

立法會
Legislative Council

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**Subcommittee on
Revised Code of Practice on Employment under
the Disability Discrimination Ordinance**

**Minutes of the third meeting
held on Friday, 6 May 2011, at 8:30 am
in the Chamber of the Legislative Council Building**

Members present : Hon Cyd HO Sau-lan (Chairman)
Hon LEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon LI Fung-ying, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon IP Wai-ming, MH
Hon WONG Yuk-man

Members absent : Hon IP Kwok-him, GBS, JP
Dr Hon PAN Pey-chyou

Public Officers attending : Items I and II

Mr Stephen SUI Wai-keung
Commissioner for Rehabilitation
Labour and Welfare Bureau

Equal Opportunities Commission

Mr LAM Woon-kwong
Chairperson

Ms Maggie WU Su-ka
Senior Equal Opportunities Officer (Compliance)

Attendance by invitation : Item I

Individual

Mr CHAN Chung-yau

Hong Kong AIDS Foundation

Mr LO Ting-yu
Senior Project Officer

AIDS Concern

Miss CHAN Fei
Campaign Officer

Hong Kong Human Rights Monitor

Mr CHONG Yiu-kwong
Chairperson

Individual

Mr LAM Chun-tat

Diversity Factor

Mr Roddy SHAW
Principal Consultant

Clerk in attendance : Mr Raymond LAM
Chief Council Secretary (2) 1

Staff in attendance : Ms Wendy KAN
Assistant Legal Adviser 6

Ms Maisie LAM
Senior Council Secretary (2) 5

Ms Priscilla LAU
Council Secretary (2) 5

Ms Sandy HAU
Legislative Assistant (2) 5

Ms CHAU Kwan-bing
Legislative Assistant (2) 9

Action

I. Meeting with deputations, the Administration and Equal Opportunities Commission

The Subcommittee deliberated (index of proceedings attached at **Annex**).

2. The Subcommittee received oral representations from six organizations and individuals and four written submissions on the revised Code of Practice on Employment under the Disability Discrimination Ordinance ("the revised Code").

3. The Subcommittee requested the Equal Opportunities Commission ("EOC") to -

- (a) provide information on the number of complaints lodged with EOC against the Government and the actual expenditures on legal assistance in the past three years;
- (b) amend the term "AIDS patients" in the revised Code as "persons living with HIV";
- (c) consider the suggestion that readers of the revised Code should be reminded in Chapter 1 that the summaries of local and overseas precedents quoted in the revised Code should not be taken as containing all information relating to the cases concerned. Readers should refrain from sole and direct application of any example to a particular situation. Where readers intended to rely on the decided cases cited in the revised Code, they should refer to the respective court judgments;
- (d) consider the suggestion of deleting "and outside the remit of contract law" in the last paragraph of the case illustration provided under paragraph 4.28 of the revised Code;

- (e) highlight in paragraph 5.11 of the revised Code the varying standard for good communication among different positions;
- (f) amend paragraph 6.20 of the revised Code to highlight the point that irrespective of whether a question asking applicants whether they require any special provision or facility at the interview was to be included in an application form, it remained an applicant's right to choose not to disclose his/her disability. However, in the absence of such information, the employer could not be expected to provide reasonable accommodation even when there was such a need for the interview;
- (g) delete the reference to "premature termination" in paragraph 7.6 of the revised Code;
- (h) amend paragraph 8.5 of the revised Code to explain explicitly the principles of equal pay for equal work and equal pay for work of equal value and make suitable reference to the productivity assessment for persons with disabilities under the Minimum Wage Ordinance (Cap. 608);
- (i) amend paragraph 12.1 of the revised Code to highlight the independence nature of EOC and the fact that EOC regulated both public and private organizations, including the Government;
- (j) consider the suggestion of Hong Kong Human Rights Monitor to amend specific provisions of the revised Code as set out in its submission (LC Paper No. CB(2)1706/10-11(01)); and
- (k) refine the revised Code having regard to the comments of the legal advisor to the Subcommittee as set out in LC Paper No. CB(2)1707/10-11(01).

II. Date of next meeting

4. Members agreed that the meeting originally scheduled for the same day at 5:15 pm would be cancelled. The next meeting would be held on 11 May 2011 from 8:30 am to 10:30 am to consider the

Administration/EOC's response to issues raised by members at the meeting.

5. To facilitate members' discussion at the next meeting, EOC was requested to provide the Subcommittee with the latest version of its proposed amendments to the revised Code by 9 May 2011.

6. The being no other business, the meeting ended at 12:45 pm.

Council Business Division 2
Legislative Council Secretariat
30 March 2012

**Proceedings of the third meeting of the Subcommittee on
Revised Code of Practice on Employment under
the Disability Discrimination Ordinance
held on Friday, 6 May 2011, at 8:30 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action Required
000000 - 000429	Chairman	Opening remarks	
<i>Item I - Meeting with deputations, the Administration and Equal Opportunities Commission</i>			
000430 - 000536	Mr CHAN Chung-yau	Expressed concern about a case where the employer had reduced the hours worked by an employee, who had mild intellectual disability, for computing the statutory minimum wage under the Minimum Wage Ordinance (Cap. 608) ("MWO")	
000537 - 001045	Hong Kong AIDS Foundation	<p>Commended the Equal Opportunities Commission ("EOC") for the incorporation in Chapters 3, 6 and 8 of the revised Code of Practice on Employment under the Disability Discrimination Ordinance ("the revised Code") the views collected from the Foundation and persons living with HIV during the public consultation on the draft revised Code</p> <p>Suggested that EOC should consider providing some template job application forms in Chapter 6 of the revised Code for reference of employers; amending the term "AIDS patients" in the revised Code as "persons living with HIV"; and conducting more self-initiated investigations on discrimination against persons living with HIV in the pre-employment medical examinations and the provision of employee insurance-related benefits</p>	
001046 - 001409	AIDS Concern	<p>Commended EOC for the incorporation in Chapters 6, 7 and 11 of the revised Code the views collected from AIDS Concern during the public consultation on the draft revised Code</p> <p>Concurred with Hong Kong AIDS Foundation's view that the term "AIDS patients" in the revised Code should be amended as "persons living with HIV" to achieve consistency; and urged EOC to step up publicity after the coming into effect of the revised Code to arouse employers' awareness of what they had to do to comply with the revised Code</p>	
001410 - 001916	Hong Kong Human Rights Monitor	Urged EOC to amend specific provisions of the revised Code as referred to in its submission [LC Paper No. CB(2)1706/10-11(01)]	

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001917 - 002111	Mr LAM Chun-tat	Expressed concern about the impact of the implementation of MWO as well as the productivity assessment for persons with disability under the Ordinance on the employment opportunities of persons who had mild intellectual disability	
002112 - 002624	Diversity Factor	Expressed concern about the legal status of the revised Code and the inconsistency between the English and the Chinese versions of paragraph 1.4 of the revised Code Suggested to amend the term "AIDS patients" in the revised Code as "persons living with HIV"	
002625 - 003204	Hon Emily LAU Chairman Hong Kong Human Rights Monitor	Continuous presentation of views by Hong Kong Human Rights Monitor as set out in its submission	
003205 - 004546	Chairperson of EOC	Response of EOC - (a) persons with disabilities who felt aggrieved by unlawful discriminatory decision or actions of their employers in the course of their employment could seek assistance of EOC; (b) a failure on the part of any person to observe any provision of the revised Code did not of itself render him/her liable to any proceedings. However, in any proceedings under the Disability Discrimination Ordinance (Cap. 487) ("DDO"), the revised Code was admissible in evidence. If any provision of the revised Code appeared to the court to be relevant to any question arising in the proceedings, such provision would be taken into account in determining that question; (c) the term "AIDS patients" in the revised Code would be amended as "persons living with HIV". EOC would also give due consideration to suggestions of Hong Kong Human Rights Monitor and Diversity Factor of amending specific provisions of the revised Code; (d) EOC had published guidelines for application forms design under the Good Management Practice Series for reference of employers. For information on equal pay for work of equal value and related issues, EOC had published in 2009 a "Guide to Employers on Equal Pay between Men & Women under the Sex Discrimination Ordinance" and four supplementary guidebooks;	EOC

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		<p>(e) the case illustrations in the revised Code were meant to facilitate easy understanding of the principles and contents in the legislation. Having taken into account the views collected during the public consultation on the draft revised Code, more neutral language had been adopted to avoid unnecessary negative portrayal of employers and employees; and</p> <p>(f) for the sake of clarity, it was highlighted in paragraph 12.1 of the revised Code that EOC was publicly funded by the Government. It should not be interpreted in any manner that the independence of EOC in regularizing both public and private organizations would hence be undermined</p>	
004547 - 005658	Hon Emily LAU Hong Kong Human Rights Monitor Chairperson of EOC Chairman	<p>In response to Hon Emily LAU, Hong Kong Human Rights Monitor's further elaboration on its concern that the second case illustration provided under paragraph 4.15 of the revised Code would have an unintended result of making the employers aware of the factors they could use as excuses for their discriminatory decisions or actions</p> <p>Advice of EOC that there was no cause for such concern; and its explanation that for cases of direct disability discrimination, the existence of a person's disability would not by itself establish a case of disability discrimination. It was essential to seek more information to identify a causal connection between the disability and the discriminatory decision or action, where the disability in question was shown to be a cause of the less favourable treatment received</p> <p>EOC agreed to amend paragraph 12.1 of the revised Code to highlight the independence nature of EOC and the fact that EOC regulated both public and private organizations, including the Government</p>	EOC
005659 - 010333	Hon LEUNG Yiu-chung Chairperson of EOC Chairman	<p>Hon LEUNG Yiu-chung's suggestion to remove the first and second sentences of paragraph 7.22 of the revised Code, as it would suffice just to set out that employer's request for further medical report would not be unlawful as long as the intended purpose was both necessary and justifiable</p> <p>Response of EOC that it could not see the justification of Hon LEUNG Yiu-chung's suggestion, as it was a common practice that employers would require employees to submit their sick leave applications together with medical certificates with their illnesses and recommendations for a period of absence stated therein</p>	

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010334 - 010907	Hon Audrey EU Chairperson of EOC	<p>Hon Audrey EU's view that the independence nature of EOC should be highlighted in paragraph 12.1 of the revised Code; and it was necessary for EOC to set out in the revised Code examples to facilitate the understanding by both employers and employees of the requirements under DDO</p> <p>EOC agreed to consider the suggestion of Hon Audrey EU that readers of the revised Code should be reminded in Chapter 1 that the summaries of local and overseas precedents quoted in the revised Code should not be taken as containing all information relating to the cases concerned. Readers should refrain from sole and direct application of any example to a particular situation. Where readers intended to rely on the decided cases cited in the revised Code, they should refer to the respective court judgments</p>	EOC
010908 - 011508	Hon LI Fung-ying Chairperson of EOC Chairman	<p>Hon LI Fung-ying's suggestion that the drafting of paragraph 8.5 of the revised Code should be revised to explain explicitly the principles of equal pay for equal work and equal pay for work of equal value</p> <p>The Chairman's suggestion that suitable reference to the productivity assessment for persons with disabilities under MWO should be made in the paragraph</p> <p>EOC agreed to take on board members' suggestions to amend paragraph 8.5 of the revised Code accordingly</p>	EOC
011509 - 012518	Hon Emily LAU Hong Kong Human Rights Monitor Chairperson of EOC Hon LEUNG Yiu-chung Chairman	<p>In response to Hon Emily LAU, Hong Kong Human Rights Monitor's further elaboration on its concern over the present drafting of paragraphs 7.19 and 7.22 of the revised Code</p> <p>Hon LEUNG Yiu-chung maintained the view that the first and second sentences of paragraph 7.22 of the revised Code should be removed</p> <p>EOC's explanation that there were circumstances where employers would need to obtain medical reports of employees in order to determine whether the employees' disabilities would prevent them from performing the inherent requirements of the job and to consider the provision of reasonable accommodation. The present drafting of the two paragraphs had struck a reasonable balance between the interests of employers and employees</p>	
012519 - 013529	Hon Emily LAU Hong Kong Human Rights Monitor	View of Hong Kong Human Rights Monitor and Diversity Factor that paragraph 6.20 of the revised Code should be amended to the effect that	

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	Chairperson of EOC Diversity Factor Chairman	employers should not be encouraged to include a question in the application form asking applicants whether they required any special provision or facility at the interview, as this might lead to an unintended result that applicants who had such a need would be screened out during the selection process Response of EOC that in the absence of such information, employers could not provide reasonable accommodation when there was such a need for the interview	
013530 - 013755	Hong Kong Human Rights Monitor Chairman	Hong Kong Human Rights Monitor's concern over the case illustration provided under paragraph 5.13 of the revised Code	
013756 - 013817	Mr LAM Chun-tat	Concern about the impact of the implementation of MWO on the employment opportunities of persons with disabilities	
013818 - 013920	Hon Audrey EU Hong Kong Human Rights Monitor	In response to Hon Audrey EU, Hong Kong Human Rights Monitor's further elaboration of its concern over the case illustration provided under paragraph 5.13 of the revised Code	
013921 - 014119	Hong Kong AIDS Foundation Diversity Factor Chairman	Hong Kong AIDS Foundation and Diversity Factor's reiteration of the view that EOC should conduct more self-initiated investigations on discrimination against persons living with HIV in the pre-employment medical examinations and the provision of employee insurance-related benefits	
<i>Item II - Meeting with the Administration and EOC</i>			
014120 - 014854	Chairman Chairperson of EOC Hon Emily LAU	Briefing by EOC on its response to issues raised by members at the meeting on 3 May 2011 [LC Paper No. CB(2)1675/10-11(05)]	
014855 - 015520	Hon Emily LAU Chairperson of EOC	Hon Emily LAU's enquiry about whether EOC had initiated any investigation in respect of discrimination against persons living with HIV or ex-mentally ill persons EOC's response that it did not have such information on hand and its explanation that EOC would conduct self-initiated investigations into discriminatory acts when a complainant/person wished to remain anonymous or did not wish to make an actual complaint after reporting the case or the cases were reported in the media, with a view to facilitating changes in policies and procedures. Some recent examples included discriminatory insurance practices against persons living with HIV and inaccessible airline service to persons who were blind	

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015521 - 020406	Hon Audrey EU Chairperson of EOC Admin Chairman	<p>In response to Hon Audrey EU, EOC's advice that it would closely monitor the impact of the introduction of statutory minimum wage on the employment of persons with disabilities; and the Administration's advice that persons who were aggrieved by suspected unlawful acts of their employers arising from the implementation of MWO could report to the Labour Department for follow up.</p> <p>Suggestion of Hon Audrey EU that EOC and the Administration should issue press statement on cases where irregularities were detected and the employers concerned were required to take appropriate measures to ensure their compliance with MWO</p> <p>On Hon Audrey EU's concern about the relatively small numbers of applications for legal assistance and cases to which legal assistance was granted, EOC's explanation that not all cases in which conciliation was sought had sufficiently strong evidence to support legal proceedings</p>	
BREAK			
021635 - 021701	Chairman	Continuation of examination of the revised Code	
021702 - 022146	Chairman ALA6	EOC was requested to refine the revised Code having regard to the comments of the legal advisor to the Subcommittee [LC Paper No. CB(2)1707/10-11(01)]	EOC
022147 - 022344	Chairman Chairman of EOC	<p><i>Chapter 4: Discrimination under the DDO</i></p> <p><u>Paragraphs 4.6 to 4.12</u></p> <p>Members raised no questions on paragraphs 4.6 to 4.12</p>	
022345 - 022444	Chairman ALA6 Chairman of EOC	<p><u>Paragraph 4.13</u></p> <p>The cross reference to other paragraphs of the revised Code referred to in the margin of paragraph 4.13</p>	
022445 - 022548	Chairman Chairman of EOC Hon Emily LAU	<p><u>Paragraphs 4.14 to 4.15</u></p> <p>Hon Emily LAU's enquiry and EOC's reiteration on the need for retaining the second case illustration provided under paragraph 4.15 of the revised Code so as to demonstrate the application of the principle in varying circumstances</p>	

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022549 - 022651	Chairman Chairman of EOC	<u>Paragraphs 4.16 to 4.17</u> Members raised no questions on paragraphs 4.16 to 4.17	
022657 - 022952	Chairman Chairman of EOC	<u>Paragraphs 4.18 to 4.20</u> In response to the Chairman, EOC affirmed that treating a person with one disability more favourably than another person with another disability could be unlawful when justifiable reason was lacking	
022900 - 022952	Chairman Chairman of EOC	<u>Paragraphs 4.21 to 4.22</u> Members raised no questions on paragraphs 4.21 to 4.22	
022953 - 023144	Chairman Chairman of EOC ALA6	<u>Paragraphs 4.23 to 4.24</u> The cross reference to other chapter of the revised code referred to in the margin of paragraph 4.24	
023145 - 023938	Chairman Hon Emily LAU Chairman of EOC Hon CHEUNG Kwok-che	In response to Hon Emily LAU and Hon CHEUNG Kwok-che, EOC's advice as to under what specific circumstances a condition or requirement imposed by an employer would impact adversely more on persons with disabilities in general or persons with a particular type of disability than others and hence constitute indirect discrimination	
023939 - 024035	Chairman Chairman of EOC	<u>Paragraphs 4.25 to 4.26</u> Members raised no questions on paragraphs 4.25 to 4.27	
024036 - 024236	Chairman Chairman of EOC ALA6	<u>Paragraphs 4.27 to 4.28</u> EOC was requested to consider the suggestion of the legal advisor to delete "and outside the remit of contract law" in the last paragraph of the case illustration provided under paragraph 4.28 of the revised Code, as it was recognized under the law of contract that a term of an agreement would be rendered void if a statute provided so	
024237 - 024522	Chairman Chairman of EOC ALA6	<i>Chapter 5 – Inherent Requirement, Reasonableness of Accommodation, and Unjustifiable Hardship</i> <u>Paragraphs 5.1 to 5.7</u> The cross reference to other paragraphs of the revised Code referred to in the margin of paragraphs 5.4.1 to 5.4.3	

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024523 - 025217	Chairman Chairman of EOC Hon Emily LAU	<u>Paragraphs 5.8 to 5.14</u> Discussion on the case <i>Cosma v Qantas Airways Ltd [2002]</i> provided under paragraph 5.13 of the revised Code for the purpose of illustrating the inherent requirements of a job	
025218 - 025638	Chairman Hon CHEUNG Kwok-che Chairman of EOC	Concern of Hon CHEUNG Kwok-che that the present drafting of paragraph 5.11 of the revised Code might lead to an unintended result that some employers might terminate the employment of an employee with disabilities on the ground of poor communication even when communication skills should not be a genuine cause for concern EOC agreed to highlight in the paragraph the varying standard for good communication among different positions	EOC
025639 - 025935	Chairman Chairman of EOC ALA6	<u>Paragraphs 5.15 to 5.21</u> The cross reference to section of the Disability Discrimination Ordinance (Cap. 487) referred to in the margin of paragraph 5.15	
025936 - 030411	Chairman Chairman of EOC	<u>Chapter 6: Managing Recruitment</u> <u>Paragraphs 6.1 to 6.14</u> Members raised no questions on paragraphs 6.1 to 6.14	
030300 - 030721	Chairman Chairman of EOC Hon LEUNG Yiu-chung	<u>Paragraphs 6.15 to 6.24</u> View of Hon LEUNG Yiu-chung that applicants should not be required to disclose his/her disability in the application form or before the interview took place, as an applicant with disabilities might be excluded from the shortlisting on account of his/her disability Response of EOC that the provision of information by an applicant with disabilities on his/her special needs that required special arrangements would enable an employer to provide reasonable accommodation in the course of arranging interviews	
030722 - 031013	Chairman Chairman of EOC	Discussion on the second case illustration provided under paragraph 6.24 of the revised Code for the purpose of illustrating under what circumstances the refusal of an employer to provide accommodation would likely amount to disability discrimination	

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031014 - 031338	Chairman Chairman of EOC Hon Emily LAU	<p><u>Paragraphs 6.25 to 6.32</u></p> <p>In response to Hon Emily LAU's enquiry about the case illustration provided under paragraph 6.30 of the revised Code, advice of EOC that an employer had to make sure that candidates with disabilities were considered fairly in the selection process and that the decision of not to employ these candidates was not based on their disabilities per se</p>	
031339 - 032647	Chairman Chairman of EOC Hon Emily LAU	<p><u>Paragraphs 6.33 to 6.39</u></p> <p>Hon Emily LAU's enquiry about whether applicant with mental illness had the right to choose not to disclose his/her disability</p> <p>Advice of EOC that medical information should only be obtained if it was necessary to ascertain that the person was able to carry out the inherent requirements of the job or would require accommodation to do such</p> <p>The Chairman's suggestion that EOC should amend paragraph 6.20 of the revised Code to highlight the point that irrespective of whether a question asking applicants whether they require any special provision or facility at the interview was to be included in an application form, it remained an applicant's right to choose not to disclose his/her disability. However, in the absence of such information, the employer could not be expected to provide reasonable accommodation even when there was such a need for the interview. EOC agreed to amend the paragraph accordingly</p>	EOC
032648 - 033105	Chairman Chairman of EOC Ms LI Fung-ying	<p><i>Chapter 7: Managing Disability Related Work Absence</i></p> <p><u>Paragraphs 7.1 to 7.6</u></p> <p>EOC agreed with the view of Ms LI Fung-ying that the reference to "premature termination" in paragraph 7.6 of the revised Code should be deleted, as the term might be open to misinterpretation</p>	EOC
033106 - 033126	Chairman ALA6 Chairman of EOC	<p>The Chinese title of the Employment Ordinance (Cap. 57) referred to in the margin of paragraph 7.3 of the Chinese text of the revised Code should be "僱傭條例" instead of "勞工法例"</p>	
033127 - 033912	Chairman Chairman of EOC	<p><u>Paragraphs 7.7 to 7.31</u></p> <p>Members raised no questions on paragraphs 7.7 to 7.31</p>	

Time marker	Speaker(s)	Subject(s)	Action Required
033913 - 034049	Chairman Chairman of EOC	<u>Paragraphs 7.32 to 7.34</u> The Chairman's enquiry and EOC's explanation as to whether requiring an employee contracted infectious disease to take leave would constitute unlawful act	
034050 - 034106	Chairman ALA6 Chairman of EOC	The cross reference to other paragraphs of the revised Code referred to in the margin of paragraph 7.32	
034107 - 034428	Chairman Hon Emily LAU Chairman of EOC	<u>Paragraphs 7.35 to 7.44</u> Members raised no questions on paragraphs 7.35 to 7.44	
034429 - 034547	Chairman Chairman of EOC	<i>Chapter 8: Managing Promotion, Transfer and Dismissal</i> <u>Paragraphs 8.1 to 8.8</u> Members noted that EOC would take on board suggestions made earlier by members to amend paragraph 8.5 of the revised Code	
034548 - 034933	Chairman Hon LI Fung-ying Hon Emily LAU	Date of next meeting	
034934 - 035116	Chairman Chairman of EOC	The Chairman's concern over the availability of group insurance plans in the market to cover, among others, employees living with HIV Response of EOC that it had already made it clear to the insurance trade that it was unlawful for an insurer to discriminate against persons living with HIV on the ground of their disability	
035117 - 035135	Chairman ALA6	The cross reference to other paragraphs of the revised Code referred to in the margin of paragraph 8.4 of the Chinese version of the revised Code	
035136 - 035211	Chairman Hon Emily LAU Chairman of EOC	In response to Hon Emily LAU, EOC's affirmation that paragraph 8.8 of the revised Code covered also persons living with HIV	
035212 - 035411	Chairman Chairman of EOC	<u>Paragraphs 8.9 to 8.21</u> Members raised no questions on paragraphs 8.9 to 8.21	
035412 - 035739	Chairman Chairman of EOC	<i>Chapter 9: Disability Harassment and Vilification</i> <u>Paragraphs 9.1 to 9.13</u> Members raised no questions on paragraphs 9.1 to 9.13	

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035740 - 035837	Chairman ALA6	<u>Paragraphs 9.14 to 9.18</u> The typographical error in the cross reference to other paragraphs of the revised Code referred to in the margin of paragraph 9.15 of the Chinese version of the revised Code	
035838 - 040135	Chairman Chairman of EOC ALA6	<i>Chapter 10: Liabilities under the DDO & "Reasonably Practicable Steps"</i> <u>Paragraphs 10.1 to 10.12</u> The cross references to other paragraphs of the revised code referred to in the margin of paragraph 10.1 The cross references to other paragraph of the revised Code referred to in the margin of paragraph 10.7 of the Chinese version of the revised Code	
040136 - 040211	Chairman Chairman of EOC	<u>Paragraphs 10.13 to 10.16</u> Members raised no questions on paragraphs 10.13 to 10.16	
040212 - 040312	Chairman Chairman of EOC	<i>Chapter 11: Being an Equal Opportunities Employer</i> <u>Paragraphs 11.1 to 11.6</u> Members raised no questions on paragraphs 11.1 to 11.6	
040313 - 040454	Chairman ALA6	<u>Paragraphs 11.7 to 11.18</u> The cross references to other paragraphs of the revised Code referred to in the margin of paragraph 11.10	
040455 - 040645	Chairman Chairman of EOC	<u>Paragraphs 11.19 to 11.29</u> Members raised no questions on paragraphs 11.19 to 11.29	
040646 - 040936	Chairman Chairman of EOC Hon Emily LAU	<i>Chapter 12: Equal Opportunities Commission</i> Members noted that EOC would amend paragraph 12.1 of the revised Code along the lines suggested earlier by members	
040937 - 041619	Chairman Hon IP Wai-ming Chairman of EOC	Views of Hon IP Wai-ming that more face-to-face meetings between the two parties should be arranged by EOC in the course of conciliation and the reasons of not granting legal assistance should be set out in detail in the notification letter to the complainants	

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		<p>Response of EOC –</p> <p>(a) it would review the mechanism for handling complaints and conciliation from time to time with a view to streamlining the process. EOC had introduced early conciliation since 2010 to arrange meetings between the two parties to seek their consent to conciliation before any investigation took place; and</p> <p>(b) whether legal assistance would be granted in a case would be determined by its Legal and Complaints Committee. The reasons for not granting assistance would be set out in the letter in reply to the application</p>	
041620 - 041640	Chairman	Extension of meeting time	
041641 - 042238	Chairman Hon Emily LAU Chairman of EOC	<p>EOC was requested to provide information on the number of complaints lodged with EOC against the Government and the actual expenditures on legal assistance in the past three years</p> <p>The Chairman and Hon Emily LAU's concern about whether EOC had adequate funds for the provision of legal assistance to members of the public; whether additional funds could be allocated, when necessary, for the provision of legal assistance; and whether the unused part of the annual provision had to be returned to the Government</p> <p>EOC's advice that the actual expenditures on legal assistance were less than the estimates mainly due to the high rate of out-of-court settlement and the small number of cases brought to court. Additional funds could be allocated, where necessary, through internal redeployment for the provision of legal assistance. EOC could also apply for supplementary financial provision, when necessary, in accordance with the established procedures to meet shortage of funds. Any unused part of the financial provision for legal assistance would be transferred together with any other operating surplus to a reserve fund of EOC, subject to a ceiling</p> <p>EOC's reiteration that the availability of funds was not a consideration in deciding whether to grant legal assistance. The criteria for determining whether to grant legal assistance included whether the case concerned raises a question of principle and whether there was sufficiently strong evidence to support legal proceedings</p>	EOC

Time marker	Speaker(s)	Subject(s)	Action Required
042239 - 042313	Chairman	Cancellation of the meeting originally scheduled for the same day at 5:15 pm Concluding remarks	

Council Business Division 2
Legislative Council Secretariat
30 March 2012