mechanism to facilitate related actions and measures to involve the community, in particular persons with disabilities and their representative organisations, in the monitoring process and preparation of this report.

#### **Legal safeguards, policy and programmes**

33.2 As far as our legislative framework is concerned, with the Basic Law and the BORO setting out clearly the rights enjoyed by all, including persons with disabilities, the DDO affording protection against discrimination on the ground of disability, and the MHO safeguarding the rights of mental patients, HKSAR is well positioned to protect and promote the rights of persons with disabilities.

33.3 At the Government level, all Government bureaux and departments are fully aware of the need to take due account of the Convention’s provisions in formulating policies and implementing programmes.

#### **Co-ordination and monitoring mechanism**

33.4 At present, the Commissioner for Rehabilitation (C for R) is responsible to the Secretary for Labour and Welfare of the HKSAR Government for the formulation of the overall policy in rehabilitation and welfare matters for persons with disabilities, and for co-ordinating and facilitating all Government departments, public organisations and NGOs in the development and provision of rehabilitation services. Following the application of the Convention to HKSAR, while C for R serves as the focal point within the HKSAR Government for matters relating to the implementation of the Convention, relevant Bureaux

and Departments have the responsibilities to ensure that the policies and measures under their purview provide equal opportunities and rights for persons with disabilities in compliance with the spirit and provisions of the Convention.

33.5 As mentioned in paragraph 114 of the Core Document, RAC has since 1977 been serving as the principal advisory body to the Hong Kong Government on matters pertaining to the well-being of persons with disabilities and the development and implementation of rehabilitation policies and services in Hong Kong. It also co-ordinates the public education efforts by Government departments, public bodies and NGOs, including promotion of the RPP. RAC advises the HKSAR Government on a wide span of policy subjects and service areas, ranging from barrier-free access, education, employment and vocational training, ICT, medical rehabilitation, art and culture, recreation and sports, social and community rehabilitation and transportation, etc.

33.6 RAC is chaired by a non-official, and all its members are appointed in their personal capacity by the Chief Executive of HKSAR. To ensure that the interests of persons with disabilities are represented, the membership of RAC includes persons with different disabilities, parents of persons with disabilities, representatives of SHOs of persons with disabilities and rehabilitation NGOs, academics, community and business leaders, professionals and other persons who have a keen interest in the well-being of persons with disabilities. Representatives of relevant Government bureaux and departments also serve as ex-officio members to provide the necessary support to RAC and follow up on issues raised by RAC as appropriate.

33.7 RAC, with its long and meritorious record of promoting the interests and well-being of persons with disabilities, and its wide acceptance by the rehabilitation sector (including persons with disabilities, SHOs and rehabilitation NGOs), the legislature and other stakeholders in HKSAR as the HKSAR Government's principal advisory body on measures pertaining to the rights of persons with disabilities and co-ordinating public education efforts. In this regard, with the entry into force of the Convention, the RAC has taken on the new role of advising the HKSAR Government on the promotion and monitoring of the implementation of the Convention in HKSAR.

33.8 In tandem, EOC, being the statutory enforcement agency of the DDO set up in 1996 to uphold equal opportunities and safeguard the rights of persons with disabilities under the DDO, will continue to serve its statutory function in enforcing the provisions in the DDO in protecting the rights of persons with disabilities.

#### **Community engagement in the monitoring process and preparation of the report**

33.9 The involvement of the community, in particular persons with disabilities and their representative organisations, in the monitoring process is being achieved under the existing set-up of the RAC, as it already includes as its members persons with different disabilities, parents of person(s) with disabilities, representatives of SHOs of persons with disabilities and rehabilitation NGOs, who, together with members with different background and appointed from other sectors, will join hands in promoting and monitoring the implementation of the Convention in HKSAR. With the application of the Convention to HKSAR, RAC has been actively involving persons with disabilities and their representative organisations, together with the rehabilitation sector, the business sector, the community at large and other relevant ASBs and Government bureaux and departments in developing major public education programmes to promote the spirit and values enshrined in the Convention.

33.10 In preparing this report, we have prepared for public consultation an outline of the topics for inclusion in the report. We have issued the outline to relevant NGOs and groups of persons with disabilities and their carers and SHOs to invite their views. The outline was

also made available at all Public Enquiry Service Centres of District Offices, and uploaded to the website of LWB. During the six-week public consultation period from 17 February 2010 to 31 March 2010, the RAC, convened a public consultation session on 12 March 2010. We also attended the meeting of the LegCo Panel on Constitutional Affairs on 19 March 2010 to listen to the views of LegCo Members and deputations. Before finalising this report, we also sought the comments of RAC at its meeting on 20 July 2010. We have considered all the comments received, and endeavoured to address the concerns and incorporate the views expressed as far as possible in preparing this report.

#### **Reservations and declarations**

34.1 HKSAR has entered a reservation that application of the provisions regarding liberty of movement and nationality of the Convention (Article 18) to the HKSAR shall not change the validity of relevant laws on immigration control and nationality application of the HKSAR.

34.2 The reservation clause aims to forestall vexatious legal challenge against the HKSAR Government on the alleged ground of discrimination, and help uphold HKSAR's effective immigration control so as to ensure the stability of the HKSAR and combat cross-boundary crimes. As a matter of fact, similar reservations are present in other international covenants on human rights applicable to the HKSAR.

## **Annexes to the initial report of the Hong Kong Special Administrative Region, People's Republic of China, under the United Nations Convention on the Rights of Persons with Disabilities**

### **Annex 1**

#### ***L v. Equal Opportunities Commission & Ors, DCEO 1&6/1999***

1. The Plaintiff was a former employee of the Defendant. He claimed that he had an accident at work which caused him to suffer injuries to his head and limbs resulting in a number of disabilities (e.g. post-concussion syndrome, depression, muscular pains and severe headaches, etc.). He further claimed that by reason of his disabilities he was being discriminated against by the Defendant.

2. The Court held that the definition of disability is very wide and covers minor and temporary disability. As such, the Court accepted that the Plaintiff suffered from disability for the purpose of the Ordinance. However, the Plaintiff failed to prove discrimination since there was no evidence about a proper hypothetical comparator and how the Defendant would have treated that comparator. Further, the Plaintiff failed to prove harassment against the Defendant since there was no evidence to show that a reasonable person knowing all the circumstances would have anticipated that the Plaintiff would be offended, humiliated or intimidated by the Defendant's conduct.

## Annex 2

### *K & Ors v. Secretary for Justice [2000] 3 HKLRD 777*

1. The Plaintiffs applied for the posts of ambulance man, fireman and customs officer respectively in the Fire Services Department and the Customs and Excise Department. The Departments either withheld or terminated offers of employment made to the Plaintiffs on the ground that each had a parent suffering from mental illness. It was their policies that applications from those who had a first degree relative with a history of mental illness of a hereditary nature would be rejected since those applicants would not be able to fulfil the inherent job requirement (i.e. safety to fellow employees and members of the public).

2. It was held that the Departments had discriminated against the Plaintiffs on the ground of the disability of their associates under s6(c) of the DDO. Although safety to fellow employees and members of the public was accepted to be an inherent job requirement for all the three positions, the Departments failed to show that the Plaintiffs were unable to meet such a requirement since there was nothing to show that the risk of the Plaintiffs suffering from the mental illness would be unacceptably higher by reason of the mental illness suffered by their parents. As such, the Departments could not rely on the inherent job requirement exemption under 12(2) of the DDO.

## Annex 3

### Categories of Disabilities under Rehabilitation Programme Plan 2007

#### Attention Deficit/Hyperactivity Disorder (AD/HD)

1. It is common for children and adolescents with AD/HD to have the following three symptoms: inattentiveness, hyperactivity and weak impulse control. These lead to chronic difficulties in social life, learning and work. These symptoms cannot be explained by any other objective factors and psychiatric conditions and are not meeting with the standards expected for a child's intellectual ability or stage development. They are generally regarded as being related to brain dysfunction.
2. As symptoms of AD/HD are most noticeable at the formal schooling stage, health-care professionals in this field usually provide diagnosis on children suspected of suffering from AD/HD at this stage. In light of the importance of early intervention, we will also provide these children with appropriate preschool training.
3. Major service requirements of persons with AD/HD may include:
  - (a) Identification and assessment;
  - (b) Preschool training;
  - (c) Education services; and/or
  - (d) Medical rehabilitation.

#### Autism

4. Autism is a pervasive developmental disorder and frequently co-exists with a variety of other disabilities. In HKSAR, children suffering from autistic disorder are diagnosed under the following criteria as laid down in the World Health Organisation's International Classification of Diseases, 10th edition:
  - (a) Qualitative impairments in reciprocal social interaction;
  - (b) Qualitative impairments in verbal and non-verbal communications;
  - (c) Restricted, repetitive and stereotyped patterns of behaviour, interests and activities; and
  - (d) Developmental abnormalities which are apparent in the first three years of life.
5. Major service requirements of autistic persons may include:
  - (a) Identification and assessment;
  - (b) Preschool training;
  - (c) Education services;
  - (d) Medical rehabilitation;
  - (e) Day care and community support; and/or
  - (f) Employment services and vocational training.

### Hearing impairment

6. For the purpose of the RPP, the following classification of hearing impairment has been adopted:

<i>Degree of hearing impairment</i>	<i>Definition</i>
Profound	Hearing loss greater than 90 dB
Severe	Hearing loss from 71 to 90 dB
Moderately severe	Hearing loss from 56 to 70 dB
Moderate	Hearing loss from 41 to 55 dB
Mild	Hearing loss from 26 to 40 dB
Normal	Hearing loss up to 25 dB

7. Major service requirements of hearing impaired persons may include:

- (a) Identification and assessment;
- (b) Preschool training;
- (c) Education services;
- (d) Medical rehabilitation;
- (e) Community support;
- (f) Use of hearing aids;
- (g) Barrier-free information and communication technological equipment; and/or
- (h) Employment services and vocational training.

### Intellectual disability

8. Intellectual disability, in accordance with the definition in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, fourth edition, 1994 (DSM-IV), is a condition with the following features:

(a) Significantly sub-average intellectual functioning: an intelligence quotient (IQ) of approximately 70 or below on an individually administered IQ test (for infants, a clinical judgement of significantly sub-average intellectual functioning);

(b) Concurrent deficits or impairments in present adaptive functioning (i.e., the person's effectiveness in meeting the standards expected for his/her age by his/her cultural group) in at least two of the following skill areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health and safety; and

(c) Onset before the age of 18.

In addition, four degrees of severity can be specified, reflecting the level of intellectual disability:

- (a) Mild – IQ level 50–55 to approximately 70;
- (b) Moderate – IQ level 35–40 to 50–55;
- (c) Severe – IQ level 20–25 to 35–40; and

- (d) Profound – IQ level below 20–25.
9. Major service requirements of persons with intellectual disability may include:
- (a) Identification and assessment;
  - (b) Medical rehabilitation;
  - (c) Preschool training;
  - (d) Education services;
  - (e) Residential care;
  - (f) Day care and community support; and/or
  - (g) Employment services and vocational training.

### **Mental illness**

10. For the purpose of the RPP, persons with mental illness are defined as:
- “Persons who suffer from a range of disorders owing to their predisposition and/or physical, psychological and social factors. These lead to acute or chronic disturbances which are emotional, intellectual and/or behavioural and are accompanied, when the illness is serious, by distortions of personality and social relationships.”
11. Such psychiatric disorders may be classified broadly into three main categories:
- (a) *Psychoses* – these are serious disorders in which impairment of mental functioning has developed to a degree that interferes grossly with insight, ability to meet some ordinary demands of life or to maintain adequate contact with reality. Schizophrenia, which is perhaps the most disabling of all forms of mental illness, starts usually in the teens or early adulthood. Another common group of psychoses, the affective psychoses, tends to occur later in life. These two groups are together included in a group of mental illness known as functional psychoses which may lead to prolonged residence in mental hospitals. They dominate the current provision of specialised psychiatric service. The other group of psychoses is the organic psychoses which includes common conditions such as acute confusional states and dementia, with the latter occurring mainly in the elderly.
  - (b) *Neuroses* – these are mental disorders without any demonstrable organic basis in which insight and reality testing is intact. Behaviour may be greatly affected although usually remaining within socially acceptable limits and without any disorganisation of personality. The severe cases of neuroses can be fairly disabling and there is considerable distress on the part of the patients.
  - (c) *Others* – these include personality disorders, psychophysiological disorder, alcohol dependence, drug dependence, etc.
12. The needs of persons with psychiatric disabilities depend on a number of factors such as age, home environment and personality. A wide range of closely related services are needed to avoid unnecessary in-patient admission and to help discharged patients to re-adjust to life in the community. Major service requirements of persons with psychiatric disabilities may include:
- (a) Medical and community psychiatric rehabilitation;
  - (b) Residential care;
  - (c) Day care and community support; and/or
  - (d) Employment services and vocational training.

**Physical disability**

13. Having regard to the advice of the Hong Kong Medical Association in 1994, the RPP adopts the following definition for a person with physical disabilities:

“A person with physical disabilities is defined as a person who has disabilities of orthopaedic, musculoskeletal, or neurological origin which mainly affect locomotor functions, and constitute a disadvantage or restriction in one or more aspects of daily living activities.”

14. Major service requirements of persons with physically disabilities may include:

- (a) Medical and community rehabilitation care;
- (b) Preschool training;
- (c) Education services;
- (d) Residential care;
- (e) Day care and community support;
- (f) Employment services and vocational rehabilitation;
- (g) Barrier-free access and transport;
- (h) Barrier-free information and communication technological equipment; and/or
- (i) Use of assistive devices.

**Specific Learning Difficulties (SpLD)**

15. SpLD generally refer to difficulties in reading and writing (dyslexia), motor coordination disorder, specific dysphasia, etc., and the most common type is dyslexia. Dyslexia is not caused by mental deficiency, sensory impairment or the lack of learning opportunities. It is generally regarded as something relating to brain dysfunction. As a result of persistent and serious learning difficulties in reading and writing, persons with SpLD are unable to read and spell/write accurately and fluently.

16. As symptoms of SpLD are most noticeable at the formal schooling stage, relevant professionals in this field usually provide assessment and diagnosis on children suspected of suffering from SpLD at this stage. In light of the importance of early intervention, we will also provide these children with appropriate preschool training.

17. In general, dyslexia can be improved through appropriate accommodation in teaching methods, tests and assessments, as well as proper use of information technology. The findings of overseas researches indicate that early identification and intervention for children with dyslexia can effectively improve their literacy skills.

18. Major service requirements of persons with SpLD may include:

- (a) Identification and assessment;
- (b) Preschool training; and/or
- (c) Education services.

**Speech impairment**

19. Speech impairment is usually affiliated with other disabilities. For the purpose of the RPP, speech impairment is defined as:

“Persons with speech impairment are persons who cannot communicate effectively with others, or whose speech difficulty draws undue attention to their

speech acts to such an extent that it affects their academic, emotional and social developments.”

20. Major service requirements of persons with speech impairment may include:
- (a) Identification and assessment;
  - (b) Medical rehabilitation; and/or
  - (c) Education services.

### **Visceral disability**

21. Visceral disability was covered under the category of physical disability as defined in the 1990 RPP. Upon the advice of the Hong Kong Medical Association in 1994, physical disability was re-defined to limit its application to disability affecting an individual's locomotor function, and a new definition was drawn up for visceral disability as any other disabilities arising from diseases affecting the body's organs.

22. For the purpose of the RPP, a person with viscerally disabilities is defined as:

“A person with disabilities resulting from diseases or respective treatment. The disability, not being limited to locomotor functions in nature, constitutes disadvantages or restrictions in one or more aspects of daily living activities.”

23. Major services needed by persons with viscerally disabilities may include:

- (a) Identification and assessment;
- (b) Medical rehabilitation;
- (c) Community support; and/or
- (d) Retraining and employment services.

### **Visual impairment**

24. In view of the world trend in classifying visual impairment, the following definitions, which are based on the visual functioning of human being, are adopted for the purpose of the RPP:

- (a) Total blindness: persons with no visual function, i.e. no light perception.
- (b) Low vision, including:
  - *Severe low vision*: persons with visual acuity (refers to the visual acuity of the better eye with correcting glasses) of 6/120 or worse and persons with constricted visual field in which the widest field diameter subtends an angular subtense of 20 degrees or less, irrespective of the visual acuity
  - *Moderate low vision*: persons with visual acuity from 6/60 to better than 6/120 and
  - *Mild low vision*: persons with visual acuity from 6/18 to better than 6/60

25. Major service requirements of persons with visual impairment may include:

- (a) Identification and assessment;
- (b) Medical rehabilitation;
- (c) Preschool training;
- (d) Education services;

- (e) Community support;
- (f) Employment services and vocational rehabilitation;
- (g) Barrier-free information and communication technological equipment;
- (h) Use of assistive devices; and/or
- (i) Barrier-free access and transport.

## Annex 4

### First schedule of the Employees' Compensation Ordinance (Cap. 282)

<i>Item</i>	<i>Injury</i>	<i>Percentage of loss of earning capacity</i>
1.	Loss of 2 limbs	100
2.	Loss of both hands or of all fingers and both thumbs	100
3.	Loss of both feet	100
4.	Total loss of sight	100
5.	Total paralysis	100
6.	Injuries resulting in being permanently bedridden	100
7.	Paraplegia	100
8.	Any other injury causing permanent total disablement	100
9.	Loss of arm at shoulder	75 80 (preferred hand)
10.	Ankylosis of shoulder joint:	
	In optimum position	35
	In worst position	55
11.	Loss of arm between elbow and shoulder	75 80 (preferred hand)
12.	Loss of arm at elbow	75 80 (preferred hand)
13.	Ankylosis of the elbow joint:	
	In optimum position	30
	In worst position	50
14.	Loss of arm between wrist and elbow	70 75 (preferred hand)
15.	Loss of hand at wrist	70 75 (preferred hand)
16.	Ankylosis of wrist joint:	
	In optimum position	30
	In worst position	40
17.	Loss of 4 fingers and thumb of one hand	70 75 (preferred hand)
18.	Loss of 4 fingers of one hand	60 65 (preferred hand)
19.	Loss of thumb:	
	Both phalanges	30 32 (preferred hand)
	One phalanx	20 22 (preferred hand)
	Guillotine loss of tip without loss of bone	8

<i>Item</i>	<i>Injury</i>	<i>Percentage of loss of earning capacity</i>
20.	Ankylosis of:	
	Interphalangeal joint of the thumb	4
	Metacarpophalangeal joint of the thumb	8
	All these 2 joints of the thumb	12
21.	Loss of index finger:	
	3 phalanges	14 15 (preferred hand)
	2 phalanges	11 12 (preferred hand)
	1 phalanges	9 10 (preferred hand)
	Guillotine amputation of tip without loss of bone	4
22.	Ankylosis of:	
	Distal interphalangeal joint of the index finger	2
	Proximal interphalangeal joint of the index finger	3
	Metacarpophalangeal joint of the index finger	4
	All these 3 joints of the index finger	9
23.	Loss of middle finger:	
	3 phalanges	12
	2 phalanges	9
	1 phalanx	7
	Guillotine amputation of tip without loss of bone	2
24.	Ankylosis of:	
	Distal interphalangeal joint of the middle finger	2
	Proximal interphalangeal joint of the middle finger	2
	Metacarpophalangeal joint of the middle finger	3
	All these 3 joints of the middle finger	7
25.	Loss of ring finger:	
	3 phalanges	8
	2 phalanges	6
	1 phalanx	5
	Guillotine amputation of tip without loss of bone	2
26.	Ankylosis of:	
	Distal interphalangeal joint of ring finger	1

<i>Item</i>	<i>Injury</i>	<i>Percentage of loss of earning capacity</i>
	Proximal interphalangeal joint of ring finger	2
	Metacarpophalangeal joint of ring finger	2
	All these 3 joints of the ring finger	5
27.	Loss of little finger:	
	3 phalanges	7
	2 phalanges	6
	1 phalanx	5
	Guillotine amputation of tip without loss of bone	2
28.	Ankylosis of:	1
	Distal interphalangeal joint of little finger	
	Proximal interphalangeal joint of little finger	1
	Metacarpophalangeal joint of little finger	2
	All these 3 joints of the little finger	4
28A.	In the case of a loss of a whole finger of one hand, the following percentages shall be awarded in addition to those provided for the loss of a single finger. In this item "finger" does not include "thumb". These additional percentages shall be awarded when 2 or more fingers of the same hand are lost in the same injury; or when one or more fingers of the same hand are lost in the same injury to a hand of which one or more fingers were lost in a previous injury, whether or not the previous injury was work related or whether compensation was paid or is payable for the loss:	
	Loss of a second finger of the hand	6 7 (preferred hand)
	Loss of a third finger of the hand	6 7 (preferred hand)
	Loss of the last finger of the hand (Added 66 of 1993 s. 21)	6 9 (preferred hand)
29.	Loss of metacarpals:	
	First (additional)	8
	Second, third, fourth or fifth (additional)	3
30.	Loss of leg at hip	80
31.	Loss of leg at or above knee	75
32.	Ankylosis of hip joint:	
	In optimum position	35
	In worst position	50

<i>Item</i>	<i>Injury</i>	<i>Percentage of loss of earning capacity</i>
33.	Loss of leg below knee	65
34.	Ankylosis of knee joint:	
	In optimum position	25
	In worst position	35
35.	Loss of foot	55
36.	Ankylosis of ankle joint:	
	In optimum position	15
	In worst position	25
37.	Loss of toes:	
	All of one foot	20
	Great, both phalanges	14
	Great, one phalanx	4
	Other than great, for each one toe lost	3
38.	Loss of sight of one eye	50
39.	Loss of hearing of one ear	30
40.	Total loss of hearing, both ears	100
41.	Loss or deformity of outer ear (Added 66 of 1993 s. 21)	2
42.	Loss of entire nose (Added 66 of 1993 s. 21)	25
43.	Apparent deformity of nose (Added 66 of 1993 s. 21)	5
44.	Loss of spleen (Added 66 of 1993 s. 21)	5
45.	Loss of one kidney:	
	If the other kidney is normal	15
	If the other kidney is abnormal (Added 66 of 1993 s. 21)	65–90
46.	Urethral injury:	
	If urethral stricture requires dilation less frequently than once every 2 weeks	5
	If urethral stricture requires dilation once every 2 weeks or more frequently	10–20
	If urethra is severed (Added 66 of 1993 s. 21)	20
47.	Impairment of urinary bladder function:	
	Impairment in form of urgency or other mild urinary bladder disorder	5–12

<i>Item</i>	<i>Injury</i>	<i>Percentage of loss of earning capacity</i>
	Good reflex activity without voluntary control	13–22
	Poor reflex activity without voluntary control	23–27
	No reflex and no voluntary control (Added 66 of 1993 s. 21)	38–60
48.	Impairment of anorectal function:	
	Limited voluntary control	0–7
	Has reflex regulation but no voluntary control	8–17
	No reflex regulation and no voluntary control (Added 66 of 1993 s. 21)	18–25

*Notes:*

- (1) Total permanent loss of the use of a member shall be treated as loss of such member.
- (1A) Partial loss of a member or partial permanent loss of the use of a member shall be treated as the loss of such proportion of the percentage of loss of earning capacity prescribed in this Schedule as the partial loss of the member, or partial permanent loss of the use of the member, bears to the total loss of that member.
- (2) Where there is loss of 2 or more parts of the hand, the percentage shall not be more than the loss of the whole hand.
- (3) Loss of remaining arm, leg or eye, if one has already been lost, shall be the difference between the compensation for the total incapacity, and compensation already paid or that which would have been paid for the previous loss of limb or eye.
- (4) Where there is loss of a thumb and one or more fingers of the same hand, the aggregate percentage shall not be more than that in respect of the loss of 4 fingers and the thumb of the same hand.
- (5) Where there is loss of a great toe and one or more other toes of the same foot, the aggregate percentage shall not be more than the percentage for the loss of all toes of one foot.
- (6) Where a range of percentage is provided in this Schedule, the highest percentage shall be applied in the most severe case, the lowest percentage in the least severe case and percentages in between according to the degree of severity.

## Annex 5

### *Ma Bik Yung v. Ko Chuen* [1999] 2 HKLRD 263, [2000] 1 HKLRD 514

1. The Defendant, a taxi driver, had engaged in a series of conduct towards the Plaintiff who was a paraplegic. These conducts included unwillingness to accept the Plaintiff's patronage, refusal to assist the Plaintiff in getting into the taxi and putting her wheelchair into the boot of his taxi, as well as rude and offensive remarks towards the Plaintiff concerning her disability while the Plaintiff was in the taxi.

2. The District Court found that the Defendant had not only engaged in rude and offensive behaviour and remarks towards the Plaintiff, but had also specifically referred to the Plaintiff being a disabled person. Since such behaviour and remarks were "on the ground of" the Plaintiff's disability, they amounted to disability harassment under s2(6) of the DDO. The Court further found that the Defendant had treated the Plaintiff less favourably on the ground of her disability which amounted to direct discrimination under ss6(a) and 26 of the DDO. On appeal, the Court of Appeal upheld the finding of harassment but quashed the finding of discrimination. According to the Court of Appeal, the District Court had failed to find a suitable comparator (i.e. a person without disabilities who carried a heavy suitcase and asked the Defendant to put it into the boot of the taxi).

## Annex 6

### *M v. Secretary for Justice* [2009] 2 HKLRD 298

1. The Plaintiff suffered from Generalized Anxiety Disorder while working as an Administrative Officer in the HKSAR Government. His performance was not considered satisfactory and his employment was terminated. He claimed that his supervisors had engaged in a series of conducts and remarks which amounted to discrimination and harassment on the ground of disability (e.g. unfair comments on his performance in the appraisal report, failure to provide him with the necessary accommodation, etc.). His claims were dismissed by the District Court.

2. On appeal, the Court of Appeal upheld the fact-finding made by the District Court (e.g. the HKSAR Government did not know about the Plaintiff's disability at the material time and that the Plaintiff was unable to fulfil the inherent job requirement). The Court of Appeal held that the Defendant's decision to terminate the employment was made on the ground of the Plaintiff's poor performance instead of his disability and that knowledge of the manifestation of a disability is knowledge of the disability itself. The Court of Appeal further held that while the law requires an employer to provide his employee with services or facilities which would enable the employee to fulfil the inherent job requirement, it does not require the employer to create a job different from that of the disabled employee or to employ someone else to do his work.

## Annex 7

### *Siu Kai Yuen v. Maria College* [2005] 2 HKLRD 775

1. The Plaintiff, who was employed by the Defendant as a teacher, was diagnosed to have rectum cancer and underwent an operation. His employment was terminated by the Defendant while he was on sick leave.

2. It was held that the Defendant had discriminated against the Plaintiff directly under s6(a) of the DDO since the Plaintiff would not have been dismissed if he did not have the disability. It was found that a hypothetical comparator (i.e. a teacher on maternity leave or jury service who was absent for a similar period of time) would not have been dismissed by the Defendant owing to the absence. It was also held that the Defendant had discriminated against the Plaintiff indirectly under s6(b) of the DDO because the relevant attendance requirement in the employment contract was not justifiable. Even if the Defendant's objective to minimize disruption to the teaching was legitimate, the means used to achieve it was unreasonable as it would result in teachers who had to take leave for reasons beyond their control losing their employment. The Defendant had not considered other alternatives before dismissing the Plaintiff but simply relied on the attendance requirement without providing him with any accommodation.

## Annex 8

### Students with special education needs studying in ordinary schools; school and boarding places in special schools

#### I. Students with SEN studying in ordinary public-sector schools

<i>School year</i>	<i>Number of students (round to '000)</i>
2006/07	10 000
2007/08	13 000
2008/09	18 000
2009/10	22 000

#### II. Provision of places in public-sector special schools for children with disabilities

##### (a) School places

<i>Category</i>	<i>No. of places (2006/07)</i>	<i>No. of places (2007/08)</i>	<i>No. of places (2008/09)</i>	<i>No. of places (2009/10)</i>
Visually impaired	210	195	180	190
Hearing impaired	300	250	230	200
Physically disabled	850	860	860	890
Mildly intellectually disabled	3 080	3 200	3 280	3 150
Moderately intellectually disabled	1 660	1 650	1 660	1 700
Severely intellectually disabled	840	848	816	824
Schools for social development	975	1 020	1 050	1 080
Hospital school	353	308	316	316
<b>Total</b>	<b>8 268</b>	<b>8 331</b>	<b>8 392</b>	<b>8 350</b>

##### (b) Boarding places

<i>Category</i>	<i>Provision (2006/07)</i>	<i>Provision (2007/08)</i>	<i>Provision (2008/09)</i>	<i>Provision (2009/10)</i>
Visually impaired	156	158	152	155
Hearing impaired	35	18	18	18
Physically disabled	170	170	178	178
Moderately intellectually disabled	253	254	259	269
Severely intellectually disabled	426	430	422	412
<b>Total</b>	<b>1 040</b>	<b>1 030</b>	<b>1 029</b>	<b>1 032</b>

*Note:* We encourage students to live with their families as far as possible so that they can grow up in a normal family/community environment. The boarding facilities are mainly to cater for students with long-term boarding needs such as children who require residential care for family reasons or live far away from the special schools, especially those with mobility problems. Under the existing arrangement, we provide boarding facilities in schools for children with visual impairment, hearing impairment, physical disability, moderate intellectual disability and severe intellectual disability during school days.

## Annex 9

### Students with disabilities in University Grants Committee-funded sub-degree and undergraduate programmes

#### I. Students with disability in UGC-funded sub-degree and undergraduate programmes by level of study, 2008/09

<i>Level of study</i>	<i>Headcount</i>	<i>% of total enrolment</i>
Sub-degree	10	0.1%
Undergraduate	203	0.4%
<b>Total</b>	<b>213</b>	<b>0.3%</b>

#### II. Students with disabilities in UGC-funded sub-degree programme category, 2008/09 and undergraduate programmes by gender and broad academic

<i>Broad academic programme category</i>	<i>Headcount</i>			<i>% of total enrolment</i>		
	<i>Male</i>	<i>Female</i>	<i>Total</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>
Medicine, Dentistry and Health	4	10	<b>14</b>	0.1%	0.5%	<b>0.2%</b>
Sciences	41	16	<b>57</b>	1.2%	0.3%	<b>0.6%</b>
Engineering and Technology	32	8	<b>40</b>	0.7%	0.1%	<b>0.3%</b>
Business and Management	19	15	<b>34</b>	0.2%	0.3%	<b>0.3%</b>
Social Sciences	18	13	<b>31</b>	0.3%	0.4%	<b>0.4%</b>
Arts and Humanities	14	17	<b>31</b>	0.2%	0.8%	<b>0.4%</b>
Education	1	4	<b>6</b>	0.0%	0.6%	<b>0.2%</b>
<b>Total</b>	<b>129</b>	<b>84</b>	<b>213</b>	<b>0.4%</b>	<b>0.3%</b>	<b>0.3%</b>

*Note:* Since some UGC-funded programmes are mapped to more than one academic programme category (APC), students of these programmes are counted across the APCs concerned on a pro rata basis. Thus the student numbers of some APCs are decimal figures. In the above table, the decimal figures are rounded to the nearest whole number. As such, figures may not add up to the corresponding totals, and the zero percentage represent magnitude of less than 0.05.

## Annex 10

### Support services for Non-Chinese-Speaking (NCS) students with SEN

#### Identification and assessment

1. Under the current mechanism, medical professionals work in partnership with parents to monitor the development of children (including NCS children) from birth to the age of five and to identify any possible developmental problems. There is also in place a cross-departmental programme called the CCDS, which enables pre-primary educators to identify and refer children with health, developmental and behavioural problems to respective Maternal and Child Health Centres run by the HKSAR Government for assessment and timely assistance. The CCDS also provides comprehensive and integrated support for parents in need.
2. In assessing whether NCS students are with SEN, their different cultural and experiential backgrounds as well as their language abilities will be taken into account and adjustments will be made where appropriate. For instance, non-verbal tests of intelligence may be used for NCS students who are not proficient in Chinese. When specialists interpret the assessment findings, NCS students' learning history, social adaptive behaviour and cultural and experiential exposure will also be taken into consideration.

#### Admission to schools

3. All eligible students, including NCS children, have equal access to Primary One or Secondary One of public-sector schools through the centralized Primary One Admission (POA) or Secondary School Places Allocation (SSPA) systems operated by the EDB of the HKSAR Government. In POA, NCS children are provided with an opportunity for allocation to schools that traditionally admit more NCS children. If parents indicate in POA application form that their child has SEN, the EDB would follow up by collecting relevant diagnosis/assessment report(s) and related information on the child so as to identify his/her educational needs, and discussing with the parents the appropriate educational provision for him/her. To ensure Primary Six NCS students with SEN will continue to receive suitable support when they proceed to Secondary One, primary schools are requested to transfer relevant information of these students (e.g. medical reports, assessment reports, learning records, teaching-strategy suggestions) with parental consent to the secondary schools where they are allocated through the SSPA system. Students with severe or multiple disabilities may be placed in special schools according to the assessment and recommendations of the respective specialists/physicians and upon parents' written consent. Other children with SEN are offered places in ordinary schools. NCS students may also seek placement assistance from the EDB for other grade levels.

#### Education support for NCS children, including those with SEN

4. To facilitate the early integration of NCS students into the local education system and the wider community, EDB has put in place various support measures to enhance their learning. "Designated schools"<sup>a</sup> for NCS students have been set up and provided with a

<sup>a</sup> The EDB of the HKSAR Government has invited schools which have admitted a critical mass of NCS students to become "designation schools" and provided these schools with focused support 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 experience with other schools which have also admitted NCS students through a support network formed to benefit all NCS students

recurrent grant. “Supplementary Guide to the Chinese Language Curriculum for NCS Students” which covers the principles, strategies and recommendations for implementing the Chinese Language curriculum in the learning context of the NCS students, has been distributed to schools together with the relevant teaching reference materials and learning materials that cover both primary and secondary levels. To reinforce what NCS students have learnt in class, remedial programmes have been provided after school or during holidays through the operation of the Chinese Language Learning Support Centres. Tailor-made training courses have also been provided for Chinese Language teachers. NCS Primary One entrants, and those proceeding to Primary Two, Primary Three and Primary Four may participate in the 4-week summer bridging programme to help them consolidate what they have learnt at Key Learning Stage 1. Besides, a full-time 6-month Initiation Programme, a 60-hour Induction Programme for newly arrived NCS children, and a School-based Support Scheme Grant for public-sector schools and schools under the Direct Subsidy Scheme to run school-based support programmes such as supplementary language classes for newly arrived NCS students are available.

5. The NCS Parent Information Package in major ethnic minority languages has been published and distributed to NCS parents to introduce to them the local school system, major education policies and related education services, including education services for NCS children with SEN.

6. NCS students with SEN studying in ordinary public-sector schools have equal opportunities to benefit from the same curriculum as the other local students. Curriculum adaptation, differentiated teaching and assessment accommodation are provided to cater for individual differences. The support for ordinary schools to cater for students with SEN is also applicable to NCS students with SEN.

7. For NCS students studying in special schools, the schools will design individualized education programmes for them to cater for their SEN, including language needs. For those with severe disabilities to the level that they are unable to communicate through verbal means, teaching and learning are conducted through the multi-sensory approach. To cater for the needs of their students for intensive individualized support, special schools operate with smaller class sizes (ranging from 8 to 15 students per class in different types of special schools). Apart from the teacher provisions, special schools are provided with specialist staff such as school social workers, school nurses, speech therapists, physiotherapists, occupational therapists, occupational therapy assistants and educational psychologists.

#### **Other education opportunities outside the public-school sector**

8. There are other education opportunities outside the public school sector to provide an alternative in the education system for NCS students who have their own language and/or curriculum preferences. English Schools Foundation (ESF) schools and privately operated international schools are providing education services for NCS students (including those with SEN).

9. ESF receives Government subsidy, as one of its major income sources for the provision of special education services. ESF operates one special school and provides education services to students who have severe learning difficulties and require an alternative curriculum. ESF also operates Learning Support Classes (LSC) in ESF mainstream schools for SEN students with a moderate level of disabilities who require a modified curriculum. ESF and international schools are, by design, not intended for

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in the local schools. There are at present 26 designated schools in 2009/10 school year.

meeting any unmet demands for services in the public school sector. They serve as an alternative choice for parents who have their own language and/or curriculum preferences.

## Annex 11

### Conditions newly diagnosed by DH child assessment service (2006–2008)

	2006	2007	2008
Language delay/disorders and speech problems	2 443	2 410	2 014
Borderline developmental delay	1 514	1 563	1 437
Attention problem/disorders	1 250	1 387	1 220
Other psychiatric/psychological difficulties	338	412	313
Developmental coordination problem/disorders	1 046	1 181	993
Developmental motor delay	654	563	763
Dyslexia & mathematics disorders	883	977	677
Significant developmental delay/mental retardation	918	905	1 012
Autistic spectrum disorders	755	887	1 023
Cerebral palsy	68	61	71
Hearing impairment (moderate grade or worse)	63	67	68
Visual impairment (blind or low vision)	41	36	41

*Note:*

- \* Some children might have more than one diagnosis category.
- \*\* Since there were changes in both inclusion criteria to define diagnostic categories and aggregation method to summarise the categories over the years, including in 2006, the figures should not be directly compared across years.

## Annex 12

### Measures to promote employment for persons with disabilities – by leading organisations in HKSAR

Welfare sector

<i>Social welfare organizations</i>	<i>Measures to promote the employment of persons with disabilities</i>
Pok Oi Hospital	<ul style="list-style-type: none"> <li>• Setting up an indicator of 2% for the employment of persons with disabilities</li> <li>• Formulating policies and procedures for employment of persons with disabilities by drawing reference to those for the civil service</li> <li>• Continuously adopting the principle of equality for the human resource policies of the organisation</li> </ul>
Yan Oi Tong	<ul style="list-style-type: none"> <li>• Increasing the rate of employees with disabilities from 1% to 2% by December 2010</li> <li>• Provision of vertical lifts at the hall of the headquarters to facilitate persons with disabilities</li> <li>• Purchasing more products and services by persons with disabilities</li> <li>• Inclusion of the clauses of the Code of Practice on Employment under the DDO in its human resources policy</li> <li>• Collaborating closely with the Selective Placement Division of LD during recruitment process to identify suitable applicants with disabilities and enhance the selection process to ensure equality</li> </ul>
Po Leung Kuk	<ul style="list-style-type: none"> <li>• Formulating policies for employment of persons with disabilities</li> <li>• Reserving HK\$0.1 million annually for procurement of assistive devices for persons with disabilities to facilitate their work</li> <li>• Putting in place internal arrangement by department and unit heads as appropriate to facilitate employees with disabilities to meet the job standards, including arrangement of appropriate job duties and work schedule</li> <li>• Raising the current rate of employees with disabilities</li> <li>• Employment of more persons with disabilities by recruiting suitable applicants via the Selective Placement Division of LD</li> </ul>
Tung Wah Group of Hospitals	<ul style="list-style-type: none"> <li>• Review and formulation of policies for employment of persons with disabilities</li> <li>• Promulgation of corporate policies on employment of persons with disabilities in March 2009</li> <li>• Publishing the numbers of employees with disabilities in annual reports</li> <li>• Increased the percentage of employees with disabilities from 1.64% to 2.01% and will continue to raise the rate</li> </ul>

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*Social welfare organizations*      *Measures to promote the employment of persons with disabilities*

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| Yan Chai Hospital | <ul style="list-style-type: none"><li>• Formulating policies for employment of persons with disabilities</li><li>• Increasing the rate of employees with disabilities from the existing 0.23% to 2% in 5 years</li><li>• Collaborating closely with LD, SWD and rehabilitation organisations to provide more job opportunities for persons with disabilities</li><li>• Provision of assistive devices for persons with disabilities to facilitate their work</li><li>• Co-organising an award scheme with the RAC to recognise the contribution of volunteers serving persons with disabilities, family carers and caring employers</li><li>• Giving priority to enterprises employing persons with disabilities when outsourcing services</li></ul> |
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## Annex 13

### Summary of the key findings of the special topics Report No. 48

1. At the time of the survey (i.e. 2006–07), it was estimated that there were some 361 300 persons with one or more of the following types of disability: (1) restriction in body movement; (2) seeing difficulty; (3) hearing difficulty; (4) speech difficulty; (5) mental illness/mood disorder; (6) Autism; (7) Specific Learning Difficulties; and (8) Attention Deficit/Hyperactivity Disorder. These 361,300 persons with disabilities constituted about 5.2% of the then total population of HKSAR.

2. The survey also collected information on persons with intellectual disability residing in institutions and in households. However, there was strong indication of under-reporting in respect of the number of persons with intellectual disability in households as derived from the survey findings. Hence, the analysis of survey findings pertaining to persons with intellectual disability has been separated from that of persons with other types of disability in the report. A crude statistical assessment indicated that the total number of persons with intellectual disability in HKSAR was likely to be in the region of 67,000–87,000. The numbers of persons with individual types of disability are shown in the following table:

#### The numbers of persons with individual types of disabilities in 2007

<i>Selected type of disability#</i>	<i>No. of persons</i>	<i>As % of total population of HKSAR</i>
Restriction in body movement	187 800	2.7
Seeing difficulty	122 600	1.8
Hearing difficulty	92 200	1.3
Speech difficulty	28 400	0.4
Mental illness/mood disorder	86 600	1.3
Autism	3 800	0.1
Specific learning difficulties	9 900	0.1
Attention deficit/hyperactivity disorder	5 500	0.1
Persons with one or more of the above types of disability*	361 300	5.2
Intellectual disability^		
Statistical assessment	67 000–87 000	1.0–1.3

*Notes:*

# Persons with intellectual disability are not included.

\* A person might have more than one selected type of disability and hence the overall number of persons with disabilities is smaller than the sum of the number of persons with individual types of disability.

^ Since intellectual disability is a very sensitive issue to some respondents, the information collected from these respondents may be subject to larger error, and hence the survey may have underestimated the number of persons with intellectual disability. For this reason, the survey results of the number of persons with intellectual disability and the number of other persons with disabilities were handled separately.

3. There were also some 1,152,700 persons who required long-term (i.e. lasting at least 6 months) medical treatment, consultation or medication for certain type(s) of diseases in 2007, representing about 16.7% of the then total population of HKSAR.
  4. The three most commonly cited diseases that required long-term medical treatment, consultation or medication were hypertension (48.9% of those 1,152,700 persons), diabetes mellitus (20.0%) and heart diseases (11.7%).
  5. Some 105,900 persons (29.3%) indicated that they had great/moderate difficulties in day-to-day living owing to their disabilities. Another 172,100 persons (or 47.6%) said that they had some difficulties. As for the 1,152,700 persons with chronic diseases, 10.0% had great/moderate difficulties and 15.3% had some difficulties in day-to-day living.
  6. Among those 295,400 persons with disabilities residing in households and the 1,085,100 persons with chronic diseases residing in households, some 125,600 (42.5%) and 121,100 (11.2%) respectively had another person to take care of their day-to-day living owing to their disabilities and chronic diseases.
  7. Some 32,100 (or 78.3% of all employed persons with disabilities) cited that they needed to go out for work but did not require any assistance from other persons in transportation to/from work place. Meanwhile, 26,600 (or 81.1% of all employed persons with chronic diseases encountering difficulties in day-to-day living) needed to go out for work but did not require any help from others when travelling to/from work place.
  8. Some 9,200 (or 40.3% of all students/persons receiving skills training with disabilities) reported that they did not require any assistance from others in transportation to/from school/training centre. On the other hand, some 6,700 (or 47.7% of all students/persons receiving skills training with chronic diseases encountering difficulties in day-to-day living) claimed that they did not require any assistance in transportation to/from school/training centre.
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