

**Minutes of the Ninety-third Meeting of
The Equal Opportunities Commission
held on 15 December 2011 (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 Man-ki, Maggie	
Ms CHIU Lai-kuen, Susanna	
Ms CHOI Hing-shi, M.H.	
Dr. KOONG May-kay, Maggie	
Mr. LEE Luen-fai	
Mr. LUI Tim-leung, Tim, B.B.S., J.P.	
Ms NG Wing-mui, Winnie	
Mr. Zaman Minhas QAMAR	
Dr. TSANG Kit-man, Sandra	
Dr. TSE Wing-ling, John, M.H.	
Ms WONG Ka-ling, Garling	
Mr. YIP Siu-hong, Nelson, M.H.	
Mr. Michael CHAN Yick-man	Secretary Director, Planning & Administration [DPA]

Absent with apologies

Ms CHAN Ka-mun, Carmen, J.P.
The Hon FUNG Kin-kee, Frederick, S.B.S., J.P.
Mr. Amirali Bakirali NASIR, J.P.
The Hon TSE Wai-chun, Paul

In attendance

Miss LAM Siu-wai	Acting Director, Operations [Ag. D(Ops)]
Mr. Josiah CHOK Kin-ming	Chief Equal Opportunities Officer (Operations) [CB]
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 &
Training [HCCT]

Miss Kerrie TENG Yee-san

Accountant [ACCT]

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 93rd Meeting.

2. Apologies for absence were received from Ms CHAN Ka-mun, Carmen, The Hon FUNG Kin-kee, Frederick, Mr. Amirali Bakirali NASIR, J.P. and The Hon TSE Wai-chun, Paul, due to clash of meeting schedules/other business engagements/sickness.

3. C/EOC said that a press briefing would be held after the meeting in accordance with the usual practice.

(Mr. Zaman QAMAR joined the meeting at this moment.)

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

4. The Minutes of the 92nd Meeting held on 15 September 2011 and issued to Members on 10 October 2011 were confirmed without amendment.

III. Matters Arising (Agenda Item No. 2)

Review on Adjudication of Equal Opportunities Claims by the District Court

5. C/EOC said that with Members' agreement given in the last meeting, a submission had been provided to the Judiciary in response to its Review on Adjudication of Equal Opportunities Claims by the District Court stating that the EOC welcomed the Judiciary recommendations of improving the adjudication

system so that discrimination claim could be dealt with in a speedy manner. In the submission, we also maintained that the improvements should take place under a new framework of a separate specialized EO Tribunal, so that the aggrieved persons would not be deterred by the formality of court proceedings. Moreover, the specialized tribunal would have an inquisitorial function so that the emphasis on a court-driven function would even be stronger. The consultation period had ended and many organizations had submitted their views to the Judiciary. The EOC was awaiting responses from the Judiciary on the views submitted and its decision on the way forward.

Director of the Year Award

6. Members were pleased to note that the Commission had won the Directors of the Year Award 2011 from the Hong Kong Institute of Directors in recognition of its excellence in corporate governance and professionalism of its Board of Directors.

IV. New Agenda Items

Discrimination Claim against EOC Officers (DCEO 8/2011)

(EOC Paper No. 25/2011; Agenda Item No. 3)

7. C/EOC said that Members had been informed in October that 3 EOC officers had received a writ of summons served to them by a complainant claiming that the officers had refused to handle his victimization complaint against a press group because, amongst other things, of his disability, and was seeking damages. EOC Paper No. 25/2011 provided a detailed update of the legal action brought by the client.

8. CLC briefed Members on the details contained in the EOC paper. He said that the complainant had continued to lodge discrimination complaints with the EOC and service complaints against our staff. At the same time, he had been publishing insulting remarks attacking case officers handling his cases on his internet blogs. Ag. D(ops) added that this complainant had first lodged

discrimination complaints with the EOC in 2004 and a total of 23 cases had since been lodged. Among these 23 cases, 3 were still active. Recently, 1 of the 3 still active cases had been successfully conciliated. All along, officers of the Operations Division had exercised due diligence in handling his cases. However, once he received answers from our officers not to his satisfaction, he would publish insulting remarks against our officers on his blogs. Those remarks also attracted others to join in the attacks. Moreover, CB said that the insulting attacks had now extended to staff's family members. All of the above put a lot of stress to officers in the Operations Divisions and made it very difficult for them to handle this complainant's cases, particularly for officers who were relatively junior. In view of his right to continue lodging complaints with the EOC, the Operations Division had yet to come up with a better approach to deal with him and handle the cases lodged by him.

(Ms Winnie NG joined the meeting at this moment.)

9. In response to questions raised by Mr. Zaman QAMAR, Ag. D(Ops) said that most of the complaint cases lodged by the complainant were related to disability discrimination and articles published in the press or on the internet. As regards the legal costs in defending the claim, C/EOC said that they would be borne by the EOC since the claim against the officers arose from performing their duties and the claim was covered by EOC's Professional Indemnity Insurance Policy subject to a deductible.

10. In response to questions raised by Ms Garling WONG, CLC said that although the remarks published by the complainant on his blogs were abrasive and harassing, they did not amount to criminal offence or would require compulsory detention order under mental health legislation. In response to another question raised by Dr. Maggie KOONG, CLC said that the complainant had filed his claim against our officers on his own without legal representation.

11. Dr. Sandra TSANG suggested the EOC to adopt an approach in dealing with this complainant that could allow the EOC to control the possible damage to it and its staff, for example, to limit the number of staff to be involved and to

deploy more senior staff to handle his cases to lessen the damages to junior staff.

(Ms Susanna CHIU joined the meeting at this moment.)

12. In response to questions raised by Mr. Tim LUI, CLC said that under EOC's existing Professional Indemnity Insurance Policy (PI Policy) there was a deductible applicable to each claim. The EOC would arrange to seek costs from the complainant if it won the case. DPA added that the EOC would invite quotations from service providers every year for obtaining the best available terms to renew the PI Policy. A few years ago, a significant increase in the deductible amount was noted from the quotes provided due to EOC's claim history. The current deductible amount was the lowest available from the offered terms to the EOC.

13. Ms Winnie NG opined that it was the complainant's right to lodge complaints and file legal claims; hence, the EOC had no choice but to support its staff to contest the proceedings. Mr. LEE Luen-fai echoed that support should be given to staff so that they could carry out their daily work professionally and also for the purpose of maintaining staff morale. Dr. John TSE suggested the Legal and Complaints Committee to study the possible protection to staff and the options available for them, not limiting to those from the EOC but also to include any pro bono services from the legal community. Ms Susanna CHIU also remarked that the EOC should protect its staff who had acted in good faith in performing their work.

14. Members' views expressed and EOC Paper No. 25/2011 were noted.

Full Findings and Follow-up Action of 2011 Customer Satisfaction Survey on EOC's Complaint Handling Mechanism

(EOC Paper No. 26/2011; Agenda Item No. 4)

15. C/EOC said that EOC Paper No. 26/2011 presented the summary of the findings of the Customer Satisfaction Survey 2011, which was an annual regular survey conducted since 2009 to gauge views and feedbacks from users of our

complaint handling and enquiry services. Members were welcome to have the full report for detailed study. He highlighted that there was a slight improvement in the overall satisfaction rate on both the complaint handling and enquiry services this year. Additionally, like last year, respondents continued to give significantly more favourable ratings than complainants, though the gap had narrowed.

(Ms Maggie CHAN joined the meeting at this moment.)

16. Members noted that the parameters found to have more impact on clients' overall satisfaction in the survey were "impartiality", "timeliness of handling" and "investigation process". It showed that our clients valued impartiality and preferred to have cases dealt with in a timely manner. As such, a number of improvement measures were proposed with a view to shortening the handling time and streamlining the handling process. Details of the measures introduced were listed in the EOC paper. CB said that the improvement measures proposed had been implemented on 1 October 2011 and in the first two months after implementation, a total of 15% of complaint cases received had been resolved. A review would be conducted after 6 months to consider the effectiveness of the measures and see if further improvements were warranted.

17. In response to questions raised by Ms Susanna CHIU, CB said there were detailed breakdown on the survey respondents' ratings by complaint outcomes in each of the survey questions. Details were contained in the full survey report. He added that in general, around 60% of complaint cases were discontinued, and this might be one of the reasons that ratings of impartiality given by Complainant were significantly lower than that given by Respondent in the survey.

18. In response to questions raised by Dr. Maggie KOONG concerning the low ratings on the conciliation process, CB said that there was an early conciliation before investigation and another one after investigation in the complaint handling process. As conciliation was a voluntary means to resolve

complaints and the success usually dependent on whether the terms were agreeable by both parties, there might be cases that both conciliations (the early conciliation and the conciliation after investigation) were not successful. In such case, the ratings given by both the Complainant and the Respondent would be very low.

19. Dr. Sandra TSANG commented that the present presentation of the survey data might not have provided a fair view on EOC's performance in complaint handling. Some of the data on the ratings that were outcome dependent might need to be excluded for a fairer view. She suggested engaging outside expert's help in the data presentation for achieving more accurate and fairer findings. Dr. John TSE requested for a copy of the full survey report and volunteered to assist in reviewing the data presentation of the survey results. He opined that either a 4-point or a 6-point scale should be used instead of the 5-point scale adopted in the survey for obtaining clearer views from the survey respondents. The term "impartiality" used in the question posed to survey respondents was difficult to understand hence would affect the views collected. He further suggested that a follow up question on how the EOC could improve its services could be added and given the possibility of significantly different opinions and views on questions posed would be obtained, there might be a need to prepare different sets of questionnaires for Complainant and Respondent in future surveys. DPA added that in a recent review on EOC's Customer Satisfaction Survey by the Efficiency Unit of the Government, there were similar improvements proposed on the survey methodology for future surveys, which included that the survey should not be administered by staff of the Operations Division and outside expert's help could be enlisted to improve the survey questionnaire design and the survey results presentation to facilitate better analysis. The Planning & Administration Division would co-ordinate the changes in methodology required.

20. C/EOC thanked Members' views expressed and hoped that appropriate improvements could be made to next year's survey.

[Post-meeting note: The full survey report has been provided to Dr. John TSE after the meeting.]

Reports of the Legal & Complaints Committee (LCC), Community Participation & Publicity Committee (CPPC), Policy and Research Committee (PARC) and Administration & Finance Committee (A&FC)

(EOC Paper No. 27/2011; Agenda Item No. 5)

21. EOC Paper No. 21/2011 contained information on the work of the respective EOC committees. In view of his busy schedule, Mr. Zaman QAMAR requested to resign from participating in the Community Participation & Publicity Committee (CPPC). The Meeting endorsed his resignation from the CPPC with immediate effect.

22. Ms Susanna CHIU, Convener of A&FC, said that the A&FC had considered the latest progress on the follow up actions on the Training and Development Needs Analysis in its 59th Meeting held on 24 November 2011. It was noted that the sharing series conducted by EOC Members, which received very positive feedback from staff, would continue. She encouraged more EOC Members to hold sharing sessions with staff, which were very good two-way communication opportunities that could facilitate more mutual understanding.

23. DPA reported that in the same A&FC Meeting (59th), A&FC Members had considered and agreed to the suggestion from the CMAB for the EOC to consider deleting the pledge of “*reply to written enquiries on simple issues within 5 working days*” from 2012 onwards in view of the small number of cases received in the past few years, as the great majority of matters enquired were of a complex nature. EOC Board’s endorsement would now be sought. Members endorsed the proposed deletion of the pledge which would take effect from 1 January 2012.

24. Members noted EOC Paper No. 27/2011.

Half Yearly Report of EOC’s Financial Position as at 31 October 2011

(EOC Paper No. 28/2011; Agenda Item No. 6)

25. ACCT briefed Members on the salient points in EOC Paper No. 28/2011.

26. Members noted that based on the actual and estimated expenditures as at 31 October 2011, it was expected that there would still be \$7.96M available for use. After taking into account the actual and committed expenditures of \$6.22M, there would be an estimated surplus of \$1.74M for 2011/12 under recurrent expenditures. However, Members also noted that this was a preliminary estimation and the available funds of \$7.96M could be flexibly used for other purposes related to EOC's work.

27. Members noted EOC Paper No. 28/2011.

Tentative EOC Meeting Schedule for 2012

(EOC Paper No. 29/2011, Agenda Item No. 7)

28. EOC Paper No. 29/2011 contained the tentative meeting schedule for 2012. Mr. Tim LUI said that he would be unable to attend three out of the four regular meetings in 2012 according to the tentative schedule. The EOC Office would follow up the matter with Mr. LUI and other Members to see if it was possible to reschedule some of the meetings.

[Post-meeting note: A revised meeting schedule for 2012 was issued to Members on 28 December 2011.]

V. Any Other Business

Members' Brainstorming Session to be held on 7 January 2012

29. C/EOC said that the Brainstorming Session scheduled for 7 January 2012 would be held from 9:00 a.m. to 3:00 p.m. at the EOC Office. Up to present, 12 Members including himself had indicated their availability to attend. He urged other Members to join part of the Session if they were not available for the whole day.

30. There being no other business, the meeting was adjourned at 3:50 p.m.

VI. Date of Next Meeting

31. The next regular EOC meeting was scheduled for 15 March 2012 (Thursday) at 2:30 p.m.

Equal Opportunities Commission
January 2012