

**Minutes of the Eighty-third Meeting of
The Equal Opportunities Commission
held on 17 December 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, B.B.S., J.P.	
Mr. Amirali Bakirali NASIR, J.P.	
Mr. Saeed UDDIN, M.H.	
The Hon TSE Wai-chun, Paul	
Dr. TSE Wing-ling, John, M.H.	
Ms WONG Ka-ling, Garling	
Mr. Michael CHAN Yick-man	Secretary Director, Planning & Administration [DPA]

Absent with apology

Ms NG Wing-mui, Winnie

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 Yee-san	Accountant [ACCT]
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 83rd Meeting.
2. Apology for absence was received from Ms Winnie NG Wing-mui, due to business commitment overseas. Ms Susanna CHIU Lai-kuen had informed that due to a prior meeting appointment, she would join the meeting at a later time at around 3:30pm, whereas The Hon Paul TSE Wai-chun had notified that he had to leave the meeting early to attend a LegCo meeting.
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 those discussed at this meeting.

II. Confirmation of Minutes

(Agenda Item No. 1)

4. The Minutes of the 82nd Meeting held on 17 September 2009 issued to Members on 15 October 2009 were confirmed without amendments.

III. Matters Arising

(Agenda Item No. 2)

5. C/EOC said that there were two matters arising from the last meeting. They were whether EOC meetings were to be open to members of the public and whether EOC meeting minutes should record names of Members speaking. As the former might have a bearing on

the latter matter, he suggested the Meeting to consider whether EOC meetings were to be open to members of the public first.

(Dr. John TSE and The Hon Paul TSE joined the meeting respectively at this juncture.)

Whether EOC Meetings were to be Open to Members of the Public

(Paragraph 39 of Minutes of the 82nd Meeting and EOC Paper No. 21/2009)

6. C/EOC informed that the matter had been deliberated at a previous board meeting in 2002. EOC Paper No. 21/2009 provided the gist of the discussion on this subject by former EOC Members, the possible items for discussion that could be generally open to the public and the issues on this subject for further consideration. Members deliberated on the subject.

(Ms Susanna CHIU joined the meeting at this juncture.)

7. Members in general agreed to the principle of increasing transparency and opening up meetings would be one way to enhance transparency and accountability. They noted that there were sensitive and confidential items on the meeting agenda that were not appropriate to be open to public. In addition, they also noted there was a need to consider the logistics, support and resources required if the meetings were to be open, and whether certain parts of a meeting were to be open but others were not. There was also a need to look into the benefit generated from opening up meetings against the resources incurred, the likely public responses and the effect on EOC's image if, after all, only a small part of a meeting and a restricted agenda could be open to the public.

8. After deliberations, Members agreed to form a Working Group comprising Members of the Administration and Finance Committee (A&FC) and other interested EOC Members to consider the subject further. The Hon Frederick FUNG indicated his interest to join the Working Group. The EOC office was requested to work out the possible agenda items that could be open to the public using the past 5 to

10 EOC meetings and based on the possible exceptions that might not be appropriate to be open as stated in paragraph 4 of EOC Paper No. 21/2009 as a reference for the Working Group's consideration. The Working Group would also give consideration to the logistics, support and resources required if part or the full meetings were to be open to the public.

Whether EOC Minutes should Record Names of Members Speaking
(Paragraph 39 of Minutes of the 82nd Meeting)

9. Members unanimously agreed that starting from this meeting, minutes of EOC meetings should record names of Members speaking.

IV. New Agenda Items

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

(Agenda Item No. 3)

10. 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 the Working Group on Formal Investigation had provided inputs and considered the 2nd revised draft of the final Formal Investigation report which consisted of 3 major parts: i) the results of investigation, ii) responses and feedback from management/owners of the relevant premises and iii) recommendations from the EOC. In drawing up the final report, much effort had been devoted on part iii) which contained EOC's views and how the subject matter was to be taken forward. When the final report was ready for public consumption, concerted efforts would be made to publicize the findings with a view to increasing public understanding and awareness on this subject.

11. In response to a suggestion from Dr. John TSE, D(Ops) said that inclusion of an executive summary to the Formal Investigation report to facilitate reading would be considered.

Revision of the Code of Practice on Employment under the DDO

(EOC Papers No. 22/2009; Agenda Item No. 4)

12. EOC Paper No. 22/2009 reported to Members on the revision of the Code of Practice on Employment under the Disability Discrimination Ordinance (the Code), a copy of the revised Code was provided to Members prior to the meeting. Members noted that the existing Code was issued in January 1997, more than 10 years ago when the EOC had very little operating experience. With accumulated experience, the Code was now revised to include more information to provide more practical guidance to employers and employees.

13. SEOO(C) briefed Members the major revision proposed to the Code. Members noted that the revision included more comprehensive case illustrations with analysis based on EOC's complaint handling experience; important local and overseas legal case precedents; and 3 newly added specific human resources chapters on managing recruitment, workplace absence, promotion, transfer and dismissal which were considered to be important by employers in managing workplace discrimination. Subject to comments and approval by Members, the EOC office would follow up on the statutory consultation process. C/EOC added that a special Working Group comprising staff of various functions had worked together to produce the revised Code. Moreover, Working Group members and himself had devoted efforts in going over the draft line-by-line. Members' comments on the revision were invited.

14. Overall, Members found the revised Code comprehensive, easy to understand and provided very practical guidance. The Hon Paul TSE congratulated the EOC office for a job well done. He suggested that the EOC should also work on revising other codes of practice. He also suggested aligning the spelling of certain words in the Code which had adopted British and American spellings. C/EOC responded that there was already a decision to revise other codes of practice following the revision of the Code under the DDO.

15. Ms Garling WONG reminded that special attention should be paid to the method of printing for the revised Code to cater for the needs

of the visually impaired.

16. Dr. John TSE suggested using wordings that put people first, like “Persons with a Disability” instead of “Disabled Persons” in the Code.

(Mr. LEE Luen-fai left the meeting at this juncture.)

17. In response to a question raised by Mrs. CHONG WONG Chor-sar, C/EOC said that for decided legal cases, real names of the parties to the cases could be used in the Code for illustration.

18. Mr. A B NASIR and Ms Garling WONG spotted a few typos on the draft Code which required correction.

19. In response to a question raised by Ms Garling WONG, SEO(C) replied that hearing impaired disability groups had been consulted in drafting the illustrative example under paragraph 6.11 on Genuine Occupational Qualification.

20. DPA thanked Members for their valuable comments and suggestions. He said that the Working Group would take note of Members’ comments and suggestions provided above and would make the necessary changes. Subject to Members’ endorsement on the revised Code, the statutory consultation process on the Code would start as soon as possible.

(The Hon Paul TSE, The Hon Frederick FUNG, Dr. John TSE and Ms Maggie CHAN left the meeting at this juncture.)

21. Members endorsed the revised Code of Practice on Employment under the Disability Discrimination Ordinance to be issued for public consultation.

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

(EOC Paper No. 23/2009; Agenda Item No. 5)

22. Members noted EOC Paper No. 23/2009.

Endorsement of Co-opted Membership of the Community Participation and Publicity Committee

(EOC Paper No. 26/2009; Agenda Item No. 6)

23. EOC Paper No. 26/2009 sought Members' endorsement on the nomination of Mr. CHOW Wing-hong as a Co-opted Member of the Community Participation and Publicity Committee (CPPC) replacing Ms Garling WONG who had been appointed as EOC Member since May 2009.

24. Ms Garling WONG, Convenor of the CPPC briefed Members the background of Mr. CHOW. Members noted that the nomination had been endorsed by the CPPC at its 45th meeting held on 15 October 2009 and the proposed term of appointment for Mr. CHOW was from the date of appointment to 19 May 2011 to coincide with the term of office of EOC Members.

25. Members unanimously approved the appointment of Mr. CHOW Wing-hong.

Six Monthly Report of EOC's Financial Position as at 30 September 2009

(EOC Paper No. 24/2009; Agenda Item No. 7)

26. EOC Paper No. 24/2009 reported on EOC's financial position for the period from 1 April 2009 to 30 September 2009 and provided information on EOC's projected financial position as at year end on 31 March 2010. ACCT outlined the salient points contained in the said paper for Members' information, which included the major items of the actual recurrent expenditure for the first half of the current financial year up to 30 September 2009 and the estimated expenditure for the second half up to 31 March 2010, total income of EOC for 2009/10, and the position of EOC's reserves and capital expenditure.

27. In response to a question raised by Ms Susanna CHIU regarding the provision of a budget for office alteration works to accommodate

additional staff, ACCT said that the majority of the approved additional staff were already on board and the alteration would be relatively minor. Although the quotes for the office alteration works have yet to be worked out, it was expected that the costs could be absorbed from the current financial year's budget.

28. Members noted that there was a significant increase in the estimated recurrent expenditure in Legal Fees for the second half of the current financial year due to a former employee case. In response to a question raised by Mr. Tim LUI, CLC said that he was confident that the EOC would win the case and that the EOC office would endeavour to recover any costs possible under the existing law. C/EOC added that under the existing ordinance related to EO cases, each party to any proceedings in court would bear its own costs unless there were special circumstances which warranted an award of costs or the proceedings were brought maliciously or frivolously. Mr. LUI commented that this area of the law might pose unfair financial burden to a defendant and he suggested the EOC to include this subject in its future review for improvement. Mr. LUI's suggestion was noted. C/EOC added that another subject matter, which was recovering part of the costs from the assisted persons in a successful case, could also be included for review for further improvement.

29. Members noted EOC Paper No. 24/2009.

Tentative EOC Meeting Schedule for 2010
(EOC Paper No. 25/2009, Agenda Item No. 8)

30. Members noted the tentative meeting schedule for 2010 as contained in EOC Paper No. 25/2009.

Performance Reporting in Controlling Officer Report
(EOC Paper No. 27/2009, Agenda Item No. 9)

31. Members considered EOC Paper No. 27/2009 on Performance Reporting in the Controlling Officer's Report (COR) which proposed additional performance targets/indicators for the EOC.

32. DPA provided an explanation on the proposed targets and indicators. Members then deliberated on the subject and in general agreed to adding new performance targets and indicators proposed by the EOC office vide EOC Paper No. 27/2009. Members also noted that there had been communications between the EOC office and the Constitutional and Mainland Affairs Bureau (CMAB) on this subject and several suggestions were made by CMAB for EOC's consideration, which had been incorporated into the said paper where appropriate.

(Mr. A B NASIR left the meeting at this juncture.)

33. In order to provide Members with a clearer picture on all the proposed additional targets and indicators for the EOC, the EOC office was requested to prepare a full list for Members' consideration after the meeting. Ms Susanna CHIU, Convenor of the Administration and Finance Committee (A&FC) also suggested that when the proposed additional performance targets and indicators were agreed, the actual performances of the EOC against the targets set could be brought to the attention of the A&FC quarterly for monitoring and review. The EOC office would follow up on this suggestion.

[Post-meeting note: A letter dated 21 December 2009 has been sent to Members on "New Performance Targets/Indicators to be adopted in CMAB's Controlling Officer's Report" enclosing a full list of the proposed performance targets/indicators and a further suggested indicator by the Chairperson for Members' consideration.]

V. Any Other Business

Vote of thanks from the Chairperson

34. C/EOC informed the Meeting that he would be leaving the Commission soon on completion of his contract and he thanked Members for the support provided to him and the Commission in the past years, particularly as EOC's work was complex and at times difficult. He furthered that most of the time there were a lot of papers requiring Members' consideration and the subject matters involved a great deal of effort to understand and were often very controversial. He

hoped Members could also offer their full support to the new Chairperson to bring EOC's work to a new height.

A Motion of Thanks to the Chairperson

35. Prof. Randy CHIU moved a motion to thank Mr. Raymond TANG, Chairperson for his efforts rendered to the Commission in the past years in mainstreaming equal opportunities in Hong Kong. The motion was supported and passed by all present.

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

VI. Date of Next Meeting

37. The next regular EOC meeting was scheduled for 18 March 2010 (Thursday) at 2:30 p.m.
