

**Minutes of the One Hundred and Second Meeting of
The Equal Opportunities Commission
held on 20 June 2013 (Thursday) at 2:30 p.m. in the
Equal Opportunities Commission's Conference/Training Room**

Present

Dr. CHOW Yat-ngok, York	Chairperson
Ms CHIU Lai-kuen, Susanna	
Ms CHOI Hing-shi, M.H.	
Mr. CHOW Ho-ding, Holden	
Dr. KOONG May-kay, Maggie	
Dr. Trisha LEAHY	
Dr. Hon LEE Kok-long, Joseph, S.B.S., J.P.	
Mr. LUI Tim-leung, Tim, B.B.S., J.P.	
Mr. Amirali Bakirali NASIR, J.P.	
Ms NG Wing-mui, Winnie (via telephone conference)	
Mr. Zaman Minhas QAMAR	
Ms Su-Mei THOMPSON	
Dr. TSANG Kit-man, Sandra, J.P.	
The Hon TSE Wai-chun, Paul, J.P.	
Dr. TSE Wing-ling, John, M.H.	
Ms WONG Ka-ling, Garling	
Mr. YIP Siu-hong, Nelson, M.H.	
Mr. Michael CHAN Yick-man	Secretary Director, Planning & Administration [DPA]

In attendance

Mr. Joseph LI Siu-kwai	Director, Operations [D(Ops)]
Mr. Herman POON Lik-hang	Chief Legal Counsel [CLC]
Mr. Kelvin MAK Kwong-yuen	Senior Policy and Research Officer [SPRO2]
Ms Shana WONG Shan-nar	Head, Corporate Communications & Training [HCCT]
Miss Gloria YU Wai-ling	Senior Equal Opportunities Officer, Administration & Personnel [SAP]
Miss Kerrie TENG Yee-san	Accountant [ACCT]

I. Introduction

1. The Chairperson (C/EOC) welcomed all Commission Members (Members) in particular, four new Members, Mr. Holden CHOW, Dr. Trisha LEAHY, Dr. Hon Joseph LEE and Ms Su-Mei THOMPSON to the 102nd Meeting. The Meeting noted that Ms Winnie NG would join the meeting via telephone conference and Dr. Trisha LEAHY had to leave the meeting early due to clash of meeting schedules. C/EOC invited Members and staff to introduce themselves briefly before the meeting commenced.

(Ms CHOI Hing-shi, Dr. Sandra TSANG and Mr. Nelson YIP joined the meeting at this juncture)

2. C/EOC said that a press briefing would be held after the meeting in accordance with the usual practice.

II. Confirmation of Minutes (Agenda Item No. 1)

3. The Minutes of the 100th and 101st (Special) EOC Meetings were issued to Members on 18 April 2013 and 14 May 2013 respectively. There was one request for amendment by Dr. Sandra TSANG at paragraph 10 of the minutes of the 101st (Special) EOC Meeting. The revised minutes had since been issued to Members on 13 June 2013.

4. The minutes of the 100th EOC Meeting and the revised minutes of the 101st (Special) EOC Meetings which incorporated the proposed amendment by Dr. Sandra TSANG were confirmed without amendment.

III. Matters Arising (Agenda Item No. 2)

5. Members noted that matters requiring their immediate attention from the last two meetings had been included under the new agenda for this meeting.

IV. New Agenda Items

Election and Endorsement of new EOC Committees Membership

(EOC Paper No. 7/2013; Agenda Item No. 3)

6. Members approved the new EOC Committees Membership as listed in Appendix I of EOC Paper No. 7/2013 and also the number of Members in PARC to be revised from 9 to 11. Since there was only one nomination for convener and deputy convener each for A&FC, CPPC and LCC, with the respective Committees Members support, approval was given by the EOC Board for their appointment.

7. Election for Convener for PARC was required and conducted among the PARC Members by secret ballot at the meeting. Of the two nominees, Dr. John TSE obtained 8 votes and Mr. Nelson YIP had 2 votes and there was 1 abstention and the former was elected as Convener with approval from the Board. As Mr. Nelson YIP was also nominated as Deputy Convener of PARC and only one nomination was received, PARC Members support and the Board's approval was given for his appointment. The elected conveners and deputy conveners were as follows:

<u>A&FC</u> :	Convener:	Ms Susanna CHIU
	Deputy Convener:	Mr. Tim LUI
<u>CPPC</u> :	Convener:	Ms Garling WONG
	Deputy Convener:	Dr. Maggie KOONG
<u>LCC</u> :	Convener:	Mr. A B NASIR
	Deputy Convener:	The Hon Paul TSE
<u>PARC</u> :	Convener:	Dr. John TSE
	Deputy Convener:	Mr. Nelson YIP

Progress on The Discrimination Law Review

(EOC Paper No. 8/2013; Agenda Item No. 4)

8. CLC highlighted to Members the salient points contained in EOC Paper No. 8/2013. Members noted that it was EOC's statutory duty to review the discrimination legislation. EOC's experience in implementing the law

indicated that there were a range of deficiencies with the current law. International best practice also showed that the current law was lagging behind. These called for the EOC's current review to identify possible improvements to the existing discrimination ordinances and consider introduction of new grounds for protection, such as sexual orientation and gender identity.

9. Members also noted there was a recent significant development regarding sexual orientation and gender identity in the decision in May 2013 by the Court of Final Appeal in *W v Registrar of Marriages*, FACV No. 4/2012. The Court held that the Marriage Ordinance in not permitting male to female transsexuals to marry was unconstitutional and in breach of the Basic Law and BORO. Apart from recommending the Government to follow the Court's orders coming into effect in one year to introduce legislation to set out the elements for gender recognition claims and entitlements to marriage, the Court also recommended that the Government should consider legislating in other related areas for their impact on existing marriages, entitlements to benefits, sport, gender specific offences and discrimination. This was very helpful in relation to our current proposals to consult on and make recommendations to the Government on introducing sexual orientation and gender identity discrimination legislation.

10. Members noted that the EOC had started working on the project in December 2012. A working group was established in March 2013 consisting of staff from all divisions in EOC to develop the strategy and manage all aspects of the project, as well as conducting detailed analysis on the internal paper for turning it into an external consultation document in due course. This internal review was expected to complete in 2 to 3 months. By then, Members would be briefed on the internal review results before consultation with the public and stakeholders.

11. Regarding the consultation with the public and stakeholders, CLC said that different components could be given separate focus to facilitate discussion. One part of the consultation would relate to improvements to the current discrimination legislation, to consolidate and modernize it. Another part would relate to new provisions, for example sexual orientation and gender identity.

C/EOC added that he had attended the meeting of the LegCo Panel on Constitutional Affairs on 17 June 2013. Most LegCo Members and members of various political parties he had met had urged the EOC to expedite its work in the review and conduct public consultation as early as possible. Nonetheless, he viewed that a robust internal review process on the various proposals was important before consulting the public. He expected that public consultation could start in the first half of 2014. He would also take the lead on this major project.

12. Ms Winnie NG expressed support in principle to the current review. She viewed that the W case had helped increase public's understanding on issues related to sexual orientation and gender identity, which would facilitate the EOC's work on the review. She expressed her wish to join EOC's working group. C/EOC thanked Ms NG for her interest and said she and other Members would be invited to join the working group at the appropriate time.

(Dr. Trisha LEAHY left the meeting at this juncture)

13. Members deliberated on the subject. The Hon Paul TSE informed the meeting that the LegCo had started discussions on amending the Sex Discrimination Ordinance with a view to covering its loopholes, like providing protection to prohibit sexual harassment by a customer in the fields of employment, the provision of goods and services and premises. He also suggested adding new grounds for consideration in the current review for the purpose of eliminating conflicts between Mainlanders and Hongkongers on top of those already named under paragraph 16 (d) of the said paper.

14. Dr. John TSE opined that consultation work might not need to wait when a document for consultation was ready; in fact, it would be better to strategically set priorities and focus the consultation on important issues with the public one at a time for achieving desirable results. In response, C/EOC said that when the EOC taskforce had finished the internal review, Members' views would be sought and they would also be invited to join the working group to help formulate strategies to take the matter forward. In view that there were many issues involved in the review, Mr. Tim LUI suggested that the internal review

results could be brought to Members for consideration in parts to facilitate effective discussion.

15. In response to questions posed by Mr. Holden CHOW related to the proposal of consolidating the existing four ordinances into one, C/EOC said that the consolidation would simplify the law and make it easier for stakeholders to apply. Also, a single ordinance would provide a better platform for further growth as other new groups could be added more promptly than enacting a new piece of legislation. However, Members noted that the proposal was still under consideration and a consensus had yet to be reached. More internal deliberations were required before it was ready for Members' advice. The public would be consulted after Members' advice was given.

16. In response to a concern expressed by Dr. John TSE on the substantial manpower that would be incurred in the project, C/EOC said that a Legal Counsel had been employed mainly for this project; more staff would be deployed to assist when required. In response to another concern expressed by Ms Garling WONG on some women groups' fear if the proposed changes in the ordinances would decrease the protection for women, C/EOC said that the review was not intended to reduce the protections under the law and more and clearer communications would be provided to the public on the current project including what the proposed changes were, their implications and the progress of the review.

17. Dr. Sandra TSANG said that she could not visualize the implications until the results of the internal review were known. She suggested the EOC Office to provide details like timeline, major steps, pros and cons of the specific amendments, and detailed table of contents of the proposals for Members to consider. C/EOC replied that a detailed paper would be prepared for Members' consideration at the September Board Meeting.

18. Members noted EOC Paper No. 8/2013.

(The Hon Paul TSE left the meeting at this juncture)

EOC Annual Forum

(EOC Paper No. 9/2013; Agenda Item No. 5)

19. DPA briefed Members on the details contained in EOC Paper No. 9/2013 which presented the proposal on organizing the 2013 EOC Annual Forum. Members noted that the first Annual Forum held last year received very positive feedback. It was a good opportunity for Members to have direct communications with the stakeholders and get their views on our work, particularly those relating to our strategic work plan in the coming years. In this year's Forum, the target participants would be around 200 to 250. Among EOC's stakeholders, more government officials from departments involving with EOC's work would be invited to attend.

20. Members noted that due to unavailability of a suitable venue, the Forum might now be held on Thursday, 26 September 2013 instead of the originally planned Friday, 27 September 2013. The Auditorium at the 9th Floor of the Hong Kong Federation of Youth Groups Building had been reserved for this purpose.

21. Dr. Maggie KOONG suggested the EOC Office to arrange designated staff to sort out the written questions received during the Forum to facilitate the exchange process more efficiently. Ms Susanna CHIU suggested limiting the time to speak for each individual/organization so as to allow more participants to express their views and ensure a fair chance be given to speak at the Forum. She also suggested the Office to consider the possibility of live-broadcasting of the Forum via internet to further enhance transparency. Ms Garling WONG suggested the EOC Office to consider organizing the Forum on a Friday instead of a Thursday which should better facilitate representatives from NGOs to attend. Additionally, for the same reason, she hoped the Office to continue explore the possibility of holding the Forum on the Kowloon side since most NGOs had offices in Kowloon. The EOC Office would follow up with Members' suggestions.

EOC's Three-Year Strategic Work Plan & Strategic Retreat

(EOC Paper No. 10/2013; Agenda Item No. 6)

22. C/EOC informed that he had met with a wide range of stakeholders including EOC Members to understand their needs and concerns and to solicit their views on advancing EOC's work. Having carefully considered the views collected and discussed with the EOC management team, he had worked out a three-year Strategic Work Plan now contained in EOC Paper No. 10/2013. There were 5 priority work areas and 3 ongoing major undertakings. The 5 priority areas were:

- ii. Discrimination Law Review;
- iii. Legal Protection for Sexual Minorities from Discrimination on the Basis of Sexual Orientation and Gender Identity;
- iv. Education and Employment Opportunities for Ethnic Minorities;
- v. Integrated Education for Students with Special Education Needs (SEN) and its Impact on Employment Opportunities; and
- vi. Functional Approach in addressing the Needs of PWDs by Government.

The 3 ongoing major undertakings were:

- i. Anti-Sexual Harassment Campaign;
- ii. Review of the Code of Practice on Employment under the Sex Discrimination Ordinance; and
- iii. Follow-up on the Formal Investigation Report on Accessibility in Publicly Accessible Premises.

23. C/EOC said that the concerted efforts of Members and staff were vital to successfully take forward the major initiatives. With the appointment of a new Board and new Members in post, he hoped to organize a Strategic Retreat in the coming 6 months to help map out further details in and make refinements to the Strategic Work Plan.

24. In view of the many challenges to be tackled and that the proposed Strategic Retreat was an important event, Ms Susanna CHIU opined that one full day and a facilitator would be required. On educational issues in the Strategic

Work Plan, Ms CHIU viewed that EO concepts should be incorporated as an essential component in teachers' training before they became qualified. Dr. Maggie KOONG echoed that there should be a module in EO in the training curriculum for teachers. Currently, EO was only one of the many topics under Liberal Studies which greatly undermined the importance of EO in the education system. She added that early identification of students with special needs should start from pre-school stage.

25. Dr. John TSE viewed that if the EO culture could be mainstreamed in our society, it could help EOC's work to reach new heights. He suggested enlisting more strategic partners to help promote the EO culture. On the other hand, the EOC should seriously consider conducting Formal Investigation (FI) in the priority work areas like equal education opportunities for EMs and students with special education needs to achieve impactful results. In response, C/EOC said that the Office would consider conducting FI when there were sufficient grounds. He also said that areas of work indentified in the Strategic Work Plan as well as views to improve the education system and enlist more strategic partners including the media were building blocks complementary to one another that could help advance EOC's work.

26. Ms Garling WONG opined that apart from advocating EO training in the education system, the EOC could also consider proactively targeting its promotional work on specific issues to bring about significant cultural change. Mr. Nelson YIP viewed that the Strategic Work Plan was insightful and had foresight. He said that EO was not only about anti-discrimination. The EOC should help raise Hong Kong's cultural profile to exhibit qualities of inclusion, diversity and equal opportunities. As regards the Strategic Retreat, Mr. YIP suggested that it would be better to organize it in early September before the 2013 EOC Forum. Members agreed and proposed to hold the event on a Thursday/Friday in early September. In view of better logistic support available and cost implications, it was agreed to hold the Retreat in the EOC Office. The Office would follow up on Members' suggestions.

Opening up EOC Meetings

(EOC Paper No. 11/2013; Agenda Item No. 7)

27. C/EOC said that the EOC was a statutory body accountable to the public and it had a duty to let the public know what it was doing. Opening up meetings to the public would have the benefit of raising EOC's transparency and accountability and enable the public to better understand EOC's work. On the other hand, opening up meetings might inhibit free and candid discussions as opined by some Members. Matters of a confidential, sensitive or controversial nature could not be open. Accordingly, there might be a need to have open and closed sessions and the media and the public might not be interested in a restricted agenda. There was also a need to consider the appropriateness of opening one committee meetings independent of meetings of the Board and other Committees. In addition, limited space in the current EOC Office would also be a constraint for public attendance.

28. Given that the EOC's new Board had only started from 20 May 2013 and some Members had just joined, C/EOC suggested to revisit this subject in six months when new Members had more knowledge on EOC's work. He added that the main consideration should be whether there was added value in so doing. Members could consider this subject in the coming Strategic Retreat.

(Mr. Z M QAMAR left the meeting at this juncture)

Reports of the Legal & Complaints Committee (LCC), Community Participation & Publicity Committee (CPPC), Policy and Research Committee (PARC) and Administration & Finance Committee (A&FC)

(EOC Paper No. 12/2013; Agenda Item No. 8)

29. Members noted EOC Paper No. 12/2013 which presented important matters raised and decisions made at the meetings of the 4 Committees established under the EOC.

30. For the benefits of new Members, Ms Susanna CHIU, Convener of A&FC said that the EOC's internal control was generally good, and its financial

position was sound if the Government could provide subvention to cater for EOC's increase in office rental. A&FC Members had considered it unreasonable for the Government not to provide additional subvention for the rent increase which was a recurrent expenditure item. C/EOC had been requested to bring to the Government's attention on the EOC's funding requirements for office rental and to reiterate the importance of providing a permanent office premises to the EOC so that it could be free from financial risk due to market fluctuation on office rental. C/EOC added that EOC's work should not be adversely affected because it had to be concerned about office rental. Members' views had been relayed to the Government and a meeting was being arranged for Members to meet with the relevant Government bureau to discuss the matter.

EOC's Projected Income and Expenditure and Balance of Reserves from 2013/14 to 2015/16

(EOC Paper No. 13/2013; Agenda Item No. 9)

31. ACCT highlighted the EOC's Projected Income and Expenditure and Balance of Reserves from 2013/14 to 2015/16 as detailed in EOC Paper No. 13/2013.

32. Members noted that there would be estimated deficits in the coming three years with details shown in the Table under paragraph 5 of the said paper. As explained by the Convener of A&FC in the discussion under Agenda Item 8, the estimated deficits were mainly due to the increase in office rental. In order to achieve a balanced budget as would be expected by the public, it would be necessary for the Government to provide additional recurrent subvention of \$4.64M per annum to the EOC from 2013/14 for meeting the additional office rental. Members also noted that the reserve balance would be progressively reduced to \$2.76M in 2016/17 if no additional subvention from the Government was given.

33. Ms Winnie NG expressed that it would be the most preferred option if EOC could be provided with a permanent office and the EOC should continuously pursue this with the Government. Members noted that other

subvented organizations had similar problems due to rental increase for their leased office but it was also difficult for them to get government funds to purchase a permanent office. An alternative was to get an office from the Government's properties. Ms Susanna CHIU added that to move from the present leased office to another due to funding constraint would create inconvenience for clients, not to mention that EOC has a particular requirement on accessibility and special fixtures such as sound proof rooms and simultaneous interpretation equipment could not be moved to the new office and needed to be reinstalled again.

(Dr. Maggie KOONG and Ms Su-Mei THOMPSON left the meeting at this juncture)

Report of EOC's Financial Position as at 31 March 2013

(EOC Paper No. 14/2013; Agenda Item No. 10)

34. ACCT highlighted salient points contained in EOC Paper No. 14/2013 to Members. Members noted that after taking into account the committed expenditure of \$10.11M to be incurred in 2013/14 (\$6.68) and beyond 2013/14 (\$3.43), the surplus for 2012/13 was \$0.68M. This surplus would be transferred to EOC's reserves account. After the transfer, the balance of reserves as at 31.3.2013 would be \$23.33M, which was \$0.01M below the permitted reserve ceiling.

35. Members noted EOC Paper No. 14/2013.

V. Any Other Business

36. There being no other business, the meeting was adjourned at 5:05 p.m.

VI. Date of Next Meeting

37. The next regular EOC meeting has been scheduled for 19 September 2013 (Thursday) at 2:30 p.m.

Equal Opportunities Commission
July 2013