

## **Chapter 7**

### **Conclusions and Recommendations**

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#### **Introduction**

7.1 We now draw together the strands from previous chapters. We should emphasize that our conclusions and recommendations are made with the benefit of hindsight. One thing is crystal clear to us: the community has very high expectations of the EOC. For those of us who genuinely care about the EOC, we must allow history to take care of itself and move on. It is time for us to ensure that lessons will be learnt and improvements put in place for the future.

#### **Conclusions**

##### **Conclusion One**

##### **The Appointment of Mr Patrick YU as Director (Operations)**

7.2 The appointment of Mr Patrick YU as Director (Operations) was in line with the prevailing recruitment practices adopted by the EOC at the time. The appointment process featured some good recruitment practices, for instance–

- (a) An executive search firm was engaged to broaden the pool of candidates and add an element of professionalism in the selection process. (*Paragraph 2.37*)
- (b) The attributes and duties of the Director (Operations) were clearly defined and fully incorporated in the assessment process. (*Paragraph 2.34*)
- (c) The recruitment involved a representative Selection Panel comprising experienced EOC Members who performed their function dutifully, independently and professionally. (*Paragraphs 2.56 to 2.57*)

7.3 Whilst it was the EOC's understanding in late 2003 that Mr Patrick YU had been properly appointed according to its normal procedures, as noted by the EOC at its meeting on 18 March 2004, the approval process seemed to have certain technical irregularities as set out below–

- (a) The Selection Panel was technically acting outside its capacity in the appointment of Mr Patrick YU because it did not have such power of appointment. The A&FC could not sub-delegate this power of appointment to the Selection Panel.
- (b) The written delegations from the EOC to the A&FC regarding the authority for senior staff appointment had either been overlooked or had gone missing.

7.4 Further inspection of files by the EOC revealed that a similar incident occurred in respect of a senior appointment in 1998. It was also noted that the Selection Panel was approved by the A&FC Convenor, but was not endorsed by the A&FC as a committee. (*Paragraphs 2.46, 2.48, 2.65 and 2.66*)

7.5 We appreciate that Ms Anna WU wished to announce Mr Yu's appointment as it would raise the profile of the EOC in the emerging area of anti-racial discrimination. There was already a plan to make the public announcement in June before Ms Wu learned about the appointment of Mr Michael WONG as the EOC Chairperson. As Mr Yu's employment would not commence until November 2003, it might be desirable to defer the announcement until the new Chairperson took office. (*Paragraph 2.83*)

## **Conclusion Two**

### **The Termination of the Appointment of Mr Patrick YU**

7.6 The termination of the appointment of Mr Patrick YU was properly authorized by a resolution passed by the EOC at its meeting on 18 September 2003—

- (a) The resolution was passed unanimously without any objection from any members present at the time of voting, and was therefore properly constituted.
- (b) The resolution was passed after a 45-minute discussion on the legality, rationality and reasonableness of the termination of Mr Yu's contract. The focus of the discussion was on how best to handle the termination of Mr Patrick YU's contract.
- (c) The resolution authorized "the EOC Chairperson to handle the contract with Mr Yu". It is evident from the tape recording of the Council meeting that the resolution was to authorize the Chairperson to handle the termination of the contract with Mr Yu.

- (d) The resolution was passed without any request for Mr Wong to revert to the EOC before the actual act of termination.

*(Paragraphs 3.46 to 3.55)*

7.7 Mr Michael WONG and the EOC Office should have informed EOC Members at the meeting on 18 September 2003 regarding prior discussions with Mr Yu about the termination of his contract and a letter from Mr Yu's lawyers indicating that he might take legal action against the EOC for breach of contract. Whilst such information might not have affected the EOC's decision to pass a resolution to authorize Mr Wong to handle the contract, it would have facilitated Members' discussions at the EOC meeting. Similarly, the EOC Office should have kept Members informed of subsequent developments. *(Paragraphs 3.50, 3.57 and 3.62)*

7.8 The fact that the dispute between the EOC and Mr Yu was satisfactorily resolved demonstrated that the issue was, in the main, an employment matter that could be amicably settled through the legal channel between the parties concerned if they so wished. *(Paragraph 3.69)*

### **Conclusion Three**

#### **The Appointment of Mr WONG as the EOC Chairperson and Approval for Him to Continue to Receive Pension**

7.9 Mr Wong had exercised due diligence in seeking the necessary approval for the continuation of his pension payments, first from the Chief Justice and later from the Chief Executive through the Secretary for Home Affairs. The Chief Executive had acted within his authority in approving Mr Wong's case. *(Paragraphs 4.20 and 4.21)*

7.10 The allegations about Mr Wong's acceptance of gifts referred to incidents that allegedly took place when Mr Wong was in the Judiciary. There are well-established rules governing the acceptance of advantages by judges and judicial officers. *(Paragraph 4.29)*

### **Conclusion Four**

#### **Handover Arrangements between Chairpersons**

7.11 It is desirable to have a smooth handover between the EOC Chairpersons because they are the policy and executive head of the EOC under the present system. The handover should and could have been done in a more formal and professional manner. It is regrettable that such arrangements between Ms Wu and Mr Wong did not take place. *(Paragraph 4.42 )*

## **Conclusion Five**

### **Gatherings on 4 November 2003 and 5 November 2003**

7.12 The gatherings on 4 and 5 November 2003 were arranged to seek a better understanding of Mr Wong's inclinations and provide moral support to Mr Wong at a time of distress and intense pressure. The whole setting was an informal one without any meeting agenda, notes taken or papers drafted.

7.13 The resignation statement delivered by Mr Wong on 6 November 2003 was written by Mr Wong himself without assistance from those present. It made no reference to allegations against the EOC. *(Paragraphs 4.51 to 4.53)*

## **Conclusion Six**

### **The So-called "Six Allegations"**

7.14 As detailed in Chapter 5 of this report, the so-called six allegations as published in the EastWeek on 12 November 2003 were either unsubstantiated or exaggerated.

7.15 These "six allegations" were not independent of previous allegations, mostly anonymous ones, against the EOC over the years. Most of them already appeared in previous media reports, magazine articles and anonymous letters. The EOC tried but failed to identify the source of these allegations. They were repackaged and reproduced in the article with an added connection to Mr Wong's resignation. *(Paragraphs 5.69 and 5.71)*

7.16 According to information available to us, none of the five individuals who attended the gatherings on 4 and 5 November 2003 had seen or read any document containing the “six allegations” before the publication of the article. (*Paragraph 4.50*)

### **Conclusion Seven**

#### **The Role of the Government**

7.17 The community expects the Government to take the lead in upholding the credibility of the EOC. As a matter of policy, the Government should keep the EOC at an arm’s length to safeguard its independence. The Government should be more sensitive and prudent in handling matters relating to the EOC, particularly in making appointments. (*Paragraph 6.27*)

### **Conclusion Eight**

#### **Turning a New Page**

7.18 In the spirit of continuous improvement, the EOC has recently completed an overall review of its role and organizational structure as well as a review on its human resources management system. These reviews have provided an excellent framework for the EOC to address some of the issues it faces and to enhance its effectiveness as an institution. (*Paragraphs 6.9 to 6.13*)

### **Recommendations**

7.19 Concerted efforts are required to restore the credibility of the EOC. With the benefit of the collective wisdom from various sources, we propose the following 70 recommendations.

### **Strengthening the Institutional Framework of the EOC**

#### ***Guiding Principles***

**Recommendation 1** We **recommend** the following core values, as embodied in the Paris Principles and good organizational practices, should form the basis for the interface between the Government and the EOC, as well as the operation of the EOC -

- (a) Independence;
- (b) Pluralism;
- (c) Good corporate governance ;
- (d) Openness, transparency and communication;
- (e) Efficient and effective performance; and
- (f) Accountability.

*(Paragraph 6.15(b))*

*Recommendation 2* We **recommend** that the Government should consider making reference to the Paris Principles, copy at **Annex 6**, in the appointment to, and the governance of, the EOC. *(Paragraphs 6.15(a) and 6.17)*

*Recommendation 3* We **recommend** that the EOC should be guided by the Paris Principles in performing its functions to the fullest extent permitted by its enabling legislation. *(Paragraph 6.18)*

### ***Independence***

*Recommendation 4* We **recommend** that the Government should continue to adhere to the non-interventionist policy and distance itself from the day-to-day operation of the EOC. *(Paragraph 6.27)*

*Recommendation 5* We **recommend** that the Government should give favourable consideration to, and provide assistance in relation to, the EOC's request to join international organizations that are concerned with the elimination of discrimination. *(Paragraph 6.28)*

*Recommendation 6* To maintain the impartiality of the EOC, we **recommend** that the EOC should be a non-partisan body. It is desirable to maintain a balance between different interests and prevent predominance by any single interest group. *(Paragraph 6.29)*

*Recommendation 7* We further **recommend** that all EOC Members, including those nominated by community groups, should be required to uphold the EOC's overall interest. (*Paragraph 6.29*)

### ***Pluralism***

*Recommendation 8* Having regard to the Paris Principles and the local conditions, we **recommend** that EOC membership should cover a broad spectrum of people, including -

- (a) members representing the communities protected by the anti-discrimination ordinances administered by the EOC;
- (b) members from the academia, religious field as well as legal, medical, accounting, media or other professions;
- (c) members with knowledge of, or experience in, non-governmental organizations involved in the development of equal opportunities and efforts to combat discrimination;
- (d) members with knowledge of, or experience in, trade unions or employees' associations;
- (e) members representing the employers in the private and public sectors; and
- (f) a Legislative Councillor.

(*Paragraph 6.30*)

*Recommendation 9* We **recommend** that the Commission, as the EOC's governing board, should have Members with financial and legal expertise to enable it to control and account for the use of public resources. (*Paragraph 6.31*)

*Recommendation 10* We **recommend** that Members should continue to be appointed in their personal capacity. (*Paragraph 6.31*)

*Recommendation 11* We **recommend** that, in making appointments to the EOC, the Government may consider inviting the EOC to nominate candidates representing relevant community groups. In doing so, the EOC may invite nominations from various organizations representing community groups for its consideration via a nomination committee before submitting its list of recommendations to the Government for appointment to the EOC. (*Paragraph 6.32*)

*Recommendation 12* We **recommend** that the EOC should broaden its network and enhance its diverse composition by -

- (a) increasing the number of co-opted members in sub-committees and inviting reputable persons in relevant fields to participate in committee work; and
- (b) considering the possibility of establishing and expanding the network of stakeholder groups to discuss topical issues of interest.

(*Paragraph 6.33*)

## **Corporate Governance**

### ***Corporate Governance for Public Bodies***

*Recommendation 13* We **recommend** that the EOC should examine and, where appropriate, implement the guidelines stipulated in “Corporate Governance for Public Bodies – A Basic Framework” published by the Hong Kong Institute of Certified Public Accountants (HKICPA). (*Paragraph 6.35*)

### ***The EOC Chairperson***

*Recommendation 14* We **recommend** that the EOC should implement the proposal in its recent “Organizational Review” to establish a corporate image rather than focusing on the Chairperson. (*Paragraph 6.36*)

*Recommendation 15* We **recommend** that the posts of EOC Chairperson and the Chief Executive Officer (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. (*Paragraphs 6.37 to 6.40*)

*Recommendation 16* To allow more flexibility in selecting the most suitable Chairperson for appointment, we **recommend** that consideration may be given to amending the relevant legislation to remove the requirement for the EOC Chairperson to be appointed on a full-time basis. (*Paragraph 6.40*)

*Recommendation 17* We **recommend** that the responsibilities of the Chairperson should be formally defined in writing and such responsibilities should be distinct from those of the CEO. (*Paragraph 6.41*)

*Recommendation 18* We **recommend** that the CEO should be an ex-officio executive member of the Commission. The CEO, if reinstated, should have line responsibility for all aspects of executive management. He or she should report to the Chairperson and be accountable to the Commission for the performance of the organization and the implementation of the Commission's strategy and policies. (*Paragraph 6.42*)

*Recommendation 19* Pending the consideration of the structural changes recommended above, we **recommend** that the powers and responsibilities of the EOC Chairperson vis-à-vis the Commission should be clearly defined. Specifically, the governing board should reserve strategic and other key matters, such as major decisions in relation to resources and senior appointments, for collective decision-making. (*Paragraph 6.43*)

*Recommendation 20* In making appointment and re-appointment of the EOC Chairperson, we **recommend** that the Government should note the views as presented in paragraph 6.44 about the ideal attributes of the EOC Chairperson. (*Paragraph 6.44*)

*Recommendation 21* We **recommend** that the Government should continue to adopt the "merit principle" to appoint the most suitable

candidate as the EOC Chairperson having regard to candidates' expertise, experience and integrity as well as the functions of the EOC. The appointment should be free from political considerations. (*Paragraph 6.45*)

*Recommendation 22* We **recommend** that the Government should review the remuneration package of the EOC Chairperson in the context of the overall review of the advisory and statutory boards and committees. The EOC should similarly review the remuneration package of the CEO, if reinstated with an expanded function. (*Paragraph 6.46*)

*Recommendation 23* We **recommend** that, in the context of the overall review of advisory and statutory bodies in Hong Kong, the Government should consider the following two suggestions -

- (a) consider the desirability and feasibility of establishing a nominating committee, comprising Government officials and representatives of key stakeholders, to assist in the appointments to the EOC and other major boards and committees. Under this proposal, vacancies are advertised and nominations invited. The candidate will then be submitted to the Chief Executive for consideration and endorsement.
- (b) The Government should consider following some overseas models whereby the Government will, after each key appointment, issue a press release attaching the appointee's detailed curriculum-vitae to demonstrate that his/her qualifications and experiences are impeccably linked to the work of the EOC and hence eminently qualified for the position.

(*Paragraph 6.48*)

*Recommendation 24* Whilst recognizing the need to enhance transparency and accountability in the system for the appointment to the EOC, we **recommend** that the Government should be mindful not to introduce processes that will dampen the wish of capable candidates to contribute to public service and consequently deprive the EOC and Hong Kong of valuable talents. (*Paragraph 6.49*)

Recommendation 25 To ensure stability and facilitate longer-term planning, we **recommend** that the EOC Chairperson should normally be appointed for a three-year term, renewable once for another term of not exceeding three years. (*Paragraph 6.50*)

Recommendation 26 We **recommend** that, unless there are unforeseen circumstances and overriding considerations to the contrary, the Government should make a firm decision and announce the appointment, re-appointment or cessation of the appointment of the EOC Chairperson two months before the commencement of the new term. (*Paragraph 6.53*)

Recommendation 27 We **recommend** that the appointment and re-appointment of EOC Members should, as far as possible, be announced one month before the commencement of the new term. (*Paragraph 6.53*)

### ***Handover Arrangements***

Recommendation 28 Pending further consideration of the proposal to reinstate the position of the CEO, we **recommend** that the EOC should develop and, where appropriate, formalize proper handover arrangements for the Chairpersons. (*Paragraph 6.54*)

Recommendation 29 To preserve the EOC's independence, We **recommend** that, the handover between EOC Chairpersons should, as far as possible, be conducted by the EOC. The Government should keep the EOC at an arm's length except to assist in building rapport and network. It would be inappropriate for the Government to give any directions or signal to the incoming Chairpersons on the day-to-day operation of the EOC. (*Paragraph 6.54*)

## *The Commission*

*Recommendation 30* To enhance collective leadership, we **recommend** that the Government may consider appointing a Deputy Chairperson, who may act as the Chairperson if the Chairperson is absent from Hong Kong or is, for any other reason, unable to act as Chairperson, or if the office is vacant. (*Paragraph 6.55*)

*Recommendation 31* We **recommend** that the EOC may consider designating a spokesperson for specific subjects to enhance public image and achieve unity in diversity. Individual Members should refrain from expressing personal views on EOC matters in public. (*Paragraphs 3.64 and 6.55*)

## *The Role of EOC Members*

*Recommendation 32* We **recommend** that EOC Members should apprise themselves of their basic legal duties and responsibilities and potential liabilities. These duties should include setting directions, overseeing the organization and monitoring the executive management of the EOC. (*Paragraph 6.59(a)*)

*Recommendation 33* We **recommend** that, as recommended in the EOC's Organizational Review, the EOC should conduct orientation, familiarization visits, induction and refresher training as well as brainstorming sessions on a regular basis for EOC Members. (*Paragraph 6.59(b)*)

*Recommendation 34* We **recommend** that, whilst the Commission should not interfere with the day-to-day operation of the EOC, chairpersons of the EOC's functional committees should consider taking a more active role in giving guidance, directions and support to the EOC Office. EOC Members should also give more support by joining at least one functional committee and participating more actively in public education and community relations activities. (*Paragraph 6.59(c)*)

Recommendation 35 We **recommend** that EOC Members should be apprised of the need to take collective responsibility for the Commission. Once a decision has been made in accordance with proper rules and procedures, EOC Members are expected to support it and protect the corporate identity. (*Paragraph 3.65 and 6.59(d)*)

### ***Appointment of EOC Members***

Recommendation 36 We **recommend** that, in appointing EOC Members, the Government should consider those who possess the following attributes -

- (a) supportive of the principles of equal opportunities;
- (b) ready and able to devote time and effort to the work of the EOC; and
- (c) respectable persons who meet a high standard of behaviour (see paragraphs 6.65 to 6.66)

(*Paragraph 6.60*)

Recommendation 37 We **recommend** that the “six-year rule” should be followed in considering the next round of appointments. (*Paragraph 6.63*)

Recommendation 38 To avoid a bunching effect and to enhance the continuity of the Commission, we **recommend** that the term of appointment of EOC Members should be staggered in such a way that the term of no more than one-half of the members will expire in the same year. (*Paragraph 6.64*)

### ***Standards of Behaviour of the Governing Board***

Recommendation 39 To maintain public confidence in the EOC and to preserve its dignity and standing, we **recommend** that the EOC should consider promulgating a code of ethical conduct for its Members and staff to ensure that they will, at all times, observe the highest standards of conduct and integrity. (*Paragraph 6.66*)

Recommendation 40 We **recommend** that, in considering appointments to the EOC, the Government should take into account the abilities of possible candidates in meeting certain ethical standard. (Paragraph 6.66)

## **Openness, Transparency and Communication**

Recommendation 41 We **recommend** that the EOC should make an explicit commitment to openness and transparency in all of its main activities, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so. (Paragraph 6.67(a))

Recommendation 42 We **recommend** that the EOC may consider implementing the recommendation of the Organizational Review report to reinstate the practice of conducting a press conference after each EOC meeting to enhance the communication with the media. (Paragraph 6.67(b))

Recommendation 43 We **recommend** that the EOC may consider implementing the recommendation of the Organizational Review report to release the confirmed minutes of the EOC meetings on the Internet for access by members of the public. (Paragraph 6.67(c))

Recommendation 44 We **recommend** that the EOC should ensure that relevant and sufficient information is provided to EOC Members in a timely manner to facilitate discussion and decision-making. (Paragraph 6.67(d))

Recommendation 45 We **recommend** that, as recommended in the EOC's HRM Review, the EOC management should consider consulting staff members so as to identify the most effective means to improve the communication within the EOC Office and between Members and staff of the EOC. Specifically, consideration should be given to -

- (a) publishing and making available information on significant areas of policy and practice, such as procurement, recruitment, complaints handling and training; and

- (b) putting in place procedures for employees to voice their concerns or complaints about maladministration, breaches of the law or ethical concerns, in a supportive environment where they will be protected from reprisals. These should include clear channels for raising concerns with line management up to the CEO, Chairperson and governing board members.

*(Paragraphs 6.67(e) and 6.68)*

## **Performance**

### ***Performance Management***

*Recommendation 46* We **recommend** that the EOC should implement the following recommendations in the EOC's Organizational Review to further improve the EOC's performance -

- (a) to review the service standards and targets in the current performance pledge to ensure quality service;
- (b) to develop a strategic corporate plan for a three to five year term to provide a framework for respective functional division/unit to develop their annual work plan; and
- (c) to draw up a more structured self-evaluation plan, including conducting a regular and structured survey, say every three years, on the public perception of the EOC's work and customer satisfaction.

*(Paragraphs 6.70 and 6.71)*

*Recommendation 47* We **recommend** that the EOC should follow up on the recommendations of various previous reviews and implement them as appropriate with a view to improving the EOC's performance of its core functions. *(Paragraph 6.72)*

*Recommendation 48* In view of the increasing demand for training and consultancy services, we **recommend** that the EOC should expand such services. *(Paragraph 5.52)*

## ***Human Resources***

**Recommendation 49** We **recommend** that the EOC should implement the recommendations of the HRM Review as soon as possible. (*Paragraph 6.73*)

**Recommendation 50** We **recommend** that the EOC should further improve the human resources policies to give more recognition and provide more support and training to its staff. (*Paragraph 6.74*)

**Recommendation 51** We **recommend** that the EOC management should, with external assistance where appropriate, take active steps to cultivate a forward-looking, positive and harmonious working environment by improving staff morale and staff relations. (*Paragraph 6.75*)

**Recommendation 52** We **recommend** that the EOC should improve its staff performance management system, cultivate a merit-based culture and give sufficient warnings and signals to under-performed staff so that the eventual decision regarding their termination or non-renewal will not be taken by surprise. (*Paragraph 6.76(a)*)

**Recommendation 53** We **recommend** that, as mentioned in the HRM Review, the EOC should reaffirm the importance of the commitment to equal opportunities as a core competency for staff at all levels. It should recruit and retain staff who subscribe to the belief of equal opportunities. It should provide comprehensive induction programme and regular staff training in this respect. (*Paragraph 6.76(b)*)

**Recommendation 54** We **recommend** that the EOC should improve its grievance handling system. (*Paragraph 6.76(c)*)

**Recommendation 55** We **recommend** that the EOC should enhance its skills in managing the exit of staff. For instance, as recommended in the HRM Review, it should provide proper staff training on staff counseling, disciplinary actions and termination of employees. (*Paragraph 6.76(d)*)



Recommendation 56 We encourage the EOC to continue the secondment arrangements with organizations of similar nature. To ensure that future secondments and consultancies achieve their intended purposes, we **recommend** that -

- (a) The EOC should formulate clear guidelines on the engagement of consultants and secondees. The guidelines should cover the objectives, operation and the interface with the EOC staff.
- (b) The EOC Office should submit regular reports to the A&FC on the engagement of consultants and secondees so that the A&FC can have a full picture of the staffing support of the EOC.
- (c) The EOC should ensure that the persons recruited have the expertise that it requires and that they work to a programme for the transfer of skills and their phased replacement with local staff.

*(Paragraph 5.23)*

Recommendation 57 We **recommend** that the EOC should encourage the staff to strengthen their social ties by forming staff associations and arranging informal gatherings. *(Paragraph 6.76(f))*

### **Accountability**

Recommendation 58 To reaffirm its commitment to be accountable to the community, we **recommend** that the EOC should continue to demonstrate its accountability by -

- (a) furnishing an annual report, a statement of accounts and the auditor's report on the statement to the Chief Secretary for Administration who shall cause the same to be tabled in LegCo;
- (b) subjecting itself to the scrutiny of the Director of Audit as to whether it has complied with the principle of economy, efficiency and effectiveness in the use of its resources; and
- (c) complying with the subvention guidelines and submitting regular reports.

*(Paragraph 6.77)*

## **Equal Opportunities Tribunal**

Recommendation 59 We **recommend** that the relevant authorities should continue to explore the proposal of establishing an Equal Opportunities Tribunal.

*(Paragraph 6.78)*

## **Clear Positioning and Public Perception**

### *Scope of the EOC's Work*

Recommendation 60 We **recommend** that the EOC should publicize its vision, mission, core values and the scope of its responsibilities with a view to enhancing public understanding of its role and functions.  
*(Paragraph 6.80)*

Recommendation 61 We **recommend** that the EOC should consider adopting a focused approach by consolidating itself and seeking to excel in its current statutory functions in terms of depth and quality of work.  
*(Paragraph 6.81(a))*

Recommendation 62 In anticipation of the possibility of expanding the EOC's portfolio to cover legislation against racial discrimination, we **recommend** that the EOC should work closely with the Government to put in place a sound framework for implementation. *(Paragraph 6.81(b))*

### *Impartiality of the EOC*

Recommendation 63 We **recommend** that the EOC Commission should discuss and clearly define the meaning of its duty of "impartiality", having regard to international practices and local circumstances. We further **recommend** that the EOC may consider preparing an explicit policy statement on its interpretation. *(Paragraph 6.83)*

## ***Conciliation***

**Recommendation 64** In relation to the EOC's complaints handling function, we **recommend** that the EOC should review whether and, if so, what more assistance the EOC Office should and could provide to the complainants to facilitate conciliation and mediation without compromising the EOC's impartial roles. (*Paragraph 6.85*)

**Recommendation 65** We **recommend** that to institutionalize "conciliation" as part of the core function of the EOC, the EOC should consider the possibility of adopting "conciliation rate" as an overall performance indicator for the staff and the EOC as a whole. We further **recommend** that the EOC should step up staff training in conciliation and mediation practices. (*Paragraph 5.42*)

## ***Public Education and Promotion***

**Recommendation 66** We **recommend** that the EOC should reaffirm that its ultimate objective is to promote social harmony through changing the community's attitude towards equal opportunities. To this end, it should intensify its research, publicity, public education and training functions whilst continuing its established policy to initiate litigation where appropriate. (*Paragraph 6.86(a)*)

**Recommendation 67** We **recommend** that the EOC should reaffirm its positioning as a "people-oriented" organization in which people always come first. Anti-discrimination legislation is its servant rather than its master in the pursuit of a pluralistic, tolerant and harmonious society. The EOC should seek to cultivate a society where people embrace equal opportunities not for fear of breaching the law but because of their genuine respect for equal opportunities. Furthermore, the EOC should promote equal opportunities using easily understandable language. (*Paragraph 6.86(b)*)

## ***A Model Institution***

**Recommendation 68** To enable the EOC to develop as a credible public organization with sound principles and processes, we **recommend** that the EOC should, where appropriate and feasible, formalize its rules

and procedures in human resource management in its recruitment, appointment, retirement and termination of staff, paying due regard to best practices in the public and private sectors. Specifically -

- (a) The EOC should stipulate and keep under review guidelines on referrals and declaration of interests in recruitment exercises, the engagement of external consultants and secondees, as well as the engagement of summer students, interns and volunteers.
- (b) The EOC must ensure that its HRM policies and practices are fair and transparent.
- (c) The EOC should promulgate these guidelines and provide training to staff at all levels to ensure compliance.

*(Paragraphs 2.58, 5.23(a), 5.24, 6.76(e) and 6.87(a))*

*Recommendation 69* We **recommend** that the EOC should formulate clearer guidelines and procedures on the conduct of the business of the Commission and its Committees. *(Paragraph 6.87(b))*

*Recommendation 70* For the EOC to maintain its credibility as a complaints handling body, the EOC should handle personal data in a prudent and legal manner. We **recommend** that -

- (a) The EOC should constantly review its policies and practices on data protection and enforce them with rigour.
- (b) The EOC should, as far as practicable, identify the source of previous leakages.
- (c) As a deterrent against possible leakages in the future, the EOC should demonstrate its resolve to crack down on leakages by issuing periodic reminders to EOC Members and staff, strengthening the record management system and imposing hefty penalties on breaches.
- (d) The EOC should formulate and promulgate a media policy to enable it to respond promptly to the media, particularly in face of reports having negative impact on its credibility.
- (e) The EOC should, with the assistance of external agencies such as the Independent Commission Against Corruption (ICAC) and Privacy Commission where appropriate, review and improve the system for the storage and handling of

confidential documents and personal data. In particular, the EOC should consider the possibility and desirability of making it a statutory offence to disclose confidential information and personal data in the custody of the EOC along the lines of similar provisions applicable to other statutory agencies.

*(Paragraphs 5.63 and 5.73)*

