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**Panel on Home Affairs**

**Background brief prepared by Legislative Council Secretariat  
for the meeting on 13 January 2006**

**Implementation of the respective recommendations of the  
Independent Panel of Inquiry on the Incidents Relating to the  
Equal Opportunities Commission (EOC) and the  
two internal reviews conducted by EOC**

**Purpose**

This paper summarises the discussions of the Panel on Home Affairs (the Panel) on the respective recommendations of the Independent Panel of Inquiry on the Incidents Relating to EOC (the Panel of Inquiry) and the two internal reviews conducted by EOC.

**The Equal Opportunities Commission**

2. Established under the Sex Discrimination Ordinance (SDO) on 20 May 1996, EOC is a statutory body responsible for the implementation of SDO, the Disability Discrimination Ordinance and the Family Status Discrimination Ordinance. EOC comprises the Chairperson and up to 16 members. The authority of appointment of the Chairperson and members rests with the Chief Executive (CE) who shall determine the remuneration and the terms and conditions of appointment of the Chairperson. Under section 1 of Schedule 6 of SDO, the Chairperson shall be appointed on a full-time basis whereas other members of EOC may be appointed on a full-time or part-time basis. The incumbent Chairperson, Mr TANG Yee-bong, has been appointed as the EOC Chairperson for five years, with effect from 12 January 2005.

3. EOC is headed by an executive Chairperson, the post of which is pitched at the rank equivalent to Point 8 on the Government Directorate Pay Scale. EOC used to have the post of a Chief Executive Officer (CEO). According to the EOC's Annual Report 1999-2000, the post was deleted in June 2000.

4. When the Panel on Home Affairs received a briefing by EOC on its work at its meeting on 8 February 2002, some members expressed concern that deleting the post of CEO seemed to be contrary to the Administration's position that the functions and duties of the chairman and CEO of an organisation should not be performed by one person. In response, Mrs Anna WU, the then EOC Chairperson, explained that as the duties of CEO could be shouldered by herself and the Director of Planning and Administration of EOC, she preferred saving the resources for other purposes such as publicity, education and research work. Mrs WU also considered that as the chairpersonship of EOC was a salaried position, she should take up administrative duties as well.

### **Appointment of the Panel of Inquiry**

5. Between October and December 2003, the following incidents relating to EOC had given rise to wide public concern –

- (a) the appointment and termination of the employment of Mr Patrick YU as the Director (Operations) by EOC;
- (b) the resignation of Mr Michael WONG as the EOC Chairperson; and
- (c) the publication of “six allegations” against EOC during the tenure of Ms Anna WU as the EOC Chairperson.

6. Details of the above incidents relating to EOC, and the major concerns raised by members during discussions held by the Panel on the incidents are set out in another background brief prepared by the Legislative Council (LegCo) Secretariat entitled “Termination of the employment of the Director (Operations) designate by EOC and other related incidents” [LC Paper No. CB(2)1003/04-05(01) dated 8 March 2005].

7. The Administration decided on 19 February 2004 that the Secretary for Home Affairs (SHA) should appoint an independent panel of inquiry with the following terms of reference to inquire into the incidents which had affected EOC's credibility –

- (a) to inquire into the appointment and termination of employment of Mr Patrick YU by EOC and issues related thereto; and
- (b) to inquire into the incidents which had affected the credibility of EOC and to make recommendations on measures to restore EOC's credibility.

8. On 15 May 2004, SHA announced the appointment of Professor TAM Sheung-wai, the President Emeritus of the Open University of Hong Kong, as the chairman of the Panel of Inquiry. The other two panel members were Mr Anthony WU Ting-yuk, Chairman of Ernst & Young, Far East, China and Hong Kong and Mrs Fanny LAI IP Po-ping, a senior member of the accounting profession. The Panel of Inquiry has made 70 recommendations in its report submitted to SHA on 2 February 2005.

### **The Administration's response to the recommendations of the Panel of Inquiry**

9. According to the Administration, more than half of these recommendations made by the Panel of Inquiry are related to the operation of EOC which would be separately considered by EOC. Most of the remaining recommendations are accepted by the Administration. About 10 recommendations, however, cannot be immediately taken forward by the Administration as they either require further consideration and/or involve legislative amendments. These 10 recommendations are –

- (a) in making appointments to EOC, the Government may consider inviting EOC to nominate candidates representing relevant community groups. In doing so, EOC may invite nominations from various organisations representing community groups for its consideration via a nomination committee before submitting its list of recommendations to the Government;
- (b) the posts of the Chairperson and CEO should be separated, and that the post of CEO should be reinstated. It is desirable that the Chairperson be a non-executive position appointed on a part-time basis;
- (c) to allow more flexibility in selecting the most suitable Chairperson for appointment, consideration should be given to amending the relevant legislation to remove the requirement for the Chairperson to be appointed on a full-time basis;
- (d) the responsibilities of the Chairperson should be formally defined in writing and such responsibilities should be distinct from those of CEO;
- (e) CEO should be an ex-officio executive member of the governing board of EOC, i.e. the Commission. CEO, if reinstated, should report to the Chairperson and be accountable to the Commission for the performance of the organisation and the implementation

of the Commission's policies;

- (f) pending the consideration of the structural changes recommended in (a) to (e) above, the powers and responsibilities of the Chairperson vis-à-vis the Commission, should be clearly defined. Specifically, the Commission should reserve strategic and other key matters, such as major decisions in relation to resources and senior appointments, for collective decision-making;
- (g) the Government should review the remuneration package of the Chairperson in the context of the overall review of the advisory and statutory bodies;
- (h) in the context of the overall review of advisory and statutory bodies, the Government may consider the desirability and feasibility of establishing a nominating committee (comprising Government officials and representatives of key stakeholders) to assist in the appointments to EOC and other major boards and committees, and issuance of a press release after each key appointment attaching the appointee's detailed curriculum-vitae to demonstrate that his/her qualifications and experiences are impeccably linked to the work of EOC and hence eminently qualified for the position;
- (i) the Chairperson should normally be appointed for a three-year term, renewable once for another term of not exceeding three years; and
- (j) the Government may consider appointing a Deputy Chairperson, who could act as the Chairperson in his/her temporary absence or if the office of the Chairperson is vacant.

A summary of the Administration's response to the recommendations relating to the Administration is set out in the Annex to LC Paper No. CB(2)1083/04-05(07) dated 16 March 2005.

### **EOC's response to the recommendations of the Panel of Inquiry**

10. According to EOC, all the recommendations of the Panel of Inquiry which are related to the operation of EOC have been accepted by EOC, except the recommendation on how to further institutionalise "conciliation" as part of the core functions of EOC, which EOC needs to further consider. EOC's response to these recommendations and its initial views on the recommendations relating to the Administration are in Annex I and Annex II to LC Paper No. CB(2)1083/04-05(08) dated 16 March 2005.

## **Internal reviews conducted by EOC**

11. According to a paper entitled “EOC’s work review of 2004 and future work plans” submitted by EOC for the meeting of the Panel on Home Affairs on 4 February 2005, EOC has conducted a review of its current roles and functions, work priorities, efficiency and effectiveness in order to fulfil its mission (the Overall Review). EOC has also conducted a review of its human resources management policies, practices and procedures (the HRM Review) as a self-improvement initiative with the aim to identify human resources management issues that need to be addressed. Both reviews were completed in the later part of 2004. Many of the recommendations in these reviews have been accepted in principle by the governing board of EOC and others are under active consideration. EOC has informed the Panel that some of the improvements will take time and will not come overnight. Continuity and stability for EOC will be essential in making the necessary changes and to implement the longer term initiatives.

## **Relevant Panel discussions regarding the respective recommendations of the Panel of Inquiry and the two internal reviews conducted by EOC**

### Meetings

12. The Panel discussed the appointment of the Chairperson of EOC by the Government and the work of EOC at its meeting on 4 February 2005. The Panel also discussed the report of the Panel of Inquiry at its meeting on 21 March 2005. During these two meetings, members raised questions about the implementation of the recommendations of the Panel of Inquiry. When the Panel received a policy briefing by SHA on the Chief Executive’s Policy Address 2006 at its special meeting on 20 October 2005, members also expressed concern about the progress of implementing these recommendations. The concerns expressed by members during these meetings are summarised in the following paragraphs.

### Separation of the posts of the Chairperson and CEO of EOC

13. Mr Albert HO and Mr Albert CHAN expressed the view that it was inappropriate for the Government to have appointed the new EOC Chairperson for a five-year term at a time when the Panel of Inquiry was going to release its report soon. Mr HO considered that the Government by doing so had pre-empted the implementation of some of the recommendations made by the Panel of Inquiry.

14. The Administration explained that it was the Government’s intention of making the appointment of the new EOC Chairperson around July 2005. However, as Mrs Patricia CHU, the then EOC Chairperson, had declined the

Government's offer of re-appointment, the Government had to make the appointment upon the expiry of Mrs CHU's term. The Administration considered that the appointment of the new EOC Chairperson did not preclude the recommendations of the Panel of Inquiry from being implemented.

15. Miss TAM Heung-man asked whether the recommendation of separating the posts of the EOC Chairperson and of CEO would be accepted and, if so, which post the incumbent EOC Chairperson, Mr TANG Yee-bong, would take up. She urged the Administration to actively consider the recommendation in order to avoid the concentration of power in the full-time executive Chairperson and to enhance the corporate governance of EOC.

16. The Administration pointed out that the post of CEO was deleted in 2000, and the EOC Chairperson had since assumed the functions of CEO. It only required going through administrative procedures to reinstate the post of CEO. However, SDO provided that the EOC Chairperson should be appointed on a full-time basis. Therefore, if it was decided that the EOC Chairperson should change to be a non-executive position appointed on a part-time basis and CEO should be responsible for daily executive responsibilities, the law would have to be amended to remove the requirement for the EOC Chairperson to be appointed on a full-time basis. The Administration was conducting research on the matter making reference to overseas experience, and would need more time for the study. The Administration undertook to report to the Panel once it had worked out concrete details on the way forward.

17. Mr TANG Yee-bong expressed the view that it was a good idea to reinstate the post of CEO but EOC would need to conduct further studies to see how it should take the recommendations forward. The Administration further pointed out that the Government had appointed Mr TANG to be the EOC Chairperson and not CEO. Should the post of CEO be reinstated, the appointee for the post would be recruited by EOC while for the post of the Chairperson, it was CE who would make the appointment as stipulated in the law.

#### Implementation progress of the recommendations

18. Ms Emily LAU and Miss TAM Heung-man expressed concern about the implementation of the recommendations of the Panel of Inquiry and the Overall and HRM Reviews conducted by EOC. They were dissatisfied with the lack of details provided by the Administration and EOC on the progress made in implementing these recommendations. The Administration undertook to provide a detailed report on the implementation of the recommendations relating to the Administration and to request EOC to provide a detailed report on the implementation of the recommendations relating to the operation of EOC.

### **Relevant papers**

19. Members may wish to refer to the minutes of the relevant meetings of the Panel as well as the relevant papers provided by the Administration and EOC as set out in the **Appendix**. Soft copies of these documents are available at the website of the Legislative Council at <http://www.legco.gov.hk>.

Council Business Division 2  
Legislative Council Secretariat  
12 January 2006

## List of relevant documents

**Implementation of recommendations made in the Report of the Independent Panel of Inquiry on the Incidents Relating to the Equal Opportunities Commission (EOC) and the recommendations made in two other reports of internal reviews conducted by EOC**

Committee	Papers, report and minutes of meeting	LC Paper No.
House Committee	Report of the Panel on Home Affairs proposing to appoint a select committee by the Legislative Council	CB(2)1172/03-04 <a href="http://www.legco.gov.hk/yr03-04/english/hc/papers/hc0213cb2-1172e.pdf">http://www.legco.gov.hk/yr03-04/english/hc/papers/hc0213cb2-1172e.pdf</a>
	Minutes of meeting on 13 February 2004	CB(2)1353/03-04 <a href="http://www.legco.gov.hk/yr03-04/english/hc/minutes/hc040213.pdf">http://www.legco.gov.hk/yr03-04/english/hc/minutes/hc040213.pdf</a>
	Letter dated 19 February 2004 from Secretary for Home Affairs to Chairman of the House Committee	<a href="http://www.legco.gov.hk/yr03-04/english/hc/papers/hc0220let-had0219e.pdf">http://www.legco.gov.hk/yr03-04/english/hc/papers/hc0220let-had0219e.pdf</a>
	Minutes of meeting on 20 February 2004	CB(2)1457/03-04 <a href="http://www.legco.gov.hk/yr03-04/english/hc/minutes/hc040220.pdf">http://www.legco.gov.hk/yr03-04/english/hc/minutes/hc040220.pdf</a>
Panel on Home Affairs	Paper entitled “EOC Work Review of 2004 and Future Work Plans” provided by the EOC	CB(2)773/04-05(01) <a href="https://www.legco.gov.hk/yr04-05/english/panels/ha/papers/ha0204cb2-773e.pdf">https://www.legco.gov.hk/yr04-05/english/panels/ha/papers/ha0204cb2-773e.pdf</a>
	Administration’s paper entitled “Appointment of Chairperson of EOC”	CB(2)777/04-05(01) <a href="http://www.legco.gov.hk/yr04-05/english/panels/ha/papers/ha0204cb2-777-1e.pdf">http://www.legco.gov.hk/yr04-05/english/panels/ha/papers/ha0204cb2-777-1e.pdf</a>

<b>Committee</b>	<b>Papers, report and minutes of meeting</b>	<b>LC Paper No.</b>
Panel on Home Affairs	Minutes of meeting on 4 February 2005	CB(2)1081/04-05 <a href="http://www.legco.gov.hk/yr04-05/english/panels/ha/minutes/ha050204.pdf">http://www.legco.gov.hk/yr04-05/english/panels/ha/minutes/ha050204.pdf</a>
	Report of the Independent Panel of Inquiry on the Incidents Relating to EOC	<a href="http://www.legco.gov.hk/yr04-05/english/panels/ha/papers/ha0321eoc_report_e.pdf">http://www.legco.gov.hk/yr04-05/english/panels/ha/papers/ha0321eoc_report_e.pdf</a>
	Background brief prepared by Legislative Council Secretariat on “Termination of the employment of the Director (Operations) designate by EOC and other related incidents”	CB(2)1003/04-05(01) <a href="http://www.legco.gov.hk/yr04-05/english/panels/ha/papers/ha0321cb2-1003-1e.pdf">http://www.legco.gov.hk/yr04-05/english/panels/ha/papers/ha0321cb2-1003-1e.pdf</a>
	Administration’s paper entitled “Recommendations made in the Report by the Independent Panel of Inquiry on Incidents Relating to EOC”	CB(2)1083/04-05(07) <a href="http://www.legco.gov.hk/yr04-05/english/panels/ha/papers/ha0321cb2-1083-7e.pdf">http://www.legco.gov.hk/yr04-05/english/panels/ha/papers/ha0321cb2-1083-7e.pdf</a>
	EOC’s response to the recommendations made in the Report by the Independent Panel of Inquiry on Incidents Relating to EOC	CB(2)1083/04-05(08) <a href="http://www.legco.gov.hk/yr04-05/english/panels/ha/papers/ha0321cb2-1083-8e.pdf">http://www.legco.gov.hk/yr04-05/english/panels/ha/papers/ha0321cb2-1083-8e.pdf</a>
	Minutes of meeting on 21 March 2005	CB(2)1468/04-05 <a href="http://www.legco.gov.hk/yr04-05/english/panels/ha/minutes/ha050321.pdf">http://www.legco.gov.hk/yr04-05/english/panels/ha/minutes/ha050321.pdf</a>
	Minutes of meeting on 20 October 2005	CB(2)761/05-06 <a href="http://www.legco.gov.hk/yr05-06/english/panels/ha/minutes/ha051020.pdf">http://www.legco.gov.hk/yr05-06/english/panels/ha/minutes/ha051020.pdf</a>