

**Minutes of the Seventy-ninth (Special) Meeting of
The Equal Opportunities Commission
held on 13 May 2009 (Wednesday) 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	
Mrs. CHONG WONG Chor-sar, M.H., J.P.	
Mr. LEE Luen-fai	
Dr. LO Wing-lok, J.P.	
Mr. Saeed UDDIN, M.H.	
Ms TAM Heung-man, Mandy	
Mr. YIP Kin-man, Raymond	
Mr. Michael CHAN Yick-man	Secretary [Director, Planning & Administration]

Absent with apologies

Ms CHOI Wai-kam, Virginia
Mrs. KOO CHEUNG Man-kok, Christine
Miss LAM Kam-yi
Dr. LAW Koon-chui, Agnes, J.P.
Mr. LIU Luk-por, Desmond
Ms WONG Fung-yee, Margaret

In attendance

Mr. Joseph LI Siu-kwai	Director, Operations [D(Ops)]
Mr. Herman POON Lik-hang	Chief Legal Counsel [CLC]
Ms Esther CHAN	Acting Head, Policy and Research [Ag. HPR]
Ms Shana WONG	Head, Corporate Communications and Training [HCCT]
Miss Gloria YU	Senior Equal Opportunities Officer, Administration & Personnel [SAP]

I. Introduction

1. The Chairperson welcomed and thanked all Commission Members (Members) for attending the 79th Meeting which was a Special Meeting convened at the request of Dr. LO Wing-lok to discuss “Public Response to the Audit Report”.

2. Apologies for absence were received from Ms CHOI Wai-kam, Virginia, Mrs. KOO CHEUNG Man-kok, Christine, Miss LAM Kam-yi, Dr. LAW Koon-chui, Agnes, J.P., Mr. LIU Luk-por, Desmond and Ms Margaret WONG due to clash of meetings/out of town/other business engagements.

II. Public Response to the Audit Report
(Agenda Item No. 1)

3. C/EOC said that there had been considerable negative press reports recently on the EOC which affected both the EOC and staff morale. These reports were related to the handling of the Audit Report on the EOC (Audit Report). Regardless of what the causes were, as the

Chairperson, he would accept full responsibility for the way in which the Report had been handled and would like to take the opportunity to extend his apologies.

4. Although the Public Accounts Committee (PAC) had yet to complete its work to consider the Audit Report and the public hearing was still in progress, C/EOC said that this meeting was a good opportunity for Members to express their views before their current term ended. For this, he thanked Dr. LO Wing-lok for requesting to convene this meeting and invited Dr. LO to give his views.

5. Dr. LO Wing-lok expressed that the public's response to the Audit Report was clearly negative even though the PAC had yet to finish its work. He opined that there were only two honorable ways to address the public's response. Firstly, the Chairperson should resign and secondly, all Members of the Commission should also resign to take responsibility for the adverse comments on the Audit Report even though only one week was left in the current term. He therefore sought the Chairperson's agreement and moved two motions at the Meeting:

Motion 1: This Commission has no confidence in Mr. Raymond TANG Yee Bong, Chairperson of the Equal Opportunities Commission.

Motion 2: This Commission resigns to take responsibility for the adverse comments in the Director of Audit's report.

[Both motions were seconded by Dr. Edwin CHENG and Ms Mandy TAM.]

6. In response to a question raised by a Member, C/EOC replied that there was another session of the PAC public hearing scheduled for May 14. After the hearings, the PAC would consider the Audit Report and their findings and recommendations would be released in one to two months' time.

7. A Member expressed that he supported the first motion as the Chairperson had extended his apologies and also said that he would take responsibility for the negative public responses on the Audit Report. Therefore, the only way of accepting responsibility was for the Chairperson to resign. With regard to the handling of the Audit Report, he opined that since the Chairperson had made all the decisions himself and Members could not perform their role, he also supported the second motion for all Members to resign.

8. Another Member who seconded the motions said that she had been following the PAC's public hearings and there were several occasions that things said by the Chairperson during the hearings were either incomplete or untrue. The Chairperson's behavior had adversely affected the EOC. Hence, she echoed the earlier Member's views that as the Chairperson had admitted his fault, he should take responsibility by resigning, which would be in line with public expectation in today's political environment.

9. A Member said one of the public's major concern with regard to the Audit Report was EOC's governance. He hoped to have more discussions on this issue before considering the two motions moved by Dr. LO. Other Members agreed to the Member's view. They said that they had come to the meeting hoping to specifically discuss the agenda

item of “Public Response to the Audit Report” and they were more concerned about the public’s response and the damage to EOC’s image than the two proposed motions. Hence, they would prefer focusing on the agenda item first. Dr. LO agreed that discussions were required and viewed that the two motions were related to the agenda item. Discussions ensued on the public’s response to the Audit Report and how the EOC could contain the damage.

10. A Member enquired if staff members’ presence was required in the meeting as the discussions were not about operational issues but would touch on the Chairperson’s performance. In response, C/EOC said that it would be necessary when contents of the Audit Report were to be considered, otherwise staff could be excused, particularly on the discussions related to Motion 1. Nevertheless, another Member said that staff members’ presence was required to assist in the discussions, particularly because he had not seen the full Audit Report at the Special Meeting held on March 26 and had no details on certain parts of the Audit Report like the Chairperson’s insurance issue in paragraph 7.2. C/EOC was agreeable to staff’s presence in the meeting to assist in the discussions and went on to clarify that 4 sets of documents were provided to Members at the Special Meeting held on March 26 which included the full draft Audit Report.

11. Members’ attention were drawn to the following documents which were tabled for their reference at this meeting:-

- (i) *the full set of documents that had been distributed to respective Members at the Special (77th) EOC Meeting held on 26 March 2009, which included the full draft Audit*

Report and the List of Recommendations with Responses from the EOC;

(ii) a copy of the e-mail message dated 27 March 2009 to Audit enclosing supplementary amendments to the draft Audit Report and EOC's responses incorporating Members' views expressed in the 77th Meeting, and

(iii) a copy of the reply email message dated 30 March 2009 from Audit confirming that the Director of Audit had accepted all the supplementary amendments for incorporation in the Audit Report.

12. Regarding 11(i) above, a Member said that she had not had sight of the full draft Audit Report at the 77th Special Meeting. She added that unlike the document with the heading: **“List of Recommendations with Responses from the EOC”**, which she confirmed that she had seen and considered at the 77th Meeting, the full draft Audit Report now laid before her (which was provided to her at the 77th Special Meeting according to the EOC office records) was a clean copy and there were no marks in the report to show that it had been read previously.

13. A Member responded that the earlier Member might have only used the document on **“List of Recommendations with Responses from the EOC”** for the discussion at the 77th Special Meeting. However, the Chairperson should be held responsible as only 2 hours were used to consider the report at the Special Meeting which was not sufficient. It was his view that in order to fully consider the Audit Report, half a day's time was required.

14. A Member expressed that she was concerned about how EOC could serve the public better. She viewed that there were 2 main concerns from the public, one related to the Chairperson and the other related to EOC's governance. She was more concerned about the latter. There was a need to form a view for Members of the new term to follow up on issues related to EOC's governance and the recommendations of the Audit Report.

15. Another Member said that she noted emotions were involved in Members' discussions today due to the negative public responses. She was also unhappy because Members and staff had done a lot of work for the EOC. She opined that there was nothing wrong in EOC's daily operation. In fact, she noted on page 8 of the Audit Report that the Secretary for Constitutional and Mainland Affairs representing the Administration had said that the EOC had been performing its functions steadily in the elimination of discrimination and promotion of equal opportunities and the existing checks and balances system within the EOC had generally served its functions. However, having read most of the press reports, which were negative, she viewed that these reports had not done justice to the EOC. Nonetheless, if all Members were to resign now, it would not be a responsible behaviour. She said that there were areas that the EOC needed to improve, like some operational and administrative procedures etc. However, these had not affected the EOC in performing its core function in eliminating discrimination. Therefore, she supported the views of the earlier Member and opined that the way forward for EOC was more important, i.e. to bravely look into the public response in detail, to identify and admit shortcomings and take steps to improve in future.

16. Another Member expressed that she also felt unhappy like other Members about the negative press reports on EOC because Members had put in much efforts on EOC's work. She also considered that these reports did not do EOC justice. However, she would look at the issue in a more positive way and echoed the views of the earlier Members that the EOC should take the opportunity to identify areas for improvements for the future. On the public's views about the EOC, perhaps something could be done, like proactively clarifying issues through EOC's Corporate Communications Unit to help to change public perception. On the handling of the Audit Report, she regretted that there had been little mutual trust between Members and the Chairperson. It was an issue that both Members and the Chairperson needed to make an effort to improve. On the issues identified by Audit that EOC needed improvements, she said that those were incidents which happened years ago; in fact, in the recent two years, she had observed that the EOC had made a lot of progress and was still making continuous improvements. She was confident on EOC's work. She hoped that with Members' concerted efforts, something could be done to improve EOC's image and that the shortcomings of the EOC as identified were not as bad as the media had portrayed.

17. A Member said that the Meeting might not be able to examine the contents and the recommendations of the Audit Report in detail. These should be left to the good hands of Members of the new term and staff of the EOC office. On the motions moved by Dr. LO, he said that a more honorable and positive way to address the current issues would be to work together with staff to explore ways to improve the EOC. In echoing views of the earlier Members, he said he had been fortunate to

be an EOC Member for 4 years, and during this time, he had seen substantial progress. He thanked all the staff members for their hard work.

18. In response, a Member said that the EOC was now facing a credibility crisis, i.e. the lack of confidence in the Chairperson to lead the EOC to protect the rights of the less privileged groups. Another Member responded that there were different ways to handle issues of this nature which included making improvements to reduce the adverse impact, internal strengthening and Members' resignation could also be one of the options.

19. A Member said he was not ruling out the good performance of the EOC, instead, he viewed the work of the EOC staff very positively. However, there were issues identified by Audit. As the Chairperson had admitted his mistakes and apologized, and as a Member of the EOC, he felt that he could not perform his role and resignation was to directly respond to the root of the problem.

20. Another Member expressed that the issues identified were from incidents that had happened years ago, and some of which the EOC had been quick to make improvements by revising procedures or introducing new guidelines, such as introducing an approval system for overseas visits after the Beijing trip. Though mistakes were made, the Chairperson had apologized. He viewed that Members should continue to assist the Chairperson to help EOC improve. If all were to resign, it might create a vacuum in EOC's governance, and it would pose greater damage to EOC and that would be an even bigger mistake. He urged Members not to take emotional decisions but to try their best to protect

the image and interests of the EOC.

21. A Member responded that the EOC still needed to manage public expectation. The Chairperson's approach in handling the Audit Report was an issue and Members did not have a chance to take part in EOC's response to the Audit Report until March 26. If they had, their views could have been expressed in greater detail.

22. A Member said that she was not trying to protect the Chairperson. As a matter of fact, EOC staff and the Chairperson had done a lot of work and so had Members, in particular one of the out-going Members. She said that Member concerned had been very hardworking and devoted a lot of his time to EOC's work and she was sorry to see him go. The EOC should therefore keep up its good work and focus its efforts on its core duties to serve the clients.

23. With regard to whether a vacuum would exist if all EOC Members were to resign, a Member commented that Members were appointed by the Chief Executive of the HKSAR (CE); hence, if Members decided to tender their resignation, CE's approval was required for the resignation to take effect.

24. Another Member expressed that the EOC's past achievements in mainstreaming equal opportunities were not built in one day. If all Members were to resign, it would be a significant blow to EOC's image and have a long-term adverse effect on its work.

25. Another Member said that he came to the meeting hoping to share views on the agenda item of 'Public Response to the Audit Report'.

If there were motions to be moved, all Members should have been informed in advance. Moreover, if Members who were absent today had knowledge of the two motions, they might make arrangements to attend and participate in the discussion. In his view, to resign meant that something had been done wrongly. As such, if individual Member thought that s/he had done something wrong, s/he could choose to resign herself/himself. For the Chairperson, though he had made some mistakes, those mistakes were not serious enough to justify resignation. If all Members were to resign due to the Chairperson's mistakes, it would be a bigger mistake and damage EOC's credibility. Therefore, Motion 1 was not an appropriate way to respond to the public whereas Motion 2 was an unfair proposition to other Members who did not participate in today's discussion.

26. Another Member said that taking responsibility by resignation had somewhat become a culture since 1997 in Hong Kong and was more applicable to political appointments. It would also depend on the severity of the mistakes made. On the other hand, the effects of the two motions on EOC staff's morale and on the message being sent to the public were also important points to be considered. Going forward, he felt that Members should consider the Audit Report in detail to help EOC to improve.

27. Another Member expressed agreement to the views of earlier Members that there were different perspectives to be considered related to the two motions. In addition, it would be unfair for Members who had no knowledge of the motions and could not attend today's meeting. He enquired if he could move a Motion 3 for the two motions to be considered in the next meeting. In view that the public hearing of the

PAC was still in progress, another Member also expressed that the two motions might affect the PAC in reaching a fair conclusion. Other Members did not agree to this view. One of them said that the motions were not related to proceedings in a court. Another Member said that she had been the vice-chairperson of the PAC, and that the PAC would only make recommendations by looking at the contents of the report from Audit independently. After deliberations, it was confirmed that the motions on table should be dealt with by voting but not by moving a new motion.

28. The Member moving the motions said if there were other alternatives to help EOC to restore its creditability, he could consider withdrawing the motions. In response, a Member commented that she could not see how the two motions could help EOC regain creditability. As there remained only a week's time in the term of office of current Members, some other Members expressed that improvements required of the EOC should be more thoroughly considered and left to the hands of the Members of the coming term.

29. Members' deliberation on the two motions were considered sufficient. The Meeting proceeded to cast votes on the two motions. The results were as follows:

- i. Motion 1 was defeated by 7 votes to 3.
- ii. Motion 2 was defeated by 6 votes to 3, with 1 abstention.

30. Having considered the motions, a Member suggested the Meeting to consider ways to follow up the Audit Report and the related

improvement work to restore EOC's image as well as to boost staff morale. C/EOC said that apart from issues related to EOC's internal operations, the major issue identified by audit was related to EOC's governance, i.e. on splitting the posts of the Chief Executive Officer (CEO) and the Chairperson.

31. A Member said that the Administration and Finance Committee (A&FC) and its Working Group had considered the issue of splitting the posts of the CEO and the Chairperson in several meetings. With reference to the recommendation in the Audit Report and to address public concern, DPA said that the Commission could consider reinstating the former Chief Executive (CE) post in parallel with the Government's proposal of splitting the posts of the CEO and the Chairperson for the purposes of improving corporate governance. Both proposals would not conflict with each other. The reinstatement should be complemented by a clear delineation of financial, staff and operational authorities among the CE, the Chairperson and the EOC Board, in addition to define clearly the job descriptions for the CE and the Chairperson to strengthen check and balance.

32. In response, the same Member said that the matter now needed more careful consideration although he would have wanted to see more progress on this subject. He commented that he had tried to take the subject forward during his term as Convenor of the A&FC. However, due to various reasons he could not achieve what he had wanted. Another Member who was also a Member of the A&FC said that the A&FC and its Working Group had thorough discussions and done a lot of work on this matter. All considerations and work done were recorded in the relevant minutes of meetings. The Convenor of the

A&FC had been requested to reflect the Committee's view to officials of the CMAB, and he had done so accordingly in the last meeting with the CMAB. He opined that considerable progress had already been made on this subject.

(Ms TAM Heung-man, Mandy and Dr. CHENG Kwok-kit, Edwin left the meeting respectively at this juncture.)

33. After deliberations, Members agreed that a resolution was required for Members of the next term to follow up the various improvement work required of the EOC. HCCT was requested to provide a written draft for the Meeting to consider.

(Meeting adjourned at this juncture. Meeting resumed when HCCT had made ready a written draft on the resolution for Members to consider.)

34. The Meeting considered the written draft produced by HCCT and a resolution was confirmed, as follows:-

- ♦ The EOC is deeply concerned about the Audit Report on the EOC and attaches great importance to the related public response.
- ♦ A working group will be formed to fully follow up with all the audit recommendations.
- ♦ The EOC asks that the government conduct a prompt and in-depth study on the splitting of the positions of the EOC Chairperson and Chief Executive.

III. Any Other Business

Vote of Thanks to Members

35. C/EOC took the opportunity to thank all outgoing Members for their support to EOC's work and added his personal thanks to Mr. Raymond YIP, Dr. LO Wing-lok and Dr. Edwin CHENG for their dedication and commitment to equal opportunities and EOC's work. He hoped that all outgoing Members would continue to support EOC's work in mainstreaming equal opportunities in Hong Kong.

36. There being no other business, the meeting was adjourned at 6:00pm.

IV. Date of Next Meeting

37. The next meeting would be a regular meeting to be held on 18 June 2009 (Thursday) at 2:30pm.

Equal Opportunities Commission
June 2009