

**Select Committee to Inquire into Matters relating to
the Post-service Work of Mr Leung Chin-man**

**Information provided by the Administration in response to
the Clerk to Select Committee's letter of 6 November 2009**

	Document No.
<p>2. The terms of reference of the Operations Review Committee of the Independent Commission Against Corruption, its composition and term of office, and mode of operation including number of meetings held in the past five years, the conduct of business at meetings, and relevant guidelines (if any).</p> <p><i>The Administration's response:</i></p> <p><u>Terms of Reference</u></p> <p><i>The Independent Commission Against Corruption Operations Review Committee ("ORC") is appointed by the Chief Executive with the following terms of reference –</i></p> <p>(a) <i>Receive from the Commissioner of the Independent Commission Against Corruption ("the Commissioner") information about all complaints of corruption made to the Commission and the manner in which the Commission is dealing with them.</i></p> <p>(b) <i>Receive from the Commissioner progress reports on all investigations lasting more than a year or requiring substantial resources.</i></p> <p>(c) <i>Receive from the Commissioner reports on the number of, and justifications for, search warrants authorised by the Commissioner, and explanations as to the need for urgency, as soon afterwards as practical.</i></p>	

- (d) Receive from the Commissioner reports on all cases where suspects have been bailed by ICAC for more than six months.
- (e) Receive from the Commissioner reports on the investigations the Commission has completed and to advise on how those cases that on legal advice are not being subject to prosecution or caution, should be pursued.
- (f) Receive from the Commissioner reports on the results of prosecutions of offences within the Commission's jurisdiction and of any subsequent appeals.
- (g) Advise the Commissioner on what information revealed by investigations into offences within its jurisdiction shall be passed to government departments or public bodies, or other organisations and individuals, or, where in exceptional cases, it has been necessary to pass such information in advance of a Committee meeting, to review such action at the first meeting thereafter.
- (h) Advise on such other matters as the Commissioner may refer to the Committee or on which the Committee may wish to advise.
- (i) Draw to the Chief Executive's attention any aspect of the work of the Operations Department or any problems encountered by the Committee.
- (j) Submit annual reports to the Chief Executive which should be published.

Composition and Term of Office

2. The ORC is currently composed of 13 non-official members, including the Chairman; and four ex-officio members. See **Annex A** for the current membership list. Non-official

members are appointed on tenure of two years.

Mode of Operation

3. The ORC is scheduled to meet eight times a year at approximately six weeks' intervals. A Sub-Committee, with three non-official members (excluding the Chairman) sitting in rotation, reviews minor cases to relieve the workload of the ORC. Between January 2005 and November 2009, there were 39 ORC meetings. The agenda of an ORC meeting generally includes -

- (a) Discussion on special issues
- (b) Briefing on corruption situation by Head of Operations
- (c) Statistics on corruption complaints
- (d) Review of –
 - (i) reports on progress of major case investigations;
 - (ii) prosecutions and appeals;
 - (iii) investigations over 12 months;
 - (iv) persons on ICAC bail for over 6 months;
 - (v) searches authorised by the Commissioner; and
 - (vi) reports on completed major investigations
- (e) Report on Sub-Committee proceedings
- (f) Any other business

4. All members of the ORC are provided with Guidelines on "Declarations of Interests by Members of the Operations Review Committee". A copy of the Guidelines is at **Annex B**.

**Membership of the Operations Review Committee of ICAC
(till 31 December 2009)**

Non-official members:

Mr Michael SZE Cho-cheung, GBS, JP (Chairman)
Dr the Hon Marvin CHEUNG Kin-tung, GBS, JP
Professor John LEONG Chi-yan, SBS, JP
The Hon Vincent FANG Kang, SBS, JP
Mr Roger LUK Koon-hoo, BBS, JP
Mr KAM Pok-man
Mr SIN Chung-kai, SBS, JP
Ms Winnie TAM Wan-chi, SC
Prof Stephen CHEUNG Yan-leung, BBS, JP
Mr Joseph Paul FOK, SC, JP
Mr Andrew BRANDLER
Mr Alasdair G MORRISON
Mr Nicholas Peter SNAITH

Ex-officio members:

Secretary for Justice or his representative
Commissioner of Police or his representative
Director of Administration or her representative
Commissioner, ICAC

Guidelines on
“Declarations of Interests by Members
of the Operations Review Committee”

When a member of this Committee has a potential conflict of interests in a matter placed before the Committee, he should make full disclosure of his interest. The basic principle to be observed is that members' advice should be disinterested and impartial and it is the responsibility of each member to judge and decide if the situation warrants a declaration, and to seek a ruling from the Chairman in case of doubt.

It is impossible to define or describe all the situations that would call for such a declaration, because each individual case differs, and because of the difficulty of catering for unusual and unforeseen circumstances. On the other hand, it is not intended that a member should make a declaration of interest simply because the Committee is considering a matter in which he has knowledge or experience. The following may assist members to identify potential conflicts of interest :

- Pecuniary interests in a matter under consideration by the Committee, held either by the member or by any close relative of his, should be declared. Members are themselves the best judge of who, in the particular circumstances, is "close relative".
- A directorship, partnership, advisory or client relationship, employment or other significant connection with a company, firm, club, association, union or other organisation which is connected with, or the subject of, a matter under consideration by the Committee, should be declared.
- Similarly, some relationship or friendships might be so close as to warrant declaration in order to avoid situations where an objective observer might believe a member's advice to have been influenced by the closeness of the association.
- A member who, as a barrister, solicitor, accountant or other professional adviser, has personally or as a member of a company, advised or represented

or had frequent dealings with any person or body connected with a matter under consideration by the Committee, should make a declaration.

- Any interest likely to lead an objective observer to believe that the member's advice might have been motivated by personal interest rather than a duty to give impartial advice, should be declared.

Declarations of interest may be made verbally during a Committee meeting or in writing to the Chairman or Secretary before the meeting. However, should a member form the view that a conflict of interests renders it impossible for him to proffer impartial advice, or that he has been given access to information which he ought not to have, he should notify the Secretary or Chairman immediately and return the Committee paper concerned. The Chairman will then decide on the matter.

OPERATIONS DEPARTMENT, ICAC