



平等機會委員會

EQUAL OPPORTUNITIES COMMISSION

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5 November 2003

Clerk to Panel
Panel on Home Affairs
Legislative Council Building
6 Jackson Road
Central
Hong Kong
(Attention: Ms. Joanne MAK)

Dear Sir,

**Re: Panel on Home Affairs
Special Meeting on 7 November 2003**

I refer to your letter of 1 November 2003 in respect of the above-mentioned meeting and enclose herewith my chronology of events relating to the appointment and termination of appointment of Mr. Patrick Yu Chung-yin as requested by you. The Chairman EOC will deal with your request for minutes of EOC meeting. Thank you.

Yours faithfully,

Chan Yick-man Michael
Director (Planning & Admin.)
Equal Opportunities Commission

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**Recruitment of and Termination of Employment of Director (Operations)
Chronology of Events**

	Date	Chronology of Events	Remarks
1.	February 2002	External Consultants completed a review of EOC's complaint handling and related procedures and recommended the merging of the Gender Division and Disability Division into one Operations Division, amongst other recommendations.	
2.	March 2002	At a regular EOC meeting, Members endorsed the merging of the Gender Division and Disability Division and the creation of a new Operations Division. A decision was taken that open advertisement of the post of Director (Operations) must be undertaken.	12 May 2002 Director (Gender) resigned. Left EOC employment on 31 August 2002.
3.	October 2002	Recruitment of Director (Operations) commenced after endorsement obtained from the Administration and Finance Committee (A&FC).	Appointment of EOC staff MPS 45 and above (which include directorate staff) has been delegated to A&FC.
4.	December 2002	An Executive Search Firm appointed by EOC to source suitable candidates for the post. The post was also advertised internally within EOC and externally and the Search Firm co-ordinated all applications.	

5.	December 2002 and January 2003	CVs of initial shortlists forwarded by the Search Firm to EOC for consideration.	22 January 2003 Director (Disability) resigned. Left EOC employment on 22 April 2003.
6.	Late February 2003	Initial screening conducted by EOC. 4 candidates were interviewed. EOC Members conducting the initial screening were Mr. Peter Yeung and Ms Anna Wu. A representative from the Search Firm and Director (Planning and Administration) (DPA) of EOC were also present at the interviews. Of the 4 candidates interviewed, three were recommended to go to the final interviews.	
7.	Around mid March 2003	Anna Wu spoke with the Search Firm to approach Patrick Yu to ascertain his interest for the post. Patrick Yu was unable to be contacted initially as he was away from Northern Ireland.	In the course of the recruitment exercise, Anna Wu also asked the Search Firm to approach a number of EOC Members for referrals and also provided a few other names to the Search Firm to follow up, to ascertain their interest for the job.
8.	Late March 2003	Final shortlist decided which included the 3 external candidates as stated in (6) above and one internal candidate. A&FC set	No decision concerning the appointment was made after

		<p>up a Recruitment Board. Composition of Recruitment Board approved by Mr. Charles Lee, the then A&FC Convenor.</p> <p>Mr. Peter Yeung (Chair) Ms Anna Wu (Member) Ms Hung Suet Lin (Member) Professor Stevenson Fung (Member) Dr. Joseph Kwok (Member)</p>	<p>the interviews. Members agreed that one of the external candidates interviewed would be a possibility and could be given further consideration if there were no other suitable candidates. Anna Wu explained to the Recruitment Board that Patrick Yu would be worth exploring and the Search Firm had been asked to ascertain his interest and suitability. Recruitment Board decided to consider next step after report on Patrick Yu from the Search Firm received.</p>
9.	24 March 2003	Mr. Patrick Yu was interviewed over the phone by the Search Firm. The Search Firm recommended Patrick Yu to be further interviewed by the Recruitment Board.	
10.	16 April 2003	Mr. Patrick Yu was interviewed by the Recruitment Board through video conferencing.	

11.	April 2003 to May 2003	Mr. Patrick Yu and one other external candidate were considered as suitable for the post. Both were asked to attend a psychological test. After the psychological test, the Recruitment Board decided that Mr. Patrick Yu should be the first choice for the post and one other external candidate should be placed on reserve. Recruitment Board also confirmed that an offer could be made to Patrick Yu.	The merging of the Gender Division and Disability Division into one Operations Division commenced in March 2003.
12.	21 May 2003	An offer was made to Mr. Patrick Yu on 21 May 2003.	
13.	7 June 2003	Offer accepted by Mr. Patrick Yu. Patrick Yu advised that he would commence employment on 1 November 2003.	
14.	End June 2003	Employment reference checks on Patrick Yu satisfactorily completed.	
15.	17 July 2003	EOC issued press statement on Patrick Yu's appointment.	
16.	18 July 2003	Patrick Yu's interview published in SCMP.	
17.	28 July – 1 August 2003	Patrick Yu on visit to EOC in Hong Kong for 1 week.	
18.	1 August 2003	Mr. Michael Wong, Chairman EOC, met Patrick Yu in his office and expressed concerns over his remarks made at the SCMP	

		<p>interview about “New director of Operations vows to uphold integrity of the EOC after being handpicked...”.</p> <p>The Chairman told Patrick Yu that the comments were inappropriate and asked Patrick Yu if he understood the requirements of the job of Director (Operations). He asked Mr. Yu to consider the duties of the post and his work at the EOC.</p>	
19.	15 August 2003	The Chairman instructed DPA to obtain a written summary from Patrick Yu of his experience in handling investigation and complaints.	
20.	22 August 2003	Patrick Yu provided EOC with a summary of his experience in handling investigation and complaints.	
21.	3 September 2003	<p>At the Chairman’s instruction, DPA contacted Patrick Yu to explore the possibility of his going back to his post in the Northern Ireland Council for Ethnic Minorities and to resolve the matter relating to his contract in an amicable way.</p> <p>Mr. Yu advised DPA that his organization had already arranged for someone to act in his position and it would be difficult for him to go back to his post.</p> <p>In terms of compensation, Mr. Yu mentioned that he would</p>	

		<p>consider 1 year's salary (plus cash allowance). He then went further to say that he might consider to settle the matter for at least 6 months' salary (plus cash allowance).</p> <p>He also said that what EOC was considering would be an anticipatory breach of contract.</p> <p>DPA explained to Patrick Yu that it might be very difficult to consider 6 months' salary (plus cash allowance) as compensation. DPA explained that when a person has started working with EOC, compensation for termination of service without notice by either the employer or employee would be a maximum of 3 months' salary. Moreover, during the first month of the trial period, there would be no compensation and between the second and the sixth month, compensation would be 1 month's salary. DPA informed Patrick Yu that he would inform the Chairman EOC of the gist of his conversation with Patrick Yu and what he had asked for.</p> <p>The Chairman was informed accordingly.</p>	
22.	16 September 2003	<p>As instructed by the Chairman, DPA explored again with Patrick Yu and informed him that EOC might be prepared to pay him 2 months' salary and cash allowance if he did not take up the post of Director (Operations). Patrick Yu said that he would consider this offer and would get back to EOC.</p>	

23.	17 September 2003	<p>Letter from Patrick Yu's Lawyers was received, stating that the Chairman EOC had made it clear that he did not wish to work with Patrick Yu and the Chairman's action would constitute a fundamental breach of contract.</p> <p>The Lawyers said that they would issue proceedings for damages for breach of contract, breach of the Bill of Rights and defamation of character against the EOC and the Chairman personally.</p> <p>The Lawyers would await the Chairman's proposals to settle the claim within the next 7 days or they would issue proceedings without further notice.</p>	
24.	18 September 2003	<p>Regular EOC meeting held. Mr. Yu's suitability for employment with the EOC and the termination of his employment were discussed at the EOC meeting and the EOC Members resolved that the Chairman be given full power to handle Mr. Yu's contract.</p>	
25.	20 September 2003	<p>At the instruction of the Chairman, the Legal Adviser (LA) issued a letter to Patrick Yu's Lawyers that the EOC Members and Chairman had formed the view that Mr. Yu was not suitable and that DPA had already discussed with Mr. Yu a possible offer of 2 months' salary (plus cash allowance) as compensation.</p>	

26.	Since 20 September 2003	Neither Patrick Yu nor his lawyers has responded to the letter of EOC's LA.	
27.	23 October 2003	<p>Patrick Yu returned to Hong Kong and held a press conference.</p> <p>Mr. Yu claimed that the Chairman EOC had unreasonably dismissed him which was a serious breach of the contract.</p> <p>He demanded the Chairman EOC to give him an open explanation.</p>	
28.	24 October to present	The matter relating to Mr. Patrick Yu was widely reported in both the Chinese and English press. In view of Mr. Yu's recent comments to the press suggesting that he would not accept 2 months' salary as compensation, the EOC is now awaiting for Mr. Yu to advise what he is seeking.	

Prepared by Director (Planning & Administration) of the EOC

Dated 5 November 2003