

**Minutes of the One Hundred and Thirteenth Meeting of
The Equal Opportunities Commission
held on 17 March 2016 (Thursday) at 2:30 p.m. in the
Equal Opportunities Commission's Conference Room**

Present

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| Dr. CHOW Yat-ngok, York | Chairperson |
| Mr. CHAN Chi-kin, Ivan | |
| Ms CHIU Lai-kuen, Susanna, M.H. | |
| Prof. CHOI Yuk-ping, Susanne | |
| Dr. KOONG May-kay, Maggie, B.B.S. | |
| Ms Elizabeth LAW, M.H., J.P. | |
| Prof. Hon LEE Kok-long, Joseph, S.B.S., J.P. | |
| Ms LEUNG Chung-yan, Juan | |
| Ms Shirley LOO, M.H., J.P. | |
| Mr. Amirali Bakirali NASIR, J.P. | |
| Mr. Zaman Minhas QAMAR | |
| Ms Su-Mei THOMPSON | |
| Dr. TSANG Kit-man, Sandra, J.P. | |
| Mr. YIP Siu-hong, Nelson, M.H. | |
| Mr. Michael CHAN Yick-man | Secretary Chief Operations Officer [COO] |

Absent with apologies

Mr. CHOW Ho-ding, Holden
Dr. Trisha LEAHY, B.B.S.
Miss YU Chui-yee, M.H.

In attendance

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| Ms Agnes MAN Ngar-yin | Director, Complaint Services [DCS] |
| Mr. Ivan LUK Chi-cheung | Chief Legal Counsel [CLC] |
| Dr. Ferrick CHU Chung-man | Director, Policy, Research and Training [DPRT] |
| Ms Shana WONG Shan-nar | Head, Corporate Communications [HCC] |
| Mr. Peter READING | Legal Counsel [LC4] |
| Mr. Raymond HO Wing-keung | Senior Equal Opportunities Officer, Ethnic Minorities Unit [SEOO(EMU)] |

Miss Gloria YU Wai-ling

Senior Equal Opportunities Officer,
Administration & Personnel [SAP]

Miss Kerrie TENG Yee-san

Senior Accounting Manager [SMA]

Mr. Robert LI

Miss Peggy WONG

Consumer Search HK Ltd. }

} For Agenda
Item No. 9
only

I. Introduction

1. The Chairperson (C/EOC) welcomed all Commission Members (Members) to the 113th Meeting. He also welcomed Mr. Robert LI and Miss Peggy WONG, representatives of Consumer Search Hong Kong Limited (CSG), the external consultant engaged by the EOC to conduct the Service User Satisfaction Survey 2015 to the Meeting. Apologies for absence were received from Mr. Holden CHOW, Dr Trisha LEAHY and Miss YU Chui-ye due to out of town business/other engagements. Ms Susanna CHIU and Ms Elizabeth LAW would join the meeting at a later time.

2. C/EOC said that there were no items that should immediately be reported after the meeting. As such, a press briefing would not be held after the meeting but a press release would continue to be issued.

3. C/EOC proposed and Members agreed to consider Agenda Item 9 on “Findings of the Qualitative Phase of the 2015 Service User Satisfaction Survey relating to EOC’s Complaints Handling Mechanism” first so that representatives from CSG could leave the meeting when discussion on this item was finished.

II. Findings of the Qualitative Phase of the 2015 Service User Satisfaction Survey relating to EOC’s Complaints Handling Mechanism

(EOC Paper No. 7/2016; Powerpoint Presentation materials prepared by CSG tabled; Agenda Item No. 9)

4. EOC Paper No. 7/2016 presented the preliminary key findings of the

qualitative phase of the Service User Satisfaction Survey on EOC's complaint handling and enquiry service for the period from 1 August 2014 to 31 July 2015 (SUS-2015).

(Prof Hon Joseph LEE and Dr Maggie KOONG joined the meeting respectively at this juncture.)

5. Mr Robert LI informed that in-depth interviews were employed as a follow-up study of the questionnaire phase in the SUS-2015 to seek a deeper understanding of service users' views towards EOC's complaint handling and enquiry service and for possible service enhancements. Members noted that this was the first time in-depth interviews were employed as a follow-up study in this annual survey, i.e. the qualitative phase of the survey and a total of 24 in-depth interviews had been conducted. The preliminary key findings based on a total of 13 in-depth interviews (with 4 Complainants, 4 Respondents and 5 Enquirers) were presented in the Appendix to EOC Paper No. 7/2016. The latest key findings based on all 24 in-depth interviews conducted (with 8 Complainants, 8 Respondents and 8 Enquirers encompassed the 4 anti-discrimination legislation, except for Respondents of the Family Status Discrimination Ordinance) were available from the powerpoint presentation materials prepared by CSG tabled.

6. Mr Robert LI then presented to Members the major highlights of the in-depth interviews conducted and the key findings, including the objectives of the in-depth interviews, the eligible respondents and sample selection methodology and the major recommendations proposed by CSG after consolidating views from the respondents of the in-depth interviews. The major recommendations were categorized into "desirable traits of staff", "handling process" and "information and work of the EOC". Details were listed on slide number 9 to 11 in the presentation materials tabled.

7. Prof Hon Joseph LEE expressed that the survey was good since it detailed some service users' views as possible yardsticks to measure how EOC has performed. He asked if there was any information on how the EOC had fared against the yardsticks. In response, C/EOC said that it was the first time

that feedback from service users was collected through in-depth interviews. The yardsticks had not yet been adopted, hence there was no such information available. They could be considered for adoption in future surveys. Nonetheless, users' satisfaction was only one of the measurements. The level of professional service, the degree of impartiality and efficiency were also important criteria. DCS said she welcomed the recommendations in this qualitative phase which would be considered by all staff in the CSD for continuous improvements. Nevertheless, she pointed out that the information collected in the 24 interviews were views and not necessarily facts. Moreover, the service of the CSD was not normal customer service as it was about law enforcement. There were areas that could not be compromised in EOC's service, such as the set of standard procedures to ensure fairness and the standards for collecting evidence in investigation of cases. In these areas, flexibility might not be possible. As such, some of the suggestions from service users might not be practicable.

(Ms Susanna CHIU joined the meeting at this juncture.)

8. Ms Shirley LOO noted that there were some good comments from participants recorded in the findings. She said that it was difficult to satisfy all parties to complaints. She suggested staff of the Division concerned to assess the recommendations based on their professional judgment and experience on what could be implemented. Mr AB NASIR also agreed that EOC staff had been doing quite well. It was not an easy task when information/evidence collected in investigation had to be used for conciliation by Complaint Services Division and later for litigation by Legal Service Division if required. The standard for these two functions were different but ultimately sufficient information needed to be collected to assess the merits of the case for litigation purposes and professional judgment and a balanced approach were required. Therefore, refining the survey to let service users understand the differences before collecting their views would be helpful in obtaining more meaningful feedback.

9. Dr Sandra TSANG agreed with Mr AB NASIR's views. She said that the survey was a good tool for continuous service enhancement. She suggested

that in future surveys, the design of the questionnaire could be split for seeking feedback on service relating to complaints investigation on the one hand and conciliation on the other. Guidance should also be given to the service users/survey respondents to enable them to have a better understanding of the differences between the two distinct functions so that more meaningful feedback could be obtained. She added that EOC staff had been working very hard and doing well. Prof. Susanne CHOI also remarked that the feedback on complaint service and on enquiry service should be separately reported as their nature and service standards were different. In addition, she suggested adopting a more balanced approach to present the findings such that areas that survey respondents found commendable could be presented first in the report followed by areas for improvements.

10. Mr Robert LI supplemented that this qualitative phase of the SUS-2015 was a follow up of the quantitative survey presented to Members in the December 2015 Meeting to better understand areas that the EOC could further improve on its complaint handling and enquiry services. The findings of the quantitative phase of the SUS-2015 presented to Members in December 2015 were mainly closed-end questions to give a statistical representation of how EOC had performed from the service users' perspective. It was understandable that it was not possible to satisfy all and achieve a 100% satisfaction rating on all service aspects. Nonetheless, by comparing findings in the current survey with those in the past, a trend could be obtained to assess if service standards were maintained at a certain acceptable level. Nonetheless, findings in this qualitative phase of the survey and Members' views expressed were helpful in redesigning future survey process and the questionnaires to better gauge feedback from service users.

11. C/EOC thanked Members' views and suggestions and thanked Mr. Robert LI and Miss Peggy WONG for their attendance.

(Mr Robert LI and Miss Peggy WONG were excused and left the meeting at this juncture. Mr AB NASIR also left the meeting at this juncture.)

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

12. The draft minutes of the 112th EOC Meeting held on 17 December 2015 were issued to Members on 15 January 2016. There were no amendments proposed. They were confirmed without amendments.

IV. Matters Arising (Agenda Item No. 2)

13. Members noted that matters arising from the last meeting requiring attention had been placed under the new agenda of this meeting for consideration.

14. With reference to the application for leave to appeal against the decision of the Labour Tribunal on the granting of contract-end gratuity to a former staff, C/EOC informed that leave for appeal had been granted to the EOC in a hearing at the High Court on 16 March 2016. The next step would be the substantive hearing of the intended appeal, a date yet to be fixed and the matter would be further considered at the Administration and Finance Committee.

V. New Agenda Items

Progress on The Discrimination Law Review

(EOC Paper No. 1/2016; The Confidential Discrimination Law Review – Submissions to the Government Executive Summary tabled, Agenda Item No. 3)

15. C/EOC said that in response to the request issued by the Secretariat on 26 February 2016 for Members' advice on the documents relating to the Discrimination Law Review (DLR), 11 Members had given their endorsement. Since the documents were scheduled to be released to the public on 29 March 2016, he sought Members' advice again on the DLR report in this meeting. The latest version of the executive summary of the DLR Submissions to the Government, which should remain confidential until the DLR report was released on 29 March 2016, was tabled for Members' reference. Members were reminded that the tabled executive summary was not to be taken away after the meeting.

16. LC4 highlighted to Members the latest progress of the DLR project and the important points in the latest version of the executive summary tabled. C/EOC added that in the analysis, the reasoning was more important than the number of responses received. Members posed no questions to the DLR project and unanimously approved all the DLR documents at the meeting. C/EOC thanked Members and staff for their hard work in the DLR project in the past three years. Since the recommendations were mainly for the Government to consider, a briefing on the DLR recommendations had been arranged for the CMAB. He said that the recommendations were clearly categorized to facilitate follow up. The executive summary would be translated into different EM languages and they would be released later when ready.

(LC4 left the meeting at this juncture.)

[Post-meeting note: The DLR report has been released to the public on Tuesday, 29 March 2016.]

Updated Status of EOC's Strategic Priorities

(EOC Paper No. 2/2016; Agenda Item No. 4)

17. EOC Paper No. 2/2016 presented to Members the updated status of the EOC's Strategic Priorities. COO took Members through the latest development on the 5 strategic priority work areas which included the Discrimination Law Review, Legal Protection for Sexual Minorities from Discrimination on the Basis of Sexual Orientation and Gender Identity, Education and Employment Opportunities for Ethnic Minorities, Integrated Education for Students with Special Education Needs and its impact on Employment Opportunities and the Functional approach in addressing the needs of persons with disabilities by the Government. C/EOC commented that considerable work had been done in the past 3 years on the 5 strategic priorities, particularly those on the educational front which would have a long term impact on the society. Apart from the 5 priority areas, it should also be noted that the EOC also undertook substantial work on prevention of sexual harassment and significant progress had been made. New provisions in the Sex Discrimination

Ordinance had been introduced in 2014 to prohibit sexual harassment by customers of service providers, including liability for harassment on Hong Kong-registered ships and aircraft in relation to the provision of goods, facilities and services, even if the alleged act happened outside Hong Kong.

18. Members noted EOC Paper No. 2/2016.

(Ms Elizabeth LAW joined the meeting at this juncture.)

Procedure for Handling Dissatisfaction expressed to Board Members on EOC's work by the Public

(EOC Paper No. 3/2016; Agenda Item No. 5)

19. DCS went through the salient points contained in EOC Paper No. 3/2016 with Members which was to seek Members' endorsement on a proposed procedure on how to handle dissatisfaction expressed to Members by service users regarding complaints handled by the EOC.

20. Members noted that one of the major functions of the EOC was to handle enquiries and complaints related to discrimination from the public, which was carried out by the CSD. From time to time, service users who were not satisfied with the EOC's service would appeal to parties outside of CSD, such as lodging service complaints with EOC's service improvement officer or filing a complaint with the Ombudsman. In some cases, the objective behind these actions was to request a reconsideration of the decision, or a change in the handling procedures of the case concerned. Recently, it was observed that more service users had approached individual EOC Members directly to voice out their dissatisfaction of case handling by the CSD. Some were not satisfied with their case outcome thereby requesting Members to re-consider the merits of their case; others were not satisfied with the handling procedures of their complaints and sought Members' intervention when the investigation was still ongoing or concluded.

21. As the EOC's function of handling enquiries and complaints is vested in CSD, which has the expertise and experience to handle cases according to the provisions of the current legislation as well as the division's internal operation

procedures, it might not be appropriate for any party outside the CSD, including EOC Members and C/EOC, to get involved when the case was still in progress. In light of this, and under normal circumstances, complaint handling should be the exclusive responsibility of the complaint handling staff, as a matter of policy. However, if concerns and dissatisfaction were expressed to Members by a service user after a case has been concluded, Members could inquire from CSD or contact COO office for the necessary details and explanations, as well as recommending course of actions where appropriate.

22. Members deliberated on the proposed procedures. C/EOC said that if service users were not satisfied with the CSD's decision and asked for a review, the CSD would normally review the case concerned again to ensure the handling process, the reasoning of the case and the explanations provided to parties concerned were all properly done. It was important that all cases were handled under the same protocol professionally and impartially. In response to Members' question related to whether there was a formal appeal mechanism against the CSD's decision, COO said that although there was now no such mechanism, if service users were not satisfied with CSD's decision, they would approach the EOC including the Chairperson or the Board and the case would be re-considered by the CSD or elevated to the Legal and Complaints Committee as necessary and the EOC has dealt with quite a few of such cases before.

23. The proposed procedure was agreed by Members subject to a minor refinement to be made on the letter to be sent to the complainant on this standard procedure. Under the agreed procedure, if complainants had approached Members on their case, they should be advised to approach the Director, Complaint Services Division and not just the CSD as originally proposed in the letter, making clear that the matter would be handled by the Head of the Division should it occur. Ms Susanna CHIU suggested the Office to consider putting the endorsed handling procedures on EOC's website. The Office would follow up.

(Prof Susanne CHOI left the meeting at this juncture.)

Annual Progress Report of the Ethnic Minorities Unit

EOC Paper No. 4/2016; Agenda Item No. 6)

24. SEOO(EMU) briefed Members on the annual progress report of the Ethnic Minorities Unit contained in EOC Paper No. 4/2016.

25. Members noted that the EM Unit (“Unit”) has become fully operational in May 2015. To give advice and direction to the Unit, the Advisory Committee on Racial Equality and Integration comprising EOC Members had also been formed. The Unit thanked Mr. Z.M. QAMAR for chairing the first meeting in January 2016.

26. Members also noted that in its first year of formation to promote equality for EMs, the Unit had adopted a three-pronged approach in respect of policy recommendation, training and outreach to cover four major work focuses of promoting (i) inclusive school policy and monitoring the new educational initiatives on Chinese learning of Non-Chinese speaking (“NCS”) students; (ii) culturally diverse workforce and employment protection under the RDO; (iii) anti-discrimination legislation and cultural sensitivity to service providers; and (iv) connection with stakeholder groups and the EM communities.

27. Apart from the increased number of outreach activities, the EOC’s network for partnership projects was also considerably expanded in particular with the banking, estate agent and public service sectors. Meanwhile, feedback from the EM community about our active communication and policy recommendations to address EMs’ concerns was positive in view that the Unit was regularly invited to attend consultative group meetings and discussion forums on EM issues as a core member.

28. Members noted that based on the first-year accomplishment, experience and challenges, the Unit would focus on the following work priorities in 2016/17:

- (i) To monitor the support from the Education Bureau to NCS students and promote fair school admission;

- (ii) To facilitate the improvement of employment support and interpretation service in public sector; and
- (iii) To intensify the education to public and private sector on racial equality and integration.

29. C/EOC supplemented that in celebration of the International Day for the Elimination of Racial Discrimination, a public event was organized on 13 March 2016 at Discovery Park in Tsuen Wan, where a number of our Board Members, Dr. W M KO, Secretary for Food and Health, HKSAR and Prof. John LEUNG Chi-yan, Chairman of the Hospital Authority were present to officiate at the launch ceremony. C/EOC said he had appealed to both Dr KO and Prof. LEUNG to employ more EMs in hospitals, including overseas healthcare professionals who were able to obtain registrations to practise in Hong Kong and frontline staff to improve communications between healthcare professionals and EM patients. At the event, three EM speakers including an Indian registered nurse, a Pakistani police officer and a Turkish MTR train captain shared their experience and the challenges they had overcome in pursuing a professional career in the public service sector. It reflected that everyone regardless of their individual characteristics could make a valuable contribution to society if given the opportunity. Nonetheless, C/EOC said that he noted a number of media reports lately had not clearly drawn a line between law-abiding EMs in Hong Kong and bogus asylum seekers and illegal migrants. He added that this was not conducive to racial harmony. On this particular aspect, the EOC and the society should be vigilant and should speak up when necessary to clear the misunderstanding.

30. Ms Shirley LOO, Ms Susanna CHIU and Dr Maggie KOONG agreed with C/EOC's views and they urged more to be done to promote a more positive image of the EMs in Hong Kong. Ms LOO suggested more promotion to be done via social media like Facebook and media statements and the stories of the three EMs who had shared their experience could be included in EOC's roving exhibitions and other channels to help promote racial harmony. In addition, more funding could be considered for publicity programmes on this area. Ms CHIU and Dr KOONG suggested to enlist the help of media management in portraying a more positive image of the EMs in Hong Kong. Ms CHIU also

suggested more outreach work efforts to promote EO concepts to university students who were future leaders of society. In response, C/EOC said that an opinion-editorial article on “Stand against Racism” would be published in the SCMP and Ming Pao on 21 March 2016. He also noted that the contents of some press reports whilst did not carry biased view, their titles were stigmatizing. In this case more work should be done targeting the editors. In any case, the EOC would keep up with its work in promoting racial equality in Hong Kong.

Review of Work of the EOC in 2015

(EOC Paper No. 5/2016; Agenda Item No. 7)

31. Members noted EOC Paper No. 5/2016.

(Mr ZM QAMAR and Ms Su-Mei THOMPSON left the meeting at this juncture.)

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

(EOC Paper No. 6/2016; Agenda Item No. 8)

32. Ms Susanna CHIU, Convener of A&FC supplemented EOC Paper No. 6/2016 that the A&FC had considered the EOC’s draft annual budget for 2016/17 at its last meeting. She said that the low level of reserve balance as projected in the draft budget was unhealthy. There was a structural deficit noted. Details were in EOC Paper No. 9/2016 to be discussed under Agenda Item 11. Dr Maggie KOONG, Convener of CPPC also highlighted to Members that at the last committee meeting, the CPPC had reviewed and revised its procedure in considering funding applications under the community participation funding programme to allow more time for interested organizations to prepare their applications and the work plan for 2016/17 which included programmes to celebrate the 20th anniversary of the EOC was also endorsed.

33. Members noted EOC Paper No. 6/2016.

Chairperson's Quarterly Report

(EOC Paper No. 8/2016; Agenda Item No. 10)

34. EOC Paper No. 8/2016 presented to Members the Chairperson's seventh quarterly report which summarized his work including issuing statements on EOC's position on topical and controversial issues for Members' information and advice. C/EOC said that given the EOC's limited budget for promotion, he had personally taken every available chance to help promote and explain EOC's work through the media which was a very effective way to reach out to the general public.

35. Members noted EOC Paper No. 8/2016.

Proposed New Budget Plan for 2016/17

(EOC Paper No. 9/2016; Agenda Item No. 11)

36. SMA highlighted to Members the EOC's Proposed New Budget Plan for 2016/17 as contained in EOC Paper No. 9/2016.

37. Members noted there would be a deficit of \$5.65M in 2016/17 which was mainly due to the funding required for the increase in office rental in Cityplaza 3 partially offset by savings from other areas during the year; the leasing of the additional office in Cityplaza 4; the COO post; and the Government's deduction of 1% recurrent savings in 2016/17. Members were concerned that the recurrent subvention for the COO post had been withheld by the Government, notwithstanding that the post was filled in mid December 2015 and included in EOC's envelope. The EOC had requested for a meeting with CMAB officials to discuss the provision of funding to the EOC on various occasions between September 2005 to February 2006, and a meeting with the Government was still awaited.

38. On the use of reserve funds, Members noted that after taking into account the total proposed use of reserve funds (\$3.99M for increase in office rental of the exiting office at Cityplaza 3 in 2016/17, \$0.20M for purchase of an HR system, \$0.20M for an Knowledge Archiving System and \$1.26M for the

rent, rates, air-conditioning and management fees of the additional office in Cityplaza 4), the estimated balance of Reserve as at 31 March 2017 would be \$16.79M. The projection of reserve balance up to 2018/19 was in Annex C to the paper. Members also noted that the reserve funds would be fully utilized during 2018/19.

[Post-meeting note: In response to Ms Susanna CHIU's suggestion to include the staff costs of the COO post in the use of reserve to give an accurate picture, Annex C was revised accordingly and attached at the Appendix for Members' reference.]

39. On capital expenditure, Members noted that the Government had approved a one-off subvention of \$3M to the EOC, for the promotion of the Race Discrimination Ordinance and Sex Discrimination Ordinance, in particular sexual harassment. The Government also approved \$246K in the 2016/17 budget for the EOC to replace a motor vehicle which was purchased in 2005. Members also noted that according to the Government's guidelines, the EOC was required to contribute at least 20% of the total cost in the replacement.

40. Ms Susanna CHIU said as she had stated earlier in the meeting, the A&FC had discussed about the EOC's Budget at the last meeting and found that the low level of reserve balance as projected in Annex C was unhealthy as there was a structural deficit. Hence, there was a need to discuss the EOC's budget with officials of the CMAB as a matter of urgency. C/EOC reiterated that the structural deficit was mainly due to the increase in office rental and the leasing of an additional office mainly for new staff particularly those in the EM Unit, and the COO staff costs withheld by the CMAB. On the recurrent funding from the Government on office rental, Members noted that the office rental rate of the EOC Office at Cityplaza 3 was increased from \$22 per square feet gross when the EOC first moved in to the current \$44.5 per square feet gross. Although there were surplus in the EOC's budget in the past two years, the increase in rental which was beyond EOC's control would significantly affect the EOC's recurrent budget in the coming 3 years, and hence EOC's reserve would have to be used to cover the increase.

41. Prof. Hon Joseph LEE requested the Office to provide the relevant information to him to consider following up with the Government in LegCo's Special Meeting of the Finance Committee.

VI. Any Other Business

Vote of Thanks to Members

42. C/EOC said there it was very likely that this was the last EOC meeting chaired by him. He thanked Members for their advice, support and assistance in the past three years which had helped advance EOC's work in a number of fronts. He said that the devotion of Members, a clear mission and a united team were vital to the success of the EOC's work. He was confident that the EOC Board would lead the EOC to many more new heights in the future.

Vote of Thanks to C/EOC

43. Prof Hon Joseph LEE, Dr Sandra TSANG, Ms Susanna CHIU and other Members also thanked Dr York CHOW, C/EOC for his excellent leadership. They also commended Dr CHOW highly on his strong passion for equal opportunities, his courage in advocating EO for minorities in Hong Kong and his admirable work done in the past three years in reforming the EOC and improving staff morale.

44. Dr Sandra TSANG expressed that if Dr York CHOW's appointment as C/EOC was not to be renewed, she and a number of Members would be very disappointed since they had expressed their views to the Government that Dr CHOW was an excellent leader and his appointment should be continued.

45. COO on behalf of EOC staff also thanked Dr York CHOW for his leadership, guidance and his significant contributions to the EOC in the past 3 years.

46. There being no other business, the meeting was adjourned at 5:25 p.m.

VII. Date of Next Meeting

47. The next regular EOC meeting has been scheduled for **16 June 2016 (Thursday) at 2:30 p.m.**

*Equal Opportunities Commission
April 2016*