

**Equal Opportunities Commission's Preliminary Views on
Proposed Racial Discrimination Legislation**

**Meeting of Legislative Council
Panel on Home Affairs on 11 December 2004**

- Submission from the Equal Opportunities Commission

1. On 16 September 2004, the Home Affairs Bureau (HAB) issued a Consultation Paper on Legislating Against Racial Discrimination (Consultation Paper). Responses were invited by 31 December 2004.
2. An Equal Opportunities Commission (EOC) Task Group was formed to do the groundwork and provide recommendation to the EOC for its formal response to the Consultation Paper. The Task Group has met twice to discuss various issues amongst the members and senior management of the EOC.
3. Staff of EOC have attended the Ethnic Minority Forum on 28 September 2004 and the Human Rights Forum on 23.11.04 held by the HAB to listen to the views of various stakeholder groups on the subject and establish closer contact with them with a view to facilitate future collaboration in implementation of the legislation.
4. Task Group Members have shared preliminary views on the proposed legislation and the Consultation Paper with EOC Members at its meeting on 2 December 2004.
5. There is a general consensus amongst EOC Members that there has been insufficient time given for the consultation, and this view was conveyed to the HAB. The consultation period has since been extended to 8 February 2005.

Starting Point

6. The starting point for the EOC has always been that:-
- (i) In principle, the EOC supports the enactment of legislation against racial discrimination;
 - (ii) If the government intended to charge the EOC with the duty to implement the legislation, the EOC would be prepared to take on the role and would need to be sufficiently resourced to do the work; and
 - (iii) During the consultation period, the EOC hoped that it would have the chance to have a thorough discussion with the government on its proposals in preparation of taking up the implementation role.

Areas of Concern:

7. The concepts outlined in the Consultation Paper were very general in nature and do not permit detailed analysis of the proposals. Upon our request, a copy of the working copy of the proposed Bill was provided by HAB on 9 November 2004 to facilitate better understanding of the proposed legislation.
8. A preliminary appraisal of the Consultation Paper and proposed Bill suggests that the main area of concern for the EOC will be:-
- (i) The extension of the definition of race to include persons from the Mainland;
 - (ii) The extension of the protection to cover discrimination on the ground of the race of an “immediate family member” or of an “associate”;
 - (iii) The 3-year exemption period for “small employers”; and
 - (iv) Insufficient appreciation of the impact and/or implications

on social policies, such as employment, education, language, and medical and health etc.; and

- (v) The impact on the EOC in terms of financial and resource implications, including the necessary preparatory lead time required to implement the provisions of the new law, including, e.g.,
 - (a) prepare and publish the necessary Code(s) of Practice;
 - (b) enact the relevant subsidiary legislation;
 - (c) produce all relevant EOC publications in all relevant languages and undertake any interpretation / translation services required; and
 - (d) undertake communication, training and public education as required.

9. The Task Group will meet again to formulate a EOC submission on the Consultation Paper for the endorsement of the EOC Members before it is forwarded to the HAB within the new deadline. Meanwhile, the EOC will continue to further discuss its needs and resource requirements with the HAB, to ensure that there will be adequate funding provided.

Equal Opportunities Commission
December 2004