

**Minutes of the Eighty-second Meeting of
The Equal Opportunities Commission
held on 17 September 2009 (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	
Prof. Randy CHIU	
Ms CHIU Lai-kuen, Susanna	
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	
Mr. Amirali Bakirali NASIR, J.P.	
Ms NG Wing-mui, Winnie	
Mr. Saeed UDDIN, M.H.	
Dr. TSE Wing-ling, John	
Ms WONG Ka-ling, Garling	
Mr. Michael CHAN Yick-man	Secretary Director, Planning & Administration [DPA]

Absent with apology

The Hon TSE Wai-chun, Paul

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 Kerrie TENG
Miss Gloria YU Wai-ling

Accountant [ACCT]
Senior Equal Opportunities
Officer, Administration &
Personnel [SAP]

Mr. Peter Wong
Mr. Simon Wong

} KPMG [KPMG]

I. Introduction

1. The Chairperson (C/EOC) welcomed all Commission Members (Members) and representatives of EOC's external auditors KPMG, Messrs. Peter WONG and Simon WONG to the 82nd Meeting.
2. Apology for absence was received from The Hon TSE Wai-chun due to business commitment overseas.
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. The Meeting proceeded to consider "Approval of the Audited Accounts for the Year Ended 31 March 2009" (Agenda Item No. 6) first so that representatives of EOC's external auditor could be excused after the discussion.

II. Approval of the Audited Accounts for the Year Ended 31 March 2009 (EOC Paper No. 17/2009, Agenda Item No. 6)

5. Members noted that the Audited Accounts for the Year Ended 31 March 2009 had been considered at an expanded A&FC Meeting held on 22 August 2009, in which Mr A B NASIR, non A&FC 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 at Annex D to the said EOC Paper for Members' consideration. C/EOC invited the ACCT and Messrs. Peter and Simon WONG to highlight the important

points for the year's accounts.

(Ms CHOI Hing-shi joined the meeting at this juncture.)

6. ACCT went over with Members important points of this year's account, the questions raised in the A&FC Meeting held on 22 August 2009 and the answers provided as contained in Annex D.

7. ACCT explained that KPMG had audited the accounts of the EOC for the year ended 31 March 2009 and prepared two sets of audited accounts for the year end for EOC's approval, namely the Annual Financial Report for the year ended 31 March 2009, which was prepared in compliance with the Guidelines on the Management and Control of Government Funding for Subvented Organisations issued by the Government and in accordance with the accounting policies adopted by the Commission (yellow copy at Annex A to EOC Paper No. 17/2009), and the Financial Statements for the year ended 31 March 2009, which was prepared in accordance with the Hong Kong Financial Reporting Standards for incorporation into EOC's annual report (green copy at Annex B to EOC Paper No. 17/2009).

(Ms Winnie NG and The Hon Frederick FUNG joined the meeting at this juncture.)

8. In the first set of the audited accounts (Annex A), KPMG had expressed its opinion that the Annual Financial Report had been properly prepared, in all material respects, in accordance with the accounting policies adopted by the Commission. In the second set of the audited accounts (Annex B), KPMG's opinion was that the Financial Statements gave a true and fair view of the state of affairs of the Commission as at 31 March 2009 and of its deficit and cash flows for the year then ended in accordance with Hong Kong Financial Reporting Standards.

9. Given that EOC was a public organization, and given the trend towards greater transparency and disclosure of information, Mr. Peter WONG suggested that after relevant considerations on the possible benefits and costs to be incurred, the EOC might consider including additional voluntary disclosure such as fees and allowances to Members,

Members' attendance in EOC's Committees and their attendance at Board and Committee meetings in its annual report in the future and implement a formal annual process through its internal legal department that specifically reviewed compliance with all relevant legal laws and regulations in its operations and process.

10. Members raised questions on EOC's annual leave policy, the short-term contract staff costs, cable television charges, procedures on disposal of written-off items, death and disability insurance expenses, legal fees and reimbursement of costs from legal litigation, electricity expenses and expenses on staff training. Relevant information and explanations were given during the meeting by respective EOC staff. Members noted that the EOC office would consider setting targets to reduce electricity costs, reviewing the cable television service subscription and policies on briefing out of legal cases and staff training in the coming year.

11. Members raised no further questions on the audited accounts. The EOC's Audited Accounts for the Year Ended 31 March 2009 were approved by the EOC Board.

12. C/EOC thanked Messrs. Peter WONG and Simon WONG for their attendance.

(Messrs. Peter WONG, Simon WONG left the meeting at this juncture.)

III. Confirmation of Minutes

(Agenda Item No. 1)

13. The Minutes of the 81st (Special) Meeting held on 25 June 2009 issued to Members on 15 July 2009 were confirmed without amendments. The revised Minutes of the 80th Meeting held on 18 June 2009 incorporated Members' comments and re-issued to them on 9 September 2009 were also confirmed without further amendments.

IV. Matters Arising

(Agenda Item No. 2)

Separation of Posts of Chairperson and Chief Executive Officer of the Equal Opportunities Commission

(Paragraphs 10 - 14 of Minutes of the 80th Meeting)

14. One Member said that the Government had not respected the majority view of the EOC Board as expressed in the 80th Meeting for a non-executive Chairperson for the EOC but continued to recruit a full-time executive Chairperson. She requested her views be recorded in the minutes of this meeting. Other Members echoed her views and they did not consider that the dinner meeting held earlier in August with the Constitutional and Mainland Affairs Bureau (CMAB) should be regarded as a formal exchange of views with the Administration on this subject.

15. Some Members were concerned that EOC's logo was used in Government's recruitment advertisement for the EOC Chairperson as this would create the wrong impression that the EOC was also involved in the recruitment process. A Member commented that the advertisement was too general and there was no requirement for the incumbent to have the ability to advance equal opportunities in Hong Kong. Moreover, given that a new Chairperson would have to be appointed, this was an appropriate opportunity to have a full and detailed discussion on splitting the posts of the Chairperson and the Chief Executive Officer. But regrettably this was not the case. Moreover, since the new Chair would have a three-year term, it would be difficult to contemplate any change after the appointment was made. She doubted the Government's determination in improving EOC's governance through reviewing its structure in the future.

16. Some Members opined that the EOC Board should have a role to play in the recruitment of EOC's Chairperson and that the independence of the EOC should be protected in the recruitment process. Given the importance of the issue and to maintain EOC's independence, a Member suggested that the issue of the Chairperson and the Chief Executive Officer/Chief Operating Officer posts should be placed at the agenda for discussion in each of the future EOC Board meetings.

(Ms Susanna CHIU and Mr. A B NASIR joined the meeting respectively)

at this juncture.)

17. After deliberations, Members requested C/EOC to convey their views to CMAB and to invite them to formally meet with Members on this subject. Specifically, some Members wished CMAB to explain the rationale for not having a part-time, non-executive EOC Chairperson which was the view of the majority of Members, to clarify that the recruitment advertisement was not issued by EOC and the role of the EOC in the Chairperson's recruitment. It was also the view of some Members that EOC should be involved in the recruitment process. C/EOC said that Members' views on the Chairperson and the Chief Executive Officer posts expressed in the 80th EOC Meeting as well as the 2nd Meeting of the Working Group on the Audit Report had been channeled to the CMAB and a meeting with their officials had been requested, and consequently the aforementioned dinner meeting was arranged in August. As explained by the Secretary for Constitutional and Mainland Affairs at the meeting, the decision was made after taking all factors into consideration. Moreover, the selection and appointment of the Chairperson was the same as that of EOC Members, being the prerogative of the Chief Executive of the Hong Kong SAR Government. He would channel Members' views expressed in this meeting to the CMAB again.

18. Other matters arising from the minutes of the last two meetings had been included under the new agenda items of this meeting.

V. New Agenda Items

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

(Agenda Item No. 3)

19. D(Ops) provided a verbal update on the latest progress of the Formal Investigation on Accessibility in Certain Publicly Accessible Premises (Formal Investigation). He said that major disability groups and the Commissioner for Rehabilitation were briefed on the draft recommendations to be included in the Formal Investigation report. The Commissioner for Rehabilitation had provided views for future

improvements on accessibility. The draft final report on the Formal Investigation would be ready for Members' advice after an overall review.

20. In response to a Member's question of ways to publicize the findings of the Formal Investigation to the public to achieve maximum impact, D(Ops) said that a press conference would be arranged to attract more media attention when the findings were released.

21. C/EOC thanked Mrs. CHONG WONG Chor-sar, Ms Garling WONG and Dr John TSE for their guidance and participation in the Working Group of the Formal Investigation and the preparation of the investigation report.

(In view that some Members might need to be excused earlier, the Meeting proceeded to consider Agenda Items 7 & 9 and 8 which required Members' advice.)

Follow-up Actions on the Value for Money Audit on EOC and Engagement of External Auditor

(EOC Papers No. 18 & 20/2009; Agenda Items No. 7 & 9)

22. DPA briefed Members the major updates on implementing the Audit recommendations as contained in EOC Paper No. 18/2009. Members noted that the great majority of the recommendations had been implemented and reported to the Working Group on the Audit Report (Working Group), revised office policies and procedures had been endorsed by the Working Group (vide points 3.10, 4.17(b), 5.15, 6.4, 6.28, 6.34 and 7.10 of the Appendix to EOC Paper No. 18/2009). Additionally, there were several proposals in response to the Audit recommendations and CMAB's suggestions which required Members' consideration at this meeting.

23. With regard to the proposals requiring Members' consideration at this meeting, which included procedures in relation to Cancellation of Meetings (vide point 2.30(f) of the Appendix to EOC Paper No. 18/2009) and the Life Insurance Coverage for the Chairperson (vide point 7.7 and Annex of the Appendix to EOC Paper No. 18/2009), Members'

endorsement on both proposals was given after extensive discussions. The endorsement on the proposed procedures in relation to Cancellation of Meetings was given by all Members present whereas endorsement on seeking retrospective approval from the Administration for the provision of life insurance benefits to both the present and previous Chairpersons of the EOC was given by all Members present other than one abstention. The EOC office would follow up with CMAB on the insurance issue accordingly.

(Mr Tim LUI and Ms Maggie CHAN left the meeting respectively at this juncture.)

24. On issues requiring further discussions with the CMAB, which included finalizing the proposed amendments to the Memorandum of Administrative Arrangements (MAA) (vide point 2.38 of the Appendix to EOC Paper No. 18/2009) and developing more performance targets/indicators to measure outcome and productivity of the EOC (vide point 8.6 of the Appendix to EOC Paper No. 18/2009), Members were informed that the proposed amendments to the MAA endorsed by the A&FC had been discussed with the CMAB and since signed by the EOC on 11 September 2009. For the inclusion of more performance targets/indicators, Members discussed the 3 new performance indicators proposed by the EOC office. Some Members raised questions on using “the percentage of complaints settled through conciliation” as one of the indicators on EOC’s performance and productivity because the settling of complaints through conciliation could be out of EOC’s control. Other Members commented that conciliation statistics could be a useful pointer for continuous improvement. Members were informed that statistics related to successful conciliation or otherwise was readily available in EOC’s system. Members noted that CMAB also suggested other indicators and further discussions were needed with CMAB. Members would be posted of developments.

(Mr. LEE Luen-fai and Dr. John TSE left the meeting respectively at this juncture.)

25. On CMAB’s suggestion for the EOC to commission an external auditor, preferably with a management consultancy arm, to examine its

various procedures and practices for further improvements to be made to ensure that the recommendations and suggestions of the Audit Report and those of the Public Accounts Committee (PAC) report would be implemented, incorporated into and regularized as part of the governance and administration arrangements of the EOC, Members noted that the Working Group on the Audit Report and the A&FC had considered and supported the suggestion.

26. The Convenor of the A&FC supplemented that CMAB's suggestion was supported because it served a practical purpose and it also met the expectation of the public. She reminded that clarification and confirmation with the CMAB would be required in regard to their stated preference of commissioning an external auditor with a "management consulting arm", to be interpreted as one with "management consulting expertise" instead as there were not many accounting/audit firms which had such a branch or division.

27. DPA informed that comments from CMAB would also be sought on the Audit Brief which contained information on the terms of reference, scope of study and the project deliverables before undertaking the Audit.

28. Members raised no further questions and endorsed EOC Paper No. 18/2009 and EOC Paper No. 20/2009.

29. C/EOC thanked Ms Susanna CHIU and other Members of the Working Group and the A&FC for their valuable time and efforts rendered to consider the various follow-up actions on the Audit Report, including reviewing the revised office policies, procedures and guidelines.

(Mr. Saeed UDDIN left the meeting at this juncture.)

Revised Terms of Reference of the Legal and Complaints Committee
(EOC Paper No. 19/2009; Agenda Item No. 8)

30. CLC informed Members that EOC Paper No. 19/2009 proposed amendments to the terms of reference of the Legal and Complaints

Committee (LCC) in light of the enactment of the Race Discrimination Ordinance (RDO) to reflect the functions of the LCC under the RDO. Members noted that the proposed amendments had been endorsed by the LCC on 17 August 2009.

31. Members approved the revised terms of reference of the LCC as contained in EOC Paper No. 19/2009.

Six Monthly Review of EOC's Work (January – June 2009)

(EOC Paper No. 15/2009; Agenda Item No. 4)

32. EOC Paper No. 15/2009 provided a statistical presentation of the work of the Commission, as well as major work / project progress and court actions undertaken between January and June 2009. With regard to the work of the Operations Division on giving advice to enquires on potential breaches of the RDO before the law came into effect (vide Annex 2 of EOC Paper No. 15/2009), a Member requested information on the nature of the enquiries and specific advice given for reference. D(Ops) would provide the information accordingly.

33. On EOC's Policy, Advisory and Research work, Members noted that EOC had been invited by the Labour Department to participate in a series of consultation sessions to assess the impact of the proposed statutory minimum wage (SMW) on PWDs as well as Foreign Domestic Helpers. The meeting was informed that relevant provisions of the DDO and the RDO had been explained to assist the government officials to consider the way forward for the proposed SMW scheme to ensure equal employment opportunity for all. EOC was given to understand that the government had sought advice from senior counsel on this subject to ensure compliance under various legislation as well as the human rights and basic laws.

34. Members noted that there was a marked increase in EOC's workload in the first half of 2009 particularly on enquiries received, complaints and legal assistance cases. Members were informed that additional manpower would be required to deal with the increasing workload and the EOC office also needed to sort out additional office space to accommodate more staff. This might involve redesigning the

office which was now under consideration.

35. Members noted EOC Paper No. 15/2009.

Reports of the Legal & Complaints Committee, Community Participation & Publicity Committee, Public Education & Research Committee and Administration & Finance Committee
(EOC Paper No. 16/2009; Agenda Item No. 5)

36. Members noted EOC Paper No. 16/2009.

VI. Any Other Business

Day Camp for EOC Members and Co-opted Members

37. C/EOC reminded Members that the Day Camp for Members and Co-opted Members to consider EOC's public education, research, publicity and community participation directions and strategies was scheduled for 19 September 2009 (a.m.) at the EOC office. The relevant information paper had been issued to Members at this meeting. A Member said that she was unable to attend the Day Camp due to other prior engagements, but she hoped the Day Camp could consider issues on sex discrimination against women in the workplace, race discrimination by white people against Asians and local Chinese and strategies to promote equal opportunities for youths and students by having equal opportunities topics included in the Liberal Studies of the secondary school curriculum.

Printing of Documents and Papers on Both Sides

38. To be environmentally friendly and save resources, the meeting agreed to print all board/committee papers and documents on both sides whenever practicable.

Opening of EOC Board Meeting and Showing of Members' Names in the Minutes of Meeting

39. A Member noted the current practice that Members' opinions were recorded but their respective names were not shown in the minutes of the meeting. He suggested the EOC to consider showing respective Members' names alongside with their opinions expressed and also consider his earlier suggestion of opening part, if not all, of EOC Board meetings to the public to enhance transparency. C/EOC agreed to give consideration to the suggestions.

40. There being no other business, the meeting was adjourned at 5:15p.m.

VII. Date of Next Meeting

41. The next regular EOC meeting was scheduled for 17 December 2009 (Thursday) at 2:30 p.m.

*Equal Opportunities Commission
October 2009*