

**Minutes of the Seventy-fourth Meeting of
The Equal Opportunities Commission
held on 18 September 2008 (Thursday) at 2:30 p.m. in the
Equal Opportunities Commission's Conference/Training Room**

Present

Mr. Raymond TANG Yee-bong	Chairperson
Ms CHAN Ka-mun, Carmen, J.P.	
Ms CHAN Man-ki, Maggie	
Dr. CHENG Kwok-kit, Edwin	
Prof. Randy CHIU	
Miss LAM Kam-yi	
Dr. LAW Koon-chui, Agnes, J.P.	
Mr. LEE Luen-fai	
Mr. Saeed UDDIN, M.H.	
Mr. Michael CHAN Yick-man	Secretary [Director, Planning & Administration]

Absent with apologies

Ms CHOI Wai-kam, Virginia
Mrs. CHONG WONG Chor-sar, M.H., J.P.
Mrs. KOO CHEUNG Man-kok, Christine
Mr. LIU Luk-por, Desmond
Dr. LO Wing-lok, J.P.
The Hon TAM Heung-man, Mandy
Ms WONG Fung-ye, Margaret
Mr. YIP Kin-man, Raymond

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 Support [HPR]
Ms Shana WONG Shan-nar	Head, Corporate Communications and Training [HCCT]
Miss Kerrie TENG Yee-san	Accountant [ACCT]
Miss Gloria YU Wai-ling	Senior Equal Opportunities Officer, Administration & Personnel [SAP]
Mr. Noel CHERK Kwok-sing	Accounting Officer I [AOI]
Mr. Peter WONG	KPMG
Mr. Simon WONG	KPMG

I. Introduction

1. The Chairperson (C/EOC) welcomed all Commission Members (Members) to the 74th Meeting. He also welcomed Messrs. Peter WONG and Simon WONG, representatives from EOC's external auditors, KPMG for attending the meeting to help explain EOC's Audited Accounts for the Year Ended 31 March 2008 to Members.

2. Apologies for absence were received from Ms Virginia CHOI Wai-kam, Mrs. CHONG WONG Chor-sar, M.H., J.P., Mrs. Christine KOO CHEUNG Man-kok, Mr. Desmond LIU Luk-por, Dr. LO Wing-lok, J.P., The Hon Mandy TAM Heung-man, Mr. Raymond YIP Kin-man and Ms Margaret WONG Fung-yee due to clash of meetings/out of town commitments.

3. C/EOC informed the meeting that a press release would be issued after the meeting to highlight major areas of work carried out since the last meeting and discussed at this meeting.

4. As Members had been informed, the Meeting proceeded to consider “Approval of the Audited Accounts for the Year Ended 31 March 2008” (Agenda Item No. 7) first so that representatives of EOC’s external auditors could be released after the discussion.

II. Approval of the Audited Accounts for the Year Ended 31 March 2008

(EOC Paper No. 19/2008, Agenda Item No. 7)

5. As agreed at the 64th EOC Meeting, audited accounts for the year would first be discussed at an expanded Administration and Finance Committee (A&FC) Meeting to include all Members, and comments made at that meeting would be recorded and forwarded to the EOC Board for consideration. Members noted that the Audited Accounts for the Year Ended 31 March 2008 had been considered at an expanded A&FC Meeting held on 11 September 2008, in which Ms Maggie CHAN, EOC Member had also attended and representatives of EOC’s external auditors KPMG, Messrs. Peter WONG and Simon WONG were present and helped answer questions. Major questions raised by Members present at that A&FC Meeting and the answers provided were summarized and tabled for Members’ consideration as Supplementary Information to EOC Paper No. 19/2008. Since not all Members had participated in the expanded A&FC Meeting, C/EOC invited Messrs. Peter and Simon WONG to highlight to Members again the important points for the year’s accounts.

6. Mr. Peter WONG explained that KPMG had audited the accounts of the EOC for the year ended 31 March 2008 and prepared two sets of audited accounts for the year end for EOC's approval. In the first set of the audited accounts on the Board of Commission Member's Certificate and Auditor's Report on the Annual Financial Report for the year ended 31 March 2008 (Annex A to EOC Paper No. 19/2008, Yellow Colour), Mr. WONG said that the Commission has complied with, in all material respects, the requirements set by the Government and all the terms and conditions of the subventions as specified in the Guidelines on the Management and Control of Government Funding for Subvented Organisations.

7. In the second set of the audited accounts on the Commission's Financial Statements for the year ended 31.3.2008 (Annex B to EOC Paper No. 19/2008, Green Colour), Mr. Peter WONG informed that the financial statements gave a true and fair view of the state of affairs of the Commission and of its deficit and cash flows for the year as at 31.3.2008 in accordance with the Hong Kong Financial Reporting standards. He then went over the points in the Supplementary Information to EOC Paper No. 19/2008 with Members and explained the differences between the two sets of audited accounts, and the Reconciliation of Surplus for the year ended 31.3.2008 and Reserves as at 31.3.2008 between the Annual Financial Report and Financial Statements (Annex C to EOC Paper No. 19/2008, Pink Colour).

8. A Member expressed her appreciation for the two sets of accounts which she considered to be very comprehensive and well prepared and also raised a question on the provision of EOC's reserves for litigation. C/EOC responded that there was only one reserve

account for the EOC to safeguard its ability to continue as a going concern and to meet all general contingencies that could not be met by its recurrent funding, included but not limited to expenditure on litigation, increase in lease payment for office premises. ACCT supplemented that at the present moment, there was no need for the EOC to utilize funding from the reserve account.

9. Members raised no further questions on the audited accounts. C/EOC thanked Messrs. Peter WONG and Simon WONG for their presence. They were then excused from the meeting.

(Messrs. Peter WONG, Simon WONG and Mr. Noel CHERK left the meeting at this juncture.)

10. The EOC's Audited Accounts for the Year Ended 31 March 2008 were approved by the EOC Board.

III. Confirmation of Minutes

(Agenda Item No. 1)

11. The Minutes of the 73rd Meeting held on 19 June 2008 were confirmed without amendments.

IV. Matters Arising

(Agenda Item No. 2)

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

(Para 5 – 10 of Minutes of the 73rd Meeting)

12. D(Ops) provided a verbal update on the progress of the Formal Investigation on Accessibility in Certain Publicly Accessible Premises

(Formal Investigation) and highlighted some initial findings to Members. Members noted that there were some improvements noted in certain sites as compared to a similar inspection done by the EOC in 2005. However, on the whole, much more warranted improvement had yet to be done. Detailed findings would be presented in the draft Formal Investigation Report for Members' advice before published.

Equal Pay for Work of Equal Value

(Para 11 – 16 of Minutes of the 73rd Meeting)

13. C/EOC informed that since the progress report made at the last meeting, a briefing session on Equal Pay for Work of Equal Value (EPEV) was conducted for EOC Members on 24 July 2008. Sharing Forums were being held for large, medium and small organizations to explain the EPEV concept and to share best practice (one already held on 12 September 2008) to help fine tune EOC's guidelines which were soon to be published. Members noted that participants of the Sharing Forum held on 12 September 2008, particularly practitioners from the human resources sector found the Sharing Forum very useful.

V. New Agenda Items

Code of Practice on Employment under the Race Discrimination Ordinance (RDO)

(EOC Paper No. 15/2008; Agenda Item No. 3)

14. Members noted that the Race Discrimination Ordinance (RDO) was enacted in July 2008 and the EOC was empowered to implement this piece of new legislation with an effective date to be determined by the Government. Under section 63(1) of the RDO, the EOC might issue codes of practice to provide practical guidance for the purposes of

eliminating discrimination and promoting equal opportunities. Given EOC's experience that an overwhelming percentage of complaints received under the other anti-discrimination legislation currently in force were employment related, the EOC was now preparing to publish a Code of Practice on Employment under the RDO (the Code).

15. In the course of the enactment of the RDO, the Government had indicated that the substantive provisions of the new legislation would likely become effective in April 2009 when the Code would be issued by the EOC. The public therefore had an expectation on the EOC to issue the Code at the earliest possible opportunity. EOC Paper No. 15/2008 provided information on EOC's intention to issue the Code, the statutory procedures involved and the tentative schedule of the consultation exercise for the Code. The draft Code was also enclosed to the said paper for Members' information.

16. A Member declared that she was a New Territories indigenous inhabitant. While she appreciated the user-friendly writing style of the draft Code, she suggested changing the wordings used in Illustration 5 as described in pages 10 and 11 related to Government's Small House policy. She considered the policy was about the 'rights' of New Territories indigenous inhabitants instead of 'benefits'. She suggested using the exact wordings of the Government's Small House policy in the illustration.

[Post-meeting note: The wordings in Illustration 5 had been changed accordingly.]

17. In response to a question raised by the same Member related to

Illustration 15 on page 16 of the draft Code, CLC responded that if the ability to communicate in a certain language was an inherent requirement of a job and reasonable methods had been tried to communicate with the employee concerned but proved to be unsuccessful, termination of employment of the employee might not contravene the RDO. C/EOC supplemented that the essence was that whether knowledge of a particular language was a genuine inherent requirement of the job. In response to a follow up question raised by another Member, CLC responded that generally speaking, both the employer and the employee should make an effort to communicate but specific situations would depend on the particular circumstances at the time.

18. A Member suggested designing simpler versions of the draft Code with illustrative cartoons and to set up a hotline to answer related questions from the public. C/EOC said there would be simple leaflets introducing the Code in 8 languages including English and Chinese and regularly updated Frequently Asked Questions and Responses to be uploaded on EOC's website to facilitate the consultation process. A specific enquiry hotline could also be considered if resources permitting.

19. In response to another question raised by another Member, DPA said that comments/views collected during the consultation process would be consolidated and the draft Code would be revised as appropriate before publishing the finalized version. Members' advice would be sought following the consultation exercise and before the finalized Code was published. C/EOC added that a special meeting to consider the draft Code again could be convened if necessary before sending the Code to the Government for gazattal.

20. Members noted EOC Paper No. 15/2008.

Endorsement of the Final Report of Study on Public Perception of Portrayal of Female Gender in the Hong Kong Media

(EOC Paper No. 16/2008; Agenda Item No. 4)

21. EOC Paper No. 16/2008 sought Members' endorsement on the survey report on "Study on Public Perception of Portrayal of Female Gender in the Hong Kong Media" before it was released to the public. Members noted that the survey report had been endorsed by a majority of Public Education and Research Committee (PERC) Members in July 2008 and follow up actions including stepping up public education efforts to project a positive portrayal of the female gender had been discussed at the PERC Meeting held on 11 September 2008 and agreed. A press briefing would be held on 3 October 2008 to highlight the survey findings to members of the public and an in-house forum involving stakeholders and interested parties would be scheduled for November or early December 2008 as one of the follow up actions.

22. As regards the press briefing to be held on 3 October 2008, C/EOC informed that the Women's Commission and the Committee on the Promotion of Civic Education had been contacted to see if they would like to join. However, both had declined to join but indicated that they might join hands with the EOC to follow up the findings of the survey, such as the forum to be held in November or early December 2008 when they had more details of the survey.

23. A Member, who was also a member of the Committee on the Promotion of Civic Education said the Committee would have a meeting in November, in which the collaboration with EOC in its follow up

actions on the survey findings would be discussed. Another Member, who was also a member of the Women's Commission informed that as the Women's Commission's activities and resources for the year had been planned and committed well in advance, it might be difficult for them to be involved in additional programmes or activities.

24. A Member opined that it was worth inviting frontline media reporters to share their views on the survey findings. Another Member expressed that some media were very critical of the EOC, as such, though it was a worthy cause, how it should be put forth needed to be carefully considered. Another Member was unsure whether the survey findings would create significant talking points in the community.

25. A Member supported to organize a sharing forum among stakeholders on this subject as perceptions were divided from the survey findings. Another Member also expressed support for the EOC to follow up the findings of the survey, nevertheless, she suggested the EOC could wait and gauge community's views after the press briefing was held on 3 October 2008 and follow up the subject strategically. Other Members agreed that the press briefing scheduled for 3 October 2008 should be held accordingly so that the survey findings could be presented for public discussion. After the press briefing, the EOC could follow up the subject by providing a platform, in the form of a forum with an appropriate theme, for all stakeholders concerned to share their views. HCCT supplemented that the subject could be one of next year's priority areas of the Community Participation Funding Programmes.

26. Members endorsed the EOC to release the findings of the report

at a briefing and an in-house forum to be held in the EOC office to follow up on the findings.

27. A Member asked if she could bring the survey report to be shared in the All-China Women's Federation's conference to be held in late October in the Mainland. C/EOC confirmed that by late October, the survey report should have been released and it was agreeable for the Member concerned to share the report in the conference. HPR added that the survey report would also be available on EOC's website as well as in CD format for distribution.

28. HCCT tabled a paper on 'Public Education & Publicity Programmes in 2008/09 to promote racial harmony and the Race Discrimination Ordinance' for Members' information. Members noted that there would be two among the six episodes of RTHK TV Docu-drama to be broadcast from March 2009 with a theme about racial harmony. In addition, there would be radio programmes to help explain the new legislation to the general public in addition to other public training and educational programmes as detailed in the paper tabled.

(As some Members had other engagements and would need to be excused earlier, the Meeting agreed to consider Agenda Item 8 on Re-appointment of EOC Co-opted Members at this juncture.)

Re-appointment of EOC Co-opted Members
(EOC Paper No. 14/2008, Agenda Item No. 8)

29. EOC Paper No. 14/2008 sought 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 (PERC) until 19 May 2010, to coincide with the usual term of office (until 19 May of a respective year) of the EOC Members.

30. In response to a question raised by a Member, DPA informed that the present EOC Board had the authority to approve the re-appointment of Co-opted Members notwithstanding that the terms of office in question extended beyond the terms of office of existing EOC Members. He added that the re-appointment of the existing Co-opted Members would help retain their expertise in the respective committees in providing guidance and advice to facilitate the work of the EOC. CLC also concurred that the existing Board had the authority to approve the re-appointment with terms of office beyond its own.

31. Members approved the re-appointment of the three Co-opted Members of the CPPC and the PERC respectively up to 19 May 2010 as stated in EOC Paper no. 14/2008.

(Mr. LEE Luen-fai and Ms LAM Kam-yi left the meeting respectively at this juncture.)

Six Monthly Review of EOC's Work (January – June 2008)
(EOC Paper No. 17/2008; Agenda Item No. 5)

32. Members noted EOC Paper No. 17/2008.

Reports of the Legal & Complaints Committee, Community Participation & Publicity Committee, Public Education & Research Committee and Administration & Finance Committee
(EOC Paper No. 18/2008; Agenda Item No. 6)

33. EOC Paper No. 18/2008 contained information on the work of the respective EOC Committees. ACCT highlighted salient points to Members regarding the Draft Annual Budget of the Commission for 2008/09 as contained in Annex I to Appendix 4 of EOC Paper No. 18/2008 tabled. Members noted that the Constitutional and Mainland Affairs Bureau had agreed to grant the balance of \$5.2M to EOC under the recurrent account on commitment basis in preparation of the enactment of the Race Discrimination Legislation.

34. Members noted EOC Paper No. 18/2008.

Any Other Business
(Agenda Item 9)

Disability Harassment Complaints against a Social Worker and her Employer
(EOC Paper No. 20/2008 tabled)

35. D(Ops) tabled and explained to Members EOC Paper No. 20/2008, which provided information on some media reports on 16 September 2008 alleging mishandling of a disability complaint case by the EOC. Members noted that the complaint case concerned was handled appropriately by the EOC in accordance with its Complaint Handling Procedures (CHP).

36. C/EOC said that there might be a lack of understanding on EOC's CHP by the Complainant and the Union helping out the Complainant. A Member suggested that the EOC could invite representatives from unions to attend its free talks/training to enhance their understanding on EOC's CHP. HCCT would follow up to extend

invitation to organizations or associations protecting the rights of employees to attend EOC's training as appropriate.

37. Some Members suggested the EOC to form a crisis management team or special task force to tackle issues of this kind with an aim to alleviate the damages to EOC's image. C/EOC expressed understanding to their suggestion and said that another way to handle these issues was to engage more efforts in communicating and explaining EOC's work to the public. For media reports that had little truth, he would prefer not to respond.

38. A Member agreed to C/EOC's way of handling these issues and further suggested that the EOC to consider attending the meetings of the 18 District Councils with a view to explaining EOC's work to the Council Members and enlisting their help to cascade EOC's message, in particular on EOC's CHP and conciliation procedures to the community. This could also help build EOC's image. The EOC office would give consideration to the suggestion.

39. Members noted EOC Paper No. 20/2008.

Value for Money Audit by the Audit Commission

40. C/EOC informed that the Audit Commission would perform a value for money audit on EOC's activities and work. The audit was expected to last for several months. Members and/or the Convenor of the Administration and Finance Committee, where appropriate, would be duly informed of the progress and findings when available.

41. There being no other business, the meeting was adjourned at 4:45pm.

VI. Date of Next Meeting

42. The next meeting would be held on 18 December 2008 (Thursday) at 2:30pm.

*Equal Opportunities Commission
November 2008*