

SPA 9/9 Pt. 44
CB1/PL/PS

2810 3003
2501 4504

23 May 2005

Clerk to LegCo Panel on Public Service
(Attn: Ms Rosalind Ma)
Legislative Council Secretariat
3/F, Citibank Tower
3 Garden Road
Central
Hong Kong

Dear Rosalind,

**Panel on Public Service
Follow-up to meeting on 21 March 2005**

Thank you for your letter of 11 May 2005.

We confirm that we have sought legal advice on the suggestion of deferring approval of applications for post-retirement employment from former directorate officers until the revised mechanism has been implemented. In response to the Chairman's enquiry, the Department of Justice has pointed out that in accordance with established legal principles, where, under either a statutory or administrative scheme, a public officer is conferred with a discretion which may be exercised on application, he must exercise his discretion expeditiously, in good faith and in accordance with the scheme as it stands. To defer his decision until a later date in the expectation that by then the scheme will have been varied to the applicant's detriment, would not be a bona fide exercise of his discretion and would be contrary to the applicant's legitimate expectation.

Yours sincerely

(SUI Wai Keung)
for Secretary for the Civil Service