

LCQ5: Internal review conducted by the Equal Opportunities Commission

Following is a question by the Hon James To and a written reply by the Secretary for Constitutional and Mainland Affairs, Mr Erick Tsang Kwok-wai, in the Legislative Council today (June 10):

Question:

A Review Panel under the Equal Opportunities Commission (EOC) conducted, between 2017 and 2019, a process review to examine EOC's governance, management structure and complaint handling process, with a view to improving the services of EOC. In parallel, a retired High Court Judge conducted, upon EOC's invitation, an independent review of EOC's complaint handling process and submitted an independent report thereon. The Review Panel subsequently submitted to EOC the Report on Review of the Equal Opportunities Commission Governance, Management Structure and Complaint Handling Process, setting out its responses to the various recommendations put forth in the independent report. The Report was endorsed and then published by EOC in December 2019. In this connection, will the Government inform this Council:

(1) whether it knows, among those recommendations set out in the Report in respect of which the Review Panel has indicated that it "agrees", it "agrees that this can be considered" and "EOC will study",

(i) the up-to-date number of recommendations that have been implemented;

(ii) the up-to-date number of recommendations that will be implemented and the implementation timetables; and

(iii) the up-to-date number of recommendations that EOC decided not to implement, and the reasons for that;

(2) whether it knows if EOC has implemented the following recommendations as set out in the Report; if EOC has not, when EOC will do so and the estimated amounts of resources involved:

(i) the victims of a discrimination case be given the opportunity early on in the complaint handling process to meet with a legal professional;

(ii) EOC officers should regularly take part in capacity-building workshops and seminars;

(iii) serious consideration be given to the possibility of officers of the Legal Service Division of EOC providing specific legal advice to the complainants during the conciliation stage;

(iv) the Legal and Complaints Committee of EOC should be cautious that it is not appropriate to refuse granting legal assistance for court proceedings merely because a case has less than a 50% chance of success;

(v) a review be conducted on whether it is appropriate for a Complaint Services Division of EOC officer to be responsible for enquiry handling and conciliation work in the same case;

(vi) greater use be made of Rule 7, including the payment by EOC of taxi fares, to enable complainants and respondents to attend at EOC's premises for face-to-face conferences at mutually convenient times;

- (vii) EOC's case management system should be upgraded and made more user-friendly;
 - (viii) the Legal and Complaints Committee of EOC should, in deciding whether to grant full legal assistance, bear in mind the financial situation of the respondent and the potential for moral hazards;
 - (ix) where conciliation has failed, the task of providing initial limited legal assistance may be undertaken by a team of officers drawn from the Complaint Services Division and the Legal Service Division of EOC;
 - (x) it should be ensured that Chinese walls are in place to prevent an officer of the Complaint Services Division of EOC who has acted as a conciliator on a complaint from later conducting the detailed investigation and legal assessment of that same complaint;
 - (xi) it should be a normal expectation that the Legal and Complaints Committee of EOC decides whether to grant full legal assistance within nine to 12 months of a complaint being made or of a specific enquiry being classified as a complaint; and
 - (xii) consideration be given to increasing the head count of EOC; and
- (3) of the resources provided to EOC in the current financial year for implementing the aforesaid recommendations?

Reply:

President,

In December 2019, the Equal Opportunities Commission (EOC) released its Report on Review of the Equal Opportunities Commission Governance, Management Structure and Complaint Handling Process (Report). The Review was conducted between 2017 and 2019 by a Review Panel of three EOC Members to examine EOC's governance, management structure and complaint-handling process. Moreover, the EOC invited Professor Anselmo Reyes, a retired High Court Judge, to conduct an independent review concerning EOC's complaint-handling process, and submit The EOC's Complaint Handling Process: External Report (Independent Report), such that the Review could be more comprehensive. The EOC found the Report's recommendations, particularly those in relation to a victim-centric approach, the holistic collection of facts and evidence in complaint handling, and the positioning of the Chairperson as a commanding role to be ably assisted by the EOC Members and a professional management team, etc., highly valuable and helpful for enhancing its work.

Chapter 7 of the Report featured response by the Review Panel and the EOC staff to Professor Reyes' recommendations in the Independent Report. Of the 25 recommendations in the Independent Report, the Review Panel noted that some have already been implemented under existing practice, the Review Panel also agreed that the EOC should duly consider some of the suggestions. To date, the EOC has implemented 11 of these recommendations, while following up another five items. For the remaining nine recommendations, the EOC believes that the desired effect can be achieved through alternative measures taken, or that it may revisit the suggestions as necessary when reviewing its operation in the future. Progress of EOC's follow-up to all 25 recommendations in the Independent Report (including items (i) to (xii) listed in sub-question (2)) can be found in the Annex.

In fact, the Review Panel had recommended that the EOC should put immediate focus on the key issues and improvement suggestion concerning its governance, management structure and complaint-handling process set out in the main body of the Report. To this end, the EOC has taken forward a series of measure to improve its complaint-handling process, and commenced re-organisation of its internal management structure in order to facilitate the fulfilment of long-term strategic objectives and enhance organisational effectiveness.

Regarding financial resources, government subvention to the EOC in 2020-21 has increased by \$9.1 million (7.3 per cent) over the revised estimate for the previous year, in addition to a sum of about \$5.6 million offset by time-limited funding injected during 2019-20, resulting in a total increase of about \$14.7 million. The additional funding is provided for enhancing the work of the EOC, mainly setting up two dedicated working groups and enhancing the organisational effectiveness of EOC's management structure. Breakdown of expenditure related to the implementation of recommendations set out in the Independent Report is not available as this is an integral part of EOC's daily complaints handling operations.