

**Extract from the minutes of meeting of the
Panel on Home Affairs held on 8 February 2002**

X X X X X X X X

Action

IV. Briefing by the Equal Opportunities Commission (EOC) on its work
[LC Paper No. CB(2)1076/01-02(01)]

5. At the invitation of the Chairman, the Chairperson of EOC (the Chairperson) briefed members on the gist of the information paper with the aid of power-point on the work of EOC. She also briefly introduced the content of the information folder provided by EOC tabled at the meeting. The information folder which contained presentation materials had subsequently been issued to absent members vide LC Paper No. CB(2)1109/01-02.

6. The Director (Planning and Administration) of EOC (D(P&A)) then explained the changes to the organisational structure of EOC from 1999 to 2002 to members. He highlighted that by way of streamlining the staffing structure, EOC was able to increase its staff establishment by 14 from 1999 to 2002 without obtaining additional funding from the Government.

7. The Chairman invited questions from members on the work of EOC and the gist of the ensuing discussion was summarized in paragraphs 8-24.

Age discrimination

8. Mr Andrew CHENG enquired about EOC's view on introducing legislation against age discrimination. The Chairperson of EOC advised that EOC in principle welcomed the introduction of legislation to protect the public from all sorts of discrimination. EOC had received from time to time complaints about discrimination on the grounds of age and race which fell outside the scope of the existing anti-discrimination legislation, namely, the Sex Discrimination Ordinance (SDO), Disability Discrimination Ordinance (DDO) and Family Status Discrimination Ordinance (FSDO). EOC would refer those cases to the appropriate parties concerned and maintain statistics for future reference and planning. She added that some cases relating to family status and age discrimination could be handled under SDO.

9. In order to ascertain the need to introduce legislation against age discrimination instead of only promoting the concept by means of civic education, Mr Andrew CHENG requested EOC to provide the number of enquiries and complaints on age discrimination received so far. The

Action

Chairperson of EOC advised that the total numbers of general and specific enquiries up to 31 January 2002 received by EOC on age discrimination and racial discrimination were 850 and 443 respectively. In this connection, the Chairman pointed out that age discrimination fell under the policy purview of the Education and Manpower Bureau because it was often related to employment matters, it might be more appropriate for the Panel on Manpower to follow-up future discussion on the issue.

10. Mr Henry WU noted that EOC had appeared as Amicus Curiae in the appeal proceedings in a case of sex discrimination relating to retirement age. He asked and the Chairperson of EOC clarified that it was an individual case but did not carry any policy implications. She explained that the case was related to a company policy for retirement ages of male and female cabin crew.

Family Status Discrimination Ordinance

11. Mr Andrew CHENG expressed concern about the public awareness of FSDO. The Chairperson of EOC said that EOC would continue to enhance its promotional work to raise the public awareness of FSDO and to promote local equal opportunities culture through training and development of equal opportunities policy.

12. Ms Cyd HO enquired about the sex distribution of the complainants lodging employment-related complaints under FSDO in the past years. She was concerned whether most of these complainants were women. The Chairperson of EOC said that women often encountered discrimination in the recruitment process when prospective employers refused to hire them just because they had to look after their family members. She undertook to provide the information requested for Ms Cyd HO's reference (Information provided to Ms Cyd HO on 11 February 2002).

EOC

Disability Discrimination Ordinance

13. Mr Michael MAK expressed concern about the situation of persons with disabilities. The Chairperson of EOC pointed out that given the economic downturn, more persons with disabilities lost their jobs. Many persons with disabilities had also complained against public transport and insurance companies about their discriminatory practices. For example, they encountered difficulty in purchasing insurance coverage or they were charged very high premium. Those insurance policies included medical, travelling and life insurance etc.

14. Mr Michael MAK asked whether these complaints had been substantiated and whether assistance had been provided to these persons with disabilities. The Chairperson of EOC advised that there was only one complaint case on insurance policies in 2000 and nine in 2001. As insurance

Action

policies involved very complicated calculations and clauses, not all cases could be resolved through conciliation. Nevertheless, EOC was conducting a research regarding how local and overseas insurance practices adapted to equal opportunities legislation. Upon completion of the research in 2002, EOC might be able to draw up guidelines for the reference of local insurance companies in considering insurance packages for persons with disabilities.

Relationship with business sector

15. In response to Mr NG Leung-sing's enquiry about the partnership relationship between EOC and the business sector, the Chairperson of EOC said that EOC aimed at promoting the partnership relationship through positive means and market driven tools. For instance, EOC would approach internet service companies inviting their provision of services for persons with disabilities because this would enlarge their market share; it might also suggest to the Administration that in a tender evaluation, favourable consideration should be given to companies which upheld equal opportunities principle.

16. Mr NG Leung-sing asked how EOC would handle discrimination complaints arising from the recruitment exercise conducted in Hong Kong by overseas companies. The Chairperson of EOC replied that application of the existing anti-discrimination legislation did not cover employees who were recruited in Hong Kong but working abroad. However, EOC would appreciate the organisations concerned to take follow up actions on the complaints received. In fact, EOC had proposed to extend the application of the relevant Ordinances to Hong Kong permanent residents working overseas under specified circumstances. The proposal was being studied by the Administration.

Organisational structure

17. Both Mr Michael MAK and Mr Henry WU expressed concern about the reasons for deleting the post of Chief Executive in early 2000. Mr WU pointed out that the move seemed to be contrary to the Administration's recent position that the functions and duties of the chairman and the chief executive of an organisation should not be performed by one person. The Chairperson of EOC explained that as the duties of the Chief Executive could be shouldered by herself and D(P&A), she preferred saving the resources for other purposes such as publicity, education, and research work. She also believed that such arrangement was to the best interest of EOC. The Chairperson of EOC further pointed out that chairpersonship of EOC was a salaried position and she considered that she should take up administrative duties as well.

18. Mr Henry WU asked whether EOC enjoyed complete discretion to change its organisational structure. The Chairperson clarified that any major organisational changes proposed by EOC would have to pass through its

Action

Administration and Finance Committee and the Commission before seeking approval from the Home Affairs Bureau (HAB). Moreover, EOC was also accountable to HAB in respect of EOC's financial situations as HAB was the fund controlling officer.

EOC's proposals to amend anti-discrimination legislation

19. As EOC had already submitted its proposals to amend SDO and DDO to HAB in early 2001, Ms Cyd HO enquired about the progress of the matter. The Chairperson of EOC advised that the Administration was already actively working on the EOC's proposals agreed to by the Administration. However, EOC would welcome members to follow up with the Administration on other proposals which the Administration did not agree or had reservations.

20. Ms Cyd HO remarked that the Administration should be invited to brief the Panel on the progress of the matter. The Chairman said that Ms HO might wish to suggest including the matter in the list of discussion items for future meetings.

Performance of EOC

21. Mr NG Leung-sing asked whether EOC considered that the increase in the number of complaints since 1997 was due to the enhanced publicity of equal opportunities culture or the deterioration of discrimination situation. The Chairperson of EOC responded that the upsurge in sex discrimination complaints in 2001 was mainly attributed to the large number of complaints regarding the Secondary School Place Allocation (SSPA) system. Concurrently, the number of disability discrimination complaints was also on the rise. She considered that EOC's education and publicity effort certainly helped enhance public awareness of equal opportunities culture and bring along more enquiries and complaints. For example, more enquiries and complaints would normally be received after the broadcasting of TV programmes on equal opportunities matters.

22. Mr NG Leung-sing expressed concern that the public might abuse the complaints mechanism. The Chairperson of EOC responded that it was unavoidable that a complaint mechanism would be abused by some people. She pointed out that some complainants might have misunderstood the application of the relevant Ordinances or had missed the 12-month time limit to initiate a complaint. Others might be misconceived or lacking in substance, etc. In the above cases, EOC would discontinue investigation. In 2001, there were 813 such cases (including all discontinued cases on SDO, DDO and FSDO), among which over 300 arose from the SSPA system, and the complainants of over 480 cases had resolved the matters through other means or did not want to pursue further. As such, she considered that the mechanism had not been abused.

Action

23. Mr MA Fung-kwok asked whether EOC had any mechanism to assess the effectiveness of its work. The Chairperson of EOC responded that EOC had its own performance pledges which had set out in quantitative terms the service standard and performance target it aimed to achieve. Moreover, a survey conducted in the past had reflected that the public had a general awareness of the work of EOC. She supplemented that by observing the trend of the types of complaints received, EOC could set long-term education plans on specific areas by, for example, conducting training and providing consultancy services for the Government in the hope of enhancing equal opportunities culture and value.

24. Mr MA Fung-kwok further asked whether it was feasible to set targets or criteria to assess the achievements of EOC. The Chairperson of EOC admitted that it would be a difficult task, saying that EOC would aim at enhancing the public's awareness of equal opportunities culture. Taking the Kowloon Bay Health Centre case as an example, she considered that the public's awareness of equal opportunities culture had been increased over the past years and such a change of attitude could also be considered as a target of assessment. She said that EOC would consider Mr MA's suggestion and hopefully would come up with some ideas when it briefed the Panel on its work next year.

X X X X X X X X

Council Business Division 2
Legislative Council Secretariat
11 March 2002