

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

Witness statement of Mrs Carrie WONG HO Ka-lai

I, Carrie WONG HO Ka-lai, am the Chief Executive Officer (Pensions) of the Civil Service Bureau (“CSB”). I am asked to appear before the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man and to provide written response to the questions raised by the Select Committee earlier.

The vetting and assessment of post-service work applications from
directorate civil servants

Q1: The procedure adopted after the Civil Service Bureau (“CSB”) has received an application for post-service work from a directorate civil servant

Q2: The procedure adopted by CSB after receiving the views of other bureaux which have been consulted on such an application

A1&2: After receiving an application for post-service outside work from a directorate civil servant, CSB will invite the Permanent Secretary and/or Head of Department (“HoD”) of the applicant’s last posting in the Government and, where applicable, the Head of Grade (“HoG”) to which the applicant belonged to when in government service to provide assessments on the application if their assessments on the application are not yet included in the application form. Depending on the nature of the proposed outside work and the business nature of the prospective employer, CSB will, where necessary, invite views from other Permanent Secretary(ies) of the policy bureau(x) responsible for the policy area(s) into which the applicant’s prospective employment and the business nature of the prospective employer fall. The assessments by the parties concerned within the Administration will be considered by CSB. CSB will seek clarification of the views received from a party

consulted if necessary. Based on all the assessments received, CSB will form its preliminary views on the application and prepare a paper containing the relevant information of the applicant, the proposed employment and the assessments of all the relevant parties, including CSB's initial views and recommendations and other information that CSB deems relevant (e.g. decisions on similar applications in the past). The draft paper will then be sent by the Secretary of the Advisory Committee on Post-service Employment of Civil Servants (the "ACPE") to the Chairman of ACPE for consideration and advice. The Chairman will decide whether the application can be dealt with by paper circulation to Members or whether a meeting with Members should be convened. If the Chairman considers that the application can be dealt with by paper circulation, the Chairman will advise the Secretary of his views on the application and, where applicable, any declaration of interest that he wishes to make. The Secretary of ACPE will finalise the paper with the inclusion of a paragraph on "Views of the Chairman" and, where applicable, a description on the interest declared by the Chairman. The Secretary will then circulate the paper to Members with a copy to the Chairman. Members will provide their views on the application separately and where applicable, any declaration of interest that they wish to make by completing a reply slip. If the Chairman considers that the application should be dealt with by a meeting with Members, the Secretary of ACPE will arrange for a meeting and circulate a paper without a paragraph on "Views of the Chairman" before the meeting date. Members will discuss and express their views on the application during the meeting. The Secretary will circulate the notes of meeting for confirmation by the Chairman and Members after the meeting. After ACPE tenders its advice, CSB will put up a submission to the Secretary for the Civil Service ("SCS") on the application, including the relevant information of the applicant, the proposed employment, the assessments of all the relevant parties within the Administration, the advice tendered by ACPE and CSB's final recommendation. SCS will then decide whether to approve the application with/without additional work

restrictions or to reject it.

A description of the procedures for processing post-service outside work applications from directorate civil servants can be found in the paper submitted to the Select Committee (Administration Paper No. CSB11/SC Paper No. C21).

Q3: The procedure adopted when there is divergence in views of the consulted bureaux, and how the difference in views is resolved by CSB

A3: CSB will consider the assessments and views received from all the consulted parties within the Administration and formulate its own preliminary views and recommendations. Where the views received require further clarification, CSB will follow up with the party concerned. Where there is difference in views between the parties consulted, CSB will not take any action. The consulted parties' assessments and views will be included in the paper to ACPE for consideration and advice and in the submission to SCS for a decision.

The vetting and assessment of Mr LEUNG's application for post-service work with New World China Land Limited ("NWCL")

Q4: As Chief Executive Officer (Pensions) of CSB, your role in processing and vetting Mr LEUNG's application

A4: As Chief Executive Officer (Pensions) of CSB, my role in the processing and vetting of every application from a directorate civil servant for taking up post-service outside work is to identify the parties to be consulted within the Administration; to seek their views on the application; to consider, upon return of comments and assessments from the parties being consulted, whether further clarification needs to be sought; if so, to follow up and seek further clarifications; to consider all the assessments received from within the Administration; to propose CSB's preliminary views and recommendation on the application and where necessary to discuss with Administrative

Assistant to SCS (since 7 July 2008)/Principal Assistant Secretary (Appointments) (“PAS(Appointments)”) (prior to 7 July 2008); to consult Deputy Secretary for the Civil Service (1) (“DS(CS)1”) on the proposed CSB’s preliminary views and recommendation; and with DS(CS)1’s agreement, to consult the Chairman of ACPE with the CSB’s preliminary views and recommendation on the application. In the aforesaid work, I am assisted by my supporting staff, Senior Executive Officer (Pensions) 2 of CSB. In addition, I am also the Secretary of ACPE and in this role, I perform the work set out in the latter part of A1&2 above.

My role in the processing and vetting of Mr LEUNG’s application is the same as with all other applications. Mr LEUNG served as the Permanent Secretary for Housing, Planning and Lands (Housing) and Director of Housing from July 2002 to January 2006 before leaving the service. Hence, according to the prevailing procedures, the incumbent Permanent Secretary for Transport and Housing (Housing) was invited to complete the assessment on the application form. In view of the nature of the proposed appointment and the business nature of the prospective employer, the Permanent Secretary for Development (Planning and Lands) and Permanent Secretary for Development (Works) were also invited to give comments on Mr LEUNG’s application. Upon receipt of the assessment from Permanent Secretary for Development (Planning and Lands), his specific comments on Mr LEUNG’s application were sought. On receipt of all the comments and assessments within the Administration and after considering all their views, I put up my preliminary views and recommendation on the application to DS(CS)1 via PAS(Appointments) for clearance for the purpose of consulting ACPE; and at the same time invited DS(CS)1 to provide the Administrative Officer (“AO”) Grade Management’s assessment. Upon DS(CS)1’s instruction, further clarification was sought from the Works Branch on whether it had any objection to Mr LEUNG’s application. On receipt of Works Branch’s further advice and after DS(CS)1’s completion of the AO Grade Management’s

assessment and clearance of CSB's preliminary views and recommendation on Mr LEUNG's application, I prepared a paper in draft form for the consideration of the Chairman of ACPE. After the Chairman had advised that the application could be considered by paper circulation and provided his views on the application as well as his relationship with Mr LEUNG, I finalised the paper by inclusion of a paragraph on "Views of the Chairman" and a description of the Chairman's relationship with Mr LEUNG; and circulated the paper for the consideration and advice of the Members, with a copy to the Chairman.

Q5: The reasons for selecting the three Permanent Secretaries for comments on Mr LEUNG's application and the information provided by CSB to the three Permanent Secretaries

A5: As stated in A4 above, Mr LEUNG served as the Permanent Secretary for Housing, Planning and Lands (Housing) and Director of Housing from July 2002 to January 2006 before leaving the service. Hence, according to the prevailing procedures, the incumbent Permanent Secretary for Transport and Housing (Housing) was invited to complete the assessment on the application form. In view of the nature of the proposed appointment and the business nature of the prospective employer, the Permanent Secretary for Development (Planning and Lands) and Permanent Secretary for Development (Works) were also invited to give comments on Mr LEUNG's application. When consulting the three Permanent Secretaries, a copy of Mr LEUNG's application was provided to them for their consideration and assessment. The policy and arrangement governing directorate officers' taking up post-service outside work were also mentioned to facilitate the assessment of the three Permanent Secretaries on Mr LEUNG's application. The approvals given by SCS for the previous post-service appointments by Mr LEUNG were also provided.

Q6: The vetting of the information provided by Mr LEUNG in the application form

A6: Under the prevailing control regime, all applications will be assessed based on the information provided by the applicants in their applications. All applicants are required to make a declaration in the application form that the information provided is full and accurate. They are also required to declare their understanding that if they wilfully give any false information or withhold any material information in the application form, the approving authority may suspend or withdraw the approval granted for the application and where necessary, invoke appropriate sanction including legal action. Mr LEUNG has made the necessary declarations in the application form in accordance with the stipulated requirements.

Q7: The Works Branch of the Development Bureau advised on 26 May 2008 that the post-service work applied for by Mr LEUNG might have a public perception issue. On 17 June 2008, CSB sought views from the Works Branch again to see whether they had any objection to Mr LEUNG's application. Please provide the reason for CSB to seek views from the Works Branch again, and CSB's evaluation of the Works Branch's repeated view about the "public perception issue".

A7: In the Works Branch's reply of 26 May 2008, it stated that "in the light of the business nature of his (Mr LEUNG's) prospective employer in real estate development, construction and management matters, Mr Leung's full-time appointment as Executive Director with relativity to his former appointment as Director of Buildings from October 1999 to June 2002 may have a public perception issue despite the operation of his prospective employer is outside Hong Kong.". Having regard to this and other views received from other consulted parties within the Administration, CSB considered that the "public perception issue" could be addressed with the imposition of additional work restrictions on top of the standard work restrictions. In coming to this preliminary view, CSB also took note of the fact that Mr LEUNG's prospective employer, NWCL, was a company involved in property development in

the Mainland which did not have business connection with the Government, that Mr LEUNG's proposed appointment was in the Mainland, and that Mr LEUNG had advised that he would not be involved in the business of NWCL's parent company, i.e. New World Development Company Limited, or its subsidiaries. Upon DS(CS)1's instruction, Works Branch was further consulted as its reply of 26 May 2008 did not provide an overall recommendation on Mr LEUNG's application. Hence, CSB sought clarification from the Works Branch to see if it had any objection to Mr LEUNG's application. In its second reply of 24 June 2008, the Works Branch advised that since Mr LEUNG had not served in it nor its departments prior to his retirement, it was not in a position to comment on or object to the application. After consideration of the second reply of the Works Branch, CSB's preliminary view remained that the "public perception issue" could be addressed as stated above.

Q8: The Planning and Lands Branch of the Development Bureau advised on 30 May 2008 that the Buildings Department had no contractual dealings with NWCL or its parent company, New World Development Company Limited ("NWDCL"), but there were building plans submissions for development projects made under the Buildings Ordinance by the subsidiary companies of NWDCL. CSB sought views from the Planning and Lands Branch again on whether it had any specific comments on Mr LEUNG's application. Please provide the reason for CSB to seek views from the Planning and Lands Branch again.

A8: The advice from the Planning and Lands Branch dated 30 May 2008 provided some factual information on the absence of any contractual dealings between the Buildings Department and NWCL and NWDCL and on the building plans submission for development projects (e.g. HungHom Peninsula project, Tsim Sha Tsui New World redevelopment project) made under the Buildings Ordinance by the subsidiary companies of NWDCL. It did not provide any views on Mr LEUNG's application.

Hence, CSB invited its specific comments again on Mr LEUNG's application.

Q9: You recommended approval of Mr LEUNG's application subject to the standard and additional work restrictions to address the "public perception issue" raised by the Works Branch. Please provide the reasons for (a) recommending approval of Mr LEUNG's application and the factors taken into account in making the recommendation; (b) your assessment that Mr LEUNG's proposed appointment would unlikely constitute problems of conflict of interest; and (c) your assessment that the additional work restrictions could address the "public perception issue".

A9(a): In considering Mr LEUNG's application, the policy objective as set out in CSB Circular No. 10/2005 (Administration Paper No. CSB3/SC Paper No. C8) and the following considerations were taken into account –

- (a) whether the applicant was involved in the formulation of any policy or decisions, the effects of which directly or specifically benefited or could directly or specifically benefit his prospective employer;
- (b) whether the prospective employer might gain an unfair advantage over its competitors because of the applicant's access to sensitive information while in government service;
- (c) whether the applicant was involved in any contractual or legal dealings to which the prospective employer was a party;
- (d) whether the proposed work would have any connection with the assignments/projects and/or regulatory/enforcement duties in which the applicant was involved while in government service;
- (e) whether the applicant's taking up of the proposed work would give rise to public suspicion of conflict of interest or other impropriety; and

- (f) whether any aspects of the proposed work would cause embarrassment to the Government or bring disgrace to the civil service.

Mr LEUNG stated in his application form that he would not be involved in any way in the business of NWCL's parent company or any of its subsidiaries. Hence, the consideration of Mr LEUNG's application was mainly focused on his previous dealings with NWCL. I noted from the assessments of the relevant Permanent Secretaries that Mr LEUNG had no previous dealings with NWCL. I also noted that the relevant Permanent Secretaries advised that their bureaux had no business connection with NWCL. I further noted that the core business of NWCL was in the Mainland and that Mr LEUNG's proposed appointment with NWCL was to oversee NWCL's business in the Mainland only. I took note of the assessment by the Works Branch and, specifically the "public perception issue" stemming from Mr LEUNG's proposed appointment with relativity to his former appointment as the Director of Buildings from October 1999 to June 2002 despite the operation of his prospective employer is outside Hong Kong. Taking all these into account, I recommended that approval may be given to Mr LEUNG's application subject to the standard work restrictions, namely, he should not-

- (a) be personally involved, directly or indirectly, in the bidding for any government land, property, projects, contracts or franchises;
- (b) undertake or represent any person in any work including any litigation or lobbying activities that are connected in any way with-
 - (i) the formulation of any policy or decisions,
 - (ii) sensitive information,
 - (iii) contractual or legal dealings,
 - (iv) assignments or projects, and/or
 - (v) enforcement or regulatory duties,

in which he was involved or to which he had access during his last three years of government service; or

- (c) engage in any activities which will cause embarrassment to the Government or bring disgrace to the civil service; and

subject to four proposed additional work restrictions, namely,

- (a) he should not involve himself in any business of NWCL that is connected with Hong Kong;
- (b) he should not use or disclose any classified or sensitive information acquired while he was in government service in the course of his employment with NWCL;
- (c) he should not represent NWCL in any discussion with the Government; and
- (d) for avoidance of doubt, he should confine his proposed appointment with NWCL

to address the public perception issue.

A9(b) In Mr LEUNG's application form, he stated that he would not be involved in any way in the business of NWCL's parent company or any of its subsidiaries. Hence, the consideration of Mr LEUNG's application was mainly focused on his previous dealings with NWCL. I noted from the assessments of the relevant Permanent Secretaries that Mr LEUNG had no previous dealings with NWCL. I also noted that the relevant Permanent Secretaries advised that their bureaux had no business connection with NWCL. I further noted that the core business of NWCL was in the Mainland and that Mr LEUNG's proposed appointment with NWCL was to oversee NWCL's business in the Mainland only. In the light of all these, I considered that Mr LEUNG's proposed appointment would unlikely constitute problems of conflict of interest.

A9(c) I considered the additional work restrictions that Mr LEUNG should not involve himself in any business of NWCL that was connected with Hong Kong and that he should confine his proposed appointment to NWCL could address the "public

perception issue” because these restrictions would further guard against Mr LEUNG’s involvement in any business that was connected with Hong Kong and make it beyond any doubt that his proposed appointment would be in the Mainland only.

I also considered that the additional work restriction that Mr LEUNG should not use or disclose any classified or sensitive information acquired while he was in government service in the course of his employment with NWCL could mitigate the public perception, if any, that NWCL might gain an unfair advantage over its competitors as a result of the employment of Mr LEUNG.

I further considered that the additional work restriction that Mr LEUNG should not represent NWCL in any discussion with the Government could address the public concern that Mr LEUNG might still have some influence with his former colleagues in view of his former senior position in the Government, which might bring an unfair advantage to NWCL.

Q10 The personal relationship between you and Mr LEUNG

A10 I do not have any personal relationship with Mr LEUNG.

The vetting and consideration of applications of post-service work from directorate civil servants by the Advisory Committee on Post-service Employment of Civil Servants (“ACPE”)

Q11: The procedures and arrangements for seeking advice from ACPE on applications for post-service work from directorate civil servants, including whether applications are considered at meetings or by circulation of papers, declaration of interests by the Chairman and members of ACPE in relation to the applications and the handling of such declarations by CSB

A11: Please see A1&2 above.

Q12: The information provided to the Chairman and members of ACPE to assist their work

A12: A brief on the Guiding Principles and Criteria for the Assessment of Applications for Post-service Employment by Directorate Civil Servants and a Note on Declaration of Interests (Administration Paper Nos. CSB8 and CSB9/SC Paper Nos. C14 and C15) are provided to the Chairman and members of ACPE on first appointment to the Advisory Committee. For each application, the Secretary will prepare a draft paper for consulting the Chairman of ACPE and a final paper after discussion with the Chairman for the consideration of members of ACPE.

Q13: The number of applications for post-service work from directorate civil servants considered by ACPE since the introduction of the new arrangements governing the post-service work taken up by directorate civil servants ("the new arrangement") in January 2006, with breakdown on the number of applications approved and rejected, and considered by discussion at ACPE meetings and by circulation of papers, and the number of meetings held by ACPE to consider such applications

A13 Since the introduction of the new arrangement on 1 January 2006 and up to the end of December 2008, a total of 171 applications were approved and four applications were rejected by the decision authority, after consideration by ACPE (excluding one application which was subsequently withdrawn by the applicant after consideration by ACPE) by circulation of papers. These applications were received from directorate civil servants subject to either the old or the new arrangements.

Q14: In respect of the four applications for post-service work submitted by Mr LEUNG other than the one with NWCL, the respective number of these applications considered by ACPE by discussion at meetings and by circulation of

papers

- A14: All the other four applications for post-service outside work submitted by Mr LEUNG were considered by ACPE by circulation of papers.
- Q15: The consultation with the Chairman of ACPE on Mr LEUNG's application to take up work with NWCL, and records of formal or informal discussion with the Chairman before the circulation of the paper(s) on Mr LEUNG's application to members of ACPE**
- A15: A paper containing the background information of Mr LEUNG, including his last two postings in government service, his major duties in his last posting, the date of his cessation of active service and the date of his leaving the service; his previous approved outside appointments; his proposed appointment with NWCL including his major duties and responsibilities and the core business of NWCL; the policy and arrangements governing his taking up of post-service outside work; the assessments of the relevant parties within the Administration, including the assessments of Permanent Secretary for Transport and Housing (Housing), Permanent Secretary for Development (Planning and Lands), Permanent Secretary for Development (Works) and the AO Grade Management; and views of CSB was faxed to the Chairman of ACPE for consideration on 30 June 2008. A copy of this paper was submitted to the Select Committee as Administration Paper No. CSB34/SC Paper No. C21(C). The Chairman then called me on 2 July 2008 to advise the application should be circulated to Members for consideration. He declared that Mr LEUNG was his secondary schoolmate. He expressed no objection to Mr LEUNG's application and agreed with CSB's preliminary views and recommendation contained in the paper. The views of the Chairman and his declaration on his relationship with Mr LEUNG were included in the paper circulated on 2 July 2008 to Members of ACPE with a copy to him. A copy of this paper was submitted to the Select Committee as Administration Paper No. CSB35/SC

Paper No. C22(C).

Q16: The information provided in the paper to the Chairman and members of ACPE on Mr LEUNG's application to take up work with NWCL

A16: The information provided in the paper circulated to members of ACPE included the background information of Mr LEUNG, including his last two postings in government service, his major duties in his last posting, the date of his cessation of active service and the date of his leaving the service; his previous approved outside appointments; his proposed appointment with NWCL including his major duties and responsibilities and the core business of NWCL; the policy and arrangements governing his taking up of post-service outside work; the assessments of the relevant parties within the Administration, including the assessments of Permanent Secretary for Transport and Housing (Housing), Permanent Secretary for Development (Planning and Lands), Permanent Secretary for Development (Works) and the AO Grade Management; views of CSB; views of the Chairman of ACPE and his declaration on his relationship with Mr LEUNG; and a reply slip on which each member was invited to give his/her view. A copy of this paper was submitted to the Select Committee as Administration Paper No. CSB35/SC Paper No. C22(C).

Q17: The reason for not including information relating to Mr LEUNG's involvement in Hunghom Peninsula development in the paper to ACPE on Mr LEUNG's application to take up work with NWCL

A17: In considering Mr LEUNG's application, I noted that Mr LEUNG would not involve himself in the business of NWCL's parent company or any of its subsidiaries. As Mr LEUNG's involvement in the Hunghom Peninsula development had not been raised by any parties consulted within the Administration, I did not include such information in the paper to ACPE on Mr LEUNG's application to take up work with NWCL.

Q18: The declaration of interest by the Chairman and members of ACPE in respect of Mr LEUNG's application to take up work with NWCL and the follow-up action taken by CSB

A18: The Chairman of ACPE declared that Mr LEUNG was his secondary schoolmate. There was no declaration of interest made by members of ACPE. The declaration of the Chairman was included in the paper circulated to members of ACPE on Mr LEUNG's application to take up work with NWCL and in the submission to SCS on the said application.

Carrie WONG HO Ka-lai
26 March 2009