

**RESTRICTED**

(cleared for publication)

**Minutes of the Eighty-fourth Meeting of  
The Equal Opportunities Commission  
held on 18 March 2010 (Thursday) at 2:30 p.m. in the  
Equal Opportunities Commission's Conference/Training Room**

**Present**

Mr. LAM Woon-kwong, G.B.S., J.P.	Chairperson
Ms CHAN Ka-mun, Carmen, J.P.	
Ms CHAN Man-ki, Maggie	
Prof. Randy CHIU	
Ms CHIU Lai-kuen, Susanna (by telephone conference)	
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. LUI Tim-leung, Tim, B.B.S., J.P.	
Mr. Amirali Bakirali NASIR, J.P.	
Ms NG Wing-mui, Winnie	
Mr. Saeed UDDIN, M.H.	
The Hon TSE Wai-chun, Paul	
Dr. TSE Wing-ling, John, M.H.	
Ms WONG Ka-ling, Garling	
Mr. Michael CHAN Yick-man	Secretary Director, Planning & Administration [DPA]

**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 Gloria YU Wai-ling	Senior Equal Opportunities Officer, Administration & Personnel [SAP]

**I. Introduction**

1. The Chairperson (C/EOC) welcomed all Commission Members (Members) to the 84<sup>th</sup> Meeting.

2. C/EOC informed that Ms Susanna CHIU Lai-kuen would join the meeting by telephone conference due to her office commitment. Additionally, The Hon Paul TSE Wai-chun had notified that he had to leave the meeting early whereas The Hon Frederick FUNG Kin-kee would join the meeting at a later time due to their LegCo commitments.

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

**II. Confirmation of Minutes**

(Agenda Item No. 1)

3. The Minutes of the 83<sup>rd</sup> Meeting held on 17 December 2009 issued to Members on 8 January 2010 were confirmed without amendments.

**III. Matters Arising**

(Agenda Item No. 2)

4. The Meeting noted that the two matters arising from the last meeting namely whether EOC meetings were to be open to members of the public and the progress of the Formal Investigation on Accessibility in Publicly Accessible Premises would be considered under New Agenda Items 3 and 4 respectively.

**IV. New Agenda Items**

**Public Access to EOC Meetings**

(EOC Paper No. 12/2010; Agenda Item No. 3)

5. At the last (83<sup>rd</sup>) EOC Meeting, it was agreed that a Working Group be formed comprising Members of the Administration and Finance Committee (A&FC) and other interested EOC Members to

consider the matter further. The Working Group was since formed and met on 9 March 2010. EOC Paper No. 12/2010 reported the discussions made and recommendations put forward by the Working Group. C/EOC invited Ms Susanna CHIU, Convenor of the A&FC to brief the Meeting the relevant details.

6. Ms Susanna CHIU briefed the Meeting that the Working Group had considered the reasons for enabling public access to EOC meetings; the possible agenda items and the different meetings that could be open to the public; resource implications and the logistical arrangements of permitting public access. Given the current space constraints in the office and resources implications and there were already different channels to disseminate information on EOC's work, opening up meeting would be considered in future. Nonetheless, to further enhance EOC's transparency, the Working Group recommended the following for the Meeting to consider:

- i. To hold press briefings immediately after each EOC Board Meeting, and if the Convenors of the Community Participation and Publicity Committee(CPPC), and the Policy and Research Committee (PARC) (previously Public Education and Research Committee) see fit, they could also conduct press briefings after the meetings.
- ii. To hold an annual EOC Board Open Meeting to review EOC's work in the past year and highlight work priorities and challenges for the coming year. This annual event could be held in July following the fiscal year end and at a venue outside EOC office to facilitate public attendance.

7. C/EOC added that members of the Working Group, which comprised Convenors of the four EOC Committees and other EOC Members, were unanimous in putting forward the recommendations as explained by Ms Susanna CHIU and detailed in paragraph 7 of EOC Paper No. 12/2010. The Meeting endorsed the recommendations of the Working Group. C/EOC thanked Ms CHIU and members of the Working Group for their valuable time and inputs to this matter. The endorsed practice could be reviewed at an appropriate time in the light of experience accumulated.

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

(EOC Paper No. 1/2010; Agenda Item No. 4)

8. D(Ops) provided an update on the progress of the Formal Investigation on Accessibility in Publicly Accessible Premises (Formal Investigation) as contained in EOC Paper No. 1/2010. He said that the Working Group on the Formal Investigation had met twice since the last EOC meeting to consider and discuss the third revised draft recommendations and the newly added executive summary of the draft final Formal Investigation report. The Working Group agreed with the main thrust of the revised recommendations and proposed further enhancement. The latest revised draft of the final Formal Investigation report was attached to the said paper.

9. D(Ops) further highlighted to Members the major recommendations at Chapter 17 of the latest revised draft of the final Formal Investigation report. Members noted that a central theme of the revised recommendations was to remind the Government of its obligations under the Convention on the Rights of the Persons with Disabilities and to accentuate its role in driving the accessibility agenda. As there were different accessibility standards under the building codes and the Disability Discrimination Ordinance (DDO), the Meeting discussed the need for consistent standards and the setting up of a high-level central co-ordinating body by the Government. Other follow-up actions on the investigation findings were also deliberated.

10. The Meeting in general supported the direction and recommendations of the revised draft of the final Formal Investigation report and made a number of other suggestions. C/EOC summarized Members' views and further suggestions as follows:

- i. To enlist more support from professional bodies to engage in research and promote the use of new technology to facilitate universal access and improve the environment;
- ii. To urge authorities concerned to include barrier-free concepts and requirements in buildings' and premises' redevelopment and renewal, and to provide incentives for compliance;

- iii. To suitably realign the order of the recommendations in the report to make its presentation clearer and more reader-friendly;
- iv. To attach great importance on following up the recommendations. To this end, the EOC office would endeavour to come up with more effective ways to ensure results;
- v. To prepare succinct and lively messages, in the form of leaflets/pamphlets to facilitate dissemination of the major report findings and recommendations to the mass media and the general public;
- vi. To use stronger wordings in the report to convey EOC's commitment to get improvements done; and
- vii. To add a footnote wherever appropriate throughout the report to explain the reference to which Design Manual when the Formal Investigation was carried out and which Manual was referred to in EOC's investigation and the rationale behind it.

11. C/EOC thanked Members for their valuable comments and suggestions on the subject and hoped that the findings of the Formal Investigation would arouse public discussion on the need to embrace the concepts of equality, non-discrimination, inclusiveness, acceptance and independent living for all in the society, which was also conducive to the Government's sustainable development in an aging society like Hong Kong. Members noted that the Formal Investigation report was aimed to be released in May and their advice would be sought again as appropriate beforehand.

*(Discussion on Agenda Items 5 and 6 on matters related to the Public Education and Research Committee and Community Participation and Publicity Committee were pushed back until the Hon Frederick FUNG, who was the Convenor of the Public Education and Research Committee attended the meeting. The Meeting proceeded to consider Agenda Item 7 at this juncture.)*

### **Delegation of Powers and Functions under the Race Discrimination**

**Ordinance, Cap. 602 (“RDO”)**

(EOC Paper No. 4/2010; Agenda Item No. 7)

12. CLC introduced EOC Paper No. 4/2010, which was to seek Members’ consent to delegate certain statutory powers and functions of the Commission under the RDO. Members noted that the proposed delegations detailed in the paper were similar to those for SDO, DDO & FSDO.

13. Members’ consent was given. Prof. Randy CHIU and Mr A B NASIR were authorized to sign along with C/EOC on the delegation instruments for the purpose of authenticating the fixing of the Commission’s seal.

[Post-meeting Note: Prof. Randy CHIU, Mr. A B NASIR and the Chairperson had signed on the delegation instruments accordingly for the purpose of authenticating the fixing of the Commission’s seal immediately after the meeting.]

**Legal fees for the trial in Priscilla Sit v EOC and Others, DCEO 11/99**

(EOC Paper No. 5/2010; Agenda Item No. 8)

14. CLC briefed Members the salient points contained in EOC Paper No. 5/2010 which was to seek Members’ approval to settle the legal fees for the trial in the case of *Priscilla Sit v EOC & Others*, DECO 11/99. Members noted that the estimated trial costs had been put before and endorsed by the Legal and Complaints Committee (LCC) at its 92<sup>nd</sup> Meeting held on 19 October 2009. As matters turned out, the total actual fees stood at about \$3,529,787, which was slightly below the original endorsed estimate. Members were also informed that the high amount of costs was the result of having to deal with the complications and delays caused by the Plaintiff. In respect of some of the pre-trial proceedings, the EOC had received from the Plaintiff part of the costs awarded by the Court. For the remaining costs incurred by the EOC in this case, further steps would be taken to apply to the court for the recovery.

15. Members endorsed the settlement of the legal fees as detailed in EOC Paper No. 5/2010. CLC informed the Meeting that Mr. A B NASIR had declared that he had represented the Plaintiff in the proceedings in the early stages.

16. In response to a concern raised by Ms Susanna CHIU related to the increase in the legal costs budget for 2010-11 in EOC's assisted cases, and the lack of a means test for legal assistance applicants, CLC said that the possibility of recovering part of the legal costs incurred from assisted persons would be further explored. Mr LEE Luen-fai added that under the present arrangement, although there was no means test, the EOC has been selective in granting legal assistance to applicants. Factors to consider included whether the case reinforced a policy objective emphasized by the EOC, apart from others. In his opinion, the EOC had been set up to ensure justice was upheld on issues related to equal opportunities and a means test for legal assistance applicants would not be conducive to such an objective. On exploring ways to ensure sufficient fund for litigations in EOC's assisted cases, Mr Tim LUI suggested that the EOC could make reference to the operating mechanism of the "Consumer Legal Action Fund" of the Consumer Council. Members' views were noted.

#### **Review of Work of EOC in 2009**

(EOC Paper No. 6/2010; Agenda Item No. 9)

17. Members noted EOC Paper No. 6/2010.

#### **EOC's Thematic Work Plan for 2010/11**

(EOC Paper No. 7/2010; Agenda Item No. 10)

18. Members noted EOC Paper No. 7/2010.

#### **Re-appointment of EOC Co-opted Members**

(EOC Paper No. 8/2010; Agenda Item No. 11)

19. C/EOC briefed the Meeting the background of EOC Paper No. 8/2010 which was to seek Members' endorsement to extend the terms of office of the existing Co-opted Members of the Community Participation

and Publicity Committee (CPPC) and the Public Education and Research Committee (*renamed as Policy and Research Committee (PARC) in this meeting under Agenda Item 6*) for another two years from 20 May 2010 to 19 May 2012, to coincide with the usual term of office of EOC Members.

20. Members noted that there was no need to consider the re-appointment of Mr CHOW Wing-hong, Alvin on this occasion as his term of office was not due yet and endorsed the extension of terms of office of the other Co-opted Members as detailed in EOC Paper No. 8/2010.

*(The Hon Frederick FUNG joined the meeting at this juncture. The Meeting proceeded to consider Agenda Items 5 and 6 accordingly.)*

**Follow-up on the EOC Day Camp and Revised Terms of Reference of CPPC and PARC (previously PERC)**

(EOC Paper No. 2/2010; Agenda Item No. 5)

21. HCCT briefed Members EOC Paper No. 2/2010 which reported the follow up discussions on the future directions and strategies of EOC's public education, research, publicity and community participation programmes after the EOC Day Camp held on 19 September 2009. The Hon Frederick FUNG, Convenor of the former Public Education and Research Committee (PERC) and Ms Garling WONG, Convenor of the Community Participation and Publicity Committee (CPPC) explained that the structure and functions of the PERC and the CPPC had been reviewed, and it was suggested that the PERC would be responsible for policy (a new dimension added) and research whereas the CPPC would be responsible for community participation, publicity and education. As such, the training function, including the development of training modules not related to policy, research and advocacy work would be transferred from the PERC to CPPC. Members' endorsement was hence sought on the revised terms of reference of the CPPC and the new committee responsible for policy and research. Additionally, with policy as a new dimension added to the PERC, Members' endorsement was also sought for the name of the PERC to be changed to reflect its new responsibilities.

22. After deliberations, Members endorsed the revised terms of reference of the CPPC and the new committee responsible for policy and research, and the latter be named as **Policy and Research Committee (PARC)**.

**Proposed Mandate of the Policy and Research Committee (originally proposed to name as Policy Advocacy and Research Committee)**  
(EOC Paper No. 3/2010; Agenda Item No. 6)

23. C/EOC informed the Meeting that EOC Papers No. 3/2010 presented the proposed mandate of the revised Policy and Research Committee (PARC). He invited The Hon Frederick FUNG, Convenor of PARC to brief Members the details as contained in the said paper.

24. The Hon Frederick FUNG briefed Members the salient points contained in EOC Paper No. 3/2010, particularly on the proposed strategies to fulfill the new policy development role of the PARC. Members noted that there would be more direct communications with stakeholders and reference to international best practices in policy development and advocacy work under the proposed strategies and direction.

25. In response to the questions raised by Prof Randy CHIU, C/EOC said that although the CPPC had been endowed with more responsibilities on education and training, the Joint Meeting of the PERC and CPPC had considered that the existing name of the CPPC had already incorporated the education and training function, and therefore there was no need to change its name. On initiating policy and research work, it would be the responsibility of the PARC with full support to be provided from the Policy and Research Unit and the EOC office. Prof CHIU opined that the EOC office could also proactively suggest new policy and research areas for the PARC to consider where appropriate.

*(Ms Maggie CHAN left the meeting at this juncture.)*

26. Members endorsed EOC Paper No. 3/2010. C/EOC thanked Members for their support and looked forward to working with all of them to advance EOC's work more proactively in the future.

**Minimum Wage Bill**

(EOC Paper No. 9/2010; Agenda Item No. 12)

27. HPR introduced EOC Paper No. 9/2010 to Members and sought Members' views on Government's proposed special arrangement to allow persons with disabilities (PWDs) to seek exemption from the Statutory Minimum Wage (SMW); the non-binding effect of the proposed job-specific assessment for PWDs; and the proposed exclusion of live-in domestic workers. Members' advice on the way forward was also sought.

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

28. After extensive discussions, the Meeting agreed to the following position:

- i. The Commission welcomed the introduction of the Minimum Wage Bill and hoped that it would be implemented as soon as possible.
- ii. As a matter of principle, the Commission considered that minimum wage protection should be extended to employees with disabilities.
- iii. With a view to enhancing employment opportunities, the Commission however would not object to the proposed arrangement whereby employees with disabilities, on a voluntary basis, might opt to undergo a fair work assessment for wage assessment purpose.

29. On the non-binding effect of the proposed job-specific assessment for employees with disabilities, Commission Members held different views: Some advocated for the assessment being non-binding for the sake of protecting jobs for the disabled, others considered that an assessment without binding effect would be quite meaningless. The Commission would keep an open mind on this issue at the present stage.

30. Members noted EOC Paper No. 9/2010.

*(The Hon Frederick FUNG and Ms CHOI Hing-shi left the meeting at this juncture.)*

**Reports of the Legal & Complaints Committee, Community Participation & Publicity Committee, Public Education & Research Committee (renamed as Policy and Research Committee under Agenda Item 5) and Administration & Finance Committee**  
(EOC Paper No. 10/2010; Agenda Item No. 13)

31. Members noted EOC Paper No. 10/2010.

**HKSAR's Report under the United Nations Convention on the Rights of Persons with Disabilities**  
(EOC Paper No. 11/2010; Agenda Item No. 14)

32. EOC Paper No. 11/2010 informed Members of the EOC's submission to the Government in respect of the Hong Kong Special Administrative Region (HKSAR)'s Report under the United Nations Convention on the rights of Persons with Disabilities (UNCPRD). Members noted that the EOC had also been invited to the meeting of the Panel on Constitutional Affairs of the Legislative Council (CA Panel) to be held on 19 March 2010 to provide views on the outline of the Government's Report.

33. C/EOC informed that the covering letter of the paper submitted to the CA Panel was put on table for Members' reference whereas the appended paper submitted was the same as EOC Paper No. 11/2010, and hence was not enclosed therein. He added that the EOC might provide an alternate report on this subject to the United Nations if so requested. Should that be the case, Members' advice would be sought again.

34. Members noted EOC Paper No. 11/2010.

**V. Any Other Business**

**Compliance and Management Study**  
(EOC Paper No. 13/2010; Agenda Item No. 15)

35. C/EOC informed the Meeting that the EOC office had received the English version of the Compliance and Management Study (Study) report commissioned to ensure that the recommendations and suggestions of the Audit Report and those of the Public Accounts Committee Report had been implemented in the EOC. It had been provided to Members for information as contained in EOC Paper No. 13/2010. The Chinese version of the report has also been received since and now tabled for Members' reference. The Administration and Finance Committee (A&FC) would be asked to consider the recommendations in the Study report and provide views to the EOC Board for consideration in due course.

36. Members noted EOC Paper No. 13/2010.

**A Letter to the Editor in the South China Morning Post (SCMP) concerning EOC's views on Participation of Athletes in Wheelchairs in the Hong Kong Marathon**

37. Dr John TSE expressed concerns on the views expressed by EOC in response to a letter to the Editor in the SCMP concerning participation of athletes in wheelchairs in the Hong Kong Marathon. C/EOC explained that it was really a matter of the scope of the marathon sporting event (i.e. whether a wheelchair category should be added) rather than a discriminatory issue as such. The letter had indeed expressed the wish for the event to be expanded. Ms Garling WONG and Dr John TSE expressed that the relevant event organizer should endeavour to facilitate wheelchair-users' participation in the event. Mr LEE Luen-fai and Mr A B NASIR viewed that the organizer should place participants' safety as the first priority and delineate the sporting part from the carnival part of the event. C/EOC said that the EOC would write to the organizer direct to propose adding a category of athletes using wheelchairs in the next Marathon.

**Update on the Work of the Working Group on the Audit Report, the Recruitment of Chief Operations Officer (COO) and EOC's Media and PR Strategies raised by Prof. Randy CHIU**

38. Prof. Randy CHIU requested to be updated on the work of the

Working Group on the Audit Report (Working Group), in particular the follow up work on EOC's media and public relations strategies and the progress on recruitment of the Chief Operations Officer.

39. With regard to the work of the Working Group, DPA said that the work had been completed which included consideration of the revised office policies and guidelines for approval by the EOC Board. The Board had since approved all the recommendations and endorsed all the revised office policies and guidelines for implementation with the last item being the Compliance and Management Study report that had yet to be considered.

40. On the Chief Operations Officer (COO) post, C/EOC said that relevant funding had been provided to the EOC and the next step would be to work out the duties of the COO and the demarcation of responsibilities at senior management level. On EOC's media and PR strategies, the matter would be further considered at an appropriate forum.

41. There being no other business. The meeting was adjourned at 6:05pm.

## **VI. Date of Next Meeting**

42. The next regular EOC meeting was scheduled for 17 June 2010 (Thursday) at 2:30 p.m.

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*Equal Opportunities Commission  
April 2010*