

**立法會**  
**Legislative Council**

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**Panel on Home Affairs**

**Minutes of special meeting  
held on Friday, 14 November 2003 at 8:30 a.m.  
in the Chamber of the Legislative Council Building**

**Members present** : Hon IP Kwok-him, JP (Chairman)  
Hon MA Fung-kwok, JP (Deputy Chairman)  
Hon Cyd HO Sau-lan  
Hon Albert HO Chun-yan  
Hon NG Leung-sing, JP  
Hon James TO Kun-sun  
Hon Andrew WONG Wang-fat, JP  
Hon WONG Yung-kan  
Hon LAU Wong-fat, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon CHOY So-yuk  
Hon Andrew CHENG Kar-foo  
Hon Timothy FOK Tsun-ting, SBS, JP  
Dr Hon TANG Siu-tong, JP  
Hon Henry WU King-cheong, BBS, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Albert CHAN Wai-yip  
Dr Hon LO Wing-lok, JP  
Hon WONG Sing-chi

**Members attending** : Hon James TIEN Pei-chun, GBS, JP  
Dr Hon David CHU Yu-lin, JP  
Hon LEE Cheuk-yan  
Hon Martin LEE Chu-ming, SC, JP  
Hon Fred LI Wah-ming, JP  
Hon Margaret NG  
Hon CHEUNG Man-kwong

Hon CHAN Yuen-han, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon SIN Chung-kai  
Dr Hon LAW Chi-kwong, JP  
Hon Abraham SHEK Lai-him, JP  
Hon Michael MAK Kwok-fung  
Hon LEUNG Fu-wah, MH, JP  
Hon Audrey EU Yuet-mee, SC, JP

**Public Officers:  
attending**

Dr Patrick HO  
Secretary for Home Affairs

Ms Shelley LEE  
Permanent Secretary for Home Affairs

Mr Stephen FISHER  
Deputy Secretary for Home Affairs (2)

**Attendance by  
invitation**

: Equal Opportunities Commission

Dr Raymond WU Wai-yung  
Member

Ms Jessie YU Sau-chu  
Member

Mr John Robertson BUDGE  
Member

Professor LAW Japhet Sebastian  
Member

Mr Peter YEUNG Kong-hing  
Member

Ms Alexandra PAPADOPOULOS  
Staff member

Mr CHAN Yick-man  
Staff member

Ms Anna WU  
Former Chairperson of Equal Opportunities  
Commission

**Clerk in attendance** : Ms Doris CHAN  
Chief Assistant Secretary (2)2

**Staff in attendance** : Mr Stephen LAM  
Assistant Legal Adviser 4

Ms Joanne MAK  
Senior Assistant Secretary (2)2

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Action

**I. Issues relating to the appointment and termination of contract of Mr Patrick YU Chung-yin as Director (Operations) by the Equal Opportunities Commission (EOC) and how the Government safeguards the credibility of EOC and the EOC Chairperson**  
[LC Paper No. CB(2)335/03-04(02)]

The Chairman said that at about 8 a.m. that morning, the Panel received a written submission provided by Mr Michael WONG, former EOC Chairperson. He said that copies of the submission had been tabled for Members and all the attendees. He added that at Mr WONG's request, the submission would be released to the media and the public only after the meeting.

2. The Chairman said that Mr Michael WONG had indicated that some pages of his submission contained personal data of Mr Patrick YU (pages 5 and 6) and the internal recruitment procedures and practices of EOC (pages 18 to 20). The Chairman said that Mr WONG left it to his discretion as to whether these pages should also be made available to the public and the media. In this connection, the Chairman asked the EOC representatives whether they would consent to release pages 18 to 20 of Mr WONG's submission to the public and the media. Mr Peter YEUNG responded that as EOC representatives did not have time to read the submission or the said pages, they could not give consent at that moment. The Chairman said that as such he decided not to make available the said pages to the public and the media until EOC gave him consent.

3. The Chairman asked if any Member wished to declare interests. No Member indicated their wish to do so.

4. The Chairman said that Ms Anna WU, former EOC Chairperson, had requested to speak first as she had to leave the meeting earlier to attend to other business. He would, therefore, let her speak first.

Action

5. Ms Anna WU thanked the Panel for giving her the opportunity to state her position. She said that as a former EOC Chairperson, she, like other EOC staff, had a legal responsibility to keep EOC information confidential. In order to answer Members' questions at this meeting, she had written to EOC on the previous day requesting for access to the records of EOC as well as seeking consent to disclose necessary information to the Legislative Council (LegCo).

6. Ms Anna WU said that in the past few weeks, she had been subject to personal attacks and serious allegations against her and it seemed that they were made by several EOC members. These EOC members had leaked confidential information of EOC and had distorted it. She said that the six allegations raised against her in a magazine article of 12 November 2003 were completely unfounded. It was clear from the article that it was a smear campaign against her, and the Government and several members of EOC had been cited as participants in the smear campaign. She said that these allegations and attacks not only damaged her reputation but also undermined the credibility of EOC.

7. Ms Anna WU pointed out that the operations of EOC were subject to the monitoring mechanisms of EOC, including EOC members, the sub-committees of EOC and the Home Affairs Bureau (HAB). She said that the Government had the responsibility to safeguard the credibility and reputation of EOC. However, the magazine article had indicated that the Government had participated in plotting the smear campaign.

8. Ms Anna WU said that the six allegations raised against her were entirely groundless. She pointed out that clarifications regarding the operations and activities of EOC could be sought from EOC as they were matters of record. Ms WU made the following points regarding the six allegations -

- (a) employment problems occurring before and after her tenure as EOC chairperson had been attributed to her failure;
- (b) legal applications were vetted by a sub-committee and not approved by the Chairperson. EOC's records would show that the success rate of EOC was very high and, to her recollection, there was only one failure case;
- (c) during her tenure, promotion and education activities were increased and training was established as a service to help parties to increase their awareness and to comply with the law;
- (d) during her tenure, the organization became flatter and the budget was cut and not increased;

Action

- (e) during her tenure, she had also had research on the set up of a tribunal undertaken. At her request, the presentation of the relevant proposal to a sub-committee of EOC was deferred to enable Mr Michael WONG to consider it. Mr WONG had endorsed the proposal;
- (f) all matters relating to the finances, employment, contracting and statistics could be checked with the EOC and these were subject to scrutiny procedures which she had inherited; and
- (g) periodic reports on finances and activities were made to HAB, the EOC's house keeping bureau.

9. Ms Anna WU said that she had already written to EOC requesting EOC to clarify whether these allegations represented the views of EOC. She had informed EOC that she reserved her legal rights against all relevant parties.

10. Ms Anna WU referred to her statement of 6 November 2003 setting out details on the restructure process of EOC. She said that in March 2002, EOC members had endorsed the recommendations that, to enhance the effectiveness of the complaints handling process, the two operations divisions together with the directorships for disability and gender should be merged into one with one director for operations. As a consequence of this merger, there would also be saving arising from the deletion of one director's post. The process of change began in August 2002. The two directors for gender and disability left EOC after years of service in the summer of 2002 and spring of 2003 respectively leaving these two posts vacant and to be filled by a new Director (Operations).

11. Ms Anna WU further said that the recruitment of Mr Patrick YU was a continuum of the process of restructure. Ms WU said that she had hoped that the post of the Director (Operations) would be filled by March or April of 2003, leaving a few months of overlap between herself and the new director. The recruitment process, however, had been held up by the SARS outbreak. The recruitment process was completed in May well before Mr Michael WONG's appointment was made known to her.

12. Ms Anna WU said that she had provided the name of Patrick YU to the search firm before the selection process was completed and members of the selection board had expressed certain views to her. She pointed out that Mr Michael WONG's statement of 5 November 2003 and the statement submitted to the Panel by Mr Michael CHAN, Director of Planning and Administration (DPA), had also stated that other members of EOC had been asked for referrals. Ms WU said that this was an accepted practice and stressed that she had no conflict of interests in the matter. She had only previously met Mr YU once from her recollection when she invited Mr YU to give a short presentation to EOC.

Action

13. Ms Anna WU pointed out that the statement of Mr Michael WONG as well as the chronology of events supplied by Mr Michael CHAN had stated that the recruitment procedures were regular and the selection board was properly comprised. The procedures adopted were same as what she had inherited from her predecessor.

14. Ms Anna WU said that after sending her letter of 22 July 2003 to Mr Michael WONG, she had received no corrections from him. The events described in the letter were also witnessed by other people. She said that her conversation with Mr WONG on the 18 July 2003 had concluded with Mr WONG agreeing to a meeting on the 28 July 2003 so that she and EOC staff could brief Mr WONG on the operations of EOC. However, she was subsequently informed by Mr Michael CHAN that Mr WONG would not have the time to come. She said that contrary to the statement of Mr WONG, there was no press conference on SARS planned until after the meeting was cancelled by him, and internal circulars and instructions to EOC officers to prepare a briefing programme for Mr WONG would make this clear. Ms WU said that she had then requested Mr Michael CHAN to prepare and send a bundle of documents and briefing materials to Mr WONG. Her letter of 22 July 2003 to Mr Michael WONG had set out these events clearly.

15. Ms Anna WU said that it was important for EOC to have a mission and for EOC members and staff to identify themselves with this mission, and one important point of EOC's mission was to be able to accommodate different opinions and to accept people with different opinions. She said that this mission was a driving force for Hong Kong and she did not want to see that this mission of EOC becoming blurred in any way.

16. In response to Ms Emily LAU, Ms Anna WU said that she had provided a written statement to the Panel the previous day. At Ms LAU's request, Ms WU said that she would consider providing a copy of her opening remarks in Chinese. She pointed out that the bulk of her opening remarks could be found in her statement provided the previous day.

17. Mr Peter YEUNG said that the EOC representatives were pleased to attend this meeting to answer Members' questions relating to the appointment and termination of appointment of Ms Patrick YU as Director (Operations) by EOC. He said that EOC members normally did not publicly discuss staff employment issues of EOC. Moreover, since Mr YU had indicated that he might take legal action, it was not appropriate to discuss the matter publicly. However, in view of the concern expressed by Members and queries raised by Mr Patrick YU about the reasons for terminating his appointment as Director (Operations), EOC had agreed to send representatives to this meeting to answer Members' questions on the matter.

Action

18. The Secretary for Home Affairs (SHA) apologised for not being able to attend the special meeting of the Panel on 7 November 2003. He explained that as the Chief Executive (CE) was due to leave Hong Kong on 8 November for an overseas duty visit, he had to take the opportunity in the morning of 7 November to brief CE on important issues under the purview of HAB, including the latest developments relating to EOC.

19. SHA said that the Government respected the independence of statutory bodies and did not intervene in their operations. However, as the recent events relating to EOC had given rise to wide public concern, HAB had set up a task force to closely monitor developments of the events and, where necessary, would seek information from EOC and provide it to Members.

20. SHA said he understood that Members were concerned about his meetings with Mr Michael WONG before his resignation. SHA said that he had recently met with Mr Michael WONG twice regarding this issue. The first occasion was last Tuesday, 4 November 2003. SHA said that he was invited to a private gathering and Mr WONG was also present. On that occasion, Mr WONG told SHA that he had the intention to resign. The second occasion was last Wednesday, 5 November 2003. On that day, Mr WONG had cancelled an EOC meeting originally scheduled for that day and the cancellation had given rise to speculations. In order to have a better idea of Mr WONG's intention, SHA asked a friend to arrange a meeting with Mr WONG. During the private occasion that evening, he discussed with Mr WONG the latest developments of the events relating to EOC and expressed the Government's concern about the events. Mr WONG then explicitly indicated that he would consider resigning as Chairperson of EOC.

21. SHA said that when a friend of Mr WONG started to discuss with Mr WONG about the content of his statement of resignation, SHA felt that he should not be present. Therefore, he had left for some time. SHA said that when he returned, Mr WONG and his friend's discussion was coming to an end. He heard that they were talking about internal affairs of EOC. SHA stressed that he had not participated at all in the drafting of the statement of resignation and he had not given any implicit consent to any smear campaign against anyone.

22. SHA said that as Mr WONG appeared to be very depressed, he had stayed behind for some time and gave Mr WONG a few words of comfort before Mr WONG left.

23. SHA said that in the morning of 6 November 2003 morning, he reported to CE about Mr WONG's intention to resign. In that afternoon, Mr WONG held a press conference announcing his decision of resignation. Mr WONG then tendered a formal letter of resignation to CE, who stated on the same day that he respected Mr WONG's decision and accepted his resignation.

Action

24. SHA pointed out that EOC was a statutory body empowered by the law to operate independently. Such provision was very important to ensure that EOC could fully perform its statutory duties and functions and to safeguard the credibility of EOC. The Government should not and would not intervene in the operations of EOC. SHA further said that HAB considered that the termination of contract of Mr Patrick YU was an internal matter of EOC and HAB should not and would not intervene in the matter. He said that the Government would try to appoint a new EOC Chairperson as soon as possible.

Discussion

25. Dr TANG Siu-tong said that the criticism of cronyism on Ms Anna WU's part was undisputed. Ms Margaret NG requested Dr TANG to provide a basis for such an accusation. Dr TANG explained that according to media reports, Ms WU had employed her sister-in-law to work in EOC and because of that, Ms WU had been accused of cronyism. Referring to a paper provided to the Panel, Dr TANG said that the selection board, after conducting interviews with four candidates for the post of Director (Operations), had found that one candidate would be a possibility and could be given further consideration. However, at this stage Ms WU asked that Mr Patrick YU be contacted, as mentioned in the paper. Dr TANG said that this was unfair to the other candidates. Dr TANG also pointed out that Ms WU had been directly involved throughout the selection process and she had laid down the job requirements and selection criteria. Therefore, people could not help suspecting that there was some hidden force that had brought about the employment of Mr YU. Dr TANG also asked which person(s) was/were responsible for administering the psychological tests taken by Mr YU and another candidate in April/May 2003, and whether the termination of appointment of Mr YU was approved by EOC.

26. Ms Anna WU stressed that in the appointment process of Mr Patrick YU as Director (Operations), her level of involvement was the same as that of other members of the selection board. She said that the recruitment procedures followed the established recruitment procedures of EOC. She clarified that the job requirements of the post of Director (Operations) were written by Mr Michael CHAN, DPA, and were seen by her. She stressed that any query that members of the selection board were not independent or had listened to her advice in handling the recruitment exercise was an insult to them. She said that as regards accusations of cronyism in media reports as mentioned by Dr TANG, people who made such accusations must produce evidence and they should also check with EOC direct.

27. Mr Peter YEUNG said that the procedures adopted for the recruitment of Director (Operations) followed fully the established recruitment procedures of EOC. He said that at the EOC meeting on 18 September 2003, the procedures for the recruitment of Director (Operations) were reported to EOC



Action

members, who agreed that the recruitment was conducted strictly in accordance with the established procedures of EOC. Mr YEUNG said that the selection board was appointed by EOC and had completed the recruitment process in an independent and professional way.

28. Dr TANG Siu-tong said that Ms Anna WU had been involved throughout the selection process and, since Ms WU was then the EOC Chairperson, her views certainly carried considerable weight. Ms Anna WU reiterated that she had the same level of involvement as that of other members of the selection board. She said that since the post of Director (Operations) was a very senior post in EOC, it was quite impossible to have the Chairperson excluded from the selection process. She stressed that members of the selection board were independent persons and had their own thinking. Also, she did not see how a conclusion could be reached that she had unduly influenced other board members in their decisions simply based on the fact that she had participated in the selection process. She stressed that the composition of the selection board was not decided by her as confirmed by Mr Michael CHAN and Mr Michael WONG in their papers provided to the Panel.

29. Mr Peter YEUNG said that the termination of the appointment of Mr Patrick YU as Director (Operations) was discussed at the EOC meeting on 18 September 2003. All EOC members as well as Mr Michael WONG, the then EOC Chairperson, had attended the meeting. The meeting lasted for 2½ hours, and members had spent more than 45 minutes discussing the termination of the appointment of Mr Patrick YU.

30. Mr Peter YEUNG said that at the meeting, Mr Michael WONG gave the following three reasons for terminating the appointment of Mr Patrick YU -

- (a) the remarks made by Mr YU in a South China Morning Post interview published on 18 July 2003 were inappropriate and unbecoming;
- (b) having reviewed the past working experience of Mr YU, Mr WONG considered that Mr YU did not have adequate experience in complaint handling and investigation as required by the post of Director (Operations); and
- (c) having met and discussed with Mr YU, Mr WONG considered that Mr YU did not fully understand the role and duties of Director (Operations).

31. Mr YEUNG said that at that meeting, Mr Michael WONG requested EOC members to authorise him to terminate the appointment of Mr Patrick YU based on the above three reasons. EOC members then expressed their views on the matter. Mr YEUNG said that finally, a member moved a motion proposing

Action

to authorise Mr Michael WONG to handle the employment contract of Mr YU. The motion was carried without any objection or dissent.

32. Mr Albert HO said that the recent spate of incidents relating to EOC had caused wide public concern and had undermined the reputation and credibility of EOC. Referring to an article carried in the East Week of 12 November 2003 disclosing a confidential document on six allegations against Ms Anna WU, which was supposed to be read out along with Mr Michael WONG's statement of resignation, Mr HO said that this incident had indeed caused wide public concern especially about the role played by the Government in the incident. Mr HO pointed out that HAB had responsibility to support the work of EOC and ensure that its operations lived up to its mission. He considered that when SHA heard the discussion between Mr Michael WONG and Dr Raymond WU, he should know that it was about serious allegations against EOC and they were supposed to be read out by Mr WONG when he announced his resignation the following day. Mr HO said that SHA should not have remained silent, especially when he had not seen any evidence in support of the allegations. Mr HO also stressed that SHA was responsible for safeguarding EOC from being subjected to unfair allegations and, in any case, SHA should conduct investigations into any allegations against EOC first before allowing such allegations to be published. He added that should the allegations have been read out the following day, damage would have been done not only to Ms Anna WU's reputation but also to the reputation of EOC.

33. SHA said that the credibility of EOC was built on the community's recognition of the achievements of EOC and the collaborated efforts made by each EOC Chairperson and member over the years. He reiterated that at the meeting on 5 November, he left temporarily when Mr Michael WONG started discussing with a friend about his statement of resignation. He had left the meeting during that time because he considered that Mr WONG's statement of resignation should be handled by Mr WONG himself. SHA said that when he returned, the discussion was already drawing to a close and he could not follow the discussion. He only knew that Mr WONG was talking about internal affairs of EOC and that in regard to such matters, no one knew more about them than the Chairperson did. SHA also considered that it was not appropriate for him to intervene in the internal operations of EOC and he would not comment on any allegation without proof.

34. SHA further said that in this incident, he had certainly discharged his responsibility. He stressed again that he had not participated in the discussion and did not understand very much about the discussion because he was not present for most of the time of the discussion.

35. Mr Albert HO pointed out that SHA had repeatedly said that, at the meeting on 5 November, he had heard part of the discussion, which was now known to be related to serious allegations against EOC, including the allegation

Action

that the operations of EOC had been unlawful in the past few years. Mr HO said that at the meeting on 5 November, SHA should have expected that the allegations would be read out the following day but he had just remained silent. Mr HO asked whether SHA considered that he had no responsibility at all in preventing the reputation of EOC from being unfairly attacked.

36. SHA said that the credibility of EOC hinged on the way of its operations and whether it carried out its duties in an impartial way. He said that it was also built on the public recognition of the impartiality of EOC in performing its work. He reiterated that when he returned to the meeting on 5 November, he had only heard discussion about internal affairs of EOC. However, he had not heard the whole discussion and was not aware that there was any allegation raised against anyone.

37. Mr CHEUNG Man-kwong said that when SHA remained silent during the discussion, he was actually conniving in the smear campaign. He considered that it was also a dereliction of duty on SHA's part in failing to prevent the split in EOC and in allowing EOC members to establish factions. He asked Dr Raymond WU whether he was the mastermind of Mr Michael WONG in the recent row, and whether he had openly attacked Mr Patrick YU's qualifications and had taken part in the drafting of the six allegations against Ms Anna WU. He also asked Dr WU whether he felt that the comments he made to the media in the past few weeks had actually added fuel to the controversy over EOC and had further provoked a split in the institution. He asked whether Dr WU would consider resigning from the EOC board.

38. Dr Raymond WU said that since he had been invited to attend the meeting in the capacity of an EOC representative, he did not consider it appropriate for him to use the precious meeting time to respond to any personal attack on him. He said that the views he expressed at this meeting should represent the views and opinions of the EOC board. He said that in order not to abuse the use of public resources for private purpose, he had decided not to answer Mr CHEUNG Man-kwong's questions.

39. Mr CHEUNG Man-kwong pointed out that he had only followed the normal meeting procedures and directed questions to Dr Raymond WU. Mr CHEUNG then asked SHA whether he considered that Dr WU's recent behaviour and remarks had caused even more damage to the credibility of EOC.

40. SHA responded that in appointing EOC members, the Government was obliged to ensure that the composition of EOC was pluralistic and representative, taking into account the background and expertise of the people concerned. He considered that it was perfectly normal for each EOC member to have his/her own views and opinions, and differences in their views did not necessarily mean that there was a split in EOC. However, in view of the recent spate of incidents surrounding EOC, he considered that it was also a matter of

Action

personal choice for any EOC member to decide whether he/she wished to stay or resign, as in the case of Mr Michael WONG, the former EOC Chairperson.

41. Mr Andrew CHENG said that as the former Chairman of the Panel on Home Affairs, he found that SHA had only attended meetings of this Panel on rare occasions in the past. He urged SHA to attend more meetings of this Panel in the future. The Chairman added that SHA had all along been invited to the meetings of the Panel but usually his subordinates attended such meetings. SHA agreed to take into consideration members' views and comments.

42. Mr Andrew CHENG asked whether the Government had a plan to "purge" EOC as reflected in the recent incidents surrounding EOC and whether it considered that Ms Anna WU and some EOC members were its "opponents". He queried the criteria adopted by the Government in the appointment of EOC members and of Mr Michael WONG as the Chairperson. He asked whether the Government only wanted to appoint people who were supportive of the Government and whether it had intended to reduce EOC to nothing more than political window dressing so that it would not confront the Government any more. He also asked whether the Government would take measures to enhance the transparency and openness of the appointment process of chairpersons of advisory and statutory bodies. Referring to the private gathering on 5 November, Mr CHENG considered that it was unacceptable for SHA to have left the meeting at the most important juncture.

43. SHA said that he did not consider that the discussion on the resignation statement was the most important part of the private gathering on 5 November. He said that the purpose of his attending the meeting was to understand Mr Michael WONG's intention as to whether he wished to resign or not. He said that it was necessary for him to do so because the Government played the following roles in its relationship with EOC -

- (a) appointing EOC members;
- (b) appointing the EOC Chairperson;
- (c) providing resources for the operations of EOC; and
- (d) handling the introduction and amendment of discrimination laws.

44. SHA said that the Chairperson or members of EOC, once appointed, would handle independently the affairs of EOC according to the law. SHA said that at that private gathering, after Mr WONG had clearly indicated that he was going to resign, he could have left immediately. However, he had not done so because Mr WONG looked very depressed.

Action

45. SHA said that in the appointment of EOC members, the Government took into account their background and expertise, and selected those with expertise which would be useful to EOC's work in implementing the relevant ordinances on equal opportunities. He added that it was necessary both to appoint new members to EOC to inject new blood and to extend the appointment of some serving members for the sake of continuity of EOC's work.

46. Mr Andrew CHENG suggested that before appointing chairpersons of various advisory and statutory bodies, including EOC, HAB should arrange for the selected persons to meet with LegCo Members first to ensure that Members also agreed on the suitability of these persons for the appointments.

Adm

47. SHA responded that the Government had used the same mechanism for selecting Ms Anna WU and, subsequently, Mr Michael WONG, for appointment as the EOC Chairperson. He added that the Government was conducting an overall review of the advisory and statutory bodies. He undertook to take into account Mr Andrew CHENG's suggestion.

48. Mr LEE Cheuk-yan also queried the criteria on which the selection of Mr Michael WONG for appointment as EOC Chairperson was based. He pointed out that Mr WONG had little experience in the work of promoting equal opportunities. Furthermore, he considered that Mr WONG's handling of the termination of appointment of Mr Patrick YU was a typical case of discrimination against an employee by an employer. He requested SHA to explain more clearly what he referred to as "internal affairs of EOC" meant, i.e., what he had heard when he returned to the private gathering on 5 November after having left for a while. Mr LEE also asked Dr Raymond WU whether he was representing EOC members in drafting the six allegations and whether SHA was present during the drafting process.

49. Dr Raymond WU said that some Members had been very unfair to him in raising allegations against him merely based on rumours. He said that he did not understand what it meant by "drafting of the six allegations". He said that to avoid wasting time, he did not want to rebut such allegations point-by-point. However, he stressed that his refusal to comment on these allegations did not mean that he accepted them.

50. SHA said that the Government had considered many people before deciding to appoint Mr Michael WONG as EOC Chairperson. He said that Mr WONG, being a retired Justice of Appeal of the Court of Appeal of the High Court, was highly reputable. Apart from possessing a strong legal background, Mr Wong, after retirement, had been appointed as a deputy judge of the High Court and the Chairman of the Administrative Appeals Board. SHA said that in appointing Mr WONG as EOC Chairperson, the Government had also taken

Action

into consideration the fact that judges were widely respected and they enjoyed a high social status and had the image of impartiality.

51. SHA said that he had not seen the six allegations before they were published. Mr LEE Cheuk-yan further asked SHA whether he was aware that there was any discussion relating to allegations against Ms Anna WU at the private gathering on 5 November, or whether he was completely unaware that Mr WONG had actually drafted the allegations against Ms WU at the meeting. SHA said that the part that he had heard was only about the internal affairs of EOC, which did not involve any allegations against anyone.

52. Hon LEE Cheuk-yan pointed out that Mr Michael WONG had already initiated action to terminate the appointment of Mr Patrick YU in early September by asking DPA to contact Mr YU to explore the possibility of termination of his contract. He asked the EOC representatives whether EOC members were aware of such action taken before the EOC meeting on 18 September 2003. He also asked whether it was true that the termination of the appointment of Mr YU was only discussed under "Any Other Business" at the meeting and why there was no paper provided for this item.

53. Mr Peter YEUNG responded that the termination of appointment of Mr Patrick YU was discussed at the EOC meeting on 18 September and, pursuant to normal meeting procedures, it was formally raised under "Any Other Business". Mr YEUNG said that EOC members did not need to be kept fully informed of the daily operations of EOC staff members. He said that it could be said that EOC members knew that EOC staff had telephoned Mr YU before the termination of his appointment was discussed by EOC. However, this was not done under a formal instruction of EOC and he believed that the call was made to have a preliminary discussion on the matter only.

54. Mr LEE Cheuk-yan asked Dr Raymond WU again whether he was representing EOC members in drafting the six allegations. Dr Raymond WU queried the legal basis for Members' questioning every minute detail of a private gathering. He asked why Members had been dwelling on "drafting of six allegations" and whether it had already been confirmed that such alleged drafting actually took place. He said that he had picked up some rumours about problems relating to the internal operations of EOC, which had been reported by the press for years, and asked Mr Michael WONG to confirm if they were true. He had only suggested to Mr WONG that, if Mr WONG agreed that the rumours were true, he should set out these problems in his statement of resignation. Dr WU said that the suggestion was made with a good intention as it would help the incoming Chairperson improve EOC. He considered that it was just like a doctor's responsibility to let the new doctor know his patient's past diagnosis. He considered it inappropriate for Members to say there was any "drafting of six allegations" merely based on media reports. In response to the Chairman, Dr WU said that he had made the above

Action

suggestion to Mr WONG in his personal capacity as a friend of Mr WONG. Mr Peter YEUNG clarified that EOC had never discussed or appointed any EOC member to draft the six allegations. In addition, EOC had not discussed the allegations.

55. Ms Emily LAU said that the recent incidents relating to EOC had done a great harm to the reputation of Hong Kong, EOC and other parties concerned. She considered that the EOC members themselves were largely responsible for that. She said that SHA should understand that it was a very serious matter for the EOC Chairperson to resign and he should not have left the meeting on 5 November at an important time. Ms LAU said that the recruitment exercise for the post of Director (Operations) had supposedly gone through stringent recruitment procedures laid down by EOC. She asked why the EOC members could have easily accepted Mr Michael WONG's proposal of terminating the appointment of Mr Patrick YU only after discussing it for 45 minutes at the EOC meeting on 18 September. She also asked if it was true that no paper on the subject was provided for the meeting.

56. Referring to paragraphs 12 to 15 on pages 15 and 16 of Mr Michael WONG's written submission tabled at this meeting, Ms Emily LAU requested EOC representatives to respond to Mr WONG's views that the procedures of the recruitment of Mr Patrick YU obviously did not comply with the proper recruitment procedures of EOC. She also requested EOC representatives to clarify whether there was really no record explaining why the selection board had found the other four candidates applying for the post of Director (Operations) unsuitable, as stated by Mr WONG in his submission. She also asked whether the EOC members had looked at Mr YU's qualifications and working experience when endorsing the recommendation to appoint Mr YU as Director (Operations) and, if they had, why they had later decided to accept Mr WONG's views that Mr YU lacked the relevant experience in complaint handling and investigations and had agreed to terminate Mr YU's appointment.

57. Ms Emily LAU also drew EOC representatives' attention to paragraphs 15 to 17 where Mr WONG had mentioned many times that it was "EOC" which had considered Mr YU unsuitable for the job of Director (Operations). Ms LAU asked EOC representatives whether they had so agreed.

58. Referring to paragraph 19 on page 21 of Mr Michael WONG's written submission, Ms Emily LAU asked EOC representatives and SHA whether they agreed to the allegations made by Mr WONG. One of the allegations was that the establishment of EOC had kept expanding during Ms Anna WU's tenure and as a result, the budget of EOC had increased considerably. It was also alleged that much litigation cost had arisen from court proceedings brought against EOC by its staff members. Ms LAU said that Mr WONG also mentioned in paragraph 19(ii) that his view regarding EOC's way forward was different from Ms Anna WU's in that he did not consider that EOC's priority of

Action

work was to open up new areas of work. Mr WONG took the view that given the budgetary deficit faced by Hong Kong, EOC should cut unnecessary expenditures. Ms LAU asked the EOC representatives whether they agreed to what Mr WONG said in paragraph 19. She also asked why Dr Raymond WU, who had been an EOC member for six years, had to ask Mr WONG, who had been the EOC Chairperson for only three months, about the truthfulness of rumours relating to problems of the internal operations of EOC.

59. Mr Peter YEUNG said that EOC representatives could not respond to the quoted paragraphs at this meeting because they had no time to read and discuss Mr Michael WONG's submission, which was only tabled at the meeting. Regarding the appointment process of Mr Patrick YU, Mr YEUNG reiterated that the procedure adopted for the recruitment of Director (Operations) followed the normal recruitment procedure of EOC. He said that the selection board had completed the recruitment process in an independent and professional way. He said that the recommendation of the board to appoint Mr Patrick YU as Director (Operations) had been endorsed by EOC members.

60. Mr Peter YEUNG said that many organisations might also have the experience that after offering an employment contract and before, or after, the employee reported for duty, the organisations found it necessary to terminate the contract offered for various reasons (e.g. changes in policy). Mr YEUNG reiterated that the EOC meeting on 18 September lasted for 2½ hours, out of which more than 45 minutes were spent on discussing the termination of the appointment of Mr Patrick YU. He said that every EOC member was given the opportunity to fully express his/her views and opinions at that meeting. He said that EOC members had considered all the views expressed carefully before passing the relevant motion.

61. Dr Raymond WU said that the Government should maintain its non-intervention policy regarding the operations of statutory bodies including EOC. He considered that anyone who suggested that SHA should have intervened in Mr Michael WONG's freedom of speech or in any other internal affairs of EOC was not showing respect for the independence of EOC. He said that as an EOC member, it was not appropriate for him to access too much internal information of EOC, especially information that involved individuals' privacy because if such information was leaked, he might be alleged to be the one who had leaked the information. Therefore, he had only picked up rumours relating to problems of the internal operations of EOC and had asked Mr WONG to confirm if they were true or not.

62. SHA said that he had not given Mr Michael WONG any suggestion as to the way forward of EOC. He said that though appointed by CE, the EOC Chairperson, once appointed, would handle independently the affairs of EOC according to the law and would exercise the power vested in him under the law independently. The Permanent Secretary for Home Affairs said that the EOC's



Action

budget had increased from \$60 million in 1996 to \$80 million in the previous year mainly to meet additional expenditures incurred by the implementation of the new Family Status Discrimination Ordinance and to pay for gratuities of EOC staff members.

63. DPA of EOC pointed out that the establishment of EOC had downsized, not expanded, in these few years. The number of EOC staff members had decreased from 85 in 2001-02 to 77 at present. He added that the Government had also cut its allocation of funding to EOC in these few years.

64. Ms Emily LAU asked the EOC members whether they had accepted Mr Michael WONG's proposal of terminating the appointment of Mr Patrick YU also because Mr WONG had told them that the policy direction of EOC had changed and there was no need for EOC to employ Mr Patrick YU. Mr Peter YEUNG reiterated that the recruitment process of Mr YU was a proper one and it had been an unanimous decision to select Mr YU for the appointment. As to the termination of the appointment of Mr YU, Mr YEUNG said that at the EOC meeting on 18 September, EOC members had carefully considered the three reasons given by Mr Michael WONG for terminating Mr YU's appointment. He said that a majority of EOC members had expressed their views on the matter at that meeting.

65. Mr Albert CHAN said that the recent scandals relating to EOC, which involved the alleged use of a smear campaign to attack other people, had dealt a severe blow to the credibility of EOC. He said that the public had started to query why the Government had selected Mr WONG for appointment as the EOC Chairperson. He asked what the Government would do to restore the public's confidence in and the credibility of EOC.

66. Mr Albert CHAN queried whether the gathering on 5 November was really "private" in nature since all the attendees were reportedly holders of public offices, the issues discussed were related to EOC and SHA had to report to CE the next morning what he had heard at the gathering. Mr CHAN requested SHA to clearly explain what he had heard during the meeting and whether the discussion was related to allegations against EOC.

67. SHA said that sometimes he also met with LegCo Members on unofficial occasions and it was hard to say whether these meetings were private or not. He reiterated that his purpose of attending the meeting on 5 November was to understand Mr Michael WONG's intention as to whether he wished to resign or not. He said that if Mr WONG had intended to resign, it might be necessary for the Government to make some forward planning because the Government was responsible for appointing the EOC Chairperson. As to the drafting of Mr WONG's statement of resignation, SHA said that he had left it to Mr WONG and he did not consider that drafting of the statement was the most important part of that meeting. SHA reiterated that when he returned to the

Action

meeting after having been away for a while, the discussion between Mr WONG and his friend was coming to an end. It was about what Mr WONG had observed about the situations in EOC while he was in office and that did not involve any allegation against any person.

68. SHA further said that the credibility of EOC was built on the community's recognition of EOC's achievements over the years and it would not be lost simply with the departure of one or two EOC members. He said that the powers and functions of EOC were stipulated clearly by the law. He said that the best course of action at present was to be forward looking. The Government would also strive to appoint as soon as possible a new EOC Chairperson who was credible and steadfast in the belief of equal opportunities. In addition, HAB would ensure that EOC remained adequately funded.

69. Mr NG Leung-sing said that the Legal Adviser of EOC had already pointed out in her letter to SHA of 3 November 2003 that the early termination of Mr YU's contract was "strictly a contractual issue between the EOC and its employee, and is an employer/employee dispute". Mr NG asked SHA whether HAB in the future would expeditiously deal with similar disputes that might occur in other statutory bodies so that they did not need to be discussed by LegCo.

70. Referring to paragraphs 8 and 9 on page 14 of Mr Michael WONG's written submission tabled at the meeting, Mr NG Leung-sing said that Mr WONG had made two allegations. Firstly, Mr WONG found that Mr Patrick YU was not the most suitable candidate for the advertised job. Secondly, Mr WONG found that the recruitment of Mr YU did not follow the internal recruitment procedures of EOC. Mr NG queried why Ms Anna WU, who had provided the name of Mr YU to the search firm, still sat on the selection board as a member as this might give rise to concern of possible conflict of interests. Mr NG said that Mr WONG had also pointed out in paragraph 9 of his submission that when Ms WU conducted the recruitment for the post of Director (Operations), she had not considered seeking the overall views of the EOC board which comprised a total of 16 members.

71. Mr Peter YEUNG said that he did not wish to have a debate on Mr Michael WONG's written submission since EOC members had not yet read it. He said that the composition of the five-member selection board had been endorsed by the Administration and Finance Committee under EOC. He said that therefore Ms Anna WU, the then EOC Chairperson, could not have decided on the composition just by herself. As the chairman of the selection board, Mr YEUNG recalled that in the recruitment process, after the selection board had conducted initial interviews with all the shortlisted candidates, the board wished to seek more suitable candidates. Ms Anna WU had then provided the name of Mr Patrick YU to the search firm, and the other four board members were well aware of this move. Mr YEUNG added that as

Action

required by the normal procedures of EOC, EOC had taken a decision on the termination of Mr YU's appointment after conducting a thorough discussion.

72. Mr Henry WU said that according to Mr Michael WONG's written submission tabled at this meeting, Mr WONG had actually started discussing with Mr Patrick YU about compensations to be made to Mr YU for the early termination of his contract before he commenced employment. He noted that according to the submission, Mr YU had expressed dissatisfaction with the amount of salary offered to him as compensation. Mr WU asked EOC representatives whether Mr YU had formally lodged a complaint to EOC about termination of his appointment by EOC and what complaint mechanism EOC had for handling complaints relating to employment contract disputes with its staff.

73. The Legal Adviser of EOC said that apart from the telephone call between DPA and Mr YU when there was a preliminary discussion about the possibility of terminating Mr YU's contract, the only contact that EOC had had with Mr YU had been the letter received from Mr YU's solicitors of 17 September 2003 informing EOC that Mr YU might take legal action.

74. Mr Peter YEUNG said that EOC had precedents of early termination of contracts with its staff. He said that there was an internal mechanism within the administrative system of EOC for handling complaints about employment contract issues lodged by staff members at the junior or middle levels. He said that however, decisions on such issues relating to staff members at the directorate level were required to be endorsed by the EOC board and the Administration and Finance Committee. Therefore, the contract issues relating to Mr Patrick YU had to be discussed and endorsed by EOC members at the EOC meeting on 18 September.

75. Referring to paragraph 19 on page 21 of Mr Michael WONG's written submission tabled at the meeting, Miss CHOY So-yuk said that it was pointed out that half of the litigation costs borne by EOC had arisen from court proceedings brought against EOC by its staff. She said it was also noted that there had previously been seven cases of termination of contract by EOC with senior officers. She asked the EOC representatives how many of these cases had been first discussed by EOC members and involved lawsuits. Miss CHOY also asked Ms Anna WU what she understood about the role of the EOC Chairperson and whether she shared the views of some Members that the EOC Chairperson's role was to confront the Government.

76. Ms Anna WU clarified that not all of the seven cases involved termination of contract by EOC. Moreover, some of them had nothing to do with her as they had occurred before her tenure and some after. However, for protection of privacy, she could not give the reasons of resignation of the

Action

employees concerned. She pointed out that dismissals involving court proceedings against EOC had all occurred before her tenure.

77. Ms Anna WU said that she had performed the role of the EOC Chairperson in accordance with the law and her responsibility was to uphold the rule of law. She said that it was not her aim to confront the Government.

78. The Legal Adviser of EOC said that there were two cases in which legal proceedings had been brought against EOC including Dr Fanny CHEUNG, the first EOC Chairperson. Both cases were related to termination of employment of people preceding the appointment of Ms Anna WU and both involved allegations of discrimination against EOC under its own ordinances. One of the cases had been finalised in the court and the other case was still pending.

79. Mr Fred LI said that Members were not concerned about the suitability of Mr Patrick YU for the post of Director (Operations) but were worried about the damage done to the credibility of EOC by the recent spate of incidents relating to EOC. He said that the bone of contention was Mr Michael WONG's view, as stated in his submission tabled at this meeting, that the procedures for recruitment of Mr Patrick YU did not follow the recruitment procedures of EOC. He considered that EOC members owed the public an explanation as to why they had endorsed the recommendation of appointing Mr YU and then subsequently changed their mind and accepted the proposal of Mr WONG to terminate Mr YU's appointment. Referring to Mr Michael WONG's press statement of 6 November, Mr LI asked what SHA understood by the word "deserted" and whether it referred to the period of SHA's temporary absence during the meeting on 5 November.

80. Mr Peter YEUNG said that as EOC had not yet discussed Mr Michael WONG's written submission, he was not in the position to comment on it. He said that the selection board was sincere and had followed the proper recruitment procedures in recommending Mr Patrick YU for appointment as Director (Operations). He also reiterated that at the meeting on 18 September, EOC members had agreed to terminate Mr YU's appointment after a very thorough discussion and it was a collective decision made by EOC members to terminate Mr YU's appointment. He confirmed that the selection board had studied in detail the qualifications and working experience of Mr Patrick YU before recommending to appoint him as Director (Operations).

81. SHA said that he did not understand what Mr Michael WONG meant by the word "deserted" in his press statement. He reiterated that the purpose of his attending the meeting on 5 November was to understand Mr WONG's intention as to whether he wished to resign or not, and not to make arrangements for Mr WONG's resignation or for his statement of resignation.

Action

82. Mr Fred LI said that it was inadequate for Mr Michael WONG to only provide a written submission. He suggested that the Panel should invite Mr WONG to its next meeting so that Members could put questions to him. Mr LI also requested that EOC should provide the minutes of its meeting on 18 September for members' reference.

83. DPA said that the EOC board had agreed at a meeting in 1999 that the minutes of EOC meetings would not be made public. He explained that the minutes of these meetings were intended for circulation to EOC members and staff only for their reference. He said that as members of the public did not have the details of the background to the discussions at these meetings, they might not understand very clearly about the discussions and misunderstandings might be caused. Nevertheless, DPA agreed to convey Members' request for the minutes of the EOC meeting on 18 September 2003 to the EOC board for consideration.

EOC  
representatives

84. Ms Margaret NG said that the statement of resignation delivered by Mr Michael WONG, the reasons given therein and the tone of the statement, and subsequent accusations of a smear campaign had added fuel to the controversy over EOC and dealt a greater blow to EOC's credibility. Ms NG said that HAB had the responsibility of safeguarding the public trust in EOC in its appointment or termination of appointment of the EOC Chairperson and members. She said that that was why SHA had considered it necessary for him to go to see Mr Michael WONG in person on 5 November to understand if Mr WONG had the intention to resign. Ms NG further said that knowing well at the private gathering that Mr WONG's statement of resignation being drafted might do damage to the reputation of EOC and Ms Anna WU, its former Chairperson, and that the allegations had no basis, SHA should have intervened instead of distancing himself from it. Ms NG then asked SHA why he did not take the initiative to attend the special meeting on 7 November to give an account of Mr WONG's resignation, when he was already quite sure on 5 November that Mr WONG would resign.

85. SHA clarified that when he returned to the meeting, what he had heard was only views on EOC affairs. He did not hear at all any allegation against any person or any smearing remarks. He said that what he understood was that Mr WONG was only going to give, in his statement of resignation, his views or a brief account of EOC affairs. He said that there was no such thing that he had participated in, discussed or connived at any smear campaign. SHA said that although on 5 November Mr WONG had indicated his intention to resign, he still could not confirm that Mr WONG would really resign until after Mr WONG formally tendered his letter of resignation, which was made to CE in the afternoon on 6 November 2003. SHA said that the resignation process was deemed to have completed when CE made a statement later on that day that Mr WONG's resignation was accepted.

Action

86. Ms Margaret NG said that now that the allegations had been published, she asked SHA whether he would openly dismiss these allegations as unfounded so that justice could be done to Ms Anna WU and the credibility of EOC could be restored. SHA responded that he would not comment on any allegation without proof. He said that when there was any further information or proof of the allegations, such information or proof would be referred to EOC for response. Ms NG asked SHA whether he had known so far that any of the allegations was unfounded and if he had, whether he would do something to clear Ms Anna WU's name. SHA responded that so far he still had not seen any evidence to show that the allegations were true or false.

87. Mr James TO said that after reading Mr Michael WONG's written submission tabled at the meeting, he found that there were discrepancies between it and other available information, such as the letter from the Legal Adviser of EOC to SHA of 3 November 2003, statements made by Ms Anna WU and the chronology of events provided by Mr Michael WONG on 14 November 2003. Mr TO considered that it was necessary to invite Mr Michael WONG again to attend another meeting of the Panel so that Members could seek clarifications from him, e.g. why Mr WONG opined that the procedures for recruitment of Director (Operations) were improper. He said that this would help Members know the whole truth and would facilitate the Government to follow up the matter. He agreed with Ms Margaret NG that the Government should be concerned about the allegations and, if it was confirmed that they were unfounded, the government should state so openly.

88. Referring to the private gathering on 5 November, Mr James TO asked SHA what exactly he had heard about the "internal affairs of EOC" and was it the content of the six allegations reported in the East Week on 12 November. Mr TO said that at that meeting, SHA should have been very concerned with what Mr WONG was going to say about EOC's internal affairs the following day because the Government was obliged to give response to any such comments from Mr WONG. He said that for example, if Mr WONG was going to say openly that the Government had not provided adequate resources to EOC, the Government should give response to that.

89. SHA said that he had not seen the magazine article in question until it was published. He said that what he had heard at the meeting on 5 November was not the content of that magazine article. It was Mr Michael WONG's observations or understanding of the operations of EOC. SHA reiterated that he had not participated in the discussion about Mr WONG's statement of resignation because he considered that it should be handled by Mr WONG himself. SHA said that if the statement had anything to do with any internal affairs of EOC, HAB would give a response after it had been published or read out, not in the course of its drafting. Besides, the "internal affairs" that he had heard had not involved any allegation against anyone.

Action

90. Mr James TO asked whether SHA had considered that there was no need for him to raise any question to or seek any clarification from Mr WONG on the spot regarding what he had heard at the meeting on 5 November. Mr James TO also asked SHA if he could confirm, at present or later, whether there was any staff member of HAB who had had any involvement in the drafting of the article in the East Week under reference, including assisting in typing, verifying, discussing, commenting on or knowing the content before it was published.

91. SHA confirmed that no staff member of HAB had any participation in the drafting of the article in question, including assisting in typing, drafting or verifying, discussing, or knowing any of the content before it was published. Mr James TO asked SHA whether he had checked with all staff members of HAB before making the above confirmation. Deputy Secretary for Home Affairs (DS(HA)) supplemented that after the magazine article had been published, he had checked with all the staff members of HAB who were involved in handling events relating to EOC. DS(HA) said that they had confirmed that they had come to know about the content of the magazine article only after it had been published.

92. Mrs Sophie LEUNG said that the way Ms Anna WU handed over to Mr Michael WONG seemed to be far from satisfactory. She asked Ms WU and SHA whether they also thought that the process could have been handled in a better way.

93. Ms Anna WU said that the appointment of Mr Michael WONG as the EOC Chairperson was announced by the Government on 2 July 2003, and made known to her by a long distance call from HAB at 7 am that day. Ms WU said that she was not in Hong Kong for the first half of July 2003. She was back to Hong Kong in mid-July 2003 and resumed work on 17 July 2003. She had then discussed with EOC staff the necessary arrangements for a briefing exercise to be conducted for Mr Michael WONG and details of these arrangements could be checked from EOC's records.

94. Ms Anna WU said that on 18 July 2003 (Friday), she discussed with Mr WONG over the telephone for the first time. On that day she had made three phone calls trying to contact Mr WONG direct and she was only able to reach him on the last attempt. Ms WU said that her letter of 22 July 2003 to Mr WONG had all the details of what Mr WONG had said over the telephone that had offended her. Ms WU said that over the telephone, she had invited Mr WONG to come to EOC for handover. She had asked him whether he wished to discuss with any EOC staff members, including the Director (Operations) (designate), who would come to Hong Kong at the end of July to pay visits to EOC members including the new Chairperson. She had also asked Mr WONG whether he wanted her to arrange any press conference for him. Ms WU said that Mr WONG had finally agreed to have a handover meeting on 28 July 2003.

Action

95. Ms Anna WU said that on 21 July 2003 (Monday), she had requested DPA to contact Mr Michael WONG as soon as possible to make arrangements for transport and any other necessary arrangements. She said that however, when DPA contacted Mr WONG, Mr WONG said that he would not have the time to come on 28 July 2003. Ms WU said that she had then requested DPA to prepare and send a bundle of documents and briefing materials to Mr WONG. Ms WU said that her letter of 22 July 2003 to Mr WONG had also set out these events. Ms WU said that after sending her letter of 22 July 2003 to Mr WONG, she had received no corrections from him. She added that the events described in the letter were also witnessed by others.

96. In response to Mrs Sophie LEUNG, SHA said that the handing-over between chairpersons was usually left to the chairpersons concerned to handle.

97. Mrs Sophie LEUNG said that according to the chronology of events provided by Mr Michael WONG, he had also called EOC requesting for a handover meeting and had initially been informed that Ms WU would be able to meet him on 21 July 2003. Mrs LEUNG said that speaking from her experience in the business sector, it was inconceivable that there was no proper handover for such a senior post as the EOC Chairperson. She asked SHA whether there had been similar cases in other statutory bodies.

98. SHA said that chairpersons of these bodies, being mature adults, were normally entrusted to handle their handover process themselves, and HAB seldom made arrangements for such handover.

99. Ms Anna WU reiterated that after sending her letter of 22 July 2003 to Mr Michael WONG, she had received no corrections from him. She said that on 18 July 2003 when she discussed with Mr WONG over the telephone, she had also asked him whether he wished to discuss with Mr Patrick YU, Director (Operations) (designate), since Mr YU would report for duty after the end of her term of office. She said that in fact Mr YU had come to Hong Kong at the end of July to pay visits to EOC members including the new Chairperson.

100. Ms Anna WU further said that the restructuring process of EOC and the recruitment of the Director (Operations) had spanned a long period of time from August 2002 to May 2003 and the appointment of Mr Michael WONG was made known only on 2 July 2003. She said that it was therefore untrue that she had deliberately conducted the recruitment for the post after learning the appointment of Mr Michael WONG as the EOC Chairperson. She pointed out that leaving the post vacant was not conducive to the smooth operations of EOC and would only make the work of the new Chairperson more difficult.

101. Mr Abraham SHEK said that he agreed with SHA that it was important for the Government to uphold its non-intervention policy in respect of statutory



Action

bodies including EOC. He said that having heard the statements made by EOC members that morning, he felt that the appointment and termination of appointment of Mr Patrick YU or other EOC staff were decisions made by EOC under EOC's employment guidelines and not the personal decisions of respective EOC Chairpersons. He requested that the minutes of EOC meetings relating to the appointment and termination of appointment of Mr Patrick YU, particularly the minutes of the EOC meeting on 18 September, be provided to the Panel. Mr SHEK considered that the recent spate of incidents surrounding EOC had affected not only the reputation of Ms Anna WU and Mr Michael WONG but also EOC. He asked whether the Government and EOC would consider setting up a panel of independent members to investigate into allegations against EOC ever since its establishment.

Adm  
EOC  
representatives

102. SHA said that the Government's approach had always been that if an allegation or complaint against a statutory body was substantiated, the Government would refer it to the body concerned for investigation and response. He said that Mr Abraham SHEK's request would be conveyed to EOC. He said that the Government would also request to participate in the investigation together with EOC. Mr Peter YEUNG said that he would convey the suggestion to EOC for consideration. As regards the request for minutes of the relevant EOC meetings, DPA said that this would be further considered by the EOC board.

103. However, Mr Abraham SHEK considered that given the wide public concern about the recent events relating to EOC and for the sake of fairness to Ms Anna WU and Mr Michael WONG, the matter should not be referred back to EOC and instead, an independent commission of inquiry should be appointed to conduct the investigation in an open and impartial manner. SHA said that the Government had handled allegations against Mr Michael WONG by way of referring the allegations to Mr WONG himself for clarifications and response. He said that therefore allegations against EOC would also be referred to EOC and the Government's responsibility was to make sure that these allegations were responded to by EOC.

104. Mr Michael MAK suggested that the Government should review the suitability of individual EOC members to continue to serve on the EOC board in view of their emotive remarks made to the media recently. Referring to the Mr WONG's submission, he noted that Mr WONG had met with Mr Patrick YU on 1 August expressing his view that the remarks made by Mr YU in his SCMP interview were inappropriate. He asked whether Mr WONG had discussed with any EOC member before 18 September 2003 about his views made to Mr YU and his intention to terminate Mr YU's appointment.

105. Mr Peter YEUNG said that on 5 September, Mr Michael WONG had mentioned to him his intention to terminate the appointment of Mr Patrick YU and to raise the subject for discussion at the meeting on 18 September.

Action

However, he did not know whether Mr WONG had mentioned to any other EOC member before 18 September about his intention to terminate the appointment of Mr YU. Mr YEUNG confirmed that between 1 August and 17 September 2003, no EOC meeting had been held to discuss the termination of the appointment of Mr YU.

106. Referring to paragraph 6 on page 13 of Mr Michael WONG's written submission tabled at the meeting, Mr Michael MAK said that he did not understand why Mr WONG said that "after he had met with Mr YU and read his credential afterwards, EOC found that he was not suitable for the post of Director (Operations)". He said that it was only until 18 September that EOC members had discussed Mr WONG's proposal to terminate Mr YU's appointment. He also asked why the matter was only discussed under "Any Other Business" at the meeting on 18 September.

107. The Legal Adviser of EOC said that the termination of appointment of Mr Patrick YU was discussed under "Any Other Business" at the meeting on 18 September 2003 according to the established procedures of EOC. She said that as the agenda for EOC meetings and papers on the normal agenda items were circulated to EOC members and staff concerned well in advance, items with confidentiality, including employment issues, were normally discussed under "Any Other Business".

108. Mr MA Fung-kwok considered that the handover process had been handled in an unsatisfactory manner. He felt that had it been handled in a better way, the disputes over the appointment and termination of appointment of Mr Patrick YU might have been avoided to a large extent. In this connection, Mr MA asked Ms Anna WU the following questions -

- (a) whether she agreed that an outgoing chairperson should have the responsibility to hand over to the incoming one and what her understanding was of the importance of handover;
- (b) when did she decide to announce the appointment of Mr YU on 17 July and why she had not considered leaving it to be announced by the new Chairperson since Mr YU would be working with Mr WONG and she also wanted them to have good cooperation;
- (c) why she had made the announcement of Mr YU's appointment on her first day back to work before she made arrangements to hand over to Mr WONG;
- (d) what instructions she had given to her subordinates in relation to the handling of Mr YU's appointment while she was away from Hong Kong;

Action

- (e) what was her response to Mr WONG's request to meet with her on 18 July 2003.

109. Mr MA Fung-kwok also asked why the selection board had unanimously agreed to appoint Mr YU and had subsequently changed their mind and agreed to authorise the Chairperson to terminate the appointment at the meeting on 18 September. He also asked why certain individual EOC members had expressed different views to the media after that meeting. Mr MA questioned whether there was a culture within EOC that EOC members tended not to insist on their own views but to accept the decisions of the Chairperson and if so, since when this culture had been built.

110. Mr MA Fung-kwok said that Mr Michael WONG had mentioned in his submission that he had made several attempts to contact Ms WU for a handover meeting but to no avail. Mr MA asked whether Mr WONG had approached HAB for assistance. SHA confirmed that Mr Michael WONG had not approached HAB for any assistance on handover arrangements.

111. Ms Anna WU said that for the first half of July, she had been elsewhere attending a conference and on holiday and only resumed work on 17 July 2003. Ms WU clarified that the telephone calls made by Mr Michael WONG to EOC requesting for a handover meeting were not made to her direct. On 18 July 2003, i.e. the second day after resuming work, she had made all efforts to check the contact telephone numbers of Mr WONG, including his mobile telephone number, because she considered it necessary to hand over to him.

112. Ms Anna WU said that the press release announcing the appointment of Mr Patrick YU had been written around end of May/June 2003 before her departure from Hong Kong and was planned to be issued upon her return. Ms WU said that it was all very normal for her to announce the appointment of Mr Patrick YU on 17 July 2003. She explained that it was necessary for her to make the announcement as early as possible, given the fact that it was a key post and had been vacant for a long time, and that Mr YU had been found suitable and the press release was ready for issue. She added that she had discussed with other EOC members the issuing of the press release and they had consented to this arrangement.

113. Mr Peter YEUNG said that the selection board was dissolved immediately after reporting to EOC the outcome of the recruitment exercise. In fact, on 18 September, three of the five members on the selection board were no longer serving on EOC. Therefore, all views expressed at the meeting on 18 September were personal views and there was no question of any member of the selection board representing the board when speaking on the termination of appointment of Mr Patrick YU. Mr YEUNG did not agree that there was a

Action

culture within EOC that EOC members tended not to insist on their own views but accept the decisions of the Chairperson.

114. Mr MA Fung-kwok asked why Ms WU had found it so urgent to announce the appointment on 17 July which was the first day she was back to work. He considered that the announcement should have been made by the new Chairperson. Ms WU said that it was not right for Mr MA to comment on what should have been done then with hindsight. She said that the fact was that the post had been vacant for a long time and the selection board had duly completed the recruitment process and found a suitable candidate, so she had the responsibility to make the announcement. In fact, the press release had been drafted before she left Hong Kong. It was EOC staff who had suggested that the press release had better to be issued after she resumed work so that she would be the one to answer questions from the press regarding the appointment. She stressed that she had followed the normal procedures and practices in making the announcement.

115. Mr Martin LEE said that he would like to pick up the question raised by Ms Margaret NG earlier. He asked SHA whether up until the present moment, he had found any of the six allegations true or false. SHA said that the Government had not yet looked into the allegations and so far there was no information to show that any of them was true or false. He said that in handling the hearsay relating to Mr Michael WONG when he was the EOC Chairperson, the Government, having considered the wide public concern caused by the hearsay, had referred it to Mr WONG himself to make clarifications and Mr WONG had done so. In this case, if the hearsay again attracted much public interest, HAB would look further into it and follow it up.

116. Referring to the meeting on 5 November, Mr Martin LEE said that SHA had mentioned that he had wanted to meet Mr WONG again that night because he had known that Mr WONG had intended to resign. He asked SHA whether or not Mr WONG had decided to resign then, and at that meeting, whether SHA wanted Mr WONG to resign or not to resign.

117. SHA said that it was Mr Michael WONG's personal choice as to whether he resigned or not. He said that in his conversation with Mr WONG, he understood that Mr WONG had felt a lot of pressure. SHA said that when Mr WONG said he intended to resign, he personally thought that Mr WONG had probably made a right decision in choosing to resign. However, SHA said that he had not told Mr WONG what he thought.

118. Noting that the Legal Adviser of EOC had already explained that the two cases of court proceedings brought against EOC by ex-EOC employees had occurred before Ms Anna WU's tenure, Mr Martin LEE asked SHA why he still did not say that at least he now knew that this allegation was false. Mr LEE said that SHA's reluctance to clarify his position on this matter would only

Action

give the impression that he and his colleagues were involved in supplying information to the East Week.

119. SHA clarified that he was not involved in any discussion of the allegations and he had not supplied any information to the East Week. He said that the credibility of EOC was built on the transparency of its work and the public would be able to judge whether the allegations were true or false. He said that before there was any evidence, he did not want to comment on the allegations.

120. In response to Mr Martin LEE, SHA said that he had left the meeting on 5 November to attend to personal business. He said that he had only left the room, not the building, during the time of his absence from the meeting.

121. Mr WONG Sing-chi asked SHA in what capacity he had attended the private gathering on 5 November and whether SHA, or his colleagues, had ever suggested to Mr Michael WONG that he should resign. He queried why SHA had left the meeting to attend to personal business and, on his return, why he did not try to understand what had been discussed during his absence.

122. SHA reiterated that on 5 November, Mr Michael WONG had cancelled an EOC meeting originally scheduled for that day and the cancellation had given rise to speculations. In order to have a better idea of Mr WONG's intention, he had asked a friend to arrange a meeting with Mr WONG that evening. SHA said that since the meeting was arranged by a friend, it was a private gathering. SHA said that he had attended it in the capacity of SHA. During the meeting, he had not suggested to Mr WONG that he should resign. SHA said that since his purpose of attending the meeting was only to understand whether Mr WONG had the intention to resign, he did not consider that he should be involved in the drafting of Mr WONG's resignation statement. SHA said that he left when Mr WONG and his friend started discussing about the statement. SHA said that after he returned, he did not leave immediately because Mr WONG looked depressed and he felt that he should give him a few words of comfort.

123. Mr WONG Sing-chi said that it was inappropriate for SHA to have attended a private gathering in the capacity of SHA and for him to have handled official business at a private gathering. He said that this would give rise to concern about abuse of power. He also queried why SHA had not participated in the discussion about the "internal affairs" of EOC because he had a responsibility to understand such matters. SHA said that internal affairs of EOC should be handled by EOC. He had left the meeting at the time when Mr WONG and his friend started discussing about the statement of resignation. SHA said that as he considered that he should not be involved in it, he left the meeting at that time.

Action

124. Mr Andrew WONG also considered that Mr Michael WONG should have attended this meeting to answer questions about his written submission tabled at the meeting. Mr WONG pointed out that the whole issue was more than an employer/employee contract issue. He said that the crux of the matter was whether Mr WONG had already initiated discussion with Mr YU about terminating his appointment before Mr WONG was authorised by EOC to do so, as without such authorisation, Mr WONG was acting ultra vires.

125. Ms Cyd HO said that it was a bad approach for SHA to have dealt with official business at private gatherings and have used "private gathering" as an excuse not to give a full account of the discussion at the gathering. Ms HO asked who decided who should be present at the meetings on 4 and 5 November. She said that according to media reports, Mr Andrew LIAO was present at the meeting on 5 November and she asked why he was there. She considered that SHA should have tried to understand whether Mr WONG had the intention to resign or not through official correspondence. She said that SHA should not have used private gatherings to deal with official business, as this could give an impression that the Government was trying to intervene in EOC's operations in a concealed way, which had further complicated the matter.

126. SHA said that on 4 November, a friend of Mr Michael WONG invited him to a private gathering, at which Mr WONG was present and told SHA that he was contemplating resignation. On 5 November, the cancellation of a scheduled EOC meeting by Mr WONG had given rise to speculations. SHA said that he had asked the same friend who had arranged the gathering on 4 November to arrange another gathering on 5 November. SHA said that the same people attended the two gatherings. Ms Cyd HO asked SHA whether in view of the wide public concern aroused by the incident, he still thought that it was appropriate to have arranged the private gathering on 5 November to deal with official business, especially when sensitive issues were involved. SHA said that he would review such arrangement.

127. Dr LO Wing-lok considered that many questions concerning the EOC controversy remained unanswered and this meeting had brought out more new questions. He felt that unless the questions could be answered, the credibility of EOC would continue to be questioned. Concerning the appointment and termination of appointment of Mr Patrick YU, Dr LO considered that EOC should provide detailed information on the following -

- (a) the process of selecting Mr YU for the appointment;
- (b) the involvement of the search firm in the selection process;
- (c) the minutes of meeting(s) of the five-member selection board;
- (d) the minutes of the EOC meeting on 18 September 2003; and

Action

- (e) detailed response to Mr Michael WONG's written submission tabled at this meeting.

128. Dr LO Wing-lok suggested that the EOC board should also explain all the unfavourable comments/allegations relating to EOC, including those relating to Mr Michael WONG, and those events relating to EOC that had occurred before Mr WONG's tenure.

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129. Dr LO Wing-lok considered that if EOC was able to provide the above information, the community might not further demand a public inquiry into the relevant matters. He said that should it fail to do so, CE should appoint an independent commission of inquiry under Cap. 186 or, alternatively, LegCo should appoint a select committee to conduct the inquiry. As EOC representatives had already left the meeting, SHA undertook to convey Dr LO's requests and suggestion in paragraphs 127 and 128 above to EOC.

130. Mr James TIEN said that the recent events relating to EOC had already aroused the concern of overseas business sectors and media. He said that the role played by EOC as perceived by the international community was very important in that it was responsible for the implementation of three existing ordinances on equal opportunities. Moreover, EOC could give much advice to the Government in the course of drafting of the anti-racial discrimination legislation. Mr TIEN said that the Liberal Party was of the view that EOC should carry out its duties and functions as stipulated in the law in a fair and impartial manner, no matter who the EOC Chairperson was.

131. Mr James TIEN further said that EOC should not be asked to conduct an inquiry into its internal affairs as there might be a conflict of roles. He said that as LegCo Members were already busy with two ongoing select committees, he felt that the Government should appoint an independent commission which would, hopefully, prove that the Government had done its best to ensure the independent operations of EOC and find out whether the Government had any hidden agenda in appointing people to or removing people from EOC. He considered that clarification of these issues would help to safeguard the credibility of EOC.

132. The Chairman sought members' views as to -

- (a) whether the Panel should hold further meeting(s) and invite parties concerned to attend the meeting(s) to answer Members' questions; and
- (b) whether the Panel would propose that the Government should appoint an independent commission of inquiry or that LegCo should appoint a select committee to conduct the inquiry.

Action

133. The Chairman said that the Panel's task was to monitor Government policies under the purview of HAB. Therefore, it would not be appropriate for the Panel to convene more meetings to look into issues relating the appointment and termination of appointment of Mr Patrick YU. He suggested that if the Government did not appoint an independent commission of inquiry, the Panel should consider whether it should propose to the Council to appoint a select committee.

134. Mr James TO requested that the Panel should hold at least one more meeting and invite Mr Michael WONG to attend the meeting to answer questions. He said that he had many questions to ask Mr WONG concerning his written submission tabled at this meeting, particularly the discrepancies between Mr WONG's submission and other available information. He said that although Mr WONG might not accept the invitation, he hoped that the Panel could invite him once again.

135. Ms Emily LAU agreed that there should be an investigation and it should be conducted by LegCo if the public so wished. However, if Members were too busy and did not have the time to conduct the inquiry, she hoped that the Government could appoint an open and independent inquiry comprising credible and independent members and invite persons concerned to testify or give evidence.

136. Mr Michael MAK agreed with Mr James TO that the Panel should hold another meeting and to invite Mr Michael WONG to attend the meeting. He said that if Mr WONG failed to answer members' questions satisfactorily, the Panel could consider whether LegCo should appoint a select committee.

137. The Chairman put Mr James TO's proposal of holding one more meeting to vote. Ms Cyd HO, Mr Albert HO, Ms Emily LAU and Mr Andrew CHENG voted for the proposal. Mr Henry WU voted against it.

138. The Chairman asked whether the meeting should be cancelled if Mr Michael WONG did not accept the invitation to attend it. Mr James TO considered that, even if Mr WONG did not attend the meeting, members should meet again to discuss how to follow up the relevant issues and to discuss any information provided by the Administration/EOC after this meeting.

139. The Chairman requested the Clerk to make arrangements for a further meeting. He said that if Mr Michael WONG did not attend the meeting, the Panel would further consider the way forward.

140. Ms Emily LAU asked when the Administration would give a response to the issues discussed at this meeting, e.g. whether it would consider appointing an independent commission of inquiry. However, the Chairman



Action

pointed out that as suggested by Mr James TO, the Panel would hold another meeting before deciding whether to recommend that the Government should appoint such a commission. He added that SHA would report to the Panel at that meeting what course of actions the Administration would take.

141. Mr James TIEN said that the Liberal Party did not consider that just by holding one more meeting, Members would be able to get answers to all their questions. He therefore considered that the Government should appoint an independent commission of inquiry. Mr James TO said that he had many questions to ask concerning the documents provided and he could not decide at present how to follow up before his questions were answered. He also hoped that Ms Anna WU would attend the next meeting.

142. The Chairman said that since the Panel had already taken a decision that it would hold one more meeting, arrangements would be made for a further meeting. SHA informed the meeting that he would be away from Hong Kong between 26 to 30 November 2003. Members agreed that the meeting should be held after SHA's return to Hong Kong.

143. The meeting ended at 12:40 p.m.

Council Business Division 2  
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