

## **Minutes of Thirteenth Meeting of the Advisory Group on Eliminating Discrimination against Sexual Minorities**

**Date** : 13 November 2015  
**Time** : 4:30 p.m.  
**Venue** : Conference Room 1, G/F, Central Government Offices  
2 Tim Mei Avenue, Tamar

### **Members Present**

Professor Fanny CHEUNG, JP (Chairperson)  
Hon. CHAN Chi-chuen  
Mr Tommy CHEN  
Dr Andy CHIU  
Dr Joseph CHO  
Ms Shirley HA  
Mr Reggie HO  
Professor KUNG Lap-yan  
Professor KWAN Kai-man  
Ms Lavinia LAU  
Ms Joanne LEUNG  
Dr Hon. Priscilla LEUNG, SBS, JP  
Ms YEUNG Wai-wai

### **Members Absent**

Hon. James TO

### **In Attendance**

Representatives from Constitutional and Mainland Affairs Bureau (“CMAB”)  
Mr Gordon Leung, JP Deputy Secretary for Constitutional and  
Mainland Affairs (“DS(CMA)”)  
Ms Phidias TAM Principal Assistant Secretary for  
Constitutional and Mainland Affairs  
 (“PAS(CMA)”)  
Mr Eric LEE Assistant Secretary for Constitutional and  
Mainland Affairs (“AS(CMA)”)  
Ms Elaine IP Assistant Secretary for Constitutional and  
Mainland Affairs (Secretary)  
Mr LAI Wing-yiu Unit Manager, Gender Identity and Sexual  
Orientation Unit

## **Agenda Item 1: Confirmation of minutes of meeting held on 23 October 2015**

The Chairperson asked members if they had any comments on the minutes of the last meeting. A member suggested clarifying in paragraph 10 of the minutes that the new code of practice for providers of services, goods and facilities mentioned in the paragraph had yet to be drawn up. The meeting agreed to amend paragraph 10 from “Regarding the recommendation on a new code of practice for providers of services, good and facilities...” to “Regarding the recommendation to draw up a new code of practice for providers of services, good and facilities (“the new code of practice”)...”. With this amendment, the minutes of the meeting held on 23 October 2015 were confirmed.

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

2. The Chairperson recapitulated that at the last meeting, the Advisory Group had deliberated on Chapters 1 and 2 as well as the first three recommendations in Chapter 3 of the draft report, namely i) training and resources for personnel in specific fields; ii) a code of practice for service providers in both public and private sectors; and iii) enhanced publicity campaign. Member’s comments had been incorporated in the revised draft report which had been circulated on 10 November 2015. Matters arising from the last meeting would be discussed under the next agenda item.

## **Agenda Item 3: Revised draft report of the Advisory Group [Paper No. 8/2015]**

3. Upon the Chairperson’s invitation, AS(CMA) introduced the recommendation in Chapter 3 on drawing up a Charter for voluntary adoption. He briefed members that the proposal was based on discussions at the last meeting on drawing up a new code of practice for providers of goods, facilities, and services. He also drew members’ attention to the following issues to facilitate their deliberation on this recommendation:

- (a) the application of the Charter in the domain of education might be more complicated than in other domains (namely, employment; provision of goods, facilities and services; and disposal and management of premises). Schools with a religious background might have concerns about possible conflicts between the requirements of the Charter and their religious doctrines, especially if the requirements applied to school

curricula. A very substantial proportion of school enrolments in Hong Kong are in schools with a religious background; and

- (b) as evidenced by findings of the desktop research on experience of other jurisdictions, given the difficulties of defining in different contexts which transgenders should be accorded the same treatment as persons of his/her preferred gender, development and implementation of the Charter might be more complicated where the ground of “gender identity” was applied.

4. Members offered the following comments on this recommendation:

- (a) Some members considered that the proposed Charter should include the domain of education despite the sensitivity raised at paragraph 4(a) above, but should not cover school curricula. One of them said adoption of the Charter by schools would only be on a voluntary basis. Another one of them supplemented that, similar to the existing Code of Practice against Discrimination in Employment on the Ground of Sexual Orientation, the proposed Charter would not be legally binding and would only provide recommended good practices for public and private sector organisations to follow voluntarily. In view of possible implications of the Charter on school curricula, the proposed Charter should only cover admission, assessment of school performance and dismissal of students which were less likely to arouse controversy.
- (b) A member said that inclusion of the domain of education in the proposed Charter might help tackle homophobic and transphobic bullying in schools. Another member considered it more desirable to tackle school bullying on all grounds including sexual orientation and gender identity through a charter on anti-bullying drawn up by the Education Bureau.
- (c) two members did not agree with the recommendation to create a Charter, in particular one covering the domain of education. They opined that even though the Charter was intended for voluntary adoption, it would still create pressure for those organisations which chose not to adopt it, especially those with religious concerns. One of them reminded the meeting that if the Charter was to be drawn up in future, care must also be taken to safeguard religious freedom and the liberty of parents to ensure

the religious and moral education of their children in conformity with their own convictions, in addition to the promotion of non-discrimination against sexual minorities. She also pointed out that families with relatively conservative attitudes had faced pressure when expressing views unsupportive of homosexuality; the Government must handle the promotion of the proposed Charter with great care in future in order to avoid putting pressure on these families and their children who should be entitled to their own views as to whether to support homosexuality;

- (d) One other member emphasised that adoption of the proposed Charter was on an entirely voluntary basis; organisations of any nature and background should be free to decide whether to adopt the Charter. He hoped that the creation of a Charter covering more domains and a commendation system could be more effective in promoting non-discrimination against sexual minorities in society.
- (e) Two members suggested making reference to the judgment in the *W v Registrar of Marriages* case in defining “gender identity” in the proposed Charter.

5. The Chairperson concluded that the Advisory Group should recommend the Government to draw up a charter aimed at elimination of discriminatory acts and promotion of mutual respect and inclusiveness in the suggested domains, taking into account the concerns of those members who did not agree with this recommendation. The meeting agreed and noted a member’s reservation on this recommendation. The Chairperson also recapitulated and advised the following:

- (a) the proposed Charter should be for voluntary adoption and no organisation should be pressured to participate;
- (b) in order to avoid possible misunderstanding by the public that the Charter was legally binding, the Government should pay attention to its drafting by making reference to the existing administrative and voluntary charters promulgated by the Government; and
- (c) the specific content of the Charter should be drawn up with due regard to the concerns of stakeholders.

6. AS(CMA) proceeded to introduce the other two revised recommendations, in which members' comments raised at the last meeting had been incorporated.

7. Regarding the revised recommendation on training and resources for personnel in specific fields, a few members indicated that they had no further comments. A member considered it necessary to specify a target number of training recipients in the recommendation. Another member suggested setting target ratios of all personnel in the respective fields trained by the end of a certain period. DS(CMA) said that setting of quantitative targets at this stage might be unrealistic since it would depend on the delivery mode of the training which had yet to be decided when the training was developed in consultation with the professions concerned; hence for present purposes it might be more practicable to aim, as the ultimate goal, to reach all personnel concerned. He also commented that tracking and publicising quantitative indicators such as the number of participants or training sessions conducted would be an effective means of monitoring and providing incentive for higher utilisation.

8. In relation to the setting of quantitative targets of attendance, the Chairperson pointed out that such targets would be meaningful only if they were realistic and should be based on consultation with the professions concerned, in particular under the circumstance that attendance was on a voluntary basis. She agreed with DS(CMA) that the sensitivity training could target to cover all the personnel concerned ultimately, and quantitative indicators of utilisation should be tracked as part of the outcome evaluation of the training. She also advised that the training should permeate into both the pre-service and in-service training of the professionals concerned progressively.

9. Other views on this recommendation were as follows:

- (a) a member suggested that the contents of the training resources should also include the promotion of mutual respect between sexual minorities and other people in society, especially those who did not agree with homosexuality; and that the developer of the training resources should have a neutral stance on the issues of same-sex marriage and legislation against discrimination on the grounds of sexual orientation and gender identity; and
- (b) two members opined that officers in government departments should also receive training to enhance their sensitivity to sexual

minorities in the provision of public services.

10. Regarding the revised recommendation on enhanced publicity campaigns, a few members suggested promoting the message of non-discrimination against sexual minorities through senior government officials' participation in LGBT events such as the Pride Parade. One member did not agree with this view and said that the Government should not be subjected to political pressure to support these events. He also reminded that the Announcements in the Public Interest ("APIs") to be produced in future should not convey a misconception by equating a person who did not support homosexuality with one who would discriminate against homosexuals.

11. In response to two members' questions, PAS(CMA) advised that the proposed audience research for evaluation of the existing API aimed to gauge the reach and audience awareness of the API, and public perception and understanding of its key messages. Findings of the audience research would help enhance the impact of future publicity initiatives by informing the development of more targeted campaigns for different audience groups.

12. The Chairperson concluded the discussion on publicity measures with the additional comment that, alongside the evaluation of existing publicity measures, stakeholder groups could also be consulted in the process of drawing up future publicity strategies.

13. AS(CMA) recapitulated the background of the recommendation concerning support services for sexual minorities and the scope of support services proposed in a member's submission, which covered dedicated shelter services and dedicated support centres / community centres for sexual minorities. To facilitate members' deliberation, he also drew members' attention to the information gathered by the Secretariat on relevant existing services.

14. At the Chairperson's invitation, members made the following comments:

- (a) four members considered that there were gaps in existing services. The member who proposed this recommendation commented that the existing services for sexual minorities were inadequate and some of the service providers were considered not LGBT-friendly. He urged for improvement of existing services to fill the service gaps and the setting up of dedicated

centres for sexual minorities having regard to their unique circumstances and specific needs. He also suggested selecting operators of these centres through open bidding in future;

- (b) a member commented that in deciding whether dedicated centres should be set up, the key considerations should include whether the provision of support services for sexual minorities through dedicated centres would be desirable and effective; what kinds of services should the centres provide; and what organisations would operate them. He opined that it might not be necessary or practicable for a wide range of services to be provided by one-stop centres dedicated to serving the sexual minorities; and the effectiveness of such centres in meeting the needs of service recipients should be carefully considered;
- (c) another member said that since not all social workers were sensitive to the needs of sexual minorities, there was a genuine need to identify suitable social workers to handle such cases. He also suggested the Advisory Group to recommend compiling a list of relevant services that sexual minorities might need in order to facilitate them in obtaining those services;
- (d) one other member remarked that the Government should carefully examine which proposed services might need to be provided in a dedicated manner and which ones might not;
- (e) another member suggested that the Advisory Group should recommend the Government to actively consider the provision of dedicated services in suitable areas;
- (f) one member shared the views of those members raised at paragraphs 14(b) and (e) above. She also pointed out that alongside those relevant existing services mentioned in the information gathered by the Secretariat, some sexual minority groups were providing relevant services as well; and
- (g) another member advised that if dedicated centres for sexual minorities were to be set up, their introduction should be in the form of a pilot scheme, with measurable targets set to facilitate evaluation of its effectiveness in serving the sexual minority community and meeting their needs. She advised that the reasons for setting up such dedicated centres should also be

clearly explained to the public.

15. In the light of members' views, the Chairperson concluded that the Advisory Group should recommend the following:

- (a) an in-depth review should be conducted on the existing provision of support services, including temporary shelters and counselling services, to examine their effectiveness in meeting the needs of sexual minorities and delineate any service gaps;
- (b) where needed, support services for sexual minorities could be provided in a dual-track model, i.e., alongside the existing services provided through non-governmental organisations and government bureaux/departments, dedicated support services for sexual minorities could be introduced where needed in a delivery mode that the service providers deemed appropriate;
- (c) existing services should be enhanced through more sensitivity training for frontline social workers; and
- (d) promotion of available services to the sexual minorities should be strengthened, so that those in need could more easily obtain the services they required.

16. Regarding the recommendation to conduct further study on non-local experience of legislative and non-legislative measures, AS(CMA) recapitulated that the Advisory Group had discussed and agreed on the topics to be covered by the further study; at the meeting of 2 September 2015, some members suggested changing the wording in the description of purpose of the study, and the new wording was yet to be proposed for discussion.

17. Two members were of the view that the purpose of the further study should be to construct an acceptable basis for formulating viable legislative proposals for consultation in future. Another member said that the purpose of the study should be to prepare for the enactment of legislation or a public consultation in this regard, and its findings should help correct some public misconception regarding legislation against discrimination on the grounds of sexual orientation and gender identity. He suggested that the objection of some members to this description of purpose could be reflected in the report. One other member opined that though the original wording on the purpose did not specifically link the



further study to legislation and thus might seem too conservative to some members, the conduct of the further study would in any case be desirable because it would be essential preparation for any public consultation on legislation and its findings would certainly provide a solid basis for further discussions. He suggested that the further study should also look into ways to engage stakeholders in an informed process of discussion if legislation was to be pursued.

18. Taking into account the views raised at paragraph 17 above as well as those expressed at previous meetings, a member proposed amending the description of purpose as “the findings of the study would form the basis for public consultation on possible measures to eliminate discrimination”. As members present had no further comment on this amended wording, the Chairperson requested the Secretariat to amend the report accordingly.

19. In the interest of time, the Chairperson advised members to provide their comments on the revised Chapters 1 and 2 of the report and any input for “other observations” under Chapter 3 to the Secretariat after the meeting by 20 November 2015. She also requested the Secretariat to amend the revised draft report having regard to members’ views and arrange circulation of the draft final report for members’ review the soonest possible before the next meeting, with a view to expediting the conclusion of the final report at the next meeting, which would also be the final meeting of the Advisory Group.

#### **Agenda Item 4: Any other business**

20. The discussion ended at 7:00 p.m. The next meeting will be held at 4:30 p.m. on 14 December 2015.

**Constitutional and Mainland Affairs Bureau  
December 2015**