

Report No. 52 of the Director of Audit — Chapter 3

EQUAL OPPORTUNITIES COMMISSION

Summary

1. The Equal Opportunities Commission (EOC) is a statutory body responsible for overseeing the implementation of the anti-discrimination legislation in Hong Kong. Members of the EOC, comprising a Chairperson and not more than 16 other Members, form the governing body (hereinafter referred to as the “EOC Board” or the “Board”) of the EOC. Since July 2007, the Constitutional and Mainland Affairs Bureau (CMAB) has taken over from the Home Affairs Bureau (HAB) as the housekeeping bureau of the EOC. The EOC is funded mainly by recurrent subventions from the Government. For 2008-09, the government subvention amounted to \$76.5 million. As at 1 December 2008, the EOC had an establishment of 86 staff. The Audit Commission (Audit) has recently conducted a review of the EOC’s activities.

Corporate governance

2. *The Chairperson and the Chief Executive Officer (CEO) posts.* When the EOC came into operation in 1996, there was, under the Chairperson, a CEO managing the day-to-day business of the EOC. In 2000, the EOC deleted the CEO post to streamline the EOC’s operation. Between 2004 and 2006, the results of reviews conducted by three different parties all pointed to the need to separate the posts of the Chairperson and the CEO, and reinstate the CEO post in order to provide an effective system of checks and balances. In January 2006, the HAB consulted the Home Affairs Panel of the Legislative Council (LegCo), and some LegCo Members raised reservations about the proposal. Audit notes that there has been a lack of progress after the Home Affairs Panel meeting. *Audit has recommended that the Secretary for Constitutional and Mainland Affairs should expedite action to bring the matter to a satisfactory conclusion.*

3. *Board and Committee meetings.* Audit found scope for improvement in connection with EOC Board and Committee meetings. For example: (a) the attendance rates of some Members were low; (b) on several occasions, the meetings continued despite a lack of quorum; and (c) on average, minutes of meetings were only issued to Members 46 days after the meetings. *Audit has made recommendations to the EOC to address these issues.*

4. ***Memorandum of Administrative Arrangements (MAA)***. In March 1997, an MAA providing the framework for the working relationship between the Government and the EOC was signed by the two parties. Over the years, there were changes in the administrative procedures and control framework of subvented organisations. Since April 2004, proposed amendments to update the MAA had been discussed but, up to January 2009, agreement had not yet been reached. *Audit has recommended that the Secretary for Constitutional and Mainland Affairs should, in collaboration with the EOC: (a) expedite action to finalise the proposed amendments; and (b) in future, take timely action to update the MAA to reflect changing circumstances.*

Complaint handling procedures

5. The EOC conducts investigations on complaints of discrimination. Audit's examination of some complaint case files revealed that: (a) there were no "complaint intake forms" to indicate that proper initial intake decisions had been made by officers at an appropriate level; and (b) investigation plans were not prepared, contrary to the requirement of the EOC's internal operating procedures. *Audit has made recommendations to the EOC to address the issues.*

Duty visits outside Hong Kong

6. Audit selected two duty visits of the EOC for case study, namely the Beijing visit in July 2005 and the Sweden visit in September 2007.

7. ***Beijing visit (July 2005)***. The main audit findings are: (a) the size of the delegation (18 persons) and the expenditure involved (\$161,000) could easily give rise to questions from the public who tended to judge sensitive expenditure of public entities by the "moderate and conservative" principle; (b) there is a need for the EOC to set financial limits on hotel accommodation for the Chairperson and Board Members, to facilitate the application of the "moderate and conservative" principle; (c) a hospitality dinner amounting to \$15,200 was attended by 28 persons (i.e. \$540 per person) but there was no information about who attended the dinner, the number of guests participating and their identities; and (d) the EOC needs to set a financial limit per person for hospitality expenses involving the Chairperson/Board Members. *Audit has made recommendations to the EOC to strengthen expenditure control on duty visits.*

8. ***Sweden visit (September 2007)***. The visit team consisted of the Chairperson and a senior staff. The costs of the trip were borne partly by the organiser and partly by the EOC. The main audit findings are: (a) there is a need for the EOC to set financial limits on the meal expenses of the Chairperson in order to help staff involved in the payment process determine reasonableness; (b) for two of the meals taken by the Chairperson, there were no

invoices or bills on record to support the payments; (c) the visit team used the service of a courier firm to send back to Hong Kong the publications received during the visit, but there was no documented reason for not using other more economical means; and (d) there is a need to bring to the Board's attention any significant programme changes (in particular the addition of material hospitality items), preferably before the commencement of the trips. *Audit has made recommendations to the EOC to address the issues.*

Seminars

9. Audit selected for case study a major seminar held by the EOC on 24 January 2008 at a cost of \$320,000. Audit identified room for improvement in the EOC's budgetary process, as follows.

10. ***Need to exercise strict economy.*** The EOC revised the budget to \$350,000, down from an original budget of \$500,000 (i.e. a 30% reduction), as a result of queries raised by Board Members at a meeting. Audit is concerned about the large scope for economy that existed in the original budget, because it suggests that the budget preparers themselves did not exercise strict economy in the first place. *Audit has recommended that the EOC should remind its staff of the need to exercise strict economy in the planning of future events.*

11. ***Need to identify alternatives.*** The original budget included an amount of \$75,000 for backdrop and set-up costs, with a note indicating that it included the construction cost of an extended stage and a ramp for wheelchair speakers. There was no mention as to how much the construction would cost, or whether alternatives were available. It was only upon Board Members' query of the reasonableness of the \$75,000 for backdrop, that they were informed of the availability of a "marginally acceptable" ramp offered free of charge by the venue management. *Audit has recommended that the EOC should identify available alternatives (together with their relative merits and costs) in event budgets to facilitate Board Members' consideration.*

12. ***Need to identify "desirable non-essential" items.*** Audit found that no distinction was made in the budgets between essential and "desirable non-essential" items. The absence of such information was not conducive to making informed decisions. *Audit has recommended that the EOC should: (a) identify "desirable non-essential" items in event budgets to help Board Members make informed decisions; and (b) for "desirable non-essential" items that involve significant expenditure, apply the good practice of approving only those items that have sufficient and documented justifications.*

Procurement and management of stores

13. ***Procurement process.*** Audit's examination of the EOC's purchases revealed some instances of non-compliance with its procurement procedures. *Audit has recommended that the EOC should ensure compliance in future.* Furthermore, Audit's review of several purchases revealed scope for improvement in the procurement process. For example, the EOC purchased a lot of 400 environmental bags each in December 2006 and December 2007 for distribution at seminars at a total cost of \$20,400. This was despite the fact that there were 1,700 environmental bags (purchased in October 2006) in stock. In Audit's view, the bags in stock should have been used for distribution at the seminars, instead of purchasing new ones. *Audit has recommended that the EOC should ensure in future that the need for an item is clearly established before expenditure is incurred.*

14. ***Disposal of surplus assets.*** According to the EOC's fixed asset register, various items were written off between 2006 and 2008. However, for some of these items, Audit found that there were no clear audit trails of how they were disposed of. *Audit has recommended that the EOC should draw up guidelines to ensure that the disposal of assets is properly carried out and documented to provide a clear audit trail.*

15. ***Control of library materials.*** The EOC has a staff library containing 8,000 items of books and audio-visual materials. EOC staff are eligible to use and borrow the library materials. Audit found that: (a) EOC staff were not required to submit borrowing forms or acknowledge receipt of the library materials; (b) the EOC did not conduct periodical stocktaking of the library materials; and (c) the EOC had not laid down procedures for handling overdue library materials. *Audit has recommended that the EOC should take appropriate measures to improve the control of library materials.*

Other administrative issues

16. ***Life insurance coverage for the Chairperson.*** In June 1997, the EOC Board endorsed a proposal for the provision of death and disability benefits to EOC staff. Accordingly, the EOC took a group life insurance scheme for its staff and the Chairperson with an insured sum amounting to 36 months of the basic salary. According to the legislation establishing the EOC, the Chief Executive of the Hong Kong Special Administrative Region shall determine the remuneration and the terms and conditions of appointment of the Chairperson. The present Chairperson was appointed by the Chief Executive for a term of five years, with effect from January 2005, in accordance with the terms and conditions set out in a "Memorandum on Terms and Conditions". However, there was no mention about the provision of life insurance coverage in the "Memorandum on Terms and Conditions". *Audit has recommended that the EOC should seek a specific approval from the Administration for the provision of life insurance coverage for the Chairperson.*

17. ***Litigation against the EOC by former employees.*** Audit noted that two litigation cases, brought by two former employees against the EOC, were time-consuming and had significant financial consequences. Both cases commenced in 1999. One case was concluded in 2002, costing the EOC some \$7 million in terms of legal fees paid to a legal firm for litigation services. Up to January 2009, the other case had not yet been concluded, and the amount of legal fees incurred by the EOC had accumulated to \$5.8 million. *Audit has recommended that the EOC should: (a) ensure that the proceedings are closely monitored in litigation cases involving the EOC as a party, with particular attention being paid to the legal costs incurred; and (b) conduct post-litigation review as soon as practicable after conclusion of each case, with a view to identifying lessons to be learnt for future reference.*

18. ***Office vehicles.*** Audit found that: (a) the vehicle log books of the EOC were not properly maintained, contrary to the instructions relating to vehicle log books; and (b) the EOC paid the fine of \$320 on a traffic offence committed by its driver while on duty. *Audit has recommended that the EOC should: (a) remind its staff of the need to comply with the instructions relating to vehicle log books; and (b) review its decision on the traffic fine which, in Audit's view, should not have been paid out of EOC funds.*

Performance reporting in Controlling Officer's Report

19. In the 2008-09 Controlling Officer's Report of the CMAB, a number of performance targets and indicators regarding the EOC were promulgated. However, there were no indicators to measure the outcome and productivity of the EOC. *Audit has recommended that the Secretary for Constitutional and Mainland Affairs should, in consultation with the EOC, consider developing more performance targets/indicators to measure outcome and productivity, taking into account the practice of the overseas counterparts of the EOC.*

Response from the EOC and the Administration

20. The Chairperson, EOC and the Secretary for Constitutional and Mainland Affairs have accepted the audit recommendations.

April 2009