

For discussion
on 17 March 2003

Legislative Council Panel on Constitutional Affairs

Guidelines to assist principal officials to avoid conflict of interest in drawing up the budget

Purpose

This paper addresses the question of guidelines to assist principal officials involved in drawing up the budget to avoid conflict of interest.

The Position

2. There are no specific guidelines in this regard for principal officials. However, the Code for Principal Officials under the Accountability System (“the Code”) sets out the principles and guidelines that need to be observed to avoid conflict of interest.

3. Principal officials should avoid putting themselves under real or perceived conflict of interest situations. They are bound by the Code to observe the highest standards of personal conduct and integrity at all times.

4. The Code, which was gazetted on 28 June 2002 provides, among other things, that principal officials are required under the Code to:

- (a) be dedicated to their duties and be responsible to the HKSAR Government [Clause 1.2(2) of Code];

- (b) observe the highest standards of personal conduct and integrity at all times [Clause 1.2(6) of Code];
- (c) ensure that no actual or potential conflict arises between their public duties and their private interests [Clause 1.2(7) of Code];
- (d) avoid putting themselves in a position where they might arouse any suspicion of dishonesty, unfairness or conflict of interest [Clause 5.1 of Code]; and
- (e) refrain from handling cases with actual or potential conflict of interest [Clause 5.3 of Code].

The Code does not specify every type of potential act or behaviour expected of principal officials. Rather, it provides rules and principles for appropriate conduct under certain circumstances. Where the circumstances are not prescribed, it is the responsibility of principal officials to judge in accordance with the principles set out in the Code, how best to act in order to uphold the highest standards. In case of doubt, principal officials should seek the advice of the Chief Executive [Clause 1.3 of Code].

5. Apart from the relevant provisions in the Code which set out the guiding principles, the employment contract for principal officials provides that they shall not use their official positions or any information made available to them in their official capacity to benefit themselves or any other persons, financially or otherwise. The employment contract also provides, among other things, that the principal officials shall not use, divulge or communicate to any person, unless with the prior written consent of the Chief Executive, any sensitive information which may

come to the principal officials' knowledge in the course of performing their duties.

6. The declaration of interest requirements under the accountability system include the following:

- (a) principal officials are required, annually, to file declarations on their investments and interests, the contents of which are made available for public inspection on request: this enables the public to scrutinise the investments and interests held by principal officials [Clause 5.6 of Code]; and
- (b) principal officials are required to report to the Chief Executive any private interests that might influence, or appear to influence, their judgement in the performance of their duties [Clause 5.4 of Code].