

CHAPTER 2

Constitutional and Mainland Affairs Bureau Equal Opportunities Commission

<h3>Administration of the Equal Opportunities Commission</h3>

**Audit Commission
Hong Kong
31 March 2023**

This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

Report No. 80 of the Director of Audit contains 8 Chapters which are available on our website at <https://www.aud.gov.hk>



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ADMINISTRATION OF THE EQUAL OPPORTUNITIES COMMISSION

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ADMINISTRATION OF THE EQUAL OPPORTUNITIES COMMISSION

Executive Summary

1. The Government is committed to promoting equal opportunities for all and eliminating all forms of discrimination. Four ordinances, namely the Sex Discrimination Ordinance (SDO — Cap. 480), the Disability Discrimination Ordinance (DDO — Cap. 487), the Family Status Discrimination Ordinance (FSDO — Cap. 527) and the Race Discrimination Ordinance (RDO — Cap. 602), have been enacted in order to prohibit the most common discrimination on the grounds of sex, marital status, pregnancy, breastfeeding, disability, family status and race in prescribed areas of activities. The Equal Opportunities Commission (EOC) is an independent statutory body tasked with the implementation and enforcement of the four anti-discrimination ordinances. The Constitutional and Mainland Affairs Bureau (CMAB) is the housekeeping bureau of EOC. In 2022-23, the estimated recurrent expenditure of EOC was \$137.4 million. The Audit Commission (Audit) has recently conducted a review to examine the administration of EOC.

Complaint handling and provision of legal assistance

2. *Room for improvement in investigation and reporting of case progress.* The procedures for handling complaints are set out in the Internal Operating Procedures Manual (IOPM). EOC has set a performance pledge of concluding 75% of complaint cases within six months. From 2018 to 2022, EOC received 5,014 complaint cases and it met the performance pledge with actual achievements ranging from 80% to 86% (paras. 2.3 to 2.5). Audit found that:

- (a) as at 30 September 2022, of the 2,800 complaint cases received since 2018 and concluded between 1 January 2020 and 30 September 2022, there were 128 (5%) cases which took more than 365 days to conclude. The average time required to conclude the 128 cases was 551 days, ranging from 369 to 1,064 days (para. 2.6); and

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- (b) of the 25 complaint cases which took a long time to conclude/investigate examined by Audit, the following irregularities were noted:
- (i) ***Investigation Plan not prepared.*** According to IOPM, when EOC decides to investigate a complaint, the case officer should prepare an Investigation Plan, specifying details of the complaint (including the handling factors requiring priority action and source of further evidence that may be required) for supervisor's endorsement. However, Investigation Plans were only prepared in 4 (16%) of the 25 cases, contrary to the requirement in IOPM; and
 - (ii) ***Reporting to Legal and Complaints Committee (LCC) on progress of complaint handling not always comprehensive.*** The status of all complaints, including the reasons for lengthy process of complaints remaining active after six months and complaints for follow-up actions, would be reported to LCC. Notwithstanding this, in 5 (20%) of the 25 cases, the reporting to LCC on progress of complaint handling was not comprehensive (para. 2.8).
3. ***Need to improve customer satisfaction level.*** EOC has engaged external consultants to conduct customer satisfaction survey to gauge feedback from users on the complaint handling and enquiry services biennially. Audit noted that:
- (a) the overall customer satisfaction level remained stable at 69% in 2017 and 68% in 2019 but dropped to 62% in 2021;
 - (b) the customer satisfaction levels of complainants (ranging from 51% to 57%) were lower than that of respondents (ranging from 79% to 81%) in the three surveys conducted in 2017, 2019 and 2021. However, the customer satisfaction levels were not reported separately for complainants and respondents in CMAB's Controlling Officer's Reports (CORs); and
 - (c) the customer satisfaction levels of enquirers in 2017, 2019 and 2021 were 68%, 68% and 63% respectively, which were also not reported in CMAB's CORs (paras. 2.11 and 2.12).

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4. ***Decrease in number of applications for legal assistance.*** Pursuant to the anti-discrimination ordinances, when a complaint has been lodged but not settled, the complainant may apply to EOC for legal assistance to bring legal proceedings against the respondent. From 2018 to 2022, a total of 127 legal assistance applications were received. Audit's analysis found that the number of applications received decreased from 54 in 2018 to 10 in 2022. Moreover, the number of legal assistance applications as a percentage to the number of complaint cases with unsuccessful conciliation was on a decreasing trend, from 79% in 2018 to 50% in 2022 (paras. 2.19 and 2.20).

Community participation and publicity

5. ***Public awareness of equal opportunities.*** From time to time, EOC commissions consultancy firms to conduct surveys on public perceptions about equal opportunities awareness and EOC's work. The most recent round of survey was conducted in 2021 (para. 3.2). Audit's examination of the report of the survey revealed the following areas for improvement:

- (a) ***Need to enhance public awareness of EOC's educational, promotional and publicity activities.*** The total awareness level of EOC's educational, promotional and publicity activities during the 12 months before enumeration was only 60%, representing a decrease of over 20 percentage points as compared with those of the previous two rounds of surveys conducted in 2012 and 2015 respectively (para. 3.3(a)); and
- (b) ***Need to step up efforts in raising awareness of FSDO.*** Among the four anti-discrimination ordinances in Hong Kong, the awareness of FSDO remained the lowest, ranging from 25.8% in 2021 to 30% in 2012 (para. 3.6).

6. ***Community Participation Funding Programme on Equal Opportunities.*** According to EOC, through the Community Participation Funding Programme on Equal Opportunities launched in September 1996, EOC has supported different projects carried out by non-governmental organisations, community groups and schools to promote public understanding of equal opportunities, and the principles and applications of SDO, DDO, FSDO and RDO (para. 3.11). Audit's examination revealed the following areas for improvement:

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- (a) ***Need to consider developing marking scheme.*** Audit reviewed the assessment of 37 applications by the Community Participation and Publicity Committee at its meeting held in April 2022 and noted that there was no documentary evidence showing that all the criteria for funding (e.g. the expenditure and cost-effectiveness of the project) had been duly considered, and that no score was assigned to individual projects for determining the funding priority (paras. 3.12 and 3.13); and
- (b) ***Need to improve evaluation of funded organisations' performance.*** Audit's sample check of the application forms and final reports of 10 completed projects approved from 2019-20 to 2021-22 revealed that there was room for improvement in EOC's evaluation of the funded organisations' performance, as follows:
- (i) ***No measurable targets set.*** In the application form of the Funding Programme, an applicant is required to specify the expected results and effects of the proposed project, and explain the evaluation methods to be adopted. Audit noted that in 2 (20%) projects, the funded organisations only specified the evaluation methods without proposing any measurable targets; and
- (ii) ***No evaluation of effectiveness against expected results and effects mentioned in application form.*** Audit noted that among the 8 projects with measurable targets set, the funded organisations of 6 (75%) had not included in their final reports the level of achievement of all the expected results and effects mentioned in their application forms. In particular, 3 had not made any report (para. 3.19).
7. ***Need to consider setting requirements on topics of school drama performances.*** According to EOC, from 2017/18 to 2021/22 school years, three local theatrical troupes were engaged to stage plays and puppet shows on equal opportunities and diversity values at schools. According to EOC's letters engaging Troupe C, while Troupe C was required to stage at least 100 Chinese and 50 English performances for schools in each school year, there was no requirement on the topics of performances to be staged. Audit noted that during the above-mentioned period, the topics of 230 (34%) of the 681 Chinese performances and 212 (64%) of the 332 English performances staged by Troupe C were not related to equal opportunities or disability issues (paras. 3.24 and 3.25).

Legal studies and research projects

8. *Legal studies.* In March 2016, EOC made its submissions to the Government on the discrimination law review. The submissions contained some relatively complex and sensitive issues which EOC had suggested further consultation, research and education thereon (para. 4.3), including:

- (a) *Discrimination between Chinese people in Hong Kong.* In June 2020, EOC undertook a legal study to examine the possible legal provisions for tackling discrimination, harassment and vilification between Chinese people in Hong Kong (i.e. between Hong Kong Chinese and Mainland Chinese). In March 2021, EOC submitted the study report to CMAB. As of March 2023, the discussion between EOC and CMAB was on-going (paras. 4.4 to 4.6);
- (b) *Enhancing protection from sexual harassment under SDO.* In November 2020, EOC commenced to conduct a holistic review of the current legal protection against sexual harassment under SDO. In October 2021, EOC submitted the study report to CMAB. In view of the sensitivity and complexity of the issue, CMAB was examining the submission of EOC. EOC needs to keep in view the latest development of sexual harassment while maintaining close dialogue with CMAB on the way forward in enhancing legal protection against sexual harassment (para. 4.8);
- (c) *Discrimination on grounds of sexual orientation, gender identity and intersex status.* In December 2019, EOC embarked on a follow-up study to explore the possible options for providing legal protections from discrimination on the grounds of sexual orientation, gender identity and intersex status based on the existing framework of the anti-discrimination laws, which was expected to be completed by June 2021. In May 2022, the Chairperson, EOC informed the Legislative Council Panel on Constitutional Affairs that given the contentious and controversial nature of the issue, EOC would handle it with care (para. 4.10); and
- (d) *Age discrimination.* In addressing the issue of age discrimination, EOC considered it appropriate to conduct further exploratory legal studies, focusing on the scope of protections against age discrimination in other jurisdictions. Such work was included in EOC's 2020 to 2022 strategic

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plan. Up to March 2023, the preliminary study was in progress (para. 4.11).

9. **Research projects.** Research projects may be conducted by EOC's in-house resource or out-sourced to third parties (referred to by EOC as commissioned research projects) (para. 4.15). Audit found that:

(a) **Room for improvement in conducting in-house research projects.** From 2013 to 2020, 12 in-house research projects were determined. All the 12 research projects only covered the issues relating to SDO but not the other three anti-discrimination ordinances. While 11 projects were completed in about one year, the remaining one took more than two years to complete. There were no documentary records showing the objectives and scopes of the projects as well as the work plan and timeframe for completing in-house research projects (paras. 4.17 and 4.18); and

(b) **Delays in completing commissioned research projects.** From 2016-17 to 2021-22, EOC had commissioned 12 research projects. While 2 projects involving only out-sourcing of data collection were completed by May 2022, there were delays in completing all the remaining 10 projects, with delays (up to 31 December 2022) ranging from 2.4 to 27 months, averaging 10.9 months. For the 3 projects still in progress as of December 2022, only the findings of 1 project were published as of March 2023 (paras. 4.19, 4.20 and 4.22).

10. **Need to maintain a pool of experienced staff engaging in research work.** Among the 5 staff engaged in research related work, the Senior Research Manager (SRM) was the only officer who carried out research work on a full-time basis. Audit noted that EOC placed heavy reliance on SRM in conducting research work and the resignation of SRM in August 2022 had a negative impact on EOC's research work (paras. 4.30 and 4.31).

Other administrative issues

11. **Transaction of Board and Committee meetings.** Audit's examination found that:

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- (a) ***Issue of meeting minutes.*** According to the Notes for Guidance for Members on Procedures for Meetings and Related Matters (NGPM), meeting minutes should be issued as soon as possible after each meeting and one month has been set as a target. From 2018 to 2022, there were cases in which meeting minutes were issued more than 1 month after the meetings. For example, for the meetings of LCC, the average time required to issue all the 20 meeting minutes was 81 days (ranging from 42 to 294 days) (para. 5.7); and

 - (b) ***Declaration of interests.*** As stipulated in NGPM, EOC adopted a “two-tier” reporting system on declaration of interests. From 2018 to 2022, for the 85 occasions in which the Members were required to declare interests, no declaration forms were found in the records in 19 (22%) occasions and there were no signatures on the submitted declaration forms in 2 (2%) occasions. Moreover, the declaration mechanism for the co-opted Members deviated from the requirements of the “two-tier” reporting system (paras. 5.8 and 5.9).
12. ***Procurement of goods and services.*** Audit sample checked 20 procurement of values above \$50,000 from 2018 to 2022 and found room for improvement in 2 cases:
- (a) ***Office renovation.*** Procurement of renovation services amounted to \$180,270 and three subsequent additional renovation works totalling \$88,870 were approved by the Division Head. While the final value amounted to \$267,070 exceeded the purchase authority of the Division Head (up to \$250,000), there were no documentary records showing that the approval from the next higher authority as stipulated in the Procurement of Stores and Services Manual was obtained; and

 - (b) ***Procurement of office furniture.*** For the procurement of meeting tables, while the lowest quotation among the 10 quotations received was \$21,300, the second highest quotation of \$95,504 was recommended and approved due to a safety-lock herein and 8 years’ warranty provided. However, such requirements had not been specified in the purchase requisition (para. 5.20).

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Audit recommendations

13. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Chairperson, EOC should:**

Complaint handling and provision of legal assistance

- (a) **explore measures to reduce the time taken to conclude complaint cases as far as practicable (para. 2.14(a));**
- (b) **remind EOC staff to prepare Investigation Plans for investigation cases in future and improve the reporting to LCC with a view to facilitating LCC's role in monitoring of the progress in handling complaint cases (para. 2.14(b) and (c));**
- (c) **take measures to improve level of customer satisfaction on complaint handling and enquiry services (para. 2.14(e));**
- (d) **continue to monitor the decreasing trend in the number of legal assistance applications and take actions to gainfully deploy the staff engaged in providing legal assistance to other areas of work (e.g. legal studies) if the number of legal assistance applications continues to fall (para. 2.26(a));**

Community participation and publicity

- (e) **take measures to enhance the public awareness of EOC's educational, promotional and publicity activities, and keep in view the awareness of FSDO and if it remains low, step up efforts to address the issue (para. 3.9(a) and (b));**
- (f) **consider developing a marking scheme for the Community Participation Funding Programme on Equal Opportunities and improve the evaluation of the performance of funded organisations of the Programme (para. 3.21(a) and (e));**

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- (g) **consider setting requirements on the minimum number of school drama performances on topics relating to equal opportunities and prevention of discrimination when engaging local theatrical troupes (para. 3.30(b));**

Legal studies and research projects

- (h) **continue to work closely with CMAB in formulating legislative proposals that can effectively tackle discrimination that may be encountered by people from the Mainland (para. 4.12(a));**
- (i) **keep in view the latest development of sexual harassment while maintaining close dialogue with CMAB on the way forward in enhancing legal protection against sexual harassment (para. 4.12(b));**
- (j) **keep in view the latest development of discrimination against sexual minorities (para. 4.12(c));**
- (k) **closely monitor the progress of the legal study and duly consult the stakeholders on the way forward in addressing age discrimination (para. 4.12(d));**
- (l) **keep proper records on the determination of research topics, objectives and scopes as well as the work plan and timeframe for completing in-house research projects (para. 4.32(a));**
- (m) **step up efforts in completing outstanding commissioned research projects and consider imposing penalty clause in service contracts of future research projects for delays in completing research work (para. 4.32(b));**
- (n) **improve oversight on EOC's research work and maintain a pool of staff with relevant experience so that EOC's research work will not be seriously hindered by the departure of a key staff (para. 4.32(e)); and**

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Other administrative issues

- (o) **take measures to:**
 - (i) **ensure that meeting minutes are issued within the time target set in NGPM (para. 5.10(b));**
 - (ii) **enhance the compliance with the “two-tier” reporting system on declaration of interests (para. 5.10(c)); and**
 - (iii) **enhance EOC staff’s compliance with the Procurement of Stores and Services Manual, especially in relation to obtaining approval from appropriate authority and providing complete specifications in purchase requisitions (para. 5.22).**

14. **Audit has also *recommended* that the Secretary for Constitutional and Mainland Affairs should, in consultation with the Chairperson, EOC, consider publishing the customer satisfaction survey results of complainants, respondents and enquirers in CMAB’s CORs with a view to enhancing transparency in EOC’s performance (para. 2.15).**

Response from the Equal Opportunities Commission and the Government

15. **The Chairperson, EOC and the Secretary for Constitutional and Mainland Affairs generally agree with the audit recommendations.**

PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

1.2 The Government is committed to promoting equal opportunities for all and eliminating all forms of discrimination (Note 1). Four ordinances (hereinafter referred to as the anti-discrimination ordinances) have been enacted in order to prohibit discrimination on the grounds of sex, marital status, pregnancy, breastfeeding, disability, family status and race:

- (a) ***Sex Discrimination Ordinance (SDO — Cap. 480)***. It is unlawful under SDO to discriminate against a person on the grounds of sex, marital status, pregnancy or breastfeeding in prescribed areas of activities. In addition to protecting against discrimination, SDO also protects a person from sexual harassment, victimisation and harassment on the grounds of breastfeeding in prescribed areas of activities;

- (b) ***Disability Discrimination Ordinance (DDO — Cap. 487)***. DDO renders unlawful certain acts which discriminate against a person on the grounds of disability when committed in prescribed areas of activities. Protection is also extended in respect of discrimination on the grounds of the disability of an associate (Note 2), or where the discrimination arises because a person is accompanied by an interpreter, a reader, an assistant or a carer, who provides services because of the person's disability. Disability harassment and victimisation are unlawful when committed in prescribed areas of activities. DDO also protects people against vilification on the grounds of disability;

Note 1: *According to the Equal Opportunities Commission, discrimination means giving a person less favourable treatment because of who they are (such as gender or race) or because they possess certain characteristics (such as disability) without justifiable reasons or circumstance.*

Note 2: *An “associate” includes the person’s spouse, relative, carer, a person who is living with the person on a genuine domestic basis, or who is in a business, sporting or recreational relationship with the person.*

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- (c) ***Family Status Discrimination Ordinance (FSDO — Cap. 527)***. It is unlawful under FSDO to discriminate against a person on the grounds of family status in prescribed areas of activities. Family status means the status of having a responsibility for the care of an immediate family member, i.e. a person who is related to someone by blood, marriage, adoption or affinity. Victimisation is also unlawful under FSDO; and

- (d) ***Race Discrimination Ordinance (RDO — Cap. 602)***. RDO protects people against discrimination, harassment, and vilification on the grounds of their race. Victimisation is also unlawful under RDO. Race means the race, colour, descent, national or ethnic origin of a person. Under RDO, it is unlawful to discriminate, harass or vilify a person on the grounds of his/her race in prescribed areas of activities. Protection is extended in respect of discrimination on the grounds of the race of the person's associate.

Table 1 summaries the prescribed areas of activities under different anti-discrimination ordinances. Anyone feels that he/she has been discriminated against may institute civil proceedings in the District Court.

Table 1

Prescribed areas of activities under different anti-discrimination ordinances

Prescribed areas of activities	SDO	DDO	FSDO	RDO
Employment	✓	✓	✓	✓
Education	✓	✓	✓	✓
Provision of goods, services and/or facilities	✓	✓	✓	✓
Access to premises	N/A	✓	N/A	N/A
Disposal and/or management of premises	✓	✓	✓	✓
Eligibility to vote for and to be elected or appointed to advisory bodies	✓	N/A	✓	✓
Participation in clubs	✓	✓	✓	✓
Activities of the Government	✓	✓	✓	N/A

Source: Audit analysis of Equal Opportunities Commission records

1.3 According to the Constitutional and Mainland Affairs Bureau (CMAB):

- (a) through the four anti-discrimination ordinances, people of Hong Kong are protected from the most common discrimination and harassment on the grounds of sex, marital status, pregnancy, breastfeeding, disability, family status and race;
- (b) it regularly reviews existing anti-discrimination ordinances to ensure that they meet changing social needs and will introduce legislative proposals to address social mischiefs as necessary in the light of local circumstances. This is evident in the recent amendments made to the four anti-discrimination ordinances pursuant to the Discrimination Legislation (Miscellaneous Amendments) Ordinance 2020 and the Sex Discrimination (Amendment) Ordinance 2021 to implement various recommendations to enhance protection from discrimination and harassment (see para. 1.12); and

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- (c) it has also adopted various legislative, administrative and/or educational measures to promote equal opportunities for people of different gender, family status, sexual orientation and race.

The Equal Opportunities Commission

1.4 Set up in 1996, the Equal Opportunities Commission (EOC) is an independent statutory body tasked with the implementation and enforcement of the four anti-discrimination ordinances (i.e. SDO, DDO, FSDO and RDO — see para. 1.2). CMAB is the housekeeping bureau of EOC. Although funded mainly by recurrent subventions from the Government, EOC operates independently in carrying out its tasks and duties, and has autonomy over the management and control of its activities and budget. It shall not be regarded as a servant or agent of the Government or as enjoying any status, immunity or privilege of the Government.

1.5 The framework of the working relationship between CMAB and EOC is laid out in the Memorandum of Administrative Arrangements. The provisions of the Memorandum of Administrative Arrangements are based on the principle that EOC should have autonomy and flexibility in how to use its funds. At the same time, EOC has the responsibility to ensure that its operational, administrative, and management systems and practices reflect the most effective and prudent use of the Government's subventions. EOC provides monthly expenditure reports and annual audited accounts, as well as quarterly progress review reports on its financial positions and operational performances to CMAB.

Governance structure of EOC

1.6 Members of EOC comprises a Chairperson and up to 16 Members. They are appointed by the Chief Executive of the Hong Kong Special Administrative Region (Chief Executive) to form a governing body (i.e. EOC Board) with authority to perform the functions and exercise the powers of EOC. The Chairperson is appointed on a full-time basis whereas other Members of EOC may be appointed on a full-time or part-time basis. The remuneration and the terms and conditions of appointment of the Chairperson is determined by the Chief Executive. The Chairperson has the executive responsibility for the overall operation and management of EOC.

1.7 EOC may establish committees as it thinks fit. At present, there are four committees appointed under EOC Board to pursue the goals of EOC, as follows:

- (a) ***Administration and Finance Committee (A&FC)***. A&FC is responsible for:
 - (i) reviewing EOC's budget, accounts, operational performances, and the annual report;
 - (ii) setting up tender boards and approving their recommendations;
 - (iii) deciding on personnel matters related to staff employed on the Directorate pay scale; and
 - (iv) reviewing staffing and administrative policies;
- (b) ***Community Participation and Publicity Committee (CPPC)***. CPPC is responsible for:
 - (i) advising and receiving reports on measures related to strengthening publicity, education, media relations and community participation;
 - (ii) providing advice on measures to connect with organisations, both Government and non-government, as well as concern groups;
 - (iii) considering and approving assistance for educational projects undertaken by other persons; and
 - (iv) monitoring the community's response to the work of EOC;
- (c) ***Legal and Complaints Committee (LCC)***. LCC is responsible for:
 - (i) providing advice on, monitoring and evaluating conciliation, formal investigations, applications for legal assistance, and enforcement notices; and

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- (ii) making recommendations on issues relating to formal investigations and on proposals for amending the four anti-discrimination ordinances; and
- (d) ***Policy, Research and Training Committee (PRTC)***. PRTC is responsible for directing EOC's policy and research efforts, which entails:
 - (i) advising on policy analysis/advocacy;
 - (ii) considering and approving research and training modules; and
 - (iii) evaluating policy and research reports.

Work and organisation of EOC

1.8 EOC is committed to eliminating discrimination on the grounds of sex, marital status, pregnancy, breastfeeding, disability, family status and race, and eliminating sexual harassment, breastfeeding harassment, as well as harassment and vilification on the grounds of disability and race. It implemented a range of initiatives and activities through a three-pronged approach of law enforcement, prevention and education. The work of EOC includes:

- (a) investigating into complaints lodged under the four anti-discrimination ordinances and encouraging settlement by conciliation between parties in dispute;
- (b) providing assistance, including legal assistance, to persons facing discrimination;
- (c) organising public education and publicity programmes to raise awareness and promoting better understanding of equal opportunities concepts;
- (d) commissioning research studies and baseline surveys to examine trends of discrimination, as well as overall attitudes and perceptions of equal opportunities;

- (e) advocating policy change, developing policy frameworks, and tailor-making training programmes for public and private organisations; and
- (f) keeping under review the anti-discrimination ordinances and submitting proposals for amendments to the Government.

1.9 EOC is divided into different divisions and units, namely the Complaint Services Division, the Corporate Communications Division, the Corporate Planning and Services Division, the Legal Service Division (LSD), the Policy, Research and Training Division (PRTD), the Ethnic Minorities Unit and the Anti-Sexual Harassment Unit (ASHU). An extract of the organisation chart of EOC as at 31 December 2022 is shown at Appendix A. The recurrent expenditure and number of staff in EOC from 2017-18 to 2022-23 are shown in Table 2.

Table 2
Recurrent expenditure and number of staff of EOC
(2017-18 to 2022-23)

Year	Recurrent expenditure (\$ million)	Number of staff (as at March 31)
2017-18	118.7	97
2018-19	115.1	96
2019-20	121.5	99
2020-21	125.9	106
2021-22	132.4	106
2022-23	137.4 (Note 1)	104 (Note 2)

Source: EOC records

Note 1: The recurrent expenditure for 2022-23 was an estimate based on the financial position as at 31 December 2022.

Note 2: The number of staff for 2022-23 was the position as at 31 December 2022.

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Performance targets

1.10 EOC has set six performance targets in the Controlling Officer's Report (COR) of CMAB. Table 3 shows the actual achievement of the six performance targets from 2018 to 2022.

Table 3

**Actual achievement of EOC's performance targets
(2018 to 2022)**

Performance target		2018	2019	2020	2021	2022
1. Interviewing a walk-in enquirer within 30 minutes (% of cases)	95	100	100	100	100	100
2. Replying to written enquiries on complex issues within 14 working days (% of cases)	95	100	100	100	100	100
3. Concluding a complaint case within six months (% of cases)	75	81	80	86	85	86
4. Responding to requests for guided group visits within five working days (% of cases)	95	100	100	100	100	100
5. Major promotional events convened (number of events)	60	118	112	116	70 (Note)	61
6. Participants satisfied with the training services provided by EOC (% of participants)	80	99	99	99	99	99

Source: CORs of CMAB

Note: According to EOC, in view of the relatively limited number of listeners for traditional radio programmes, since 2021, it has suspended the weekly radio programmes, which were regarded as major promotional events in the past years.

Recent developments

1.11 ***Discrimination law review (DLR).*** In March 2013, EOC launched a DLR to review comprehensively the four anti-discrimination ordinances. As part of DLR, a public consultation exercise was conducted from July to October 2014. In March 2016, EOC submitted its report to CMAB which contained a total of 73 recommendations, including 27 which were considered by EOC to be of higher priority. According to CMAB:

- (a) it noted that the submissions contained some relatively complex and sensitive issues, on which the public had expressed strong and divergent views;
- (b) it also noted that EOC had suggested further consultation, research and education on some of the issues; and
- (c) among the recommendations that were of higher priority, it intended to focus on those that were relatively less complex or controversial, with a view to taking forward necessary legislative amendments in a step-by-step manner.

1.12 ***Legislative amendments.*** CMAB, in consultation with relevant government bureaux and departments, initiated discussion with the Panel on Constitutional Affairs of the Legislative Council (LegCo), and took forward 8 recommendations which were considered to be capable of driving consensus among stakeholders and the society among the 27 recommendations. The Discrimination Legislation (Miscellaneous Amendments) Ordinance 2020 and the Sex Discrimination (Amendment) Ordinance 2021 were passed by LegCo in June 2020 and March 2021 respectively to enhance protection from discrimination and harassment under the four anti-discrimination ordinances. Amongst others, SDO has been amended to strengthen legal protection for breastfeeding women, whereby discrimination and harassment on the ground of breastfeeding in various prescribed areas are prohibited with effect from 19 June 2021.

1.13 ***The 2019 Process Review.*** In September 2017, EOC commissioned a review exercise of the core functions of EOC, including:

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- (a) a review panel comprising three EOC Members to conduct an internal review. The scope of the review included assessing the effectiveness of the governance of EOC, the senior management structure implemented in 2015 and the complaint handling process of EOC. The panel made 13 views and recommendations; and
- (b) commissioning a former High Court judge to conduct a parallel independent external review of the complaint handling process, who made 25 recommendations.

The report on Process Review was published by EOC in December 2019. Having considered the recommendations of the report, EOC has introduced improvement measures on its complaint handling process and legal assistance service, including the adoption of a victim-centric approach (Note 3) as an integral part of its corporate culture, as well as a reform to its management structure.

1.14 ***Safeguarding national security.*** The Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (National Security Law) was implemented on 30 June 2020 (Note 4). According to EOC, various actions have been/will be taken by EOC to implement the National Security Law, including the following:

Note 3: *In the context of a discrimination case, a victim-centric approach is one which, while focusing on operating within principles of fairness and impartiality to both parties in a complaint activated under the anti-discrimination ordinances, nevertheless recognises and pays special attention to the needs of victims at all stages of the complaint handling process. The victim could be the complainant, the respondent, or some other third parties.*

Note 4: *Article 4 of the National Security Law stipulates that human rights shall be respected and protected in safeguarding national security in the Hong Kong Special Administrative Region. The rights and freedoms, including the freedoms of speech, of the press, of publication, of association, of assembly, of procession and of demonstration, which the residents of the Region enjoy under the Basic Law of the Hong Kong Special Administrative Region and the provisions of the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong, shall be protected in accordance with the law.*

- (a) EOC would upload reference information on the Intranet for staff's reference and self-learning, such as the Promulgation of National Law 2020 and questions and answers on legislation for the Hong Kong Special Administrative Region to safeguard national security;
- (b) EOC would start to explore incorporating a vetting mechanism in its recruitment process, with a view to filling vacant positions in future with candidates who meet the requirements of being a patriot. EOC would draw reference from similar statutory bodies to learn about their vetting criteria as reference;
- (c) EOC would scrutinise service providers or participating organisations applying for and seeking collaborations in self-financed or funded projects (such as survey, research, and Community Participation Funding Programme on Equal Opportunities), with reference to such considerations as their respective background, performance in the industry and the possibility to align with EOC's assertions;
- (d) EOC has revised its Procurement of Stores and Services Manual (PSSM) recently, incorporating a section (like the one set out in the Government's Stores and Procurement Regulations) describing EOC's duty to safeguard national security, including explicit clauses to allow disqualification of tenderers and termination of contracts; and
- (e) EOC's latest guideline regarding funding programmes, which has been uploaded on its website, stipulates that:
 - (i) a funded organisation should ensure that it complies with the applicable laws, rules and regulations of the Hong Kong Special Administrative Region in the conduct of the approved project and when engaging voluntary workers and employing temporary workers and instructors to conduct the approved project; and
 - (ii) EOC reserves the right to rescind the approval if a funded organisation has violated any of the above conditions and demand for a refund of the amount which has been advanced or reimbursed to the organisation for the project in question.

Introduction

Audit review

1.15 In October 2022, the Audit Commission (Audit) commenced a review to examine the administration of EOC. This review focuses on the following areas:

- (a) complaint handling and provision of legal assistance (PART 2);
- (b) community participation and publicity (PART 3);
- (c) legal studies and research projects (PART 4); and
- (d) other administrative issues (PART 5).

Audit has found room for improvement in the above areas and has made a number of recommendations to address the issues.

General response from the Equal Opportunities Commission

1.16 The Chairperson, EOC generally agrees with the audit recommendations. He has said that EOC is committed to ensuring continuous improvements in its operations, and the audit recommendations are useful pointers on areas of refinement.

Acknowledgement

1.17 Audit would like to acknowledge with gratitude the full cooperation of the staff of EOC and CMAB during the course of the audit review.

PART 2: COMPLAINT HANDLING AND PROVISION OF LEGAL ASSISTANCE

2.1 This PART examines EOC's work in handling complaints and provision of legal assistance to complainants, focusing on:

- (a) complaint handling (paras. 2.2 to 2.17); and
- (b) provision of legal assistance (paras. 2.18 to 2.27).

Complaint handling

2.2 Headed by the Director (Complaint Services), the Complaint Services Division is responsible for handling enquiries and complaints, conducting investigation into complaints lodged under the four anti-discrimination ordinances, and encouraging conciliation between the parties in dispute. As at 31 December 2022, it had an establishment of 27 staff.

2.3 ***Complaint handling procedures.*** Anyone who feels that he/she has been subject to discrimination, harassment and vilification as specified in the four anti-discrimination ordinances may lodge a complaint with EOC (Note 5). The procedures for handling complaints are set out in the Internal Operating Procedures Manual (IOPM). Salient points of the complaint handling process are as follows (see Figure 1 for a flowchart of the process):

- (a) ***Assessment.*** All complaints are assessed by a Chief Equal Opportunities Officer (CEO). If it is considered that the complaint falls within the remit of the anti-discrimination ordinances, a case officer will be assigned to

Note 5: *A complaint must be lodged in writing by the aggrieved person or by a representative authorised by that person, and must contain an allegation of unlawful act under the anti-discrimination ordinance(s).*

Complaint handling and provision of legal assistance

handle the case (Note 6). The case officer may write to the complainant seeking further information or clarification of certain points, and may also ask about witnesses or documentary proof that might support the allegation;

- (b) **Early conciliation.** After assessment of the case is completed, the case officer will provide the parties (i.e. the complainant and the respondent) with an option to attempt early conciliation to find ways to resolve the dispute quickly and to negotiate a settlement (Note 7) to the dispute without going through the detailed investigation process. The early conciliation is entirely voluntary;
- (c) **Investigation.** If an early conciliation is not successful, an investigation into the case will be conducted. The case officer should prepare an Investigation Plan together with a draft notification letter to the respondent for CEOO's endorsement. The notification letter will be sent to the respondent requesting for a response. Responses received from the complainant/respondent will be relayed to the counterparty for further responses as soon as possible;
- (d) **Investigation not conducted/discontinued.** The case officer may decide not to conduct, or to discontinue, an investigation into a complaint if:
 - (i) the act complained of is not unlawful by virtue of a provision of the anti-discrimination ordinances;
 - (ii) the aggrieved person does not desire to continue with the investigation;
 - (iii) more than 12 months have passed since the act was done;

Note 6: *Cases are assigned under a roster system. However, allotment can be adjusted in light of operational efficiency, consistency, complexity, sensitivity, urgency, and expediency. More experienced officers are in general assigned with complex cases.*

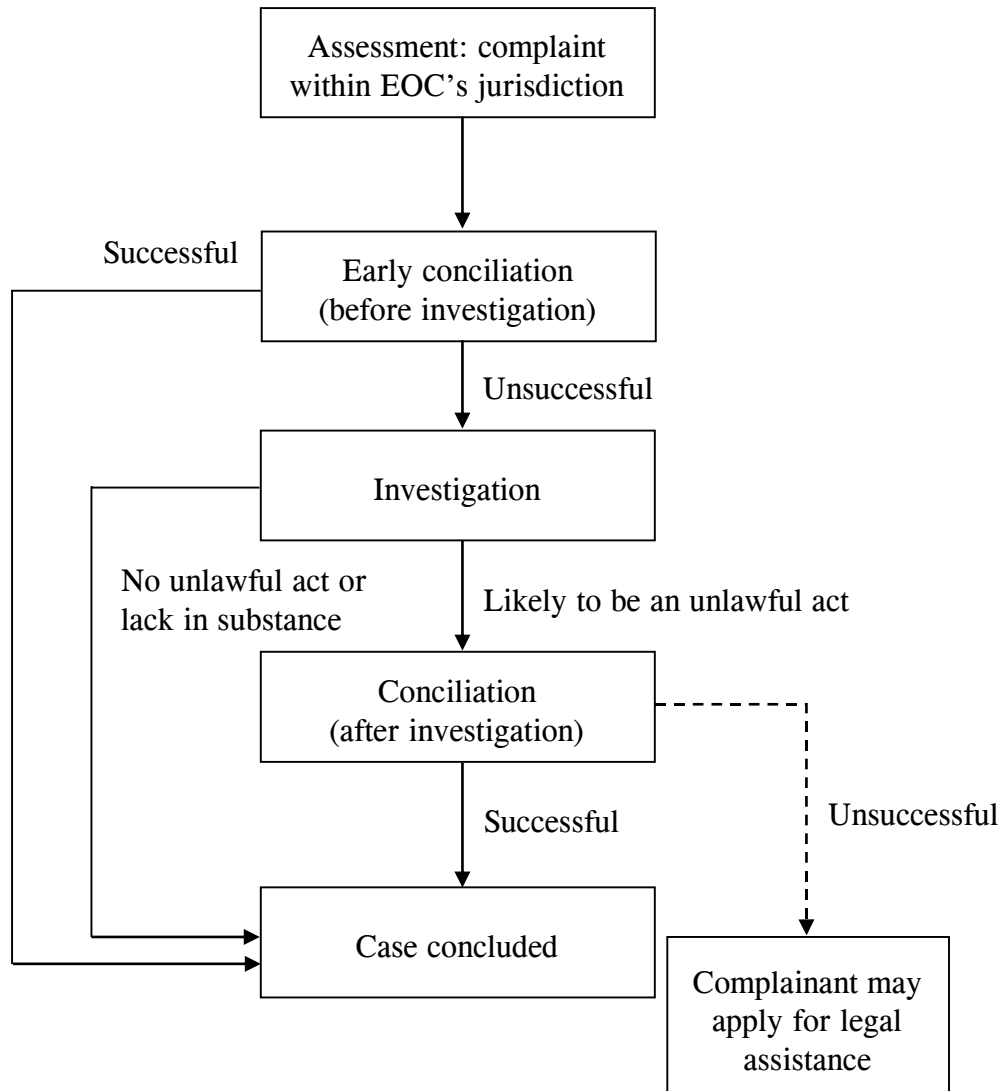
Note 7: *The settlement can be in the form of apology, monetary compensation, change in policy and practice, review of work procedures and other arrangements. Should the parties reach a settlement, the agreement signed by the parties is a contract and is legally binding.*

Complaint handling and provision of legal assistance

- (iv) the complaint cannot be appropriately pursued as a representative complaint; or
 - (v) the complaint is frivolous, vexatious, misconceived or lacking in substance;
- (e) ***Closing an investigation.*** After investigation, an Investigation Report should be prepared once the case officer has decided that the complaint case should proceed to conciliation or to recommend discontinuation of the investigation. Cases recommended for conciliation and discontinuation should obtain an approval on the Investigation Report from CEOO and the Director respectively; and
- (f) ***Conciliation.*** If there is likely to be an unlawful act and approval from CEOO is obtained, the case officer will proceed the case to conciliation. The case officer will assist both parties to examine the issues that led to the complaint, identify points of agreement and negotiate a settlement to the dispute. Conciliation is entirely voluntary. The case officer does not act for either party of the complaint, but will maintain independent and impartial, while adhering to the principle of confidentiality during the conciliation process. The complainant may apply for legal assistance should conciliation be unsuccessful (see para. 2.19).

Figure 1

Flowchart on complaint handling process



Source: *Audit analysis of EOC records*

Complaint handling and provision of legal assistance

2.4 *Statistics.* EOC received 5,014 complaints from 2018 to 2022, of which 4,642 complaints were concluded as at 31 December 2022 (see Table 4):

- (a) early resolution between complainant and respondent (Note 8) was reached in 65 (1%) complaints;
- (b) complaints were successfully conciliated before investigation in 535 (12%) cases;
- (c) it was decided not to conduct investigation or investigation was discontinued in 3,672 (79%) complaints;
- (d) 201 (4%) complaints were proceeded to conciliation after investigation, with 66 complaints successfully conciliated; and
- (e) 169 (4%) complaints were resolved/with no further action after self-initiated investigation (Note 9).

The overall conciliation successful rate (including conciliation before and after investigation) during the period was 82% (Note 10).

Note 8: *If the complaint was resolved after EOC's intervention (e.g. the aggrieved person was no longer aggrieved and did not wish to continue with the complaint or the issue has been resolved by himself/herself), the case should be classified as early resolution.*

Note 9: *EOC can also initiate investigation and/or follow-up actions into incidents or situations involving unlawful acts, and issues that give rise to concerns of discrimination under the law, for example, matters relating to discriminatory advertisements or practices.*

Note 10: *The overall conciliation successful rate*
 $= (\text{successful conciliation before and after investigation}) \div (\text{successful conciliation before and after investigation} + \text{unsuccessful conciliation}) \times 100\%$
 $= (535 + 66) \div (535 + 66 + 135) \times 100\%$
 $= 82\%$

Complaint handling and provision of legal assistance

Table 4

**Progress of complaints received by EOC
(31 December 2022)**

Progress	Year of receipt					
	2018	2019	2020	2021	2022	Total
	(Number of complaint cases)					
(a) Early resolution between complainant and respondent	9	14	10	24	8	65
(b) Successful conciliation on complaints before investigation	122	106	125	134	48	535
(c) Investigation not conducted/ discontinued	761	743	923	758	487	3,672
- <i>Late submission of complaints</i>	18	20	35	31	17	121
- <i>No unlawful act (Note 1)</i>	36	80	256	45	15	432
- <i>Complainants not pursued further</i>	261	233	243	242	181	1,160
- <i>Lacking in substance (Note 2)</i>	446	410	389	440	274	1,959
(d) Investigation completed and proceeded to conciliation	78	46	42	28	7	201
- <i>Successful conciliation</i>	25	15	17	9	0	66
- <i>Unsuccessful conciliation</i>	53	31	25	19	7	135
(e) Self-initiated investigation (resolved/no further action thereafter)	48	44	30	26	21	169
(f) Concluded cases ((a)+(b)+(c)+(d)+(e))	1,018	953	1,130	970	571	4,642
(g) Under investigation	-	-	-	37	335	372
Total (h)=(f)+(g)	1,018	953	1,130	1,007	906	5,014

Source: Audit analysis of EOC records

Note 1: This refers to cases where the alleged acts were considered to be outside the jurisdiction of the four anti-discrimination ordinances.

Note 2: According to EOC, if an aggrieved person is unable to adduce any evidence in support of the allegation, other than mere suspicion, and the facts surrounding the complaint do not support the allegation, the complaint can be declined as lacking in substance.

Complaint handling and provision of legal assistance

2.5 EOC has set a performance pledge of concluding 75% of complaint cases within six months. As reported in CMAB's CORs, EOC met the performance pledge from 2018 to 2022 with actual achievements ranging from 80% to 86% (see Table 3 in para. 1.10).

Room for improvement in investigation and reporting of case progress

2.6 In October 2022, Audit analysed the data extracted from EOC's computer database as at 30 September 2022 and found that:

- (a) of the 2,800 complaint cases received since 2018 and concluded between 1 January 2020 and 30 September 2022, there were 128 (5%) cases which took more than 365 days to conclude (see Table 5). The average time required to conclude the 128 cases was 551 days, ranging from 369 to 1,064 days; and

Table 5

**Time taken to conclude complaint cases
(1 January 2020 to 30 September 2022)**

Time taken (Day)	Number of cases	
1 to 183	2,406	
184 to 365	266	
366 to 730	104	} 128 (5%)
731 to 1,064	24	
Total	2,800	

Source: Audit analysis of EOC records

- (b) there were 283 complaints under investigation, of which 51 (18%) complaints had been under investigation for over six months.

Complaint handling and provision of legal assistance

2.7 As shown in Figure 1 in paragraph 2.3, different processes (early conciliation, investigation and conciliation) might be involved in handling a complaint and the time taken to conclude a case might vary. According to EOC, there were prevailing factors which could hardly be controlled or expedited by EOC, including suspension of cases for parallel ongoing police investigation or civil/criminal proceedings, lengthy process of negotiation between parties during conciliation, and loss of contact of parties, etc. Audit noted that while EOC met the performance pledge of concluding 75% of complaint cases within six months from 2018 to 2022 (see Table 3 in para. 1.10), of the 2,800 concluded complaint cases analysed by Audit, 128 (5%) cases took more than 365 days to conclude (a considerably longer time than the target time of six months). Audit considers that EOC needs to investigate the reasons of the long time taken in completing complaint investigation/conciliation, and explore measures to reduce the time taken to conclude complaint cases as far as practicable.

2.8 Audit selected 25 complaint cases which took a long time to conclude (20 cases)/ investigate (5 cases) for examination. Audit's examination revealed that there was scope for improvement in investigation and reporting progress of complaint cases, as follows:

- (a) ***Investigation Plan not prepared.*** According to IOPM, when EOC decides to investigate a complaint, the case officer should prepare an Investigation Plan for CEOO's endorsement (see para. 2.3(c)). An Investigation Plan should specify details of the complaint, including, among others, handling factors requiring priority action, source of further evidence that may be required and actions in priority with proposed time frames. Audit found that Investigation Plans were only prepared in 4 (16%) of the 25 cases, contrary to the requirement in IOPM. According to EOC, the preparation of an Investigation Plan was stipulated in the prevailing version of IOPM which was last updated in 2013. The current practice, including instant and frequent face-to-face case discussions between case officers and their supervisors (CEOOs), case officers' routine submissions of case files to CEOOs for views/advice/direction, time frame of case handling as well as the drafting of investigation questions in the first letter to the respondents, might well serve as an alternative to an Investigation Plan in the majority of suitable cases. Since the Investigation Plan provides a strategic direction to steer the investigation and sets out the timeframe for actions to be taken, it would be difficult to ascertain whether proper procedures had been duly followed without an Investigation Plan. Audit considers that EOC needs to

Complaint handling and provision of legal assistance

remind its staff to prepare Investigation Plans for investigation cases in future; and

- (b) ***Reporting to LCC on progress of complaint handling not always comprehensive.*** LCC is responsible for monitoring the progress of complaint cases. The status of all complaints, including the reasons for lengthy process of complaints remaining active after six months and complaints for follow-up actions, would be reported to LCC, usually in its meetings held every two months. Of the 25 cases examined, Audit noted that in 5 (20%) cases, the reporting to LCC on progress of complaint handling was not comprehensive. For example, in 1 case, in reporting to LCC in June and October 2022 for the long time taken in handling the complaint, only the time spent (3 months) on early conciliation was mentioned but not the substantial time taken (10 months) to relay the complainant's response to the respondent. Audit considers that EOC needs to improve the reporting to LCC with a view to facilitating LCC's role in monitoring of the progress in handling complaint cases.

Inadequacy in supervisory check and internal audit

2.9 According to IOPM, supervisory checks and random internal audits shall be carried out for the purpose of case management, as follows:

- (a) ***Supervisory checks.*** Progress of complaint cases should be reviewed regularly by supervisors. Supervisors should look into different aspects including the case processing, line of investigation, compliance of procedures, and proper documentation in case files and computer system; and
- (b) ***Internal audits.*** The Director (Operations) should conduct random internal audits regularly.

Audit noted that IOPM did not stipulate who should conduct the supervisory checks nor did it stipulate the frequency and documentation requirements of the supervisory checks and internal audits. Moreover, following the restructuring of EOC's management structure in May 2020 after the 2019 Process Review (see para. 1.13 —

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Note 11), the post of Director (Operations) no longer existed. However, according to the prevailing version of IOPM which was last updated in 2013, the approver or reviewer in a number of key handling processes is still the Director (Operations).

2.10 According to EOC:

- (a) for supervisory checks, regular case review meetings would be conducted by respective CEOs with individual officers once every 3 to 4 weeks. CEOs would jot notes of discussions/observation during the meetings;
- (b) for internal audits, the Director (Complaint Services) would conduct quarterly case review meetings with individual officers. Case files would be randomly selected for discussion. The Director (Complaint Services) would steer the direction of case handling and jot notes of discussions/observation; and
- (c) the prevailing version of IOPM no longer fit in with EOC's current complaint handling practices, in particular when it had been working on streamlining its procedures in recent years. EOC had commenced the drafting of a revised IOPM since late 2020 (i.e. shortly after the conclusion of the 2019 Process Review) and the first draft was ready for management's endorsement in July 2021. However, with the setting up of the enquiry team in the Complaint Services Division, the draft of the revised IOPM had to be further reviewed and amended.

In Audit's view, it is unsatisfactory that the officers are making reference to outdated procedures in discharging their job responsibilities. Audit considers that EOC needs to review and update IOPM to specify the detailed requirements (including frequency and documentation) for conducting supervisory checks and random internal audits, and reflect the latest distribution of job responsibilities for different officers after the restructuring.

Note 11: *After the restructuring, the two enforcement divisions, namely the Complaint Services Division and LSD, have been placed under the overall command of the Executive Director (Enforcement). As for the other administrative and operational divisions/units, i.e. PRTD, the Corporate Planning and Services Division, the Corporate Communications Division, the Ethnic Minorities Unit, as well as ASHU, they have been under the supervision of the Executive Director (Operations).*

Need to improve customer satisfaction level

2.11 As a regular service monitoring exercise, EOC has engaged external consultants to conduct annual customer satisfaction survey since 2009 to gauge feedback from users on the complaint handling and enquiry services. In 2016, EOC decided that the survey would be conducted biennially taking into account the time and resources involved, with the first one conducted in 2017. An overall customer satisfaction level rated by service users involved in the complaints handling services (i.e. the complainants and the respondents) is reported biennially in CMAB's CORs as a performance indicator. Table 6 shows the customer satisfaction levels in 2017, 2019 and 2021 for service users involved in complaints.

Table 6

**Customer satisfaction levels for service users involved in complaints
(2017, 2019 and 2021)**

Customer satisfaction level	2017	2019	2021
(a) Complainants	57%	56%	51%
(b) Respondents	79%	81%	79%
(c) Overall satisfaction level reported in CMAB's CORs	69%	68%	62%

Source: EOC records

2.12 Audit's examination found the following areas for improvement:

- (a) ***Decreasing overall customer satisfaction level.*** The overall customer satisfaction level remained stable at 69% in 2017 and 68% in 2019 but dropped to 62% in 2021. As shown in Table 6 in paragraph 2.11, the decrease in the overall customer satisfaction level was mainly attributable to the decrease in satisfaction level of the complainants. Audit noted that an EOC Board Member had also expressed concern on the overall downward satisfaction levels of the service users;

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- (b) ***Customer satisfaction levels of complainants and respondents not reported separately.*** Although the customer satisfaction survey had been conducted separately for complainants and respondents (with 2 different sets of questionnaire used for complainants and respondents), their satisfaction levels were not reported separately in CMAB's CORs or any publications of EOC; and
- (c) ***Customer satisfaction levels from enquirers not reported.*** Despite that users of the enquiry services (i.e. enquirers) were also invited to participate in the customer satisfaction surveys and the number of enquiries received by EOC was almost 10 times the number of complaints received, the customer satisfaction levels from enquirers were not reported in CMAB's CORs or any publications of EOC. The customer satisfaction levels of the enquirers in 2017, 2019 and 2021 were 68%, 68% and 63% respectively.

2.13 In March 2023, EOC informed Audit that according to the external consultant engaged in the 2021 survey:

- (a) given EOC's role in law enforcement, EOC was in fact one of the very few public bodies which had initiated to adopt such a survey as a regular exercise to enhance and perfect its services provided to the public;
- (b) the 2021 survey findings were prone to be adversely affected by the community sentiments in and post 2019 and the then prevailing coronavirus disease (COVID-19) epidemic situation. The overall customer satisfaction level in statistical terms was basically on par with the results of the previous surveys; and
- (c) the overall mean score rated by the complainants on EOC's services was comparable with that of the previous survey without a notable decline. Considering that complainants and respondents always held opposing stances, it was in general not possible to obtain high scores from both parties at the same time. Compared with similar overseas survey results collated from complainants and respondents with opposing stances, EOC fared better in terms of the overall customer satisfaction level.

Complaint handling and provision of legal assistance

As shown in Table 6 in paragraph 2.11, the customer satisfaction level of complainants was lower than that of respondents in the three surveys conducted in 2017, 2019 and 2021. Audit considers that EOC needs to take measures to improve level of customer satisfaction on complaint handling and enquiry services (for example, through enhancing the quality of communication and empathic skills of EOC officers). With a view to enhancing transparency in EOC's performance, CMAB needs to, in consultation with EOC, consider publishing the customer satisfaction survey results of complainants, respondents and enquirers in CMAB's CORs.

Audit recommendations

- 2.14 **Audit has *recommended* that the Chairperson, EOC should:**
- (a) **investigate the reasons of the long time taken in completing complaint investigation/conciliation, and explore measures to reduce the time taken to conclude complaint cases as far as practicable;**
 - (b) **remind EOC staff to prepare Investigation Plans for investigation cases in future;**
 - (c) **improve the reporting to LCC with a view to facilitating LCC's role in monitoring of the progress in handling complaint cases;**
 - (d) **review and update IOPM to:**
 - (i) **specify the detailed requirements (including frequency and documentation) for conducting supervisory checks and random internal audits; and**
 - (ii) **reflect the latest distribution of job responsibilities for different officers after the restructuring; and**
 - (e) **take measures to improve level of customer satisfaction on complaint handling and enquiry services.**

Complaint handling and provision of legal assistance

2.15 **Audit has also *recommended* that the Secretary for Constitutional and Mainland Affairs should, in consultation with the Chairperson, EOC, consider publishing the customer satisfaction survey results of complainants, respondents and enquirers in CMAB's CORs with a view to enhancing transparency in EOC's performance.**

Response from the Equal Opportunities Commission

2.16 The Chairperson, EOC generally agrees with the audit recommendations. He has said that:

- (a) EOC will, as always, continue to be mindful of paying attention to cases with long time taken in completing complaint investigation/conciliation, and will strive to shorten the handling time as far as practicable. It has all along been EOC's target to speedily handle complaint cases without undue delay. Indeed, even under the unforeseeable challenges during the epidemic in recent years, EOC achieved an above target performance in conclusion of cases from 2020 to 2022;
- (b) EOC will consider the applicability and format of an Investigation Plan in revising IOPM;
- (c) EOC has noted that there were occasional slippages in reporting the most up-to-date progress of complaint cases in LCC papers and will strive to ensure accuracy in reporting the case progress to LCC in the future;
- (d) the revision of IOPM has been initiated prior to the audit review and is approaching the finalised stage. The final revised IOPM would be promulgated as soon as practicable which would include all current operational practices that have already been put in place in the transitional period and the job responsibilities for different officers after the restructuring. Albeit the revision of IOPM has yet to be promulgated, transitional arrangements and refinement of practices in the existing IOPM were timely announced in the monthly Complaint Services Division Meetings of which the items for discussion have been properly documented;

Complaint handling and provision of legal assistance

- (e) EOC will, as a prevailing EOC's notion, endeavor to strive for professional and quality services to its service users which is evident by having regular service monitoring exercises since 2009. EOC is mindful of the need to take care of the service users' sentiments and concerns in the complaint handling process, and therefore has been taking active and continuous measures, such as organising workshops and training, to further enhance the communication and empathic skills of its officers; and
- (f) EOC will endeavor to take measures to improve areas identified in the surveys to the extent practicable. EOC will, in consultation with CMAB, consider how best the respective survey results of complainants, respondents and enquirers would be included in CORs for enhancing transparency in EOC's performance.

Response from the Government

2.17 The Secretary for Constitutional and Mainland Affairs agrees with the audit recommendation. He has said that CMAB will work with EOC to consider how best the customer satisfaction survey results of complainants, respondents and enquirers should be reflected in future CORs for enhancing transparency in EOC's performance.

Provision of legal assistance

2.18 Headed by a Chief Legal Counsel, LSD is responsible for handling applications for legal assistance, and providing internal legal advice and support to EOC (Note 12). As at 31 December 2022, it had an establishment of 8 staff.

Note 12: *In addition to handling legal assistance applications, LSD is responsible for other major legal work, including:*

- (a) reviewing the four anti-discrimination ordinances and making recommendations for amendments; and*
- (b) conducting research on new protected grounds to explore the possibility of expanding the scope of protection of the ordinances and make submissions to the Government.*

Complaint handling and provision of legal assistance

2.19 *Legal assistance to complainants.* Pursuant to the anti-discrimination ordinances, when a complaint has been lodged but not settled, the complainant may apply to EOC for legal assistance to bring legal proceedings against the respondent. EOC is bound by law to consider each legal assistance application, but is not obliged to grant assistance in every case. The procedures for handling legal assistance applications are also set out in IOPM. The key handling procedures are as follows:

- (a) applications for legal assistance should be made in writing. For each application, an EOC lawyer will be assigned to examine all the documents, conduct legal research, and prepare a detailed report to LCC, which has the authority to decide which cases should be granted assistance. The report shall include the case facts, an analysis of the case from the legal point of view and a recommendation of whether legal assistance should be granted;
- (b) upon the receipt of the report, LCC Members would consider a wide range of factors on a case-by-case basis in deciding whether to grant legal assistance and the type of assistance (Note 13) that should be granted. The factors include:
 - (i) whether the case raises a question of principle;
 - (ii) whether the complexity of the case or the parties' relative positions make it too difficult for the applicant to deal with the case unaided;
 - (iii) strength of the evidence and likelihood of success in court;
 - (iv) whether the case can set an important legal precedent;

Note 13: *EOC has a wide discretion regarding the type of legal assistance it may grant in each case, including:*

- (a) arranging for its own lawyers to give legal advice/provide solicitorial representation/appear as advocate in court;*
- (b) arranging for external lawyers to give legal advice;*
- (c) instructing external solicitors or counsels to provide representation; and*
- (d) providing any other form of assistance EOC considers appropriate.*

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- (v) whether litigation can lead to effective remedy for the applicant, and whether the case can be effectively used to enhance public awareness and promote equal opportunities; and
- (vi) the attitude and behavior of the parties; and
- (c) if LCC decides not to grant legal assistance to an applicant, EOC will write to the applicant informing him/her that the application is unsuccessful and the reasons of the decision (Note 14).

Decrease in number of applications for legal assistance

2.20 From 2018 to 2022, a total of 127 legal assistance applications were received. Audit's analysis found that:

- (a) the number of applications received decreased from 54 in 2018 to 10 in 2022. The number of legal assistance applications as a percentage to the number of complaint cases with unsuccessful conciliation was on a decreasing trend, from 79% in 2018 to 50% in 2022; and
- (b) as at 31 December 2022, of the 127 applications, the results of 126 applications were concluded, of which legal assistance was not granted in 48 (38%) applications (see Table 7).

Note 14: *Unsuccessful applicants of legal assistance may institute civil proceedings in the District Court by themselves. The District Court may not consider a claim unless proceedings in respect of the claim are instituted before the end of the period of 24 months beginning when the act complained of was done. In determining the 24-month time limit, the investigation time taken by EOC between the date when the complaint was lodged and the date when the complaint was disposed of should be excluded.*

Complaint handling and provision of legal assistance

Table 7

Legal assistance applications received by EOC (31 December 2022)

	2018	2019	2020	2021	2022	Overall
	(Number)					
Unsuccessful conciliation cases (a)	68	53	24	29	20	194
Legal assistance applications received (b)	54	32	14	17	10	127
- <i>Granted</i>	35	15	10	11	7	78
- <i>Not granted</i>	19	17	4	6	2	48
- <i>Under consideration</i>	0	0	0	0	1	1
Number of legal assistance applications as a percentage to the number of unsuccessful conciliation cases (c) = (b) ÷ (a) × 100%	79%	60%	58%	59%	50%	65%

Source: *Audit analysis of EOC records*

Remarks: *For reporting legal assistance application results, the annual figures of unsuccessful conciliation cases were classified based on the year in which the complaint cases were concluded. For reporting complaint handling results, in contrast, the annual figures of unsuccessful conciliation cases shown in Table 4 in paragraph 2.4 were classified based on the year in which the complaint cases were received.*

2.21 From 2018 to 2022, the percentages of favourable court ruling to complainants/settlements for cases with legal assistance granted ranged from 94% to 100%. Some LegCo members had criticised that legal assistance offered by EOC to members of the public over the years had been on the low side and cases involving court proceedings had been rare. Furthermore, from 2018 to 2022, the number of legal assistance applications decreased from 54 by 44 (81%) to 10. In February 2023, EOC informed Audit that:

- (a) since the majority of the complaints received by EOC were employment-related, EOC believed that the difficult job market caused by the outbreak of COVID-19 epidemic was one of the reasons for the drop in the number of legal assistance applications; and

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- (b) EOC achieved high conciliation successful rates in the past few years. This was another factor contributing to the decrease in the number of legal assistance applications.

Audit considers that EOC needs to continue to monitor the decreasing trend in the number of legal assistance applications and take actions to gainfully deploy the staff engaged in providing legal assistance to other areas of work (e.g. legal studies) if the number of legal assistance applications continues to fall.

Room for improvement in engaging professional services when providing legal assistance

2.22 According EOC, its in-house lawyers will generally undertake the solicitorial, advisory and/or appearance in court work required on behalf of the applicants who are granted legal assistance. There may be circumstances where external solicitors' firms or counsels and/or other professionals (for example advisory services relating to architectural issues) are engaged. From 2018-19 to 2021-22, the total professional services fees of engaging external professional services incurred from providing legal assistance to complainants amounted to around \$1.5 million.

2.23 ***Need to consider enhancing procurement procedures of external solicitors' firms or counsels.*** Audit notes that while EOC has promulgated a PSSM setting out the internal controls and procedures in the procurement of goods and services, PSSM specifically states that they are not applicable to the briefing out of legal work. According to EOC, if there is a need to engage external solicitors' firms or counsels, the proposing officer should submit a selection form to the Chief Legal Counsel stating:

- (a) the reasons for engaging external solicitors' firms or counsels (e.g. heavy workload of EOC's in-house lawyers, specialist expertise required, etc.); and
- (b) the name of the external solicitors' firms or counsels selected and the reasons for the selection.

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The Chief Legal Counsel should review the selection form and submit his recommendation to the Executive Director (Enforcement) and the Executive Director (Operations) for endorsement. The endorsed form will be submitted to the Chairperson of EOC for approval.

2.24 During the period from 2018-19 to 2021-22, there were 5 legal assistance cases which incurred professional services fees of \$100,000 or more in each legal case. Audit examined the 5 cases and noted that while quotations from 2 counsels were obtained by the responsible officer in 1 case (and the counsel with lower quotation and more experience was selected), only a single quotation was obtained in the remaining 4 cases. With a view to safeguarding EOC's interest, Audit considers that EOC needs to consider enhancing the procurement procedures of external solicitors' firms or counsels, such as obtaining multiple quotations in the procurement process.

2.25 *Need to ensure compliance with PSSM.* Of the 5 cases examined by Audit, the professional services fee incurred for 1 case involved payment of a consultancy services fee of about \$330,000 to a consultant, the procurement of which was subject to PSSM. According to PSSM, for procurement of consultancy services from a consultant of value over \$50,000 and up to \$500,000:

- (a) at least three written quotations are required; or
- (b) under special circumstances when it may be necessary to waive the requirement for obtaining the required number of quotations, the reasons for the waiver should be clearly specified on the purchase requisition form.

However, in this case, EOC only obtained a single quotation and no reasons for the waiver were documented on the purchase requisition form. Audit considers that EOC needs to remind its staff to comply with the procurement procedures set out in PSSM.

Audit recommendations

2.26 **Audit has recommended that the Chairperson, EOC should:**

Complaint handling and provision of legal assistance

- (a) **continue to monitor the decreasing trend in the number of legal assistance applications and take actions to gainfully deploy the staff engaged in providing legal assistance to other areas of work (e.g. legal studies) if the number of legal assistance applications continues to fall;**
- (b) **consider enhancing the procurement procedures of external solicitors' firms or counsels, such as obtaining multiple quotations in the procurement process; and**
- (c) **remind EOC staff to comply with the procurement procedures set out in PSSM.**

Response from the Equal Opportunities Commission

2.27 The Chairperson, EOC generally agrees with the audit recommendations. He has said that EOC will:

- (a) continue its usual practice to gainfully deploy staff on different areas of work;
- (b) continue to follow and comply with its specialised procurement procedures of external lawyers and litigation-related matters, and will consider practices like obtaining multiple quotations when circumstances allow and warrant; and
- (c) remind staff members regularly to comply with the procurement procedures.

PART 3: COMMUNITY PARTICIPATION AND PUBLICITY

3.1 This PART examines EOC's work in conducting community participation and publicity initiatives, focusing on:

- (a) public awareness of equal opportunities (paras. 3.2 to 3.10);
- (b) Community Participation Funding Programme on Equal Opportunities (paras. 3.11 to 3.22); and
- (c) school drama performances on equal opportunities (paras. 3.23 to 3.31).

Public awareness of equal opportunities

Need to enhance public awareness of EOC's educational, promotional and publicity activities

3.2 From time to time, EOC commissions consultancy firms to conduct surveys (Note 15) on public perceptions about equal opportunities awareness and EOC's work. The objectives of such surveys include, among others, gauging public perception on the effectiveness of the EOC programmes (e.g. promotion). The most recent round of survey was conducted in the period from February to April 2021 with its report published in November 2021.

3.3 Audit examined the report of the survey conducted in 2021 and noted the following:

- (a) while 97% of the respondents were aware of EOC, the total awareness level (Note 16) of EOC's educational, promotional and publicity activities during the 12 months before enumeration was only 60%, representing a decrease

Note 15: *Hong Kong residents aged 15 or above are the target respondents of such surveys.*

Note 16: *According to EOC, the total awareness level represented the percentage of respondents who were aware of one or more of the educational, promotional and publicity activities (e.g. advertisements on television) covered in the survey.*

of over 20 percentage points as compared with those of the previous two rounds of surveys conducted in 2012 and 2015 respectively (see Table 8). In other words, 40% of the respondents were not aware of any of EOC's educational, promotional and publicity activities; and

Table 8

**Total awareness level of EOC's educational,
promotional and publicity activities
(2012, 2015 and 2021)**

	Total awareness level
2012 Survey	84%
2015 Survey	82%
2021 Survey	60%

Source: EOC records

Remarks: The total awareness level represented the percentage of respondents who were aware of one or more of the educational, promotional and publicity activities covered in the survey.

- (b) of EOC's 8 educational, promotional and publicity activities covered in the survey, the awareness of 7 (88%) was below 20%, ranging from 2.9% to 19.4% (see Table 9).

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Table 9

**Awareness of EOC's educational, promotional and publicity activities
(2021)**

Activity	Awareness
Advertisements on television	47.6%
Advertisements in the Mass Transit Railway	19.4%
Channels on the Internet (Note)	17.1%
Printed/online versions of newspapers/magazines	16.8%
Radio programmes	14.3%
Leaflets and newsletters	8.4%
Mobile phone applications	4.5%
Seminars, talks or exhibitions	2.9%

Source: EOC records

Note: Examples included EOC's website and EOC's accounts on social media platforms.

3.4 In March 2023, EOC informed Audit that:

- (a) the lower public awareness in 2021 was believed to be a result of the COVID-19 epidemic, during which the activities of most businesses and organisations, including those of EOC, were affected. The details were as follows:
 - (i) the field work of the 2021 Survey was conducted between February and April 2021. Respondents were asked if they had seen/heard/encountered the promotional activities of EOC during the past 12 months (i.e. between February/April 2020 and February/April 2021). During such period when Hong Kong underwent the turbulent phase of the epidemic, the focus of different sectors in society, as well as most residents, was the epidemic containment and preventive measures. Owing to the epidemic, EOC did not launch any large-scale publicity campaigns during the period and this inevitably affected the public awareness of EOC; and

- (ii) in contrast, the fieldwork of the 2015 Survey was conducted between September and November 2015, and the respondents were asked if they had seen/heard/encountered the promotional activities of EOC between September/November 2014 and September/November 2015. During that time, EOC conducted a public consultation exercise on DLR, which ran from July to October 2014. A large-scale citywide publicity campaign involving television and radio announcements in the public interest was mounted to promote awareness of the public consultation. This might explain the relatively higher awareness level in 2015; and
- (b) with a view to boosting public awareness about the work of EOC, a series of citywide advertising campaigns were conducted in 2021 and 2022 (e.g. the Equal Opportunity Employer Recognition Scheme, the Equal Opportunity Youth Ambassador Scheme for tertiary students and strengthened social media promotions).

3.5 In Audit's view, EOC needs to ascertain the reasons for the decrease in total awareness level of its educational, promotional and publicity activities, and take measures to enhance their public awareness.

Need to step up efforts in raising awareness of FSDO

3.6 According to the report of the survey conducted in 2021, among the four anti-discrimination ordinances in Hong Kong, the awareness of FSDO (Note 17) remained the lowest, ranging from 25.8% in 2021 to 30% in 2012 (see Table 10).

Note 17: *Direct discrimination may occur when a person who has family status or a particular family status is treated less favourably than a person who does not have family status or the same family status, in the same or not materially different circumstances. Indirect discrimination may occur when a requirement or condition exists, which on the face of it appears neutral, but in fact has an unfair effect on persons with family status or a particular family status.*

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Table 10

**Awareness of anti-discrimination ordinances in Hong Kong
(2012, 2015 and 2021)**

	Awareness			
	DDO	SDO	RDO	FSDO
2012 Survey	70.0%	62.0%	71.0%	30.0%
2015 Survey	68.7%	61.7%	65.3%	27.5%
2021 Survey	68.0%	61.8%	61.8%	25.8%

Source: EOC records

3.7 In March 2023, regarding the awareness of FSDO, EOC informed Audit that it had:

- (a) included “increase public knowledge of family status discrimination” as one of its work priorities; and
- (b) stepped up efforts since 2021-22 to promote the awareness of FSDO and the concept of “carers” through a number of public education initiatives, including the production and broadcast of short videos, issue of press releases and articles, promotions on EOC’s social media platforms, and providing talks and funding for events.

3.8 Audit noted that EOC had made family status one of the four themes under the category of thematic projects of the Community Participation Funding Programme on Equal Opportunities in 2022-23 (see Note 21 to para. 3.12(b)(ii)). Audit considers that EOC needs to keep in view the awareness of FSDO and if it remains low, step up efforts to address the issue.

Audit recommendations

- 3.9 **Audit has recommended that the Chairperson, EOC should:**
- (a) **ascertain the reasons for the decrease in total awareness level of EOC's educational, promotional and publicity activities, and take measures to enhance their public awareness; and**
 - (b) **keep in view the awareness of FSDO and if it remains low, step up efforts to address the issue.**

Response from the Equal Opportunities Commission

3.10 The Chairperson, EOC generally agrees with the audit recommendations. He has said that EOC will continue to:

- (a) closely monitor the public awareness level and take appropriate measures when needed; and
- (b) encourage community groups, non-governmental organisations and schools to organise public education activities themed on the elimination of family status discrimination and promotion of work/family balance by providing funding support under the Community Participation Funding Programme on Equal Opportunities.

Community Participation Funding Programme on Equal Opportunities

3.11 According to EOC, through the Community Participation Funding Programme on Equal Opportunities launched in September 1996, EOC has supported different projects carried out by non-governmental organisations, community groups and schools to promote public understanding of equal opportunities, and the principles and applications of SDO, DDO, FSDO and RDO. It is hoped that the funded projects would foster anti-discriminatory attitudes and encourage members of the public to put aside their prejudices, and support and apply the principles of equal opportunities in

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everyday life. In the period from 2017-18 (Note 18) to 2022-23, 162 projects with funding amounting to about \$6.6 million were approved under the Funding Programme.

3.12 The salient features of the Funding Programme are as follows:

- (a) **Eligibility.** Applicants should be non-profit-making organisations legally registered under the laws of Hong Kong. The following projects will not be funded:
 - (i) projects not carried out in Hong Kong;
 - (ii) projects involving fundraising or profit-making activities;
 - (iii) projects with funding received from other sources; and
 - (iv) research projects;
- (b) **Categories of applications.** There are two categories of applications (Note 19), as follows:
 - (i) **General projects.** This category is for projects themed on equal opportunities with reference to one or more of the priority work areas (e.g. promoting understanding and inclusion of people with disabilities) of EOC's strategic plan. The funding limit for each project is \$50,000 (Note 20); and

Note 18: *A fiscal year of EOC starts in April and ends in March of the following year.*

Note 19: *The two categories of applications with different funding limits were introduced in 2022-23. Prior to that, for projects promoting equal opportunities, and/or fostering anti-discriminatory attitudes and behaviours, a funding limit of \$50,000 for each project had been adopted since 2009-10.*

Note 20: *At its meeting held in October 2022, CPPC (see para. 1.7(b)) decided to increase the funding limit for each project to \$100,000 for the upcoming Funding Programme in 2023-24.*

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- (ii) ***Thematic projects.*** This category is for large-scale projects that focus on any one of the specific themes under the anti-discrimination ordinances set by EOC (Note 21). The funding limit for each project is \$150,000; and

- (c) ***Criteria for funding.*** Approval for an application is based on the following criteria:
 - (i) the application should clearly explain how the planned activities will eliminate discrimination and promote equal opportunities;
 - (ii) the planned activities should meet EOC’s objectives of promoting equal opportunities and address the needs of the society;
 - (iii) the target and number of participants that would be reached;
 - (iv) the expenditure and cost-effectiveness of the project;
 - (v) the effectiveness of the planned activities can be clearly measured;
 - (vi) the impact of the activities and the extent of the general public’s participation in the activities; and
 - (vii) the feasibility of the project.

Taking into account recommendations made by EOC staff after conducting reviews, CPPC is responsible for considering and approving applications under the Funding Programme.

Note 21: *For the Funding Programme in 2022-23, there were four themes under the category of thematic projects, namely universal design, protection from breastfeeding discrimination and harassment, sexual harassment/disability harassment/racial harassment, and family status.*

Need to consider developing marking scheme for CPPC

3.13 Audit reviewed the assessment of 37 applications (23 under the category of general projects and 14 under the category of thematic projects) by CPPC at its meeting held in April 2022 and noted that there was no documentary evidence showing that all the criteria for funding (see para. 3.12(c)) had been duly considered, and that no score was assigned to individual projects for determining the funding priority. As there is an annual budget (Note 22) set for the Funding Programme and thus not all worthy applications can be granted with funding (Note 23), EOC needs to consider developing a marking scheme, taking into account the criteria for funding, to ensure fairness, consistency and objectivity in the assessment of applications received under the Funding Programme.

Need to remind potential applicants that past performance in the conduct of projects funded by Funding Programme will be considered

3.14 Despite the fact that past performance of applicants in the conduct of projects funded by the Funding Programme was not a criterion for funding (see para. 3.12(c)), Audit noted that at the meeting of CPPC held in April 2022, some projects were rejected because of unsatisfactory past performance. Also, at the meeting, a Member of CPPC reminded EOC staff that unsatisfactory past performance of applicants should be put on record for tracing purposes in future assessment of applications.

3.15 According to EOC, for the upcoming Funding Programme in 2023-24, the background of applicants, including their performance under previous rounds of the Funding Programme, will be added as one of the criteria for funding. In view of this new criterion, Audit considers that EOC needs to remind potential applicants that their past performance in the conduct of projects funded by the Funding Programme will be considered in the assessment of their future applications. With a view to facilitating

Note 22: *In 2022-23, the annual budget for the Funding Programme was \$1.2 million (\$600,000 each for the two categories).*

Note 23: *For example, in the Funding Programme in 2022-23, for the category of thematic projects, it was decided that one project for each theme would be approved. In this connection, eight applications received under the theme of sexual harassment/disability harassment/racial harassment had to be rejected because they were not as comprehensive as the selected one.*

the consideration of applicants' past performance by CPPC, EOC should maintain a centralised register for recording the performance of funded organisations in the conduct of projects funded by the Funding Programme.

Need to take measures to ensure timely submission of project reports

3.16 According to EOC's guidelines, each funded organisation of the Funding Programme is required to submit a final report and a financial report to EOC within two months after completion of the project. As at 31 December 2022, of the 120 completed projects approved in the period from 2017-18 to 2021-22, the final reports and financial reports of 114 were due for submission. Audit's examination revealed that there were delays in the submission of the final reports and/or financial reports of 62 (54%) projects, ranging from 1 to 980 days (averaging 61 and 74 days for final report and financial report respectively). In particular, the delays of 6 (5%) projects were more than 180 days (see Table 11).

Table 11

**Submission of project reports by funded organisations of Funding Programme
(31 December 2022)**

Delay in submission of final report and/or financial report (Day)	Project	
	Number	Percentage
No delay	52	46%
≤ 30	32	28%
31 to 90	18	16%
91 to 180	6	5%
Over 180	6 (Note)	5%
Total	114	100%

Source: Audit analysis of EOC records

Note: Among the 6 projects, the delays of 3 were over 360 days, ranging from 386 to 980 days.

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3.17 Regarding EOC's follow-up actions on long outstanding project reports, Audit noted that for the 6 projects with delays of more than 180 days, there was no documentary evidence showing that reminders had been issued to the funded organisations of 3 projects. For the remaining 3 projects, the reminders were made more than 10 months after the submission deadlines.

3.18 For proper and timely evaluation of the effectiveness of the projects funded by the Funding Programme, EOC needs to take measures to ensure that final reports and financial reports are submitted by funded organisations in accordance with EOC's guidelines.

Need to improve evaluation of funded organisations' performance

3.19 Audit's sample check of the application forms and final reports of 10 completed projects approved in the period from 2019-20 to 2021-22 revealed that there was room for improvement in EOC's evaluation of the funded organisations' performance, as follows:

- (a) ***No measurable targets set.*** In the application form of the Funding Programme, an applicant is required to specify the expected results and effects of the proposed project, and explain the evaluation methods to be adopted. Audit noted that in 2 (20%) projects, the funded organisations only specified the evaluation methods without proposing any measurable targets; and
- (b) ***No evaluation of effectiveness against expected results and effects mentioned in application form.*** In the final report of the Funding Programme, a funded organisation is required to, among others, report the number of participants of the project, evaluate the effectiveness of the project on whether the objective of promoting equal opportunities was achieved, and report the percentages of participants who agreed that the project was satisfactory and could promote the messages of equal opportunities. However, a funded organisation is not required to evaluate the effectiveness of the project against the expected results and effects mentioned in the application form. Audit noted that among the 8 projects with measurable targets set, the funded organisations of 6 (75%) had not reported the level of achievement of all the expected results and effects

mentioned in their application forms. In particular, 3 had not made any report.

3.20 With a view to better evaluating the effectiveness of the Funding Programme, Audit considers that EOC needs to improve the evaluation of funded organisations' performance (e.g. requiring applicants to specify measurable targets in the application forms and evaluate these targets in their final reports).

Audit recommendations

3.21 **Audit has *recommended* that the Chairperson, EOC should:**

- (a) **consider developing a marking scheme, taking into account the criteria for funding, to ensure fairness, consistency and objectivity in the assessment of applications received under the Community Participation Funding Programme on Equal Opportunities;**
- (b) **remind potential applicants that their past performance in the conduct of projects funded by the Community Participation Funding Programme on Equal Opportunities will be considered in the assessment of their future applications;**
- (c) **maintain a centralised register for recording the performance of funded organisations in the conduct of projects funded by the Community Participation Funding Programme on Equal Opportunities;**
- (d) **take measures to ensure that final reports and financial reports are submitted by funded organisations in accordance with EOC's guidelines; and**
- (e) **improve the evaluation of the performance of funded organisations of the Community Participation Funding Programme on Equal Opportunities.**

Response from the Equal Opportunities Commission

3.22 The Chairperson, EOC generally agrees with the audit recommendations. He has said that:

- (a) assessment of future applications under the Community Participation Funding Programme on Equal Opportunities will be conducted with express reference to each of the stated funding criteria. EOC will maintain documentary records of the assessment process, including written recommendations prepared by officers in charge of the Funding Programme for CPPC's consideration and endorsement;
- (b) EOC will include a reminder in the promotional materials and briefing sessions about the Funding Programme in future to indicate that applicants' past performance will be one of the criteria for assessing their applications;
- (c) EOC has already been building a register of projects funded under previous rounds of the Funding Programme since December 2022 with information on project completion date, report submission date, time extension requests and other details pertinent to assessing the performance of funded organisations. EOC will continue to maintain such centralised register;
- (d) EOC will adopt concrete measures to ensure timely submission of final reports and financial reports by funded organisations, including issuing reminders prior to the submission deadline, communicating the possible consequences of delay (e.g. termination of funding support), and having senior officers in charge of the Funding Programme to contact the organisations concerned in case of severe delays; and
- (e) EOC will require future applicants of the Funding Programme to clearly indicate the key performance indicators and expected outcomes of their proposed projects in the application form. Moreover, the format of the final report has also been revised with CPPC's endorsement at its meeting in January 2023 so that future funded organisations will have to report specifically on how they have achieved the expected outcomes as stated in their applications, or provide an explanation when the outcomes have not been met.

School drama performances on equal opportunities

3.23 With a view to cultivating awareness and understanding of equal opportunities from childhood, EOC has been arranging drama performances to encourage students to learn about equal opportunities, sexual harassment, gender equality, and problems facing ethnic minorities, people with disabilities and persons with family status.

3.24 According to EOC, in the period from 2017/18 to 2021/22 school years (Note 24), three local theatrical troupes were engaged to stage plays and puppet shows on equal opportunities and diversity values at schools, as follows:

- (a) **Troupe A.** Troupe A was engaged to stage performances focusing on anti-discrimination ordinances and equal opportunities issues;
- (b) **Troupe B.** Troupe B was engaged to stage performances about prevention of sexual harassment; and
- (c) **Troupe C.** Troupe C was engaged to provide puppet shows focusing on equal opportunities and disability issues.

Need to consider setting requirements on topics of school drama performances

3.25 According to EOC's letters engaging Troupe C to stage school drama performances in the period from 2017/18 to 2021/22 school years, Troupe C was required to stage at least 100 Chinese and 50 English performances for schools (Note 25) in each school year. Audit's examination of the annual evaluation reports submitted by Troupe C for the same period revealed the following (see Table 12):

Note 24: *A school year starts in September and ends in August of the following year.*

Note 25: *In 2017/18 and 2018/19 school years, Troupe C was engaged by EOC to stage performances in primary schools. The coverage was extended to kindergartens in 2019/20 school year and then all schools in 2020/21 and 2021/22 school years.*

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- (a) ***Requirement on number of performances not met.*** In 2019/20 school year, the numbers of Chinese and English performances staged by Troupe C in schools were 95 and 47 respectively, not meeting the requirement of staging at least 100 Chinese and 50 English performances; and
- (b) ***Topics of considerable proportion of performances not related to equal opportunities or disability issues.*** There was no requirement on the topics of performances to be staged stipulated in EOC's letters engaging Troupe C. Audit noted that in the period from 2017/18 to 2021/22 school years, the topics of a considerable proportion of performances staged were not related to equal opportunities or disability issues, as follows:
- (i) ***Chinese performances.*** Of the 681 Chinese performances staged, the topics of 230 (34%) were not related to equal opportunities or disability issues. In 3 (60%) of the 5 school years, the numbers of Chinese performances on topics relating to equal opportunities or disability issues were less than 100 (i.e. the minimum number of Chinese performances to be staged as required by EOC); and
- (ii) ***English performances.*** Of the 332 English performances staged, the topics of 212 (64%) were not related to equal opportunities or disability issues. In all the 5 school years, the numbers of English performances on topics relating to equal opportunities or disability issues were less than 50 (i.e. the minimum number of English performances to be staged as required by EOC). In particular, in 4 school years, the numbers of performances on other topics were higher than those relating to equal opportunities or disability issues.

Table 12

**Performances staged by Troupe C
(2017/18 to 2021/22 school years)**

School year	Number of performances					
	Chinese performance			English performance		
	Topics relating to equal opportunities or disability issues	Other topics (Note 1)	Total	Topics relating to equal opportunities or disability issues	Other topics (Note 1)	Total
2017/18	111 (73%)	41 (27%)	152 (100%)	39 (70%)	17 (30%)	56 (100%)
2018/19	92 (63%)	55 (37%)	147 (100%)	17 (29%)	42 (71%)	59 (100%)
2019/20 (Note 2)	63 (66%)	32 (34%)	95 (100%)	7 (15%)	40 (85%)	47 (100%)
2020/21 (Note 3)	80 (56%)	63 (44%)	143 (100%)	27 (33%)	54 (67%)	81 (100%)
2021/22	105 (73%)	39 (27%)	144 (100%)	30 (34%)	59 (66%)	89 (100%)
Overall	451 (66%)	230 (34%)	681 (100%)	120 (36%)	212 (64%)	332 (100%)

Source: Audit analysis of EOC records

Note 1: Examples of other topics included healthy snacking, childhood obesity and drug prevention.

Note 2: According to EOC, due to the COVID-19 epidemic, the deadlines for staging Chinese and English performances for 2019/20 school year were extended to 30 October 2020 and 6 November 2020 respectively.

Note 3: According to EOC, due to the COVID-19 epidemic, the commencement of staging Chinese and English performances for 2020/21 school year were on 31 October 2020 and 7 November 2020 respectively.

Remarks: The topics of performances chosen by the schools in each school year was included in the annual evaluation report submitted to EOC by Troupe C.

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3.26 In March 2023, EOC informed Audit that:

- (a) the numbers of Chinese and English performances staged by Troupe C fell short of the requirement in 2019/20 school year because face-to-face classes and on-campus activities of schools were suspended in 2020 under the COVID-19 epidemic, which made it impossible for Troupe C to stage the performances. Taking note of the situation, EOC liaised with Troupe C in early August 2020 on the arrangement and verbally agreed to extend the deadlines (see Note 2 to Table 12) and scope (Note 26) for staging the performances. As soon as face-to-face classes resumed, Troupe C delivered the performances, and fulfilled the requirements of staging 100 Chinese and 50 English performances by the extended deadlines; and
- (b) more performances related to obesity and healthy snacking were provided by Troupe C during the epidemic period than usual upon requests by schools.

3.27 In Audit's view, EOC should take measures to ensure that the number of school drama performances staged by the engaged local theatrical troupes can meet the requirement set by EOC. With a view to more effectively utilising EOC's resources on arranging school drama performances to cultivate awareness and understanding of equal opportunities from childhood, Audit considers that when engaging local theatrical troupes to stage school drama performances, EOC needs to consider setting requirements on the minimum number of performances on topics relating to equal opportunities and prevention of discrimination.

Need to enhance review of annual evaluation reports submitted by local theatrical troupes

3.28 According to EOC's letters engaging the three local theatrical troupes to stage school drama performances, each troupe is required to submit an annual evaluation report to EOC upon completion of the performances in each school year. Audit's sample check of 6 reports (2 for each troupe) submitted for the period from

Note 26: *According to EOC, no documentary evidence was maintained regarding the extension of scope, as agreed with Troupe C, to cover performances staged in secondary schools.*

2017/18 to 2021/22 school years revealed that some information reported in 5 (83 %) reports was inaccurate. Examples of inaccurate information included:

- (a) ***Some prior year's information mistakenly reported as current year's information.*** Some prior year's information was mistakenly reported as current year's information, as follows:
 - (i) ***Troupe B.*** In Troupe B's reports submitted for 2018/19 and 2021/22 school years, the statistics of some results (e.g. number of schools choosing online live streaming and rating on story message) of the questionnaires received from respondents were the same as those reported in Troupe B's reports submitted for 2017/18 and 2020/21 school years respectively; and
 - (ii) ***Troupe C.*** In Troupe C's report submitted for 2020/21 school year, the statistics on performances staged (e.g. distribution of topics of English performances chosen by schools) and results (e.g. total number of questionnaires received) of the questionnaires received from respondents were the same as those reported in Troupe C's report submitted for 2019/20 school year; and
- (b) ***Some information not tallied with supporting documents.*** Some information reported in the reports did not tally with the attached supporting documents, as follows:
 - (i) ***Troupe A.*** In Troupe A's report submitted for 2019/20 school year, it was reported that 17 schools chose online live streaming. However, according to the list of performances staged attached to the report, the number of schools should be 15 instead;
 - (ii) ***Troupe B.*** The number of schools returning questionnaires reported in Troupe B's report submitted for 2021/22 school year was 34. However, according to the list of performances staged attached to the report, the number of schools should be 31 instead; and
 - (iii) ***Troupe C.*** While it was reported in Troupe C's report submitted for 2018/19 school year that Chinese and English performances were staged in 86 and 32 primary schools respectively, according

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to the lists of performances staged attached to the report, the numbers should be 85 and 31 instead.

3.29 In Audit's view, as the annual evaluation report is an important tool for evaluating the effectiveness of the school drama performances, EOC needs to remind the local theatrical troupes to ensure that information reported in annual evaluation reports is accurate as far as practicable. EOC also needs to enhance its review of annual evaluation reports submitted by the local theatrical troupes.

Audit recommendations

3.30 **Audit has recommended that the Chairperson, EOC should:**

- (a) **take measures to ensure that the number of school drama performances staged by the engaged local theatrical troupes can meet the requirement set by EOC;**
- (b) **consider setting requirements on the minimum number of school drama performances on topics relating to equal opportunities and prevention of discrimination when engaging local theatrical troupes;**
- (c) **remind the local theatrical troupes to ensure that information reported in annual evaluation reports is accurate as far as practicable; and**
- (d) **enhance the review of annual evaluation reports submitted by the local theatrical troupes.**

Response from the Equal Opportunities Commission

3.31 The Chairperson, EOC generally agrees with the audit recommendations. He has said that:

- (a) due to the COVID-19 epidemic, 153 scheduled performances were cancelled in 2019/20 school year. As soon as schools resumed, Troupe C delivered the performances, and fulfilled the requirements of staging 100 Chinese and 50 English performances by the extended deadlines

(see para. 3.26(a)). Moreover, the feedback of teachers and students indicated in the evaluation forms were overwhelmingly positive for the performances;

- (b) EOC will stipulate in the letters engaging the local theatrical troupes that only performances relating to equal opportunities and non-discrimination should be counted in the list of performances sponsored by EOC. It will be made clear to the troupes that no funding will be provided by EOC for performances not related to equal opportunities or non-discrimination;
- (c) EOC will remind the local theatrical troupes to ensure that the information reported in annual evaluation reports is accurate as far as practicable, which will be one of the considerations of engaging the local theatrical troupes; and
- (d) EOC will enhance the review of annual evaluation reports submitted by the local theatrical troupes by checking against the previous reports submitted by the troupes.

PART 4: LEGAL STUDIES AND RESEARCH PROJECTS

- 4.1 This PART examines the research work conducted by EOC, focusing on:
- (a) legal studies (paras. 4.2 to 4.13); and
 - (b) research projects (paras. 4.14 to 4.33).

Legal studies

4.2 According to the anti-discrimination ordinances, EOC shall keep under review the working of the ordinances and, draw up and submit to the Chief Executive proposals for amending the ordinances when necessary. According to EOC, this role is crucial in order to ensure that anti-discrimination legislation can be modernised, where there is evidence it is necessary to do so. LSD, in addition to handling legal assistance applications, is also responsible for reviewing the four anti-discrimination ordinances and conducting legal studies on new protected grounds to explore the possibility of expanding the scope of protection of the ordinances and make submissions to CMAB for legislative amendments.

4.3 In March 2013, EOC launched DLR to review comprehensively all four existing anti-discrimination ordinances. In March 2016, EOC made its submissions to the Government on DLR. According to EOC:

- (a) among the 27 recommendations identified by EOC with higher priority, the Government intended to focus on those that were relatively less complex or controversial at the juncture, with a view to taking forward necessary legislative amendments in a step-by-step manner; and
- (b) the submissions contained some relatively complex and sensitive issues, on which the public had expressed strong and divergent views and that EOC had suggested further consultation, research and education thereon. These included:

- (i) discrimination between Chinese people in Hong Kong (see paras. 4.4 to 4.6);
- (ii) enhancing protection from sexual harassment under SDO (see paras. 4.7 and 4.8);
- (iii) discrimination on grounds of sexual orientation, gender identity and intersex status (see paras. 4.9 and 4.10); and
- (iv) age discrimination (see para. 4.11).

According to COR of CMAB, it focuses attention on the rights of the individual in respect of promotion of equal opportunities on the grounds of gender, family status, race and sexual orientation. On legislative amendments on existing anti-discrimination legislation, the Government had identified 8 of the 27 recommendations that were considered to be capable of driving consensus among stakeholders and the society (Note 27). In 2020 and 2021, legislative amendments were made to implement the 8 amendments (see para. 1.12).

Note 27: *The eight recommendations were made to:*

- (a) *introduce express provisions in SDO prohibiting direct and indirect discrimination on the ground of breastfeeding, and to include expression of milk in the definition of breastfeeding;*
- (b) *replace the references to “near relative” in RDO with references to “associate”;*
- (c) *provide protection from direct and indirect racial discrimination and racial harassment by imputation in RDO;*
- (d) *expand the scope of protection from sexual, disability and racial harassment between persons working in a common workplace under SDO, DDO and RDO;*
- (e) *protect service providers from disability and racial harassment by customers under DDO and RDO;*
- (f) *provide protection from disability and racial harassment between service providers and customers where the acts of harassment take place outside Hong Kong but on Hong Kong registered aircraft or ships in DDO and RDO;*
- (g) *protect members and applicants for membership of a club from sexual and disability harassment by the management of the club under SDO and DDO;*
and
- (h) *repeal provisions in SDO, FSDO and RDO which disallow the award of damages if the respondent in an indirect discrimination case can prove that the requirement or condition was not applied with intention to discriminate.*

Discrimination between Chinese people in Hong Kong

4.4 In DLR, EOC examined the issue of discrimination between Chinese people in Hong Kong (i.e. between Hong Kong Chinese and Mainland Chinese), given that there was evidence of such discrimination between Chinese people in Hong Kong and that the existing protections under RDO might not be sufficient to address that form of discrimination. EOC recommended that the Government should consider providing better protection from discrimination between Chinese people. Since DLR submissions, EOC found that further evidence of significant levels of discrimination between Chinese people in Hong Kong had become apparent from research, investigations conducted by other organisations, and from enquiries and complaints of discrimination EOC had received. With due regard to the friction and conflict between Chinese people in Hong Kong, which have continued to intensify in recent years, in June 2020, EOC undertook a legal study to examine the possible legal provisions for tackling discrimination, harassment and vilification between Chinese people in Hong Kong.

4.5 An internal working group, comprising staff from LSD, the Complaint Services Division and PRTD, was formed in June 2020 to consider the issues and prepare a submission to the Government. The study was embarked on an international comparative study on the issue of discrimination against people from other places of origin, and explored various possibilities of legislative amendments. In March 2021, EOC submitted the study report “Promoting equality and preventing discrimination between Chinese people in Hong Kong” to CMAB. The report stated that it was clear that there was evidence of discrimination between Chinese people in Hong Kong and made five recommendations.

4.6 ***Follow-up actions.*** According to CMAB, it took a serious view of discrimination that might be encountered by persons arriving in Hong Kong from the Mainland. CMAB was considering legislative proposal under RDO to address the issue. Audit noted the following progress for implementing the recommendations in the study report:

- (a) ***February 2021.*** As the final report of the study was near completion and would be submitted to CMAB in due course, CMAB’s goal was to map out the way forward for the relevant recommendations within the fifth-term government (i.e. by June 2022);

- (b) **November 2021.** A meeting was held between representatives from CMAB, EOC and the Department of Justice to discuss draft legislative proposals to address the issue of discrimination that may be encountered by persons arriving in Hong Kong from the Mainland;
- (c) **June 2022.** CMAB and EOC conducted informal briefing sessions for members of LegCo Panel on Constitutional Affairs;
- (d) **October 2022.** According to the Policy Address 2022, the Government continued to work with EOC to study how the protection under the anti-discrimination ordinances could be enhanced to tackle discrimination that might be encountered by persons arriving in Hong Kong from the Mainland; and
- (e) **December 2022.** According to EOC, as of December 2022, taking into account the views of the Panel members, both CMAB and EOC were considering the various options to enhance legal protection from discrimination or vilification under the proposal. Owing to the sensitivity and complexity of the issue, discussion was on-going.

Audit noted that, as of March 2023, the discussion between EOC and CMAB on various aspects of the legislative proposal was still on-going. Audit considers that EOC needs to continue to work closely with CMAB in formulating legislative proposals that can effectively tackle discrimination that may be encountered by people from the Mainland.

Enhancing protection from sexual harassment under SDO

4.7 There were some DLR recommendations concerning legal protection against sexual harassment. After consulting the Department of Justice, CMAB was of the view that EOC should carry out further legal research work on some of the recommendations before they could be taken forward. Having additional subventions allocated from CMAB, EOC established a designated ASHU in 2020-21 to enhance public education and publicity so as to raise public awareness of sexual harassment and enhance their ability to respond to such incidents. In April 2020, CMAB reminded EOC that a main purpose of ASHU was to conduct a holistic review of the current protection against sexual harassment under SDO, to identify gaps in protection

(for example protection against harassment on the ground of pregnancy) and, where appropriate, to make recommendations for legislative amendments.

4.8 In November 2020, EOC commenced to conduct a holistic review of the current legal protection against sexual harassment taking into account factors such as the views expressed by various stakeholders, the views of key non-governmental organisations working on sexual harassment, previous DLR submissions, complaints and enquiries regarding sexual harassment that EOC had received, EOC's research on sexual harassment, and emerging issues of sexual harassment (e.g. online). In October 2021, EOC submitted the study report "Review of sexual harassment and related laws" to CMAB, with proposals on legislative amendments. According to EOC, the review found that sexual harassment remained a serious concern in Hong Kong. Some of the proposals involved employers' liabilities and the Government's functions which would require further deliberations amongst parties concerned. In February 2022, EOC issued a letter suggesting a meeting to be held with CMAB to discuss the recommendations of the report. In view of the sensitivity and complexity of the issue, CMAB was examining the submission of EOC while maintaining close communication with EOC. In Audit's view, EOC needs to keep in view the latest development of sexual harassment and continue with its sexual harassment protection efforts through its ASHU, while maintaining close dialogue with CMAB on the way forward in enhancing legal protection against sexual harassment.

Discrimination on grounds of sexual orientation, gender identity and intersex status

4.9 CMAB promotes equal opportunities on grounds of sexual orientation and gender identity through various publicity and educational measures. These include, among others:

- (a) implementation of the Equal Opportunities (Sexual Orientation) Funding Scheme which provides funding support to worthwhile community projects which promote equal opportunities on grounds of sexual orientation or gender identity, or provide support services for the sexual minorities;
- (b) promulgation of the Code of Practice against Discrimination in Employment on the Ground of Sexual Orientation;

- (c) maintenance of a hotline for enquiries and complaints on issues relating to sexual orientation and gender identity; and
- (d) release of promotional videos on equal opportunities for people of different sexual orientation and transgender persons.

4.10 On the discrimination against sexual minorities, EOC has identified that a key group in Hong Kong society facing discrimination in a number of respects are Lesbian, Gay, Bisexual and Transgender people. Since 2013, EOC had done a wide range of work, including reviewing and making recommendations relating to marital status and family status discrimination as part of DLR of existing anti-discrimination laws. In January 2016, EOC published a detailed research paper on introducing anti-discrimination laws to cover sexual orientation, gender identity and intersex status. In December 2019, EOC embarked on a follow-up study to explore the possible options for providing legal protections from discrimination on those grounds based on the existing framework of the anti-discrimination laws. The timeframe of the planned work was approximately 12 to 18 months (i.e. expected completion by June 2021). In September 2021, an initial draft of consultation document was completed. In December 2021, the Chairperson commented that the presentation framework of draft paper did not meet his expectation and the consultation document had to be re-written (Note 28). In May 2022, the Chairperson informed the LegCo Panel on Constitutional Affairs that given the contentious and controversial nature of the issue, EOC would handle it with care. In Audit's view, EOC needs to keep in view the latest development of discrimination against sexual minorities.

Age discrimination

4.11 Further to DLR, EOC considered it appropriate to conduct further exploratory legal studies, focusing on the scope of protections against age discrimination in other jurisdictions and what lessons could be learned in terms of addressing the issue in the local context. Such work was included in EOC's 2020 to 2022 strategic plan. According to EOC, it has commenced preliminary legal studies on the feasibility of amending the existing law to prohibit age discrimination in the

Note 28: *The Chairperson opined that the presentation framework of draft paper would open up too much room for controversial issues to be argued/deliberated, which deviated from his original thought that they should table to the stakeholders a set of solid legislative amendments for them to discuss and comment. As of March 2023, the study remained in progress.*

employment sector. Information and statistics on the topic were being gathered to provide inputs to policy direction as to how the issue should be taken forward. According to the results of the Equal Opportunities Awareness Survey 2021 released in November 2021 (see para. 3.2), almost half of the respondents (49.9%) regarded age discrimination as very or quite prevalent in Hong Kong, representing a rise of 8.9 percentage points over the last 10 years when comparing to the results of the Survey conducted in 2012 (Note 29). Up to March 2023, the preliminary study was still in progress. In Audit's view, EOC needs to closely monitor the progress of the legal study and duly consult the stakeholders on the way forward in addressing age discrimination.

Audit recommendations

- 4.12 **Audit has recommended that the Chairperson, EOC should:**
- (a) **continue to work closely with CMAB in formulating legislative proposals that can effectively tackle discrimination that may be encountered by people from the Mainland;**
 - (b) **keep in view the latest development of sexual harassment and continue with EOC's sexual harassment protection efforts through its ASHU, while maintaining close dialogue with CMAB on the way forward in enhancing legal protection against sexual harassment;**
 - (c) **keep in view the latest development of discrimination against sexual minorities; and**
 - (d) **closely monitor the progress of the legal study and duly consult the stakeholders on the way forward in addressing age discrimination.**

Note 29: *According to the 2021 Survey, among the respondents who claimed that they had experienced discrimination or harassment during the 12 months before the interview, 54.3% experienced age discrimination, followed by sex discrimination (20.5%) and sexual harassment (16.2%).*

Response from the Equal Opportunities Commission

4.13 The Chairperson, EOC generally agrees with the audit recommendations. He has said that:

- (a) regarding the audit recommendations in paragraph 4.12(a), (c) and (d), EOC will continue to discharge its duty in the respective areas within its statutory remit; and
- (b) EOC will continue its sexual harassment protection efforts as well as communicating with CMAB on the way forward in enhancing legal protection against sexual harassment.

Research projects

4.14 PRTD monitors the trends of discrimination prevalent in society through conducting research projects, and makes recommendations to CMAB and relevant parties on policy measures. Headed by the Head (Policy, Research and Training), the establishment of PRTD as at 31 December 2022 comprised 12 staff.

In-house and commissioned research projects

4.15 *Selection and determination of research topics.* Research projects may be conducted by EOC's in-house resource or out-sourced to third parties (referred to by EOC as commissioned research projects):

- (a) *In-house research projects.* Conducting in-house research projects is a sectorial tool to assist EOC's day-to-day work in policy advocacy of anti-sexual harassment in various sectors. In-house research projects formed part of the policy advocacy work together with seminars and policy-setting workshops in various sectors. The Head of PRTD is responsible for overseeing in-house research projects directly. According to EOC, usually one to two PRTD staff will be engaged depending on the complexity of the research projects; and

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- (b) ***Out-sourced research projects.*** As a general practice, PRTD would come up with the initial ideas of the research topics (Note 30) and prepare a study brief (with proposed budget limit) on each topic for consideration and endorsement by PRTC (see para. 1.7(d)). According to EOC, Members of PRTC have a wide discretion to select, change and determine the research topics. For out-sourcing research projects, EOC calls for research proposals through tender invitations. A selection board comprising Members of PRTC and EOC staff will be formed in vetting research proposals and choosing the out-sourced research team for each project. According to the contract requirements, the research teams are required to complete the research projects within a specified timeframe.

4.16 ***Follow-up actions on research projects.*** EOC released findings of research projects in press conferences and uploaded them to its website for the reference of relevant stakeholders and members of the public. Besides media coverage, EOC proactively reached out to different stakeholders to deepen the discussion in order to make wider policy impacts. A systematic framework had been developed for follow-up actions to be taken after the release of research reports, with a view to stock-taking the policy advocacy efforts made subsequent to the release of research findings and recommendations, and giving reference to future research directions. Members of PRTC will be updated on the progress of follow-up actions every six months.

4.17 ***Room for improvement in conducting in-house research projects.*** According to EOC, in-house research projects were conducted on an ad hoc basis. Based on the summary of in-house research projects from 2013 to 2022 provided by EOC, Audit found that:

- (a) 12 research projects were identified by PRTD and determined after discussing with the Working Group on Anti-Sexual Harassment Campaign

Note 30: *According to EOC, ideas for research topics are usually generated from channels including: (a) EOC Annual Forum; (b) meetings with key stakeholders; (c) complaints handled by EOC; and (d) hot topics in the media etc.*

(Note 31) with the latest one determined in October 2020. No in-house research projects were determined in 2021 and 2022;

- (b) 11 research projects were completed in about one year. However, for the remaining research project determined in August 2020, it was only completed in November 2022 (i.e. it took more than two years to complete); and
- (c) all the 12 research projects only covered the issues relating to SDO in various sectors (including 7 research projects related to the education sector and sports sector) but not the other three anti-discrimination ordinances (i.e. DDO, FSDO and RDO).

4.18 In January 2023, EOC informed Audit that:

- (a) the sector or topic would be determined after discussing with the Working Group on Anti-Sexual Harassment Campaign and in-house research projects would be conducted where appropriate and if needed only; and
- (b) from November 2020 to December 2022, due to the outbreak of COVID-19 epidemic, various research projects and work were all still underway, and no new sectors were identified for in-house research projects on sexual harassment by PRTD.

Audit noted that there were no documentary records showing the objectives and scopes of the projects as well as the work plan and timeframe for completing in-house research projects. In Audit's view, to facilitate better monitoring of in-house research projects, EOC needs to keep proper records on the determination of research topics, objectives and scopes as well as the work plan and timeframe for completing in-house research projects.

Note 31: *The Working Group was formed under PRTC in October 2012 to advise on the strategy and action plan to address the concerns about prevention of sexual harassment in different local sectors.*

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4.19 *Delays in completing out-sourced research projects.* Since 2016, EOC has adopted a three-year cycle to commission research projects. Under each cycle, 6 research projects would be commissioned. To facilitate the contracting-out exercises, the 6 research projects would be commissioned in two batches (3 projects for each batch) during the three-year cycle. For the most recent two three-year cycles (i.e. from 2016-17 to 2018-19 and from 2019-20 to 2021-22), EOC had commissioned 12 research projects, comprising 11 projects awarded with contract sums ranging from \$230,000 to \$782,000 (averaging \$580,000) each as well as 1 project out-sourced by quotation costing \$68,000. Audit noted that 2 projects involved out-sourcing of data collection only and the Senior Research Manager (SRM) was in charge of designing the survey questionnaire, conducting data analyses, and preparing the final research report. The 2 projects were completed by May 2022. Audit analysis on the records of the remaining 10 projects found that up to 31 December 2022, there were delays in completing all the 10 projects. The delays ranged from 2.4 to 27 months, averaging 10.9 months (see Table 13).

Table 13

**Analysis of EOC's commissioned research projects
(31 December 2022)**

Research cycle	Research project	Timeframe for completion	Delay in completion	Status as at 31 December 2022
		(Month)		
2016-17 to 2018-19	A	12	2.4	Completed
	B	15	4.6	Completed
	C	12	13.4	Completed
	D	12	6.9	Completed
	E	12	27.0	Completed
	F	12	7.7	Completed
2019-20 to 2021-22	G	24 (Note)	14.4	In-progress
	H	24 (Note)	14.4	In-progress
	I	22 (Note)	15.2	In-progress
	J	9	2.9	Completed

Source: Audit analysis of EOC records

Note: The original timeframe for completion of the three research projects was 12 months. Due to the outbreak of COVID-19 epidemic, an extension of 12 months was granted to Projects G and H, and an extension of 10 months was granted to Project I.

4.20 For the 3 projects still in progress as of 31 December 2022, Audit examined the relevant records and found that the 3 projects (involving three different research teams from two local universities) were conducted during the outbreak of COVID-19 epidemic and were of slow progress:

- (a) **Project G.** The project commenced in October 2019. Data collection was switched from paper-and-pencil based to web-based and the research team was granted a deadline extension of 12 months (i.e. up to October 2021). However, the draft survey report and chapters on qualitative findings and recommendations were only submitted in March and June 2022 respectively. In August 2022, the research team presented their research findings to PRTC. Up to 31 December 2022, the research team was still revising the report based on the suggestions raised by Members of PRTC;
- (b) **Project H.** The project commenced in October 2019. The related data collection process was suspended for some time and a total of 12-month extension was granted to the research team (i.e. up to October 2021). A draft report was only submitted in December 2021 and a presentation of the research findings was made by the research team to PRTC in May 2022. A revised report was submitted in July 2022 and was under EOC's review; and
- (c) **Project I.** The project commenced in November 2019. The related data collection process was delayed and the research team was granted deadline extensions for 10 months (i.e. up to September 2021). In November 2021, the research team presented their research findings to PRTC. In October 2022 (after a lapse of 11 months), EOC provided its comments thereon. The research team was revising the report.

4.21 According to EOC:

- (a) there were neither explicit penalty terms in the service contracts for any delays in completing research projects, nor laid-down procedures on the monitoring of the outstanding research projects; and
- (b) it would communicate proactively with the research teams via emails and phone calls from time to time for monitoring the progress of the research projects. In the event of any delay, the research teams would submit

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applications to EOC for deadline extension. For the 3 research projects still in progress as of December 2022, the applications for deadline extension from 10 to 12 months were approved by the Convener of PRTC.

Up to December 2022, no research project had been commissioned for the three-year cycle from 2022-23 to 2024-2025. Only 1 research project was proposed by PRTD and endorsed by PRTC. For this cycle, the remaining projects were planned to be commissioned after publishing the findings of the 3 research projects which were still in progress.

4.22 In March 2023, EOC informed Audit that:

- (a) it had stepped up efforts to clear the commissioned research projects despite the COVID-19 epidemic and the change in responsible staff from March to September 2022; and
- (b) findings of one of the outstanding commissioned research projects (i.e. Project I — see para. 4.20(c)) were published in February 2023.

Audit considers that EOC needs to step up efforts in completing outstanding commissioned research projects and consider imposing penalty clause in service contracts of future research projects for delays in completing research work.

Funding Programme of Research Projects on Equal Opportunities

4.23 According to section 65(3) of SDO, EOC shall not provide any financial assistance to other persons to undertake research except with the prior approval of the Secretary for Constitutional and Mainland Affairs, after consulting with the Secretary for Financial Services and the Treasury. In March 2012, EOC Board Members suggested that it would be beneficial for EOC to capture more innovative ideas to promote equal opportunities if the current practice to commission research projects was supplemented by inviting interested parties to apply for EOC's funds to conduct small-scale research projects on subjects relevant to the work of EOC. In August 2012, EOC wrote to seek CMAB's approval for offering the Funding Programme of Research Projects on Equal Opportunities for 2013-14 as a pilot programme, stating that:

- (a) the Funding Programme was initiated in order to capture a wide pool of academia and organisations with inspiring ideas to undertake innovative research projects aiming at promoting equal opportunities;
- (b) the funded projects would be small-scale research projects and the budget for each one was generally capped at \$50,000;
- (c) it would not be practicable for the funded projects to be micro-monitored by EOC due to the large numbers of such projects; and
- (d) the manpower for implementing the Funding Programme would be internally met by EOC.

In June 2013, CMAB agreed with EOC's proposal to conduct the Funding Programme on a pilot basis on the conditions that the objectives of the proposed projects should work towards the elimination of discrimination falling within the scope of the four anti-discrimination ordinances and promote the principles of these ordinances. Subsequently, another two rounds of the Funding Programme were also approved by CMAB for 2017-18 and 2020-21 respectively. A sum of \$1.2 million was budgeted for the first round of the Funding Programme while \$600,000 was budgeted for each of the next two rounds.

4.24 Applicants (Note 32) were invited to submit research proposals under the Funding Programme. The submitted proposals would be evaluated by Members of PRTC and PRTD staff. A successful applicant was required to sign a letter of acceptance and undertaking, to observe all the specified conditions and guidelines, and to confirm that the funded project would be conducted in accordance with the agreed dates (Note 33).

Note 32: *Applicants were restricted to established not-for-profit educational bodies, registered not-for-profit organisations with track records on equal opportunities related work, and academia attached to local universities.*

Note 33: *The agreed dates included:*

- (a) project commencement date;*
- (b) date of submitting progress report;*
- (c) date of submitting research report; and*
- (d) completion date of the entire project.*

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4.25 *Evaluation of the previous completed round of Funding Programme.* When EOC sought approval for offering a new round of the Funding Programme, CMAB requested for a review (i.e. an evaluation report) on the effectiveness of the previous round of the Funding Programme as well as any operational issues/problems arisen which would form the basis of approval for continuation or otherwise of the Funding Programme. In the event, two evaluation reports were submitted to CMAB in 2015 and 2019 for the Funding Programme held in 2013-14 and 2017-18 respectively. According to EOC's evaluation reports:

- (a) *2013-14 Funding Programme.* Funded organisations were required to submit progress reports, final reports and financial reports. Majority of the funded organisations agreed with the arrangement as an effective means of communication within their capacity and without creating workload to them. There were no operational issues or problems arisen; and
- (b) *2017-18 Funding Programme.* Funded organisations were required to submit progress reports, final reports and financial reports. EOC had provided inputs to funded organisations for refining their final research reports to ensure that all reports were up to a professional research standard and well addressed the overall objectives of promoting equal opportunities and/or fighting against discrimination and harassment. Moreover, a more stringent vetting mechanism (Note 34) was instituted to ensure a more effective use of public funds in producing high quality and relevant research deliverables to the Hong Kong community. There were no operational issues or problems arisen.

While EOC considered that no operational issues or problems had arisen from the previous two rounds of the Funding Programme, there is scope for improvement in its monitoring of the Funding Programme, as elaborated in the ensuing paragraph.

Note 34: *According to EOC, assessment criteria of applications were:*

- (a) *applicant's knowledge of the proposed research topic;*
- (b) *innovation and social impact of the proposed research project;*
- (c) *applicant's track record and experience in delivering research project;*
- (d) *qualifications of the applicant and related teammates (if any);*
- (e) *applicant's capacity to engage and mobilise manpower or other types of resources to complete the proposed research project; and*
- (f) *cost-effectiveness of the proposed research project.*

4.26 According to EOC, the project duration for funded projects agreed with the funded organisations was normally 12 months. Audit noted that 9 (82%) of the 11 funded projects in the 2013-14 Funding Programme and 8 (89%) of the 9 funded projects in the 2017-18 Funding Programme could not be completed by the agreed completion dates. However, despite that the majority of the funded projects were not completed by the agreed completion dates, such issues had not been reported in the two evaluation reports submitted by EOC to CMAB. In Audit's view, EOC needs to enhance the contents of the evaluation reports of the Funding Programme submitted to CMAB (e.g. by reporting the number of funded projects not completed by the agreed completion dates, an assessment of the performance of each funded organisation and the amount of resource EOC deployed in monitoring the funded projects).

4.27 ***Progress of 2020-21 Funding Programme.*** According to the records for the 2020-21 Funding Programme, Audit noted that the capacity to successfully complete the projects within the proposed duration had been taken into account when assessing the proposals. The concern was particularly valid in the context of COVID-19 epidemic which would affect the data collection. Of the 29 applications received, 9 were approved by PRTC. These 9 projects commenced in November/December 2020 with agreed project duration from 12 to 15 months. Audit found that:

- (a) 5 projects were completed between August and November 2022, with delays ranging from 6 to 10.2 months. According to EOC, the major reason for the delays was the suspension of data collection/prolongation of data collection period due to the social distancing requirements imposed during the COVID-19 epidemic; and
- (b) as of December 2022, the remaining 4 projects were still in progress with delays ranging from 9.6 to 12.6 months. According to EOC, the delays were mainly due to the prolonged time required for submitting/revising the research reports by the funded organisations.

According to EOC, as of January 2023, for the above 9 projects with delays, only 2 funded organisations had submitted applications for extending the deadline to EOC.

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4.28 According to EOC:

- (a) despite that there were no manual or guidelines laid down for monitoring of the funded projects, it had communicated proactively with the funded organisations via emails and phone calls from time to time to urge for timely submission of the research reports; and
- (b) as of February 2023, among the 4 remaining projects mentioned in paragraph 4.27(b), the findings of 3 projects had been published.

In order to enhance supervisory accountability and to ensure that the funded projects are completed on time with good quality, Audit considers that EOC needs to strengthen its monitoring of funded projects by drawing up guidelines in the supervision and monitoring of funded projects.

Need to maintain a pool of experienced staff engaging in research work

4.29 As mentioned in paragraph 4.14, EOC monitors the trends of discrimination prevalent in society through conducting research projects. The research studies will help EOC to develop its strategy, monitor the attitude change of equal opportunities within the community and provide benchmarks for future studies. For example, EOC commissioned a study on Perceptions of Stigmatisation and Discrimination of Persons with Mental Illness (PMIs) in the Workplace (Note 35) (Project I in Table 13 in para. 4.19).

Note 35: *In February 2023, EOC released the findings of the study. Responses from 858 persons (comprising 593 employed persons and 265 PMIs) participating in a face-to-face questionnaire survey (for their experience of discrimination in the workplace or in the process of seeking jobs in the past five years) from May to November 2020 revealed that: (a) 81.7% of the employed persons considered that discrimination against PMIs in Hong Kong was very prevalent or quite prevalent; and (b) the most observed situations of workplace discrimination against PMIs were “having fewer opportunities for promotion” (71.3%) and “not hired because of mental illness” (68.3%).*

4.30 Among the 12 staff in PRTD (see para. 4.14), 5 staff were responsible for research related work, comprising:

- (a) 1 staff (i.e. SRM — Note 36) for conducting/coordinating commissioned research projects and projects funded under the Funding Programme of Research Projects on Equal Opportunities;
- (b) 1 Senior Policy, Research and Training Officer who was mainly responsible for conducting in-house research projects; and
- (c) 3 other staff who were responsible for supporting policy advocacy initiatives and research work.

Among the 5 staff engaged in research related work, SRM was the only officer who carried out research work on a full-time basis. In August 2022, SRM resigned and a newly-recruited Research Co-ordination Manager (RCM) reported duty in September 2022 to take up the duties of SRM.

4.31 As mentioned in paragraphs 4.19 to 4.28, there were various shortcomings in the administration of out-sourced research projects and the Funding Programme of Research Projects on Equal Opportunities. In this connection, Audit noted that EOC placed heavy reliance on SRM in conducting research work (Note 37) and the resignation of SRM had a negative impact on EOC's research work. According to EOC:

Note 36: *CMAB approved upgrading the post of Research Co-ordination Manager to SRM with effect from April 2020.*

Note 37: *SRM was responsible for, among others:*

- (a) *providing expert-level advice on research methodology, construction of data collection instruments, and data analyses and interpretation for all research projects commissioned, undertaken or funded by EOC and monitoring their progress;*
- (b) *conducting thematic research studies, for example, designing the survey questionnaire, conducting data analyses, and writing the final report of a research project as mentioned in paragraph 4.19; and*
- (c) *preparing tender documents for the invitation, evaluation and selection of service providers for research projects.*

Legal studies and research projects

- (a) the resigned SRM had solid research experience and equal opportunity knowledge acquired in EOC. In comparison, RCM had less equal opportunity experience and exposure; and
- (b) due to the unique position of SRM/RCM, it was highly unlikely that a suitable candidate could be readily found in the job market without the work experience gained in EOC.

In Audit's view, EOC needs to improve oversight on its research work and maintain a pool of staff with relevant experience so that the research work will not be seriously hindered by the departure of a key staff.

Audit recommendations

4.32 **Audit has *recommended* that the Chairperson, EOC should:**

- (a) **keep proper records on the determination of research topics, objectives and scopes as well as the work plan and timeframe for completing in-house research projects;**
- (b) **step up efforts in completing outstanding commissioned research projects and consider imposing penalty clause in service contracts of future research projects for delays in completing research work;**
- (c) **enhance the contents of the evaluation reports of the Funding Programme submitted to CMAB;**
- (d) **strengthen EOC's monitoring of funded projects by drawing up guidelines in the supervision and monitoring of funded projects; and**
- (e) **improve oversight on EOC's research work and maintain a pool of staff with relevant experience so that EOC's research work will not be seriously hindered by the departure of a key staff.**

Response from the Equal Opportunities Commission

4.33 The Chairperson, EOC generally agrees with the audit recommendations. He has said that:

- (a) although in-house research projects are launched on ad hoc basis and if needed only, EOC may consider keeping more documentation at the initial phase of the in-house research projects where appropriate;
- (b) EOC is monitoring the remaining commissioned projects and will explore the feasibility of penalty clause in order to reflect possible consequence of undue delay in project progress;
- (c) EOC will consider enhancing the contents of the evaluation reports for the Funding Programme submitted to CMAB subject to CMAB's views; and
- (d) EOC will continue to take forward succession planning to the extent possible within resources available in consultation with PRTC. EOC would like to accentuate that there are a handful of specialist positions that require tailor-made succession planning as EOC's establishment is relatively small.

PART 5: OTHER ADMINISTRATIVE ISSUES

5.1 This PART examines EOC's other administrative issues, focusing on:

- (a) transaction of Board and Committee meetings (paras. 5.3 to 5.11);
- (b) staff training (paras. 5.12 to 5.18); and
- (c) procurement of goods and services (paras. 5.19 to 5.23).

5.2 Headed by the Director (Corporate Planning and Services), the Corporate Planning and Services Division is responsible for EOC's accounts, human resources, information technology and other general administration. As at 31 December 2022, it had an establishment of 29 staff. EOC had promulgated internal manuals, namely the Human Resources and Administration Manual and PSSM, setting out the policies, procedures and guidelines applicable within EOC.

Transaction of Board and Committee meetings

5.3 EOC Board provides guidance on the overall strategies of EOC. At present, there are four committees appointed under EOC Board to pursue the goals of EOC (see para. 1.7). EOC promulgated the Notes for Guidance for Members on Procedures for Meetings and Related Matters (NGPM) which aimed to facilitate Members to perform the functions and exercise the powers of EOC.

5.4 According to NGPM, EOC Board should appoint the chairperson and determine the number of members for each Committee. EOC Chairperson is an ex-officio member of each Committee and EOC Board may appoint a person who is not a Member of EOC (i.e. co-opted member) as a member of a Committee. Not less than half of the Members of the Board/Committee shall form a quorum.

5.5 *Attendance of Members.* LCC holds regular meetings every two months while EOC Board and the remaining three Committees hold regular meetings every three months. Audit reviewed the records of meeting from 2016-17 to 2022-23

(up to December 2022) and found that while the attendance rates of the Members for most EOC Board and Committees meetings were above 70%:

- (a) the attendance rates in 3 (14%) of the 22 EOC Board Meetings and 19 (18%) of the 108 Committee meetings were below 70% (see Table 14). Of the 19 Committee meetings, 2 (11%) had just the minimum number of Members to form a quorum;
- (b) the annual attendance rates of individual EOC Board Members (i.e. including the attendance at meetings of EOC Board and Committees of which the EOC Board Member is a member) were only 60% or below in 14 cases (involving 11 Members); and
- (c) the annual attendance rates of individual co-opted Members were only 60% or below in 12 cases (involving 7 Members).

Table 14

**Number of meetings held and attendance rates
(2016-17 to 2022-23 (up to December 2022))**

Attendance rate	EOC Board	A&FC	CPPC	LCC	PRTC
	(Number of meetings held)				
90% to 100%	7	15	6	7	7
80% to less than 90%	7	10	8	16	9
70% to less than 80%	5	1	3	4	3
60% to less than 70%	3	0	6	5	3
50% to less than 60%	0	0	2	0	3
Total	22	26	25	32	25

Source: Audit analysis of EOC records

Remarks: According to EOC, some scheduled meetings were cancelled due to COVID-19 epidemic. The businesses were transacted by circulation of papers.

Other administrative issues

5.6 In March 2023, EOC informed Audit that:

- (a) apart from attending meetings, Members also contributed to the work of EOC through a host of avenues, e.g. regular email exchanges, telephone conversations, and attending EOC events, etc.;
- (b) while Members' participation in meetings was of vital importance to the governance of EOC, Members often elected the respective committees according to their professional fields and/or interest. The size of a committee was hence much smaller than that of EOC Board. Due to the small number of members in a committee, the attendance rate could be significantly impacted by the occasional absence of an individual member; and
- (c) it had in place an established mechanism to facilitate Members to attend Board and Committee meetings, as follows:
 - (i) informing Members of the meeting schedule for the coming year;
 - (ii) issuing notice of meetings in writing at least seven days before the date of a meeting;
 - (iii) ascertaining attendance shortly before the date of meeting by telephone calls; and
 - (iv) issuing reminders to Members who have been absent for two meetings.

Audit considers that EOC needs to take measures to improve the attendance of Members with low attendance rates as far as practicable.

5.7 ***Issue of meeting minutes.*** According to NGPM, meeting minutes should be issued as soon as possible after each meeting and one month has been set as a target. Audit's examination of relevant records from 2018 to 2022 revealed that:

- (a) ***LCC.*** All 20 meeting minutes were issued more than 1 month after the meetings. The average time required to issue the minutes was 81 days (ranging from 42 to 294 days);

- (b) **CPPC.** In 9 (50%) of the 18 meetings held, the meeting minutes were issued more than 1 month after the meetings. The average time taken to issue the minutes was 35 days (ranging from 32 to 53 days); and
- (c) **PRTC.** In 3 (17%) of the 18 meetings held, the meeting minutes were issued more than 1 month after the meetings. The average time taken to issue the minutes was 36 days (ranging from 31 to 40 days).

Audit considers that EOC needs to take measure to ensure that meeting minutes are issued within the time target set in NGPM.

5.8 ***Declaration of interests.*** As stipulated in NGPM, EOC adopted a “two-tier” reporting system on declaration of interests. Members of EOC Board and its Committees are required to:

- (a) register in writing their personal interests, direct or indirect, pecuniary or otherwise, when they first join the Board/Committee, and annually thereafter, to the Secretary of the Board/Committee;
- (b) disclose any direct personal or pecuniary interest in any matter under consideration by the Board/Committee as soon as practicable after he/she has become aware of it, prior to the discussion of the item; and
- (c) a register of Members’ interests should be kept by the Secretary of the Board/Committees which should be made available for inspection on request by any members of the public.

Upon appointment and on an annual basis subsequent to the appointment, EOC will require the Chairperson and the Board/Committees’ Members to complete a declaration form and submit it to the Secretary of the Board/Committees before a stipulated deadline.

5.9 Audit’s examination of EOC’s records of declaration forms for the period from 2018 to 2022 revealed that:

Other administrative issues

- (a) ***EOC Board Members.*** For the 85 occasions in which the Members were required to declare interests (involving 17 EOC Board Members each year):
 - (i) in 19 (22%) occasions, no declaration forms were found in the records;
 - (ii) in 2 (2%) occasions there were no signatures on the submitted declaration forms; and
 - (iii) in 12 (14%) occasions, the declaration forms were submitted after the deadline, with an average delay of 13 days (ranging from 3 to 31 days); and
- (b) ***Co-opted Members.*** Audit noted that there were co-opted Members in CPPC and PRTC only. However, their declaration mechanisms deviated from the requirements in NGPM, as follows:
 - (i) co-opted Members in CPPC were required to submit declarations only before each Committee meeting when sensitive items would be discussed; and
 - (ii) co-opted Members in PRTC were required to submit declarations only upon their appointments, but not annually hereafter.

Moreover, there was no register of Members' interests kept by EOC or the Secretary of the Committees. In Audit's view, EOC needs to take measures to enhance the compliance with the "two-tier" reporting system on declaration of interests.

Audit recommendations

5.10 **Audit has recommended that the Chairperson, EOC should take measures to:**

- (a) **improve the attendance of Members with low attendance rates as far as practicable;**

- (b) ensure that meeting minutes are issued within the time target set in NGPM; and
- (c) enhance the compliance with the “two-tier” reporting system on declaration of interests.

Response from the Equal Opportunities Commission

5.11 The Chairperson, EOC generally agrees with the audit recommendations. He has said that EOC will take steps to:

- (a) issue further reminders to Members with low attendance rates;
- (b) ensure that the guidelines stated in NGPM would be adhered to; and
- (c) reinforce compliance with the documentation requirements related to the administration of the “two-tier” reporting system on declaration of interests, including but not limited to providing each committee secretary with a register of Committee Members’ interests.

Staff training

5.12 Staff costs, which include staff salaries, gratuity, mandatory provident fund contributions, and other benefits and allowances, constitute a significant share of EOC’s expenditure. In 2021-22, EOC’s staff costs amounted to \$110 million, representing 85% of its annual subventions from the Government.

Application for training sponsorship

5.13 To support staff’s professional and competency development, staff are sponsored on a full or partial reimbursement basis to attend job-related training programmes, seminars or conferences provided by external organisations. From 2019-20 to 2021-22, staff training sponsorship provided amounted to about \$420,000.

Other administrative issues

5.14 According to the Human Resources and Administration Manual, staff applying for training sponsorship should complete an application form with reasons in support of the application and recommendation from Division/Unit Head (indicating the amount of sponsorship recommended) for approval by an Executive Director. Application forms should normally be submitted at least 10 working days before the commencement of the training courses/programmes so as to allow time for consideration of the applications. Applications submitted after the commencement or completion of the training courses/programmes will not normally be considered.

5.15 ***Approval of training sponsorship applications.*** From 2019-20 to 2021-22, 80 applications for training sponsorship were approved. Audit's examination of the records of the 80 approved applications revealed that:

- (a) 10 (13%) applications were submitted less than 10 working days (ranging from 5 to 8 working days, averaging 7 working days) before the commencement of the training courses/programmes without proper justifications (Note 38);
- (b) 4 (5%) applications were not submitted using the stipulated application form as required. They were collectively approved by an Executive Director using an email instead; and
- (c) in 3 (4%) applications (with total course fees amounted to \$4,036), the amounts of recommended sponsorship (full or partial) were not indicated on the application forms by the respective Unit Head/Executive Director. In the event, full sponsorships were provided to the applicants.

5.16 According to EOC, of all the training applications examined by Audit, no applicant had attended the training courses/programmes without having obtained proper approval before the commencement of the training, be it vide the stipulated application form or email. The 10 working days window was an administrative time frame for normal processing training applications and the policy was not meant to

Note 38: *There were altogether 16 applications which were submitted less than 10 working days before the commencement of the training courses/programmes. According to EOC, in 6 applications, the invitation of attendance was only received in short notice or the training was initiated by the management and notification of available places was received within a short notice.*

categorically reject late applications as a result of special circumstances/considerations in individual cases. Audit considers that EOC needs to take measures to ensure compliance with the requirements stipulated in the Human Resources and Administration Manual for training sponsorship applications as far as practicable.

Audit recommendation

5.17 **Audit has recommended that the Chairperson, EOC should take measures to ensure compliance with the requirements stipulated in the Human Resources and Administration Manual for training sponsorship applications as far as practicable.**

Response from the Equal Opportunities Commission

5.18 The Chairperson, EOC generally agrees with the audit recommendation. He has said that EOC will remind staff members to comply with the application procedures for external training and continue to refine the staff training policy and processing procedures for betterment of staff training administration.

Procurement of goods and services

5.19 According to PSSM, staff initiating a purchase for goods/services should raise a purchase requisition providing reasons for the purchase and detailed specifications of the item(s) to be sourced. Quotations from suppliers in EOC's suppliers list will be invited. Normally, the supplier offering the lowest price meeting the full specification shall be recommended for approval by senior officers according to the schedule of purchase authority as stipulated in PSSM.

5.20 Audit sample checked 20 procurement of goods and services of values above \$50,000 from 2018 to 2022 and found room for improvement in 2 cases:

- (a) **Office renovation.** In May 2020, staff from the General Registry requested the procurement of renovation services for part of the office. Four quotations were obtained and the lowest quotation amounting to \$180,270 was approved by the Division Head. In June and July 2020,

Other administrative issues

three subsequent purchase requisitions for additional renovation works with a total amount of \$88,870 (i.e. 49% of the original quotation value) were raised and they were approved by the Division Head in August 2020. In the event, while the final value of the improvement works amounted to \$267,070, which exceeded the purchase authority of the Division Head of up to \$250,000, there were no documentary records showing that the approval from the next higher authority (i.e. the Executive Director (Operations)) was obtained; and

- (b) ***Procurement of office furniture.*** In March 2021, staff from the General Registry requested the procurement of 32 meeting tables (folding type) with modesty panel and flipper (with size specified), and 3 medium back mesh chairs. Quotations from 10 suppliers were received with the lowest one at \$21,300. However, the second highest quotation of \$95,504 was recommended and approved based on the justifications that:
- (i) the design and materials of the tables of the recommended supplier were more stable and safer to use due to a safety-lock herein (whereas the tables offered by the supplier with the lowest quotation did not have a safety-lock); and
 - (ii) 8 years' warranty were provided by the recommended supplier while other suppliers only provided a warranty of 1 to 5 years.

Audit noted that the requirements of safety-locks and length of warranty period had not been specified in the purchase requisition. There were no documentary records showing that such requirements had been communicated to potential suppliers when inviting quotations.

5.21 In March 2023, EOC informed Audit that:

- (a) for the office renovation work mentioned in paragraph 5.20(a), an additional expense of \$18,200 was unexpectedly incurred as a sewage pipe problem popped up onsite, calling for extra works urgently so as not to delay the works in progress and resulting in exceeding the approved limit by \$17,070; and

- (b) for the procurement of office furniture mentioned in paragraph 5.20(b), the specifications should have been set out completely. The purchase of meeting tables was to replace the old ones which had been used for over 24 years.

In Audit's view, EOC needs to take measures to enhance its staff's compliance with PSSM, especially in relation to obtaining approval from appropriate authority and providing complete specifications in purchase requisitions.

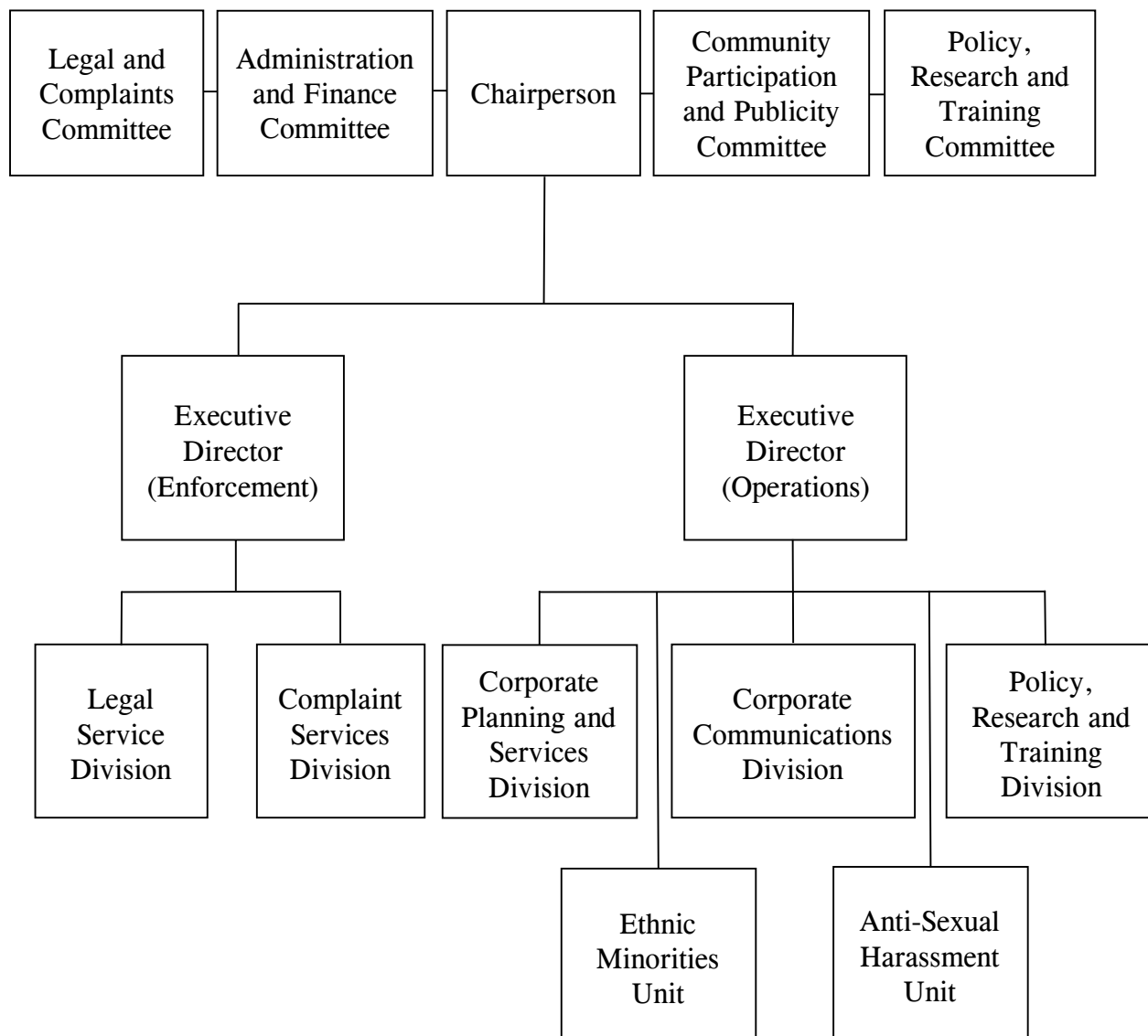
Audit recommendation

5.22 **Audit has *recommended* that the Chairperson, EOC should take measures to enhance EOC staff's compliance with PSSM, especially in relation to obtaining approval from appropriate authority and providing complete specifications in purchase requisitions.**

Response from the Equal Opportunities Commission

5.23 The Chairperson, EOC generally agrees with the audit recommendation. He has said that EOC will provide complete specifications in purchase requisitions and remind staff members to obtain approval from the appropriate authority.

**Equal Opportunities Commission:
Organisation chart (extract)
(31 December 2022)**



Source: EOC records

Acronyms and abbreviations

A&FC	Administration and Finance Committee
ASHU	Anti-Sexual Harassment Unit
Audit	Audit Commission
CEO	Chief Equal Opportunities Officer
CMAB	Constitutional and Mainland Affairs Bureau
COR	Controlling Officer's Report
CPPC	Community Participation and Publicity Committee
DDO	Disability Discrimination Ordinance
DLR	Discrimination law review
EOC	Equal Opportunities Commission
FSDO	Family Status Discrimination Ordinance
IOPM	Internal Operating Procedures Manual
LCC	Legal and Complaints Committee
LegCo	Legislative Council
LSD	Legal Service Division
NGPM	Notes for Guidance for Members on Procedures for Meetings and Related Matters
PMIs	Persons with mental illness
PRTC	Policy, Research and Training Committee
PRTD	Policy, Research and Training Division
PSSM	Procurement of Stores and Services Manual
RCM	Research Co-ordination Manager
RDO	Race Discrimination Ordinance
SDO	Sex Discrimination Ordinance
SRM	Senior Research Manager