

**Minutes of the One Hundred and Tenth Meeting of
The Equal Opportunities Commission
held on 18 June 2015 (Thursday) at 2:30 p.m. in the
Equal Opportunities Commission's Conference/Training Room**

Present

Dr. CHOW Yat-ngok, York	Chairperson
Mr. CHAN Chi-kin, Ivan	
Ms CHIU Lai-kuen, Susanna, M.H.	
Prof. CHOI Yuk-ping, Susanne	
Mr. CHOW Ho-ding, Holden	
Dr. KOONG May-kay, Maggie, B.B.S.	
Ms Elizabeth LAW, M.H., J.P.	
Dr. Trisha LEAHY, B.B.S.	
Prof. Hon LEE Kok-long, Joseph, S.B.S., J.P.	
Ms LEUNG Chung-yan, Juan	
Ms Shirley LOO, M.H., J.P.	
Mr. Amirali Bakirali NASIR, J.P.	
Mr. Zaman Minhas QAMAR	
Ms Su-Mei THOMPSON	
Dr. TSANG Kit-man, Sandra, J.P.	
Mr. YIP Siu-hong, Nelson, M.H.	
Miss YU Chui-yee, M.H.	
Mr. Michael CHAN Yick-man	Secretary Director, Corporate Planning & Services [DCPS]

In attendance

Ms Agnes MAN Ngar-yin	Director, Complaint Services [DCS]
Mr. Ivan LUK Chi-cheung	Chief Legal Counsel [CLC]
Dr. Ferrick CHU Chung-man	Head, Policy, Research and Training [HPRT]
Ms Shana WONG Shan-nar	Head, Corporate Communications [HCC]
Ms Florence CHAN Pik-har	Acting Head, Corporate Communications [Ag. HCC]
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) in particular, six new Members, Mr. CHAN Chi-kin, Ivan, Prof. CHOI Yuk-ping, Susanne, Ms Elizabeth LAW, M.H., J.P., Ms LEUNG Chung-yan, Juan, Ms Shirley LOO, M.H., J.P. and Miss YU Chui-ye, M.H. to the 110th Meeting. C/EOC said that it was his usual practice to have individual meetings with new Board Members to better understand their views and concerns on EOC's work. He would contact new Members one by one to arrange for meetings in the coming one to two months.

2. C/EOC said that a press briefing would usually be held after the meeting. However, for this meeting, a press release on the major items considered would be issued instead as it was expected that media attention would be focused on the electoral reform.

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

3. The draft minutes of the 109th EOC Meeting issued to Members on 16 April 2015 were confirmed without amendments.

(The Hon Prof. Joseph LEE joined the meeting at this juncture.)

III. Matters Arising (Agenda Item No. 2)

4. Members noted that matters arising from the last meeting requiring attention had been placed under the new agenda for this meeting for consideration.

IV. New Agenda Items

Election and Endorsement of new EOC Committees Membership

(EOC Paper No. 10/2015, revised Appendix I to EOC Paper No. 10/2015 tabled; Agenda Item No. 3)

5. DCPS explained to Members the details contained in EOC Paper No. 10/2015 and the revised Appendix I to the said paper tabled. Members noted that the original proposal for the Chief Operations Officer (COO) to be a co-opted Member of the 4 EOC Committees was withdrawn as there might be perceived conflict of interest for the COO who was a full time staff with executive responsibility to become a co-opted Member. Members noted that C/EOC also has an executive role and was appointed by the Chief Executive on a full time basis in accordance with the ordinance to perform the functions and exercise the powers of the Commission. The two circumstances were therefore different. Members approved the new EOC Committees Membership as listed in the revised Appendix I of EOC Paper No. 10/2015 tabled.

6. On the Deputy Convenership for the Administration and Finance Committee (A&FC), Dr Maggie KOONG withdrew from the nomination that she received due to her interest to become the Convener for the Community Participation and Publicity Committee (CPPC), of which a nomination has been made. It was her wish to take up convenership for one committee only. As such, at the meeting, Ms Susanna CHIU nominated Ms Elizabeth LAW as Deputy Convener for the A&FC and the nomination was accepted. Since there was only one nomination for convener and deputy convener each for A&FC, CPPC and LCC, and one nomination for convener for the Policy, Research and Training Committee (PRTC), approval was given by the EOC Board for their appointment.

7. As there were two nominations, election for Deputy Convener for PRTC was required and by secret ballot was conducted among the PRTC Members at the meeting. Before the voting commenced, C/EOC expressed that he would not participate in the voting. Of the two nominees, Mr. Nelson YIP obtained more votes and there was 1 abstention. Consequently, Mr. Nelson YIP was elected as Deputy Convener with approval from the Board. The conveners and deputy conveners for the term of office from 20 May 2015 to 19 May 2017 were as follows:

<u>A&FC</u> :	Convener:	Ms Susanna CHIU
	Deputy Convener:	Ms Elizabeth LAW

<u>CPPC</u> :	Convener:	Dr. Maggie KOONG
	Deputy Convener:	Ms Shirley LOO
<u>LCC</u> :	Convener:	Mr. A B NASIR
	Deputy Convener:	Dr Trisha LEAHY
<u>PRTC</u> :	Convener:	Prof Susanne CHOI
	Deputy Convener:	Mr. Nelson YIP

Progress on The Discrimination Law Review

(EOC Paper No. 11/2015; Agenda Item No. 4)

8. CLC briefed Members on the latest progress of the Discrimination Law Review (DLR) as detailed in EOC Paper No. 11/2015. Members noted that there were approximately 124,000 submissions received. Approximately 200 submissions from organizations had been identified so far, and the remainder were from individuals. The EOC was now in the process of analyzing and recording the responses in a database. The analysis was both quantitative and qualitative. On 11 June 2015, a briefing was provided to a Member at his request on how the responses were processed, including the data categorization and input methodology. Mr Holden CHOW said that he attended the briefing on 11 June 2015 and was very satisfied with the briefing. He noted that the volume of the responses was huge and the task was difficult. He thanked the staff concerned who had conducted the briefing for him.

9. C/EOC said that the Discrimination Law Review was an enormous and important task of the EOC. It was the first time that the EOC conducted such a comprehensive review of all the 4 discrimination laws in Hong Kong based on our implementation experience and developments in EO laws. When the responses were analyzed, submissions would be provided for consideration by the Government with detailed rationales and principles behind. Members' views would be sought before the submission to the Government was to be made.

10. Members noted EOC Paper No. 11/2015.

Progress Report on Feasibility Study on Legislating against Discrimination

on the Grounds of Sexual Orientation, Gender Identity and Intersex Status

(EOC Paper No. 12/2015; Agenda Item No. 5)

11. HPRT highlighted to Members the progress of the Feasibility Study on Legislating against Discrimination on the Grounds of Sexual Orientation, Gender Identity and Intersex Status (the Study) as contained in EOC Paper No. 12/2015. For the benefit of new Members, HPRT also informed that protection for sexual minorities against discrimination was one of the five strategic priority work areas of the EOC confirmed at the June 2013 EOC Board Meeting. Views from the public on the five priorities were also invited at the EOC's Annual Forum 2013. The proposal to undertake the Study was first reported to Members at the 104th EOC Meeting held on 19 December 2013. Views from Members would be sought when the draft Study report was available.

12. C/EOC said that when the draft Study results were ready, a special meeting might be convened to seek Members' views. In response to a question raised by Ms Susanna CHIU, C/EOC said that press conference and media interviews would be arranged to help explain details of the report to the public and the Study report would be provided to the Government. The EOC might also accept invitations from stakeholder groups to explain the details of the Study report.

13. Members noted EOC Paper No. 12/2015.

Clarifying Minutes of the 104th EOC Meeting held on 19 December 2013

(EOC Paper No. 13/2015; Agenda Item No. 6)

14. C/EOC said that in relation to the "Feasibility Study on Legislating against Discrimination on the Grounds of Sexual Orientation, Gender Identity and Intersex Status", a report was provided to Members at the 104th EOC Meeting held on 19 December 2013. In the minutes of the above-mentioned meeting, it was stated that the EOC was acting within its power in the Discrimination Law Review and this study, and this view was also agreed by the Constitutional and Mainland Affairs Bureau (CMAB), EOC's housekeeping Bureau.

15. CMAB had recently raised its concern with the EOC as a result of a citizen's complaint that the Bureau had not given agreement to the above view, and would like EOC to clarify the situation. Hence, he has agreed that the minutes should make the necessary clarification to set the record straight.

16. As explained in EOC Paper No. 13/2015, C/EOC clarified that his understanding of CMAB's views was based on their response in the meeting with them in July 2013 and the meeting with the Advisory Group on Eliminating Discrimination against Sexual Minorities (Advisory Group) appointed by the Government in December 2013 where CMAB officials attended. He was joined by some EOC Board Members in the first meeting and staff in the second. There was no concern or disagreement expressed to EOC's work in this area at these two meetings.

17. Based on what happened at the two meetings stated in paragraph 16 above and as proposed by C/EOC, Members endorsed that the last sentence in paragraph 32 of the minutes of the 104th EOC Meeting should be amended to read as "*This view has not been disagreed by the CMAB, the EOC's housekeeping Bureau.*" to state more accurately the situation.

(Mr AB NASIR left the meeting at this juncture.)

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. 14/2015; Agenda Item No. 7)

18. HPRT, CLC, HCC and Ms Susanna CHIU, Convener of A&FC highlighted to Members the major work of the PRTC, LCC, CPPC and A&FC respectively.

(The Hon Prof Joseph LEE left the meeting at this juncture.)

19. On the work of the PRTC in raising the awareness of student leaders on the prevention of sexual harassment in organizing student activities, including

orientation camps for freshmen, Members expressed their views and disappointment in that there were still games of a sexual nature which might amount to harassment in university orientation camps reported by the press from time to time over the past ten years. They viewed that more was needed to be done from the education and the media fronts. Dr Trisha LEAHY said that this was a universal issue and unless violence was involved, there was not much that could be done. Moreover, students were sometimes playful and rebellious and they might not feel the same way. It also depended on universities' willingness to make changes and they definitely have a role to play to foster a culture in their universities free of discrimination and harassment. Members further deliberated on this issue and it was suggested that a designated hotline could be set up in the EOC for the prevention of sexual harassment in tertiary institutions. Students participating in activities and orientation camps should be empowered also to say no to distasteful games or harassment of any kind. Members generally discussed on the media's portrait of women and their demeaning comments and images, and the recent survey done by the Women's Foundation related to this subject. The issue of violence against women which very often related to sexual harassment, cyber violence and cyber bullying were also touched upon. Members also suggested the EOC to approach tertiary institutions to set up guidelines on organizing orientation camps and to encourage student leaders to consider other ways of organizing such functions and designing orientation activities.

20. Prof Susanne CHOI said that past researches done had shown that male as well as female students had experienced sexual harassment. However, she could not find educational materials describing male victims from EOC's online resources. She suggested that the EOC could include more of such cases in its educational and training kits. C/EOC said that the EOC's liaison meetings with tertiary institutions had shown results in that there were designated EO officers appointed by some principals/vice chancellors of universities to deal with EO issues and the number of student leaders who had participated in the workshop organized by the EOC this year on anti-sexual harassment had increased significantly. The EOC would continue with its work on this area.

21. Members also generally discussed the "Study on Pregnancy

Discrimination in Small and Medium Enterprises” which report was to be available in April 2016 and the related family friendly measures adopted by employers.

22. Members noted EOC Paper No. 14/2015.

(Mr ZM QAMAR left the meeting at this juncture.)

Chairperson’s Quarterly Report

(EOC Paper No. 15/2015; Agenda Item No. 8)

23. EOC Paper No. 15/2015 presented to Members the Chairperson’s quarterly report for the period from mid March to mid June 2015. C/EOC said that the paper mainly highlighted the position statements issued on topical issues, line-to-take in response to media reports and some key observations/comments made by him and the public functions he attended related to EOC’s work. Many of EOC’s comments and views were reported by the media which were useful in enabling the public to understand our work and position. Views and advice from Members were welcome.

24. Members noted EOC Paper No. 15/2015.

Delegation of Functions and Powers under the Anti-Discrimination Legislation (EOC Paper No. 16/2015; Agenda Item No. 9)

25. DCPS explained to Members the details contained in EOC Paper No. 16/2015 which was to seek their consent to delegate in writing certain statutory powers and functions of the Commission, which are necessary to facilitate the smooth operation of the Commission’s work and to ensure efficient use of its resources.

26. Members noted that a number of the Commission’s statutory functions and powers were delegated to various persons and committees on various occasions previously. With a new staff and functional structure being put in place from 1 June 2015, there was a need to consider other delegations of EOC’s

functions and powers as necessary for the sake of completeness and operational efficiency. Most of the proposed amendments or new delegations were related to the reinstatement of the Chief Operations Officer post and certain re-grouping of EOC's functions. The terms of reference of the EOC's Committees would also need to be amended to bring them in alignment with the changes and proposed delegations. Details of the proposed delegation of powers and functions were in Resolution 1, 2 and 3, the revised terms of reference of EOC's Committees were included in the revised Annex A1, A2, A3 and A4, and other proposed changes for administrative reasons were contained in Annex B to EOC Paper No. 16/2015.

27. Members approved the proposed delegation of powers and functions, the revised terms of references of the four EOC Committees, renaming Policy and Research Committee to Policy, Research and Training Committee and the other changes as detailed in EOC Paper No. 16/2015. Members also agreed to the resolutions set out in Annex C to the paper. Mr A B NASIR and Ms Susanna CHIU, along with C/EOC, were authorised to authenticate the fixing of the seal of the Commission to the instruments of delegation.

Implementation Progress of the Review of EOC Staff and Functional Structure

(EOC Paper No. 17/2015; Agenda Item No. 10)

28. DCPS briefed Members on the latest progress on the implementation of the EOC Staff and Functional Structure as contained in EOC Paper No. 17/2015.

29. Members noted that the EOC had initiated a review of its organizational structure in 2014. The review was intended to enhance the operational efficiency and governance of the EOC. The new structure that had been endorsed by the EOC Board at its 108th meeting held on 18 December 2014 was in Appendix I to the said paper. Under the new structure, the Chief Operations Officer (COO) post, formerly titled Chief Executive (CE) which existed when the EOC first came into operation in September 1996 but was later deleted in 2000 was reinstated. The Training and Consultancy function which originally was part of the Corporate Communications and Training Unit would be grouped

under Policy and Research Division for better synergy. The new Policy, Research and Training Division would be headed up by a Director in view of the increased accountability and responsibility. The ranking of other divisional heads remains unchanged when the new structure was in place but the D2 post in Corporate Planning and Services (formerly Planning and Administration) would be reverted to D1 level at an appropriate time. All newly created positions were to be filled by open recruitment.

30. Members noted that the Office had informed its housekeeping bureau, the Constitutional and Mainland Affairs Bureau (CMAB) and sought their comments on the proposed new structure. The CMAB had advised in April 2015 that they had no objection to the establishment of the COO post in the new structure, which was in line with the recommendation of the Audit Report 52. They would also provide subvention for this post as previously agreed. Accordingly, the Office had proceeded to fill the COO post through open recruitment, which was now in progress and the Administration and Finance Committee would be tasked to form a selection board for this recruitment with C/EOC as one of the members.

31. Members noted that on the other related and substantive changes particularly on the directorate posts in the EOC management, CMAB informed that they would need more time to consider them carefully. Since the other changes in the new structure did not require additional funding from the Government and the number of directorate posts in the new structure was the same as those when EOC was established in 1996, and also cost was neutral in implementing the new structure, the EOC Office would proceed with the recruitment of other newly created posts after a suitable candidate for the COO post was identified. Recruitment advertisement for the Director, Policy, Research and Training, a new post, had also been advertised.

32. Members also noted that C/EOC had written to all Board Members on 30 April 2015 suggesting that the effectiveness of the new structure be reviewed in two years by the EOC Board with external advisers after it has been implemented, and EOC's views be provided to the CAMB accordingly. Members' advice on this review was to be sought in this meeting. With the

reinstatement of the COO post, there was a need to clearly delineate the duties and authorities of C/EOC and the COO to achieve improved governance and operational efficiency. The proposed authorities of the Chairperson and the COO as well as delegation of powers were in Appendix II to EOC Paper No. 17/2015.

(Ms Elizabeth LAW left the meeting at this juncture)

33. Members endorsed the proposed review of the new structure in two years and the proposed authorities of the Chairperson and the Chief Operations Officer as detailed in Appendix II to the said paper, other than the proposed approval authority for business hospitality expenses of the Chairperson. For better governance, Members agreed that if such expenses exceeded the general limits set for civil servants or considered out of the ordinary, the COO should seek advice from the Administration and Finance Committee.

Report of EOC's Financial Position as at 31 March 2015

(EOC Paper No. 18/2015, Summary of Report of EOC's Financial Position as at 31 March 2015 tabled; Agenda Item No. 11)

34. ACCT highlighted to Members the salient points contained in EOC Paper No. 18/2015 and the Summary of Report of EOC's Financial Position as at 31 March 2015 tabled.

35. Members noted that the paper reported on EOC's financial position as at fiscal year ended 31 March 2015 and presented information on income and expenditure versus the original budget for 2014/15, reserves position and capital account. Members also noted that there was a surplus of \$2.34M in the 2014/15 financial year. After taking into account the surplus of \$2.34M transferred to the reserves account, the balance of reserves as at 31 March 2015 was \$22.44M which was \$3.71M below the reserve ceiling of \$26.15M. On capital account, the one-off subvention of \$3M for promotion of the Race Discrimination and Sex Discrimination Ordinance and of \$0.23M for replacement of two servers had been received from the Government.

(Ms Su-Mei THOMPSON left the meeting at this juncture.)

V. Any Other Business

Leasing of an Additional Office at Cityplaza Four

(Paper tabled for discussion at the meeting)

36. C/EOC said there was a need of additional office space for the increased number of staff mainly due to the creation of the EM Unit (6 staff members) and the reinstatement of the Chief Operations Officer post. DCPS had informed Members of this AOB item and the need for Members' advice on 16 June 2015 via email. The paper tabled was to seek Members' approval on leasing an additional office at Cityplaza Four.

37. ACCT went through the important points contained in the paper tabled. Members noted that there was an office premises immediately available which suited EOC's need in Cityplaza Four. It is located at 13/F, Cityplaza Four and provides 1,810 sq ft gross office space at a monthly rental as stated in the EOC paper. Subject to Members' approval, the EOC Office would lease this additional office as soon as possible from 1 August 2015 with the leasing term to end on the same date as the existing office premises at Cityplaza Three, i.e. on 15 December 2017. The additional costs that would be incurred for leasing the additional office were detailed at paragraph 7 of the paper tabled.

38. Members noted that the CMAB has recently replied that they were unable to provide additional funding as they were required to deliver a cumulative total of 2% recurrent savings over three financial years (0% in 2015/16, 1% in 2016/17 and 1% in 2017/18), which were also applicable to the EOC unless there were unexpected changes in RAE guidelines. Nonetheless, the CMAB was supportive of the EOC in acquiring a permanent premises and have invited the EOC to resubmit the RAE bid in 2015/16 and would work with the GPA for vetting EOC's bid. Hopefully, when the Government's funding position could be relaxed and pending a decision on purchasing a permanent premises, they could provide additional funding to the EOC for meeting the office rental for both the existing and the additional office. Otherwise, the

EOC would need to consider other office locations with a lower rent and smaller office space when the current lease expired. A very important criteria was that it must be barrier-free and accessible to persons with disabilities and the choice was limited based on EOC's past experience when locating different premises for its office.

39. Members approved leasing an additional office for 1,810 sq ft gross at the specified rental in the EOC paper for the period from 1 August 2015 to 15 December 2017 and the use of the reserve fund for the amount requested for the setting up costs and the rent, rates, air-conditioning and management fees of the additional office as detailed in the paper tabled. The Office would endeavour to keep the total costs to be incurred to the lowest possible level.

40. There being no other business, the meeting was adjourned at 5:35 p.m.

VI. Date of Next Meeting

41. The next regular EOC meeting has been scheduled for **17 September 2015 (Thursday) at 2:30 p.m.**

*Equal Opportunities Commission
July 2015*