

## **A. Introduction**

The Audit Commission ("Audit") conducted a review of the Equal Opportunities Commission ("EOC")'s activities, focusing on the following areas:

- corporate governance;
- complaint handling procedures;
- duty visits outside Hong Kong;
- seminars;
- procurement and management of stores;
- other administrative issues; and
- performance reporting in Controlling Officer's Report ("COR").

2. The Committee held four public hearings on 5, 11 (two sessions) and 14 May 2009 respectively to receive evidence on the findings and observations of the Director of Audit's Report ("Audit Report").

3. **Mr Stephen LAM Sui-lung, Secretary for Constitutional and Mainland Affairs**, made an opening statement at the Committee's first public hearing on 5 May 2009. The full text of his statement is in *Appendix 5*.

## **B. Handling of the draft Audit Report**

4. The Committee noted from press reports that some EOC Board Members had criticised the way the Chairperson, EOC, had handled the draft Audit Report, claiming that he had withheld from them the draft Audit Report and the EOC's response to the draft. They were dissatisfied that the Chairperson had centralised all powers in himself. It was only at the insistence of Board Members that the Chairperson let them have sight of the draft Audit Report. The Committee invited the Chairperson's response to such reports, and enquired about the details of how he had handled the draft Audit Report.

5. **Mr Raymond TANG Yee-bong, Chairperson, EOC**, said that:

- he received the draft Audit Report from Audit on 13 February 2009, and was given two weeks to provide a formal EOC's response to the draft. A few days later, he received a letter from the Secretary for Financial Services and the Treasury, in which the importance of maintaining the confidentiality of the draft Audit Report before its tabling in the Legislative Council ("LegCo") was emphasised. Audit had also sent him a letter earlier, stressing the confidentiality requirements regarding the value for money audit, and the need to restrict the circulation of the draft on a need-to-know basis;
- to protect the integrity and confidentiality of the draft Audit Report, and since the issues raised in the Audit Report mainly concerned the EOC's internal operations, he had adopted a narrow interpretation of the need-to-know requirement by only involving relevant staff of the EOC to prepare a response to Audit. During the process, the Director (Planning and Administration), Head (Corporate Communications and Training), Senior Equal Opportunities Officer (Administration and Personnel) and an Accountant had read the draft;
- however, he considered that it would not be appropriate if Board Members were not informed of the EOC's response to Audit before the release of the Audit Report. He therefore decided to raise the matter under the agenda item "Any Other Business" ("AOB") at the EOC's regular meeting on 19 March 2009;
- at the meeting on 19 March 2009, he verbally informed Board Members that initial response had been provided to Audit "in view of the confidential requirements on the handling of the audit report and the pressing time schedule provided by the Audit Commission". Members however considered that they should have sight of the draft Audit Report and the EOC's response, and strongly requested that a meeting be convened as soon as possible to discuss the matter;
- as a result, a special meeting was held on 26 March 2009. Board Members made comments on the draft Audit Report and the EOC's response, and proposed some amendments. Board Members' comments were forwarded to Audit afterwards, and Audit had included all the proposed amendments in the final Audit Report; and
- he definitely had no intention to withhold the draft Audit Report from Board Members, as the Audit Report would be published anyway. He was only concerned about the possible breach of the confidentiality requirements, which had time and again been stressed by the Administration and Audit. With hindsight, he should have accepted the risks of possible leakage, and engaged the Board at an earlier stage after receipt of the draft Audit Report.

6. The Committee noted from the notice and agenda of the meeting held on 19 March 2009 issued on 26 February 2009 (in *Appendix 6*) that there was no mention that the draft Audit Report would be discussed under the agenda item AOB. On 16 March 2009, a revised agenda (in *Appendix 7*) was issued with an item "Terms of Reference of the Legal and Complaints Committee" added under AOB, but the draft Audit Report was still not included as a discussion item. The Committee queried why the Chairperson had not given notice to Members regarding the discussion of the draft Audit Report, although he could do so on two occasions, i.e. when issuing the first agenda and the revised agenda of that meeting.

7. The **Chairperson, EOC**, said that he had not set out the specific discussion item in order to protect the confidentiality of the draft Audit Report. During the audit exercise, Audit and the Administration had sent a strong message to him that the confidentiality requirements had to be strictly observed. Therefore, he intended to give a verbal report to Board Members at the meeting on 19 March 2009 and listen to their views first.

8. According to the minutes of the EOC meeting held on 26 March 2009, the draft Audit Report and the EOC's response to Audit were only tabled at the meeting, and Board Members had just about 30 minutes to read the relevant documents before the discussion took place. The Committee asked whether such arrangement reflected that the Chairperson had no trust in the Board Members.

9. The **Chairperson, EOC**, responded that every Board Member should understand the confidentiality requirements which were stipulated in the relevant EOC guidelines for Board Members. However, in the past decade, leakages of confidential information of the EOC occurred from time to time, and had already damaged the public image of the EOC. He therefore tried to protect the confidentiality of the draft Audit Report by requiring Board Members to sign a Declaration of Confidentiality before giving them a copy of the relevant documents, in case any leakage might hurt the reputation of the EOC again.

10. The Committee also noted from press reports that a Board Member claimed that the Chairperson had not provided the part of the draft Audit Report relating to his life insurance coverage to Board Members at the meeting on 26 March 2009, and asked whether this was the case. The **Chairperson, EOC**, answered in the negative and said that he had provided the full version of the draft Audit Report to each Board Member.

11. In response to the Committee's request, the Chairperson, EOC, provided the audio record of the EOC's meetings held on 19 and 26 March 2009. According to the audio record of the EOC's meeting held on 19 March 2009, the Chairperson informed Board Members that he had tried to request Audit to allow Board Members to have sight of the draft Audit Report but in vain. The Committee asked when the request was made with Audit, and about Audit's stance on the matter.

12. The **Chairperson, EOC**, said that the EOC held a meeting with Audit on 10 February 2009 to discuss the draft Audit Report. Staff of the Constitutional and Mainland Affairs Bureau ("CMAB") also attended the meeting. During the meeting, he received a strong message from Audit that if the draft Audit Report was to be discussed at a Board meeting, it might be difficult to safeguard the confidentiality of the document.

13. **Mr Benjamin TANG, Director of Audit**, responded that:

- the EOC Chairperson's statement was not true. On the contrary, Audit had always expected that the Board would participate in the consideration of the audit findings. This could be seen from his letter dated 24 September 2008 to the Chairperson (in *Appendix 8*) when Audit commenced its review at the EOC;
- it was stated in the letter that "The purpose of this letter is to draw your attention to the agreed arrangements between the Public Accounts Committee (PAC) and the Administration in upholding confidentiality of value for money (VFM) audit reports. You are kindly requested to take necessary action to ensure that the Equal Opportunities Commission (EOC), its Committees and staff who are involved in the VFM audit or have access to the VFM audit report (either in draft form or in final version), are made aware of these requirements and abide by them". By mentioning the EOC and its Committees, Audit obviously had not excluded Board Members from access to the draft Audit Report, as long as they abided by the confidentiality requirements;
- further, it was stated in the same letter that "Under no circumstances should the EOC, its Committees and staff disclose in public the issues covered in the draft audit report. Even if they are tackled by the media, they should refrain from speaking or confirming the audit issues". Again, Audit already assumed that the EOC and its Committees would participate in the process of considering the draft Audit Report; and
- he had also instructed his staff to remind the EOC to engage the Board in the consideration of audit findings.

14. In response to the Director of Audit's comments, the **Chairperson, EOC**, said that:

- he did not want to confront what the Director of Audit had said. In fact, the Director did not attend the meeting on 10 February 2009. During the audit review, he was not asked or encouraged to engage the Board Members; and
- in the letter dated 16 February 2009 from the Secretary for Financial Services and the Treasury to himself (in *Appendix 9*), it was stated that there had been extensive leakage of the Audit Report in the past, and the Chief Secretary for Administration personally wrote to the Public Accounts Committee Chairman to reassure him of the Administration's commitment to maintain the draft Audit Report in confidence. Guidelines for handling the draft Audit Report were also attached to the letter. He therefore took a serious view of the confidentiality requirements.

15. Responding to the Committee's enquiry on who attended the meeting on 10 February 2009, **Mr Joseph YING Kwok-wing, Assistant Director of Audit**, said that he attended the meeting on that day. He clearly remembered using the word "engage" when reminding the EOC of the need to observe the confidentiality requirements during the process of engaging the Board. However, there was no record of that meeting, and it seemed that the EOC had received a different message. Audit would definitely not ask the Chairperson not to disclose the draft Audit Report to Board Members. This was just common sense.

16. **Mr Arthur HO Kin-wah, Deputy Secretary for Constitutional and Mainland Affairs**, also said that he attended the meeting on that day. At the meeting, most of the time was devoted to the discussion of the draft Audit Report, and the importance of confidentiality requirements was also mentioned. There was no detailed discussion on whether the draft Audit Report should be provided to the Board.

17. To prevent the recurrence of similar situation, the Committee asked whether, in future, Audit would consider requiring an auditee which was a non-governmental organisation to seek its governing body's endorsement of the organisation's response to the draft Audit Report.

18. The **Director of Audit** said that:

- Audit's practice had been to verbally remind the auditee to engage its governing body in the consideration of audit findings. As to how the governing body was to be consulted or involved, it would be up to the individual organisations. From past experience, the Hong Kong Applied Science and Technology Research Institute Company Limited, the Hong Kong Tourism Board and the Consumer Council had all engaged their governing bodies in considering the draft Audit Report;
- Audit had expected the EOC to engage the Board because the Audit Report had mentioned problems in corporate governance, Board Members' attendance rates at Board/Committee meetings, and their participation in the duty visit to Beijing, etc; and
- Audit would consider whether in future, it was necessary to clearly specify the need to engage the governing body in the consideration of the audit findings.

19. The Committee then enquired about the comments made by Board Members on the draft Audit Report and the EOC's response at the meeting on 26 March 2009, and what the proposed amendments were.

20. The **Chairperson, EOC**, said that:

- some Board Members found certain audit observations unfair, as efforts made by the EOC in saving costs were not duly recognised simply because there was procedural impropriety. Whilst accepting the audit recommendations, Board Members considered that the EOC should strengthen its response to Audit by explaining the reasons behind a decision and efforts made in cost-saving; and
- Board Members' comments were then incorporated into the EOC's response as a revised version and sent to Audit on 27 March 2009.

21. The **Director of Audit** supplemented that:

- noting that the EOC would hold a Board meeting on 26 March 2009 to discuss the draft Audit Report, Audit had waited for the EOC's comments so that they could be incorporated in the Audit Report to be finalised on 27 March 2009 for printing; and

- the EOC's proposed amendments mainly covered three points, which had been included in paragraphs 2.5 (Board Members' views on the separation of the posts of the Chairperson and the Chief Executive Officer ("CEO")), 4.18(f) (the EOC's approach in handling the lunch expense of \$540) and 5.16(a) (Board Members' efforts in trimming the budget for a seminar) of the Audit Report.

22. According to the audio record of the EOC's meeting on 26 March 2009, during the exchange of views among the Chairperson, certain Board members and the Director (Planning and Administration), there were comments that some of the audit findings were trivial and insignificant, and many organisations had similar problems. There were also comments that from a public relations perspective, there could be serious consequences if the EOC did not accept the audit observations and recommendations. It appeared to the Committee that the EOC was not serious in accepting the audit findings as genuine problems which needed to be addressed.

23. In response to the Committee's concern, the **Chairperson, EOC**, said that:

- it was an opportune time for the EOC to come under an objective review by Audit. He welcomed the audit examination and was grateful to the efforts made by Audit staff; and
- as a statutory body with over 12 years' history, the EOC had developed its own way and system to carry out its business. The benefit of hindsight was always a perfect sight, and there were always better ways of doing the same thing. The EOC would continue to make improvements.

24. On the comments that some audit findings were trivial, the **Director of Audit** said that:

- in conducting audit reviews, Audit was not only concerned about the amount of money involved in a non-compliance case, but also the principle governing the use of public funds; and
- in its formal response to Audit, the EOC had accepted all the audit recommendations. Audit, the Administration and the Public Accounts Committee would continue to follow up the EOC's progress in implementing these recommendations.

25. The **Secretary for Constitutional and Mainland Affairs** also said that he did not agree using the amount of money involved to judge the importance of a problem. Such comments were inappropriate as the EOC was using public money to provide service to the community.

### **C. Corporate governance**

#### Governance structure

26. According to paragraph 2.11 of the Audit Report, the results of past reviews conducted by three different parties (the EOC, the Independent Panel of Inquiry and the Home Affairs Bureau ("HAB")) had all pointed to the need to separate the posts of the Chairperson and the CEO in the EOC, in order to provide an effective system of checks and balances. However, there had been a lack of progress on the matter after the meeting of the LegCo Panel on Home Affairs held in January 2006. The Committee enquired about the EOC's views regarding the separation proposal, and the reasons for the lack of progress of the matter.

27. The **Chairperson, EOC**, said that:

- the EOC had spent a lot of time discussing the three reviews and following up the recommendations therein. Board Members generally supported the separation of the two posts, provided that any change would achieve the desired result of strengthening the governance structure and would not affect the EOC's importance and ability in administering the anti-discrimination legislation; and
- in order that the CEO post could provide an effective system of checks and balances, the CEO should be an ex-officio executive member in the EOC Board with a statutory role. Such change would require legislative amendments, which had to be initiated by the Administration.

28. Regarding the progress of the matter, the **Secretary for Constitutional and Mainland Affairs** said that:

- at the meeting of the Panel on Home Affairs held in January 2006, the HAB explained the separation proposal to LegCo Members by making reference to a review of the corporate governance of similar public bodies. However, some LegCo Members raised strong reservations towards the separation proposal. They were of the view that as the EOC was responsible for safeguarding human rights and due to its unique nature, it was inappropriate to compare the governance structure of the EOC with other public bodies,

which largely operated on the basis of commercial principles. Besides, the proposal might result in a situation where the EOC would become executive-led and the Chairperson would be sidelined. In view of the reservations expressed, the HAB had decided not to take the matter forward; and

- since the CMAB took over from the HAB the policy responsibility relating to human rights in July 2007, it had assessed when and how the matter should be followed up. The publication of the Audit Report provided a good opportunity to revisit the matter. The CMAB would consult the LegCo Panel on Constitutional Affairs later, and listen to further views expressed by LegCo Members regarding the proposal, in order to bring the matter to a satisfactory conclusion.

29. Since there was no government member sitting on the EOC Board, the Committee asked how the Administration could ensure that the EOC followed the guidelines and good practices on sound corporate governance.

30. **The Secretary for Constitutional and Mainland Affairs** said that:

- since the EOC was an independent statutory body, it operated on its own according to the statutory requirements. The Administration's responsibilities were mainly to appoint the EOC Chairperson and Board Members, allocate resources to the EOC to ensure that it could carry out its statutory functions, and make recommendations for legislative proposals or amendments;
- the CMAB was kept informed of the work of the EOC through various channels. For example, the EOC would provide the CMAB with a monthly financial report and a quarterly report on the progress of its work in implementing the four anti-discrimination ordinances. Moreover, the Deputy Secretary of the CMAB would hold a meeting with the EOC Chairperson and his staff every six months to exchange information or views; and
- the Administration had provided the government guidelines on good corporate governance to the EOC, and would also issue other government guidelines, such as those on tendering, procurement and financial management, to the EOC for reference as and when necessary.

31. Since the regular reports and meetings mentioned above would not cover problems in corporate governance and internal control, the Committee asked:

- how the Administration could strengthen monitoring in such aspects to ensure the proper use of public funds; and
- whether the EOC would consider setting up an additional committee, or expanding the terms of reference of its Administration and Finance Committee, to oversee corporate governance, internal control and compliance matters.

32. The **Secretary for Constitutional and Mainland Affairs** said that although some instances of improper expenditure identified by Audit did not involve a large amount, they did reveal that the EOC needed to improve its financial control and management. In view of this, the CMAB was considering allocating funding to the EOC to engage external auditors (with expertise in management) to follow up the various issues identified by Audit, and to enhance the EOC's internal financial control and management capabilities. The auditors' recommendations and reports would also be made public, so that the LegCo and the public could be kept informed of the improvement work, thereby re-gaining confidence in the EOC. Subject to the EOC's agreement to the suggestion, the CMAB would provide funding to the EOC to carry out the work.

33. The **Chairperson, EOC**, stated in his letter of 19 June 2009 in *Appendix 10* that at the EOC's 80th meeting held on 18 June 2009, it was decided that the Administration and Finance Committee and the respective convenors and deputy convenors of the other three Committees would be tasked with the responsibility for overseeing corporate governance and compliance matters as well as following up the audit recommendations.

34. In the light of the multifarious problems in governance and administration identified by Audit, and the fact that the Chairperson was the only full-time executive head of the EOC, the Committee asked:

- how the Chairperson would evaluate his own performance, particularly in leading the EOC to achieve a high standard of corporate governance and management;
- whether the problems were due to the over-concentration of powers in the Chairperson under the existing governance structure; and
- whether the Administration would review the criteria for selecting the Chairperson of the EOC in future.

35. The **Chairperson, EOC**, said that:

- it was not up to him to give an assessment of his performance. After the deletion of the CEO post in 2000, the Chairperson had become the only full-time executive head and he had to shoulder many responsibilities and make decisions in relation to daily operations. Other Board Members were only appointed on a part-time basis. This weak governance structure might have left the public with the impression that he, as the Chairperson, had acted on his own and there was no safeguard to check his powers;
- the EOC had established four Committees to oversee various aspects of the EOC's operations. To allow Board Members to have more direct participation in the EOC's work, he was only the convenor of the Legal and Complaints Committee, and was not even members of the other three Committees; and
- despite the problems identified by Audit in governance and administration, the EOC had done a great job in promoting equal opportunities and implementing the anti-discrimination ordinances.

36. On the selection criteria of the Chairperson, the **Secretary for Constitutional and Mainland Affairs** said that:

- in appointing the previous Chairpersons of the EOC, the Government had appointed people with experience in public service and expertise in promoting equal opportunities. Learning from past experience, and having regard to the Audit Report, the future appointee should also have experience in managing a medium-sized organisation, and be able to positively promote the work of the EOC to the public. The Chairperson should also be able to cooperate with Board Members; and
- he was prepared to recommend to the Chief Executive of the Hong Kong Special Administrative Region ("HKSAR") that the EOC Chairperson for the term starting from January 2010 should be recruited through open recruitment procedures.

37. The Committee asked whether the Director (Planning and Administration) of the EOC, as the most senior staff (at Directorate Pay Scale Point 2) responsible for administrative matters, had advised the Chairperson of the governance problems and made recommendations for improvement.

38. **Mr Michael CHAN, Director (Planning and Administration), EOC**, said that like other EOC staff, he assisted the Chairperson in his daily work, and made recommendations to the Chairperson from time to time. For example, he had suggested that measures be taken to familiarise Board Members with the work of the EOC and to facilitate team building. At the EOC's bi-weekly Monday Group meetings, senior staff of different divisions also met with the Chairperson to discuss work strategies and progress, and make various recommendations. As to the handling of the draft Audit Report, he and other staff had also given their views to the Chairperson, who then made the final decision.

#### Board and Committee meetings

39. According to paragraph 2.15 of the Audit Report, the attendance rates of some Board Members were low. During the period from April 2007 to September 2008, a Member attended only one (11%) of the nine Board meetings held. Another Member attended only four (44%) of the meetings. Five Members attended less than 40% of the Committee meetings. Paragraphs 2.17 and 2.20 also pointed out that although the attendance rates of some Board/Committee Members were low, they were still re-appointed. The Committee enquired:

- about the measures that would be taken to increase attendance rates; and
- why some Members were still re-appointed despite their low attendance.

40. The **Chairperson, EOC**, replied that:

- the low attendance of Board Members had all along been a difficult problem to resolve, since most of the Members had other commitments. Sometimes meetings had to be cancelled in view of the low attendance. In future, the EOC would issue reminders to those Members who failed to attend meetings for several times; and
- the EOC had provided the attendance rates of Members to the CMAB for its consideration. The EOC had also requested the CMAB to consider appointing persons who had closer background or relationship with the work of the EOC as Board Members.

41. The **Secretary for Constitutional and Mainland Affairs** said that the CMAB had recently appointed the new term of EOC Board Members. In appointing the Members, various factors had been fully considered, including the attendance rates of incumbent members, members' abilities, expertise, experience and commitment to public service. The average attendance rate of the seven re-appointed Members at Board meetings in the past few years was 73%. The CMAB would continue to take into account these factors in appointing suitable persons in future.

42. According to paragraphs 2.28 and 2.29 of the Audit Report, the EOC at present adopted a "one-tier reporting system", although the HAB advocated the two-tier reporting system for advisory/statutory bodies which had a high degree of management and financial autonomy, extensive executive powers in matters of public interest, or were responsible for the control and disbursement of substantial public funds. The Committee asked:

- why the EOC still adopted a "one-tier reporting system", despite that it met the above criteria;
- whether the EOC would consider adopting a two-tier reporting system; and
- about the CMAB's views on the matter.

43. The **Chairperson, EOC**, and the **Director (Planning and Administration), EOC**, replied that:

- the EOC had all along adopted a "one-tier reporting system", which required a Member to declare and report a conflict of interests only when he became aware of it. This was probably because the EOC had followed the stipulations under sections 3 and 13 of Schedule 6 of the Sex Discrimination Ordinance ("SDO") regarding disclosure of interests; and
- at a EOC meeting held in 1996, the HAB advised that since the EOC did not have extensive influence over policy and financial matters, a "one-tier reporting system" should suffice. Having said that, the EOC would consider whether a two-tier reporting system would be adopted, and the Board would discuss the matter in due course.

44. The **Secretary for Constitutional and Mainland Affairs** said that the CMAB considered the audit recommendation justified, and had already sent a letter together with the relevant documents to the EOC, inviting it to consider adopting a two-tier reporting system which was a more comprehensive system for declaring conflict of interests.

Memorandum of Administrative Arrangements ("MAA")

45. According to paragraphs 2.35 to 2.37 of the Audit Report, there had been discussions about proposals to amend the MAA since April 2004. However, up to January 2009, agreement between the CMAB and the EOC had not yet been reached, and the MAA was outdated. The Committee asked why it was so difficult to reach an agreement, and when the amendments were expected to be finalised.

46. The **Secretary for Constitutional and Mainland Affairs** said that:

- in past discussions, there were different views between the HAB and the EOC regarding whether approval by the HAB was required before the Chairperson embarked on overseas duty visits. The EOC was of the view that a notification to the HAB would suffice. Hence, amendments to the MAA had not been finalised;
- after the CMAB took over the responsibility of overseeing the EOC in July 2007, its primary task was to prepare for the enactment of the Race Discrimination Ordinance and the related follow-up work thereafter. In 2008, the CMAB initiated discussion with the EOC on the amendments to the MAA, and the discussion had reached the final stage; and
- recently, a revised draft MAA had been sent to the EOC, incorporating changes in circumstances such as the use of the envelope approach in funding arrangement and the change of policy bureau that oversaw the EOC. The EOC would finalise the MAA with the CMAB as soon as practicable. In future, the CMAB would take timely action to update the MAA with the EOC, so as to reflect changing developments and circumstances.

47. The **Chairperson, EOC**, added that all relevant issues regarding the amendments to the MAA had been resolved. The EOC would finalise the MAA with the CMAB, pending approval of the Administration and Finance Committee.

Life insurance coverage for the Chairperson

48. According to section 1 of Schedule 6 of the SDO, the Chief Executive of the HKSAR "shall determine the remuneration and the terms and conditions of appointment of the Chairperson". However, paragraph 7.6 of the Audit Report revealed that, in the "Memorandum on Terms and Conditions" attached to the Chairperson's appointment letter dated 15 December 2004, there was no mention about the provision of life insurance coverage. The Committee asked whether the Chairperson was aware that he was not entitled to the life insurance coverage before Audit pointed out the matter.

49. The **Chairperson, EOC**, replied that:

- in June 1997, the EOC Board endorsed a proposal for the provision of death and disability benefits to the staff of the EOC with an insured sum amounting to 36 months of the basic salary. Accordingly, the EOC took a group life insurance scheme for its staff and the Chairperson. The insurance was not tailored-made for the Chairperson, but applicable to all staff of the EOC;
- since then, the insurance policy had been taken out year after year for all his predecessors and himself, except one Chairperson who had exceeded the maximum age limit for the benefits. He therefore had not purposely checked whether he was entitled to this life insurance benefit according to his terms and conditions of appointment; and
- as there was indeed an omission on his part, he accepted the audit recommendation that he should seek the required approval from the Administration.

50. As the Director (Planning and Administration) was the secretary to the Board and responsible for administration and personnel matters, the Committee asked whether he had ever reminded the Chairperson or the Board that approval from the Chief Executive of the HKSAR was required for the provision of life insurance coverage.

51. The **Director (Planning and Administration), EOC**, said that since the Board approved the provision of life insurance in 1997, and the EOC had all along arranged for the Chairpersons to join the group life insurance scheme as for other EOC staff, he was not aware of this omission. In fact, the scheme was introduced by a former Chairperson, and at that time there was also a CEO responsible for managing the day-to-day business of the EOC. Nevertheless, as secretary to the Board, he also had responsibility in the matter.

52. Since the provision of life insurance to the Chairperson was not properly authorised, the Committee asked about the follow-up actions that would be taken by the CMAB and the EOC, and whether the Chairperson would consider refunding the premium paid to the EOC.

53. The **Secretary for Constitutional and Mainland Affairs** said that the Chairperson of the EOC had earlier written to the CMAB to follow up the matter, and he had already replied to him. The CMAB was of the view that the EOC Board, with new Members taking up appointment in May 2009, should first review the matter as a whole.

54. The **Chairperson, EOC**, said that he held an open attitude as to whether any refund was required. He would seek the views of the Administration and the Board on the matter. However, considerations had to be given to the fact that the life insurance scheme had been provided to all the former Chairpersons, so that a consistent and fair decision could be made.

#### **D. Corporate culture on the use of public funds**

##### Duty visits outside Hong Kong

55. According to paragraphs 4.9 and 4.10 of the Audit Report, the delegation for the Beijing visit comprised 18 persons, including the Chairperson, eight Board Members and nine senior staff, with a total expenditure amounting to \$161,000. Given that public entities were expected to observe the "moderate and conservative" principle in making decisions about sensitive expenditure such as duty visit expenses, the Committee asked:

- about the objectives of the visit;
- why it was necessary to have such a large delegation, among which nine were senior staff; and
- why it was necessary to arrange the Chairperson and Board Members to live in hotel rooms of higher standards and rates, and about the differences in the size and facilities of the three different standards of hotel rooms hired, viz. Ambassador Suite, Executive Room and Standard Room.

56. The **Chairperson, EOC**, replied at the public hearing and in his letter of 27 May 2009 in *Appendix 11* that:

- the objective of the Beijing visit was mainly to share experience and establish network. The arrangement of the delegation largely followed that of a similar visit to Beijing in 1997 led by a former Chairperson;
- since all Board Members including himself were just newly appointed to the EOC in 2005, the visit provided a good opportunity for new Board Members to understand each other, get familiar with the work of the EOC and learn from the practices in other organisations on protection of individuals' rights and empowerment issues for women and persons with a disability, etc;

- the participation of senior staff was also important as part of their continuous training and development. He had arranged nine staff from various divisions to join the delegation, provided that the daily operation of the EOC would not be adversely affected. The nine staff included the Director (Planning and Administration), Director (Operations), Head, Corporate Communications and Training, Head, Policy and Research, Chief Equal Opportunities Officer (Operations), Senior Training Officer, Senior Corporate Communications Officer, Corporate Communications Officer and Assistant Legal Counsel;
- better accommodation had been provided for him and Board Members because they did not receive any allowance for the trip. He was also provided with a larger room with working space for meetings, following previous arrangement for a visit to Beijing. The "Ambassador Suite" that he lived in was actually the cheapest suite among the suites available in the hotel (\$2,880 per night). The differences in the size and facilities of the three different standards of hotel rooms were provided in item (c) of **Appendix 11**; and
- he agreed with the audit observations that the Chairperson, Board Members and staff could all have been provided with Standard Rooms. With hindsight, past practice might not be the best practice. Meetings with colleagues could have been held in other business centres or even in the hotel lobby if necessary.

57. The Committee also requested the EOC to provide the following information relating to duty visits undertaken by the current and previous Chairpersons:

- among the 26 duty visits made by the EOC between April 2005 and December 2008 (Note 8 in paragraph 4.1 of the Audit Report referred), the number of duty visits involving the Chairperson;
- the respective number, place, purpose and benefits of the duty visits made by two former Chairpersons, namely Dr Fanny CHEUNG Mui-ching and Ms Anna WU Hung-yuk, during their tenure at the EOC; and
- whether any former EOC Chairpersons had made any duty visits to Beijing during their tenure; if so, what the standard and rate of hotel accommodation were.

58. The **Chairperson, EOC**, stated in his letter of 27 May 2009 that:

- among the 26 duty visits made by the EOC between April 2005 and December 2008, 13 duty visits involved the Chairperson. Details were set out in Appendix A to *Appendix 11*;
- there were 18 and 19 duty visits made by Dr Fanny CHEUNG Mui-ching and Ms Anna WU Hung-yuk respectively. The places and purposes of their respective visits were set out in Appendices B and C of *Appendix 11*. The benefits of the duty visits in general included understanding the latest development and trends in human rights and equal opportunities, exchanging views on these issues, and explaining the EOC's operational experience in implementing the anti-discrimination legislation to overseas counterparts and networking; and
- there were three duty visits to Beijing made by Dr Fanny CHEUNG Mui-ching and Ms Anna WU Hung-yuk during their tenure. For the visit in March 1997, apart from the Chairperson, four Board Members and 13 staff went on the trip. The Chairperson's hotel room was upgraded to an executive suite (\$450 per night). For the other two visits, there was no other delegation member. Details were set out in item (d) of *Appendix 11*.

59. Regarding the staff lunch expense of \$540 incurred before departing for Beijing and paid by the EOC (paragraph 4.14(d) of the Audit Report referred), the Committee queried the EOC's rationale for paying this private expense out of public funds, and enquired about Audit's observations on the matter.

60. The **Chairperson, EOC**, explained that for this trip, the EOC had not paid subsistence allowance to its staff and, instead, paid for the duty visit expenses on an actual basis. Hence, the lunch expense was paid in lieu of the subsistence allowance to which the staff were entitled for that day. If subsistence allowance was paid to each staff concerned, the expenditure would be far more than the actual lunch expense claimed. The **Director (Planning and Administration), EOC**, also added that the EOC's decision to pay for the expense was based on its interpretation of the payment of subsistence allowance applicable to the civil service.

61. The **Director of Audit** said that as a matter of principle, this lunch expense incurred in Hong Kong before commencement of the trip was a private expense, and public money should not be used to cover such expense, despite the fact that the EOC could achieve savings by forgoing the payment of subsistence allowance to staff.

62. In view of the EOC's explanation and Audit's observations, the Committee enquired:

- about the civil service rules and regulations governing claims for overseas duty expenses, including those for hotel accommodation and meals; and
- whether the staff lunch expense incurred on the day of departure from Hong Kong but before commencement of the official programme was reimbursable under the relevant civil service regulations.

63. The **Secretary for Financial Services and the Treasury** replied in his letter of 27 May 2009 in *Appendix 12* that:

- costs incurred by a civil servant on duty visits outside Hong Kong, including those for hotel accommodation and meals, were covered by the Government in a manner as set out in the Civil Service Regulations ("CSR") 710, 713 and 714;
- CSR 713 stipulated that the civil servants making such duty visits would be eligible for a subsistence allowance of a specified rate from the night following arrival in the first place of visit up to and including the night before departure from the last place of visit. This allowance was intended to cover accommodation, meals, laundry charges, casual entertainment, travelling expenses within town and all minor incidental out-of-pocket expenses. In addition, CSR 714 allowed for the reimbursement of reasonable expenses incurred directly as a result of the officer's performance of duty outside Hong Kong, e.g. visa, Internet charges and airport tax; and
- regarding the question of whether lunch expense incurred on the day of departure from Hong Kong but before commencement of the official programme was reimbursable, the abovementioned regulations had provided the guidelines. The subsistence allowance, which was intended to cover meal and other expenses incurred during duty visits, was only payable from the night following arrival in the place of visit (CSR 713(2)). It was hence the intention that expenses incurred before arrival at the destination would not be covered. Since the lunch expense in question did not fall into the category of expenditure reimbursable under CSR 714(1) as well, it was therefore not reimbursable in the civil service.

64. Audit also pointed out in paragraph 4.16 of the Audit Report that the EOC did not seek the Board's prior approval for two business trips to Macao in mid-2007. The Committee asked why no prior approval of the Board was obtained. The **Chairperson, EOC**, admitted that this might be due to an oversight. These two day-trips involved a small amount of expenditure, mainly on travelling expenses.

65. Regarding the Sweden visit in September 2007, referred to in paragraphs 4.19 to 4.21 of the Audit Report, the Committee asked:

- how Organisation A's work was related to that of the EOC, and about the benefits gained from the trip;
- why only one senior staff accompanied the Chairperson on the visit, as opposed to nine senior staff in the Beijing visit in 2005;
- why the Chairperson had claimed reimbursement for the two meals (i.e. lunch of \$59 on 1 September and dinner of \$163 on 7 September 2007) which were not supported by invoices or bills as required by the Human Resources and Administration Manual (paragraph 4.23 of the Audit Report referred);
- why the visit team used an expensive means of delivery, i.e. the service of a courier firm, to send back to Hong Kong the books and publications received (paragraph 4.24 of the Audit Report referred); and
- why the Board was not informed of the potentially sensitive additional hospitality items scheduled for 1 and 2 September 2007 (paragraph 4.27 of the Audit Report referred), and when the EOC was informed of the two items.

66. The **Chairperson, EOC**, responded at the public hearing and in his letter of 27 May 2009 that:

- Organization A was the Swedish Institute ("SI"), which was a public agency established to increase knowledge of and interest in Sweden worldwide. In January 2007, the SI jointly organised a large scale seminar with the Swedish Consulate, The Chinese University of Hong Kong and the EOC on "Advancement in Gender Equality - The Sweden and Hong Kong Stories". The seminar had achieved considerable success and was well attended by over 300 participants from different sectors of the society. In September 2007, the SI wished to have further exchanges with the EOC and extended an invitation to the Chairperson of the EOC to visit Sweden on a study visit programme which covered issues concerning gender equality and disability policy. After the visit, learning points and reflections from the visit were reported to the EOC Board at a meeting via EOC Paper No. 34/2007 and

posted on the EOC's website;

- only the Chief Legal Counsel accompanied him on the trip. Since Sweden was the most advanced country in the promotion of equal opportunities and human rights, the Chief Legal Counsel would be able to gain a more in-depth understanding in these aspects through this training;
- regarding the two meals taken by him, Audit rightly pointed out that there were no receipts to support the claims. Hence, he had paid the two meals out of his own pocket;
- he had instructed the Chief Legal Counsel to deliver the publications, weighing 13 kilograms, by courier. The EOC agreed with the audit recommendations that the most economical means should be used for delivery of the materials, and electronic copies should be obtained if possible. However, whether the most economical means could be used depended on the circumstances at that time, e.g. time available for identifying other means of delivery;
- the EOC received a draft programme of visit via e-mail from the Swedish Consulate on 24 August 2007. The draft programme showed the item "Excursion by boat" for 2 September. Nothing was shown for 1 September. The final programme was hand-delivered by the Swedish Consul on 29 August 2007 at a pre-departure meeting with the Chairperson. In the final programme, an item "Sightseeing in Stockholm together with a licensed guide" was shown for 1 September, and another item "Excursion by boat in the archipelago" with representatives of related organisations was shown for 2 September; and
- he had not thought about informing the Board of the two additional hospitality items. The EOC accepted the audit recommendation that such items should be brought to the Board's attention. Learning from this experience, the EOC would compile a duty visit manual as guidance for its staff, which would include a reminder regarding the reporting of hospitality items.

67. Regarding the delivery of books and publications by courier, **Mr Herman POON, Chief Legal Counsel, EOC**, added that before his departure, the Personal Assistant of the Chairperson had provided him with a courier account. He therefore requested the courier firm to deliver the materials back to Hong Kong in accordance with the office's arrangement, without considering whether it was the most economical means of delivery. The Committee then enquired about the EOC's guidelines on the use of the courier account.

68. The **Chairperson, EOC**, said at the public hearing and replied in his letter of 27 May 2009 that:

- courier service was to be used on a need basis when circumstances required. Since its formation in 1996, the EOC had engaged courier services twice for delivering documents/files back from overseas, including the delivery from Sweden;
- contact telephone numbers and the EOC's account numbers opened at three existing courier companies on the Suppliers' List were provided to the Chief Legal Counsel by his Personal Assistant, together with other related information regarding the Sweden visit, such as air tickets, programme of the visit and hotel accommodation arrangements, as an information package for use when necessary or upon emergency; and
- spending \$6,400 on delivering 13 kilograms of books and publications was indeed too expensive. The duty visit manual to be compiled would include a reminder on the use of economical means for the delivery of materials obtained during duty visits, as well as other relevant recommendations made by Audit.

69. The Committee noted from paragraph 4.30(a) of the Audit Report that the EOC would revise guidelines for the reimbursement of meal expenses of the Chairperson and Board members to facilitate the determination of the reasonableness of the expenses, and asked whether this had been done.

70. The **Chairperson, EOC**, stated in his letter of 27 May 2009 that:

- currently, reasonable meal expenses of the Chairperson and Board Members incurred on duty visits would be reimbursed on an actual expenditure basis taking into account the purpose and nature of the duty visits; and
- the EOC accepted the audit recommendation and would revise the guidelines by setting financial limits for meals taken by the Chairperson and Board Members during duty visits. To avoid ambiguity and for the ease of administration, the rate to be applied would follow that of the civil service, which was already applicable to the EOC staff under existing policy. The EOC Board would be asked to endorse the revised guidelines as soon as possible.

## Seminars

71. According to paragraph 5.8 of the Audit Report, the original budget of the Seminar held on 24 January 2008 was trimmed by 30% from \$500,000 to \$350,000, as a result of queries raised by Board Members. The Committee asked whether the large scope for economy that existed in the original budget reflected that the budget preparers had not been prudent in the use of public funds, and about the measures that would be taken to ensure that strict economy would be exercised in the planning of future events.

72. **Dr Ferrick CHU, Head, Policy and Research, EOC, and the Chairperson, EOC,** said that:

- the Seminar was organised to review the impact of the Disability Discrimination Ordinance ("DDO") since its implementation 10 years ago. Hence, a higher standard comparable to similar seminars organised for gender issues was adopted in preparing the original budget. The budget also took into account the possible increase of 15% of the rental charge for the venue;
- Board Members subsequently deliberated the budget and advised further cost cutting with respect to specific budget items. The use of a VIP room with internet and computer facilities for speakers and panellists was cancelled at the request of Board Members, resulting in a saving of about \$20,000;
- the original budget also included the cost for the construction of a 1:12 ramp, which was in line with the requirements under the DDO, for use by two wheelchair speakers to get on the stage. Eventually, after consulting the speakers concerned, the EOC decided to use a ramp provided free of charge by the venue management. Together with the deletion of certain backdrop items and set-up costs, this resulted in a saving of \$50,000;
- further, instead of providing tailor-made souvenirs and seminar kits to the speakers and participants, standard souvenirs and seminar folders were provided, and the costs were mostly absorbed by the EOC office; and
- the EOC accepted that in preparing budgets, certain items were nice to have but might not be essential. It would be a good practice to make a distinction in the budgets between essential and "desirable non-essential" items, so as to facilitate the Board in making informed decisions.

73. The Committee noted from paragraph 5.7 of the Audit Report that Board Members were informed that the Seminar was well received and rated highly by participants, and enquired about the evaluation results of the Seminar. The **Chairperson, EOC**, stated in his letter of 27 May 2009 that a total of 61 completed evaluation forms were received after the Seminar. An analysis of the evaluation results was provided in item (j) of *Appendix 11*.

#### Purchases and other administrative issues

74. According to paragraphs 6.12 and 6.13 of the Audit Report, the EOC purchased 32 air purifiers at a cost of \$78,000 between mid-2005 to mid-2007. However, Audit could not find on record any objective data indicating that the air quality of the EOC office was poor. On the contrary, a report by the building management showed that the air quality of the EOC office was mostly considered "excellent". The Committee asked why so many air purifiers were needed in an office with "excellent" air quality.

75. The **Director (Planning and Administration), EOC**, and **Miss Gloria YU, Senior Equal Opportunities Officer (Administration and Personnel), EOC**, explained that:

- the purchases were made in response to staff's request. There was a real need at that time because certain staff had contracted upper respiratory infection and pneumonia, and some were even hospitalised. It was noted that the number of staff taking sick leave had increased substantially;
- to ascertain whether there was a need to purchase air purifiers, the EOC asked the building management to carry out a free air quality test. However, the test could not provide information on the level of bacteria or virus which the EOC aimed to improve. Thus, air purifiers which specified that they could inactivate certain types of bacteria and virus were purchased, balancing the cost of engaging further tests and the cost of the air purifiers; and
- after the purchase of the air purifiers in 2007, the number of sick leave days had reduced by 11% as compared with the previous year, and by 21% in the following year.

76. The **Chairperson, EOC**, also provided details of the reasons for purchasing the air purifiers and information on sick leave from April 2004 to March 2009 vide his letter of 27 May 2009 in item (n) of *Appendix 11*.

77. The Committee further questioned why the EOC had not informed Audit of the reduction in sick leave days to justify the purchase of air purifiers. The **Director (Planning and Administration), EOC**, and the **Senior Equal Opportunities Officer (Administration and Personnel), EOC**, responded that when Audit enquired about the purchases, the EOC staff had mentioned the improvement in sick leave, but there were no concrete figures available at that time. Hence, the relevant figures were only provided at the public hearing as an illustration. Having said that, there was no evidence to prove that the reduction in sick leave was directly attributable to the use of the air purifiers.

78. According to paragraph 6.10 of the Audit Report, as at October 2008, the video conferencing system (at a cost of \$105,500) had been lying idle for 18 months and had never been used since its purchase in May 2007. The Committee asked why the system was purchased and whether the system had been used after October 2008.

79. The **Chairperson, EOC**, and the **Senior Equal Opportunities Officer (Administration and Personnel), EOC**, said that:

- the system was purchased to facilitate communications and training needs arising from the pending enactment of the Race Discrimination Bill at that time. It was expected that there would be frequent liaison with overseas expertise and ethnic minorities who would participate in the EOC's seminars and conferences. However, since the legislative timetable had been postponed, the system had not been utilised; and
- the system had been used on two occasions in late 2008 in the EOC's conference rooms, in connection with the training and public consultation work relating to the race law. The movable unit of the system could cater for internal communications for participants in different rooms. The EOC expected more usage in 2009 and in the future, particularly in the sharing of experience with overseas counterparts on cases relating to race discrimination and other anti-discrimination legislation.

80. It appeared to the Committee that all the above instances had demonstrated the lack of a corporate culture in the EOC on the prudent use of public funds. The Committee enquired:

- whether the Chairperson had adopted the "moderate and conservative" principle in making expenditure decisions;
- whether the Director (Planning and Administration) had played the role of a gatekeeper in ensuring the prudent use of public funds; and

- about the measures and action plan that the EOC would adopt to promote good practices to ensure the prudent use of public money.

81. The **Chairperson, EOC**, said at the public hearing and in his letter of 27 May 2009 that:

- he had always observed the "prudent, necessary and reasonable" principle in using public money. The Director (Planning and Administration) was responsible for formulating and updating relevant guidelines for compliance by staff. As the Chairperson, he was ultimately responsible for the use of funds of the EOC, and would take the lead to ensure that all staff were aware of their responsibility;
- a working group comprising Board Members would be set up to review spending and procurement procedures and make necessary improvements to the procedures to ensure the prudent use of public money; and
- briefings had been held with relevant staff regarding the proper use of public money, particularly on:
  - (a) staff's duty and accountability to ensure the prudent use of public money;
  - (b) the need to clearly establish the need for a purchase before any purchase was made;
  - (c) the need to strictly adhere to the procedures stipulated in the Procurement of Stores and Services Manual ("PSSM") and ensure that proper documentation was provided. In those instances where the relevant requirements could be waived, the particulars of the cases and explanation should be provided; and
  - (d) the need to immediately report to the supervisor any inadequacies or practical difficulties in implementing the stores and procurement procedures.

82. The **Director (Planning and Administration), EOC**, said that he should be the major gatekeeper in ensuring that expenditure decision was made in accordance with the "moderate and conservative" principle. However, some expenditure decisions were made by the Chairperson or the Board, e.g. the number of persons participating in a duty visit, and he could only offer advice for their consideration.

83. According to paragraph 7.9 of the Audit Report, two litigation cases, brought by former employees against the EOC, were time-consuming and had significant financial consequences. In dismissing Case A, the judge remarked that the claims were "completely without merit". The Committee asked whether the EOC had closely monitored the case during the legal proceedings and applied for strike-out of the case, with a view to concluding the case as early as possible, and about the lessons that had been learnt from these two litigation cases.

84. The **Chief Legal Counsel, EOC**, said that the EOC had attempted to apply for strike-out of the case. However, in view of the judge's indication that the application might not be successful, the EOC discussed with its legal team and decided to withdraw the application. The progress of the case had also been reported to the Board and the Legal and Complaints Committee.

85. The **Chairperson, EOC**, said that he was very concerned about these two cases which were complex, expensive and time-consuming. He agreed that there should be a mechanism to monitor the case progress and the litigation fees. He had already instructed that all cases involving the EOC as a party should be handled by the Chief Legal Counsel. The Legal and Complaints Committee would also regularly follow up the case progress at its bimonthly meetings.

#### **E. Internal Control, procurement and management of stores**

86. In paragraph 6.3 of the Audit Report, Audit examined the 392 purchases made between April 2007 and September 2008, and found that there were some instances of non-compliance with the EOC's procurement requirements stipulated in the PSSM. The Committee enquired about:

- details of the steps and procedures involved in store procurement;
- the circumstances leading to the above non-compliance cases; and
- the specific measures that would be taken by the EOC to improve the procurement procedures.

87. The **Chairperson, EOC**, replied in his letter of 27 May 2009 that:

- the store procurement procedures were detailed in the PSSM. In brief, they included:

- (a) users to initiate a purchase request for goods/services and contact the general registry staff to start sourcing;
  - (b) designated general registry staff who kept the Suppliers' List to provide information of the suppliers to be invited for submission of quotations;
  - (c) another general registry staff to invite quotations according to the estimated purchase value;
  - (d) staff inviting the quotations to receive verbal quotations (written quotations would be received by a designated staff at the Personnel Office);
  - (e) a designated officer to perform random checking of the verbal quotations received;
  - (f) an officer to evaluate the quotations received;
  - (g) an officer to recommend the purchase; and
  - (h) a functional head to approve the purchase;
- 15 out of 28 identified non-compliance instances were minor repairs and alteration work in the EOC office. Efforts made to obtain more quotations were in vain. There was actual difficulty in obtaining three quotations on each occasion. For another 10 cases, the requirement to obtain three quotations could be waived according to the PSSM. In future, clear explanations would be given on the Purchase Requisition Forms. Besides, the practicability of the relevant rule on seeking the required number of quotations would be reviewed, making reference to the Government's Stores and Procurement Regulations;
  - the procedure of inviting suppliers by rotation from the Suppliers' List in most cases was not practicable because of low purchase value/quantity, infrequent purchase of the same good/service and sometimes a supplier "not due for invitation" was offering a promotional price. Also, relevant requirements in the PSSM might not be fully understood by supporting staff performing the supplier sourcing duties. A briefing had been held to explain the procedures and requirements to working staff. The relevant requirement would also be reviewed based on application experience;
  - the original grouping of supplier categories in some cases was not realistic. Some of them were too narrowly grouped and some categories that had not been used for years were still kept in the database. To rectify the situation, a review on the grouping of supplier categories had been done. Rarely used

groups were deleted and approval was obtained on categories with sole or limited suppliers. Updating of the Suppliers' List and supplier categories would be done at quarterly intervals in future; and

- the Director of Government Logistics would be invited to share with the EOC staff on important stores and procurement principles and areas that needed to be strengthened in the EOC.

88. According to paragraph 6.7 of the Audit Report, in October 2006, the EOC purchased 2,000 environmental bags at a cost of \$16,200 (\$8.1 each) for distribution as souvenirs to members of the public. Only 300 were distributed and 1,700 were kept in stock. Two months later, in December 2006, the EOC purchased another lot of 400 environmental bags, with some added features, at a cost of \$8,400 (\$21 each), for distribution at a seminar. In December 2007, a further lot of 400 with the same features were purchased at a higher cost of \$12,000 (\$30 each). The Committee asked:

- what the additional features of the environmental bags were, and why they were so essential for the purpose of the seminar;
- whether the environmental bags purchased in October 2006 and December 2007 were made by the same EOC staff;
- whether the staff were aware of the significant difference in order price for the last two purchases and the fact that there were still stocks available for use; and
- about the measures that would be adopted to improve stock management.

89. The **Chairperson, EOC**, said at the public hearing and in his letter of 27 May 2009:

- the environmental bags purchased in October 2006 were used as corporate gifts for promotional purpose. In December 2006, environmental bags with specific seminar features for the convenience of participants were procured. These bags had the additional design which allowed seminar participants to put their name card, pen and paper in different slots of the bag;
- he agreed that these additional features were not essential and strictly speaking, the EOC could have used the 1,700 environmental bags in stock for distribution at the seminar. It was not necessary to spend extra money on purchasing new environmental bags;

- purchases in October 2006 and December 2007 were requested and approved by different staff members. If the staff concerned were aware of the big difference in order price for procuring the 400 environmental bags, they might consider whether it was still necessary to purchase the bags; and
- at present, the Administration Section was responsible for managing office stationery, equipment and related stocks for internal use, whereas the Corporate Communications and Training Unit also kept certain stocks for external distribution. For improvement, the EOC would centralise all stock control. Staff making procurement requests and approving the requests should first consider the availability of existing stocks or alternatives before making any purchases.

90. As reported in paragraphs 6.18 and 6.19 of the Audit Report, the EOC purchased 50 extension sockets in April 2006 and another lot of 75 in May 2008 for replenishment. Audit found that as at December 2008, there were still 72 extension sockets in stock. Given that extension sockets were durable items, the Committee queried the need of keeping a large stock of the items, and asked who had approved these purchases.

91. The **Senior Equal Opportunities Officer (Administration and Personnel), EOC**, replied that she was responsible for purchasing the extension sockets, which would be used in case there was a sudden stoppage of electricity supply that might affect the operation of office equipment. In estimating the quantity required, she had assumed that each cubicle would be provided with one extension socket. With hindsight, she admitted that there was an over-estimation.

92. The **Director (Planning and Administration), EOC**, said that he had approved the purchase request in view of the reasons provided by the requesting officer. He agreed that since the extension sockets were durable items, it was not necessary to procure so many of them. The EOC would remind staff to clearly establish the need for an item before expenditure was incurred.

93. In view of the above inadequacies in the procurement of stores, the Committee asked about the specific measures that would be taken by the EOC to clearly establish the need for an item before expenditure was incurred.

94. The **Chairperson, EOC**, stated in his letter of 27 May 2009 that:

- in future, the process leading to a decision on purchase might include:
  - (a) consideration of alternatives or replacement by existing stock;
  - (b) checking of stock level and usage pattern;
  - (c) comparison of the reasonableness of the latest quoted price by making reference to the last purchase price/average purchase price; and
  - (d) obtaining further objective and technical advice to confirm a need; and
- the Purchase Requisition Form would be revised to allow more space to record reasons for purchase, any available alternatives, present stock level, last/average purchase price and estimated consumption, if applicable.

95. Regarding the disposal of surplus asset and the control of library materials, the Committee asked:

- whether the EOC had tried to explore whether any organisations were interested in having the conference table (costing \$150,000) and the "classic and accurate" clock (costing \$7,200) before they were disposed of (paragraph 6.24 of the Audit Report referred);
- whether the computer equipment referred to in paragraph 6.26(c) of the Audit Report had already been donated; and
- about the measures that would be adopted to improve the control of library materials (paragraphs 6.32 and 6.33 of the Audit Report referred).

96. The **Director (Planning and Administration), EOC**, and the **Senior Equal Opportunities Officer (Administration and Personnel), EOC**, said that:

- since the conference table was a tailor-made fixture and could not be used elsewhere, a contractor had been employed to dismantle and discard it. Efforts had been made to donate the clock to other organisations, such as universities, but such efforts were in vain probably because maintenance cost was involved in keeping the clock;
- the computer equipment had been donated to a Caritas organisation. Usable computer parts would be reassembled by them for use; and

- the EOC used to have a central area for placing library books in the old office, and a staff was assigned to handle the borrowing of library materials through a computerised library system. After moving to the new office, the books were placed under various divisions. Some books were in fact reference books or dictionaries kept by individual staff to facilitate their daily work. As the books were assets of the EOC, the EOC would conduct regular stock-taking exercises to track the location of the items. The procedures for borrowing and updating library materials would also be reviewed so as to strengthen the control of library materials.

## **F. Complaint handling procedures**

97. According to paragraph 3.8 of the Audit Report, the EOC should, in accordance with the Australian consultants' recommendation, introduce a "complaint intake form" to indicate the Director (Operations)'s instructions as to the appropriate categorisation of the complaint and any special instructions in relation to investigation, conciliation or any other matter in the handling of the complaint. In February 2004, Board Members were informed, vide EOC Paper No. 5/2004, that the consultants' recommendations had been accepted and implemented. However, Audit examination in paragraph 3.10 showed that there were no "complaint intake forms" to indicate that proper initial intake decisions had been made by officers at an appropriate level, and the consultants' recommended practice was also not incorporated in the Internal Operating Procedures Manual ("IOPM"). The Committee asked why the consultants' recommended practice had not been implemented, and whether the Board was informed of the change of practice.

98. **Mr Joseph LI, Director (Operations), EOC**, replied that after the consultants' recommendation was made in 2002, a computerised Complaint Management System ("CMS") had been adopted to record the intake decisions. Hence, there was no physical "complaint intake form" as such. As the change was only an operational matter, the Board's approval had not been sought separately.

99. The Committee then requested the EOC to explain why and how the computerised CMS could replace the said form. The **Chairperson, EOC**, replied in his letter of 27 May 2009 that:

- the intake decisions were recorded in different documents under the current practice. There was no single "complaint intake form" placed in a complaint file to record and document the intake decision as recommended in the consultants' report;

- the intake of complaints was handled by the two Chief Officers in the Operations Division on a rotational basis. Case assignment basically followed a roster system. In the process, complexity and sensitivity of the issues as well as legal issues that might be involved were taken into consideration. More experienced officers were assigned with cases of complex nature. As such, there were adjustments in the sequence of case allocation to cater for special need. The special assignment arrangements were recorded by the assigning officer on the weekly roster sheets;
- to open a new case, the assigning officer registered an entry in the computerised CMS. The system generated a case number and opened a front page for recording key information. To complete the assignment, the following information must be entered: the names of the complainant, respondent and authorised representatives; initial actions taken or to be taken; relevant ordinance; ground of discrimination; areas of activities; unlawful act involved; special issues (e.g. overtime work, transfer, foreign domestic helper, prolonged sick leave); summary of the complaint; and the assignee (i.e. the case officer);
- a physical complaint file, which housed the complaint letter/form and document submitted by the complainant, would then be passed to the Chief Officer supervising the case officer. This supervising officer would then go through the materials and mark instruction and/or advice in the form of file minutes to the case officer (e.g. special circumstances relevant to the particular complaint, need for legal advice or higher level supervision); and
- at present, the decision and instruction appeared in different places. To accommodate the audit recommendation, the front page of the CMS would be expanded to record the initial and assignment decisions and the rationale behind them, which would then appear as a single document.

100. The Committee then invited Audit's comments on the complaint intake process mentioned above, as the EOC had not informed Audit of such details during the audit review. The **Director of Audit** responded in his letter of 4 June 2009 in *Appendix 13* that:

- according to the EOC's current practice, complaint intake decisions were recorded in different places, including the "weekly roster sheets", the "computerised CMS" and "file minutes";

- in Audit's view, the EOC's practice was not entirely satisfactory because it was inferior to the consultants' recommended practice mentioned in paragraphs 3.7 and 3.8 of the Audit Report which, if implemented, would provide clear documentation of the initial intake decisions tidily in one place (i.e. the "complaint intake form"). In considering this matter, one should also be mindful of the fact that the EOC Board Members were clearly informed of the acceptance and implementation of the consultants' recommended practice back in 2004; and
- the EOC now proposed that the front page of the CMS be expanded to record the initial and assignment decisions and the rationale behind them, which would then appear as a single document. Audit welcomed this proposal because it was tantamount to creating an electronic "complaint intake form". Properly implemented, it would serve the consultants' recommended purpose.

101. In paragraph 3.11 of the Audit report, Audit also pointed out that no investigation plans were prepared, contrary to the requirement of the IOPM. The Committee asked the reasons why the EOC had not paid due regard to the requirements in the IOPM.

102. The **Director (Operations), EOC**, said that the purpose of investigation plans was to set out the specific nature of the complaint, the complainant and respondent, the relevant legislation, etc. As the key components of the investigation plans would be incorporated into the first letters to respondents, and the letters would be passed to the Chief Officers for comments before issuance, it was decided at a divisional meeting in 2003 that there was no need to prepare separate investigation plans to avoid duplication of efforts. Since then, only less experienced officers were required to prepare investigation plans as part of their training, and senior officers were not required to do so. Despite this change, the IOPM had not been updated accordingly and hence Audit found that there was deviation from the IOPM.

103. The **Chairperson, EOC**, added that when the consultants completed their report in 2002, the EOC had only been established for a few years. As the EOC developed its own investigation procedures, it was noted that certain recommendations of the consultants could not be fully followed having regard to the circumstances in Hong Kong. In fact, complaint handling procedures were dynamic and changes were always required to match new development. Having said that, changes in operating procedures should have been brought to the Board's attention through regular reports submitted by the Operations Division.

104. According to paragraphs 3.14 and 3.15 of the Audit Report, the consultants' report also recommended that the EOC should establish a public register of conciliated settlements to assist in the settlement of complaints on appropriate terms. A settlement register had since been put on the EOC website reflecting the terms of settlement of successful conciliation for public information. However, the Committee noted that the settlement information for conciliation concluded after 2005 was not available in the settlement register on the EOC website, and asked why the settlement information was not available.

105. The **Chairperson, EOC**, and the **Director (Operations), EOC**, said that:

- the original purpose of establishing a public register of conciliated settlements was to promote the concept of conciliation among the community. However, in order to protect the confidentiality of the complainants and respondents, some key information had to be deleted when the cases were published on the website, rendering the information less useful as a reference. In recent years, people were more interested in learning about court cases handled by the EOC, and other relevant information through the EOC's publication "EO news"; and
- as the EOC handled about 200 settlement cases per year, it also faced manpower constraints if information on all typical settlement cases had to be publicised on the website. In the meantime, the EOC would review the format and contents of conciliated cases, with a view to refreshing the presentation of case outcomes on the EOC website, so that the information would be more meaningful to the users.

### **G. Performance reporting in Controlling Officer's Report**

106. According to paragraph 8.7 of the Audit Report, the CMAB was working with the EOC to identify new performance targets/indicators to measure the outcome and productivity of the EOC. The Committee asked whether the CMAB had in the past regularly reviewed the performance indicators of the EOC, and about the new performance targets/indicators that might be adopted.

107. The **Secretary for Constitutional and Mainland Affairs** said that:

- as shown in Appendix J of the Audit Report, there were already over 10 performance targets/indicators of the EOC. In preparing for the financial estimates and resource allocation every year, the CMAB would also review the performance indicators of the EOC; and

- in identifying new performance indicators, the CMAB would take into account the practice of overseas counterparts of the EOC, as set out in Appendix K of the Audit Report. Among the suggested overseas examples, the CMAB considered it particularly worthwhile for the EOC to set indicators on the number/percentage of complaint cases settled through conciliation. As to other indicators, such as public awareness and customer satisfaction, the EOC might give further thoughts on them. The new performance targets/indicators would be reflected in the 2010-2011 COR.

## **H. Conclusions and recommendations**

108. The Committee:

- notes that the key findings of the Director of Audit's Report ("Audit Report") are about the inadequacies in governance and administration of the Equal Opportunities Commission ("EOC"), which do not concern the EOC's performance in promoting equal opportunities and implementing the four anti-discrimination ordinances;
- considers that the inadequacies identified have revealed some underlying problems that are much more serious than what some of the inadequacies might seem if viewed individually and in isolation;
- expresses grave dismay and finds it inexcusable that:
  - (a) the Chairperson, as the full-time executive head of the EOC, has failed to provide the leadership required for the EOC to meet the standard of corporate governance and management expected of a publicly-funded statutory body, his handling of the draft Audit Report being a particularly telling example; and
  - (b) the Director (Planning and Administration), as the highest ranking staff responsible for the EOC's administrative matters, has failed to ensure that the EOC's internal control procedures, particularly those on procurement and management of stores, are properly complied with;
- expresses strong resentment at the EOC's lax control on expenditure and the lack of a corporate culture on the prudent use of public funds;

Handling of the draft Audit Report

- does not accept the way the Chairperson, EOC, had handled the draft Audit Report:
  - (a) the Chairperson received the draft Audit Report on 13 February 2009 and, without consulting the EOC Board Members, provided a response to the Audit Commission ("Audit") on 26 February 2009; and
  - (b) at the EOC meeting held on 19 March 2009, the Chairperson only verbally informed Board Members, without prior notice, under the agenda item "Any Other Business" that initial response had been provided to Audit "in view of the confidential requirements on the handling of the audit report and the pressing time schedule provided by the Audit Commission". It was only at the insistence of Board Members that a special meeting was held on 26 March 2009, one day before Audit's scheduled finalisation of the Audit Report, for them to discuss the EOC's response to the draft Audit Report. However, the draft Audit Report and the EOC's response to Audit were only tabled at the meeting on 26 March 2009, and Board Members had just about 30 minutes for reading the relevant documents before discussion took place;
- acknowledges the Chairperson's:
  - (a) concern over the possible breach of confidentiality requirements, as a result of which he had adopted a narrow interpretation of the "need-to-know" requirement in handling the draft Audit Report; and
  - (b) admission that with hindsight, he should have engaged the Board at an earlier stage after receipt of the draft Audit Report;
- considers that the above demonstrates a lack of trust and partnership between the Chairperson and Board Members, which is not conducive to the effective functioning of the EOC;
- finds it appalling, as revealed by their exchange of views at the meeting on 26 March 2009, that the Chairperson, certain Board Members and the Director (Planning and Administration) considered that some of the audit findings were trivial and insignificant and, in considering the EOC's response to the audit findings, their concern was more from the public relations perspective, leaving one with the impression that they were not serious in accepting the audit findings as genuine problems which needed to be addressed;

- invites the Director of Audit to consider advising an auditee which is a non-governmental organisation more positively of the need to seek its governing body's endorsement of the organisation's response to the draft Audit Report, so as to ensure that the governing body is engaged in the consideration of its findings;

### Corporate governance

#### *Governance structure*

- notes the reservations raised by some Legislative Council Members at the meeting of the Panel on Home Affairs in January 2006 regarding the proposal on separating the posts of the Chairperson and the Chief Executive Officer ("CEO") of the EOC, but expresses concern that there has been a lack of progress on the proposal since that meeting;
- considers, without intending to pre-empt in any way the deliberation by the Panel on Constitutional Affairs on the separation of the posts of the Chairperson and the CEO, that taking into account the results of past reviews conducted by three different parties (i.e. the EOC, the Independent Panel of Inquiry and the Home Affairs Bureau ("HAB")) and the need to strengthen corporate governance in the light of problems that have been identified, there may be advantages in separating the two posts as this could provide a more effective system of checks and balances and avoid the risks of excessive concentration of power in the Chairperson;
- acknowledges that:
  - (a) the Secretary for Constitutional and Mainland Affairs:
    - (i) has put forward three options for separating the posts of the Chairperson and the CEO for consultation with the Panel on Constitutional Affairs in June 2009, and has undertaken to bring the matter to a conclusive stage having regard to the views of the Legislative Council Members, the EOC and relevant quarters of the community;
    - (ii) will consider allocating funding to the EOC to engage external auditors (with expertise in management) to follow up the various issues identified by Audit, and to enhance the EOC's internal financial control and management capabilities; and

- (iii) will recommend to the Chief Executive of the Hong Kong Special Administrative Region ("HKSAR") that the EOC Chairperson for the term starting from January 2010 should be recruited through open recruitment procedures; and
  - (b) the EOC's Administration and Finance Committee and the respective convenors and deputy convenors of the other three Committees will be tasked with the responsibility for overseeing corporate governance and compliance matters as well as following up the audit recommendations;
- urges:
- (a) the Secretary for Constitutional and Mainland Affairs to expeditiously put forward a final proposal on separating the posts of the Chairperson and the CEO after consulting the Panel on Constitutional Affairs, the EOC and other stakeholders, so as to bring the matter to a satisfactory conclusion; and
  - (b) the EOC to consider engaging external accountants to conduct compliance and management audit if necessary;

*Board and Committee meetings*

- expresses serious concern and finds it unacceptable that:
- (a) there were shortcomings in matters relating to EOC Board and Committee meetings, including the following:
    - (i) the attendance rates of some Members were low. A Member attended only one (11%) of the nine Board meetings held during the period from April 2007 to September 2008. Another Member attended only four (44%) of the meetings. Five Members attended less than 40% of the Committee meetings;
    - (ii) although the attendance rates of some Board/Committee Members were low, they were still reappointed;
    - (iii) on several occasions, the meetings continued despite a lack of quorum;
    - (iv) there were no guidelines on the need for rescheduling cancelled meetings to ensure that time-critical issues were deliberated in a timely manner; and

- (v) on average, minutes of meetings were only issued to Members 46 days after the meetings; and
- (b) the EOC has adopted a "one-tier reporting system" for its Members to declare and report conflicts of interests, although it meets the criteria for adopting a "two-tier reporting system" set out in the guidelines issued by the HAB for advisory and statutory bodies;
- acknowledges that:
  - (a) the EOC has undertaken to:
    - (i) establish a central register of attendance to facilitate monitoring of Members' attendance at Board/Committee meetings, and issue reminders on the importance of attendance where necessary;
    - (ii) take into account Members' attendance when their reappointments to the EOC Committees are being considered;
    - (iii) ensure that the requisite quorum is present throughout the meetings;
    - (iv) set appropriate guidelines on the need for rescheduling cancelled meetings;
    - (v) issue draft minutes of meetings within one month from the date of meeting; and
    - (vi) consider whether a two-tier reporting system will be adopted; and
  - (b) the Secretary for Constitutional and Mainland Affairs has undertaken to take into account the attendance rates of Members when their reappointments to the EOC Board are being considered;
- urges the EOC to consider publishing the attendance records of Board/Committee meetings in its annual reports;

*Memorandum of Administrative Arrangements ("MAA")*

- is surprised and expresses grave dissatisfaction that timely action had not been taken to update the MAA to reflect changing circumstances;

- acknowledges that the Secretary for Constitutional and Mainland Affairs has already provided a revised draft MAA to the EOC, pending approval of the EOC's Administration and Finance Committee, and has undertaken to take timely action to update the MAA in future as and when there are changes in circumstances;
- urges the Secretary for Constitutional and Mainland Affairs and the EOC to finalise the revised MAA without delay;

*Life insurance coverage for the Chairperson*

- expresses serious concern that:
  - (a) the EOC did not obtain the approval of the Chief Executive of the HKSAR for the provision of life insurance coverage for the Chairperson (including former Chairpersons), although according to section 1 of Schedule 6 of the Sex Discrimination Ordinance (Cap. 480), the Chief Executive "shall determine the remuneration and the terms and conditions of appointment of the Chairperson"; and
  - (b) the Director (Planning and Administration) of the EOC, as the senior management staff responsible for administration and personnel matters, simply followed past practices in arranging for the Chairperson to join the group life insurance scheme as for other EOC staff, and had not bothered to check whether the arrangement complied with the Chairperson's appointment requirements;
- acknowledges that the EOC has undertaken to take follow-up actions with the Constitutional and Mainland Affairs Bureau ("CMAB") regarding the provision of life insurance coverage for the Chairperson, and urges the EOC and the CMAB to expeditiously make a decision on how the matter should be followed up;

Corporate culture on the use of public funds

- finds it appalling and totally unacceptable that the EOC has not adopted the "moderate and conservative" principle in making expenditure decisions. The manifest lack of prudence is evident from the following instances relating to the use of public funds:

*Duty visits outside Hong Kong*

- (a) the EOC did not set financial limits on hotel accommodation and hospitality meals involving the Chairperson and Board Members on duty visits as would facilitate the application of the "moderate and conservative" principle for such sensitive expenses and help staff involved in the payment process determine the reasonableness of the expenses;
- (b) regarding the Beijing visit:
  - (i) the delegation, with a total expenditure amounting to \$161,000, comprised as many as 18 persons, nine of whom were senior staff;
  - (ii) although standard rooms were adequate for meeting basic accommodation needs and were reasonably comfortable, hotel rooms of three different standards were hired for the delegation, viz. an Ambassador Suite for the Chairperson (at \$2,880 per night), Executive Rooms for Board Members (at \$1,500 per night) and Standard Rooms for staff (at \$940 per night). Moreover, as the visit was not a working visit and was mainly for networking and training purpose, the need for an Ambassador Suite with meeting facilities might not be justifiable;
  - (iii) the EOC paid \$15,200 for a hospitality dinner attended by 28 persons (i.e. \$540 per person), but there was no information on record about who attended the dinner, and the number and identities of guests involved;
  - (iv) the EOC paid the expense of \$540 for a lunch taken by the Chairperson and eight EOC staff at a restaurant near the EOC office on 11 July 2005, which was clearly a private expense that should not be paid out of public funds, given the fact that the duty visit had not even commenced;
  - (v) the EOC's explanation for paying the aforesaid staff lunch expense of \$540 (i.e. in lieu of the subsistence allowance to which staff were entitled for that day) is unacceptable, given that the purpose of a subsistence allowance is to cover duty visit expenses (outside Hong Kong) and any reimbursement of a private expense (incurred in Hong Kong) in lieu of the allowance is clearly against that purpose; and

- (vi) although prior approval is a key control, at the time of the Beijing visit, approval from Board was not required for business trips involving the Chairperson and Board Members;
- (c) although the Board's prior approval is required since September 2005 (i.e. after the Beijing visit), the EOC did not seek the Board's prior approval for two duty visits involving day-trips to Macao in 2007, and covering approval was obtained in 2009 only after the matter was raised by Audit;
- (d) regarding the Sweden visit:
  - (i) for two of the meals taken by the Chairperson during the duty visit, there were no invoices or bills on record to support the payments;
  - (ii) the visit team spent \$6,400 on the service of a courier firm to deliver to Hong Kong the publications (weighing 13 kilograms) received during the visit, but there was no documented reason for not using other more economical means of delivery;
  - (iii) there were confusions over the payment of hotel charges and, despite the confusions, the EOC did not take adequate follow-up action to clarify the issue and meet its commitment;
  - (iv) the visit team did not bring to the Board's attention the addition to the visit programme of two hospitality items (i.e. "Sightseeing in Stockholm with a licensed guide" and "Excursion by boat in the archipelago") which were potentially sensitive items; and
  - (v) due to a miscalculation, the EOC officer of the visit team was overpaid an amount of \$514, representing one night of subsistence allowance less the relevant deductions;

#### *Seminars*

- (e) the large scope of economy that existed in the original budget (prepared for the Seminar held on 24 January 2008) suggested the lack of a sense of economy on the part of the EOC staff preparing the budget;
- (f) the EOC did not identify available alternatives (together with their relative merits and costs) in the budgets to facilitate Board Members' consideration, and the ramp provided free of charge by the venue management was a case in point;

- (g) no distinction was made in the budgets between essential and "desirable non-essential" items (together with their costs), and the absence of such information was not conducive to the making of informed decisions by Board Members;

*Purchases and other administrative issues*

- (h) 32 air purifiers were purchased between mid-2005 to mid-2007 without any objective data indicating that the air quality of the EOC office was poor. The Committee considers that the EOC's claim that the number of sick leave days had reduced after the purchase of the air purifiers was only an excuse made with the benefit of hindsight;
  - (i) the need for purchasing the video conferencing system was questionable in view of its low utilisation; and
  - (j) there were insufficient justifications for the EOC to pay the fine of \$320 on a traffic offence committed by its driver while on duty;
- acknowledges that the EOC has:
- (a) undertaken to strictly apply the "moderate and conservative" principle in making expenditure decisions on duty visits;
  - (b) reminded its staff to ensure that the relevant information is available on record regarding the EOC personnel and guests involved in hospitality meals;
  - (c) undertaken to revise the guidelines and set financial limits regarding hotel accommodation, hospitality expenses and meal expenses involving the Chairperson and Board Members, with reference to the level of subsistence allowance applicable to the civil service. The EOC Board will be requested to endorse the revised guidelines;
  - (d) undertaken to review the expenditure decision regarding the staff lunch of 11 July 2005, and to draw up guidelines to guide future decisions in similar circumstances;
  - (e) undertaken to ensure that all business trips outside Hong Kong, including short trips to Macao, have the Board's prior approval;
  - (f) undertaken to compile a duty visit manual as guidance for its staff, which will include reminders on:

- (i) the need to support claims by invoices or bills;
  - (ii) the use of economical means for the delivery of materials obtained during duty visits; and
  - (iii) the need to report any additional hospitality items;
  - (g) contacted Organisation A regarding the conflicting information on the hotel charges and is awaiting its response;
  - (h) recovered from the EOC officer concerned the \$514 of subsistence allowance overpaid;
  - (i) undertaken to formulate guidelines that will take into account the need to exercise strict economy in planning future events, and to clearly identify alternatives as well as "desirable non-essential" items in the budgets to facilitate Board Members' consideration;
  - (j) undertaken to clearly establish the need for an item before expenditure is incurred;
  - (k) undertaken to set up a working group comprising Board Members to review spending and procurement procedures and make necessary improvements to the procedures to ensure the prudent use of public money; and
  - (l) recovered from the driver the traffic fine of \$320;
- strongly urges the EOC to adhere to the "moderate and conservative" principle in making expenditure decisions, and promote a corporate culture that emphasises prudence and economy in the use of public funds;

Internal control, procurement and management of stores

- finds it appalling and totally unacceptable that the EOC's internal control, procurement and management of stores are fraught with problems as set out below, and considers that the Director (Planning and Administration) of the EOC, being the head overseeing these functions, should be held responsible:
- (a) despite the requirements stipulated in the Procurement of Stores and Services Manual, there were some instances of non-compliance with the EOC's procurement procedures;

- (b) there was a lack of proper management of stores, as follows:
    - (i) in October 2006, the EOC purchased 2,000 environmental bags at a cost of \$16,200 (\$8.1 each). Two months later, in December 2006, the EOC purchased another lot of 400 environmental bags, with some added features, at a cost of \$8,400 (\$21 each), despite the fact that there were 1,700 environmental bags in stock that could have served the purpose. In December 2007, a further lot of 400 with the same features were purchased at a higher cost of \$12,000 (\$30 each). The aforesaid purchases indicate that there was no centralised system to co-ordinate stock management;
    - (ii) a total of 40,000 staplers were purchased for distribution as souvenirs between March 2006 and March 2007. As at December 2008, there were still 23,000 staplers in stock; and
    - (iii) 50 extension sockets were purchased in April 2006 and another lot of 75 were purchased in May 2008 for replenishment, although they are durable items. As at December 2008, there were still 72 extension sockets in stock;
  - (c) for some asset items that were written off, there were no clear audit trails of how they were disposed of;
  - (d) there were shortcomings in the control of library materials; and
  - (e) the vehicle log books of the EOC were not properly maintained, contrary to the instructions relating to vehicle log books;
- acknowledges that the EOC has:
- (a) conducted a briefing with the relevant staff to remind them of the need to strictly comply with the EOC's procurement procedures, and will invite the Director of Government Logistics to share with staff on important stores and procurement principles and areas in need of improvement within the EOC;
  - (b) undertaken to review the relevant internal manual to highlight the requirement identified by Audit, and to incorporate conditions to be fulfilled and criteria to be observed in the procurement process;
  - (c) undertaken to centralise stock control and consider the availability of existing stocks or alternatives before any purchases. It will also use the environmental bags in stock for distribution at future seminars;

- (d) designated an officer to take charge of the disposal of assets, and to ensure that proper records are kept to provide a clear audit trail;
  - (e) undertaken to improve the control of library materials, including conducting annual stocktaking exercises, and strengthening the procedures for borrowing library materials, updating records and handling overdue library materials; and
  - (f) reminded its staff of the need to comply with the instructions relating to vehicle log books;
- urges the EOC to expeditiously implement the above to improve its internal control, procurement and management of stores;

#### Complaint handling procedures

- expresses dismay and finds it unacceptable that:
  - (a) there were no "complaint intake forms" to indicate that proper initial intake decisions had been made by officers at an appropriate level, despite the fact that in February 2004 Board Members were informed of the EOC's acceptance and implementation of a consultants' recommendation to introduce such forms;
  - (b) investigation plans were not prepared, contrary to the requirement of the EOC's Internal Operating Procedures Manual ("IOPM"). According to the Director (Operations) of the EOC, as the investigation plans would be incorporated into the first letters to respondents, only less experienced officers were required to prepare investigation plans as part of their training, which appears to be no more than an arbitrary deviation from the IOPM; and
  - (c) the settlement information for conciliation concluded after 2005 was not available in the settlement register on the EOC website;
- acknowledges that the EOC has undertaken to:
  - (a) ensure that all initial intake decisions are properly documented, and consider incorporating the consultants' recommended practice in the IOPM;
  - (b) expand the front page of the Complaint Management System to record the initial and assignment decisions and the rationale behind them, so that all complaint intake decisions are recorded as a single document;

- (c) remind its staff to prepare an investigation plan in accordance with the requirement of the IOPM; and
- (d) review the format and contents of conciliated cases, with a view to refreshing the presentation of case outcomes on the EOC website;
- urges the EOC to:
  - (a) expeditiously implement the proposal to expand the front page of the Complaint Management System to record the initial and assignment decisions and the rationale behind them;
  - (b) incorporate the above proposed arrangement into the IOPM and take measures to ensure compliance in future;
  - (c) update the information in the settlement register on the EOC website; and
  - (d) expeditiously implement the audit recommendations in paragraphs 3.10, 3.11, 3.12, 3.15 and 3.19 of the Audit Report;

Performance reporting in Controlling Officer's Report ("COR")

- expresses concern that the performance reporting of the EOC in the COR of the CMAB is inadequate:
  - (a) there are no outcome indicators, such as the number/percentage of complaint cases that are satisfactorily resolved, say, by means of conciliation; and
  - (b) there are no unit cost or productivity indicators to measure the economy, efficiency and cost-effectiveness of the resources deployed by the EOC, such as the average unit cost to complete a complaint case;
- acknowledges that the Secretary for Constitutional and Mainland Affairs has undertaken to work with the EOC to identify new performance targets/indicators to measure the outcome and productivity of the EOC. The new performance targets/indicators will be included in the 2010-2011 COR of the CMAB;
- urges the Secretary for Constitutional and Mainland Affairs to implement the above without delay; and

Follow-up actions

- wishes to be kept informed of:
  - (a) the Director of Audit's decision in advising an auditee which is a non-governmental organisation more positively of the need to seek its governing body's endorsement of the organisation's response to a draft Audit Report;
  - (b) the progress and result of the proposal on separating the posts of the Chairperson and the CEO of the EOC;
  - (c) the decision made regarding the proposed engagement of external accountants to conduct compliance and management audit;
  - (d) the decision made in publishing the attendance records of Board/Committee meetings in the EOC's annual reports;
  - (e) the progress made in finalising the revised MAA;
  - (f) the measures that will be taken to promote a corporate culture that emphasises prudence and economy in the use of public funds;
  - (g) the measures that will be taken to improve the EOC's internal control, procurement and management of stores;
  - (h) the progress made in implementing the proposal to expand the front page of the Complaint Management System to record the initial and assignment decisions and the rationale behind them;
  - (i) the progress made in incorporating the proposed arrangement into the IOPM and the measures taken to ensure compliance in future;
  - (j) the progress made in updating the information in the settlement register on the EOC website;
  - (k) the new performance targets/indicators that will be adopted by the EOC; and
  - (l) any other further progress in addressing the various issues mentioned above.