

**Minutes of the One Hundred and Fourth Meeting of
The Equal Opportunities Commission
held on 19 December 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, M.H.	
Ms CHOI Hing-shi, M.H.	
Mr. CHOW Ho-ding, Holden	
Dr. KOONG May-kay, Maggie, B.B.S.	
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. 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]
Dr. Ferrick CHU Chung-man	Head, Policy and Research Officer [HPR]
Ms Shana WONG Shan-nar	Head, Corporate Communications & Training [HCCT]
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]	
Mr. Robert LI	}	Consumer Search	}
Miss Peggy WONG		Hong Kong Ltd. [CSG]	

I. Introduction

1. The Chairperson (C/EOC) welcomed all Commission Members (Members) and the representatives of Consumer Search Hong Kong Limited (CSG), the external consultant engaged by the EOC to conduct the Customer Satisfaction Survey 2013, Mr. Robert LI and Miss Peggy WONG to the 104th Meeting.

(Ms Susanna CHIU and Dr. Maggie KOONG 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.

3. C/EOC proposed and Members agreed to consider Agenda Item No. 5 on “Findings of the 2013 Customer Satisfaction Survey on EOC’s Complaints Handling Mechanism” first before “Confirmation of Minutes”, “Matters Arising” and other new Agenda Items, so that representatives from CSG could leave the meeting when discussion on this item was finished.

II. Findings of the 2013 Customer Satisfaction Survey on EOC’s Complaints Handling Mechanism (EOC Paper No. 23/2013; Agenda Item No. 5)

4. EOC Paper No. 23/2013 presented the key findings of the Customer Satisfaction Survey on EOC’s Complaint Handling and Enquiry Service conducted for the period from 1 August 2012 to 31 July 2013 (CSS-2013).

(Ms Su-Mei THOMPSON, Prof. Joseph LEE, Dr. John TSE and Mr. Holden CHOW joined the meeting at this juncture)

5. Members noted that as a regular monitoring exercise, the EOC had been conducting Customer Satisfaction Survey (CSS) annually since 2009. Initially CSSs were conducted in-house. In 2011, the Efficiency Unit (EU) of the Hong Kong Government was invited to conduct a study on EOC's complaint handling procedures to improve service efficiency and effectiveness and enhance customer satisfaction. Following the recommendation of the EU, the administration of the CSS has from 2012 been co-ordinated by the Planning and Administration Division and Consumer Search Hong Kong Limited (CSG), an independent consultancy company, was engaged to improve the survey methodology, expand the survey scope and conduct the CSS-2012.

6. Survey results and the major findings of CSS-2012 were presented to Members in the 99th Meeting held on 20 December 2012. At the meeting, Members found that CSS-2012 was conducted with a high standard and findings in CSS-2012 could be used as a baseline benchmark for comparison in future surveys. In this connection, CSG was engaged again to conduct CSS-2013 in accordance with EOC's Procurement of Stores and Service Procedure. Representatives from CSG, Mr. Robert LI and Miss Peggy WONG were invited to attend this meeting to present the key findings of CSS-2013.

7. Mr. Robert LI presented to Members the methodology, enumeration results and key finding of the CSS-2013. Some verbatim feedback obtained from respondents on areas where EOC might further improve and suggestions by CSG for service improvement based on the findings, including some technical recommendations to obtain more in-depth understanding of the customers' feedback were shared in the meeting.

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

8. In response to the question raised by The Hon Paul TSE related to the higher satisfaction rate observed in Complainants with cases concluded within 6

months and over 12 months than those with cases concluded in 6 to 12 months, C/EOC explained that for cases concluded within 6 months, they were mainly fast track conciliated cases; hence, the satisfaction rate for Complainants would be higher. For those cases which the EOC had spent more than 12 months to conclude, they were mainly cases involving relatively more complex issues. When these cases were concluded, certain complex points and issues were clarified which might account for the higher satisfaction rate observed. To facilitate a deeper understanding of the different satisfaction rates of Complainants and Respondents against the duration of case handling, Mr. Nelson YIP requested CSG to consider further groupings of Complainants and Respondents and enumerate their respective satisfaction rates. Mr. Robert LI responded that they could try but the number of Complainants and Respondents in specific groups might not be large enough to provide valid comparisons.

9. In response to a question raised by Mr. Holden CHOW, D(Ops) said that the EOC's complaints handling system was aimed at resolving disputes between parties through conciliation. Where there was a prima facie case, the normal handling steps would include meeting with Complainant, collecting relevant documents, assisting the Complainant to focus on the issues, and the writing up of statement of complaint. When the basic information was ready, the Respondent would be informed of the complaint. Parties to the complaint would be invited to a fast-track conciliation meeting for sorting out differences before commencing a full investigation. Where there was no settlement, full investigation would entail which included formal written response from the Respondent, rebuttal from the Complainant, exchange of information gathered, interview of witnesses, and site visits (usually for accessibility cases). The communication with parties was direct, interactive and not confined to correspondences.

10. On the question raised by Ms Su-Mei THOMPSON, C/EOC said that the Office might consider uploading the executive summary of the survey on EOC's website. In response to Dr. John TSE's comment on the significant difference in the satisfaction levels between Complainants and Respondents, D(Ops) said that efforts would be made to raise Complainants' ratings as far as possible. C/EOC added that the ratings of Complainants could be low if their expectation

was not met and their cases were not successful. Nonetheless, whether a case was successful would be dependent on the facts available and the willingness of the parties concerned to conciliate. Hence, what the Office could do was to endeavour to manage Complainants' expectation early and to try its utmost to effect an amicable settlement.

11. In response to questions raised by Ms Susanna CHIU, D(Ops) said that when the Office first conducted the pilot CSS in 2009, the survey and the questions were designed by making reference to similar surveys conducted by the Australian Human Rights Commission (AHRC). In general, it was noted that the ratings obtained by AHRC in their surveys were higher than those obtained by the EOC in that pilot survey. Mr. Robert LI added that there was a general difference in ratings given by survey respondents elsewhere and in Hong Kong. For instance, he said that westerners usually gave higher ratings if they were generally satisfied but Chinese survey respondents would be the other way round. However, both would give approximately the same ratings if they were both dissatisfied. On the avenues where Complainants could seek assistance, D(Ops) said that the Office has been providing such information to parties concerned where appropriate, if their cases could not be dealt with by the EOC. On whether training in Employment Ordinance was required for staff in the Operations Division, D(Ops) said staff in the Division were well-versed with the Ordinance, but it was always good to provide refresher training.

12. In response to suggestions by Dr. Maggie KOONG on how to manage the expectation of Complainants, D(Ops) said that that investigation protocols, frequently asked Questions and Answers for Complainants, leaflets to concisely explain the likely steps and procedures in lodging complaints were all already in place to help staff manage clients' expectation.

13. In response to comments by Prof. Joseph LEE, DPA said that it was not easy to provide specific recommendations for improvement without follow up questions, or in some cases focus group meetings to clearly understand the major reasons of respondents' dissatisfaction. The EOC would try to address this issue in future surveys.

14. C/EOC thanked Members for their views expressed and Mr. Robert LI and Miss Peggy WONG for their attendance. D(Ops) was asked to give thoughts and endeavour to explore ways to improve clients' satisfaction in the future and follow up on the suggestions in CSS-2013.

(Mr. Robert LI and Miss Peggy WONG left the meeting at this juncture)

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

15. The Minutes of the 103rd EOC Meeting issued to Members on 16 October 2013 were confirmed without amendment.

IV. Matters Arising (Agenda Item No. 2)

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

V. New Agenda Items

Progress on The Discrimination Law Review

(EOC Paper No. 21/2013; Agenda Item No. 3)

17. CLC briefed Members on the key points contained in EOC Paper No. 21/2013 which reported on the progress of work on the legislative review. Members noted that the latest version of the working draft of the Discrimination Law Review (DLR) Consultation Document was put under Appendix I to the paper. An outline table, a provisional timeline and the provisional expenses were put under Appendix II, Appendix III and Appendix IV to the paper respectively.

18. Members noted that the working draft of the DLR Consultation Document was developed from an earlier preliminary outline. It had taken into account discussion in small group Member briefings held in August 2013,

meetings with stakeholder groups held in September and October 2013, and also Members Retreat, the last EOC meeting as well as the EOC Annual Forum held in September 2013. Further small group Member briefings had been arranged in November and December 2013 to discuss the working draft. It was hoped that the Consultation Document would be finalized and endorsed by Members in the March 2014 EOC meeting and the DLR Public Consultation could be launched in about June 2014. To this end, it would be desirable if Members would provide comments to the EOC Secretariat by 31 January 2014. C/EOC urged those Members who had not attended the briefing sessions to endeavour attend one of the coming sessions as soon as possible.

19. In response to questions raised by The Hon Paul TSE, C/EOC said that one of the EOC's duties was to review the discrimination legislation and propose amendments when necessary. He did not envisage the Government to take any initiative to start a review. Therefore, the EOC would initiate the review and consult views from stakeholders and the public on the DLR.

20. In response to a question raised by Ms Susanna CHIU, CLC said that an internal task force comprising staff from different Units and Divisions in the EOC had been formed to undertake the work. No additional manpower was required at the moment.

21. Dr. Sandra TSANG noted that the latest version of the DLR Consultation Document had taken into accounts opinions/comments expressed by Members earlier. She appreciated staff's efforts on this area. In addition, she suggested inserting a small paragraph following paragraph 60 on page 25 of Appendix I to provide more information, and enquired about the comprehensiveness and representativeness of the list of stakeholder groups to be consulted as mentioned in Appendix III of the paper. CLC said that a paragraph following paragraph 60 could be inserted into the draft DLR Consultation Document and a detailed list of stakeholder groups to be consulted would be provided to Members for advice beforehand.

22. Dr. John TSE and Ms Susanna CHIU reminded that there would be a lot of public consultations on issues of public concern in 2014, special efforts and

strategy should be employed to ensure appropriate public attention was drawn to the EOC's DLR Consultation. HCCT assured Members that in the last public consultation exercises conducted by the EOC, such as the public consultation on the Code of Practice related to the RDO and DDO, 3 rounds of public consultation were held and sufficient comments were received. C/EOC added that in the current exercise, the Office had already discussed the DLR with more than 10 organizations, it might help relieve the pressure when the DLR Public Consultation was launched in June 2014.

23. C/EOC thanked Members for their constructive inputs to the DLR and the Consultation Document. Again, he reminded Members who had yet to attend the DLR briefing session to spare their time to attend as soon as possible.

Post-event-review of the EOC Forum 2013

(EOC Paper No. 22/2013; Agenda Item No. 4)

24. DPA briefed Members on the salient points contained in EOC Paper No. 22/2013 which consolidated the experience gained from organizing the EOC Forum 2013, provided suggestions for continuous improvement and presented the feedback collected from the Forum participants.

25. Members noted that the EOC Forum 2013 had been successfully held on 23 September 2013. A total of 302 participants had attended the Forum. For continuous improvement, the Office had proposed some suggestions for organizing future EOC Forums for consideration by the Administration and Finance Committee (A&FC). The A&FC had considered the suggestions at its 67th Meeting held on 7 November 2013. A&FC Members generally agreed to the suggestions and proposed further ones for the Board's consideration. Details of the suggestions were contained in Appendix I to EOC Paper No. 22/2013.

26. Members noted that at the 67th A&FC Meeting, A&FC Members suggested to consider venues on the Kowloon side for the 2014 Forum and to give more thoughts on the format of the Forum. If required, a one-day event could be considered and expert speakers could be invited to speak on topical

subjects of interest related to EOC's work, as part of the event. To facilitate booking of venue, it was suggested to fix the 2014 Forum date early. Subject to Members' view, it could be fixed on Thursday, 25 September 2014.

27. On the feedback collected from participants, Members noted that 70% of those who provided feedback had expressed support to EOC's 3-Year Strategic Work Plan, 88% thought the EOC Forum could enhance communication with stakeholders and members of the public, and 92% considered that the EOC should continue to organize similar forums to enhance communication with and solicit views from stakeholders. Details were contained in Appendix II to the paper. DPA informed the Meeting that there were requests received from some participants to have the survey results for reference.

28. C/EOC thanked Members' presence in the 2013 Forum. He said that although there were only 125 completed questionnaires received from the 302 participants, the survey results could serve as a reference. He suggested and Members agreed that the statistical results in Appendix II to the paper could be provided to participants who requested to have a copy of the survey results for reference. Regarding the date of the 2014 Forum, Members had no objection for it to be held on Thursday, 25 September 2014.

Feasibility Study on Legislating against Discrimination on the Grounds of Sexual Orientation and Gender Identity

(EOC Paper No. 24/2013; Agenda Item No. 6)

29. EOC Paper No. 24/2013 gave an account of the proposal to undertake a study on legislating against discrimination on the grounds of Sexual Orientation and Gender Identity (SOGI) and sought Members' views and advice on the proposed study. HPR briefed Members on the salient points contained in the paper which included the background and reasons for undertaking the study and the initial budget of the proposed study.

30. Members noted that to address the issue of discrimination encountered by sexual minorities in Hong Kong, the Government had set up an Advisory Group on Eliminating Discrimination against Sexual Minorities (the Advisory

Group) in June 2013. In the meeting between C/EOC and the Under Secretary for Constitutional and Mainland held in October 2013, it was noted that the Government was making arrangements to commission a study on the discrimination experienced by sexual minorities in Hong Kong (the Government study). However, the scope of the Government study appeared to be relatively narrow as its primary objective was to ascertain whether sexual minorities were being discriminated against in Hong Kong, and if so, the discrimination they experienced and the domains of protection etc.. It would not touch on areas regarding public views on the introduction of legislation to outlaw discrimination on the grounds of SOGI and the viable measures to be included in the new legislation to address the major concerns raised by different stakeholders. Taking into account international legal obligations to prohibit discrimination against SOGI people, increasing public demand for legislation as well as the limited scope of the Government study, it was proposed to conduct a comprehensive study to identify the discrimination, harassment and vilification encountered by the sexual minorities, to disseminate findings of the study to the public and then gauge public views on discrimination faced by the sexual minorities and legislating against discrimination on the grounds of SOGI.

31. In response to questions raised by Dr. Sandra TSANG and Mr. Tim LUI, C/EOC said that the timeframe for completing the study would be about 12 months and the study report could hopefully be ready by 2015. Also, it was expected that the study could be conducted within the budget of HK\$800,000. He hoped that more objective views from stakeholders could be obtained to help the community better understand the issues involved in SOGI. A working group to steer the subject had yet to be formed and Members who were interested were invited to join the working group to take the matter forward. The Meeting discussed the terms of reference, sample size and the issue of reverse discrimination. HPR confirmed that respondents' views and experience on reverse discrimination would be asked in the study.

(Dr. Sandra TSANG, The Hon Paul TSE and Mr. ZM QAMAR left the meeting at this juncture)

32. In response to a question raised by Ms Su-Mei THOMPSON, C/EOC

said that EOC's overall objective was to work towards elimination of discrimination. All of the Discrimination Ordinances contained provisions setting out the functions of the EOC. They also included a provision that the EOC "may do such things as are necessary for, or incidental or conducive to, the better performance of its functions...". This general provision was intended to set out and ensure that the EOC could do work which although may not be expressly set out as one of its functions and powers, was nevertheless connected to and in furtherance of its functions. Hence, the EOC was acting within its power in the DLR and this study. This view was also agreed by the Constitutional and Mainland Affairs Bureau, the EOC's housekeeping Bureau.

[Post-meeting note: The last sentence in this paragraph was subsequently amended to read as "*This view has not been disagreed by the CMAB, the EOC's housekeeping Bureau.*" following discussions at the 110th EOC meeting. Please see paragraphs 14 to 17 of the minutes of the said meeting for the gist of the discussions.]

(Ms Winnie NG joined the meeting at this juncture)

33. Ms Winnie NG expressed support to the study and EOC's efforts on the subject of SOGI.

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

34. Members endorsed the proposed study and the initial budget with details contained in EOC Paper No. 24/2014.

File Disposal Policy

(EOC Paper No. 25/2013; Agenda Item No. 7)

35. DPA explained to Members the EOC's file disposal policy and practices as contained in EOC Paper No. 25/2013.

36. Members noted that there were in general 3 categories of files kept in the EOC Office, which were Case Files, Personnel Files and Subject Files. With

due regard to all statutory requirements, and the administrative, operational, legal, fiscal and archival values of the records in the respective categories of files, they should only be kept for as long as they were required. The specific retention periods were listed in the Appendix to EOC Paper No. 25/2013. It was the responsibility of the functional heads to ensure files were maintained by their Division/Unit until such time files have reached the end of their respective retention periods with reasons recorded if their normal retention period needed to be extended. For records in Case Files, including both the complaints handling and legal functions, following a review, the retention period was recently shortened from 10 years to 7 years from the close of case.

37. Members noted that the Office would conduct reviews on the retention periods of file records as and when necessary balancing operational efficiency and the costs incurred in maintaining the file records, and also making reference to the general practice of similar bodies. At the same time, while no destruction so far has been arranged for Subject Files due to their high retention value, in light of EOC's 17 years operational experience, the Office would consider a review to specify a retention period for such files. If Members had any views and advice on the EOC's File Disposal Policy, they were welcome to contact the Office any time.

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. 26/2013; Agenda Item No. 8)

38. Members noted EOC Paper No. 26/2013 which presented important matters raised and decisions made at the meetings of the 4 Committees established under the EOC.

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

(EOC Paper No. 27/2013; Agenda Item No. 9)

39. ACCT briefed Members on the salient points contained in EOC Paper No. 27/2013 which reported on EOC's financial position as at 31 October 2013.

40. Members noted that there would be a shortfall of \$4.27M in 2013/14 in the recurrent account. To cover the major portion of increase in office rental and development of the HR & Payroll System, as approved by the EOC Board at the 100th meeting held on 21 March 2013, funding would be withdrawn from the EOC's reserve. Ms Susanna CHIU commented that it was unreasonable for the Government not to fund EOC's increase in office rental which was a recurrent item and beyond EOC's control. Dr. John TSE remarked that the Office should spend wisely on warranting items regardless of the budget. In response, C/EOC said that if there were warranting items they could be funded by the EOC's reserve account as necessary.

Tentative EOC Meeting Schedule for 2014

(EOC Paper No. 28/2013; Agenda Item No. 10)

41. Members noted the tentative meeting schedule for 2014 as contained in EOC Paper No. 28/2013.

(Ms Su-Mei THOMPSON left the meeting at this juncture)

VI. Any Other Business

Frequency of Policy and Research Committee (PARC) Meetings

42. C/EOC reported that at the December meeting of the Policy and Research Committee (PARC), Members had agreed to change the frequency of its regular meetings from once every two months to three months. Members had earlier been notified of this proposed change. The Meeting agreed to the change. The relevant terms of reference of the PARC would be revised accordingly.

Brief Report on Attendance at the Asia Pacific Forum (APF)'s Annual Meeting and Biennial Conference

43. C/EOC briefly reported on the issues discussed and points shared at the

APF's Annual Meeting and Biennial Conference which was also attended by Ms Susanna CHIU and Mr. Michael CHAN. Members noted that the issues discussed included in the main how National Human Rights Institutions (NHRIs) should act as human rights defender; NHRIs engagement with the civil society on good practices and collaborations in working towards a peaceful transition to democracy; how NHRIs promote and protect human rights of women and girls, prevent the use of excessive force by Police and Security Forces and the rights of women in political and democratic reform.

44. In summary, both C/EOC and Ms Susanna CHIU considered it beneficial to attend this function as it provided an opportunity to share information on issues of common concern. The issues discussed on this occasion related more to the transition towards democracy of the developing countries and enhanced EOC's understanding of the different human rights issues in other parts of the world. The EOC also had the opportunity to explain EOC's work and achievements at the meeting. As EOC was not a "national" body per se, which was a requirement for APF membership, the question of whether to apply for the membership would be given consideration at an appropriate time.

Draft Submission to the Government on a Gender Recognition Ordinance
(EOC Paper No. 29/2013 tabled, Agenda Item No. 11)

45. LC4 briefed Members on the salient points contained in EOC Paper No. 29/2013 on the Draft Submission to the Government on a Gender Recognition Ordinance tabled at the meeting.

46. As matters involved in the subject were quite complex, C/EOC requested Members to study the draft submission carefully and provide their views to the Secretariat in due course. Having collected views from Members, the Office would arrange meetings with the relevant government officials to present to them the EOC's submission.

[Post-meeting note: C/EOC had a discussion with the relevant government official of the CMAB and was informed that there would be an announcement from the Government regarding the approach to the Gender Recognition

Ordinance soon and the EOC would be consulted on the topic. The EOC had requested for a meeting with the relevant government officials to discuss on this subject. The EOC's submission would be officially filed after the Government's announcement and EOC's presentation to the relevant officials, which would take into account the public's views on this subject.]

47. As Christmas and the New Year were approaching, C/EOC wished Members, staff and the SI colleagues a merry and peaceful Christmas, and a happy and healthy 2014.

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

VII. Date of Next Meeting

49. The next regular EOC meeting has been scheduled for 20 March 2014 (Thursday) at 2:30 p.m.

Equal Opportunities Commission
January 2014