

**Minutes of the EOC Meeting on 18 September 2003
on the part concerning the case of Mr. Patrick YU Chung-yin**

V. Any Other Business

(Agenda Item No. 8)

(iv) Contractual Matters

The C/EOC raised with Members' the suitability of Mr. Patrick YU for employment with the Commission. Having discussed the matter, C/EOC was given full powers by Members to handle Mr. YU's contract.

Equal Opportunities Commission

**A Summary of the Discussions at the EOC Meeting
on 18 September 2003 concerning the Case
of Mr. Patrick YU Chung-yin**

1. C/EOC raised he wished to proceed to “A.O.B.” as one Member required to leave early and C/EOC wished to discuss item while Member still present.

2. C/EOC brought up issue of suitability of Mr. Patrick YU as new Director (Operations). Mr. YU had signed contract and would start on 1/11/03. C/EOC indicated concern about article published in SCMP on 18/7/03. Comments by Mr. Patrick YU in article were not related to his job duties and Mr. YU’s comment about upholding integrity in EOC mission was not Mr. YU’s responsibility but that of Members. C/EOC said Mr. YU’s responsibilities should be conducting investigations and handling complaints.

3. C/EOC also informed Members he had asked Mr. YU to provide a written summary of his experience in handling complaints and investigation and after reviewing the information, he did not consider Mr. YU to have much experience. C/EOC expressed Mr. YU was behaving like a Chairman and C/EOC did not know how to deal with him. C/EOC further expressed it would be bad to have internal power strife between him and Mr. YU. C/EOC asked Members to give him authority to handle Mr. YU’s contract. C/EOC added he had already discussed the matter with one Member, who agreed, and he asked for EOC’s authorisation to terminate Mr. YU’s contract.

4. A Member remarked that if there was already a formal procedure for appointing Mr. YU and Mr. YU has not yet commenced employment, what would be the reasons for terminating his contract now. The Member added that based on C/EOC's comments, Mr. YU did not seem to understand the scope of his duties. However, it would be necessary to consider whether to handle Mr. YU's case before or after his taking up employment.

5. A Member expressed that EOC is a team and should support C/EOC's request to give him authority to deal with Mr. YU's contract. Another Member expressed support for C/EOC because C/EOC was full-time and responsible for output and quality and has the right to handle staff cases.

6. Some Members enquired the procedure for the appointment of Mr. YU. A Member explained the delegation of power to the Administration and Finance Committee (A&FC) by EOC and A&FC's setting up of selection board for recruitment. He informed Members about the selection process and there was no problem with the procedure.

7. A Member supported C/EOC to handle Mr. YU's case, but suggested C/EOC could talk to Mr. YU first and look into the case and then come back to EOC with information to make a decision. However, another Member said this would not allow sufficient time if C/EOC had to report back to Members as Mr. YU would report for duty on 1 November 2003 and suggested that authority be given to C/EOC to make a final decision.

8. A Member expressed the view that Mr. YU was properly and legally appointed and that EOC was now trying to rescind his contract. He expressed concern about rescinding of Mr. YU's contract and stated he found it difficult to agree and get rid of Mr. YU before he arrived.

[The Member left the meeting soon after.]

9. A Member asked whether A&FC had legal power to make the appointment of Mr. YU. LA clarified A&FC had EOC delegation for selection and appointment of employees MPS45 and above, so they had proper delegated authority to interview and select Mr. YU. She stated her understanding that Mr. YU was properly interviewed, selected and appointed.

10. A Member expressed the view that C/EOC should have full power and responsibility to deal with any subordinate staff, including affairs of EOC and gave authorisation to C/EOC to handle case.

11. Another Member expressed the opinion that Mr. YU was properly appointed and although she understood there might be difficulty for C/EOC to co-operate with him, Mr. YU had not yet taken up the post and she expressed great reservation on the matter.

12. Another Member expressed he did not doubt the legality of Mr. YU's appointment, but expressed that legal termination of Mr. YU's contract was also possible and that dismissal was reasonable and fair because C/EOC had new objectives and working goals. He said that EOC could of course

let Mr. YU come and evaluate his performance, and terminate his employment if performance was poor, but he appreciated C/EOC's views about early termination. A major conflict could be avoided so he fully supported C/EOC to dismiss Mr. YU before he reported for duty and EOC would of course pay financial compensation.

13. DPA clarified EOC had been conducting recruitment for the vacancy since December 2002. Decision was made by the selection board in May 2003 and at that time it was not known there would be a new C/EOC. A Member further clarified the recruitment process and factors considered by the selection board.

14. Another Member expressed that from the perspective of personnel management, it was common for appointment of senior level employees to be withdrawn if there were changes. If EOC directions had changed, the case should be left to C/EOC to handle lawfully. He expressed that the act was fair and reasonable and would be unfair to Mr. YU if he resigned and moved back to HK, then was asked to leave.

15. Another Member agreed that the matter should be handled by the Chairman as long as actions taken were lawful, reasonable and rational. She suggested that there should be a strategy particularly in dealing with enquiries from the media. She mentioned that concerns were expressed about the future development of the EOC both before and after the Chairman's assumption of duty. Some Members were also concerned on how the "organizational review" to be undertaken by the EOC would be perceived. There should be a strategy regardless of whether the actions

involved terminating Mr. YU's contract or not.

16. C/EOC asked Members to give him authority to deal with Mr. YU's contract. A Member moved the motion authorising C/EOC to have power to handle Mr. YU's contract. The motion was seconded. C/EOC asked whether there were any objections. No objections were raised by any Members present. The resolution was passed unanimously.

[Post-meeting note: An EOC Member who was present at the above Meeting wrote to EOC on 27/10/03 that she did not understand there was a decision to dismiss Mr. YU at the Meeting and did not agree with the decision to terminate Mr. YU's employment.]

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