

Chapter 1

Introduction

Incidents Relating to the Equal Opportunities Commission

1.1 Between October 2003 and December 2003, incidents relating to the Equal Opportunities Commission (EOC) received considerable media coverage in numerous headlines, commentaries and reports in newspapers, magazines, radio phone-in programmes and television interviews. These incidents became the focus of attention as evidenced in several Legislative Council (LegCo) questions, one motion debate, five special meetings and three regular meetings of the LegCo Panel on Home Affairs as well as two meetings of the LegCo House Committee.

1.2 At first, the issue centred upon the appointment of Mr Michael WONG as the EOC Chairperson as well as the termination of the appointment of Mr Patrick YU as Director (Operations). As things unfolded, more people and issues were drawn into the incidents, rapidly developing a seemingly straight-forward incident into a whirlwind, hitting not only the EOC but also its former Chairpersons. Some rumours about past events resurfaced and were repackaged as fresh allegations against the EOC, former Chairpersons and Mr Wong. All these culminated in Mr Wong's decision to resign on 6 November 2003. A magazine article on "six allegations" published shortly after his resignation triggered another round of controversies.

Appointment of the Panel

1.3 Following extensive discussions within LegCo on how best to conduct an inquiry, the LegCo House Committee decided at its meeting on 20 February 2004 to support the appointment of an independent panel of inquiry by the Secretary for Home Affairs (SHA).

1.4 On 15 May 2004, SHA appointed the Independent Panel of Inquiry with the following terms of reference, which were agreed by the LegCo House Committee -

- (a) to inquire into the appointment and termination of appointment of Mr Patrick YU as Director (Operations) of the EOC and issues related thereto; and
- (b) to inquire into the incidents which have affected the credibility of the EOC and to make recommendations on measures to restore such credibility.

Scope of the Inquiry

1.5 It became apparent to us from the very beginning that the issues surrounding the incidents relating to the EOC were many and varied. Based on the events and reports about the EOC leading to the setting up of the Panel, we decided to focus on the following areas -

- (a) the appointment and termination of the appointment of Mr Patrick YU as Director (Operations);
- (b) the appointment and resignation of Mr Michael WONG as the EOC Chairperson including, among other things, allegations about Mr Wong and the two private gatherings prior to Mr Wong's resignation on 6 November 2003;
- (c) problems encountered by the EOC as an institution, such as various allegations (including the so-called "six allegations") against the EOC; and
- (d) recommendations on measures to restore the credibility of the EOC.

1.6 Some of the incidents could be traced back to the EOC's inception or Mr Wong's office in the Judiciary. They also touch on institutional issues that have far-reaching ramifications. We anticipate that there may be those who would say that our focus has been too narrow and others who would say that we have cast our net too widely.

Practice and Procedure

1.7 Our inquiry is in the nature of a fact-finding exercise. Our aim has been to provide the fullest possible account of the events surrounding the EOC in late 2003 and to identify lessons learnt. We have sought to be independent, impartial and thorough.

1.8 In pursuing our mandate, we have reviewed all available public documents and media reports on the EOC incidents. We sent 230 invitations to various parties asking for their comments. For parties directly involved in the incidents, we invited them to provide detailed chronologies, information and copies of relevant documents and their recommendations on measures to restore the credibility of the EOC. We also published Chinese and English newspaper advertisements on 26 June 2004, extending an open invitation to all interested parties to send us their views. As part of our fact-finding exercise required our seeking to obtain information from those who were involved, we achieved this by a combination of written inquiries and interviews. We received written contributions from 9 organizations and 49 individuals. We also interviewed 20 individuals and eight representatives from two organizations.

1.9 We would like to express our sincere gratitude to those who have given us their support. (Please see **Annex 1**). Some of them have been very generous with their time and have provided us a lot of information and insight. They are committed to rebuilding the EOC as a sound, credible institution dedicated to the promotion of equal opportunities in Hong Kong. Thanks to their cooperation, the work of the Panel has been relatively smooth in most instances.

1.10 Our special thanks go to the Members and staff of the EOC, in particular, the immediate past EOC Chairperson, Mrs Patricia CHU, whose appointment ceased on 15 December 2004. With the express support of the Commission, the EOC Office has provided us with voluminous documentation including the tape recording of an EOC meeting, internal papers, minutes of meetings, correspondences with relevant individuals and detailed statistics. We also have the privilege of having sight of the reports of two major reviews conducted by the EOC on its overall organization and human resource management. Both reports were accepted by the EOC in December 2004 for further consideration and implementation.

1.11 All the submissions were carefully reviewed and, in many instances, additional information and clarification were requested from respondents. The written submissions, interviews and the wide array of documentation and literature formed the basis of our consideration of the issues involved. During the inquiry, we focused on the facts. All our conclusions and recommendations were based on the facts obtained during the inquiry.

1.12 We are determined to ensure that the inquiry is truly independent and impartial. We have appointed an independent law firm to advise us on matters relating to this inquiry. In accordance with the well-established principles of fairness, parties concerned were given a reasonable opportunity to address and comment on the matters affecting them. We also assured respondents that their submissions would be used only for the purpose of the inquiry.

Constraints

1.13 We have been very conscious of our limitations due to the non-statutory nature of the Panel. Notwithstanding the express support given by LegCo House Committee for SHA to appoint the Independent Panel of Inquiry with the agreed terms of reference, there have been on-going concerns and criticisms about the Panel. Nevertheless, we pressed ahead with our work according to our terms of reference and timetable. We are determined to give our very best within these parameters.

1.14 We are dependent upon the goodwill of all parties concerned. Whilst we cannot compel them to respond to our inquiries or attend interviews, we have tried to encourage them to voluntarily assist us in our tasks. Nevertheless, there have been instances where the parties have proven less co-operative.

1.15 Mr Patrick YU informed us that he felt unable to assist in our inquiry despite his joint statement with the EOC on 27 May 2004 in connection with their settlement that he was fully prepared to co-operate with the Independent Panel of Inquiry on its terms of reference. However, he did provide detailed comments on the extract of the draft report circulated to him for comment during the drafting stage, which we have taken into account in finalizing this report.

1.16 Similarly, former EOC Chairperson Ms Anna WU also informed us that she encountered certain constraints in responding to our inquiry, including -

- (a) She was not supplied by the EOC or given access to material documents that pertained to her;
- (b) She was not given consent by the EOC to use or disclose EOC information that she acquired as Chair of the EOC; and

- (c) She was prohibited by law to disclose details regarding the personal data of individuals.

1.17 She did provide detailed comments on the extract of the draft report circulated to her for comment during the drafting stage, which we have taken into account in finalizing this report.

1.18 This report has been prepared in the full knowledge of the legal implications and requirements under the Personal Data (Privacy) Ordinance.

Lessons Learnt

1.19 At the outset of our work, we were clear that we were looking backward in order to look forward. We hope that the incidents chronicled in this report can create something positive – an EOC that is more credible.

1.20 We approach the task of making recommendations with humility. We have benefited from the collective wisdom delivered to us through written submissions and interviews. We have also reviewed relevant literature locally and overseas. We have made an extensive list of recommendations. We recognize the formidable challenges that lie ahead of the EOC. We hope that our report will encourage the EOC, the Government and our fellow citizens to reflect on the lessons learnt with a view to restoring the credibility of the EOC for the benefit of Hong Kong.

