

**Minutes of the Eightieth Meeting of
The Equal Opportunities Commission
held on 18 June 2009 (Thursday) at 2:30 p.m. in the
Equal Opportunities Commission's Conference/Training Room**

Present

Mr. Raymond TANG Yee-bong	Chairperson
Ms CHAN Man-ki, Maggie	
Prof. Randy CHIU	
Ms CHIU Lai-kuen, Susanna	
Ms CHOI Hing-shi	
Mrs. CHONG WONG Chor-sar, M.H., J.P.	
The Hon FUNG Kin-kee, Frederick	
Dr. LAW Koon-chui, Agnes, J.P.	
Mr. LEE Luen-fai	
Mr. Amirali Bakirali NASIR, J.P.	
Mr. Saeed UDDIN, M.H.	
The Hon TSE Wai-chun, Paul	
Dr. TSE Wing-ling, John	
Ms WONG Ka-ling, Garling	
Mr. Michael CHAN Yick-man	Secretary Director, Planning & Administration [DPA]

Absent with apologies

Ms CHAN Ka-mun, Carmen, J.P.
Mr. LUI Tim-leung, Tim
Ms NG Wing-mui, Winnie

In attendance

Mr. Joseph LI Siu-kwai	Director, Operations [D(Ops)]
Mr. Herman POON Lik-hang	Chief Legal Counsel [CLC]
Dr. Ferrick CHU Chung-man	Head, Policy and Research [HPR]
Ms Shana WONG Shan-nar	Head, Corporate Communications and Training [HCCT]
Miss Kerrie TENG	Accountant [ACCT]
Miss Gloria YU Wai-ling	Senior Equal Opportunities Officer, Administration & Personnel [SAP]

I. Introduction

1. The Chairperson welcomed and thanked all Commission Members (Members), in particular the 7 new Members for attending the 80th Meeting.
2. Apologies for absence were received from Ms Carmen CHAN Ka-mun, J.P., Mr. Tim LUI Tim-leung, and Ms Winnie NG Wing-mui due to clash of meetings/out of town/other business engagements.

II. Confirmation of Minutes
(Agenda Item No. 1)

3. The Minutes of the 76th Meeting held on 19 March 2009, 77th (Special) Meeting held on 26 March 2009, 78th (Special) Meeting held on 21 April 2009 were confirmed without amendments. The Minutes of the 79th (Special) Meeting held on 13 May 2009 were confirmed with amendments proposed by the Secretary as tabled at the meeting (see Appendix).

III. Matters Arising
(Agenda Item No. 2)

Update on Progress of Formal Investigation on Accessibility in Certain Publicly Accessible Premises
(Paragraphs 5 - 7 of Minutes of the 76th Meeting)

4. D(Ops) would provide a verbal update on the progress under Agenda Item 4.

Code of Practice on Employment under the Race Discrimination Ordinance
(last deliberated at the 78th (Special) Meeting held on 21 April 2009)

5. As Members had been made aware, the draft code was being given consideration by the relevant bills subcommittee of LegCo and a Special EOC Meeting had been scheduled for Thursday, 25 June 2009 to consider further amendments, if any, on the draft code and to take the subject forward.

Follow-up Actions on the Audit Report
(last deliberated at the 79th (Special) Meeting held on 13 May 2009)

6. The matter would be given consideration under Agenda Item 7.

Advice and Assistance to the Hong Kong Police Force on Prevention of Discrimination
(Paragraph 16 of Minutes of the 76th Meeting)

7. A Member enquired about the progress on EOC's advice and assistance given to the Police Force in helping them to review existing guidelines/ensure appropriate training given on issues related to racial discrimination issues. In response, HPR said 3 training sessions had

been conducted to police officers ranked at middle to upper levels and some advice had been given on their training videos to frontline police officers. Advice and assistance were also given with regard to the requirements under the Race Discrimination Ordinance to facilitate their incorporation into the Police Standing Order. C/EOC added that he had also written to the Commissioner for Police on the handling by a police officer of an incident related to an ethnic minority and a reply had since been received. He would copy the reply letter to Members for reference.

Members' Handling of Media Enquiries
(Paragraph 15 of Minutes of the 77th Meeting)

8. The same Member enquired about the existing practice for EOC Members to handle enquiries from the media. He said that as a LegCo Member, it would sometimes be impractical for him not to respond to enquiries from the media directly but to refer them to EOC's Chairperson or staff of EOC's Corporate Communications.

9. Members deliberated on the subject and agreed that EOC's policy regarding external relations should normally be adhered to. However, if Members had given their personal views on the EOC in public, then the EOC office should be informed as far as practicable.

IV. New Agenda Items

Separation of Posts of Chairperson and Chief Executive Officer of the Equal Opportunities Commission
(EOC Paper No. 13/2009; Agenda Item No. 3)

10. CMAB's proposed options as outlined in the paper issued by

CMAB to the LegCo Panel for the meeting on 15 June 2009 were discussed.

11. Members agreed that option (a): **Status quo, i.e. a full-time executive Chairperson and no CEO** is not considered desirable in view of EOC's heavy workload as well as its expanded and wide portfolio, and that this option would not be in line with the expectation and calls from some sectors of the community for improvements in EOC's governance and separation of the posts.

12. A number of Members indicated their preference for option (c): **A full-time executive Chairperson and a full-time CEO** for the following reasons:

- (i) A full time Chairperson is required to provide the vision and leadership for the EOC for mainstreaming EO in Hong Kong. The EOC should not be directly compared with other statutory organizations which have part-time Chairs as EOC is a human rights organization which has its own unique nature. Other major statutory bodies tend to focus on services of a commercial nature or with a strong financial flavor (e.g. public transport, tourism, medical services, etc.) In view of EOC's nature of work and heavy responsibility, a full time CEO is also required to focus on internal management and administration to ensure that EOC delivers quality of service rightly demanded by a civil society.
- (ii) A full time Chairperson is required to oversee and monitor

the implementation of the anti-discrimination legislation. He should be the driving force for promoting equal opportunities and enhancing EOC's internal administration.

- (iii) Checks and balance against their respective executive functions are easier to administer, since both posts are full time.

13. On the other hand, option (c) is essentially a re-instatement of what was in place prior to 2000. With the CEO working under and reporting to the Chair, some Members were of the view that it would be unrealistic to expect the CEO to be an effective check against the Chair's executive powers and functions.

14. The majority of Members were inclined towards option **(b): A part-time non-executive Chairperson and a full-time CEO**. Various views were expressed.

- (i) Under this option, the CEO would relieve the Chairperson from executive functions. This would address the concern regarding over-concentration of power in the Chairperson.
- (ii) The part-time Chair would focus on statutory, regulatory and policy matters and should not concentrate and be held accountable for internal administrative matters, as in the case of the current full time Chairperson. Internal administration should be the responsibility of the CEO and

other staff. This clear delineation of duties and responsibilities would strengthen corporate governance .

- (iii) It might be necessary for the part-time Chairperson to be remunerated or receive an honorarium. Whilst on a part-time basis, there could still be requirements regarding working hours of the Chairperson to facilitate EOC's smooth operation. The job description and division of work of the Chair and CEO should be clearly delineated. Areas where checks and balances are necessary should be identified and mechanism established to put them in place and consideration be given on whether it is appropriate for day-to-day regulatory decisions to be made by the CEO.

- (iv) The current arrangement of the Board with part-time Members and a full-time executive Chairperson runs the risk of the Members and the Chair not sharing the same perspective. This may result in the perception that the Chairperson having all the say and this is not desirable. A part-time Board with a non-executive Chair would help to overcome the current problem. On the other hand, it would then be necessary to devise an arrangement whereby the full-time CEO would be able, and required, to maintain effective communication with the part-time Board.

- (v) With a part-time Board in place, the CEO will report and be accountable to the Board as a whole.

- (vi) With the CEO focusing on internal management and administration, the role of the non-executive Chairperson, together with other Members of the Commission, will be more prominent when performing the statutory and regulatory functions and in making recommendations for social policy changes to the Government and influencing them to make the necessary changes for the purposes of mainstreaming EO and addressing systemic discrimination. Hence resulting in greater effectiveness in the work of the EOC, and in attaining its mission and vision.

- (vii) In relation to this particular option, it does not mean that the Board should leave the day-to-day operation and administration entirely to the staff members. The Board should provide advice and guidance to the office staff in carrying out their work. They should work more closely with staff and get themselves more involved in the work of the committees. The committees are an important bridge between the staff and the EOC Board. The Board should also give consideration to the formulation of a strategic development committee or include this as a term of reference in one of the existing committees for the purpose of taking EOC forward. The Board and staff members are all in the same boat.

- (viii) Under this option, with the Chairperson becoming part-time, there might be a need to request for more funding/resources from the government to strengthen internal operation to complement the change in the

organizational structure. Some Members would like to see more resources devoted to provide support to aggrieved persons seeking legal redress from the EOC.

- (ix) The paper issued by CMAB to the LegCo Panel for meeting on 15 June 2009 was in broad terms. It would be necessary to obtain further information from Government. Clarification also needs to be sought on matters such as the grading of the CEO to ensure that the importance and stature of the EOC will not be compromised, and whether the Board's status as the "Governing Board" will be affected under option (b).
- (x) Members would deliberate further on the remaining issues with a view to adopting an unanimous stance and taking forward the exercise.

(Ms Susanna CHIU joined and Mr. LEE Luen-fai left the meeting respectively during the deliberations on the above Agenda Item.)

Update on Progress of Formal Investigation on Accessibility in Certain Publicly Accessible Premises

(Agenda Item No. 4)

15. D(Ops) provided a verbal report on the background of the Formal Investigation on Accessibility in Certain Publicly Accessible Premises (Formal Investigation) for the benefit of new Members and updated Members on the latest progress. Mainly due to the complexity of the issues, the fine details involved, the change in the Design Manual in December 2008 which has an impact on the Formal Investigation, and

the time needed to coordinate the responses from various premises management, longer than expected time was required by the Working Group to complete the final report. He regretted that the progress of the related work had been behind schedule. Nevertheless, he would endeavour to complete the remaining work as soon as possible.

(The Hon Paul TSE left the meeting at this juncture.)

16. To facilitate taking the subject forward, Dr. John TSE and Ms Garling WONG would join the Working Group of the Formal Investigation.

(Mr. A B NASIR left the meeting at this juncture.)

Reports of the Legal & Complaints Committee, Community Participation & Publicity Committee, Public Education & Research Committee and Administration & Finance Committee
(EOC Paper No. 9/2009; Agenda Item No. 5)

17. Members noted EOC Paper No. 9/2009.

(Dr. John TSE left the meeting at this juncture.)

Endorsement of New EOC Committees Membership
(EOC Paper No. 10/2009; Agenda Item No. 6)

18. The Secretary briefed Members that upon the recent appointment of 9 new EOC Members and the re-appointment of 7 existing Members, opportunity had been taken to seek Members' advice on their interest in joining or continue with their participation in the 4 EOC's committees. The latest update on Members' interest in participating in the respective committees was at Appendix I of EOC Paper No. 10/2009. The terms

of reference of the respective committees were at Appendices II to V of the same paper. He added that existing Members' attendance to the relevant committee meetings had been considered in preparing Appendix I. For all re-appointment cases, the relevant attendance rates for the respective committees were at least greater than 50%, with the majority at 70% or more.

19. The Meeting noted and endorsed the new committee membership and the revision of the terms of reference for the Community Participation and Publicity Committee (CPPC) to increase the maximum number of Members to 8. The appointments of the Convenors and Deputy Convenors for the Administration and Finance Committee (A&FC), the CPPC and the Public Education and Research Committee (PERC) were also endorsed as follows:

Administration and Finance Committee (A&FC)

Convenor: Ms CHIU Lai-kuen, Susanna

Deputy Convenor: Prof. Randy CHIU

Community Participation and Publicity Committee (CPPC)

Convenor: Ms WONG Ka-ling, Garling

Deputy Convenor: Mr. Saeed UDDIN

Public Education and Research Committee (PERC)

Convenor: The Hon Fung Kin-kee, Federick

Deputy Convenor: Dr. LAW Koon-chui, Agnes

For the Legal and Complaints Committee (LCC), in accordance with its terms of reference, the Convenor was the EOC Chairperson. For the Deputy Convenor of the LCC, the Meeting agreed that s/he would be elected among the committee's Members in its coming meeting and thereafter to be endorsed by the EOC Board.

(Dr Agnes LAW left the meeting at this juncture.)

Follow-up Actions on the Value for Money Audit on EOC
(EOC Paper No. 11/2009; Agenda Item No. 7)

20. C/EOC outlined the content of EOC Paper No. 11/2009 and requested Members to advise on the follow-up actions on the Audit Commission's Report (Report No. 52 of the Director of Audit) on EOC.

21. The Meeting agreed to form a Working Group comprising of Members of the Administration and Finance Committee (A&FC) and the respective Convenors and Deputy Convenors of the 3 other committees (CPPC, LCC & PERC) to oversee and follow up the recommendations in the Audit Report. The first Working Group meeting would be convened immediately following the 81st EOC (Special) Meeting to be held on 25 June 2009.

Six Monthly Report of EOC's Financial Position as at 31 March 2009
(EOC Paper No. 12/2009; Agenda Item No. 8)

22. EOC Paper No. 12/2009 reported on EOC's financial position as at 31 March 2009. ACCT outlined the salient points contained in the

said paper for Members' information, which included the major recurrent, capital expenditure items and total income of EOC for 2008/09, and the movement of reserves.

23. Members noted EOC Paper No. 12/2009.

V. Any Other Business

Opening EOC Board and Committees Meetings to the Public

24. A Member suggested opening to the public all EOC Board and its committees' meetings for improving transparency as well as enhancing EOC's image. C/EOC said that the matter had been considered by previous EOC Boards and some Members then preferred to keep the meeting closed to enable free and candid discussions. Another Member said another option was to open some of the meetings or parts of meetings; however, the availability of meeting space and facilities to accommodate the general public would need to be resolved first. C/EOC agreed to re-consider the suggestion at an appropriate time.

Starting Time of EOC Meetings

(Members' preference on the starting time was obtained and tabled)

25. Members noted that there were 8 Members who preferred to have meetings starting at 2:30 p.m. whereas 8 other Members preferred to have other starting times (4 Members preferred 5:00 p.m. and another 4 preferred 6:00 p.m.). As such, the starting time of future regular EOC meetings for 2009 would remain at 2:30 p.m. for the time being unless

specifically advised otherwise.

26. There being no other business, the meeting was adjourned at 5:40p.m.

VI. Date of Next Meeting

27. Members have been recently advised that the next meeting would be a Special Meeting to be held on Thursday, 25 June 2009 at 2:30 p.m. at the EOC to consider amendments to the Code of Practice on Employment under the Race Discrimination Ordinance. Immediately following this meeting, the 1st Working Group to follow up the recommendations of the Audit Report would be convened.

28. The next regular EOC meeting was scheduled for 17 September 2009 (Thursday) at 2:30 p.m.

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Proposed Amendments
to Paragraphs 32 – 33 of the Minutes
of the 79th (Special) EOC Meeting held on 13 May 2009

(Proposed Changes are in bold)

32. In response, the same Member said that the matter now needed more careful consideration although he would have wanted to see more progress on this subject. He commented that he had tried to take the subject forward during his term as Convenor of the A&FC. However, due to various reasons he could not achieve what he had wanted. Another Member who was also a Member of the A&FC said that the A&FC and its Working Group had thorough discussions and done a lot of work on this matter. All considerations and work done were recorded in the relevant minutes of meetings. The Convenor of the A&FC had been requested to reflect the Committee's view to officials of the CMAB, and he had done so accordingly in the last meeting with the CMAB. He opined that considerable progress had already been made on this subject.

(Ms TAM Heung-man, Mandy and Dr. CHENG Kwok-kit, Edwin left the meeting respectively at this juncture.)

33. After deliberations, Members agreed that a resolution was required for Members of the next term to follow up the various improvement work required of the EOC. HCCT was **requested** to provide a written draft for the Meeting to consider.

(Meeting adjourned at this juncture. Meeting resumed when HCCT had made ready a written draft on the resolution for Members to consider.)