

**Minutes of the One Hundred and Twenty-eighth Meeting of
The Equal Opportunities Commission
held on 19 December 2019 (Thursday) at 2:30 p.m. in the
Equal Opportunities Commission's Conference Room**

Present

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| Mr Ricky CHU Man-kin, IDS | Chairperson [C/EOC] |
| Mr Samuel CHAN Ka-yan, JP | |
| Prof Cecilia CHAN Lai-wan, JP | |
| Prof Andy CHIU Man-chung | |
| Mr Mohan DATWANI | |
| Ms Elizabeth LAW, MH, JP | |
| Dr Sigmund LEUNG Sai-man, BBS, JP | |
| Ms Shirley LOO, BBS, MH, JP | |
| Dr Henry SHIE Wai-hung | |
| Ms Anna THOMPSON | |
| Dr Rizwan ULLAH | |
| Mr Gary WONG Chi-him | |
| Dr Ferrick CHU Chung-man | Secretary Acting Chief Operations Officer [Ag COO] |

Absent with apology

Hon Vincent CHENG Wing-shun, MH, JP
Prof Susanne CHOI Yuk-ping
Ms Maisy HO Chiu-ha, BBS
Ms Juan LEUNG Chung-yan, MH
Miss YU Chui-ye, BBS, MH

In attendance

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| Mr Ivan LUK Chi-cheung | Chief Legal Counsel [CLC] |
| Mr Oska LI Kam-hung | Director, Corporate Planning and Services [DCPS] |
| Mr Tony SIU Kit-hung | Director, Complaint Services [DCS] |
| Ms Shana WONG Shan-nar | Head, Corporate Communications [HCC] |

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| Mr John KEUNG Shui-cheung | Senior Equal Opportunities Officer, HR Development and Projects [SHRDP] | } for Agenda Item 4 only |
| Miss Lisa CHAN Kit-ching | Senior Corporate Communications Manager 3 [SCCM3] | |
| Mr Peter Charles READING | Legal Counsel 4 [LC4] | } For Agenda Item 5 only |
| Miss Gloria YU Wai-ling | Senior Equal Opportunities Officer, Administration & Personnel [SAP] | |
| Ms Hollis LING Yin-har | Equal Opportunities Officer, Administration & Personnel [EAP] | |
| Mr Robert LI | Consumer Search Group – HK Office | } For Agenda Item 3 only |
| Miss Peggy WONG | Consumer Search Group – HK Office | |
| Miss Janette WONG | Consumer Search Group – HK Office | |
| Miss Harriet LAI | Consumer Search Group – HK Office | |

I. Introduction

1. The Chairperson (C/EOC) welcomed all Commission Members (Members) and the representatives (Mr Robert LI, Miss Peggy WONG, Miss Janette WONG and Miss Harriet LAI) of Consumer Search Group Hong Kong Office (CSG), the external consultant engaged by the EOC to conduct the Survey on Efficiency and Effectiveness of EOC’s Complaint Handling and Enquiry Services 2019, to the 128th Meeting. He informed the Meeting that apologies for absence were received from Prof Susanne CHOI, Ms Maisy HO, Ms Juan LEUNG, and Miss YU Chui-ye who had other prior engagements. The Hon Vincent CHENG was also not able to attend the meeting due to other engagement.

2. C/EOC said that there was no special item for informing the media, hence no press briefing would be held after the meeting.

3. C/EOC proposed and Members agreed to first consider Agenda Item 3 on “Findings of the Survey on Efficiency and Effectiveness of EOC’s Complaints Handling and Enquiry Services 2019” so that representatives of CSG could be excused from the meeting right after this item.

(Dr Henry SHIE joined the meeting at this juncture.)

II. New Agenda Items

Findings of the Survey on Efficiency and Effectiveness of EOC's Complaints Handling and Enquiry Services 2019

(EOC Paper No. 14/2019; Agenda Item No. 3)

4. EOC Paper No. 14/2019 presented the key findings of the Survey on Efficiency and Effectiveness of EOC's Complaint Handling and Enquiry Services conducted for the period from 1 August 2018 to 31 July 2019 (SEE-2019). A set of presentation materials was tabled for Members' information.

5. SAP briefed Members on the background pertinent to the conduct of the SEE-2019. Members noted that annual user opinion surveys had been conducted since 2009 to gauge feedback from users of EOC's complaint and enquiry services. The findings had been presented to the EOC Board for information at its regular meetings in December each year. Taking into account the suggestions made by the Efficiency Unit of the Hong Kong Government in its study on EOC's complaint handling procedures in 2011, an independent consultancy company had since been engaged to conduct the survey. On the advice of the EOC Board, this longitudinal survey had instead been conducted on a biennial basis from 2016 onwards for better cost-effectiveness.

6. This survey was last conducted in 2017 (SUS-2017) and its findings were presented at the 120th EOC Meeting. At that meeting, considering the unique nature of EOC's service, Members suggested that future survey should focus on public's trust on EOC and the Commission's ability to promote and uphold equal opportunities in Hong Kong. When designing the SEE-2019, refinements tailored to this specific focus were incorporated while ensuring that continuous trend comparisons of service users' attitude and satisfaction level could be achieved with statistical proof.

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

7. Mr Robert LI presented to Members the major highlights of SEE-2019, including the survey objectives, methodology, key findings, and possible areas for future improvement. Members noted that, in general, the overall satisfaction ratings for Complainants, Respondents and Enquirers in SEE-2019 were of no significant differences with that of SUS-2017 in statistical terms. Similar to SUS-2017, both Complainants and Respondents in SEE-2019 accorded a higher satisfaction rating to the conciliation process than the investigation process. Statistically, there was also no significant difference between SUS-2017 and SEE-2019 in the ratings on the conciliation and investigation processes. When comparing with the previous surveys, Members noted that there was in general an upward trend in the overall satisfaction among Respondents and Enquirers.

8. On the new focus mentioned in paragraph 6, i.e. service users' views relating to public's trust on the EOC and its ability to promote and uphold equal opportunities in Hong Kong, Mr Robert LI said that more than 50% of service users had been of the view that: (a) their understanding of rights and responsibilities under the anti-discrimination law had been enhanced after using EOC's services; (b) the EOC was a trust-worthy organization to help aggrieved complainants to obtain redress; and (c) EOC was able to achieve its goals of promoting and upholding equality of opportunities in Hong Kong. When asked whether they would recommend the EOC's services to others, at least 75% of service users had indicated that they would or probably would.

9. However, there was a decrease in the overall satisfaction rating of Complainants from 5.9 in SUS-2017 to 5.2 in SEE-2019, notwithstanding the difference was not statistically significant. In response to questions from Members, Mr Robert LI informed the Meeting that the EOC in fact fared not bad in complaints handling. While there was no local research available for

comparison, a survey conducted in 2016 by a comparable organization overseas could be drawn for reference. In that survey, 52% of the survey participants involved in the complaints process were satisfied with how the organization handled the complaints they had been involved. As compared with SEE-2019, 67.5% of the parties involved in complaints (i.e. both Complainants and Respondents) were satisfied with EOC's complaint handling services.

10. Regarding the notable drop in overall satisfaction rating among Complainants in SEE-2019 (5.2) when compared with SUS-2017 (5.9), DCS explained that after taken on board a refined classification of complaints since 2018, cases with a clear intention to lodge a complaint would be classified as "complaint" from the beginning instead of "enquiry pending for further information" beforehand. As a result, the number of complaints not pursuable and discontinued in the 2019 survey period increased significantly (77% of Complainants' cases in SEE-2019 were discontinued cases compared with 58% in SUS-2017. This in general explained the drop in the Complainant overall satisfaction rating in SEE-2019.

11. For future improvement, apart from stepping up publicity measures to further enhance the overall perception of the EOC relating to public's trust on EOC and its ability to promote and uphold equal opportunities in Hong Kong (as recommended in paragraph 14 of the paper), a Member suggested that the EOC could consider conducting surveys relating to public's perception on its reliability/credibility. He also advised that the researcher could use precise language in the presentation materials. Members also suggested that more correlation analysis could be drawn from the survey findings and presented to the Board. Further, other survey methodologies such as secret customers and in-depth interviews could be deployed in future, if appropriate. In line with the victim-centric approach, training targeting at relevant soft skills development, including the tact to better communicate displeasing news, could be tailor made and provided to Complaint Services Division staff.

12. C/EOC said that the survey findings shed light on how we could further improve our complaint handling and enquiry services. He thanked Members for their valuable inputs and the representatives of CSG for their attendance.

13. Members noted EOC Paper No. 14/2019.

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

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

Confirmation of Minutes of the 127th Meeting on 19 September 2019

14. The draft minutes of the 127th EOC Meeting on 19 September 2019 were confirmed without amendments.

IV. Matters Arising (Agenda Item No. 2)

Brief Report on the Visits and Exchanges to Guangdong-Hong Kong-Macao Greater Bay Area (Dongguan & Guangzhou) held on 25 to 27 November 2019

15. DCPS highlighted to Members the background and learning points gathered from the recent visit to the Greater Bay Area held on 25 to 27 November 2019, which had been approved by the EOC Board via paper circulation in November 2019. A brief report summarizing the purposes, itinerary and highlights of sharing of the visit was tabled at the meeting for Members' information.

16. Members noted that the EOC had paid its last official visit to the Mainland in 2005. The main purposes of the recent visit were to: 1) enhance mutual understanding between EOC and relevant organisations in the Greater Bay Area on each other's work so as to learn from each other; 2) promote sharing and

opportunities for collaboration on topics of equal opportunities relevant to Guangdong and Hong Kong; and 3) enable EOC staff to better understand the interactive relationship between Greater Bay Area and Hong Kong.

17. The EOC delegation had fruitful exchanges with organisations in Dongguan and Guangzhou, which attached great importance to the visit. The visit provided an opportunity for the EOC to learn that Dongguan and Guangzhou had inputted considerable resources to safeguard the rights of the disadvantaged in recent years, especially in the advocacy of employment and equality for persons with disabilities. The Greater Bay Area had also been making vigorous promotion of legislation to protect the rights of the disadvantaged. Meanwhile, the EOC's solid experience in anti-discrimination conciliation could be a good reference for the relevant organisations in the Greater Bay Area.

18. The visit had opened up a gateway for exchanges, learning and experience sharing between the EOC and relevant government departments and organisations in the Mainland. The EOC would continue to strengthen the connection and exchanges with them and explore the feasibility for mutual collaboration. The Commission was prepared to conduct regular visits/exchanges with them, both at the provincial or municipal levels.

19. Members welcomed such a visit opportunity and looked forward to future exchanges and collaboration with relevant organisations in the Mainland. A Member agreed that the Mainland had better practices and facilities for promoting equality in some aspects. She suggested inviting the Mainland counterparts to come to the EOC to share their experience.

20. C/EOC remarked that Dongguan and Guangzhou had progressed rapidly in advancing equality for the disadvantaged, for instance, the availability of a huge braille book collection at the Guangzhou Library had evidently provided impressive reading resources to visually impaired persons. The sharing of Guangdong's experience of introducing an employment quota for hiring persons

with disabilities (PWDs) could also be a reference when considering appropriate strategies to encourage employers to hire PWDs in Hong Kong. In the light of the positive outcome of this duty visit, the Commission would consider deploying the designated funding support recently provided by the Constitutional and Mainland Affairs Bureau (CMAB) to further build interactive relationship with relevant organisations in the Greater Bay Area and foster future collaboration with them.

(SCCM3 and SHRDP joined the meeting at this juncture.)

V. New Agenda Items

EOC's Strategic Plan for 2020-22

(EOC Paper No. 15/2019; Agenda Item No. 4)

21. SCCM3 briefed Members on the draft EOC Strategic Plan 2020-2022 (the Plan) as presented in EOC Paper No. 15/2019. Members noted that the Plan was formulated having regard to the views solicited from EOC Members in the EOC Strategic Retreat held on 18 October 2019 in the light of the potential opportunities and challenges in the coming the three-year period having regard to the progress achieved in the context of the prevailing Strategic Plan.

22. Members noted that the EOC had identified five strategic goals and developed those work priorities for different focus areas. In addition to focusing on the four broad areas under the existing remit, i.e. Gender, Disability, Family Status and Race, the Commission would endeavor to explore new areas and issues including sexual orientation, gender identity and intersex discrimination (SOGII) pertinent to education, employment and provision of goods, services and facilities, age discrimination in employment, and discrimination faced by new immigrants, subject to the availability of resources.

23. Members noted that the Plan, if approved by the EOC Board, would be

made available to the public on the EOC Website. Also, a briefing session to cascade the essentials of the Plan, including the deliverables of respective timeframes would be organised for EOC staff members in the first quarter of 2020.

24. Members expressed their general support to the draft Plan. Members also considered ageism in employment, now a common issue faced globally, was worthwhile for the Commission to address. C/EOC agreed and said that many stakeholders had expressed their concern about the rapidly ageing population in Hong Kong. In his recent meeting with the Consul-General of Finland in Hong Kong, it was noted that Finland had a statutory model for setting forth retirement age for individual citizens. Their retirement age was flexible and determined by a number of factors including the demographic changes of the working population. HCC added that Finland had a more positive attitude towards elder people having an extended employment in the workplace beyond their retirement age.

25. Regarding the notion of formulating a law amendment proposal to outlaw SOGII discrimination in education, employment and provision of goods, services and facilities, Members said consideration could be given to incorporate relevant exemptions to address the worries of the concerned groups in the proposal where appropriate. A Member also reminded Members of a recent decision of the UK Supreme Court where Lady Hale (who is also a Non-Permanent Judge of the Hong Kong Court of Final Appeal) cautioned against equality statutory body giving the impression of favouring one protected characteristic over others.

(Dr Rizwan ULLAH left the meeting at this juncture.)

26. C/EOC said that the Commission would always be open minded in considering new discrimination issues. Subject to resources available, the Commission would identify thematic focuses and work priorities pertinent to the changes taking place in Hong Kong. To this end, the Commission would continue to uphold neutrality and impartiality in gathering views and feedback from stakeholders to stand up for causes even if deemed unpalatable by segments

of society.

27. Members approved EOC Paper No. 15/2019.

(SCCM3 and SHRDP left, LC4 joined the meeting at this juncture.)

Planned Work of the EOC to advance LGBT Equality

(EOC Paper No. 19/2019; Agenda Item No. 5)

28. LC4 briefed Members on the salient points in relation to the planned work of the EOC to advance equality for Lesbian Gay Bisexual and Transgender (LGBT) people in Hong Kong as contained in EOC Paper No. 19/2019.

29. Members were given a brief recap on the range of work the EOC had done over the past six years to foster a safe environment free from discrimination and advance equality for the LGBT people. This included three main areas: (a) research and advocacy on introducing anti-discrimination legislation covering sexual orientation, gender identity and intersex status published in January 2016; (b) reviewing and making recommendations relating to marital status and family status discrimination as part of the Discrimination Law Review of existing anti-discrimination laws published in March 2016; and (c) submissions to the Government and in response to their public consultation on introducing gender recognition legislation for transgender people, submitted in January 2018. The Government had yet to agree: (a) to take forward the recommendations to consult on introducing LGBTI related anti-discrimination laws; (b) on reforming the marital status and family status anti-discrimination legislation laws; and (c) on introducing Gender Recognition legislation for transgender people to provide relevant rights associated with legally changing their gender.

30. Against this background, the EOC would prioritize the first issue of developing draft anti-discrimination legislation provisions to cover sexual orientation, gender identity discrimination (and possibly intersex status in light of

the 2016 EOC research recommendations) in key domains of public life where the existing anti-discrimination Ordinances operated, such as employment, provision of goods facilities and services and education. Members noted that the planned process would involve internal drafting of provisions; consultation with internal and external stakeholders; revision of the draft provisions in accordance with comments from stakeholders; and submission to the Government for consideration. The timeframe of the planned work was approximately 12 to 18 months.

31. Members considered other measures that could readily advance transgender people's rights, such as building more unisex toilets and protection of their privacy and personal data. On building more unisex toilets in publicly accessible premises, LC4 recalled that the Government had agreed to increase the number of unisex toilets several years before. Ag COO supplemented that the agreement had been obtained followed by the then Chairperson's letters on this subject issued to the Government's bureaux, departments and public organisations including the Food and Health Bureau and the Hospital Authority in 2015. He explained, pursuant to the Universal Accessibility - Best Practices and Guidelines, accessible toilets were designed not only for wheelchair users, but also for those in need including LGBTI people. In this light, the Commission had recommended to place a logo to clarify accessible toilets' multi-purpose and gender-neutral features, but persons with disabilities (PWDs) strongly opposed the recommendation. A Member commented that the EOC should consider instating all toilets inside the office premises to gender-neutral ones to spearhead the change. With a view to building a more inclusive community for people with different needs, Members said and C/EOC agreed that this issue should be raised again, together with the desirability of building accessible toilets within near distance.

32. In response to Members' questions about recent court decisions, LC4 explained that the recent court cases in Hong Kong were about relationship rights linked to couples living in Hong Kong, albeit entered into same sex marriages or civil partnerships overseas. This was an issue of discrimination faced by same

sex couples, and linked to the EOC's submissions to the Government relating to marital and family status discrimination as part of the Discrimination Law Review. The work under planning would be on the distinct issue of introducing anti-discrimination laws covering LGBTI groups, which related to the previous research published by the EOC in January 2016.

33. C/EOC said that developing draft legislation to protect basic rights was a proactive approach to extend protection from discrimination for people identified by their sexual orientation or gender identity. The Commission was hopeful that the Government would consider taking forward the suggested draft legislation.

(Ms Anna THOMPSON left the meeting at this juncture.)

34. Members commented that the Commission could explore suggesting legislative amendments under the existing ordinances to include transgender people as one of the protected characteristics in the Sex Discrimination Ordinance. Members also referred to the importance of taking into account the diverse interest of different concerned groups. Notwithstanding the pursuit of advancing equality for LGBT people, the Commission should at the same time consider formulating strategies to follow up on the other remaining recommendations of the DLR submissions.

(Dr Sigmund LEUNG and Ms Shirley LOO left the meeting at this juncture.)

35. Taking this opportunity, C/EOC invited LC4 to give a brief progress to Members on the Discrimination Legislation (Miscellaneous Amendments) Bill 2018. In its 5th Meeting held in December 2019, the Committee generally agreed to put forth the draft amendments provided by the Government. The draft amendments introduced an enhanced protection from sexual, disability and racial harassment in common workplaces to cover interns and volunteers. In addition, the Government indicated that protection from breastfeeding harassment would be introduced as a new Bill, and considered by a separate Bill Committee as soon as

the current Bill was passed.

36. Members welcomed the progress on the legislation of the eight priority recommendations made in the DLR submissions. They expressed interest to have sight of the proposed draft provisions covering interns and volunteers in the Bill. LC4 undertook to provide Members with the finalized draft provisions once available.

37. Members noted EOC Paper No. 19/2019.

(LC4 left the meeting at this juncture.)

Reports of the Legal & Complaints Committee, Community Participation & Publicity Committee and Administration & Finance Committee

(EOC Paper No. 16/2019; Agenda Item No. 6)

38. Members noted EOC Paper No. 16/2019.

Chairperson's Quarterly Report

(EOC Paper No. 17/2019; Agenda Item No. 7)

39. Members noted EOC Paper No. 17/2019.

Tentative EOC Meeting Schedule for 2020

(EOC Paper. 18/2019; Agenda Item No. 8)

40. Members noted the tentative meeting schedule for 2020 as contained in EOC Paper No. 18/2019.

VI. Any Other Business

Provision of Sign Language Interpretation in EOC's Press Conferences

41. With reference to the press conferences recently convened by a group of citizens, Members suggested that the EOC should consider providing sign language interpretation in its press conferences. HCC explained that the suggestion had been discussed in the past but considered not effective given the technical restrictions of the electronic media. She would look for possible ways to tackle the difficulties and make available sign language interpretation in the Commission's press conferences.

42. There being no other business, the Meeting was adjourned at 5:20 pm.

VII. Date of Next Meeting

43. The next regular EOC Meeting was scheduled for **19 March 2020 Thursday) at 2:30 p.m.**

Equal Opportunities Commission
January 2020