

**Minutes of the One Hundred and Sixth Meeting of
The Equal Opportunities Commission
held on 19 June 2014 (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, M.H.	
Ms CHOI Hing-shi, M.H.	
Mr. CHOW Ho-ding, Holden	
Dr. Trisha LEAHY	
Prof. 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	
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. Michael CHAN Yick-man	Secretary Director, Planning & Administration [DPA]

Absent with apologies

Dr. KOONG May-kay, Maggie, B.B.S.
Mr. YIP Siu-hong, Nelson, M.H.

In attendance

Mr. Joseph LI Siu-kwai	Director, Operations [D(Ops)]
Mr. Herman POON Lik-hang	Chief Legal Counsel [CLC]
Dr. Ferrick CHU Chung-man	Head, Policy and Research Officer [HPR]
Ms Lisa CHAN Kit-ching	Acting Head, Corporate Communications & Training [Ag. HCCT]
Miss Kerrie TENG Yee-san	Accountant [ACCT]
Miss Gloria YU Wai-ling	Senior Equal Opportunities Officer, Administration & Personnel [SAP]
Mr. Peter Charles READING	Legal Counsel [LC4]

Mr. Sam HO Hon-sum

Senior Corporate Communications
Officer [SCCO4]

I. Introduction

1. The Chairperson (C/EOC) welcomed all Commission Members (Members) to the 106th Meeting. Apologies for absence were received from Dr. KOONG May-kay, Maggie and Mr. YIP Siu-hong, Nelson due to clash of meeting schedules/other business engagements/out of town business.

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. Draft minutes of the 105th EOC Meeting were issued to Members on 17 April 2014. There was one request for amendment by Ms Su-Mei THOMPSON on paragraph 15 of the draft minutes and the revised minutes had been issued to Members on 24 April 2014. The revised minutes of the 105th EOC Meeting were confirmed without amendment.

III. Matters Arising (Agenda Item No. 2)

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

IV. New Agenda Items

Progress on The Discrimination Law Review

(EOC Paper No. 12/2014; Typeset “Discrimination Law Review Easy Read

Guide” tabled; Agenda Item No. 3)

5. EOC Paper No. 12/2014 reported on the progress of the Discrimination Law Review (DLR). C/EOC said that the DLR public consultation was in the final stages of preparation. The tentative launch date was 8 July 2014. The consultation period would be 3 months, closing on 7 October 2014. The final draft of the public consultative document, the executive summary and the easy read guide were at the appendices to the paper. Apart from English and Chinese, these documents would be translated into 6 minority languages and available on-line. There would be a dedicated website for the consultation exercise. Four public consultation sessions would be arranged, 3 in Cantonese and 1 in English. There would also be 6 consultation sessions in minority languages. For publicity activities, there would be a launch press conference on 8 July; distribution of related materials and launching of a dedicated website; newspaper advertisements; TV and radio APIs; media interviews and articles on key topics through the consultation period.

6. CLC added that issues such as protection relating to breast-feeding women, a duty on employers to make reasonable accommodation and other topical and controversial issues, such as discrimination against new immigrants and the conflicts between Mainlanders and local Hong Kong people and duties on public bodies to promote and mainstream equality were included in the DLR for consultation. Focused meetings would be arranged with target stakeholders, like employer groups, educational institutes and NGOs etc., during the consultation period for collecting their views. Views from the public would be collected systematically in the consultation exercise and analyzed, after which a report would be prepared for submission to the Government to consider for appropriate enhancements in the law.

(Mr Holden CHOW joined the meeting at this juncture.)

7. In response to a question raised by Mr Tim LUI on how to handle the views from the public on the 77 questions in the consultation documents, some of which could be quite complex, C/EOC said that the questions had been structured in an organized way to facilitate feedback and as stated in the

consultation document, the public could respond to any or all of the consultation questions. For issues that were more concerned by the public and with strong consensus shown, they would be grouped together and accorded a higher priority in our submission to the Government. When the views collected were appropriately analyzed, a report would be prepared for submission to the Government for appropriate follow up actions. The Government might also need to conduct an impact study before making major changes to the law.

8. In response to a question raised by Ms Su-Mei THOMPSON concerning the EOC's DLR and the recently introduced Sex Discrimination (Amendment) Bill by the Government to protect service providers from sexual harassment by their customers, CLC said that there would be other proposed amendments in the DLR in relation to Sexual Harassment, such as employer's liability for the third party and protection for employees working in a common workplace but employed by different employers. In fact, the amendment proposed by the Government now was one of the recommendations of the EOC submitted to the Government back in 1999. In the DLR, a more comprehensive protection against sexual harassment was explored. C/EOC commented that an overall review of the law was more preferable. Mr AB NASIR said that the Government might have its own perspective on this matter but the EOC should maintain its own approach. Mr NASIR also declared that he was a council member of the Law Society of Hong Kong and for this, he might have an interest in this subject.

(The Hon Paul TSE joined the meeting at this juncture.)

9. C/EOC urged Members to support the DLR consultation by assisting in explaining the issues involved to the public. CLC welcomed Members to join the public consultation sessions if time-wise allowed. Regarding the suggestion from Ms Susanna CHIU, C/EOC confirmed that the Office would pay special attention to the responses from the community when the DLR was launched and make adjustments to the communication strategy as and necessary.

(Prof. Hon Joseph LEE joined the meeting at this juncture.)

10. In response to Dr Sandra TSANG's suggestion of adding numbers to the different sections in the easy read guide for better referencing. CLC said that this would be arranged subject to type-setting and time constraints.

11. Members noted EOC Paper No. 12/2014.

Government's additional recurrent funding to set up a dedicated Multi-ethnic Task Force

(EOC Paper No. 13/2014; Agenda Item No. 4)

12. EOC Paper No. 13/2014 sought Members' views and endorsement on the implementation plan on utilizing the additional funding provided by the Government for setting up a dedicated Multi-ethnic Task Force.

13. C/EOC briefed Members that an additional funding of \$4.69M had been provided by the Government to the EOC from 2014/15 to step up its efforts in promoting equal opportunities for EM. The Task Force would focus on conducting more public education programmes, more frequent liaison and outreach activities targeting the EMs to promote employment and educational opportunities, enhance cultural sensitivity and racial integration and conduct researches and handling discrimination complaints. It would also monitor the implementation of the measures by the Government on improving the learning and teaching of Chinese to EMs. Similar to other working groups on EOC's strategic priorities, C/EOC would chair and lead this Task Force. EOC would employ full time staff with an excellent command of different EM languages to fill some of the new posts in the Task Force. The job descriptions of the staff members in the Task Force were outlined at the appendices to the paper. As the EOC was currently reviewing its structure (which was to be considered under Agenda Item 6), more details on the posts would be available in due course.

(Dr John TSE joined the meeting at this juncture.)

14. Prof. Hon Joseph LEE agreed that the EOC should employ EM staff in the Task Force. In response to his questions raised, DPA said that the

additional \$4.69M was a recurrent funding for the EOC from 2014/15. There was a typo in the Chinese translation of the post title of the Community Outreach Officer on Appendix A2 to the paper, which would be amended accordingly. The Task Force would serve as a bridge between the business sector and the EM community on exploring partnership projects to enhance EMs employment and career development opportunities. In addition, more work would be done to ensure that the EOC's website was user-friendly for EMs in different EM languages and accessible to a wider range of persons with disabilities. On the employment of EMs, C/EOC said that the EOC had been employing part-time staff who could speak several EM languages and it was expected more full-time EM staff would be employed for the Task Force.

15. In response to views expressed by Dr John TSE, C/EOC confirmed that the Task Force would provide support not only on work related to publicity, but also on practical liaison, outreach, educational and advocacy work. Moreover, staff from other work teams in the Office would help out when required. Dr TSE suggested using more generic titles to more accurately reflect the duties of the posts. C/EOC said that this would be considered when the posts were ready for recruitment.

16. Mr ZM QAMAR was thankful that the Task Force was to be formed to understand better the problems faced by EMs and to play a significant role to help advance their equal opportunities. He had high hopes that the team under C/EOC's leadership would do a good job. In response, C/EOC said that he would not underestimate the difficulties ahead and, collaboration from EM leaders, like Mr QAMAR and EM stakeholders was important in taking the work of the Task Force forward.

17. The Meeting endorsed EOC Paper No. 13/2014.

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. 14/2014; Agenda Item No. 5)

18. EOC Paper No. 14/2014 presented important matters raised and decisions made at the meetings of the 4 Committees established under the EOC. In respect of the report of the Legal and Complaints Committee (LCC), CLC reported that the Judiciary had lately published in the Gazette the District Court Equal Opportunities (Amendment) Rules 2014 which would be tabled in the Legislative Council for negative vetting. He said that the Amendment Rules sought to streamline the adjudication of EO claims in the District Court. One of the key proposed amendments was to replace technical pleadings with more informal claim and response forms. The Judiciary was also preparing a new practice direction to provide for the details of the relevant court process under the streamlined procedures for EO claims. It was expected that the less technical and simplified procedures would be easier to follow and provide more flexibility for parties to EO proceedings.

19. Regarding the report of the Administration and Finance Committee (A&FC), Ms Susanna CHIU, Convener of A&FC said that the Office had written to the CMAB to request for the Government to provide additional recurrent subvention for the EOC to meet its structural deficits arisen from the increase in office rental and reply was awaited. She solicited help from all Members to help urge the Government to provide the required subvention to the EOC. In addition, the A&FC had considered the review of the decreased number of complaint cases and self-initiated investigations in the last meeting. In the review, it was noted that due to the reduction in case number in 2013, more staff could enroll in various training which had not been given priority in previous years of hectic work. She hoped that more training opportunities could be made available for staff as continuous education/training should be part of staff's duties.

20. C/EOC thanked the hard work of the 4 EOC Committees. Members noted EOC Paper No. 14/2014.

Review of EOC Staff and Functional Structure

(EOC Paper No. 15/2014; Agenda Item No. 6)

21. C/EOC briefed Members on the details contained in EOC Paper No.

15/2014 which was to seek their advice on the proposed Review of EOC Staff and Functional Structure. Members were briefed on the objectives of the Review, the review framework, possible outcomes, interim measures, timeline and the associated resources implications.

22. Members noted that C/EOC had started meeting senior management staff to solicit their views on an appropriate structure for the EOC. He would also meet other EOC staff members in groups and EOC Board Members to hear their views in due course. As suggested by the A&FC at its 69th Meeting, if there was a need, earlier retired EOC Members' or other suitable persons' help would be enlisted in the Review. C/EOC said that Prof Randy CHIU and Mr LEE Luen-fai, former EOC Board Members, had kindly agreed to help out. Other suitable persons' help were being solicited.

23. In response to questions raised by Ms Su-Mei THOMPSON on engaging an external consultant for this exercise, C/EOC said that EOC staff members had been very open in providing their views and a number of former EOC Members had already agreed to assist. In addition, he was planning to invite someone with overseas discrimination body experience to give advice on the Review. Hence, it might not be necessary to bring in an external agency at this stage.

24. In response to a question from Ms Susanna CHIU, C/EOC said that the proposed structural review should not affect the EOC's overall budget. Nonetheless, if new initiatives were proposed, RAE bids for additional resources would be made to the Government.

25. Members noted EOC Paper No. 15/2014.

Approving Authority of the Chairperson on Procurement of Stores and Services (EOC Paper No. 16/2014; Agenda Item No. 7)

26. DPA briefed Members the salient points contained in EOC Paper No. 16/2014. Members noted that the paper was to seek their approval to uplift the Chairperson's approving authority on procurement of stores and services from \$1.3M to \$1.43, to align with the revised financial limit of procurement exercise through "invitation of quotations" endorsed by the A&FC at its 69th Meeting

held on 23 May 2014.

27. Members endorsed the proposed uplift of the Chairperson's purchase authority from \$1.3M to \$1.43M as detailed in EOC Paper No. 16/2014.

Report of EOC's Financial Position as at 31 March 2014

(EOC Paper No. 17/2014; Agenda Item No. 8)

28. ACCT briefed Members EOC Paper No. 17/2014 which reported the EOC's financial position as at 31 March 2014. Members were briefed on the major variances and their reasons in the Income and Expenditure items versus the Original Budget 2013/14. Members noted that in 2013/14, there was a deficit of \$3.23M due to insufficient funds from Government's recurrent subvention to cover the increase in office rental of \$4.64M. The deficit was funded by EOC's reserve as approved by the Board earlier and also savings from vacant posts. As for reserve, it was noted that the balance as at 31 March 2014 was \$20.1M, which was \$5.18M below the reserve ceiling.

29. Members noted EOC Paper No. 17/2014.

V. Any Other Business

Chairperson's Quarterly Report

30. C/EOC said that he would provide a quarterly report summarizing his work including EOC's position on topical and controversial issues for Members' information and advice commencing from the next regular EOC Meeting. Members welcomed C/EOC's new initiative.

Brief Report on the ICESCR Meeting by Dr John TSE and HPR

31. Dr John TSE and HPR briefly reported to the Meeting their work done and experience gained in attending the ICESCR meeting in May 2014. Dr TSE said that the time given for EOC representative to give a speech was very limited and the schedule was very tight. He suggested that more preparation

work could be done in advance for the speech in future. In his speech delivered in the meeting, he had mentioned, amongst other issues, that there was a need for Hong Kong to set up a Human Rights Commission and that the discrimination against people with different sexual orientation was serious in Hong Kong.

EOC's views on W's Case raised by The Hon Paul TSE

32. The Hon Paul TSE enquired about EOC's views on W's case. Members noted that in response to the Court of Final Appeal (CFA)'s order in the W case, the Government had submitted the Marriage (Amendment) Bill to the LegCo. The Bill was pending its second and third reading. C/EOC said that he had strong reservations on the Bill and had his views published in the local newspapers in March. He said that the Bill, if passed, would require a person to undergo full gender reassignment surgery to be able to marry in his or her affirmed gender. Full sex reassignment surgery is invasive and normally results in sterilization. The surgery could have potential dangerous complications and many transsexual persons might choose not to undergo full reassignment surgery. The EOC had concerns on making such surgery as a prerequisite for one to legally change gender and access his/ her rights, including the right to marry. In fact, the CFA had refrained from ordering that only persons who have undergone full surgery could be recognized in their preferred gender. Instead, the court recommended that the Government establishes a formal gender recognition process, specifically mentioning UK's Gender Recognition Act as a possible model, to provide both the process for changing gender as well as all the relevant rights upon its completion. The court even delayed the effect of the order by one year so as to give the Government time to consider these issues. However, in the current Bill proposed by the Government, it failed to implement the court's recommendations. Recently, the United Nations had issued an Interagency Statement urging governments to "ensure that sterilization, or procedures resulting in infertility, is not a prerequisite for legal recognition of preferred gender." Elsewhere around the world, such as Denmark and India had seen progress on this front. They had both recently taken steps to do away from requiring sex reassignment surgery for legal gender change. As such, Hong

Kong could also do better.

(Mr AB NASIR left the meeting at this juncture.)

33. Members expressed their views on the W case. They generally felt that the issues concerning the case were complicated and could easily be mixed with other subjects like sexual orientation discrimination and same sex marriage. They suggested the Office to explain more on the issues concerning the W case to facilitate the public's understanding. On the other hand, Members themselves would also spend more effort to better understand the issues involved.

(Mr ZM QAMAR left the meeting at this juncture.)

34. There being no other business, the meeting was adjourned at 4:40 p.m.

VI. Date of Next Meeting

35. The next regular EOC meeting has been scheduled for 18 September 2014 (Thursday) at 2:30 p.m.

*Equal Opportunities Commission
July 2014*