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Paper for the Special House Committee meeting on 12 December 2008

**Background brief
on the Implementation of the Accountability System**

Purpose

This paper provides background information on the implementation of the Accountability System and summarizes the major issues raised by Members.

Background

The Accountability System

2. The framework of the Accountability System for Principal Officials (POs) was first introduced to the Legislative Council (LegCo) in April 2002. According to the Administration, the Accountability System has the following objectives -

- (a) to enhance the accountability of POs for their respective policy portfolios;
- (b) to maintain a permanent, professional, meritocratic, honest and politically neutral civil service;
- (c) to select the most suitable persons to take up the PO positions to serve the community and to enhance governance;
- (d) to better coordinate the formulation of policies to ensure their effective implementation and provision of quality services to the public;
- (e) to enhance cooperation between the Executive and the Legislature; and
- (f) to enable senior government officials to better appreciate the aspirations of the community and to better respond to the needs of the community.

3. A subcommittee under the House Committee was formed to study the proposed accountability system and related issues (the Subcommittee on the Proposed Accountability System). At the Council meeting held on 30 May 2002, a motion moved by the Secretary for Constitutional Affairs supporting the implementation of the Accountability System was passed. The staffing and funding proposals relating to the

implementation of the Accountability System were approved by the Finance Committee (FC) on 14 June 2002. The Administration at that meeting undertook to report to the Panel on Constitutional Affairs (the CA Panel) the progress of various aspects of the Accountability System six months after its implementation. Two reports were then issued by the Administration, in January 2003 and July 2003 respectively.

4. With the implementation of the Accountability System on 1 July 2002, three Secretaries of Department and 11 Directors of Bureau were appointed on contract. They were not civil servants and their contracts did not exceed the term of the Chief Executive (CE) who nominated them for appointment. Following a re-organization of the policy bureaux of the Government Secretariat on 1 July 2007, the number of policy bureaux has increased from 11 to 12, each headed by a Director of Bureau. There are now a total of 15 POs, i.e. three Secretaries of Department and 12 Directors of Bureau.

Further development of the Political Appointment System

5. In October 2005, CE announced the Government's intention to consult the public on its proposal to create positions dedicated to political affairs, so as to strengthen support for POs to undertake growing political work related to the formulation and implementation of policies, to reach out to the community and to broaden and consolidate public support for the Government. In July 2006, the Administration issued a consultation document on its proposals to canvass views from the community on how best to further develop the Political Appointment System.

6. On 17 October 2007, the Administration published the "Report on Further Development of the Political Appointment System". The Administration recommended that one position of Under Secretary at the rank of Deputy Director of Bureau and one position of Political Assistant should be created for each policy bureau (except the Civil Service Bureau), and one position of Political Assistant should be created for the Chief Secretary for Administration (CS) and the Financial Secretary (FS) respectively. According to the Administration, the justifications to further develop the Political Appointment System are as follows -

- (a) POs need additional support to meet the demands of people-based governance;
- (b) additional political appointments will enhance the capacity of the political team to take on political work with the support of civil servants, and will, therefore, be conducive to maintaining the political neutrality of the civil service; and
- (c) political positions at different levels can provide a more comprehensive career path for political talents to pursue. The grooming of political talents will tie in with the progressive development of a more democratic political system.

7. According to the "Report on Further Development of the Political Appointment System", Deputy Directors of Bureaux will undertake the following work regarding LegCo business and political liaison -

- (a) handling LegCo business and strengthening the working relationship with LegCo by :
 - (i) deputizing for Directors of Bureau in their absence;
 - (ii) attending the main meetings of LegCo as assigned by Directors of Bureau to respond to motion debates and LegCo questions, and handling legislative work;
 - (iii) attending committee, subcommittee and Panel meetings of the LegCo as assigned by Directors of Bureau to explain and defend the Government's policy decisions and exchange views with LegCo Members;
 - (iv) maintaining regular liaison with LegCo Members to ensure that the process of policy formulation and implementation benefits from Members' ideas and input, and that Members acquire a fuller understanding of the position taken by the Government; and
 - (v) scheduling and securing the passage of bills, motions and subsidiary legislation as well as public expenditure proposals through LegCo, and delivering the Government's legislative and budgetary programme;
- (b) attending public forums and other functions to explain and defend proposals and decisions made by the political team and to answer questions from LegCo Members, stakeholders and the public;
- (c) maintaining close contact with the media for the purpose of enabling the media to be aware of the policy thinking of the Government; and
- (d) maintaining close contact with other stakeholders, such as District Councils, political parties/groups, community organizations as well as business, professional and other bodies, and gauging public sentiment and establishing community-wide rapport on government policies and decisions.

For Political Assistants, their role is mainly in rendering political advice and political liaison.

8. The proposal to create 24 non-civil service positions (11 Deputy Directors of Bureau and 13 Political Assistants) under the Political Appointment System with effect from 1 April 2008 was endorsed by the Establishment Subcommittee on 28 November 2007 and approved by FC on 14 December 2007.

9. The Interpretation and General Clauses Ordinance (Amendment of Schedule 6) Order 2008 (the Order) which included the Under Secretaries of the various bureaux in the list of public officers specified in Schedule 6 to Cap. 1 was tabled in LegCo on 12 March 2008. The Order came into force on 1 April 2008.

10. On 20 and 22 May 2008, CE appointed the first batch of eight Under Secretaries and nine Political Assistants on non-civil service terms for the period ending 30 June 2012. The Government is expected to make further announcements on the remaining positions of Under Secretaries and Political Assistants.

Major issues raised

11. Members have raised various concerns on the implementation of the Accountability System and the further development of the Political Appointment System. The major issues of concern include the following -

- (a) Accountability of POs (paragraphs 12 - 14);
- (b) Arrangements during temporary absence of POs (paragraphs 15 - 19);
- (c) Attendance of POs at meetings of committees of LegCo (paragraphs 20 - 25);
- (d) Procedures for removal of POs under the Accountability System (paragraphs 26 - 28);
- (e) Relationship between the Executive and the Legislature (paragraphs 29 - 30); and
- (f) Roles and responsibilities between politically appointed officials and civil servants (paragraphs 31 - 44).

Accountability of POs

12. Under the Accountability System, POs are responsible for all aspects of their portfolios: from determining policy objectives and goals, to policy initiation, policy formulation, policy implementation and policy outcome. More specifically, they have to, among other things, oversee the executive departments under their purview, and ensure the effective implementation of policies and the delivery of satisfactory services to the public. They are accountable to CE for matters within their respective portfolios. They shoulder total responsibility for the success or failure of their policies and, in extreme cases, might have to step down for serious policy failures relating to their portfolios. POs accept total responsibility for policy outcome and the delivery of services by the relevant executive departments under their purview¹.

¹ Paragraph 13(i) of a paper entitled "LegCo Paper on Accountability System for Principal Officials" presented by the Constitutional Affairs Bureau (CAB) to the Council on 17 April 2002. CE addressed the Council on the Accountability of Principal Officials at the Council meeting on the same day.

13. Some Members have expressed the view that POs should be accountable to the public through LegCo, and not to CE alone, for the success or failure of their policies. They considered that the serious blunders which occurred during 2002 and 2003, i.e. the "Penny Stocks" incident, the incident of FS purchasing a vehicle prior to his announcement of an increase in motor vehicles first registration tax (the Car Purchase incident), the outbreak of the Severe Acute Respiratory Syndrome, and the introduction of the Nationality Security (Legislative Provisions) Bill to implement Article 23 of the Basic Law, illustrated that the Accountability System had not facilitated the Government in making a prompt response to public demands and concerns.

14. The Administration took the view that experience in the past years demonstrated that the accountability of POs had been strengthened. According to the Administration, the performance of POs were expressed widely and vigorously through the print and electronic media, and monitored by LegCo as they had attended meetings of the Council and its committees to answer Members' questions. When serious blunders occurred, the Administration had set up independent Panels of inquiry to investigate the incidents when necessary. The Administration further pointed out that the four above-mentioned incidents had put the Accountability System to the test. The POs concerned had borne the political responsibility to either apologize to the public or step down from office.

Arrangements during temporary absence of POs

Position in 2002

15. Under the original Accountability System, POs in respect of attendance at meetings of LegCo are required to attend -

- (a) full sessions of LegCo to initiate bills or motions, respond to motions and answer questions from LegCo Members; and
- (b) LegCo committee, subcommittee and Panel meetings where major policy issues are involved.

As regards the arrangements during the temporary absence of a PO from Hong Kong, the Administration's stance in 2002 was that POs were not expected to take leave for any length of time other than when LegCo was in recess. Even if POs were physically away from Hong Kong, they would still be able to make urgent decisions by means of fax or internet communication. However, the following special arrangements might have to be put in place during the absence of the relevant PO away from Hong Kong -

Exercise of statutory functions which had not been delegated

- (a) depending on the nature of the statutory function in question, another PO or a senior civil servant working in the policy bureau of the relevant PO might be directed to exercise statutory functions;

- (b) in the case of the Secretary for Justice, the relevant Law Officers would be directed as necessary to exercise statutory functions;
- (c) in the case of the Secretary for the Civil Service, cases involving promotion, discipline and extension of service etc would be referred to CE or the Permanent Secretary for Civil Service as appropriate;

Attendance at meetings of LegCo

- (d) during the temporary absence of a Director of Bureau, CS, FS or another Director of Bureau as appropriate might speak on behalf of the Government on business relating to the absent PO;
- (e) during the temporary absence of CS, FS or one of the Directors of Bureau might speak on behalf of the Government; and
- (f) during the temporary absence of FS, CS or one of the Directors of Bureau might speak on behalf of the Government.

16. Some members of the Subcommittee on the Proposed Accountability System considered that it would be more appropriate for the relevant Permanent Secretary, and not another PO, to stand in during the absence of the PO concerned, as the Permanent Secretary would be more conversant with the work of the bureau and was therefore in a better position to respond to questions from Members. The Administration's position was that it was inappropriate to require a civil servant, who was politically neutral, to assume the duties of a politically appointed PO. When questioned on the need for "deputies", the Administration's stance was that that it had no intention to do so as it believed that the arrangements for the temporary absence of POs would only be required under rare occasions, for instance, to attend Council meetings to answer questions from Members.

17. In response to a written question raised by Mr Frederick FUNG at the Council meeting held on 5 May 2004 regarding temporary acting appointments of accountable officials, the Secretary for Constitutional Affairs replied that under the Accountability System, during the absence of CS or FS, arrangement would be made for a Director of Bureau to stand in as Acting CS or Acting FS, having regard to operational needs. For other POs under the Accountability System, there would not be any acting arrangements. This was because in most circumstances, the administrative responsibilities of bureaux could be undertaken by Permanent Secretaries or other senior civil servants in the bureaux under delegated authority. In case of special situations where attendance at a full LegCo meeting was required, arrangement would be made for a PO to cover the absent PO. Such acting or covering arrangements were adequate to meet operational needs. The Administration had no intention to create the post of politically appointed deputy secretary under the then existing framework.

18. Members may wish to note that the Director of Administration has written to the Chairman of the House Committee on the arrangements for attendance at full LegCo meetings during the temporary absence of POs. A copy of his letter dated 28 October 2002 is in **Appendix I**.

Position in 2008

19. The "Code for Principal Officials under the Accountability System", gazetted on 28 June 2002, sets out the basic principles which POs should follow in the performance of their duties. With the Political Appointment System coming into operation in April 2008, the Code has been adapted as the "Code for Officials under the Political Appointment System" (the Code) to take into account the introduction of the new layers of Under Secretaries and Political Assistants. The latest version of the Code (**Appendix II**), provided by the Constitutional and Mainland Affairs Bureau to the CA Panel in June 2008, shows that:

- (a) Under Secretaries will deputize the relevant Directors of Bureau during the latter's temporary absence, attend meetings of LegCo, its committees, subcommittees and Panels and speak on behalf of the Government;
- (b) POs shall note that they may be directed as necessary by CE, during the temporary absence of other POs, to exercise the powers or perform the duties of the absent POs, including the duty to attend meetings of LegCo, its committees, subcommittees and Panels and to speak on behalf of the Government; and
- (c) during the temporary absence of the Secretary for Justice, relevant Law Officers will exercise the powers and perform the duties of the Secretary for Justice, including the duty to attend meetings of LegCo, its committees, subcommittees and Panels and to speak on behalf of the Government. During the temporary absence of the Secretary for the Civil Service, the Permanent Secretary in the Civil Service Bureau will exercise the powers and perform the duties of the Secretary for the Civil Service, including the duty to attend meetings of LegCo, its committees, subcommittees and Panels and to speak on behalf of the Government.

The Code also provides that POs and Under Secretaries shall endeavour to ensure that they would be available to attend meetings of LegCo when matters relating to their respective portfolios are discussed.

Attendance of POs at meetings of committees of LegCo

Position in 2002

20. In the course of the deliberation of Accountability System in 2002, the Administration advised Members that Permanent Secretaries or heads of departments, i.e. civil servants, would be designated as Controlling Officers under the Public Finance Ordinance (Cap. 2). They were responsible and accountable for expenditure of the bureaux and departments falling within their purview, and would attend special meetings of FC to examine the draft Estimates of Expenditure and meetings of the Public Accounts Committee (PAC).

21. Some Members were of the view that as POs were required to attend meetings of LegCo committees where major policy were involved, they should also attend special FC meetings and PAC meetings because public expenditure was directly related to the implementation of policies for which POs were accountable. The Administration explained that the Code for POs would specify that POs had a duty to give fair consideration and due weight to informed and impartial advice from the Controlling Officers. POs would attend PAC meetings if policy matters were discussed.

22. At that time, some members of the Public Works Subcommittee (PWSC) expressed concern that the responsible POs (i.e. the Secretary for the Environment, Transport and Works (SETW) and the Secretary for Housing, Planning and Lands (SHPL)) did not attend PWSC meetings. These members pointed out that prior to the implementation of the Accountability System for POs, the Policy Secretaries (D8 Officers) responsible for public works, environment, planning and lands, had been present at all meetings of PWSC, in addition to other responsible public officers. However, only the Permanent Secretaries or their deputies, and not the POs concerned, attended PWSC meetings. The question of whether it was appropriate for the Permanent Secretaries or their deputies to respond to questions on general policy issues at PWSC meetings was thus raised. The matter was discussed at meetings of the House Committee, and was subsequently taken up with CS. CS's response was that representation at Panel or other committee meetings would depend on the subject being discussed. The guiding principle was that the Government would send the most appropriate representatives. It was for individual Panels or committees to decide which public officer(s) should be invited to attend its meetings.

23. On 6 December 2002, FC decided that -

- (a) the relevant Permanent Secretaries should attend PWSC meetings as a standing arrangement;
- (b) with the concurrence of the Chairman in response to a member's request, or where the Chairman considers it appropriate that SETW and SHPL should attend a PWSC meeting, the Clerk to PWSC would notify the Administration accordingly and state in the agenda the office of the public officers invited for discussion of the agenda items; and

- (c) notwithstanding (b), SETW and SHPL should attend meetings of PWSC on their own accord for discussion of major or controversial project proposals.

24. Matters relating to attendance of POs at committee meetings of LegCo were raised again at the CA Panel's meeting on 17 February 2003. Ms Emily LAU pointed out that the then current arrangement of designating another Director of Bureau to speak on behalf of the Government on policies relating to an absent Director of Bureau under his own title had caused concern as to who would be ultimately responsible for what was said at the meeting. The Secretary for Constitutional Affairs explained that the stand-in Director of Bureau would confine himself to established policy under the portfolio of the absent Director of Bureau. The latter, being politically responsible for the policy portfolio under his purview, would continue to be accountable.

Position in 2008

25. According to the revised Code, POs and Under Secretaries have a duty to represent the Government and to transact business at meetings of LegCo and, as necessary, its committees, subcommittees and Panels. In the course of deliberation of the Political Appointment System, Mr TAM Yiu-chung expressed the view that it might not be effective for a Director of Bureau to respond to oral questions or motion debates in Council in the capacity of another Director of Bureau during the latter's absence as he might not be conversant with the policy areas concerned.

Procedures for the removal of POs under the Accountability System

26. The CA Panel discussed the procedures relating to the removal of POs in 2003. The Administration advised that if the resignation of a PO was accepted in principle by CE, CE would recommend to the Central People's Government (CPG) the removal of the PO concerned in accordance with BL 48(5). After CPG had agreed to the removal, the Government of the Hong Kong Special Administrative Region (HKSAR) would accept the resignation of the PO concerned and terminate his employment in accordance with the provisions of the employment agreement. For immediate termination of the employment of a PO, once CPG's agreement to the removal was obtained, the Government would terminate the employment of the PO concerned in accordance with the provisions of the employment agreement, either by paying the PO concerned an amount equal to one month's salary in lieu of notice, or by resolving the employment agreement by mutual agreement between the HKSAR Government and the PO concerned.

27. Arising from the Car Purchase incident involving FS, some Members considered that a formal mechanism should be established to deal with serious and unexpected incidents involving POs, for example, a thorough and independent investigation should be conducted with the investigation report being made public. In addition, a formal impeachment procedure, similar to that provided for the impeachment of CE under BL 73(9), should be introduced to deal with cases of POs committing serious misconduct.

28. The Administration, however, took the view that although the Basic Law did not provide for an impeachment procedure for POs, the Accountability System allowed the public, the media and LegCo to monitor effectively the performance of the Government.

Relationship between the Executive and the Legislature

29. Members have on various occasions expressed disappointment that the little progress made to improve the relationship between the Executive and the Legislature since the implementation of the Accountability System. They considered that the Government had not done enough to improve communication with LegCo to secure support of the latter, which was indispensable for the successful implementation of Government policies.

30. The Administration advised that, in order to enhance communication with political parties, the Administration had gathered views through three different avenues prior to policy formulation, namely meetings with CE prior to the delivery of CE's Policy Address, meetings with FS prior to the preparation of the Budget, and briefings given to Panels on legislative and financial proposals. The appointment of some members of political parties to serve on the Executive Council also provided an effective means to help the Government in getting a better understanding of the views of LegCo and public sentiments in formulating policies. Despite the above efforts, there was bound to be tension between the Executive and the Legislature in any political system. The Administration had made use of the room provided under the Basic Law to encourage political party participation. For example, by expanding the Political Appointment System, people from different backgrounds would have more opportunities to pursue a broader political career. Given time, the proposal would provide room for CE to form a political team akin to a political coalition.

Roles and responsibilities between politically appointed officials and civil servants

31. The Accountability System has created a new system of government in Hong Kong comprising two tiers - the political tier and the civil service. POs are responsible for providing leadership, making political decisions and canvassing community support, while civil servants focus on assisting POs in policy formulation, policy explanation, policy implementation and delivery of services to the public. According to the Administration, one of the guiding principles in devising the Accountability System is to preserve the integrity of the civil service. The Administration has repeatedly stressed the importance of maintaining a permanent, professional, meritocratic, honest and politically neutral civil service.

32. Members have expressed concern about the delineation of role and responsibilities between politically appointed officials and civil servants under the Accountability System. Some Members pointed out that senior civil servants had been engaged in political work to lobby Members' support for Government policies and decisions, and attended meetings of LegCo committees to explain government policies on behalf of POs. These Members considered that politically appointed

officials, not civil servants, should attend these meetings in order to maintain the political neutrality of civil servants.

33. The Administration explained that the concept of a politically neutral civil service did not mean that civil servants should not engage in work with political content. The test was the nature of political work. Senior civil servants, in particular, were expected to assist POs in certain political work, such as explaining Government policies to LegCo and the public, and helping to secure the support of LegCo and the public for these policies. Whilst POs would tackle the more political issues of the business involved, the accompanying Permanent Secretaries and/or senior civil servants would deal with issues that were more technical in nature. It was therefore appropriate for civil servants to attend meetings of LegCo committees. However, they should refrain from taking part in election politics and other electioneering activities.

34. Another major concern expressed by Members over the Accountability System was about the line of command between politically appointed officials and senior civil servants, in particular, Permanent Secretaries. According to the Administration, Permanent Secretaries would continue to report to Directors of Bureau. POs would be consulted on the deployment and posting of senior officials under their supervision, but they would not be involved in the promotion of civil servants. Such matters would be handled by the Civil Service Bureau independently. The Secretary for Civil Service, Permanent Secretaries and other senior civil servants would sit on the relevant promotion boards for senior civil servants. CS and FS had also ceased to be involved in civil servants' promotion matters after they became POs under the Accountability System, but the performance appraisals of Permanent Secretaries would be conducted by the relevant POs.

35. The Secretary for Constitutional Affairs also advised members of FC that POs would attend full sessions of LegCo to initiate bills or motions, respond to motions and answer questions from Members. They would also attend relevant committee meetings where major policy issues were involved. The Permanent Secretaries would assist POs in various aspects of the latter's work, such as assisting in explaining and defending policies and their implementation in public including at meetings of LegCo Panels and committees.

Position in 2008

36. In the course of deliberation of the Political Appointment System, some Members expressed concerns about the delineation of responsibilities between the Directors of Bureau and the Deputy Directors of Bureau, the politically appointed officials and the civil service, as well as the line of command between politically appointed officials and senior civil servants, in particular, Permanent Secretaries.

37. The Administration advised that the Deputy Directors of Bureau would assist the Directors of Bureau in a full range of political responsibilities including the handling of LegCo business. In the case of LegCo business, they would deputize for

the Directors of Bureau in the latter's absence, and they would attend the meetings of LegCo (to respond to motion debates and LegCo questions) and committee meetings of LegCo (to explain and defend the Government's policy decisions) as assigned by the Directors of Bureau.

38. According to the Administration, the creation of additional layers of politically appointed officials would strengthen the political team and reduce the political pressure on the civil service. There would be a clear delineation of work between the political stream and the civil service stream. Directors of Bureau and Deputy Directors of Bureau would focus more on political matters whereas Permanent Secretaries and other civil servants would focus more on policy analysis or research. In addition, Directors of Bureau or Deputy Directors of Bureau would normally attend regular Panel meetings to explain Government policies. Whilst they would tackle the more political issues of the business involved, the accompanying Permanent Secretaries and/or civil service colleagues would deal with issues that are more technical in nature.

39. As for the line of command of Permanent Secretaries, the Administration advised that they would continue to report to Directors of Bureau. Deputy Directors of Bureau would have no direct line of command vis-a-vis Permanent Secretaries. According to the "Report on Further Development of the Political Appointment System", Deputy Directors of Bureau, on behalf of their Directors of Bureau, may request civil servants to prepare and provide information and data, including internal analysis and paper and hold meetings with civil servants to discuss the advice being put to the Directors of Bureau. Any such request by Political Assistants should be channelled through the Directors of Bureau and the Deputy Directors of Bureau to minimize criss-crossing of lines of communication at the working level.

40. In her speech on the Motion of Thanks at the Council meeting on 24 October 2007, the Secretary for Civil Service advised that "[t]o maintain the civil service's political impartiality in the further development of the political impartiality in the further development of the political appointment system, the Civil Service Bureau will issue a Civil Service Code to establish a framework under which civil servants are expected to work with the appointees under an expanded political appointment system. The Code will set out the principles and values which civil servants are expected to uphold and the roles and responsibilities of civil servants under the expanded political appointment system, thereby delineating the working relationships between the civil service and the politically appointed officials."

41. When Members asked at the meeting of the CA Panel held on 16 June 2008 when the Civil Service Code would be ready, the Administration referred to a circular issued in March 2008 concerning the organizational changes in the Government Secretariat arising from further development of the Political Appointment System. The circular stated, for example, that Under Secretaries would have no direct line of command vis-à-vis Permanent Secretaries. As the Civil Service Code would apply to the entire civil service, the Civil Service Bureau needed more time in the drafting work. The Bureau has subsequently drafted the Code and is due to consult the Panel on Public Service at its meeting on 15 December 2008.

42. When considering the staffing proposal for implementing the Political Appointment System at the FC meeting on 14 December 2007, some Members reiterated their concern about a clear delineation on the roles and responsibilities between politically appointed officials and civil service posts (which would included Permanent Secretaries and Deputy Secretaries), and the impact on the civil service. Concerns were also raised on the legitimacy of the Administration's plan to arrange for Deputy Directors of Bureau to act as Directors of Bureau during the latter's absence.

43. The Secretary for the Civil Service advised that based on the experience gained in the implementation of the Accountability System since 2002, there had evolved a clear delineation of roles and responsibilities between the political team and the civil service. POs would decide and formulate policies and were held accountable for the policies under their ambit. Meanwhile, civil servants had a constitutional role to support CE and his team in governance. It was their duty to advise and assist the POs in the formulation and execution of policies.

44. As regards civil servants' attendance at meetings of LegCo and its committees, the Administration advised that Directors of Bureau or Deputy Directors of Bureau would normally attend regular meetings of the relevant LegCo Panel, and address issue of political significance. Meanwhile, assistance would continue to be provided by civil servants.

Motions moved at Council meetings

45. A list of the relevant motions moved at Council meetings is in **Appendix III**.

Questions raised at Council meetings

46. A list of the relevant questions raised at Council meetings is in **Appendix IV**.

Relevant Papers

47. A list of the relevant papers which are available on LegCo website is in **Appendix V**.

Appendix I

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28 October 2002

The Honorable Selina CHOW LIANG Shuk-ye, GBS, JP
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House Committee
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Arrangements for Attendance at Full Council Meetings of the Legislative Council During the Temporary Absence of Principal Officials

At the regular meeting this afternoon, the Chief Secretary for Administration (CS) has briefly explained to you, and to the Deputy Chairman of the House Committee, the arrangements for attendance at full Council Meetings of LegCo during the temporary absence of relevant Principal Officials (POs). Let me set out in writing the detailed arrangements as follows.

As the CS has reaffirmed at the meeting, POs under the Accountability System will attend full Council Meetings of LegCo to speak on behalf of the Government, to respond to Members' questions, initiate bills and motions, and carry out other related duties. POs will endeavour to organize their business so that no major issues relating to their respective portfolios will arise in LegCo during their absence. But if, due to unexpected circumstances or other reasons (for example, representing Hong Kong in international conferences or engaged in overseas duty visits), a PO is unable to attend a full Council Meeting, we will arrange for another PO to attend the meeting and speak on behalf of the Government.

More specifically, during the absence of the CS or the Financial Secretary (FS), the Director of Bureau who stands in as acting CS or Acting FS will attend the meeting and speak on behalf of the Government. In the case of the Secretary for Justice and the Secretary for the Civil Service, given their special roles and responsibilities, arrangements will be made for a designated Law Officer and the Permanent Secretary for the Civil Service to attend the full Council Meeting on their behalf respectively. During the absence of the other Directors of Bureaux, another Director of Bureau will speak on behalf of the Government on established policy relating to the absent Director of Bureau under his/her own title. The above-mentioned arrangements have been briefly set out in the paper (ref: CB(2)2075/01-02(01)) submitted by the Constitutional Affairs Bureau to the LegCo Subcommittee to Study the Proposed Accountability System for Principal Officials and Related Issues on 27 May 2002.

Where, in future, any PO is unable to attend a full Council Meeting to speak on behalf of the Government, the Administration Wing will inform the LegCo President beforehand of the relevant arrangements as soon as possible.

(Andrew H Y Wong)
Director of Administration

**CODE FOR OFFICIALS UNDER THE POLITICAL
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CHAPTER 1: INTRODUCTION

1.1 In this Code, unless the context otherwise requires,

“politically appointed officials” means -

- (a) principal officials;
- (b) Director of the Chief Executive’s Office;
- (c) under secretaries; and
- (d) political assistants.

“principal officials” means principal officials under the Political Appointment System, i.e. the Secretaries of Department and Directors of Bureau.

“under secretaries” means Deputy Directors of Bureau.

“political assistants” means Political Assistant to the Chief Secretary for Administration, Political Assistant to the Financial Secretary, and Political Assistants to Directors of Bureau.

This Code applies to the politically appointed officials.

Where this Code confers powers or imposes duties upon the Chief Executive, he may delegate a principal official, the Director of the Chief Executive’s Office or Permanent Secretary of the Chief Executive’s Office, designated by name or by office, to exercise such powers or perform such duties on his behalf and thereupon, or from the date specified by the Chief Executive, the person so delegated shall have and may exercise such powers and perform such duties.

1.2 Principal officials shall swear to uphold the Basic Law and swear allegiance to the Hong Kong Special Administrative Region (HKSAR) of the People’s Republic of China.

1.3 The basic principles which politically appointed officials shall follow in the performance of their duties include the following:

- (1) Politically appointed officials shall be dedicated to their duties and be responsible to the Government of the HKSAR.
- (2) Politically appointed officials shall uphold the rule of law, abide by the law, and protect the integrity of public office.
- (3) Politically appointed officials shall act in the best interests of the HKSAR as a whole.
- (4) Politically appointed officials shall be as open as possible about the decisions that they make and the actions that they take. They shall be accountable for their decisions.
- (5) Politically appointed officials shall observe the highest standards of personal conduct and integrity at all times.
- (6) Politically appointed officials shall ensure that no actual or potential conflict arises between their public duties and their private interests.
- (7) Politically appointed officials shall at all times actively uphold and promote a permanent, honest, meritocratic, professional and politically neutral civil service.
- (8) Politically appointed officials shall not use any public resources for non-government purposes (including purposes relating to any political party).
- (9) Politically appointed officials shall promote and support the above principles by leadership and example.

1.4 This Code does not specify every type of potential act or behaviour expected of politically appointed officials. Rather, it provides rules and principles for appropriate conduct under certain circumstances. Where the circumstances are not prescribed, it is the responsibility of politically appointed officials to judge in accordance with the principles set out in this Code, how best to

act in order to uphold the highest standards. In case of doubt, they shall seek the advice of the Chief Executive.

- 1.5 This Code shall be read in conjunction with legislation applicable to politically appointed officials. These include the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) and the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong).

CHAPTER 2: RESPONSIBILITIES

- 2.1 Politically appointed officials shall devote the whole of their time and attention to the discharge of their duties as politically appointed officials of the Government, and shall use their best endeavours to promote the interests of the Government.
- 2.2 Principal officials are responsible for their respective portfolios designated to them by the Chief Executive and lead the executive departments within their respective portfolios. Principal officials are responsible for formulating, explaining and defending government policies as well as canvassing support from the public and the Legislative Council. They are accountable to the Chief Executive for the success or failure of their policies.
- 2.3 The Director of the Chief Executive's Office is tasked with the responsibility of working with principal officials in policy formulation and setting policy priorities to ensure full implementation of the Chief Executive's policies and decisions, enhancing communication with the Executive Council and the Legislative Council, and liaising with political parties and groups as well as various sectors of the community and district personalities. He is also responsible for overseeing the operation of the Chief Executive's Office.
- 2.4 Under secretaries are responsible principally for assisting Directors of Bureau in undertaking the full range of political work, and are subordinates of the Directors of Bureau and work under the latter's direction. They will deputise for the relevant Directors of Bureau during the latter's temporary absence, attend meetings of the Legislative Council, its committees, subcommittees and panels and speak on behalf of the Government.
- 2.5 Political assistants are mainly responsible for providing political support and inputs to principal officials and under secretaries, and to conduct the necessary political liaison as instructed.

- 2.6 Politically appointed officials shall be bound by and collectively responsible for the decisions taken by the Chief Executive in Council.
- 2.7 Principal officials shall note that they may be directed as necessary by the Chief Executive, during the temporary absence of other principal officials, to exercise the powers or perform the duties of the absent principal officials, including the duty to attend meetings of the Legislative Council, its committees, subcommittees and panels and to speak on behalf of the Government.
- 2.8 Politically appointed officials shall note that given the special role and responsibility of the positions of the Secretary for Justice and Secretary for the Civil Service, special arrangements are made during their temporary absence. During the temporary absence of the Secretary for Justice, relevant Law Officers will exercise the powers and perform the duties of the Secretary for Justice, including the duty to attend meetings of the Legislative Council, its committees, subcommittees and panels and to speak on behalf of the Government. During the temporary absence of the Secretary for the Civil Service, the Permanent Secretary in the Civil Service Bureau will exercise the powers and perform the duties of the Secretary for the Civil Service, including the duty to attend meetings of the Legislative Council, its committees, subcommittees and panels and to speak on behalf of the Government.
- 2.9 Politically appointed officials shall note that the civil servants designated to attend meetings of the Legislative Council, its committees, subcommittees or panels and speak on behalf of the Government are required to limit themselves to established policy.

Responsibility in relation to the Legislative Council

- 2.10 Politically appointed officials shall note that under Article 64 of the Basic Law, the Government must abide by the law and be accountable to the Legislative Council: it shall implement laws

passed by the Legislative Council and already in force; it shall present regular policy addresses to the Legislative Council; it shall answer questions raised by members of the Legislative Council; and it shall obtain approval from the Legislative Council for taxation and public expenditure.

- 2.11 Politically appointed officials will be designated under Article 62(6) of the Basic Law to attend meetings of the Legislative Council, its committees, subcommittees and panels, as appropriate, and to speak on behalf of the Government. The immunities and privileges provided for in sections 3, 4, 5 and 6(2) of the Legislative Council (Powers and Privileges) Ordinance (Chapter 382 of the Laws of Hong Kong) are extended to these officials when they attend meetings of the Legislative Council, its committees, subcommittees and panels.
- 2.12 Principal officials and under secretaries have a duty to represent the Government and to transact business at meetings of the Legislative Council, and as necessary its committees, subcommittees and panels, e.g. to introduce bills or motions, address the Legislative Council, present papers, make statements, answer questions and take part in debates in respect of matters relating to their respective portfolios.
- 2.13 Principal officials and under secretaries shall endeavour to ensure that they would be available to attend meetings of the Legislative Council when matters relating to their respective portfolios are discussed.
- 2.14 Politically appointed officials shall give accurate and truthful information to the Legislative Council and correct any error at the earliest opportunity.

Responsibility in relation to civil servants

- 2.15 Politically appointed officials shall at all times actively uphold and promote a permanent, honest, meritocratic, professional and politically neutral civil service. In particular, politically

appointed officials shall actively uphold and promote the core values of the civil service:

- (a) commitment to the rule of law;
- (b) honesty and integrity;
- (c) accountability for decisions and actions;
- (d) political neutrality;
- (e) impartiality in the execution of public functions; and
- (f) dedication, professionalism and diligence in serving the community.

2.16 Politically appointed officials shall note that civil servants shall report direct, and enjoy direct access, to the principal officials, or Director of the Chief Executive's Office (in the case of civil servants working in the Chief Executive's Office), through their Permanent Secretaries, and that under secretaries and political assistants shall have no direct line of command vis-à-vis Permanent Secretaries. Politically appointed officials in their dealings with civil servants shall have due regard to the Civil Service Code which sets out the framework within which civil servants are expected to work with politically appointed officials.

2.17 Politically appointed officials shall give fair consideration and due weight to honest, informed and impartial advice from civil servants and shall have due regard to Government Regulations which are applicable to civil servants or otherwise regulate the operation of the Government.

2.18 Politically appointed officials shall not require or influence civil servants directly or indirectly to act in any way which:

- (a) is illegal, improper or in conflict with the core values of the civil service;
- (b) is in breach of any Government Regulations including Civil Service Regulations;
- (c) may involve possible maladministration;
- (d) would conflict with their role as civil servants; or
- (e) would conflict with the principle of political neutrality.

- 2.19 Politically appointed officials shall note that the Secretary for the Civil Service is responsible to the Chief Executive for civil service policy and the management of the civil service. Politically appointed officials shall also note that one of the major tasks of the Secretary for the Civil Service is to safeguard the core values of the civil service.
- 2.20 Politically appointed officials shall note that civil servants are appointed, managed and promoted on the basis of merit and in accordance with the principles of openness and fairness and with the prevailing rules and regulations applicable to the civil service.
- 2.21 Politically appointed officials shall note that civil servants are subject to the prevailing civil service disciplinary system, under which allegations of misconduct against individual civil servants are determined through an impartial process based on consideration of factual evidence.
- 2.22 Politically appointed officials shall note the independent role of the Public Service Commission in advising the Government on the appointment, promotion and discipline of civil servants.
- 2.23 Politically appointed officials shall cooperate fully with the Secretary for the Civil Service to follow up on complaints from civil servants that they have been asked to act in a manner which conflicts with their role as civil servants or with the core values of the civil service.

The role of the Controlling Officer

- 2.24 Politically appointed officials shall note that, subject to the regulations made and directions or instructions given by the Financial Secretary, controlling officers designated under the Public Finance Ordinance (Chapter 2 of the Laws of Hong Kong) are responsible and accountable for all expenditure of the bureaux and departments falling within their purview.

2.25 Politically appointed officials shall note that controlling officers are required to obey all regulations made and directions or instructions given by the Financial Secretary for the safety, economy and advantage of public moneys and Government property. Politically appointed officials have a duty to give fair consideration and due weight to honest, informed and impartial advice from the controlling officers.

CHAPTER 3: OFFICIAL SECRETS AND SECURITY

- 3.1. Politically appointed officials shall note that they fall within the definition of “public servant” in the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong) and must therefore abide by the provisions therein applicable to a “public servant”.
- 3.2. Politically appointed officials, irrespective of whether they are members of the Executive Council, shall not reveal the agenda, papers or proceedings of the Executive Council, or any document communicated to them or any matter coming to their knowledge concerning the work of the Executive Council. Discussion and deliberation at the Executive Council shall be kept in strict confidence. The internal process through which a decision has been made shall not be disclosed.
- 3.3. Politically appointed officials are required to take due care in the safe keeping of classified information entrusted to them. They shall bear in mind the general principle that dissemination of classified information shall be no wider than is required for the efficient conduct of the business at hand and shall be restricted to those who are authorised to have access to such information.

On stepping down from office

- 3.4. On stepping down from office, politically appointed officials shall hand over government documents in their possession and ensure that all drafts and personal copies of such documents have been properly disposed of.
- 3.5. Politically appointed officials shall note that all classified information, documents or other articles protected against disclosure by the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong) which has come into their possession as a result of their appointment in the Government, remain covered by the Ordinance after their stepping down from office and may not be disclosed.

- 3.6. Politically appointed officials shall note that they are liable to be prosecuted under the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong) if, either in Hong Kong or abroad, they communicate, either orally or in writing, including publication in a speech, lecture, radio or television broadcast or in the press or in book form or otherwise, to any unauthorised person any information falling within the purview of the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong) unless prior written approval has been obtained from the Chief Executive. The relevant provisions of the Official Secrets Ordinance continue to apply to politically appointed officials after they have stepped down from office.

Evidence in court

- 3.7. Politically appointed officials may be called upon to answer to subpoenas to give oral evidence and/or to produce official documents in Court relating to their official duties. In cases where oral evidence or the production of official documents is involved, the politically appointed official concerned shall assess whether there are any grounds for suggesting that the giving of such evidence or the production of such documents would cause damage to the proper functioning of the public service or would in any way be contrary to the public interest. The politically appointed official concerned shall seek advice from the Secretary for Justice in all such cases.

CHAPTER 4: INVOLVEMENT IN POLITICAL ACTIVITIES

- 4.1 Politically appointed officials shall note that as prescribed public officers defined in the Chief Executive Election Ordinance (Chapter 569 of the Laws of Hong Kong), the Legislative Council Ordinance (Chapter 542 of the Laws of Hong Kong) and District Councils Ordinance (Chapter 547 of the Laws of Hong Kong), they are disqualified from being nominated as a candidate at an election of the Chief Executive, of the Legislative Council or of a District Council. They are also disqualified from being elected as an elected member of the Legislative Council or a District Council.
- 4.2 Politically appointed officials shall declare to the Chief Executive whether they are in any way affiliated with any political party, whether they are members of any political party and whether they hold any office in any political party. They shall declare to the Chief Executive if there is any change in their status in relation to any political party. The declaration will be made available in a place designated by the Chief Executive's Office for public inspection on request.
- 4.3 For the purposes of this Code, "political party" has the same meaning as that provided for under section 31(2) of the Chief Executive Election Ordinance (Chapter 569 of the Laws of Hong Kong).
- 4.4 Politically appointed officials shall note that while their freedom of association is protected by law, they are required to ensure that when taking part in activities organised by political parties, they shall observe the following rules and principles:
- (a) no actual or potential conflict of interest with the business of the Government and/or the official duties of the politically appointed officials shall arise in their participation in such activities;
 - (b) the politically appointed official's participation in such

activities shall not cause any embarrassment to the Government, the Chief Executive or other politically appointed officials;

(c) since the Government has a prior call at all times on the abilities, energies and attention of politically appointed officials, any activities which may impair the performance of their official duties as politically appointed officials or distract their attention must be avoided; and

(d) politically appointed officials shall not sign or procure signatures to any public petition against the actions or proposals of the Government.

4.5 Principal officials, when considering to become a member of any political party or taking part in activities organised by political parties, shall ensure that no conflict shall arise with their oaths to uphold the Basic Law and their oaths of allegiance to the HKSAR.

4.6 In case of doubt, politically appointed officials shall seek advice from the Chief Executive.

CHAPTER 5: PREVENTION OF CONFLICT OF INTEREST

- 5.1. Politically appointed officials shall avoid putting themselves in a position where they might arouse any suspicion of dishonesty, unfairness or conflict of interest.
- 5.2. Politically appointed officials shall observe the principles of fairness and impartiality in discharging their duties and in their dealings with members of the public and with their staff.
- 5.3. Politically appointed officials shall refrain from handling cases with actual or potential conflict of interest.
- 5.4. Politically appointed officials shall report to the Chief Executive any private interests that might influence, or appear to influence, their judgement in the performance of their duties.
- 5.5. During the term of office, politically appointed officials shall not, without the consent in writing of the Chief Executive, engage or be concerned either directly or indirectly as principal, agent, director or shadow director, employee or otherwise in any other trade, business, occupation, firm, company (private or public), chamber of commerce or similar bodies, public body or private professional practice. The consent of the Chief Executive is likely to be given where the official is appointed to the relevant board of directors in his official capacity or in connection with his private family estate. A politically appointed official may retain or accept honorary posts in non-profit making organisations or charitable bodies. In all these cases, the official shall ensure that there is no actual or apparent conflict of interest between his interests in such organisations or bodies and his official duties and that his interests in such organisations or bodies would not cause embarrassment to the Government, the Chief Executive or other politically appointed officials of the Government.

Declaration and handling of investments/interests

- 5.6. Given that the politically appointed officials will have access to highly sensitive information including commercially sensitive information, they shall declare their investments and interests for the purpose of securing public trust and confidence. The declaration will be made available in a place designated by the Chief Executive's Office for public inspection on request.
- 5.7. If it appears to the Chief Executive at any time that there is or may be a conflict of interest between a politically appointed official's investments or interests and his official duties, the Chief Executive may require the official to take any one or more of the following measures:
- (a) to divest himself of all or any of the investments or interests;
 - (b) to refrain from acquiring or disposing of the investments or interests;
 - (c) to freeze any investment transaction for a specified period;
 - (d) to place the investments or interests in a "blind trust";
 - (e) to refrain from handling cases with actual or potential conflict of interest; and
 - (f) to take other actions as directed by the Chief Executive.

Acceptance of advantages

- 5.8. Politically appointed officials shall note that as public servants employed by the Government, they are subject to the relevant provisions in the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) and the Independent Commission Against Corruption Ordinance (Chapter 204 of the Laws of Hong Kong), and shall if necessary seek guidance from the Chief Executive as to the acceptance and retention of gifts, advantages or other benefits.
- 5.9. As a general rule, politically appointed officials shall avoid accepting any gift or hospitality which might or might reasonably appear to compromise their judgement or place them under an

improper obligation. Although the acceptance of hospitality or free service is not prohibited, politically appointed officials shall take note of the relevant provisions in law and the following before accepting any such offer:

- (a) whether the acceptance of the hospitality or free service will lead to a conflict of interest with their official duties or place them in a position of obligation to the donor;
- (b) whether the acceptance of the hospitality or free service will lead to embarrassment in the discharge of their functions;
and
- (c) whether the acceptance of the hospitality or free service will bring them or the public service into disrepute.

5.10. A politically appointed official shall not accept entertainment from any person if the entertainment is likely, for example by reason of its excessive nature, or of the relationship between the official and the other person, or of the character of that person:

- (a) to lead to embarrassment of the politically appointed official in the discharge of his functions; or
- (b) to bring the politically appointed official or the public service into disrepute.

Sponsored visits

5.11. A politically appointed official may receive an invitation from a foreign government to make a sponsored visit in his official capacity. If the official wishes to accept the sponsorship in relation to the visit, he shall seek permission from the Chief Executive.

5.12. A politically appointed official may receive an invitation from an outside organisation to make a sponsored visit in his official capacity. If the official wishes to accept the sponsorship in

relation to the visit, he shall seek permission from the Chief Executive.

- 5.13. If a politically appointed official wishes to accept a sponsored visit for his spouse, he shall seek permission from the Chief Executive.

Register of gifts etc.

- 5.14. Politically appointed officials shall note that they are subject to the provisions of the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) and shall if necessary seek guidance from the Chief Executive as to the acceptance and retention of gifts, advantages or other benefits. In addition, politically appointed officials are required to keep a register of gift, advantage, payment, sponsorship (including financial sponsorships and sponsored visits) or material benefit received by them or their spouses from any organisation, person or government other than the Government which in any way relates to their office as politically appointed officials. The register will be made available in the bureau / office served by the official concerned for public inspection on request.

On stepping down from office

- 5.15. Within one year after stepping down from office, politically appointed officials shall seek the advice of a committee appointed for this purpose by the Chief Executive before commencing any employment, becoming a director or a partner in any business or profession or starting any business or profession on his own account or with others. The proceedings of the committee shall be kept confidential but the advice given shall be made public.
- 5.16. Within one year after stepping down from office, politically appointed officials shall not represent any person in connection with any claim, action, demand, proceedings, transaction or negotiation against or with the Government.

- 5.17. Within one year after stepping down from office, politically appointed officials shall not engage in any lobbying activities on matters relating to the Government.

CHAPTER 6: TRAVEL

Travel in Hong Kong

- 6.1 Each principal official and the Director of the Chief Executive's Office shall be provided with the free use at his discretion of a car and driver in Hong Kong.
- 6.2 The use of government car by under secretaries and political assistants shall be governed by rules and regulations applicable to civil servants at comparable levels.

Travel outside Hong Kong

- 6.3 When travelling on duty outside Hong Kong, principal officials and the Director of the Chief Executive's Office shall travel on first class at government expense. Where protocol requires the presence of the spouse, their spouses shall also travel on first class at government expense.
- 6.4 Principal officials and the Director of the Chief Executive's Office (and their spouses) who are on duty outside Hong Kong shall be granted a subsistence allowance at the same rate and manner as those applicable to the highest-ranking civil servants. They are subject to the same rules and regulations in relation to subsistence allowance applicable to the highest-ranking civil servants.
- 6.5 The class of travelling on duty outside Hong Kong and the subsistence allowance for under secretaries and political assistants (and their spouses) are subject to the same rules and regulations as those applicable to civil servants at comparable levels.

Use of flight awards from government passages

- 6.6 There is no obligation on politically appointed officials who travel on duty to claim flight awards from airlines. However, if and when such awards are claimed and credited to a politically appointed official's mileage account, the official should report the awards to his bureau/department to facilitate planning for possible

use of the awards for subsequent duty travel.

- 6.7 For flight awards earned from government passages, the first call on the use of such awards shall be for subsequent duty travel.
- 6.8 If an award is not expected to be used for subsequent duty travel before the expiry date of the award, the politically appointed official may seek approval from the Chief Executive to use the award for private purposes.

CHAPTER 7: OTHERS

Reporting of criminal offences and attempted bribes

- 7.1. Politically appointed officials shall report to the appropriate authority all instances of crime, alleged crime including attempted bribery which they may come across in either their official or personal capacities. The appropriate authority is the Commissioner Against Corruption in the case of offences or alleged offences under the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong), the Independent Commission Against Corruption Ordinance (Chapter 204 of the Laws of Hong Kong) and the Elections (Corrupt and Illegal Conduct) Ordinance (Chapter 554 of the Laws of Hong Kong), and the Commissioner of Police in the case of other criminal offences.
- 7.2. Politically appointed officials shall note that they have no discretion in deciding which cases to report.

Legal proceedings

- 7.3. Politically appointed officials may institute legal proceedings for defamation in connection with matters arising out of their official duties. But before doing so, they shall notify the Chief Executive and seek prior permission from the Chief Executive for the use of any government information and the involvement of other officers to give evidence in the legal proceedings. Politically appointed officials instituting legal proceedings for defamation shall observe that the proposed legal action shall not bring the Government into disrepute.
- 7.4. When a politically appointed official is served with a writ, or receives a letter threatening civil proceedings in which he or she may be named as a party in relation to any matters arising out of his employment or official duties, he shall immediately inform the Chief Executive, the Secretary for Justice and the relevant principal official.

- 7.5. When a politically appointed official is involved in any criminal proceedings (whether arising out of his employment or official duties or otherwise), he shall immediately inform the Chief Executive, the Secretary for Justice and the relevant principal official.
- 7.6. It is open to a politically appointed official injured by the wrongful act of a third party to institute proceedings against the third party.
- 7.7. In certain circumstances, the Government may provide legal representation to politically appointed officials. Each case will be considered on its merits by the Chief Executive but in general, assistance will be provided only if the matter arises out of or in the course of the performance by the politically appointed official of his official duties.
- 7.8. A politically appointed official who has been granted legal assistance and has subsequently been awarded costs is required to refund to the Government all or part of the costs awarded to offset the legal expenses incurred by the Government.

Relevant motions moved in Council

<u>Date of Council meeting</u>	<u>Motion</u>
29 May 2002	The Secretary for Constitutional Affairs moved a motion on "Supports the accountability system for principal officials" for debate in Council. The motion was passed.
9 April 2003	Dr Hon YEUNG Sum moved a resolution under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance proposing the setting up of a select committee to investigate the purchase of a personal vehicle by the Financial Secretary before the adjustments to the motor vehicle first registration tax. The motion was negated.
7 May 2003	Hon Margaret NG moved the motion on "Vote of no confidence in the Financial Secretary" for debate in Council. The motion was negated.
9 July 2003	Dr Hon YEUNG Sum moved a motion on "Accountability System for Principal Officials" criticizing that the Accountability System is neither democratic nor accountable and is a failed system for debate in Council. The motion was negated.
25 June 2008	Hon LEE Wing-tat moved a resolution under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance proposing the ordering of papers, books, records and documents in relation to matters regarding the salary and fringe benefits of Under Secretaries and Political Assistants". The motion was negated.

Relevant questions raised in Council

<u>Date of Council meeting</u>	<u>Question</u>
10 July 2002	Hon Albert CHAN raised a question on "Contents of employment contracts signed with and declarations of interests made by principal officials under the accountability system".
23 October 2002	Hon CHEUNG Man-kwong raised a question on "Compliance with Code for Principal Officials under the Accountability System".
11 December 2002	Hon Emily LAU raised a question on "Use of flight awards earned from government passages"
30 April 2003	Hon CHEUNG Man-kwong raised a question on "Procedure for resignation of principal officials".
5 May 2004	Hon Frederick FUNG raised a question on "Temporary acting appointments of accountable officials".
19 May 2004	Hon Emily LAU raised a question on "Trusts set up to prevent conflict of interest".
9 June 2004	Hon Abraham SHEK raised a question on "Appointment of permanent secretaries of policy bureaux and heads of government departments".
6 July 2005	Hon SIN Chung-kai raised a question on "Recruiting People with Political Aspirations to Serve as Administrative Assistants to Directors of Bureaux".
17 January 2007	Hon Albert HO raised a question on "Avoidance of Conflict of Interests by Principal Officials".
4 June 2008	Hon Martin LEE raised a question on "Appointment of Under Secretaries at the Rank of Deputy Director of Bureau and Political Assistants to Directors of Bureaux".
18 June 2008	Hon TAM Heung-man raised a question on "Appointment of Under Secretaries and Political Assistants to Directors of Bureaux".
9 July 2008	Hon LEE Cheuk-yan raised a question on "Selection and appointment of the first batch of Under Secretaries and Political Assistants to Directors of Bureaux"

**Date of
Council meeting**

Question

Hon Emily LAU raised a question on "Civil Service Code applicable to civil servants"

Implementation of the Accountability System

Relevant documents

<u>Context</u>	<u>Date</u>	<u>Papers</u>
Panel on Constitutional Affairs	18 April 2002	<p>Paper on "System of Accountability of Principal Officials" prepared by the Legislative Council (LegCo) Secretariat [LC Paper No. CB(2)1546/01-02]</p> <p>Information note on "The Civil Service Code in UK" prepared by the Research and Library Services Division (RLSD) [LC Paper No. CB(2)1620/01-02(01)]</p> <p>Administration's paper on "Accountability System for Principal Officials"</p> <p>Minutes of meeting [LC Paper No. CB(2)2195/01-02]</p>
House Committee	24 May 2002	Interim Report of the Subcommittee to Study the Proposed System of Accountability for Principal Officials and Related Issues [LC Paper No. CB(2)2015/01-02]
	7 June 2002	Report of the Subcommittee to Study the Proposed System of Accountability for Principal Officials and Related Issues [LC Paper No. CB(2)2171/01-02]
	14 June 2002	Final Report of the Subcommittee to Study the Proposed System of Accountability for Principal Officials and Related Issues [LC Paper No. CB(2)2277/01-02]
Finance Committee	14 June 2002	Recommendations of the Establishment Subcommittee made at its meeting held on 6 June 2002 [FCR(2002-03)20]

<u>Context</u>	<u>Date</u>	<u>Papers</u>
		Minutes of meeting [LC Paper No. FC6/02-03]
Panel on Constitutional Affairs	9 July 2002	Code for Principal Officials under the Accountability System published in the Gazettee on 28 June 2002 as G.N. 3845 [LC Paper No. CB(2)2462/01-02(01)] Minutes of meeting [LC Paper No. CB(2)2845/01-02]
	7 October 2002	Information Note on "Selected Issues Relating to Declaration of Interests and Avoidance of Conflicts of Interests by Senior Members of Government" prepared by RLSD [IN35/01-02] A set of the declaration of interests made by the Chief Executive (CE), Members of the Executive Council and principal officials under the accountability system provided by the Administration [LC Paper Nos. CB(2)2679/01-02(01) - (35)] Background brief on "Accountability System for Principal Officials and Related Issues - Declaration and Handling of Investments/Interests" prepared by the LegCo Secretariat [LC Paper No. CB(2)2868/01-02(01)] Administration's paper on "Declaration of interests by the Chief Executive, Members of the Executive Council and principal officials under the accountability system" [LC Paper No. CB(2)2868/01-02(02)] Minutes of meeting [LC Paper No. CB(2)379/02-03]

<u>Context</u>	<u>Date</u>	<u>Papers</u>
	21 October 2002	<p>Supplementary information on "Selected Issues Relating to Declaration of Interests and Avoidance of Conflicts of Interests by Senior Members of Government" prepared by RLSD [IN03/02-03]</p> <p>An updated declaration of interests in respect of principal officials under the accountability system provided by the Administration [LC Paper Nos. CB(2)97/02-03(01) - (14)]</p> <p>Administration's paper on "Declaration and Handling of Investments/Interests" [LC Paper No. CB(2)114/02-03(01)]</p> <p>Background brief on "Responsibilities of Principal Officials under the Accountability System" prepared by the LegCo Secretariat [LC Paper No. CB(2)110/02-03(02)]</p> <p>Administration's paper on "Responsibilities of principal officials under the accountability system" [LC Paper No. CB(2)114/02-03(02)]</p> <p>Minutes of meeting [LC Paper No. CB(2)545/02-03]</p>
	17 February 2003	<p>Administration's paper on "Attendance of Principal Officials at meetings of the Legislative Council and its Committees, Subcommittees and Panels" [LC Paper No. CB(2)654/02-03(02)]</p> <p>Background brief on "Arrangements during principal officials' temporary absence and attendance of principal officials at meetings of LegCo" prepared by the LegCo Secretariat [LC Paper No. CB(2)654/02-03(03)]</p>

<u>Context</u>	<u>Date</u>	<u>Papers</u>
		<p>Background brief on "Implementation of the Accountability System for Principal Officials" prepared by the LegCo Secretariat [LC Paper No. CB(2)930/02-03(01)]</p> <p>Administration's paper on "Report on Implementation of the Accountability System for Principal Officials" [LC Paper No. CB(2)930/02-03(02)]</p> <p>Minutes of meeting [LC Paper No. CB(2)1478/02-03]</p>
	<p>17 March 2003 8 April 2003</p>	<p>Background brief on "Prevention of conflict of interest of principal officials and related issues" prepared by the LegCo Secretariat [LC Paper No. CB(2)1497/02-03(01)]</p> <p>Financial Services and the Treasury Bureau's paper on "Budget Strategy Group" [LC Paper No. CB(2)1505/02-03(02)]</p> <p>Constitutional Affairs Bureau's paper on "Guidelines to assist principal officials to avoid conflict of interest in drawing up the budget" [LC Paper No. CB(2)1505/02-03(03)]</p> <p>Civil Service Bureau and Financial Services and the Treasury Bureau's paper on "Guidelines on avoidance of conflict of interest for civil servants involved in drawing up the Budget" [LC Paper No. CB(2)1505/02-03(04)]</p> <p>The Financial Secretary's chronology relating to his purchase of a private car in January 2003 [LC Paper No. CB(2)1526/02-03(01)]</p> <p>Financial Services and Treasury Bureau's paper on "Chronology of events</p>

<u>Context</u>	<u>Date</u>	<u>Papers</u>
		<p>on Budget Strategy Group discussions on Motor Vehicles First Registration Tax" [LC Paper No. CB(2)1526/02-03(02)]</p> <p>Statement by Chief Executive's Office [LC Paper No. CB(2)1543/02-03(01)]</p> <p>Verbatim record of the Panel's discussion on 17 March 2003 [LC Paper No. CB(2)1677/02-03(01)]</p> <p>Extract from minutes of the meeting of the House Committee on 21 March 2003 [LC Paper No. CB(2)1677/02-03(02)]</p> <p>Minutes of meetings [LC Paper No. CB(2)1819/02-03] [LC Paper No. CB(2)1821/02-03]</p>
	19 May 2003	<p>Administration's paper on "Procedure for appointment and removal of principal officials under the accountability system" [LC Paper No. CB(2)2088/02-03(05)]</p> <p>Minutes of meeting [LC Paper No. CB(2)2464/02-03]</p>
	21 July 2003	<p>Background brief on "Implementation of the accountability system for principal officials" prepared by the LegCo Secretariat [LC Paper No. CB(2)2864/02-03(02)]</p> <p>Administration's paper and 12-month Report on "Implementation of the Accountability System for Principal Officials" [LC Paper No. CB(2)2864/02-03(03)]</p> <p>A set of the annual declaration of interests and affiliation with political parties by principal officials under the</p>

<u>Context</u>	<u>Date</u>	<u>Papers</u>
		accountability system and Director of the Chief Executive's Office provided by the Administration [LC Paper Nos. CB(2)2868/02-03(01) - (15)] Minutes of meeting [LC Paper No. CB(2)3105/02-03]
	17 November 2003	Administration's paper on "Transfer of statutory powers and functions of the Chief Secretary for Administration and Financial Secretary" [LC Paper No. CB(2)331/03-04(10)] Minutes of meeting [LC Paper No. CB(2)645/03-04]
Press Release	15 April 2005	Press release on "Establishment of Advisory Committee on Post-Office Employment for Principal Officials under Accountability System" [LC Paper No. CB(2)1302/04-05(01)]
Panel on Constitutional Affairs	20 June 2005	Background brief on "Accountability of Government officials in answering Members' questions at meetings of the Legislative Council and its committees" prepared by the LegCo Secretariat [LC Paper No. CB(2)1958/04-05(06)] Administration's paper on "Accountability of Government officials in answering Members' questions at meetings of the Legislative Council" [LC Paper No. CB(2)1958/04-05(07)] Minutes of meeting [LC Paper No. CB(2)2552/04-05]
	17 October 2005	Minutes of meeting [LC Paper No. CB(2)549/05-06]

<u>Context</u>	<u>Date</u>	<u>Papers</u>
	26 July 2006	<p>Consultation Document on "Further Development of the Political Appointment System"</p> <p>Administration's paper on "Further Development of the Political Appointment System" [LC Paper No. CB(2)2858/05-06(01)]</p> <p>Minutes of meeting [LC Paper No. CB(2)242/06-07]</p>
	31 July 2006	<p>Administration's note on the comparison of the proposed political appointment system for Hong Kong and the system in the United Kingdom and Canada [LC Paper No. CB(2)2848/05-06(01)]</p> <p>Minutes of meeting [LC Paper No. CB(2)87/06-07]</p>
	16 October 2006	<p>Minutes of meeting [LC Paper No. CB(2)538/06-07]</p>
	8 February 2007	<p>Administration's paper on "Prevention of conflict of interest under the Code for Principal Officials under the Accountability System" [LC Paper No. CB(2)1024/06-07(03)]</p> <p>Minutes of meeting [LC Paper No. CB(2)1368/06-07]</p>
	8 May 2007	<p>Legislative Council Brief on "Re-organisation of policy bureaux of the Government Secretariat" [CAB F19/6/3/2(2007)]</p> <p>Administration's paper on "Re-organisation of policy bureaux of the Government Secretariat : Legislative Amendments" [LC Paper No. CB(2)1780/06-07(01)]</p>

<u>Context</u>	<u>Date</u>	<u>Papers</u>
	26 May 2007	<p>Minutes of meeting [LC Paper No. CB(2)194/07-08]</p> <p>Administration's paper on "Re-organisation of Policy Bureaux of the Government Secretariat : Changes to the 2007-08 Estimates of Expenditure" [LC Paper No. CB(2)1962/06-07(01)]</p> <p>Minutes of meeting [LC Paper No. CB(2)956/07-08]</p>
House Committee	8 June 2007	<p>Report of the Subcommittee on Legislative Amendments Relating to the Proposed Re-organisation of Policy Bureaux of the Government Secretariat [LC Paper No. CB(2)2081/06-07]</p>
Panel on Constitutional Affairs	25 July 2007	<p>Code for Principal Officials under the Accountability System published in the Gazettee on 28 June 2002 (G.N. 3845) [LC Paper No. CB(2)2462/01-02(01)]</p> <p>A set of the declaration of interests of 15 Executive Council Members who are Principal Officials [LC Paper No. CB(2)2498/06-07(01)]</p> <p>16 forms on Registration of Interests and Affiliation with Political Parties for Public Inspection completed by 15 Principal Officials under the Accountability System and the Director of the Chief Executive's Office [LC Paper No. CB(2)2537/06-07(01)]</p> <p>Guidance notes for completing the form on Registration of Interests and Affiliation with Political Parties for Public Inspection [LC Paper No. CB(2)2537/06-07(02)]</p>

<u>Context</u>	<u>Date</u>	<u>Papers</u>
		<p>Administration's paper on "System of Declaration of Investments and Interests by Principal Officials under the Accountability System" [LC Paper No. CB(2)2548/06-07(01)]</p> <p>Minutes of meeting [LC Paper No. CB(2)671/07-08]</p>
	15 October 2007	<p>Minutes of meeting [LC Paper No. CB(2)589/07-08]</p>
Legislative Council	17 October 2007	<p>Legislative Council Brief on "Implementation of Further Development of the Political Appointment System"</p> <p>Report on Further Development of the Political Appointment System</p> <p>Statement by the Secretary for Constitutional and Mainland Affairs on the Report on Further Development of the Political Appointment System at the Council meeting on 17 October 2007</p>
Panel on Constitutional Affairs	23 October 2007	<p>Background brief on "Further Development of the Political Appointment System" prepared by the LegCo Secretariat [LC Paper No. CB(2)123/07-08(01)]</p> <p>Minutes of meeting [LC Paper No. CB(2)953/07-08]</p>
Establishment Subcommittee	28 November 2007	<p>Proposed creation of 24 non-civil service positions (11 Deputy Directors of Bureau and 13 Political Assistants to Directors of Bureau) with effect from 1 April 2008 under the Political Appointment System and remuneration for positions at these two ranks [EC(2007-08)11]</p>

<u>Context</u>	<u>Date</u>	<u>Papers</u>
		Minutes of meeting [LC Paper No. ESC12/07-08]
Finance Committee	14 December 2007	Recommendations of the Establishment Subcommittee made at its meeting held on 28 November 2007 [FCR(2007-08)37] Minutes of meeting [LC Paper No. FC50/07-08]
Panel on Constitutional Affairs	18 February 2008	Information Note on "Registration and disclosure of the occupation of the spouses of principal officials in selected places" prepared by RLSD [IN02/07-08] Administration's paper on "System of Declaration of Investments and Interests by Principal Officials under the Accountability System" [LC Paper No. CB(2)592/07-08(08)] Minutes of meeting [LC Paper No. CB(2)1908/07-08]
House Committee	18 April 2008	Report of the Subcommittee on Interpretation and General Clauses Ordinance (Amendment of Schedule 6) Order 2008 concerning the creation of two additional layers of political appointment positions [LC Paper No. CB(2)1609/07-08]
Press Release	20 May 2008	Press release on CE's announcement on the appointment of the first batch of eight Under Secretaries at the rank of Deputy Directors of Bureau
Press Release	22 May 2008	Press release on CE's announcement on the appointment of the first batch of nine Political Assistants

<u>Context</u>	<u>Date</u>	<u>Papers</u>
Panel on Constitutional Affairs	16 June 2008	<p>Background brief on "Further Development of the Political Appointment System" prepared by the LegCo Secretariat [LC Paper No. CB(2)2250/07-08(01)]</p> <p>Administration's paper on "Further development of the Political Appointment System : Nationality and remuneration of Deputy Directors of Bureau and Political Assistants" [LC Paper No. CB(2)2225/07-08(01)]</p> <p>Administration's paper on "Further development of the Political Appointment System : Responses to the views and questions raised by Members" [LC Paper No. CB(2)2300/07-08(01)]</p> <p>Minutes of meeting [LC Paper No. CB(2)2806/07-08]</p>
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