

**Minutes of the One Hundred and Eighteenth Meeting of
The Equal Opportunities Commission
held on 15 June 2017 (Thursday) at 4:00 p.m. in the
Equal Opportunities Commission's Conference Room**

Present

Prof Alfred CHAN Cheung-ming, SBS, JP	Chairperson [C/EOC]
Prof Susanne CHOI Yuk-ping	
The Hon Holden CHOW Ho-ding	
Mr Mohan DATWANI	
Miss Maisy HO Chiu-ha, BBS	
Dr Maggie KOONG May-kay, BBS	
Dr Trisha LEAHY, BBS	
Prof Hon Joseph LEE Kok-long, SBS, JP	
Ms Juan LEUNG Chung-yan	
Mr Henry SHIE Wai-hung	
Dr Rizwan ULLAH	
Mr Michael CHAN Yick-man	Secretary Chief Operations Officer [COO]

Absent with apologies

Prof Cecilia CHAN Lai-wan, JP
Dr Andy CHIU Man-chung
Ms Elizabeth LAW, MH, JP
Ms Shirley LOO, MH, JP
Miss YU Chui-ye, MH

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	Director, Policy, Research and Training [DPRT]
Mr Oska LI Kam-hung	Head, Corporate Planning and Services [HCPS]
Ms Shana WONG Shan-nar	Head, Corporate Communications [HCC]
Miss Kerrie TENG Yee-san	Senior Accounting Manager [SMA]
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 118th Meeting, particularly Mr Mohan DATWANI, Miss Maisy HO, Mr Henry SHIE and Dr Rizwan ULLAH, who were new Members joining the meeting for the first time. He said that the EOC would normally convene its regular meeting on the third Thursday of March, June, September and December at 2:30pm. This meeting which commenced at 4:00pm was a special arrangement to facilitate Members to join the gathering for former and new Members after the meeting. He reminded that the next meeting would commence at 2:30pm in accordance with the normal practice.

2. C/EOC also welcomed Prof Cecilia CHAN and Dr Andy CHIU who were newly appointed Members but not able to join this meeting due to other prior engagements. He added that apart from Prof Cecilia CHAN and Dr Andy CHIU, apologies for absence had also been received from three existing Members, Ms Shirley LOO, Ms Elizabeth LAW and Miss YU Chui-ye.

(Prof Susanne CHOI and Dr Maggie KOONG joined the meeting respectively at this juncture.)

II. Confirmation of Minutes

Confirmation of Minutes of the 117th EOC Meeting held on 16 March 2017

3. The draft minutes of the 117th EOC Meeting issued to Members on 13 April 2017 were confirmed without amendments.

III. Matters Arising

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

consideration.

IV. New Agenda Items

Election and Endorsement of new EOC Committees Membership

(EOC Paper No. 8/2017)

5. Members noted that pursuant to Schedule 6 of the Sex Discrimination Ordinance, the Commission may appoint Members of the Commission to be Members of a committee, and the Commission has, for the better performance of its functions, appointed four committees, as follows:

- i. Administration and Finance Committee (A&FC);
- ii. Community Participation and Publicity Committee (CPPC);
- iii. Legal and Complaints Committee (LCC); and
- iv. Policy, Research and Training Committee (PRTC).

6. For the term of office commencing from 20 May 2017, a total of 15 EOC Members had been appointed including 9 re-appointed Members and 6 newly appointed Members. The EOC Office had since ascertained their interest in joining the EOC's committees and becoming a convener or deputy convener of the committee(s). The new committees membership was in Appendix I of EOC Paper No. 8/2017. The EOC Board (The Board) approved the new EOC Committees Membership as listed in Appendix I of EOC Paper No. 8/2017.

7. As for the convener and deputy convener, since there was only one nomination each for A&FC, LCC and PRTC, their appointment was approved by the Board at the meeting.

8. For CPPC's convenership and deputy convenership, since there were more than one nominations received, election was conducted by secret ballot among Members of the CPPC. Before the election, COO informed that Dr Maggie KOONG had withdrawn from the nomination as Convener and Ms Shirley LOO had withdrawn from the nomination as Deputy Convener of CPPC. As such, there were two candidates remained each for the CPPC Convener and

Deputy Convener election. In addition, COO said that Ms Shirley LOO had sent her votes by post to the secretariat before the meeting.

(The Hon Holden CHOW joined the meeting at this juncture.)

9. Election for the Convener and Deputy Convener for CPPC was conducted by secret ballot among CPPC Members. Of the two remaining nominees for Convener of the CPPC, Ms Shirley LOO obtained 4 votes and Dr Rizwan ULLAH had 2 votes. Ms Shirley LOO was elected as Convener with approval from the Board. Of the two remaining nominees for Deputy Convener of the CPPC, Dr Maggie KOONG obtained 4 votes and Dr Rizwan ULLAH had 2 votes. Dr Maggie KOONG was elected as Deputy Convener with approval from the Board. The elected conveners and deputy conveners were as follows:

<u>A&FC</u> :	Convener:	Dr Maggie KOONG
	Deputy Convener:	Ms Elizabeth LAW
<u>CPPC</u> :	Convener:	Ms Shirley LOO
	Deputy Convener:	Dr Maggie KOONG
<u>LCC</u> :	Convener:	Dr Trisha LEAHY
	Deputy Convener:	Dr Mohan DATWANI
<u>PARC</u> :	Convener:	Prof Susanne CHOI
	Deputy Convener:	Dr Rizwan ULLAH

External Consultancy Review Exercise of the Complaints Handling Process of the EOC

(EOC Paper No. 14/2017)

10. C/EOC invited Dr Trisha LEAHY to highlight the salient points contained in EOC Paper No. 14/2017 which was to seek Members' advice on employing an external consultant to conduct a work process review for the EOC's Complaint Services Division and Legal Service Division.

11. Dr Trisha LEAHY explained to Members the background of the review, the proposal of setting up a Steering Committee under the Legal and Complaints Committee (LCC) to oversee the review, the proposed composition of the

Steering Committee (i.e. two former EOC Board Members, Mr AB NASIR as convener, Dr Sandra TSANG as member; and Dr LEAHY, C/EOC and COO as members), its terms of reference and the proposed budget as stated in EOC Paper No. 14/2017 for the review.

12. Members noted that the purpose of the review was to assess whether current processes were the most efficient and effective to allow the EOC to give effect to its statutory ambit in relation to complaint handling. The roles of both the Complaint Services Division and the Legal Service Division would be reviewed. A fair recruitment and appointment process would be adopted in line with EOC's policy and procedure for engaging an appropriate external consultant to conduct the review. When the review was completed, the Steering Committee would make recommendations to the LCC regarding the outcome of the review and assess any staffing and/or financial implications arising from the review and make the appropriate recommendations to the Administration and Finance Committee (A&FC) for final approval by the EOC Board.

13. Members approved the proposal of setting up of a Steering Committee to oversee the review, the Steering Committee's terms of reference and composition, the estimated budget for the review and to delegate the appointment of the external consultant to the LCC as listed in paragraph 9 i), ii) and iii) of EOC Paper No. 14/2017.

The Handling of the RDO Complaints Relating to the Oath Taking Incident by Ms YAU Wai-ching and Mr Sixtus LEUNG Chung-hang – raised by The Hon Holden CHOW

14. C/EOC said that the Agenda Item was raised by The Hon Holden CHOW. Before inviting him to explain the Agenda Item, C/EOC informed that in relation to the oaths taken by Ms YAU Wai-ching and Mr Sixtus LEUNG Chung-hang during the Legislative Council's swearing-in ceremony, the EOC's Complaint Services Division (CSD) received more than one hundred complaints against them, accusing them of racial vilification as defined under the RDO. After a

due process including seeking of legal advice from an external Senior Counsel, the CSD concluded that their conduct did not constitute any unlawful act including racial vilification under the RDO. Therefore, the complaints were discontinued. Even though it might not amount to an unlawful act, in April 2017, one article was published on EOC's website and on 26 April 2017, C/EOC published an article in am730 condemning the use of offensive language to ridicule different races, including the use of the term "chee-na". The articles were intended to call for mutual respect between different sectors of the community, promote racial harmony, and caution the public not to make discriminatory or racial remarks.

15. The Hon Holden CHOW explained that he raised the subject for discussion because there were a lot of public concerns and media reports related to the matter. He noted that the EOC had attached great importance to the matter and exercised caution in handling the complaints by seeking legal advice from an external Senior Counsel.

(Dr Maggie KOONG left the meeting at this juncture.)

16. Members noted that the RDO complaints lodged with the EOC relating to the oath-taking incident by Ms YAU and Mr LEUNG had been properly handled in accordance with EOC's established policies and procedures, particularly external legal advice had been sought before the complaints were discontinued. In addition, the EOC and C/EOC had made use of public channels available to educate and caution the public not to make discriminatory remarks. The matter was considered appropriately and properly handled by the EOC although certain members of the public might not accept the outcome. Prof Susanne CHOI remarked that Members should discuss if the matter was not properly handled, but not because the outcome was not agreeable.

Individual EOC Member’s Position and Public Comments on Legalizing Same Sex Marriage; Legislation Regarding Discrimination Based on Sexual Orientation and Family Value - raised by The Hon Holden CHOW

17. C/EOC said that the Agenda Item was raised by The Hon Holden CHOW. He invited him to explain the Agenda Item to Members.

18. The Hon Holden CHOW expressed that he raised the matter for discussion because of its importance. His position on legalizing same sex marriage had all along been clear and consistent. Besides being an EOC Board Member, he had a number of other roles, such as being a LegCo Member. In performing his other roles, he was frequently asked to express his views on various subjects on different platforms. There might be chances that his views expressed were different from the EOC’s position. In such cases, he would state clearly that the views expressed by him were entirely his own personal views.

19. Members noted that in accordance with the guiding principle for EOC’s Governing Board as stated in paragraph 15.2 of the “Procedures for Meetings and Related Matters” provided to Members upon appointment, Members should be apprised of the need to take collective responsibility for the Commission. Once a decision has been made in accordance with proper rules and procedures, EOC Members are expected to support it and protect the corporate identity. Members also noted that the EOC has an agreed position on legislating against discrimination on the grounds of sexual orientation, gender identity and interest status, which is “to call on the Government to ensure equal opportunities for LGBTI people in Hong Kong by committing to starting public consultation on introducing the legislation as soon as possible”. Nevertheless, on the subject of legalizing same sex marriage, the EOC does not have any agreed position.

(Ms Juan LEUNG left the meeting at this juncture.)

20. Members expressed their views on the matter. In general, Members

respected the need to take collective responsibility for the Commission and the need to avoid making any remarks that might put the Commission's corporate identity at stake. The EOC Chairperson is the public face for the EOC and would normally be the spokesperson for the Commission. As such, it should be well noted that when Members expressed their personal opinions, the guiding principle stated in the paragraph above should be followed.

(Prof Susanne CHOI and Dr Trisha LEAHY left the meeting at this juncture.)

Progress Update on EOC Office Relocation

(EOC Paper No. 10/2017)

21. HCPS reported to Members the updated progress of the EOC's office relocation exercise as contained in EOC Paper No. 10/2017.

22. Members noted that the Tenancy Agreement had been signed to confirm the leasing of the Wong Chuk Hang premises. Familiarization visits had been arranged for staff members to tour around the new office in batches. So far, nearly 90% of staff member had visited the new office site and they in general were psychologically ready to move into the Wong Chuk Hang premises.

(Mr Mohan DATWANI left the meeting at this juncture.)

23. Members also noted that a designer cum works manager had been engaged by the EOC Office to provide professional design consultancy and project management services for setting up the new office. Based on the proposals submitted for the design of the new office, the estimated contract sum for the fitting out works of the new office, inclusive of furniture and equipment, would roughly be an amount as stated in EOC Paper No. 10/2017. In accordance with the EOC's Procurement of Stores and Services Manual (the Manual), the contractor to undertake the fitting out works should be selected via the open tendering procedures as stated in the Manual. Taking into account the

high value of the contract sum involved and for good corporate governance practice, the EOC Office had recommended and the A&FC approved at its 82nd Meeting on 15 May 2017 that a Tender Board comprising five Members to be formed for the selection of contractor for the fitting out works. The membership of the Tender Board was listed in paragraph 10 of EOC Paper No. 10/2017. According to the project plan, the Tender Board would meet in late July 2017 to consider the submitted tenders and provide a recommendation for seeking the A&FC's endorsement and approval by the EOC Board. The selected contractor was expected to start the fitting out works in August 2017.

24. C/EOC informed Members that it was the Office's intention if possible to relocate all furniture, equipments, fixtures and materials (e.g. room doors, carpets...etc.) in the existing office for use in the new office to save costs, reduce waste and be friendly to the environment.

25. Members noted the progress update on EOC Office Relocation as detailed in EOC Paper No. 10/2017.

Reports of the Legal & Complaints Committee, Community Participation & Publicity Committee and Administration & Finance Committee

(EOC Paper No. 11/2017)

26. Members noted EOC Paper No. 11/2017.

Chairperson's Quarterly Report

(EOC Paper No. 12/2017)

27. Members noted EOC Paper No. 12/2017.

Report of EOC's Financial Position as at 31 March 2017

(EOC Paper No. 13/2017)

28. SMA highlighted to Members the salient points contained in EOC Paper No. 13/2017 which provided a report on the EOC's Financial Position as at 31

March 2017.

29. Members noted EOC Paper No. 13/2017.

V. Any Other Business

The Case of an Unreasonable Complainant

(EOC Paper No. 15/2017 tabled)

30. COO reported to Members on the case of an unreasonable complainant. Details were provided in EOC Paper No. 15/2017 tabled.

31. Members in general were supportive of any measures to protect EOC staff from abusive languages and vexatious behaviors. Members also noted that from time to time, service users who were not satisfied with the EOC's service or assessment would appeal to parties outside the Complaint Services Division (CSD), such as lodging service complaints with EOC's service improvement team, or filing a complaint with the Ombudsman. Recently, it was observed that more users had approached individual EOC Member directly to voice out their dissatisfaction of case handling.

32. Members noted that as the EOC's function of handling enquires and complaints is vested in the CSD, which has the knowledge and experience to handle cases according to the provisions of the current legislation as well as the division's internal operation procedures, it would be appropriate for them to take full charge when the case is still in progress, as a matter of normal policy. If complainants approach Members on their case, which is still on-going, Members could follow the handling procedures adopted in the 17 March 2016 Meeting as detailed in paragraph 9 of EOC Paper No. 15/2017. However, if concerns and dissatisfaction were expressed to EOC Members by a service user after a case has been concluded, Members could contact the COO office for details and explanations, as well as recommending course of actions to ensure that the

EOC's process of system works efficiently and correctly.

33. Members noted the case reported by COO and the information provided in EOC Paper No. 15/2017 and agreed that the case should be handled in the normal manner.

34. There being no other business, the meeting was adjourned at 6:45 p.m.

VI. Date of Next Meeting

35. The next regular EOC meeting was scheduled for **21 September 2017 (Thursday) at 2:30 p.m.**

Equal Opportunities Commission
July 2017