

**Notes of Discussion of the  
Eighth Sexual Minorities Forum  
held on 20 June 2008 at 2:30 p.m.  
in the Conference Room, 21/F, Southorn Centre, Wanchai**

**Present**

Constitutional and Mainland Affairs Bureau

Mr. Arthur HO	DS(CMA)1 (Chairman)
Miss Joanna CHOI	PAS(CMA)4
Mr. Wilson KWONG	AS(CMA)4A
Mr. Louis LO	AS(CMA)4A (Des)
Mr. LAI Wing Yiu	UM/GISOU
Miss Carmen TSOI	UO/GISOU

Education Bureau

Mrs. Alice HO	SCDO(MCE) (Agenda Item 3 only)
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Non-governmental Organizations  
(NGOs)

Mr. Timothy LEE	AIDS Concern
Ms Liz WHITELAM	Amnesty International Hong Kong
Ms Medeleine MOK	Section
Mr. Denny TO	Association for the Advancement of Feminism
Miss LI Kin Wing	Civil Human Rights Front
Mr. Roddy SHAW Kwok Wah	Civil Rights for Sexual Diversities
Mr. Ferrick CHU	Equal Opportunities Commission
Miss CHUI Chi Ning	Gender Concerns
Dr. Mark KING	Gender Rights Research Group

Mr. CHO Man Kit	Hong Kong Ten Percent Club
Mr. Reggie HO	HORIZONS
Dr. HONG Kwai Wah	New Creation Association
Ms YEUNG Wai Wai	Rainbow Action
Mr. Kenneth CHEUNG Kam Hung	Rainbow of Hong Kong
Dr. Sam WINTER	Transgender Asia Research, Education and Advocacy Centre
Ms Robin BRADBEER	The Transgender Equality and Acceptance Movement (TEAM)
Ms WEI Siu Lik	Women Coalition of HKSAR
Ms Connie CHAN	

**Agenda Item 1 : Confirmation of minutes of meeting held on 1 December 2006 and 20 April 2007**

A member pointed out that the draft minutes of meetings held on 1 December 2006 and 20 April 2007 could not fully reflect the details of discussion. She requested not to confirm the two draft minutes at this meeting. Miss CHOI urged members to submit any further proposed amendments to the draft minutes to the Secretariat as soon as possible. The Chairman suggested that it would help if members could let the Secretariat have their proposed amendments before the meeting, or suggest amendments at the meeting.

**Agenda Item 3 : EDB’s policy and guidelines in handling matters related to sexual orientation in schools and expulsion of students (SMF Paper no.1/2008)**

2. It was agreed that discussion on EDB’s policy and guidelines in handling matters related to sexual orientation in schools and expulsion of students should be discussed first. Mrs. HO briefed members on the EDB’s policy and guidelines on the subject matter.

3. A member expressed concern about the Chinese translation of the term "sexual orientation" as “性取向” in the Guidelines on Sex Education in Schools 1997 (“the Guidelines”). The more appropriate

translation should be “性傾向”. He pointed out that whereas according to many scientific studies sexual orientation was in-born, the Guidelines presented sexual orientation as lifestyle choices. He urged EDB to revise the Guidelines.

4. A member remarked that the development of sexual orientation would start at an early age between 11 and 14. Those who had problem with their sexual orientation would need assistance. Members suggested that EDB should revise the contents of its website which was currently targeted at students aged 15 or above.

5. A member suggested that the Guidelines should be revised to include topics on safe sex practices among male homosexuals and equal opportunities for persons of different sexual orientation.

6. Another member expressed disappointment with the paper prepared by EDB and questioned the relevance of EDB Circular No. 87/1997 on Expulsion and Suspension of Pupils and EDB Circular No. 11/2006 on Upholding Students’ Right to Education to sexual orientation or gender identity. She pointed out that the problem of violence and discrimination against homosexual students in schools should not be simplified as a matter relating to expulsion of pupils. According to a survey conducted by Women Coalition of HKSAR targeted at female homosexuals, sexual orientation discrimination existed in areas such as employment, consumption of service and education. Discrimination in schools was the most serious : 40% of the respondents experienced discrimination because of their sexual orientation or gender identity. Among these respondents, 10% of them were expelled from schools because of sexual orientation or gender identity. She complained that students with different sexual orientation would be regarded as having behavioural problems. Noting that EDB had not received any reports concerning expulsion of students due to sexual orientation, she questioned EDB’s reporting mechanism regarding expulsion of students.

7. Members observed that 10 out of 17 serving external agencies listed in Annex II of EDB Circular No. 87/1997 which provided professional advice on counselling and guidance to schools held negative views on homosexuality. For example, some of these agencies

had publicly asserted that homosexuality was abnormal, some advocated conversion therapy for homosexuals, and some held negative views on equal opportunities for people of different sexual orientation. She requested EDB to review the list, and add agencies which are receptive to homosexuals and transgendered persons into the list.

8. In addition, the member pointed out that EDB had not provided equal access to education for students of different sexual orientation in accordance with the Yogyakarta Principles. The member urged EDB to cover different sexual orientation relationships in different subjects so as to cater for the needs of students of different sexual orientation or gender identities.

9. A member pointed out that children's right to education was protected under the United Nations Convention on the Rights of the Child. She commented that a child with different sexual orientation might experience systematic abuse in a school which was not tolerant of homosexuality. It was not acceptable for a child to be denied the right to education for this reason. Having regard to international standards, any measure forcing children to deny or change their sexual orientation would constitute medical abuse. She said that only a systematic review on education policy could protect children from such abuse. She asked EDB to check if the 17 serving agents had committed such abuse. She also requested EDB to include sexual orientation as a Key Learning Area instead of dealing the issue in the context of Ethics and Religious Education.

10. Another member asked whether EDB would revise the 1997 Guidelines and issue new guidelines related to sexual orientation for schools. He pointed out that sexual orientation was an issue related to human rights as recognized by court. Sexual orientation should not be dealt with as an isolated subject. A holistic approach on sex education, covering basic definition of relationships, such as the concept and the possible forms of family and marriage would be the right way to promote respect and acceptance of persons with different sexual orientation. He also asked whether EDB would vet the contents of textbooks for Liberal Studies as some of them contained outdated and incorrect information on homosexuality.

11. In response, Mrs. HO said that the age limit in EDB's website was intended for teachers' reference only. The materials were designed for students of Secondary 3 or above. Age was not the key dividing line. In view that children nowadays mature early, EDB already had plans to provide those materials to children aged 11-14.

12. About the statistics on expulsion and suspension of pupils, Mrs. HO explained that schools would expel students with behavioural problems (including sexual orientation), but EDB had not been provided with information on the details of the problems. As such, EDB did not have statistics concerning expulsion of students on grounds of sexual orientation. She would relay member's views to her colleagues in EDB to consider the need to review the existing practice of notification.

13. Mrs. HO supplemented that schools might not be aware that expelling students based on sexual orientation would be regarded as systematic abuse. If necessary, EDB could state clearly that certain behaviour, such as different sexual orientation, cannot be used to justify expulsion of students. She would relay members' comments on the children's right to education and the list of serving agencies in EDB's Circular 87/1997 to EDB's Student Division for follow up action.

14. As regards teaching of sexual orientation, Mrs. HO said that there was no dedicated course or curriculum on sexual orientation under the school setting. Sexual orientation fell within a Learning Area under the new curriculum and would be taught in the form of "life events" ( 生活事件 ) in the context of Ethics and Religious Education, Life Education and Liberal Studies. Thus, EDB could only advise schools that sexual orientation falls within the Learning Area and that teachers may teach sexual orientation. Nevertheless, she would convey members' views to the Curriculum Development Division of EDB for the purpose of review of the 1997 Guidelines. She would ask the Division to consider whether the Guidelines should be revised to require teachers to teach sexual orientation in schools. Also, she would remind the Division to update the terminology related to the topic on sexual orientation.

15. Regarding vetting of textbooks, Mrs. HO replied that EDB's

policy on reviewing textbooks was to ensure compliance with the Curriculum Guide. Should there be errors in a textbook, EDB would follow up with the publisher.

16. In response to Mrs. HO's reply, a member requested EDB to set up a mechanism to monitor if its policy and practices were in line with the International Covenant on Economic, Social and Cultural Rights (ICESCR) in that people of different sexual orientations and gender identities had equal rights to education and their rights were promoted and respected. EDB should provide its assessment and relevant statistics to CMAB for inclusion in the report to be submitted to ICESCR. He asked whether EDB had a policy of referring students with behavioural problems to social workers in school and under what circumstances social workers would recommend the school authorities to take disciplinary actions against such students.

17. A few members requested EDB to take follow up action on the following :

- (a) to improve the notification mechanism on expulsion of students so that EDB could know the reason of expulsion. A separate breakdown on expulsion on grounds of sexual orientation should be provided;
- (b) to strengthen the training for teachers on sex education, equal opportunities and acceptance of the sexual minorities;
- (c) to allow non-governmental bodies, such as Women Coalition of HKSAR, to report to EDB their findings on bullying at schools due to sexual orientation, disciplinary actions taken by school authorities on students due to sexual orientation, and referral cases from sexual minority groups;
- (d) to set up a complaint mechanism pertaining to textbooks containing incorrect information on homosexuality;

- (e) to provide learning materials related to homosexuality to students in key stage 1;
- (f) to issue guidelines that clearly remind schools not to discriminate against students who have different sexual orientation, such as publicly condemning homosexuality; and
- (g) to request schools with religious background to make known their policy to both students and parents that if students do not wish to attend religious education lessons, they have the right to do so.

18. Mrs. HO said that she would refer members' suggestion to improve the notification mechanism of students' expulsion to the School Division for its consideration. She would also convey the request to update the list of serving agencies to the School Division. In this regard, she welcomed members to provide the relevant information to EDB.

19. On the problem of bullying in schools, Mrs. HO explained that while EDB could issue guidelines and advise schools to follow, what EDB could do would be rather limited. Organisations which ran the schools have their objectives and some might have religious background. The extent the Government could intervene would be limited for Direct Subsidy Scheme Schools and subsidized schools. She added that in cases where students agreed to leave the school voluntarily upon advice from school authorities, EDB would have difficulty to interfere as they had to respect school autonomy. She also pointed out that some of these cases could be handled by statutory bodies (such as the Equal Opportunities Commission) should they fall within their ambit.

20. A member maintained that it should be EDB's responsibility to inform the school authorities, students as well as their parents that under the Basic Law, the Hong Kong Bill of Rights Ordinance and relevant EDB circulars, children have the right to education regardless of their sexual orientation. This would be particularly relevant as students might be advised by school authorities to leave the schools voluntarily. In reply, Mrs. HO said that the EDB circulars had clearly stated such

message. Dissemination of the message to students and parents would require the cooperation of school principals, teachers, and parent-teacher associations. EDB could at best take tougher stance in those circulars and remind schools of their obligation to disseminate the message.

21. A member suggested that there should be a channel in every school through which students can lodge complaints in relation to sexual orientation discrimination. Another member enquired about the consequences of non-compliance with the EDB's guidelines by school authorities and whether there exists an independent committee under EDB to investigate cases of non-compliance. She also asked whether it would be possible for sexual minority groups to reach out to schools, particularly those with religious background, with a view to promoting equal opportunities for persons of different sexual orientation.

22. In response to members' suggestions and comments, Mrs. HO said that she would reflect members' views to the School Counseling team with regard to the handling of complaints and grievances of students, and the provision of more training to frontline school counselors. In respect of non-compliance investigation, she explained that the District Education Officer would follow up the case based on Codes of Aid and relevant guidelines with all parties concerned before allowing school authorities to expel students. Regarding the promotion of services/activities by sexual minority groups in schools, members could provide details of services/activities to EDB for consideration. However, the school authorities would have the discretion to decide whether to organise such services/activities. She suggested that members might consider contacting school social workers or School Curriculum Development Officers in schools direct to explore the possibility of collaboration and cooperation. With regard to issues about revision of guidelines, curriculum development (including sex education) and complaint mechanism for students, she would assist to relay members' feedback to different divisions of EDB for necessary follow-up.

23. In response to a member's allegation that some serving agencies had been referring cases to the New Creation Association (NCA) for conversion therapy, the representative of NCA clarified that the NCA

was an organisation which aimed to help people who were struggling with their homosexual orientation and provided them with other alternatives. NCA respected the rights and choice of their clients, and their service was not discriminatory.

24. A member pointed out that people seeking to convert their homosexual orientation were subject to pressure and discrimination from the community. He demonstrated the adverse impact of conversion therapy provided by NCA on the recipients by making reference to an article reported in the SCMP dated 18 May 2008. In fact, he had already lodged a complaint with the Medical Council of Hong Kong on conversion therapy.

*[Post meeting note: The member sent his submission to the Medical Council of Hong Kong and the SCMP article to the Secretariat by email on 20 June 2008 and requested these be circulated to other members for information. He also requested to invite a representative of the Medical Council to attend the meeting to address issues relating to conversion therapy.]*

25. In reply, the representative of NCA said that people might seek help from NCA for various reasons including personal problems and it should not be generalised into a single reason as claimed by the member. He remarked that there had been considerable controversy over the success rate and effectiveness of conversion therapy. He would like to share with members the findings of a scientifically-based publication to demonstrate that conversion therapy as a religiously mediated approach could help change sexual orientation.

26. Another member remarked that the loopholes in the existing policy were self-evident and there was a need to legislate against discrimination on the grounds of sexual orientation expeditiously. The Chairman replied that human rights of people of different sexual orientation were protected under the Basic Law and Hong Kong Bill of Rights Ordinance. On legislation against discrimination on the grounds of sexual orientation, there were divergent views in the community and at this stage, the Government had no plan to introduce legislation on this front. The Government would continue to promote the concept of

non-discrimination through education and publicity programmes.

27. A member said that two years ago he requested the then Education and Manpower Bureau to distribute to teachers and students in secondary schools an information leaflet about transgendered people the production of which was sponsored by the Equal Opportunities (Sexual Orientation) Funding Scheme, but his request was rejected. He asked how his request could be taken forward. Mrs. HO said that the member should advise EDB on the purpose of his request. It was agreed that the member would liaise with Mrs. HO on how to take his request forward.

28. A member suggested that EDB should produce a standardized form to advise students leaving school voluntarily so as to prevent abuse. Mrs. HO responded that EDB did not encourage schools to advise students to leave school voluntarily or to expel students since it was contrary to the Whole School Approach. She expressed concerns that the proposal could formalise and encourage such practice.

29. Members raised the following requests to follow up the issue relating to discrimination of students on grounds of sexual orientation in schools :

- (a) to set up a working meeting/task force with EDB to follow up the issues raised at this meeting;
- (b) representatives of the sexual minority group to provide sensitivity training to EDB staff who were responsible for vetting the contents of textbooks for Liberal Studies;
- (c) to develop a mechanism for compiling key statistics on the number of students expelled from schools on grounds of sexual orientation for the purpose of reporting to ICESCR; and
- (d) to produce pamphlets to educate students and parents on the rights of students and parents with regard to students' access to education and the complaint channel, particularly for cases involving discrimination on the

grounds of sexual orientation or gender identity.

30. In response, Mrs. HO made the following remarks:

- (a) she would relay the members' suggestion to convene a working meeting / taskforce to responsible EMB officers for their consideration;
- (b) as regards the content of textbooks for Liberal Studies, she could channel information provided by members to the responsible officers in EDB for follow up action;
- (c) it would be difficult to collect statistics of expulsion of students based on sexual orientation, but this could be discussed in the working meeting/task force meeting; and
- (d) the content of pamphlet would need to be discussed at the working meeting/taskforce meeting.

31. Two members proposed to have a taskforce meeting with EDB to follow up the issues discussed at the meeting. Another member added that organisations providing conversion therapy services should not be invited to join the taskforce meeting with EDB. The Chairman suggested that the form in which the issues would be taken forward would have to be considered by EDB and members would be informed of the EDB's response in due course.

## **Agenda Item 2 : Matters arising**

32. In response to a member's request to set out a list of discussion items under matters arising, the Chairman said that he would prefer to adopt a more flexible approach to avoid unnecessary bureaucracy. The Administration would report the follow-up actions of issues discussed at the previous meeting under matters arising. If members consider certain issues discussed at the previous meeting important and should be explicitly set out under this item, they could make a request to the Gender Identity Sexual Orientation Unit (GISOU)

before the meeting.

33. On paragraph 4 of the draft minutes of meeting held on 20 April 2007, the Chairman briefed members that the Social Welfare Department (SWD) had uploaded the Guide on Multi-disciplinary Collaboration in School Social Work Service to its website and the GISOU had already sent the URL link to members.

34. As regards paragraphs 7 and 9 of the members, the Chairman informed members of SWD's reply in respect of maintaining the confidentiality about students' sexual orientation and the training provided to social workers on the issue of sexual orientation. In attending the School Social Work Networking Meeting of the Hong Kong Council of Social Service in July 2007, the subject officer of SWD took the opportunity to remind representatives of non-governmental organisations (NGOs) of the need to comply the Guide on Multi-disciplinary Collaboration in School Social Work Service and the Code of Practice for Registered Social Workers issued by SWD and the Social Worker Registration Board respectively, as well as the Personal Data (Privacy) Ordinance, to uphold the rules of confidentiality in service delivery, in particular for those secondary students of different sexual orientation. The NGO representatives agreed to disseminate the message to school social workers. As regards training to social workers, SWD organised a tailor-made training course on the topic of sexual orientation for frontline social work staff working in various settings in late June 2007. SWD had also sponsored staff to attend training courses on relevant subjects organised by NGOs and training institutes.

35. The representative of NCA enquired into the response of the Hospital Authority (HA) to the supplementary information provided by NCA on successful cases of conversion therapy and NCA's request to meet with the HA as set out in paragraph 23 of the minutes on 20 April 2007. The Chairman agreed to follow up with HA.

36. A member suggested to discuss the NCA's eligibility of membership in the Sexual Minorities Forum (SMF). Specifically, she asked for Government's stance on the matter and views on whether NCA qualified as an SMF member. She also requested to discuss how NCA's

participation as a member of the SMF had affected its operation.

37. The Chairman said that the Home Affairs Bureau (HAB) held the view that to qualify as an SMF member, an organisation should promote equal opportunities for people of different sexual orientation and gender identity, and that the applicant should either be a sexual minority or transgender group, or provide services to the sexual minority or transgender community. HAB was of the view that NCA could meet the membership criteria. He understood that some members had different views on this issue. Although HAB had proposed a new meeting arrangement for the SMF, unfortunately a solution which could be acceptable to all members could not be found.

38. The Chairman went on to say that when the Constitutional and Mainland Affairs Bureau (CMAB) took over human rights issues in July 2007, CMAB had tried to explore ways to resolve the problem but was not successful. CMAB therefore decided to reconvene the SMF meeting as it appeared not practicable to resolve the problem in the near future. Pending a long-term solution, the Chairman suggested to convene SMF meetings with NCA as a member at least in short or medium term. New options to solve the problem on NCA's membership could be discussed and considered as and when viable alternatives could be worked out in future. He added that to continue with the debate on NCA's membership might not be conducive to the work of the SMF.

39. A member said that the debate had dragged on for quite some time. While he admitted that it would not be satisfactory to leave the issue unresolved, he could accept that the SMF proceed to discuss substantive issues in the interim.

40. The representative of NCA opined that the dispute would not be beneficial to the SMF and suggested that a decision should be made on its membership.

41. Pending a long-term solution, the Chairman proposed to discuss other substantive issues and put the membership issue aside in the interim. However, another member considered that the issue of

NCA's membership had dragged on far too long. It had seriously affected the work of the SMF. She demanded to continue discussion on the issue. Another member pointed out that retaining NCA as an SMF member would impede the operation of the SMF because NCA held views different from other SMF members. She opined that SMF should have a mechanism to expel members that had been wrongly admitted and which most SMF members would like to expel.

42. The representative of NCA replied that NCA served the minority of the sexual minorities and the rights of these sexual minorities to receive conversion therapy should be respected. NCA's presence in the SMF was a reflection of the spirit of equal opportunities. He said that it would be a farce if NCA were expelled from the SMF.

43. A member suggested to apply a test to NCA on its commitment to equal opportunities for people of different sexual orientation. He asked whether NCA would provide conversion therapy as a last resort after all attempts to help a person to accept his/her sexuality have failed. He also asked whether NCA would be prepared to provide services for heterosexuals who have problem with their sexuality to convert to homosexuals.

44. The representative of NCA responded that in the past four years, NCA did not have any clients who sought assistance to change their sexual orientation from heterosexuality to homosexuality. Rather, NCA received requests for assistance from clients wishing to convert from homosexuality to heterosexuality as these clients had no other places to turn to. He explained that it was not the primary objective of NCA to offer conversion therapy. NCA was a religious organisation providing assistance to people who had struggles with their homosexuality with a view to bringing them back to God and confirming their status as a Christian. The ultimate aim was to help these people maintain their chastity (持守聖潔). NCA provided pastoral care and religiously mediated self-help services to homosexuals as an alternative to the gay affirmative approach. Each organisation would have its own target clients and NCA had adopted an alternative approach to help people who did not accept their homosexuality.

45. A member opined that an organisation could hardly be regarded as being committed to promoting equal opportunities for people of different sexual orientation if the only service it provided was to confirm the clients' shame and anxiety about their sexuality and offer service to change their sexual orientation.

46. A member queried whether the Government's resources should be utilized to sponsor any organisation in its preaching work. He also opined that the theory advanced by NCA about sexual orientation was out-dated and scientifically invalid.

47. Another member said that it was not an objective of the SMF to preach and NCA should find other forums to advance its course. This view was supported by some other SMF members.

48. The representative of NCA explained that apart from providing services to clients who would like to change their sexual orientation and clients who could not change their sexual orientation but would like to get back to God, NCA also provided supporting services to the parents of their clients. He reiterated that NCA could meet the objective of the SMF, i.e. promoting equal opportunities for people of different sexual orientation. He stood ready to provide up-to-date scientific proof on the effectiveness of conversion therapy to counter allegations pertaining to outdated reports on the harmful effects of such therapy.

49. A member pointed out that the services provided by NCA could not meet the criterion of providing equal opportunities for people of different sexual orientation and NCA should be expelled from SMF.

50. A member requested CMAB to advise whether NCA's work could be regarded to be in line with SMF's objective. The Chairman responded that all members should act in accordance with the objective of the SMF in participating in SMF meetings and activities organised by the GISOU. Should a member's behaviour at the meeting deviate from the objective of the SMF, he would take appropriate action to ensure proper conduct of the meeting.

51. The Chairman added that CMAB fully understood the need to find a way to resolve the membership dispute. That said, this had to be handled rationally and fairly. On the basis of discussions at this meeting so far, he could not see any possibility to break the deadlock and resolve the dispute at this stage. He pointed out that Hong Kong was a diversified society, and people could have different views on different issues. Where there were differences in views, members would need to be tolerant of the views of others and discuss the issues rationally and within the objective of the SMF. In the short run, CMAB had no other proposed arrangement. The Chairman suggested to continue to convene SMF meetings with the existing membership and in accordance with the objective of the SMF, pending a longer-term solution that could be acceptable to all parties concerned.

52. Taking note of the Chairman's remarks about tolerance of other people's perspective, a member enquired whether other religious groups such as The Society for Truth and Light (明光社) would be admitted into the SMF in future. The Chairman responded that like HAB, CMAB did not have any pre-determined opinion on whether any organisation would be admitted into the SMF or not. The decision to admit NCA as an SMF member was made by the Government back in November 2005. The issue to be tackled was how to resolve the problem now confronting SMF members on NCA's membership.

53. A member pointed out that it was the responsibility of CMAB to come up with a decision to resolve the dispute. She added that the SMF was established in response to the observations made by the Human Rights Committee on HKSAR's ICESCR reports. She pointed out that the SMF was the only forum convened with a back-to-back meeting arrangement with the Family Values and Religious Groups which held different views on sexual orientation. The sexual minorities had accepted this arrangement which had worked well. She failed to understand why the Government had given up the arrangement and decided to accept NCA as an SMF member.

54. The representative of NCA requested CMAB to re-consider proposals made by HAB, and suggested a separate meeting with CMAB to discuss possible options to solve the problem.

55. A member proposed a motion to terminate the membership of NCA in the SMF immediately. This was supported by another member who opined that the remarks made by the representative of NCA at this meeting could provide sufficient justification for the expulsion of NCA.

56. The Chairman said that the Government had made a decision to accept NCA as an SMF member a few years ago. Justifications would be needed to terminate NCA's membership. Noting that it would not be possible to find a solution acceptable to all parties concerned at this stage, he would explore with NCA and any other members on options to solve the problem after the meeting. In the interim, he suggested the SMF could continue to discuss substantive issues under the present meeting arrangement.

#### **Agenda Item 4 : Work Plan of the Gender Identity and Sexual Orientation Unit in 2008-09**

57. Miss CHOI briefed members on the GISOU's work plan in 2008-09.

58. In response to a member's enquiry on the complaint handling procedures for public and private sectors, the Unit Manager replied that the same procedure would be adopted. The GISOU would ask the complainant to provide the details of the complaint. Should the complaint fall within the GISOU's purview, the Unit would take appropriate follow-up actions, including inviting the respondent to reply or arranging meetings between the complainant and the respondent for mediation.

59. In response to a member's enquiry about the number of complaints received, the Unit Manager said that a total of 26 complaints had been received since the hotline's operation. There was one successful mediation case which was resolved through correspondence instead of face-to-face meetings.

60. On the promotion of equal opportunities within the Government on employment, the Chairman said that there was a comprehensive mechanism within the civil service which monitored appointment, promotion and disciplinary matters. Civil servants were selected for promotion based on objective criteria such as ability and performance. They should not be discriminated against on grounds of sexual orientation.

61. Regarding the promotion of the Code of Practice Against Discrimination in Employment on the Ground of Sexual Orientation (the Code) in the public sector, Miss CHOI said that the GISOU would liaise with Civil Service Bureau, Labour Department and associations of human resource managers on ways to promote the Code. As regards the suggestion on publicizing on sexual orientation through the multi-pronged approach, Miss CHOI explained that given resource constraints, an incremental approach would be adopted in the public education and publicity programmes. The Unit would now focus its efforts on promotion of equal opportunities for people of different sexual orientation in the employment field.

62. A member enquired into work done by the Government to promote the Code thus far and in particular, the private sector. Miss CHOI said that the Code had been available for collection at the public enquiries service centres of District Offices and uploaded onto the website. Thus far, there had not been proactive promotion on the Code. As explained earlier on, the GISOU had plans to promote the Code in the public and private sectors.

63. The member asked whether the Code could be extended to gender identity. Miss CHOI indicated that the Administration would consider the feasibility of such extension.

64. A member queried why CMAB had tried to distance itself from the sexual orientation portfolio. He cited as an example that the staff of the GISOU repeatedly reminded sponsored organisations that they should, in the acknowledgement for all promotional materials pertaining to the project sponsor, make reference to the “Equal Opportunities (Sexual Orientation) Funding Scheme” instead of

“CMAB”. He also noticed that the name of “CMAB” did not appear prominently on the poster publicizing the Unit’s hotline posted at MTR stations this year.

65. Miss CHOI clarified that the same arrangement governing acknowledgement existed in the HAB era. A sponsored organisation would be required to acknowledge in all promotional materials that the project was sponsored by the Equal Opportunities (Sexual Orientation) Funding Scheme, instead of the sponsoring Bureau. Members might have mixed up this requirement with the requirement to state in any articles sponsored by the Scheme that the content of the article does not represent the position of HKSAR Government. The Chairman added that the purpose of a poster would be to publicize a scheme, not the policy bureau. This explained why the name of the bureau would not feature prominently in the poster.

66. Another member questioned the intention to state that the content of publication does not reflect the position of HKSAR. Miss CHOI explained that the Government would not censor any publication it funded under the Scheme in order to respect freedom of expression. The purpose of the statement was to avoid misunderstanding that the content of the publication funded by the Scheme represented the Government’s position. This had been a requirement for the Funding Scheme since 2005-06.

67. Given the small number of complaints received by the hotline, a member suggested that it might be better use of public monies if the poster campaign at MTR stations could publicise that under the Basic Law and the Hong Kong Bill of Rights Ordinance, Hong Kong people have equal rights regardless of their sexual orientation, instead of publicizing the GISOU’s hotline. The Chairman indicated that the GISOU could consider inclusion of anti-discrimination messages in future publicity campaigns.

68. Another member pointed out that during the Chief Executive election campaign in 2007, the Chief Executive admitted the need to legislate against sexual orientation discrimination under the framework of the Basic Law and the Hong Kong Bill of Rights Ordinance. As such,

CMAB should have a position on legislation against discrimination on grounds of sexual orientation.

69. The Chairman responded that at the moment, CMAB would concentrate on the Race Discrimination Bill. While there were views about the need to legislate against discrimination on grounds of sexual orientation, we should take into account public opinion and the resources available to handle the relevant legislative work. Having regard to the reality, the Chairman did not think time is ripe to legislate at this stage. This notwithstanding, CMAB would work with other bureaux/departments on the public education front to promote equal opportunities on grounds of sexual orientation.

70. To address a member's concern about the lack of publicity on the Government as an equal opportunities employer, the Chairman said that the civil service did not discriminate against employees on grounds of sexual orientation. CMAB would consider ways to enhance the promotion of the Code to the general public and the private sector.

### **Agenda Item 5 : Any Other Business**

71. A member enquired why CMAB had not produced any paper on extension of protection under the Domestic Violence Ordinance (DVO) to same-sex cohabitants. The Chairman said that CMAB was in support of the extension of the coverage of the DVO to same-sex cohabitants. CMAB's comments had been incorporated in the Administration's paper on the Domestic Violence (Amendment) Bill. However as the proposed extension fell outside the ambit of the long title of the Amendment Bill, the proposed extension could not be effected in this legislative year. In order not to delay the passage of the Domestic Violence (Amendment) Bill, the Secretary for Labour and Welfare (SLW) had proceeded to introduce the Amendment Bill into the Legislative Council. In moving the resumption of second reading debate of the Domestic Violence (Amendment) Bill, SLW undertook to further amend the DVO to extend its scope of protection to same-sex cohabitants through a separate legislative exercise in the next legislative session. The member requested to invite SWD to the next SMF meeting to

discuss the implementation of extension of protection under the DVO to same-sex couples. The Chairman indicated that GISOU would follow up with SWD.

72. Separately, another member pointed out that overseas jurisdictions such as Singapore, Japan, Korea, Saudi Arabia, Iran, Kazakhstan, Kyrgyzstan as well as some Mainland provinces allow transgendered persons to change their statutory gender. He requested the Security Bureau be invited to discuss legal recognition of the acquired gender of transgendered persons at the next SMF meeting.

73. A member cited a complaint against the staff of the Equal Opportunities Commission who refused to address a transgendered woman in her preferred gender and name on grounds that the person in question had not gone through the entire sex reassignment surgery. He enquired whether the GISOU has any policy on how to address pre-operative or non-operative transgendered persons. The Chairman replied that as a general practice, the Administration would address the person based on the information such as sex and name provided. Another member requested the GISOU to promulgate a statement on this front. The Chairman responded that the GISOU would need to carefully consider the implications involved in making such a statement, and in particular whether this might cause complications with regard to compliance with certain statutory requirements to verify the gender of a person.

74. A member asked why the minutes of the SMF had not been uploaded to the CMAB website. The Chairman replied that it had been a general practice for forums operated by CMAB to upload relevant documents to the website and he had no objection to extend the same arrangement for the SMF. It was agreed that the documents of the previous meetings should be uploaded to the website.

### **Date of next meeting**

75. On the frequency of future SMF meetings, the Chairman said that the aim would be to hold the meetings on a regular basis. Members

would be notified of the date of the next meeting in due course.

76. The discussion ended at 7:25 p.m.

**Constitutional and Mainland Affairs Bureau  
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