

## **Chapter 4**

### **Incidents Affecting the Credibility of the EOC**

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#### **Introduction**

4.1 The second part of our mandate is to inquire into “the incidents which have affected the credibility of the EOC and to make recommendations on measures to restore such credibility”. It became apparent to us from the very beginning that these incidents and issues were many and varied. Taking into account the events and reports about the EOC leading to the appointment of the Panel, we decided to focus on two main areas, namely, incidents surrounding the appointment and resignation of Mr Michael WONG as the EOC Chairperson and problems encountered by the EOC as an institution. This chapter focuses on the first issue.

4.2 Some of the controversies about Mr Wong’s appointment as the EOC Chairperson touched upon events during Mr Wong’s office in the Judiciary. Consistent with the fundamental constitutional principles of the separation of powers and of the independence of the Judiciary as enshrined in the Basic Law, the scope of our inquiry only covers incidents insofar as the EOC is concerned. We have therefore confined our inquiry to matters having direct relevance to the EOC, and would not comment on matters that should more appropriately be dealt with by the Judiciary.

#### **Overview**

4.3 On 2 July 2003, the Government announced the appointment of Mr Michael WONG, a retired Justice of Appeal, to succeed Ms Anna WU as the EOC Chairperson for a term of three years from 1 August 2003. The appointment of Mr Wong, by and large, appeared uneventful until 20 October 2003, three days before Mr Patrick YU convened a press conference on the termination of his contract. Media coverage on Mr Wong, his family and incidents relating to the EOC began to snowball through a combination of local and entertainment news in newspapers, magazines, radio phone-in programmes and TV talk shows. The reports surrounding Mr Wong centred around four allegations -

- (a) Mr Wong was given special approval to continue to receive pension while serving as the full-time EOC Chairperson. The first newspaper report appeared on 20 October 2003.

There were numerous follow-up media reports, commentaries, a LegCo question on 22 October and discussions at the LegCo Panel on Home Affairs.

- (b) Mr Wong resided in a flat given to his daughter by a local businessman. The first media coverage appeared on 29 October 2003, followed by extensive media coverage on Mr Wong and his family.
- (c) A few years before Mr Wong's appointment as the EOC Chairperson, he accepted four air tickets given to his daughter as a gift by a local businessman without notifying the Judiciary.
- (d) Mr Wong faxed an extract of an internal document of the EOC to the media, indicating that Mr Patrick YU was referred to the executive search firm by Ms Anna WU. Incidentally, the extract also included the names of candidates short-listed for the final interview for the Director (Operations) post.

4.4 The above issues were intertwined with the reports on the termination of Mr Yu's contract. On 6 November, Mr Wong convened a press conference to announce his resignation. He tendered his resignation to the Chief Executive who accepted it on the same day.

4.5 Mr Wong's resignation did not put an end to the controversies surrounding the EOC. On 12 November 2003, a local magazine published a feature article on the so-called "Six Allegations"<sup>15</sup> against the EOC and Ms Anna WU, a former EOC Chairperson, alleging that the Government and EOC Members were involved in drafting a confidential document containing these allegations during a private meeting in the night before Mr Wong's resignation. It was revealed that two gatherings were held on 4 and 5 November 2003 involving SHA, Mr Wong and two to three other individuals.

4.6 LegCo expressed concern about the incidents relating to the EOC and held extensive discussions, including -

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<sup>15</sup> The article was published in Chinese. The title is "砌胡紅玉 「六宗罪」"

- (a) a LegCo question on 22 October 2003 on Mr Wong's request to continue to receive pension whilst serving as the EOC Chairperson;
- (b) a LegCo question on 19 November 2003 on the termination of Mr Yu's contract;
- (c) a LegCo question on 19 November 2003 on the leakage of the EOC's internal confidential documents;
- (d) a motion debate on 26 November 2003 on the credibility of the EOC; and
- (e) five special meetings and three regular meetings of LegCo Panel on Home Affairs and two meetings of the House Committee.

4.7 On 18 May 2004, SHA announced the reappointment of seven EOC Members whose term exceeded six years.

### **Key Events**

#### **Non-renewal of Ms Wu's Appointment as EOC Chairperson**

##### ***Findings***

4.8 Having served the EOC as the Chairperson for a term of three years, Ms Anna WU was re-appointed for one year from 1 August 2002. On 2 July 2003, the Government announced the appointment of Mr Michael WONG to succeed Ms Wu for three years with effect from 1 August 2003.

##### ***The Panel's Observations***

4.9 By the time Ms Wu's term expired on 1 August 2003, she had already served as the EOC Chairperson for four years and as an EOC Member for seven years. She is the longest serving Chairperson of the EOC since its establishment. Ms Wu's achievement in promoting equal opportunities in Hong Kong is well recognized and highly appreciated locally and internationally.

4.10 The appointment of a new Chairperson was in accordance with the letter and spirit of the law. Under the Sex Discrimination Ordinance, the term of appointment of the EOC Chairperson should not exceed five years but there is no minimum period of a term of office. A reasonable turnover from time to time would help inject fresh impetus into the EOC in achieving its mission. We will comment on the system and criteria for the appointment of the EOC Chairperson in Chapter 6.

### **The Appointment of Mr Wong as the EOC Chairperson and Approval for Him to Continue to Receive Pension**

#### ***Findings***

4.11 It was always the Government's intention to identify the most suitable candidate for appointment as the EOC Chairperson. In considering the appointment of the EOC Chairperson for a new term commencing in August 2003, SHA consulted a number of people. According to Mr Andrew LIAO, SHA requested him to enquire if Mr Michael WONG, a retired Justice of Appeal with ample experience serving disability organizations, would be willing to accept the appointment as the EOC Chairperson. At around the end of May 2003, SHA informed his colleagues in HAB that the Chief Executive was considering appointing Mr Wong as the EOC Chairperson.

4.12 When SHA approached Mr Wong on the possibility of appointing him as the EOC Chairperson, Mr Wong had retired from the Judiciary for more than a year. He was the Chairman of the Administrative Appeals Board and a non-executive director of a listed company, both of which were part-time positions, but with remuneration. According to Mr Wong, he was enjoying his retirement life, and was reluctant to take up full-time employment again. When Mr Wong subsequently agreed in principle to accept the appointment as the EOC Chairperson, two HAB officers met him to go through the basic terms and conditions for the position. After being informed by HAB staff that approval would be required, Mr Wong requested that approval be sought for him to continue to receive his pension during his term of office as the EOC Chairperson. HAB was sympathetic and considered Mr Wong's request as an appropriate case to be considered for exemption.

4.13 On 12 June 2003, SHA wrote to the Chief Executive, seeking approval for the appointment of Mr Wong. In his submission, SHA wrote -

“Being a retired Justice of Appeal of the Court of Appeal of the High Court, Mr Wong is highly reputable and widely respected. His strong legal background makes him most qualified for overseeing the work of the EOC, i.e. to implement the Sex Discrimination Ordinance, the Disability Discrimination Ordinance and the Family Status Discrimination Ordinance. Mr Wong has a proven track record in promoting equal opportunities for the disabled and has good connection with rehabilitation group as he has served as the Chairman of the Hong Kong Society for Rehabilitation and the Vice President of New Life Psychiatric Rehabilitation Association. In view of the above, Mr Wong is an ideal candidate for the position.”

4.14 The submission also informed the Chief Executive that Mr Wong had requested to continue to receive his pension during his term of office as the Chairperson of the EOC and that the HAB would try to resolve the matter. On 27 June 2003, the Chief Executive formally approved the recommendation to appoint Mr Wong as the EOC Chairperson.

4.15 Whilst seeking the Chief Executive’s approval of Mr Wong’s appointment, SHA informed the Chief Justice (CJ) by telephone on 17 June 2003 that the Administration would like to appoint Mr Wong as the EOC Chairperson, that Mr Wong wished to continue to receive his pension after appointment and that he would be applying to the CJ for permission. On the advice of the HAB, Mr Wong wrote to the CJ on 19 June 2003 to seek his approval. His letter stated that -

“I have been approached by Dr. Patrick HO of the Administration to take up the post of Chairman of the Equal Opportunities Commission with effect from 1 August 2003. I told Dr Ho that I would be reluctant to return to full time work from retirement unless I could be allowed to retain my monthly pension which is the fruit of many years hard labour that I have just begun to enjoy. The Administration is sympathetic and accepts my request subject to your agreement. I am writing to you to seek your approval under the Pension Benefits (Judicial Officers) Ordinance (a) to take up the appointment of Chairman of the Equal Opportunities Commission, and (b) to continue to receive my monthly pension without interruption.”

4.16 In connection with Mr Wong's application, the Judiciary reviewed the matter as to who should be regarded in law as the authority under s.28(1) of the Pension Benefits (Judicial Officers) Ordinance (Cap. 401). Pension benefits of retired judges and judicial officers are governed by the Pension Benefits (Judicial Officers) Ordinance, Cap. 401<sup>16</sup>. Two sections of the Ordinance may be applicable in cases where retired judges and judicial officers take up employment after retirement -

- (a) Under s.34(1), the Chief Executive may direct pension suspension if a person takes up employment that is principally carried on in Hong Kong, within two years after his retirement and without prior permission of the Chief Executive. The authority in this section has been delegated to the CJ, and the Chief Executive as the delegator also retains the power.
- (b) Under s.28(1), pension payment may be suspended if a person is re-appointed to the public service or appointed to a gazetted subvented organization<sup>17</sup>. The Civil Service has similar statutory provisions, and there are two exceptions under which pension would not be suspended<sup>18</sup>. Section 28(1) is ambiguous as to who should in law be regarded as the approving authority.

4.17 Having reviewed the matter, the Judiciary concluded that the better view was that the discretion under s.28(1) was vested with the Chief Executive. Such discretion has not been delegated to the CJ. It was consistent with the Administration's view that the discretion under equivalent statutory provisions for the Civil Service was vested with the Chief Executive<sup>19</sup>. In his reply to Mr Wong on 26 June 2003, the CJ stated that -

“As both section 28(1) and section 34(1) may be applicable, it

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<sup>16</sup> Where the retired judges and judicial officers were/are under the Old Pension Scheme, their pension benefits are governed by the Pension Ordinance (Cap. 89). In practice, pension benefits of most serving judges and judicial officers are not under the Old Pension Scheme and are governed by the Pension Benefits (Judicial Officers) Ordinance (Cap. 401).

<sup>17</sup> No subvented organization has so far been gazetted by the Chief Executive.

<sup>18</sup> For details, please refer to the paper for the LegCo Panel on Public Service “*Pension suspension policy for retired civil servants*” (LC Paper No. CB(1)/296/03-04(03)), which mentions two exceptions to the pension suspension policy. They are (a) civil servants appointed as principal officials under the accountability system; and (b) part-time (i.e. not more than 24 hours per week) and short-term employment (i.e. not more than three months).

<sup>19</sup> For details, please refer to Question 11 of the LegCo at its sitting on 12 November 2003.

is my view that the Chief Executive is the proper authority to consider your request for approval.

- (a) As the Chief Executive and only the Chief Executive can consider the matter under s.28(1), it is only the Chief Executive who can consider your application comprehensively under both provisions.
- (b) In view of (a) and having regard to the standing of the post of Chairman of the Equal Opportunities Commission, it is appropriate for the Chief Executive to deal with your case under s.34(1), notwithstanding the delegation to me under that section.”

4.18 When the CJ’s advice was made known to SHA, SHA wrote to the Chief Executive on 27 June 2003, stating that -

“Section 34 of the Pensions Benefits (Judicial Officers) Ordinance stipulates that any judicial officer seeking to become an employee within two years of retirement shall have his pension suspended unless with your approval. As Mr Wong’s pre-retirement leave ended on 9 December 2001, this section would apply. Section 28 of the same Ordinance stipulates that pension may be suspended if a judicial officer is re-appointed to certain subvented organizations (EOC being one of those organizations).

Mr Wong has requested special consideration be given not to suspend his pension. Given that Mr Wong is considered the most suitable candidate for this appointment and that I have tried my best to persuade him to take up this full time post while he is enjoying his retirement, I recommend that approval be given for him to (a) take up the appointment of the Chairperson of the EOC within two years of his retirement pursuant to section 34 of the Ordinance; and (b) continue to receive his pension during his term of office with the EOC.”

4.19 On 29 June 2003, the Chief Executive formally approved SHA’s recommendations. The appointment of Mr Wong was announced on 2 July 2003. On 3 July 2003, SHA issued a letter to Mr Wong, informing him that the Chief Executive had given him permission to take up appointment as Chairperson with effect from 1 August 2003 and to continue receiving his pension. A copy of the letter was sent to the CJ for information.

### *The Panel's Observations*

4.20 Mr Wong had exercised due diligence in seeking the necessary approval for the continuation of his pension payments, first from the CJ and later from the Chief Executive through SHA.

4.21 The Chief Executive had acted within his authority in approving Mr Wong's case. In his response to Hon Albert HO Chun-yan's question at LegCo<sup>20</sup>, SHA mentioned that -

“The exercise of the power [to suspend payment of pension] is discretionary rather than obligatory. In fact, it has been the Government's policy to exercise the discretionary power to suspend payment of monthly pension to judicial officers who have retired under the Pensions Ordinance or the Pensions Benefits (Judicial Officers) Ordinance and re-appointed to the public service. The criteria for suspension of payment of pension are not set out in the Ordinances. The Chief Executive may consider whether to exercise the discretionary power according to the circumstances of individual cases.”

4.22 SHA added that -

“In appointing [Mr Michael WONG as the EOC Chairperson], we have taken into account that he has to withdraw from his retirement and resign from various offices in the public and private sectors in order to devote himself to work full-time for the EOC and to serve the community. After careful consideration of all factors, the Chief Executive considered [Mr Wong] the most suitable candidate and decided to accept his request for not suspending payment of his pension.”

### **Allegations about Acceptance of Gifts by Mr Michael WONG**

#### *Findings*

4.23 In late October and early November 2003, there were media reports, alleging that Mr Wong had accepted gifts (i.e. residence and air tickets) from a local businessman either directly or through his daughter.

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<sup>20</sup> Please refer to Question 5 of the LegCo at the sitting on 22 October 2003.



### Residence

4.24 According to information provided by Mr Wong and Miss Rosaline WONG, Miss Wong was the owner of the property in question, and Mr Wong did not have, and had never had, any proprietary or beneficial interest in the property. The property was purchased in 1998 by Miss Wong through a company.

4.25 In 1999, Mr Wong underwent a cancer surgery. In order to take better care of her parents, Miss Wong repeatedly requested Mr Wong to move to her flat. In around September 1999, Mr and Mrs Wong moved into the residence. While staying with Miss Wong, Mr Wong either paid or contributed to household expenses.

### Air Tickets

4.26 There were media reports alleging that Mr Wong had received air tickets from a local businessman a few years before his appointment as the EOC Chairperson. The alleged events took place when Mr Wong was in the Judiciary. Both Mr Wong and Miss Wong confirmed that Mr Wong had never accepted any air-tickets or gifts from the local businessman either directly or through her. In Mr Wong's view, the media coverage on the air tickets was taken out of context, and was a distortion of the conversation between him and the reporter.

### Responses of Parties Concerned

4.27 The local businessman in question issued a press statement on 29 October 2003 and held a press conference on 30 October 2003, denying having given Mr Wong any gifts. On 30 October 2003, the Judiciary responded to media enquiries, stating that -

“Regarding circumstances under which judges and judicial officers can accept gifts, the Prevention of Bribery Ordinance (Cap. 201) and the Acceptance of Advantages (Governor's Permission) Notice 1992 are applicable to judges and judicial officers. Unless allowed by relevant provisions, judges and judicial officers are required to seek permission for receiving gifts. Under the Acceptance of Advantages (Governor's Permission) Notice 1992, Government employees are permitted to solicit or accept from a relation any gift (whether of money or otherwise), any discount, any loan of money or any air, sea or overland passage. “Relation” includes child.

There are no provisions governing receipts of personal gifts by their children. During this short period of time, the Judiciary has checked the record for the ten years prior to Mr Wong's retirement. During this ten years' period, Mr Wong did not seek any permission for receiving air tickets as gifts ....As far as can be ascertained by the Judiciary, Mr Wong had not heard any cases concerning the local businessman, companies under his name or his employer."

4.28 On 3 November 2003, the Judiciary issued another statement that -

"The Judiciary has viewed with concern the allegation in the media that Mr Wong, a retired judge, had when holding office accepted as a gift of air tickets from a businessman. The acceptance of gifts by judges is governed by section 3 of the Prevention of Bribery Ordinance (Cap. 201) and the Acceptance of Advantages Notice 1992. The Judiciary notes that according to reports in the media -

- (i) The allegation apparently arose from something which Mr Wong had allegedly said in a media interview;
- (ii) the allegation has been denied by the businessman in question and also by Mr Wong's daughter who said it was a gift from her; and
- (iii) the allegation has been reported by members of the public to the ICAC for investigation.

In view of the legal position as regards retired judges ..... and noting that according to media reports, the allegation has been reported to the ICAC for investigation, the Judiciary does not consider it appropriate at present to initiate an inquiry into the matter."

### ***The Panel's Observations***

4.29 Whilst the personal affairs of Mr Wong and his family should not have any bearing on the EOC, as things unfolded, these private matters unfortunately became intertwined with the appointment of Mr Wong as the EOC Chairperson and his involvement in the termination of Mr Patrick YU as Director (Operations) of the EOC. The alleged events

took place when Mr Wong was in the Judiciary and there are well-established rules governing the acceptance of advantages by judges. According to media reports, the allegation has been reported to the ICAC for investigation. We therefore do not consider it appropriate to make further comment.

## **Allegation about Disclosure of an Internal Document by Mr Wong**

### ***Findings***

4.30 On 1 November 2003, a newspaper report alleged that Mr Wong had disclosed a confidential document to the media. According to Mr Wong, during the conversation with a reporter on 28 October 2003, they talked about the former EOC Chairperson Ms Anna WU and what she told the media in relation to Mr Patrick YU. According to Mr Wong's understanding, Ms Anna WU was quoted as saying<sup>21</sup> that she did not know Mr Yu before the recruitment exercise and that she had not given his particulars to the head-hunter prior to the recruitment. The reporter asked and Mr Wong told her that he had a note prepared for him by his staff that showed the contrary. The reporter then asked whether she could have a copy. Mr Wong told her that he would let her have a copy only provided that the newspaper would not print the document and would not disclose the source of information. She promised and Mr Wong sent her an extract. He did so because he thought and believed at that time that he should not allow a wrong statement to pass unchecked and unchallenged.

### ***The Panel's Observations***

4.31 The document in question was a note prepared by the EOC Office for Mr Wong on the sequence of events relating to the recruitment of Director (Operations). We have access to the original document and note that it was unclassified. The document is an internal EOC document and not a government document and is therefore not governed by the Official Secrets Ordinance.

4.32 Whilst Mr Wong's intention was to clarify misunderstanding, it would be advisable not to disclose documents containing sensitive information to outsiders, albeit an unclassified document.

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<sup>21</sup> According to Ms Anna WU, she had disclosed at all relevant stages the fact that she had met Mr Yu before his recruitment.

## **Handover Arrangements between Chairpersons**

### ***Findings***

4.33 According to Mr Wong, as soon as his appointment was announced, he tried to make an appointment to meet Ms Anna WU, the outgoing Chairperson, at the earliest opportunity. Mr Wong considered it a matter of courtesy for him to meet Ms Wu in person. He also felt that he was expected to find out and learn from her as much as possible about the EOC before he assumed chairmanship on 1 August 2003. Furthermore, Mr Wong already heard unconfirmed news that Mr Patrick YU was going to be appointed Director (Operations) and Mr Wong was anxious to understand from and discuss with Ms Wu about this matter before any final decision was to be made<sup>22</sup>.

4.34 In relation to the handover arrangements between Ms Wu and Mr Wong as the EOC Chairperson, parties concerned have different recollections. According to Mr Wong and DPA, Mr Wong informed DPA in early July 2003 that he would like to pay Ms Wu a courtesy visit. Noting that Ms Wu was on leave and would not be back until 17 July 2003, Mr Wong then asked to make an appointment with Ms Wu on 18 July 2003. When DPA conveyed Mr Wong's request, Ms Wu mentioned that she would be very busy within the first few days after her return to the office and suggested that they could meet on 21 July 2003. DPA informed Mr Wong accordingly and Mr Wong agreed. Ms Wu informed DPA upon her return on 17 July 2003 that it was not possible to meet Mr Wong on 21 July and that she would contact Mr Wong when she was free. DPA informed Mr Wong accordingly on 17 July 2003. According to Ms Wu, she has checked her diary and noted that she had continuous meetings on 21 July 2003 from mid-morning onwards, meetings which had been fixed in advance. In the circumstances, it was highly unlikely that there would have been an additional meeting with Mr Wong, scheduled on the day. She also asked DPA to send Mr Wong an advance copy of the press release on the appointment of Mr Patrick YU on 17 July 2003.

4.35 According to Mr Wong, he made no further requests to see Ms Wu as he had the feeling that she did not want to see him. He was shocked to learn that the appointment of Mr Yu as Director (Operations)

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<sup>22</sup> On 21 May 2003, the then <sup>EOC</sup> Chairperson wrote to Mr Patrick YU, extending an offer of appointment subject to two conditions. Mr Yu accepted the offer on 7 June 2003. For details, please refer to paragraphs 2.11 and 2.62.

was announced on 17 July 2003, the very day that Ms Wu returned. He felt that it was most discourteous of the outgoing chairperson to have done so. He thought that she could have at least informed him of such an appointment as she was aware that he had been trying to make an appointment to see her since early July.

4.36 According to Ms Wu, she made three attempts to call Mr Wong on 18 July 2003. She finally reached Mr Wong and spoke to him on the third attempt. Ms Wu started by outlining the proposed timetable on briefings and meetings with EOC staff members. She invited Mr Wong to a meeting on 28 July and offered to hold a joint press conference with Mr Wong on 30 July 2003. She also extended an invitation to him for a meal. According to Ms Wu, Mr Wong agreed to a meeting on 28 July but according to Mr Wong, he declined Ms Wu's invitation. On 21 July or 22 July 2003, DPA, at the request of Ms Wu, contacted Mr Wong on the arrangements for his visit to the EOC office on 28 July. Mr Wong informed DPA that he would not have the time to come. DPA informed Ms Wu accordingly. Ms Wu asked DPA to send briefing materials to Mr Wong.

4.37 According to Ms Wu, the meeting was fixed for late July 2003 because Ms Wu returned from leave only in the middle of the month and was very busy on return. Further, Mr Patrick YU would be visiting the EOC at the end of the month and it was obviously appropriate for Mr Wong to meet him. Perhaps most important, five division heads within the EOC needed to prepare briefing papers for Ms Wu's review prior to meeting Mr Wong.

4.38 According to Mr Wong, he asked Ms Wu during the telephone conversation why she had done such a thing to him (meaning the announcement of the appointment of Mr Patrick YU) without even letting him know first. "Why was it done in such a hurry?" he asked. Mr Wong then reasoned with Ms Wu that he was the person who would be responsible for running the EOC for the next three years as Chairperson while her term of office would expire in only a few days. He was the one who would have to work closely with Mr Yu.

4.39 There were different recollections on the references to “funerals”, which were widely reported in the media. According to Ms Wu, Mr Wong mentioned that she was walking into “her funeral” whereas he was coming in for three years. He asked why she was pre-empting him, referring to the appointment of the Director (Operations). According to her letter of 22 July 2003 to Mr Wong, Ms Wu was extremely offended by these remarks. Nonetheless, Mr Wong provided her with an apology which she accepted. According to Mr Wong’s recollection, however, he did not mention “walking into her funeral”. Instead, he was referring to the proposed joint press conference as “going to his funeral”. Upon hearing his concerns about the announcement of Mr Yu’s appointment, Ms Wu apologized and tried to explain. Mr Wong told her that he did not accept her apology and there was no point for her to apologize since she had already made the announcement.

4.40 On 22 July 2003, Ms Wu issued a letter to Mr Wong, stating that -

- (a) She was taken aback by Mr Wong’s response. She considered it a very vituperative attack on her, impugning her integrity and professionalism.
- (b) The recruitment exercise for the Director (Operations) commenced in late 2002 and was completed in May 2003, several months before she was made aware of Mr Wong’s appointment. During the period, five candidates, including Mr Patrick YU, were interviewed by a panel of five comprising herself and four EOC Members. Mr Yu was selected unanimously. The announcement of his appointment was planned for release upon her return to Hong Kong in mid-July. The EOC Office provided Mr Wong with a copy of the statement at the earliest opportunity.
- (c) Mr Wong indicated that he did not think the announcement needed to be so high profile. Only two newspapers reported on Mr Yu’s appointment. She could not control what coverage newspapers gave to him or what they wrote about him. Mr Patrick YU was appointed because he happened to be the best person for the job, with very relevant experience and background. He was appointed to serve the needs of the Commission, not to pre-empt Mr Wong. She hoped Mr Wong had a clearer picture surrounding his appointment and that he would not allow these misunderstandings to influence his judgment.

4.41 To Mr Wong, it was a matter of deep regret for him that there was no smooth transition in the handing over of the post of chairperson from Ms Wu to him. He felt that he was forced to a corner and had no choice. He tried every effort to meet Ms Wu because he wanted everything to go smoothly. He was hoping that Ms Wu, as the former EOC Chairperson, would share her experiences so that he would have a better understanding of the Commission. However, despite his repeated requests, she did not want to see him until almost the last day of her term in office. As the new Chairperson of the EOC, he did not feel very welcomed by the outgoing Chairperson. To Ms Wu, she believed she had made serious attempts to ensure a smooth handover. She provided briefing materials to Mr Wong, and offered a meeting, briefing and attendance at a joint press conference but Mr Wong declined her offers.

### ***The Panel's Observations***

4.42 Handover arrangements between Chairpersons depend on individual chairpersons since they are not built into the system. We consider a smooth handover desirable for the EOC because an outgoing Chairperson is handing over both the Chair and the administration of the EOC to an incoming Chairperson. The handover should be done in a more formal and professional manner. It was regrettable that such handover arrangements between Ms Wu and Mr Wong did not take place. As EOC Chairpersons were reputable community leaders, they should be trusted to handle the handover without external assistance. The handover process would have been smoother had the appointment of the new EOC Chairperson been announced earlier. This aspect will be covered in greater detail in Chapter 6.

### **Gatherings on 4 November 2003 and 5 November 2003**

#### ***Findings***

##### **Meeting on 4 November 2003**

4.43 In the morning of 4 November 2003, SHA discussed with Mr Andrew LIAO regarding unfavourable media coverage on the EOC, and expressed his wish to meet with Mr Wong. As Mr Liao was then otherwise engaged, he asked Ms Priscilla WONG, a practising barrister and an EOC Member, to arrange a gathering. In late afternoon that day, Mr Wong, SHA, Mr Andrew LIAO and Ms Priscilla WONG gathered at Ms Priscilla WONG's Chambers. During the discussions, SHA and

Mr Liao expressed concerns and words of comfort to Mr Wong. There were times when they were just facing each other and found themselves speechless. Mr Wong informed them that the most responsible and honourable thing for him to do as Chairperson of the EOC and head of his family was to resign from the post. Upon hearing this, SHA asked Mr Wong to consider his decision carefully before any final decision was made. They parted company shortly afterwards. Ms Priscilla WONG did not participate in the discussion as she spent most of the time either attending to her own business or serving the guests.

#### Meeting on 5 November 2003

4.44 As far as the meeting on 5 November 2003 is concerned, two of the participants of the gathering, Mr Andrew LIAO and Ms Priscilla WONG, have informed us that the gathering is currently the subject of court proceedings initiated by them. On grounds of “sub judice”, they are not at liberty to comment on the gathering.

4.45 According to SHA, he was informed by the HAB staff in the morning of 5 November 2003 that Mr Wong had cancelled<sup>23</sup> an EOC meeting originally scheduled for that day and this had given rise to speculations. He felt he had the duty to understand the situation. In order to have a better understanding of the situation, SHA asked Ms Priscilla WONG to arrange another gathering on that day. According to Mr Liao, SHA requested him to join SHA in meeting with Mr Wong. In addition to the four people who attended the gathering on 4 November, Dr Raymond WU was also invited to join the gathering as he was an EOC Member, and had known Mr Wong for a long time.

4.46 SHA, Mr Liao, Dr Wu, Ms Wong and Mr Wong gathered at Ms Priscilla WONG’s Chambers in late evening on 5 November 2003. The gathering took place in Ms Wong’s private office inside the Chambers. According to Mr Wong, he was very tired, distressed and depressed. Before the gathering, he was trying to cope with the effects of a magazine article about him and his family. As a result, the gathering was a somewhat solemn one. SHA, Mr Liao and Dr Wu had all noticed his state of distress and depression, and they could only express their sympathy. Mr Wong was concerned that the media reports were hurting his family. He informed them that he would make a

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<sup>23</sup> The EOC Chairperson issued a notice on 4 November 2003, informing Members of his decision to postpone the meeting originally scheduled for 5 November 2003. SHA became aware of the notice in the morning of 5 November 2003.



statement about his resignation on the following day (i.e. 6 November 2003). Upon hearing this, there was a moment of silence. After a while, Mr Wong was tired and sat down on a settee. Dr Wu tried to comfort him and sat next to him. They started talking to each other and paid no attention to SHA and Mr Liao. Dr Wu asked Mr Wong if he required assistance in drafting a resignation speech since he was so exhausted. Mr Wong thanked him and said that it would not be necessary as he had already prepared a draft and all it needed was a little touch-up and polish.

4.47 According to SHA, when Mr Wong and Dr Wu started discussion about the internal affairs of the EOC and the content of the resignation speech, he felt that it would be better if he should not be present. He then left the private office and met Mr Liao in other parts of the Chambers. Mr Liao had left the private office earlier. Both of them then left the Chambers and found their way to the washroom on another floor as the washroom on that floor was out of service.<sup>24</sup> They left the Chambers for 10 to 15 minutes. When they returned to the Chambers, SHA made a few phone calls in the outer office whilst Mr Liao chatted with Ms Wong and attended to his personal business in another private office in the Chambers. SHA and Mr Liao did not return to Ms Wong's private office until some time later. During that period, Ms Wong went back occasionally to her private office and saw Dr Wu talking with Mr Wong, both sitting on a settee.

4.48 In the meantime, Dr Wu and Mr Wong continued their discussion. According to Mr Wong, during the rest of the gathering, he only talked to Dr Wu except when they bid farewell towards the end. They discussed generally about a number of matters in relation to the EOC. As a veteran member of the EOC, Dr Wu was worried about the future of the organization and asked Mr Wong if he would consider outlining some problems and areas for improvement for his successor to follow up. Mr Wong mentioned that the EOC had already appointed two advisers to look into the matter and they were expected to follow up closely. In the ensuing discussion, they talked about the work of the EOC including its efficiency and staff morale. Mr Wong remembered having stressed to Dr Wu the importance of setting up an independent equal opportunities tribunal with judicial power of adjudication to deal with complaints which could not be settled after conciliation. Mr Wong

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<sup>24</sup> As confirmed by Hongkong Land, the toilets on the floor on which Ms Wong's Chambers was located were under renovation on 5 November 2003. Alternative toilets were on two floors below, and were accessible by staircase and lifts.

asked Dr Wu to pursue this vigorously in the Commission, as this would, in Mr Wong's views, be in the best interest of the community. Mr Wong and Dr Wu also talked about old times. They knew each other in the 1960s when they were serving together as committee members of the New Life Psychiatric Rehabilitation Association.

4.49 According to SHA, when SHA and Mr Liao returned to the private office, the discussion between Mr Wong and Dr Wu was coming to an end. Mr Wong and Dr Wu were talking about the EOC's internal affairs but SHA did not participate in the discussion. He was unable to comprehend fully the context of the discussion as he had left the room for some time, and the only thing he could do was to offer a few words of comfort. According to Mr Liao, he was not familiar with the details of the EOC's operation, and he did not attend to any specific discussion on the EOC's internal matters. According to Ms Wong, she did not participate in the discussion as she had to attend to her personal business from time to time. Eventually, all the five participants re-assembled at Ms Wong's private office to bid farewell. Mr Wong left and other participants left shortly afterwards.

#### *Were Any Documents Drafted During the Gatherings?*

4.50 According to information available to us, no drafting was conducted during any of the gatherings. None of the five relevant individuals had seen or read any document containing the so-called "six allegations" before the publication of the article in the EastWeek. SHA and his HAB colleagues had checked with all the staff within HAB who had dealings with the EOC, and ascertained that no document was drafted by anyone from HAB as alleged.

4.51 The resignation statement delivered by Mr Wong on 6 November 2003 was written by Mr Wong himself without outside assistance. The statement made no reference to allegations against the EOC including the so-called "six allegations". Mr Wong did not mention any problems facing the EOC or any allegations against it.

#### *The Panel's Observations*

4.52 The fact that the gatherings were held in private just before Mr Wong's resignation understandably arouse attention. However, having regard to the circumstances of the case, it was not unreasonable to arrange private gatherings rather than formal official meetings. They were essentially private in nature. As the Principal Official responsible

for the EOC, SHA felt obliged to understand the situation and plan for the future. It is arguable that official exchanges should best be left with the well-established channels of communications between the HAB and the EOC. In this case, SHA wished to handle the matter in a sensitive and humane manner. Taking into account the distress and agony Mr Wong and his family went through, a private gathering would be appropriate for Mr Wong to ventilate his feelings and views.

4.53 The whole setting was an informal one without meeting agenda, notes taken or papers drafted. After Mr Wong had made clear his intention to resign, and all of them had expressed words of comfort, only Dr Wu continued to engage in conversations with Mr Wong throughout the rest of the gathering.

4.54 Furthermore, judging by the level of details in the article on “six allegations”, it would not have been possible for anyone present at the gathering to have drafted such an article.

## **Resignation of Mr Michael Wong**

### ***Findings***

4.55 On 4 November 2003, the EOC Office notified Members of Mr Wong’s decision to postpone the EOC meeting scheduled for 5 November, which was originally convened to brief members on the matter relating to the termination of Mr Patrick YU’s appointment and to prepare for attendance at the LegCo Panel on Home Affairs scheduled for 7 November. On 6 November 2003, Mr Wong tendered a letter of resignation to the Chief Executive, who, on the same day accepted his resignation. He also convened a press conference and delivered the following resignation statement, which was prepared by himself without the assistance of the EOC staff -

“My family, friends and I have been deeply troubled by the recent unfounded accusations against me in the media which are serious personal attacks on me and my family.

Hong Kong is a civilized society governed by the rule of law. No citizen should be tried in public by a media which does not have a full understanding of the incident. But in the past two weeks, my family and I have had to endure, every day, unfair criticism by the media, and I can hardly withstand such a co-ordinated attack by all the press in Hong Kong

single-handedly. Today I deeply feel the destructive power of the media.

I have chosen to remain silent in the past two weeks because I have faith in the spirit of the rule of law. This row solely stemmed from the rescinding of an employment contract signed with EOC. However, I believe any reasonable person should have realized by now that there are ulterior motives behind the recent developments.

A press media has even published reports which are untrue and taken out of context to arouse public sentiment. I wish to reiterate that I have instructed my lawyer to look into these unfair and untrue reports. I reserve the right to take legal action to do myself justice.

I have a clear conscience in this incident. Nevertheless, I will not attend the LegCo meeting tomorrow, not because I want to avoid being questioned, but because at the last moment I suddenly find that I do not have the support that I deserve. I am extremely disappointed. The feeling of being deserted in the end has made me doubt whether I should persevere. I have therefore made the above-mentioned decision [to resign].

The discerning public will clearly understand that this row is actually a political struggle, and to me, it is even political persecution. As the EOC Chairperson, I had the responsibility to make improvements to areas which were less than perfect. I was duty bound to do so even if it would make some people unhappy. I can take it if only my reputation is at stake. However, I do not wish to see my family being subjected to attacks as well. Nor do I wish to see that my good will to serve the community has caused serious harm to my family. I have therefore decided to resign. Should this cause any inconvenience to any party, it is to my most unwilling regret.”

### ***The Panel's Observations***

4.56 By the time of his resignation, Mr Wong had only served as the EOC Chairperson for slightly more than three months. During his term of office, he had taken positive steps to initiate a review at the macro level and introduce measures to improve the EOC's operation. These initiatives are conducive to the development of the EOC.