

**立法會**  
***Legislative Council***

LC Paper No. CB(2)1241/03-04

(These minutes have been  
seen by the Administration)

Ref : CB2/PL/HA

**Panel on Home Affairs**

**Minutes of special meeting  
held on Tuesday, 9 December 2003 at 2:30 pm  
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 Emily LAU Wai-hing, JP  
Hon Andrew CHENG Kar-foo  
Dr Hon TANG Siu-tong, 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 CHEUNG Man-kwong  
Hon Abraham SHEK Lai-him, JP  
Hon Audrey EU Yuet-mee, SC, JP

**Members absent** : 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 CHOY So-yuk  
Hon Timothy FOK Tsun-ting, SBS, JP  
Hon Henry WU King-cheong, BBS, 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 (1)

Equal Opportunities Commission

Mrs CHU YEUNG Pak-yu, Patricia  
Chairperson (Designate)  
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

---

Action

- I. Way forward in relation to matters arising from previous discussions on 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**  
[LC Paper Nos. CB(2)392/03-04(01) to (03) and CB(2)574/03-04(01)]

The Chairman said that issues relating to the appointment and termination of employment of Mr Patrick YU as Director (Operations) by EOC and how the Government safeguarded the credibility of EOC had been discussed at the special meetings of the Panel on 7 and 14 November 2003. This meeting was held to discuss the way forward in relation to matters arising from the previous discussions.

2. The Chairman said that the Panel had invited Mr Michael WONG, former EOC Chairperson, to attend this meeting. However, Mr WONG had declined the invitation. In this connection, the Chairman referred to a letter dated 8 December 2003 from Mr James TO to the Chief Executive (CE) requesting CE to persuade Mr WONG to attend meetings of the Panel for

Action

discussion of the above issues, a copy of which was tabled for members' information. The Chairman said that he had also received requests from Ms Emily LAU and Mr Albert HO to invite Dr Raymond WU, Mr Andrew LIAO and Ms WONG Pui-sze to attend a meeting of the Panel. In addition, he had received a request from Professor Stevenson FUNG Hon-yuen, a former EOC member and one of the five members of the selection panel for appointment of Director (Operations) of EOC, to attend a meeting of the Panel. The Chairman said that the Panel would discuss all these requests received later.

3. The Chairman reminded members that at the meeting on 14 November 2003, Mr James TIEN had proposed that the Administration should be asked to appoint a commission of inquiry to look into the issues relating to the appointment and termination of employment of Mr Patrick YU as Director (Operations) by EOC. He said that the Panel would also discuss the proposal later.

4. At the Chairman's invitation, Mrs Patricia CHU, EOC Chairperson (Designate), said that EOC would continue to maintain good communication with the Legislative Council (LegCo) and since she had not yet assumed the post of the EOC Chairperson, she would answer members' questions in her capacity of an EOC member.

5. The Secretary for Home Affairs (SHA) said that CE was pleased to appoint Mrs Patricia CHU on the previous day as EOC Chairperson for one year with effect from 15 December 2003. He said that he would be pleased to answer any questions raised by members.

6. Mr Andrew CHENG said that the Democratic Party (DP) was of the view that the refusal of the key parties, such as Mr Michael WONG, to attend meetings of the Panel had rendered it very difficult for members to follow up the matters discussed at its previous meetings. He said that DP was in favour of seeking the powers under section 9 of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) for the Panel to summon Mr Michael WONG, Dr Raymond WU, Mr Andrew LIAO, Ms WONG Pui-sze and SHA to attend before the Panel to give evidence. He said that members wished to know the details of the discussion at the private gathering on 5 November 2003, and in particular, whether the drafting of six allegations against Ms Anna WU, former EOC Chairperson, took place at the private gathering and the involvement of different persons in the matter. He added that DP was not in favour of appointing a select committee since there were already two select committees in operation and Members would find it difficult to spare time to handle another one.

7. Referring to paragraphs 12 and 14 of the summary of discussion of the EOC meeting on 18 September 2003, Mr Andrew CHENG said that it was mentioned that the "C/EOC had new objectives and working goals" and "if

Action

EOC directions had changed, the case should be left to C/EOC to handle lawfully". Mr CHENG asked SHA what he understood by these "new objectives and working goals" and changes in "EOC directions" and whether these new objectives and goals were given to Mr WONG by the Administration.

8. SHA responded that when Mr Michael WONG was appointed as the EOC Chairperson, he did not give Mr WONG any specific goals or directions regarding EOC's work. He stressed that as the EOC Chairperson, Mr WONG was conferred the power by law to decide on his own the goals and directions of EOC. SHA stressed that the EOC Chairperson had full power to operate independently, free from any Government intervention. He said that if there were any new objectives and work for EOC, they were set by Mr WONG and not by the Administration.

9. However, Mr Andrew CHENG considered that it would be negligence of duty on the part of SHA if he knew nothing about the new goals and objectives that the former EOC Chairperson had set for EOC. SHA reiterated that the independent operation of EOC was guaranteed by law and the Government should not and would not intervene. He said that as he had explained at the previous meeting, the Government only played the following roles in its relationship with EOC -

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

SHA pointed out that any internal restructure of EOC or its setting of new goals were the internal affairs of EOC and should be handled by EOC itself. He said that the Administration would not intervene unless there were indications of any unlawful operation of EOC.

10. Mr Andrew CHENG also asked Mrs Patricia CHU what she understood by the "new objectives and working goals" and changes in "EOC directions" as she had worked with Mr Michael WONG in the past few months. Referring to the summary of discussion of EOC meeting on 18 September 2003, Mrs Patricia CHU said that EOC members had expressed many different views on the termination of employment of Mr Patrick YU at that meeting. She said that EOC members had agreed to authorise the EOC Chairperson to handle Mr YU's contract because they did not want to leave the matter to the next meeting, which was only held once every three months. EOC members were of the view that since they had already expressed their views, the EOC Chairperson should

Action

be entrusted to handle the matter in a reasonable and lawful way taking into account all their views.

11. Mrs Patricia CHU informed members that at the EOC meeting on 18 September 2003, there was also a discussion on a review of the role of EOC. It was agreed that the review would be conducted by Professor Nelson CHOW Wing-sun and Mrs CHU herself. She said that the purpose of the review was to examine the future direction and priorities and consider how EOC could best fulfil its mission and improve its work efficiency and effectiveness. She said that as it was only decided to conduct such a review at the meeting on 18 September, she did not think that the former EOC Chairperson had already decided on any new goals for EOC at that time.

12. Mr Andrew CHENG then sought Mrs Patricia CHU's views on Ms Anna WU's way of resorting to litigation in resolving some discrimination cases. He also asked Mrs CHU how she would uphold the fair and just image of EOC in the eyes of the public and promote the concept of equal opportunities.

13. Mrs Patricia CHU said that EOC was a statutory body with functions and powers conferred by legislation. She stressed that the most important principle of EOC was to handle its work in accordance with the law and in a fair and impartial manner. She said that she did not see why EOC had to position itself in opposition to the Government or any other organisations. She said that she would handle complaint cases and litigation in accordance with the established procedures of EOC.

14. Referring to her letter to the Panel Chairman dated 18 November 2003, Ms Emily LAU said that she had proposed to invite all the other persons present at the gathering on the night of 5 November 2003 to attend this meeting in order to find out whether SHA had suggested to Mr WONG that he should resign and whether SHA had taken part in drafting Mr WONG's resignation statement during the gathering. She said that although SHA had given explanations on other occasions, Dr Raymond WU had told the public a different story on several occasions. She said that the public was very concerned about whether SHA was involved in any smear campaign and it was necessary to seek clarifications from the parties concerned. She said that she was open to Mr Andrew CHENG's suggestion of the Panel conducting an inquiry.

15. Ms Emily LAU said that some Members were concerned about the potential conflict of interests for Mrs Patricia CHU, as a retired civil servant, to fill the post of the EOC Chairperson, who might have to handle complaints and litigation against the Government. Ms LAU asked what mechanism was in place in EOC to address the problem and what Mrs CHU intended to achieve during her one-year term of office. She also requested Mrs CHU to provide more details of the review of EOC.

Action

16. Mrs Patricia CHU said that she appreciated the concern about her neutrality in dealing with complaints and litigation against the Government. She said that she would always remain vigilant and avoid any potential conflict of interests. She stressed that she would declare interests and would refrain from being involved in handling any complaints which might have conflict of interests. She added that the Legal and Complaints Committee in EOC, which comprised members with legal background, was responsible for studying complaint cases which might involve litigation. In handling such cases, the legal adviser of EOC would also give advice and where necessary, a second opinion would be sought from an outside party. She stressed that under the established mechanism, the EOC Chairperson could not dictate the course of action to be taken for handling any complaints.

17. Regarding the review of the role of EOC, Mrs Patricia CHU said that after the EOC meeting on 18 September 2003, she and Professor Nelson CHOW had met with EOC staff and 22 community groups and organisations to collect their views on how EOC could improve its work. Continued efforts would be made to collect views from human rights organisations, political parties and other related groups. She stressed that the purpose of the review was not to save money. She informed members that the report of the review was expected to be available in March 2004. Meanwhile, she was planning to propose that one more EOC member be appointed to join Professor CHOW to conduct the review. Mrs CHU added that EOC had also planned to strengthen publicity and public education in the coming year.

18. In response to Ms Emily LAU, Mrs Patricia CHU confirmed that she would cease to receive her monthly pension while serving as the EOC Chairperson. She said that she was teaching a course on a part-time basis in a university. The course was coming to an end and she would not receive any remuneration in that regard after she had assumed the post of the EOC Chairperson.

19. Mr MA Fung-kwok asked what actions EOC would take to follow up the recent series of incidents concerning EOC, including the circumstances surrounding the termination of employment of Mr Patrick YU and the allegations published by a weekly magazine. Mrs Patricia CHU said that EOC members had raised the issue at its last meeting and decided to leave the matter to the new Chairperson who would take up the post soon. As regards the allegations published by a weekly magazine, Mrs CHU said that she would look into the matter and make clarifications in order to restore EOC's credibility.

20. Mr MA Fung-kwok asked about the timetable for the above review and whether a report on the outcome of the review would be provided to the Panel. Mrs Patricia CHU said that after she had assumed the post of the EOC

Action

Chairperson the following Monday, she would discuss the review with the EOC members and would try to complete the review as soon as possible. She added that there should be no problem in providing the report to the Panel.

21. Mr Albert CHAN expressed support for Mr Andrew CHENG's suggestion of the Panel conducting an inquiry into the recent incidents concerning EOC as he considered that there were still many questions remaining unanswered. He said that it was unacceptable for the persons concerned to refuse to attend meetings of the Panel to provide information. He considered that these persons were evading their responsibility.

22. Mr Albert CHAN said that, in the past nine months, the Government had repeatedly appointed civil servants or retired civil servants to fill important posts, and the appointments of some Principal Officials under the Accountability System, the new Director of Audit and now the EOC Chairperson were examples of such cases. He said that the public was concerned about the lack of transparency in the selection process in regard to these appointments e.g. it was not known how many persons had been considered before making the appointment. SHA said that the Government had made all the appointments based on the principle of merit and any suitable persons would be considered without exclusion of civil servants. He said that Mrs Patricia CHU was suitable for the post of the EOC Chairperson since she had been appointed as an EOC member since August 2003 and had been charged with the important task of conducting a review of the role of EOC in September 2003. He said that following the recent incidents concerning EOC, the Administration intended to review its relationship with the advisory and statutory bodies as well as the different roles and functions of the chairpersons and chief executive officers of these bodies. He said that the Administration considered that it was appropriate to appoint Mrs CHU as the EOC Chairperson for one year pending completion of the review.

23. Mr Albert CHAN asked Mrs Patricia CHU what EOC would do to restore the public confidence in EOC. Mrs CHU responded that she would strive to restore the credibility of EOC by enhancing the transparency of its work. She said that two EOC meetings had been held recently to discuss the recent spate of incidents relating to EOC, and the EOC members had made numerous suggestions which would be followed up.

24. Mr CHEUNG Man-kwong said that it was necessary for the Panel to inquire into the details relating to the meeting attended by Mr Michael WONG and SHA on the night of 5 November 2003. He said that it remained unclear as to who had called that meeting, whether SHA was present when Mr Michael WONG's resignation statement was being drafted, and who the attendees of the meeting were. He also asked SHA whether he agreed that it was a very improper arrangement for him to have dealt with official business at a private gathering.

Action

25. SHA said that as he had explained on other occasions, on 4 November 2003, Ms WONG Pui-size invited him to a private gathering, at which Mr Michael WONG was present. Mr WONG told SHA that he was contemplating resignation. On 5 November, SHA requested Ms WONG to arrange another meeting that night because he wanted to further understand the intention of Mr WONG. SHA said that at the meeting on 5 November, when a friend of Mr WONG started to discuss with Mr WONG about the content of his resignation statement, SHA left the meeting. When he returned, the discussion was coming to an end. He said that the other persons attending the meeting were Mr Michael WONG, Dr Raymond WU, Mr Andrew LIAO and Ms WONG Pui-size. He said that what he had heard at the meeting was only Mr WONG's views about the internal affairs of EOC, which did not involve any allegations against any persons. He said that he did not know the details relating to the article on the "six allegations" published in a weekly magazine. He said that he did not consider that his attendance at the private meeting on 5 November was inappropriate and he considered that people should not criticize with the benefit of hindsight.

26. Ms Cyd HO said that SHA's response to Mr CHEUNG Man-kwong's question about appropriateness of his handling of official business at a private meeting was disappointing. She expressed support for Mr Andrew CHENG's suggestion of the Panel conducting an inquiry into the recent incidents concerning EOC so that members could raise questions to all the attendees of the private meeting on 5 November 2003.

27. Ms Cyd HO said that she hoped that there would be more opportunities to discuss with Mrs Patricia CHU and representatives of relevant community groups and organisations at future meetings. Ms HO said she agreed with Mrs CHU that enhancing the transparency of EOC's work was most important in restoring its credibility. In this connection, she suggested that consideration could be given to making EOC meetings public, except for discussions involving privacy of individuals or allegations which had yet to be investigated. Ms HO further said that in the past two months, the remarks made by some EOC members had already damaged the credibility of EOC. She asked Mrs CHU if it was possible for EOC to devise benchmarks for evaluation of the EOC members in terms of their commitment to equal opportunities.

28. Mrs Patricia CHU said that the suggestion of making EOC meetings public had actually been discussed by EOC during Ms Anna WU's tenure and Mrs CHU undertook to follow up this matter. She said that consideration could also be given to holding press briefings to report important work of EOC. As regards the suggestion of devising benchmarks for evaluation of EOC members' commitment to equal opportunities, Mrs CHU said that she needed to discuss it with EOC members. She agreed that since EOC was a statutory body, EOC members were accountable to the public. She said that she welcomed

Action

more opportunities to meet with Panel members in the future for exchanges of views.

29. Mr Tommy CHEUNG asked SHA whether the appointment of Mrs Patricia CHU for one year was only an interim measure and whether the appointment period would revert to three years after the Administration had completed the relevant review. SHA explained that as stipulated in the law, CE was vested with the power to determine the period of appointment of the EOC Chairperson. He said that an EOC member should be appointed for a term not exceeding five years but there was no stipulation in the law as regards the shortest possible term. He said that as the Administration was conducting a review of the system of advisory and statutory bodies, it considered that it was appropriate to appoint Mrs CHU for one year pending completion of the review.

30. Mr Tommy CHEUNG asked Mrs Patricia CHU whether EOC would review matters relating to its staff appointment and dismissal policies taking into account the controversy concerning its appointment and termination of employment of Mr Patrick YU as Director (Operations). He also asked Mrs CHU whether she felt that the disputes in the past two months had provoked a split in EOC and whether this would create any difficulty for her work.

31. Mrs Patricia CHU said that she had received feedback from EOC staff about the need to strengthen the staff management in EOC and she would follow this up. She said that after her appointment was announced the previous day, she had contacted nearly all the EOC members and they had pledged full support for her work. She said that she would work with all EOC members and staff to enhance the services of EOC.

32. Dr LO Wing-lok asked Mrs Patricia CHU whether EOC would look into all the unfavourable rumours and allegations relating to EOC and take actions to rectify any problems found. Mrs Patricia CHU said that EOC would look into the six allegations published in a weekly magazine and explain the truth to the public. It would provide detailed information and data in response to these allegations in order to safeguard the credibility of EOC.

33. Dr LO Wing-lok further asked Mrs Patricia CHU whether she was initially of the view that the post of the EOC Chairperson and its chief executive officer should not be merged. Mrs Patricia CHU responded that this issue would be covered in the review of EOC and she was not in a position to give views at the present moment.

34. Referring to the summary of discussion of the EOC meeting on 18 September 2003, the Chairman asked Mrs Patricia CHU whether it was true to say that Mr Michael WONG had EOC members' unanimous support in terminating the employment of Mr Patrick YU. Mrs CHU reiterated that at the meeting on 18 September 2003, EOC members considered that since they had

Action

fully expressed their views, the EOC Chairperson should be authorised to handle Mr YU's employment contract as they believed that the Chairperson would handle it in a reasonable and lawful way. She said that from 18 September to 23 October 2003, i.e. the date when Mr Patrick YU held a press conference in Hong Kong on his termination of employment by EOC, the former EOC Chairperson had not informed EOC members of his decision to terminate Mr YU's employment contract.

35. The Chairman referred to an earlier remark made by Mr Patrick YU that the termination of his employment was an employment matter and asked what proposals had been made by Mr YU to settle the dispute. Mrs Patricia CHU sought advice from Assistant Legal Adviser 4 (ALA4) whether it was appropriate to discuss the personal matter in LegCo. ALA4 advised that it would not be appropriate to do so.

36. Mr Andrew CHENG asked SHA whether the recent behaviour and remarks of Dr Raymond WU still rendered him suitable to be an EOC member. He also asked Mrs Patricia CHU whether she would give SHA her view on the suitability of Dr WU to continue as an EOC member. SHA said that the current EOC members' term of appointment had not expired yet. On its expiry, the Administration would make appointment also based on the principle of merit. Mrs Patricia CHU said that members of the public would have their own views on the behaviour of Dr WU and she did not want to comment on any EOC members. Mr CHENG further asked SHA whether early termination of Dr WU's appointment as EOC member would be considered. SHA said that early termination of any EOC member's appointment was a very serious matter. He said that the circumstances in which CE could declare the office of an EOC member to be vacant had been clearly specified in the law. Deputy Secretary for Home Affairs (1) then briefed members on some of these circumstances in which CE might make such a declaration. He pointed out that as decisions of declaring the office of an EOC member to be vacant were subject to judicial review, the decisions should be made only on a sound legal basis and should not be based on individual EOC members' expression of personal views.

37. ALA4 supplemented that according to the Sex Discrimination Ordinance (Cap. 480), CE might declare the office of an EOC member to be vacant if CE was satisfied that the EOC member -

- (a) had been absent from three consecutive meetings of the Commission without its permission;
- (b) had become bankrupt or made an arrangement with his creditors;
- (c) was incapacitated by physical or mental illness; or

Action

- (d) was otherwise unable or unfit to discharge the functions of a member.

38. Ms Emily LAU asked whether the Administration would in future consider selecting the EOC Chairperson through open recruitment and arranging for the selected person to first meet with LegCo Members before making the appointment. SHA said that the Administration would give thought to the suggestion of selecting the EOC Chairperson through open recruitment.

39. Mr Tommy CHEUNG asked SHA whether the Government would consider setting up an independent commission of inquiry as proposed by Mr James TIEN at the previous meeting on 14 November 2003. SHA said that it was more appropriate to let the new EOC Chairperson consider whether EOC should conduct its own inquiry into the recent incidents relating to EOC. However, if members requested that CE should appoint an independent commission of inquiry, he would convey the request to CE for consideration.

40. The Chairman said that the Panel should make a decision on the course of action it should take to follow up the relevant issues. He invited members to consider the following three options -

- (a) recommending to the Government that a Commission of Inquiry be appointed;
- (b) seeking the powers under Cap. 382 for the Panel to conduct the inquiry; or
- (c) recommending the appointment of a select committee by LegCo to inquire into the relevant matters.

41. As regards (b), ALA4 supplemented that if authorised by resolution of the Council, a Panel might exercise the powers conferred under section 9(1) of Cap. 382 to order any person to testify or give evidence, or to produce any paper, book, record or document in his possession.

42. The Chairman and ALA4 both pointed out that in considering whether it should conduct the inquiry under Cap. 382, the Panel should consider whether the subject matter of the inquiry was relevant to the terms of reference of the Panel. They also requested members to note that while the membership of a select committee would be open to Members, the membership of the said inquiry would be restricted to members of the Panel. In response to the Chairman, the Clerk said that there were two previous cases where a Panel had successfully sought the authorisation of the Council to exercise the powers conferred by section 9(1) of Cap. 382. The two cases were -

Action

- (a) the Council's authorisation of the Panel on Security to inquire into the circumstances surrounding the termination of the employment of Mr Alex TSUI Ka-kit, Deputy Director of Operations, Independent Commission Against Corruption, in December 1993; and
- (b) the Council's authorisation of the Panel on Manpower to inquire into the circumstances surrounding the labour disputes involving imported workers under the Special Labour Importation Scheme for the Airport Core Programme Projects and related issues in December 1995.

43. Mr Andrew CHENG supported conducting an inquiry by the Panel as he considered that the subject matter of the intended inquiry was relevant to the terms of reference of the Panel. He said that the restriction of membership as pointed out by ALA4 would not be a problem since the Panel already comprised members belonging to different political affiliations.

44. Ms Cyd HO proposed that the Panel should allow the Administration some time to consider whether it would set up a commission of inquiry and if it decided not to do so, the Panel would further consider how it should proceed. Mr CHEUNG Man-kwong and Mr Tommy CHEUNG supported Ms HO's proposal. Members further agreed that the Administration should inform the Panel of its decision on or before its regular meeting on 9 January 2004.

45. Ms Emily LAU proposed and members agreed that even if SHA announced before 9 January 2004 that it would set up a commission of inquiry, he would still have to attend the Panel meeting on that day to give relevant details, such as the membership of the commission and its terms of reference. If the Administration decided not to set up a commission of inquiry, the Panel would discuss at that meeting how to follow up.

46. The meeting ended at 4:30 pm.

Council Business Division 2  
Legislative Council Secretariat  
5 February 2004