

**Minutes of the One Hundred and Fourteenth Meeting of
The Equal Opportunities Commission
held on 16 June 2016 (Thursday) at 2:30 p.m. in the
Equal Opportunities Commission's Conference Room**

Present

Prof Alfred CHAN Cheung-ming, SBS, JP	Chairperson
Mr CHAN Chi-kin, Ivan	
Ms Susanna CHIU Lai-kuen, MH	
Prof Susanne CHOI Yuk-ping	
Mr Holden CHOW Ho-ding	
Dr Maggie KOONG May-kay, BBS	
Ms Elizabeth LAW, MH, JP	
Prof Hon Joseph LEE Kok-long, SBS, JP	
Mr Amirali Bakirali NASIR, MH, JP	
Mr Zaman Minhas QAMAR	
Mr Nelson YIP Siu-hong, MH	
Miss YU Chui-ye, MH	
Mr Michael CHAN Yick-man	Secretary Chief Operations Officer [COO]

Absent with apologies

Dr Trisha LEAHY, BBS
Ms Juan LEUNG Chung-yan
Ms Shirley LOO, MH, JP
Ms Su-Mei THOMPSON
Dr Sandra TSANG Kit-man, JP

In attendance

Ms Agnes MAN Ngar-yin	Director, Complaint Services [DCS]
Mr Allan MAN Siu-lun	Acting Chief Legal Counsel [Ag.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 Eddie CHAN Kin-wang	Legal Counsel [LC5]

Miss Gloria YU Wai-ling

Senior Equal Opportunities Officer,
Administration & Personnel [SAP]

Ms Kerrie TENG Yee-san

Senior Accounting Manager [SMA]

I. Introduction

1. Prof Alfred CHAN Cheung-ming, the new Chairperson (C/EOC) welcomed all Commission Members (Members) to the 114th Meeting. Apologies for absence were received from Dr Trisha LEAHY, Ms Juan LEUNG, Ms Shirley LOO, Ms Su-Mei THOMPSON and Dr Sandra TSANG due to out of town business/other engagements.

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

2. The draft minutes of the 113th EOC Meeting held on 17 March 2016 were issued to Members on 15 April 2016. The minutes were confirmed without amendments.

III. Matters Arising (Agenda Item No. 2)

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

IV. New Agenda Items

Progress on The Discrimination Law Review (DLR)

(EOC Paper No. 10/2016; Agenda Item No. 3)

4. LC4 briefed Members on the latest progress of the DLR as detailed in EOC Paper No. 10/2016.

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

5. Members noted that the EOC had published on 29 March 2016 its

Submission to the Government, along with the Report on Responses to the public consultation, having sought their endorsement. There were 73 recommendations on reforms to the anti-discrimination ordinances proposed and 27 priority areas identified facilitating the Government's consideration. The submissions were widely reported in all forms of media and useful discussions of the various issues were generated. To take matters forward, the EOC had met with the Government on 23 March 2016 before the publication of the submission to provide a broad overview and some of the key recommendations in the submission. After the submissions were published, briefings/meetings on the DLR submissions were conducted/to be arranged in the coming few months with officials of government departments concerned, NGOs/concern groups representing persons with disabilities (PWDs), women, ethnic minorities (EM), as well as chambers of commerce, financial/ legal institutions, Legislative Council (LegCo) member(s) and stakeholders from the business/private sector. C/EOC and members of the management team would also attend the LegCo Panel on Constitutional Affairs' meeting on 20 June 2016 to update its members on the EOC's work, including the DLR.

(Ms YU Chui-ye joined the meeting at this juncture.)

6. On the proposal of express protection for breastfeeding in the DLR, Dr Maggie KOONG considered more publicity work needed to be done to clarify what might constitute discrimination and to provide practical guidance were essential. On the protection against discrimination on the grounds of sexual orientation and cohabiting relationships, Dr KOONG and Ms Susanna CHIU supported further consultation and education with stakeholders including schools, teachers and principals. On the provision of legal protection against discrimination on the ground of sexual orientation, Mr Holden CHOW said it was important to listen to views from different parents groups and representatives from schools and address their concerns of reverse discrimination. Prof Susanne CHOI agreed with Mr CHOW's views and said that in the Study on Legislation against Discrimination on the Grounds of Sexual Orientation, Gender Identity and Intersex Status (SOGI Study) which the EOC had earlier conducted, parents groups and schools had been engaged in various meetings and forums to take into account their views and concerns. LC4 added

that conducting further consultation related to the proposed legislative reforms was the Government's responsibility. In legislating against sexual orientation discrimination, a balance needed to be achieved between the rights of LGBTI people to non-discrimination and the rights of religious groups to freedom of expression and freedom of religion. Although it was not easy, there was successful experience from overseas jurisdictions that the Government could make reference to in taking the matter forward.

7. C/EOC acknowledged that there were controversial issues involved particularly on sexual orientation. He said that the Government should conduct wide consultation on the proposed legislative reforms taking into account views from various stakeholders. Members would be kept posted on the latest progress of the DLR.

Ombudsman's recommendation – Handling of the Minutes of the 104th EOC Meeting held on 19 December 2013

(EOC Paper No. 11/2016; Agenda Item No. 4)

8. COO recapitulated the facts of the case relating to a citizen's complaint on EOC's functions and power and seek Members' advice on The Ombudsman's recommendation on the EOC's handling of the minutes of the 104th Meeting held on 19 December 2013. The proposed revised version of the minutes of the 104th and 110th EOC Meetings following recommendations by The Ombudsman were tabled for Members' consideration. The citizen had complained that the EOC had provided him wrong information that the 110th EOC Meeting minutes uploaded on EOC's website would provide the necessary clarification on EOC's functions and powers but in fact it did not. Also, the discussions on EOC's functions and powers at the same meeting were not disclosed in the minutes.

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

9. COO added that, The Ombudsman had no objection in principle that the EOC could decide not to disclose parts of its minutes to the public when there was sensitive / confidential information. However, it did not agree that the

EOC could base on this to withhold completely the clarification by the former Chairperson at the 110th Meeting. In fact, the former Chairperson's understanding of the CMAB's views was based on the response of the CMAB's officials in the meetings held in July and December 2013 who at both meetings did not express objection to the EOC's study. The main points in the former Chairperson's clarification was basically the same as the content of EOC's reply dated 11 March 2015 to the same citizen when he first lodged a complaint with The Ombudsman. The EOC being an independent body had the autonomy to decide on the relevant work. In addition, The Ombudsman viewed that minutes of meetings should record truthfully what had been discussed and any further clarifications should be recorded but the original minutes of meeting should not be amended.

10. Mr A B NASIR commented that the CMAB had no basis to propose their views regarding the EOC's minutes of meeting and there should be no restriction on what the EOC discussed at its meetings. He suggested giving consideration to restructure the agenda and minutes of future EOC Meetings into open and closed segments. Members also noted that the investigation report and its recommendations had already been provided to the citizen by The Ombudsman.

11. Members agreed to proceed with The Ombudsman's recommendations as advised by the Office.

EO Awareness Survey 2015 – Summary of Findings

(EOC Paper No. 12/2016; Agenda Item No. 5)

12. DPRT highlighted to Members key findings of the EO Awareness Survey 2015 as contained in EOC Paper No. 12/2016.

13. Members noted that the EOC conducted surveys on public perception about EO awareness and EOC's work in 1998, 2003, 2007 and 2012. The current study was conducted in 2015 to obtain an updated picture from the general public and service users of the EOC. Regarding the views from the general public, 1,500 members of the public aged 15 or above were sampled during the period from September to October 2015 and their perception of the

EOC's work was surveyed through telephone interviews. Regarding service users' views, 200 users who had participated in EOC's activities in the last 12 months before enumeration were asked to complete a self-administered questionnaire from September to November 2015 to provide their feedback.

14. Members noted that 98% of general public respondents were aware of the work of the EOC, the highest percentage obtained ever. The majority of the respondents were aware of legislation against discrimination based on race, disability and gender. Only 28% of the respondents were aware of the Family Status Discrimination Ordinance. Almost half of the respondents misconceived that there was legislation against discrimination on the grounds of age; 36% thought there was legislation against discrimination on the grounds of sexual orientation. The rating by the general public respondents on the EOC's overall performance was a mean score of 6.3, the same as the result in 2012. With regard to the views of service users on the overall performance of the EOC, Members noted that the EOC scored 7.1 out of a scale of 1 – 10, and the 2012 score was 7.5. In general, the survey results shed lights on what and how messages of equal opportunities could be communicated to various targeted groups more effectively in the future by the EOC.

15. Responding to questions raised by Ms Susanna CHIU, Prof Susanne CHOI said that the difference in scores in the rating of the EOC's overall performance in 2015 and 2012 was not statistically significant. She also said that for this type of longitudinal study, it was not cost-effective to conduct the survey annually. However, the survey questions should not be materially different across the years for meaningful comparison. The Office would give consideration to Prof. Susanne CHOI's views.

16. Members noted EOC Paper No. 12/2016.

(LC5 joined 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. 13/2016; Agenda Item No. 6)

17. On the work of the CPPC, Dr Maggie KOONG, Convener of CPPC reported that the CPPC had discussed the EOC's 20th Anniversary celebration and a celebration event was planned to be held in October or November 2016. In response to Mr Holden CHOW's question concerning the "Ladies Night" court case, C/EOC said that the EOC had met with bar operators subsequent to the ruling, to explain what might constitute discrimination, e.g. preferential treatment to certain groups, on the basis of their gender.

18. Ms Susanna CHIU, Convener of A&FC updated Members that the EOC would incur a structural deficit in 2016/17, following projected increase in rental costs, the Government's deduction of 1% savings in 2016/17 and a further deduction in 2017/18 and staff costs for the COO post being withheld by the Government. The new C/EOC had recently discussed EOC's budgetary situation with officials of the CMAB. Noting EOC's budgetary constraints, CMAB undertook to consider provide one-off funding for programs and affirmed their support for the EOC to acquire a permanent office premises, but there was no commitment to provide recurrent funding to the EOC. C/EOC would continue to follow up the issue with the CMAB. On the labor tribunal case, A&FC had given detailed consideration and unanimously agreed to pursue the case following leave for appeal granted by the High Court, to safeguard the EOC's public image. C/EOC supplemented that he would brief the LegCo's Panel on Constitutional Affairs (CA Panel) on 20 June 2016 on the work progress of the EOC, during which he would present also the financial constraints faced by the EOC. C/EOC and Ms Susanna CHIU thanked Prof Hon Joseph LEE for his support, who would also raise this at LegCo, in his capacity as a Legislative Councillor. With respect to the acquiring of a permanent office premises, the A&FC would follow up the matter and consider if a taskforce would be set up to take the matter forward.

19. Members noted EOC Paper No. 13/2016.

(LC5 left the meeting at this juncture.)

Chairperson's Quarterly Report

(EOC Paper No. 14/2016; Agenda Item No. 7)

20. EOC Paper No. 14/2016 presented to Members the Chairperson's first quarterly report summarizing his work including issuing statements on the EOC's position on topical/controversial issues for Members' information/advice. Members noted that the EOC would focus its efforts/resources on delivering work objectives/targets relating to the four anti-discrimination ordinances. In the coming years, C/EOC would place emphasis on strategic priority areas including promotion of equal opportunity in education and employment for EMs and equal opportunity in employment for PWDs in collaboration with business/government/NGO and other stakeholders. C/EOC considered such work to be conducive to social harmony and social integration of disadvantaged groups. He hoped the Government would consider conducting a public consultation as soon as possible on introducing anti-discrimination legislation protecting the rights of LGBTI people and examining the diverse views from the community on the issue. He welcomed views and advice from Members to help advance EOC's work.

21. Members noted that the EOC had been urging the Government to take the lead and hire more PWDs given the proportion of PWDs in the civil service at around 2% was deemed too low. C/EOC added that Caritas and the Rehabilitation Alliance Hong Kong had been very proactive in providing job matching service for PWDs. Ms Susanna CHIU shared positive response from employers in the business sector on employing PWDs.

22. Members noted EOC Paper No. 14/2016.

Report of EOC's Financial Position as at 31 March 2016

(EOC Paper No. 15/2016; Agenda Item No. 8)

23. SMA highlighted the salient points set out in EOC Paper No. 15/2016 on the EOC's Financial Position as at 31 March 2016.

(Mr Nelson YIP left the meeting at this juncture.)

24. Members noted the income and expenditure versus the original budget for 2015/16, the reserves position and the capital account. Members also noted that there was a surplus of \$0.52M in the 2015/16 financial year. After taking into account the surplus of \$0.52M transferred to the reserves account, the balance of reserves as at 31 March 2016 was \$22.96M which was \$3.72M below the reserve ceiling of \$26.68M. On the capital account, out of the one-off subvention of \$3M for promoting the Race Discrimination Ordinance and Sex Discrimination Ordinance, \$2.14M was used in 2015/16 with the balance of \$0.86M to be used in 2016/17. As for the \$0.4M subvention for replacement of motor vehicle, the new vehicle was purchased with 20% of the purchase price borne by the EOC.

25. With regard to the EOC's budget, C/EOC said though there was a surplus in the 2015/16 financial year, there would be a structural deficit in the coming years. He would continue to follow up with the CMAB to resolve the funding issues. Members would be updated of any progress.

V. Any Other Business

Media Reports on Issues Related to the Chairperson's Outside Work while employed at Lingnan University

26. C/EOC reported that his handling of media enquiries had been called into question, arising from his supervision of the studies of a doctoral candidate of Tarlac State University and reporting of the remuneration received. He had since given an account on the matter at the expanded meeting of the CPPC held on 28 April 2016 and provided a full account of the facts and uploaded his responses to enquiries received from members of the public onto his Facebook page in May 2016. He had not received further questions on this matter and all the concerns and issues raised were not related to EOC's work. He hoped the matter would end there.

Retreat of the EOC

27. C/EOC informed Members that the Hong Kong Sports Institute in Sha

Tin would serve as the venue for the full-day Retreat, tentatively scheduled for either 30 July 2016 or 27 August 2016. Further details would be announced nearer the time.

[Post-meeting note: The date of the Retreat had been finalized as 27 August 2016 as more Members were available on that date.]

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

Concerns on the SOGI Study and issues on Same-sex Marriages

28. Members noted the concerns expressed by a number of community, political groups and individuals who protested at the EOC Office on EOC's Study on Legislation against Discrimination on the Grounds of Sexual Orientation, Gender Identity and Intersex Status (SOGI Study) and on same-sex marriages.

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

29. DPRT explained that the SOGI Study had already dealt with dissenting views and the diverse range of opinions received. Same-sex marriage was a separate issue beyond the scope of the study. The study report recommended the Government to consider conducting a public consultation on introducing anti-discrimination legislation on the grounds of SOGI. Members further noted that C/EOC and EOC staff had in the past, discussed with various stakeholders on such concerns on different occasions. Members agreed that the EOC Office would respond to the parties by reiterating the EOC's position on the study.

30. There being no other business, the meeting was adjourned at 5:40 p.m.

VI. Date of Next Meeting

31. The next regular EOC meeting had been scheduled for **15 September 2016 (Thursday) at 2:30 p.m.**

RESTRICTED
(cleared for publication)

Equal Opportunities Commission
July 2016