

Information Paper

11 March 2005

**Legislative Council Panel on Public Service**

**Post-retirement Employment of Ms Elaine Chung,  
Former Deputy Director of Housing / Deputy Secretary for Housing**

**Purpose**

Further to the written reply by Secretary for the Civil Service (SCS) dated 14 December 2004 and his response to Members' questions at the meeting of the Legislative Council (LegCo) Panel on Public Service on 21 December 2004, this note sets out further findings related to certain concerns raised by Members at the Panel meeting regarding the post-retirement employment of Ms Elaine Chung, former Deputy Director of Housing / Deputy Secretary for Housing, and presents a comprehensive account of the Administration's findings and views on the matter.

**Background**

2. Ms Elaine Chung proceeded on pre-retirement leave on 1 December 2003 and left the civil service on 4 September 2004. Prior to her retirement, she served as Deputy Director of Housing / Deputy Secretary for Housing from August 1999 to November 2003 responsible for housing policies in the public and private sectors, as well as formulation of plans and strategies for the Hong Kong Housing Authority. Prior to that, she served as Director of Urban Services from February 1997 to July 1999.

3. In February 2004, Ms Chung submitted an application to take up full-time employment with Hong Kong Ferry (Holdings) Co. Ltd (HKF) as Director of Business Development. The list of responsibilities and duties submitted by

Ms Chung indicated that as Director of Business Development, her work would include the fields of travel, transport, hotel, cultural, recreational and hospitality services. Ms Chung did not mention in her application any plan of HKF to invest in the WKCD development project, or her role in such investment, if any. Nor did she mention any job duty relating to the land and property portfolio of HKF. Furthermore, Ms Chung indicated that during her last two years of government service, she had no direct or indirect involvement in contractual dealings between the Government and HKF, no other official contact with HKF, no involvement in decisions which might affect HKF's business with the Government, no contact with companies which might be considered as competitors of HKF, and no access to commercially sensitive information relating to HKF's competitors. Her application was supported by the Permanent Secretary for Housing, and then submitted to the Advisory Committee on Post-retirement Employment for advice.

4. On the basis of the scope and nature of the proposed employment set out in her application which did not appear to be related to Ms Chung's former duties as Deputy Director of Housing / Deputy Secretary for Housing, and taking account of the views of the Permanent Secretary for Housing and the Advisory Committee on Post-retirement Employment, SCS gave approval on 29 March 2004 for Ms Chung to take up the proposed employment with HKF. We understand that Ms Chung commenced the employment with HKF in mid-April 2004.

5. Amidst public concern about Ms Chung's association with a proposal of Henderson Land Development Co. Ltd (Henderson) on the development of the West Kowloon Cultural District (WKCD), SCS responded to an oral question on the matter raised by Hon Kwong Chi-kin at the Legislative Council sitting on 1 December 2004. He subsequently gave a further account of the case and actions taken by the Administration on the case in his reply dated 14 December 2004 to the Clerk to the LegCo Panel on Public Service, which was submitted to the Panel for discussion at its meeting held on 21 December 2004.

6. SCS attended the Panel meeting and replied to Members' questions on the case. At the meeting, apart from expressing concern about Ms Chung's association with Henderson's proposal on the WKCD project, Members also asked the Administration to look into reports that Ms Chung might have performed a role

in respect of a particular application for change in land use in Tsing Yi, and that Ms Chung might be in the employment of Henderson instead of HKF as she seemed to be working in Henderson's premises at the International Finance Centre in Central.

### **Actions taken by Administration on the case**

7. In Ms Chung's case, as in others, the Administration is most concerned about conflict of interest, real or potential, and public perception. Civil Service Bureau (CSB) has taken a keen interest in ensuring that Ms Chung does not handle any matters that might constitute or be perceived to constitute a conflict of interest. Since May 2004, CSB has communicated with Ms Chung on many occasions on matters related to her employment with HKF and the nature of her involvement in Henderson's WKCD proposal. The steps taken by CSB to ascertain Ms Chung's scope of work include –

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|----------------|--|
| September 2004 | Correspondence with Ms Chung on her association with Henderson's bidding for the WKCD development project.   |
| November 2004  | Further correspondence with Ms Chung on her association with Henderson's bidding for the WKCD project. The Advisory Committee on Post-retirement Employment met to discuss Ms Chung's case. CSB subsequently wrote to explicitly prohibit Ms Chung from taking part in the bidding or promotional activities of any bidding team for the WKCD project. |
| December 2004  | Correspondence with Ms Chung on her involvement, if any, in an application for change in land use in relation to a proposed concrete batching plant in Tsing Yi.   |
| January 2005   | Following the Panel meeting on 21 December 2004, further correspondence with Ms Chung on her work assignments for HKF. CSB also communicated with the Kwai Tsing District Office (K&TDO) on Ms Chung's involvement in the events relating to the land use application for a concrete batching plant in Tsing   |

Yi.

February 2005 Meeting with Ms Chung to seek her further clarification on details of her employment with HKF.

## **Findings and assessments**

8. CSB's findings and assessments are set out in paragraphs 9 to 25 below.

### Ms Chung's association with Henderson's bidding for WKCD development project

9. CSB took the first initiative to seek an explanation from Ms Chung on her role, if any, in Henderson's bidding for the WKCD development project back in September 2004. On that occasion, Ms Chung confirmed that she was only involved in the cultural aspects of Henderson's proposal (e.g. what to display or what performances to plan for the theatres, museums and art exhibition centre), and that she had never been and would never be involved in the real estate (i.e. retail residential and commercial) aspect of the proposal.

10. Triggered by further press reports on Ms Chung's involvement in the promotion of Henderson's WKCD proposal, in early November 2004 CSB again initiated correspondence with Ms Chung on her role in Henderson's proposal and her relationship with Henderson in that context. Ms Chung replied that since her commencement of work with HKF in mid-April 2004, she had never been and would never be involved in the real estate work of HKF or the WKCD project. She said HKF, as an associate company of Henderson, had been called upon by the latter to contribute to the cultural aspects of Henderson's proposal and she, as a staff member of HKF, had been asked to assist in this.

11. While dialogue between CSB and Ms Chung was continuing, Ms Chung got involved in several promotional activities hosted by Henderson in October and November 2004. On those occasions, according to press reports, Ms Chung made public comments on partnership between Henderson and overseas / Mainland museums should Henderson succeed in its bid for the WKCD project and

made a presentation on the cultural facilities and programmes to be staged under Henderson's WKCD proposal.

12. CSB wrote to Ms Chung on 11 November 2004 to request her to refrain from involving herself in anything which might be perceived as providing service to any bidding team of the project, and wrote again on 30 November 2004 for the avoidance of doubt to specifically prohibit her from the following in connection with the WKCD project –

- (a) being part of a bidding team;
- (b) participating, directly or indirectly in the bidding process;
- (c) participating in any promotional activities;
- (d) participating in any public consultation sessions;
- (e) making public presentations or appearance in relation to any bid for the project; and/or
- (f) acting as a spokesman for any bidding team.

13. HKF also made public statements on Ms Chung's involvement in Henderson's WKCD proposal. In a press release dated 15 November 2004, HKF said that it was one of the 30 plus consultants serving Henderson on its WKCD proposal, focusing only on the cultural and arts aspects, and Ms Chung only provided advice on cultural and arts aspects without involvement in any property-related issues. Ms Chung's letter of 25 November 2004 to the Secretary-General of Legislative Council repeated the same points. On 3 December 2004, HKF made an announcement that it would cease to involve Ms Chung in all work relating to Henderson's WKCD proposal including its cultural aspects during the bidding process.

14. We believe that the following considerations are pertinent to the question of propriety of Ms Chung's association with Henderson's bidding for the WKCD project -

- (a) whether there is any conflict of interest with Ms Chung's former government duties;

- (b) whether Ms Chung's service is within the approved scope of work;  
and
- (c) the impact on the image of the Government/Civil Service.

(a) Whether there is any conflict of interest with Ms Chung's former government duties

15. Both Ms Chung and HKF confirmed categorically and unreservedly that Ms Chung had never been and would never be involved in land or property-related matters of HKF or Henderson's WKCD proposal. We also note that Henderson stated in its announcement made on 2 December 2004 that it was not necessary whatsoever for the company to seek Ms Chung's advice on property issues, and that neither Ms Chung nor HKF had been or would be involved in property-related issues in connection with Henderson's WKCD proposal. Taking account of these confirmation and statements, and in the absence of any evidence to the contrary, we accept Ms Chung's claim that she has not taken up any land or property-related matters during her employment with HKF, and that there is no conflict of interest with her former duties as Deputy Director of Housing / Deputy Secretary for Housing.

16. As regards Ms Chung's advisory service on the cultural aspect of Henderson's WKCD proposal (undertaken as a staff member of HKF), as Ms Chung had ceased to handle cultural matters in any official capacity for nearly five years before she took up the employment with HKF, any sensitive data or influence which she possessed in her official capacity would have become out-dated by the time she commenced the employment. We are satisfied that there is no conflict of interest insofar as her advisory service on cultural matters is concerned.

(b) Whether Ms Chung's advisory service on the cultural aspect of Henderson's WKCD proposal falls within the approved scope of work

17. It is a fact that Ms Chung did not mention anything about possible service in connection with the WKCD project in her original application. We

nonetheless accept that, so long as Ms Chung provides advisory service on the cultural aspects of Henderson's WKCD proposal as internal advisory service to HKF direct, technically such service falls within the approved scope of work, as cultural services for HKF were specifically mentioned in her original application based on which SCS gave his approval.

18. SCS's approval, however, does not cover Ms Chung's participation, either direct or indirect, in the bidding for the WKCD project, or participation in promotional activities of any company, say Henderson, in relation to that company's proposal for the said project. The possibility of such participation was not mentioned in Ms Chung's original application or in her written clarification of 27 September 2004. On the basis of this assessment and for the avoidance of doubt, we wrote to Ms Chung in late November to explicitly prohibit her from participating in the bidding and promotional activities of any bidding team for the WKCD project.

19. On involvement in the bidding for the WKCD project, Ms Chung said that she was not part of Henderson's bid team; she was not involved in the writing of the bid document; and that her input had been more in the form of providing advice on, for example, the story line for the museums and the types of performances to stage at the planned venues. We have no reason to doubt Ms Chung's claim that she was not involved in Henderson's bidding for the project.

*(c) The impact on the image of the Government / civil service*

20. We consider that Ms Chung's making public appearances, comments and presentation on the cultural aspects of Henderson's WKCD proposal in October and November 2004 (see para. 11 above) amounted to participation in the promotion of Henderson's proposal to the public and fell outside the scope of approved work, and hence was inappropriate and unacceptable. We also consider that Ms Chung did not exercise sound judgement commensurate with her previous senior government ranking to distance herself from any promotional activities connected with any bid for the WKCD project. Her participation in the promotion of Henderson's WKCD proposal in October and November 2004 fuelled public suspicion of conflict of interest, to the detriment of the image and public confidence

in the integrity of the civil service. We have conveyed the forgoing views to Ms Chung and issued a warning to her to exercise proper care and judgement in her employment with HKF within the remainder of the control period. She has also been reminded to seek clarification from CSB where she has any query about the scope of permitted work.

Whether Ms Chung was involved in lobbying support for an application for change in land use in respect of a proposed concrete batching plant in Tsing Yi

21. In response to our enquiry on her involvement in an application for change in land use in respect of a proposed concrete batching plant in Tsing Yi, Ms Chung pointed out that the application was made by the Hong Kong Shipyard Ltd. (HKS), a subsidiary company of HKF, to change the land use of part of its shipyard on Tsing Yi Island into a concrete batching plant, and that the application was agreed by the Town Planning Board on 12 January 2001 as evidenced by a letter issued by the Town Planning Board on 2 February 2001, i.e. three years before Ms Elaine Chung joined HKF in April 2004. She said the change in land use proposal was discussed and agreed by the Kwai Tsing District Council at its meeting held on 15 June 2004 which she did not attend. Ms Chung further explained that the site visit was initiated by the General Manager of HKS and was meant to be a familiarization visit aimed at promoting understanding of the operation of the shipyard. She met the District Councillors after the General Manager of HKS had made a presentation. She said as the briefing for the District Councillors was held in a conference room right next to her office in Tsing Yi, and as she knew some of the District Councillors, she felt that it would be discourteous and impolite of her not to drop by to exchange pleasantries and to join the meal arranged for the visitors.

22. Upon our request, K&TDO has reviewed Ms Chung's written representation on the issue, and confirmed that the description on her involvement in the change of land use application is factually correct. According to the staff of K&TDO who attended the site visit on 2 June 2004, Ms Chung appeared for a short while at the briefing session to introduce herself and exchange pleasantries with the District Councillors, and she did not make any presentation or conduct any active



lobbying on the occasion. K&TDO has also made enquiries with some District Councillors who joined the site visit and neither do they have recollection that Ms Chung conducted any active lobbying on the occasion. On the basis of Ms Chung's explanation and K&TDO's comment, we accept Ms Chung's claim that she did not participate in lobbying support for HKS's application for change in land use in relation to its concrete batching plant project in Tsing Yi.

23. As a related issue, we note that Ms Chung mentioned 'batching plant' as one of her work assignments for HKF in her letter of 25 November 2004 addressed to the Secretary-General of LegCo. In response to our query, Ms Chung admitted that the reference to batching plant was wrong as HKF had never requested her to attend to such work assignment and she had never worked for HKS. She offered an apology for the mistake.

#### Ms Chung's other work assignments for HKF

24. Upon our request for more information on her work assignments with HKF, Ms Chung has listed out, in broad terms, her work assignments since joining HKF in April 2004. Taking account of this and other written representations by Ms Chung, as well as her clarification at the meeting with CSB in February 2005, we have no grounds to suspect that Ms Chung has performed any work assignments outside the approved scope of work, save for her participation in the promotion of Henderson's WKCD proposal (see para. 11 and 20 above).

#### Ms Chung's office accommodation

25. According to Ms Chung, she has two offices, one at 98 Tam Kon Shan Road, Ngau Kok Wan, North Tsing Yi and the other at Two International Finance Centre (IFC) in Central. The office at IFC is maintained purely for convenience sake (according to Ms Chung, the Chairman and three other directors of HKF also have offices at IFC). Ms Chung confirmed that she had received no remuneration whatsoever from Henderson. We also note that both HKF and Henderson, in their press release / announcement, stated that Ms Chung was an employee of HKF. In conclusion, we accept that it is not uncommon in the private sector that senior management are provided with more than one office to suit

business purposes, and we have not come across evidence that substantiates the allegation that Ms Chung has been working for Henderson, not HKF, against SCS's approval.

## **Conclusion**

26. Ms Chung's application for post-retirement employment with HKF was processed in strict accordance with the prevailing policy and procedure at the time. As she indicated in her application that she would not be required to handle any land or property-related matters of HKF, it was considered that the question of conflict of interest with her former duties as Deputy Director of Housing / Deputy Secretary for Housing did not arise. The inclusion of cultural services in Ms Chung's proposed work portfolio was considered acceptable as she had not handled cultural matters on behalf of the Government since she left the post of Director of Urban Services in August 1999, and any sensitive data or influence which she possessed in her official capacity would have become out-of-date due to lapse of time. Ms Chung's association with Henderson's bid for the WKCD project was not in any way mentioned or hinted in her application, and could not be envisaged at the time of processing the application. We therefore remain of the view that there was nothing improper about the giving of approval at the time.

27. Based on information available and as assessed above, we believe Ms Chung's employment with HKF does not give rise to conflict of interest, and she has been working largely within the scope of work as approved by SCS in March 2004. But we consider that her participation in the promotion of Henderson's WKCD proposal in October and November 2004 (see para. 11 and 20 above), even though limited to the cultural aspects of the proposal, fell outside the scope of approved work, and hence was inappropriate and unacceptable. Such participation fuelled public suspicion of conflict of interest, to the detriment of the image and public confidence in the integrity of the civil service. We consider that Ms Chung did not exercise sound judgement commensurate with her previous senior government ranking to distance herself from any promotional activities connected with any bid for the WKCD project. We have conveyed the forgoing views to Ms Chung and issued a warning to her to exercise proper care and judgement in her employment with HKF within the remainder of the control period.

This decision has been taken following careful consideration of the facts and circumstances of Ms Chung's case and after taking the advice of the Advisory Committee on Post-retirement Employment and the Department of Justice .

28. Post-retirement employment control is essentially an honour system based on trust in the integrity and judgement of retired civil servants. In a different light, the controversy surrounding Ms Chung's post-retirement employment provides an important reference for our review of the control regime on post-retirement employment. We will, according to the agreed time-table, present our initial proposals from the review at the meeting of the LegCo Panel on Public Service scheduled for 21 March 2005.

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March 2005  
Civil Service Bureau