

**Minutes of the Eighty-seventh Meeting of
The Equal Opportunities Commission
held on 16 September 2010 (Thursday) at 2:30 p.m. in the
Equal Opportunities Commission's Conference/Training Room**

Present

Mr. LAM Woon-kwong, G.B.S., J.P.	Chairperson
Prof. Randy CHIU	
Ms CHIU Lai-kuen, Susanna	
Ms CHOI Hing-shi	
Mr. LEE Luen-fai	
Mr. LUI Tim-leung, Tim, B.B.S., J.P.	
Mr. Amirali Bakirali NASIR, J.P.	
Ms NG Wing-mui, Winnie	
Mr. Saeed UDDIN, M.H.	
Dr. TSE Wing-ling, John, M.H.	
Mr. Michael CHAN Yick-man	Secretary Director, Planning & Administration [DPA]

Absent with apologies

Ms CHAN Ka-mun, Carmen, J.P.
Ms CHAN Man-ki, Maggie
Mrs. CHONG WONG Chor-sar, M.H., J.P.
The Hon FUNG Kin-kee, Frederick, S.B.S., J.P.
Dr. LAW Koon-chui, Agnes, J.P.
Ms WONG Ka-ling, Garling
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]

Ms Margaret WU Su-ka

Senior Equal Opportunities
Officer (Compliance) [SEOO(C)]

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 87th Meeting. Apologies for absence were received from Ms CHAN Ka-mun, Carmen, Ms CHAN Man-ki, Maggie, Mrs. CHONG WONG Chor-sar, Dr. LAW Koon-chui, Agnes, The Hon Paul TSE, Ms WONG Ka-ling, Garling and The Hon FUNG Kin-kee due to clash of meetings/out of town/other business engagements. *(Dr. Agnes LAW and Ms Garling WONG were representing the EOC to attend the International Forum on Women in Urban Development and Commemoration of the 15th Anniversary of the Fourth World Conference on Women held from 16 – 19 September 2010 in Shanghai.)*

2. C/EOC said that a press briefing would be held as usual after the meeting to brief on major items discussed in this meeting and EOC's operational and financial performance for fiscal year 2009/2010.

II. Confirmation of Minutes

(Agenda Item No. 1)

3. The Minutes of the 85th Meeting held on 17 June 2010 issued to Members on 15 July 2010 and 86th (Special) Meeting held on 4 August 2010 issued to Members on 1 September 2010 were confirmed without amendment.

III. Matters Arising

(Agenda Item No. 2)

Proposal to set up an Equal Opportunities Tribunal

4. At the last Meeting, Members agreed that the EOC should initiate in-depth discussions with stakeholders to enhance their understanding and to garner their support in setting up an Equal Opportunities Tribunal (EOT) before taking the proposal to the Government again. C/EOC said that liaison work with stakeholder groups had since been started. The Hong Kong Bar Association (Bar Association) and the Law Society of Hong Kong (Law Society) had been approached. An initial meeting was held with the Bar Association and support in principle to EOC's preliminary proposal was obtained. The meeting with the Law Society would be arranged in late September/early October. Both the Bar Association and the Law Society had requested to be kept informed of developments. The EOC office would continue to meet other stakeholders, including trade unions, employers' groups and appropriate committees of the Legislative Council to get their views and support in this matter with an aim to complete this important task by the end of this year.

5. Other Matters Arising including the progress on the follow-up actions of the report on Formal Investigation on Accessibility in Certain Publicly Accessible Premises and the updates on Law Amendment Proposals would be discussed under New Agenda Items 3 and 5 respectively.

IV. New Agenda Items

Progress on the Follow-up Actions of the Report on Formal Investigation on Accessibility in Certain Publicly Accessible Premises released in June 2010

(EOC Paper No. 23/2010; Agenda Item No. 3)

6. D(Ops) briefed Members the progress on the follow-up actions taken up with the Government and the Link Management (LINK) on recommendations made in the Formal Investigation Report (FI Report) as reported in EOC Paper No. 23/2010.

7. Members noted that the overall response and follow up actions

from the Government were positive and in good progress. However, in LINK's case, apart from a training session on accessibility issues attended by 50 facilities management staff, it had yet to follow up on the improvements required. To urge for specific action plan and timeline, a letter had been sent to the LINK by the EOC office. In addition, due to LINK's personnel changes, the FI Report and individual site inspection results were re-sent to them to enable the newly joined liaison person to understand the exercise and issues better. The EOC office would continue to monitor the progress of the follow up actions with the Government and the LINK for specific and comprehensive improvements in their facilities' accessibility.

8. D(Ops) added that after the release of the FI Report, an increase in the number of complaints and enquiries received related to accessibility had been noted. Obviously, the FI Report had created an impact on the society.

9. In response to a question raised by Mr Saeed UDDIN, C/EOC said that for all new development projects, the Barrier Free Access 2008 Design Manual published by the Buildings Department had to be followed under the existing legislation. Besides, the EOC office had written to the Government urging it to apply the universal design concepts, instead of simply adhering to the Barrier Free Access 2008 Design Manual, in its major development plans, such as the West Kowloon Cultural District Development Project and the Kai Tak Cruise Terminal Project, so as to ensure the barrier-free accessibility for all was on par with world standards.

10. Mr LEE Luen-fai noted from some media reports that the EOC might consider issuing enforcement notice to the LINK if there was little progress in improving the accessibility of its facilities. He enquired what criteria would be considered in issuing an enforcement notice. C/EOC replied that the EOC, under the Disability Discrimination Ordinance, was given power to issue enforcement notices following formal investigations, though it had not issued any before. At present, the EOC office was discussing the criteria and situations warranting the issuing of such notice, and the steps to be involved. The more likely situation was where there was long-term systemic discrimination present

and the issue of an enforcement notice would be a more effective measure to eliminate it. Improvement to barrier-free access identified from the FI Report could be one of those situations. As regards the steps involved, the Board's approval of issuing an enforcement notice would be a prerequisite, and if deficiencies were still not rectified after an enforcement notice had been issued, the EOC could then apply to the court for issuing an injunction. The procedures involved were complex and the office would try out some mock-up cases to ensure when a real case was to be undertaken, the required procedures could be smoothly carried out. C/EOC reiterated that when the EOC was to exercise such power, the Board's prior approval would be sought.

11. EOC Paper No. 23/2010 was noted.

Progress on Revision of the Code of Practice on Employment under the Disability Discrimination Ordinance

(EOC Paper No. 24/2010; Agenda Item No. 4)

12. DPA briefed Members the salient points contained in EOC Paper No. 24/2010, which reported the progress of the revision of the Code of Practice on Employment (CoP) under the Disability Discrimination Ordinance (DDO).

13. Members noted that the public consultation on the revised CoP lasting for three months from 8 April 2010 to 8 July 2010 had now been completed. A total of 49 written submissions from a wide variety of stakeholders were received during this period. All written submissions received were summarized in the appendix to the EOC Paper. Many viewed that the revised code provided a better explanation of legal terminologies and concepts, contained plenty of case illustrations and provided practical guidelines to both employers and employees. On the other hand, there were suggestions to further clarify certain legal concepts and definitions, expand on specific topics, refine the case illustrations, change some of the wordings and also some other comments not relevant to the revision of the code. All views and comments received had now been consolidated serving as a reference for modifying the code. When the code was appropriately modified,

Members' views and endorsement would be sought. Another briefing on the modified code could be arranged for Members if necessary. After that, the final version would be arranged to be published in the Gazette and then laid before the Legislative Council for negative vetting. The final code was expected to become effective before the end of this year.

(Dr John TSE joined the meeting at this juncture)

14. Members noted EOC Paper No. 24/2010.

Updates on Law Amendment Proposals

(EOC Paper No. 25/2010; Agenda Item No. 5)

15. CLC highlighted to Members the important details of EOC's proposals for law amendment to be submitted to the Government as contained in EOC Paper No. 25/2010.

16. Members noted that there were 12 proposed amendments. In accordance with Members' view at the 85th EOC Meeting, proposals that the Government had previously agreed and where there was operational need should be followed up. There was a new technical amendment proposed related to bringing the SDO, FSDO and RDO in line with the DDO in terms of damages for indirect discrimination (Item 11 of Annex II to EOC Paper No. 25/2010) included in the submission but the proposal in respect of giving EOC power to apply for declaratory and injunctive relief was not included as more deliberation was required on this proposal.

17. Members noted EOC Paper No. 25/2010, and had no comments. The EOC office would submit the proposals contained in the paper to the Government accordingly.

Six Monthly Review of EOC's Work (January – June 2010)

(EOC Paper No. 26/2010; Agenda Item No. 6)

18. EOC Paper No. 26/2010 provided a statistical representation of

the work of the Commission, as well as major work / project progress and court actions undertaken for the period 1 January to 30 June 2010.

19. Members noted EOC Paper No. 26/2010.

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

(EOC Paper No. 27/2010; Agenda Item No. 7)

20. EOC Paper No. 27/2010 presented important matters raised and decisions made at the meetings of the four EOC Committees since the last reporting at the 85th EOC Meeting. C/EOC drew Members' attention to Appendix 3 of the said paper which reported the decision of the Policy and Research Committee (PARC) to form two working groups to deal with the identified priority issues of "Barrier Free Access" and "Education for Ethnic Minorities" respectively. Membership of the two working groups was open to all Members. Interested Members were invited to join the working groups to help take the two priority issues forward.

21. Members noted EOC Paper No. 27/2010.

Endorsement of Co-opted Membership of the Policy & Research Committee

(EOC Paper No. 28/2010; Agenda Item No. 8)

22. EOC Paper No. 28/2010 sought Members' approval to appoint Mr. B. MIRZAEI as a Co-opted Member of the Policy and Research Committee (PARC). Members noted that the PARC had considered and recommended Mr. MIRZAEI's appointment with immediate effect until 19 May 2012 to tie in with the appointment and cessation dates of EOC Board Members. Mr. MIRZAEI's CV was in the Appendix to the said paper for Members' reference.

23. Members endorsed the appointment of Mr. B. MIRZAEI as Co-opted Member of the PARC with immediate effect until 19 May

2012.

V. Any Other Business

EOC Fact Sheet 2009/2010

(EOC News (Issue 53) containing EOC Fact Sheet 2009/2010 was tabled at the meeting)

24. In response to a question raised by Ms Susanna CHIU, C/EOC said that the purpose of the Annual Meeting discussed at the last EOC Meeting was for enhancing EOC's transparency and increasing public's understanding of EOC's work. To this end, after consulting Members, an EOC Fact Sheet 2009/2010 detailing our work and achievements for the relevant period had been produced for public consumption. It would be inserted into Issue 53 of the EOC News for distribution to stakeholders and put on EOC's website. Highlights on the Fact Sheet would also be provided in the press briefing following this meeting. The EOC would await public comments and reaction to the Fact Sheet and if necessary, to consider holding an Annual Meeting in future.

25. There being no other business, the meeting was adjourned at 3:25pm.

VI. Date of Next Meeting

26. The next regular EOC meeting was scheduled for 16 December 2010 (Thursday) at 2:30 p.m.
