

立法會
Legislative Council

LC Paper No. CB(1)39/09-10

Ref: CB1/PL/PS

**Panel on Public Service
Meeting on 19 October 2009**

**Updated background Brief
on the policy on post-service employment of
former directorate civil servants**

Purpose

This paper sets out the policy and arrangements governing post-service employment of former directorate civil servants and gives a brief account of the major views and concerns expressed by Members at previous meetings of the Legislative Council (LegCo) and the Panel on Public Service (PS Panel).

Background

2. The Government's policy on post-service employment aims to ensure that civil servants on final leave or who have left the Government will not take up any work outside the Government (referred to as "outside work") which may constitute real or potential conflict of interest with their previous government service, or cause negative public perception embarrassing the Government and undermining the image of the civil service, without at the same time unduly restricting the said individuals' right to pursue employment or other work after ceasing government services. However, the approval given by the Administration to a number of retired directorate officers to take up employment with private enterprises shortly after their ceasing active service or during their final leave has caused concern to LegCo Members and the public.

Previous discussions at the Council and the Panel

3. The PS Panel discussed the mechanism to approve retired directorate officers to take up outside work on 17 May 2004. Panel members questioned the effectiveness of the mechanism in upholding the integrity of civil servants, especially in preventing directorate officers from giving favouritism to private consortia in the formulation of policies and decision-making during their service immediately prior to retirement. The

Panel urged the Administration to review the policy and approval mechanism as soon as possible, including the length of the sanitization period, whether the retired directorate officers should be allowed to take up employment during their final leave, what restrictions should be imposed on the post-retirement employment of directorate officers, and how to enhance the transparency of the mechanism.

4. In view of the wide public concern about the approval given by the Administration for Ms Elaine CHUNG Lai-kwok, the former Deputy Director of Housing to take up post-retirement employment with the Hong Kong Ferry (Holdings) Co. Ltd., Hon KWONG Chi-kin raised an oral question about the approval at the LegCo meeting on 1 December 2004. The PS Panel subsequently discussed with the Administration on 21 December 2004 the policy governing post-retirement employment of civil servants, and requested the Administration to conduct a full investigation of Ms Elaine CHUNG's case.

5. On 2 February 2005, the Council passed a motion on "Monitoring the post-retirement employment of the Chief Executive, principal officials under the accountability system and civil servants at directorate level with private-sector organizations", moved by Hon CHEUNG Man-kwong as amended by Hon TAM Yiu-chung. The wording of the motion passed is at **Appendix I**.

6. The Administration consulted the PS Panel on 21 March and 21 November 2005 the proposed revisions to the arrangements governing post-service outside work by directorate civil servants.

Existing arrangements for post-service employment of directorate civil servants

7. The Administration promulgated in December 2005 a set of arrangements applicable to directorate officers on pensionable/new permanent terms who cease active service on or after 1 January 2006, and directorate officers on agreement terms who enter into new agreements on or after 1 January 2006. For directorate officers who ceased active service or entered into agreements before 1 January 2006, the pre-1 January 2006 arrangements continue to apply to them. The key elements of the 2006 arrangements and the vetting procedures and criteria, as provided in the latest annual report on the work of the Advisory Committee on Post-service Employment of Civil Servants¹ (the Advisory Committee), are set out in the ensuing paragraphs.

¹ The Advisory Committee, formerly known as the Advisory Committee on Post-retirement Employment, is an independent body to advise the Government on matters related to post-service employment of civil servants. It is chaired by a High Court judge and comprises four other members. The Advisory Committee reports its work to the Chief Executive annually. The Twentieth Report on the work of the Advisory Committee covering the period from 1 January 2008 to 31 December 2008 was issued to members of the PS Panel in July 2009.

Key elements of the 2006 arrangements

8. Compared to the existing arrangements governing the taking up of outside work by directorate officers, the 2006 arrangements are generally more stringent. For example, they make a more explicit distinction between work for non-commercial organizations and work of a commercial nature, spell out in clear terms a set of across the board standard restrictions on scope of work for all cases of outside work involving directorate officers, as well as apply more stringent rules on sanitization and disclosure of information especially for directorate officers at Directorate Pay Scale Point 4 (D4) or above (or equivalent). In brief, the 2006 arrangements include -

- (a) directorate civil servants need to obtain prior permission from the Secretary for the Civil Service (SCS) to take up any outside work during their final leave period and/or within a specified control period counting from their formal departure from the Government. The control period is three years for civil servants ranked at Directorate Pay Scale Point 8 (D8) and two years for others;
- (b) retired directorate civil servants are subject to a minimum sanitization period counting from cessation of active government service, during which outside work is not permitted, other than that covered by the blanket permission². The minimum sanitization period for directorate civil servants below D4 is six months and for those at D4 or above is 12 months;
- (c) directorate civil servants are normally not permitted to take up full-time remunerated work or work of a commercial nature, during their final leave period (even if it exceeds the afore-stated minimum sanitization period);
- (d) directorate civil servants who take up post-service outside work are subject to a set of standard work restrictions³; and
- (e) where necessary, the Advisory Committee may advise, and SCS as the approving authority may impose, a longer sanitization period and/or additional work restrictions.

² Blanket permission is given for all directorate civil servants to take up unremunerated work with specified non-commercial organizations throughout the final leave and control periods. The specified non-commercial organizations include (a) charitable, academic or other non-profit making organizations not primarily engaged in commercial operations; (b) non-commercial regional or international organizations; and (c) the central Authorities of the People's Republic of China.

³ Directorate civil servants are subject to standard restrictions that they should not in their post-service outside work- (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 they were involved or to which they had access during their last three years of government service; or (c) engage in any activities that will cause embarrassment to the Government or bring disgrace to the civil service.

9. Key elements of the 2006 arrangements, as compared with the previous arrangements (i.e. before 1 January 2006), are set out in **Appendix II**.

Vetting procedures

10. Processing of applications for outside work from directorate civil servants involve the following steps:

- (a) scrutiny by the Head of Department (HoD) or Head of Grade (HoG) and the Permanent Secretary concerned;
- (b) Civil Service Bureau (CSB) then forwards the application, together with the assessments made by the relevant HoD or HoG and Permanent Secretary, to the Advisory Committee for consideration and advice; and
- (c) the application, with the Advisory Committee's advice, is submitted to SCS for a decision.

Vetting criteria

11. In considering applications for permission to take up outside work, the key factors taken into account by the Advisory Committee are real or potential conflict of interest and public perception.

12. The specific considerations include –

- (a) whether the applicant, while in government service, had been involved in the formulation of any policy or decisions, the effects of which directly or specifically benefited or could directly or specifically benefit his/her own business or prospective employer;
- (b) whether the applicant or his/her prospective employer might gain unfair advantage over competitors because of the applicant's access to sensitive information while in government service;
- (c) whether the applicant, while in government service, had been involved in any contractual or legal dealings to which his/her 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 had been 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.

13. The number of applications considered by the Advisory Committee in the past four years (i.e. 2005 to 2008), with a breakdown by the applicants' background, are provided in **Appendix III**.

Suspension of pension

14. Civil servants who are re-appointed to serve in the Government, or appointed to the public organizations gazetted as public service for the purpose of pension suspension, are required to have the payment of their monthly pension suspended. This suspension of pension is not applicable to retired officers taking up employment with private enterprises.

Members' major views and concerns on the policy and approval mechanism

15. The major views and concerns previously expressed by Members at meetings of the LegCo and the PS Panel held during May 2004 to November 2005 are summarized below:

(a) Effectiveness of the approval mechanism

- Given the high approval rate of applications for post-service employment, it is doubtful whether the approval mechanism is effective in achieving the objective of the post-service employment policy. A due process for handling applications is important for maintaining the impartiality of the mechanism, safeguarding public interest, and inspiring public confidence in the probity and integrity of the civil service.
- The Administration should examine how the approval mechanism could be enhanced, taking into account the need to strike a balance between the rights of individual civil servants to pursue employment or business after retirement on the one hand, and the public interest and aspirations of the community regarding the integrity and impartiality of the civil service on the other.
- The Administration should propose effective measures to improve the transparency of the mechanism. For instance, information on outside work taken up by all directorate officers irrespective of their rank should be made available for public inspection.

- The approving authority, including the HoD/Bureau concerned, should be held responsible for wrong judgment if the approved outside work subsequently did give rise to negative public perception.

(b) Sanitization period

- To ensure that the post-service employment of former directorate civil servants will not constitute a conflict of interest with their previous government service, the granting of approval for post-service employment should be tightened up by lengthening the sanitization period. The sanitization period should be counted from the date on which the retired officers leave the civil service, instead of the date of cessation of active service.

(c) Information for scrutiny of applications

- To facilitate the HoDs concerned in making their recommendations on applications for post-service employment, CSB should collate more information about the applications, such as information on whether the company was a subsidiary or associate of another business group.

(d) Monitoring of approved cases

- The Administration should look into the approved cases of post-service employment and remind the civil servants concerned of the terms of approval, and explore means to strengthen its monitoring of the approved cases to ensure compliance with the terms of approval.

(e) Suspension of pension

- Monthly pension payment should be suspended for those retired officers who have taken up employment with private enterprises.

Recent concerns

16. There was wide public concern about the appointment announced by New World China Land Limited (NWCL) on 1 August 2008 of Mr LEUNG Chin-man (former Permanent Secretary for Housing, Planning and Lands and Director of Housing) as an Executive Director and Deputy Managing Director of the company. There was public concern that conflict of interest existed in the appointment since NWCL is a subsidiary of the New World Development Company Limited, and one of its subsidiaries was amongst the developers involved in the Hunghom Peninsula development in which Mr LEUNG had been involved during his government service. (Appendix IV to LC Paper No. CB(1)86/08-09 provides the background information on the disposal of the Hunghom Peninsula flats).

17. Hon Margaret NG had provided the PS Panel with a copy of her letter to SCS dated 7 August 2008 (CB(1)2259/07-08) relaying her concerns on CSB's approval on Mr LEUNG in post-service employment.

18. The Chief Executive (CE) subsequently made a statement on 15 August 2008 on the case. According to CE's statement, in giving approval to Mr LEUNG's application, SCS had imposed the following restrictions in addition to the standard ones applicable to directorate civil servants-

- (a) Mr LEUNG should not involve himself in any business of NWCL that is connected with Hong Kong;
- (b) Mr LEUNG should not use or disclose to NWCL any classified or sensitive information acquired while he was in government service;
- (c) Mr LEUNG should not participate in any discussion between NWCL and the Government; and
- (d) Mr LEUNG should confine his proposed appointment to NWCL.

19. As Mr LEUNG's involvement in the handling of the Hunghom Peninsula development had not been duly considered by CSB when processing his application, CE requested SCS to consult the relevant policy bureaux again on Mr LEUNG's application with due regard to his involvement in the Hunghom Peninsula development and present the relevant information to the Advisory Committee for further advice on Mr LEUNG's application.

20. On 16 August 2008, NWDCL announced that the company had agreed with Mr LEUNG Chin-man to resolve the employment contract in question. CE responded to media enquiry on the same day that a re-assessment of Mr LEUNG's application would not be necessary in view of the new development, but that a dedicated committee would be set up to examine the best way forward for handling post-service employment of civil servants. On 30 September 2008, CE announced the

appointment of the Committee on Review of Post-Service Outside Work for Directorate Civil Servants (the Review Committee), chaired by Hon Ronald ARCULLI and comprising ten other members including four LegCo Members and SCS.

PS Panel's recent discussions on the control regime

21. PS Panel held a special meeting on 27 October 2008 to discuss the approval process of Mr LEUNG Chin-man's application and the enhancements for the existing control regime. The Panel further discussed on 16 February and 16 March 2009 the Review Committee's work progress and its consultation document with the Chairman of the Review Committee.

22. Panel members were of the view that the incident of Mr LEUNG Chin-man had revealed the inadequacy of existing control arrangements in preventing directorate civil servants from taking up any work outside the Government which might constitute a real or potential conflict of interest with their former government duties or cause negative public perception. The wide public concern aroused had clearly demonstrated the need for strengthening the existing control regime. Some members suggested that to ensure impartiality, the approving authority should be an independent body rather than SCS. Some members suggested that the control periods under the existing control regime should be extended to five years, during which a former directorate civil servant could not take up employment with commercial organizations, while some suggested that a former directorate civil servant should not be allowed to take up post-service outside work which was related to his policy responsibilities in his last five years of government service.

23. Members considered that avoiding suspicion or perception of "deferred reward" for past favour done by a former directorate civil servant in his official position to benefit a particular entity or individual in return for lucrative post-service employment, as raised in the Review Committee's consultation document, was very important. They considered that it was the public expectation that the Review Committee would come up with improvement measures to specifically address the issue of "deferred reward". Some members were of the view that in considering the necessary enhancements to the existing control regime, the Review Committee should take note of the public expectation that the principle of protection of public interest was more important than that of protection of an individual's right to pursue post-service employment.

24. Members also expressed concern that since politically appointed officials had wider powers, it would be unreasonable if the control arrangements applied to directorate civil servants were even more stringent than those applied to politically appointed officials. The Chairman of the Review Committee undertook that the Review Committee would consider views expressed by the public and LegCo in this regard.

Report on Review of Post-Service Outside Work for Directorate Civil Servants

25. On 10 July 2009, the Review Committee submitted its report (the Report) to CE, making 23 recommendations covering the following different aspects of the control regime –

- (a) underlying principles (Recommendation 1);
- (b) policy objective (Recommendation 2);
- (c) design and operation (Recommendations 3 to 20); and
- (d) public monitoring (Recommendations 21 to 23).

The recommendations are set out in **Appendix IV**.

26. PS Panel was briefed on the recommendations of the Report on 13 July 2009. Notwithstanding the proposals to lengthen the control period for D4 to D8 (or equivalent) civil servants (recommendation 7) and to tighten disclosure requirements (recommendation 8), some members maintained the view that the public concern about "deferred reward" still could not be effectively addressed by the proposed enhancement measures. A member requested SCS to further explore the possibility of a lifetime "employer-specific" ban on a former directorate civil servant who had had dealings in land, property or award of franchise matters when in government service. Another member proposed that directorate civil servants playing a pivotal role in certain important dealings, such as the approval of building plans, should be restricted from taking up post-service outside work in the relevant field.

27. Some members also considered it unfair that while the control periods of directorate civil servants ranged from two to five years under the current proposals, politically appointed officials were only subject to one-year control period. These members were of the view that similarly stringent control arrangements should in parallel be applied to politically appointed officials. They pointed out that the expansion of the Political Appointment System had led to the appointment of politically appointed officials who had different background and might be closely related to various private consortia. They considered that as Under Secretaries and Political Assistants in general were relatively young, it was likely that they would take up post-service outside work. However, as the subject was outside the terms of reference of the Review Committee, the Panel agreed to refer relevant concerns about the control regime applicable to politically appointed officials to the Panel on Constitutional Affairs for follow-up discussion.

Latest Development

28. The Administration has proposed to report on the outcome of the staff consultation in respect of the recommendations of the Report of the Review Committee at the Panel meeting on 19 October 2009.

Relevant Papers

29. A list of relevant papers is in **Appendix V** for members' reference.

Council Business Division 1
Legislative Council Secretariat
16 October 2009

Wording of motion passed on 2 February 2005 on "Monitoring the post-retirement employment of the Chief Executive, principal officials under the accountability system and civil servants at directorate level with private-sector organizations", moved by Hon CHEUNG Man-kwong as amended by Hon TAM Yiu-chung

"That, since the approval granted in recent years to a number of civil servants at directorate level for their post-retirement employment with private-sector organizations has aroused public concern, in order to fortify the prevention of civil servants at directorate level from taking up post-retirement employment that involves conflicts of interests with their previous service in the Government, this Council urges the Government to immediately tighten up, monitor the implementation of and strictly enforce the policies and measures governing the post-retirement employment of civil servants at directorate level with private-sector organizations, which should include:

- (a) imposing across the board a sanitization period of at least one year for directorate officers;
- (b) prohibiting directorate officers from taking up employment with private-sector organizations during their pre-retirement leave to guard against double pay;
- (c) identifying loopholes in the work of the Advisory Committee on Post-retirement Employment to prevent the Committee from becoming a rubber stamp which approves applications indiscriminately;
- (d) making public information on the approvals granted by the Government for civil servants at directorate level to take up post-retirement employment with private-sector organizations; and
- (e) closely monitoring the changes in the nature of post-retirement employment taken up by directorate officers with private-sector organizations after such approvals have been granted so as to ensure that there is no conflict of interest between their post-retirement employment and their previous service in the Government;

furthermore, this Council also calls upon the Civil Service Bureau to expeditiously complete the investigation into the incident of Ms Elaine CHUNG Lai-kok and publish the relevant report, and urges the Administration to strictly enforce the relevant policies by exercising appropriate and forceful regulation over the post-departure or post-retirement employment of the Chief Executive and the principal officials under the accountability system with private-sector organizations, so as to achieve the policy direction of 'resolutely against collusion between business and the Government to eliminate any transfer of benefits' announced in the Chief Executive's 2005 Policy Address, thereby ensuring that upon the departure of the Chief Executive, principal officials and directorate officers, they do not enter into any business or take up any employment which may constitute a conflict of interest with their previous service in the Government or adversely affect the image of the Government."

**Key Elements of the Old and New Arrangements
Governing the Post-Service Outside Work of Directorate Officers**

Old Arrangements	New Arrangements
1. Coverage	
<ul style="list-style-type: none"> * Directorate officers who ceased active service before 1 January 2006 and who have retired on pensionable terms * Agreement officers at D3 and above whose last agreement with the Government was entered into before 1 January 2006 	<ul style="list-style-type: none"> * Directorate officers appointed on pensionable or new permanent terms and have ceased or will cease active service on or after 1 January 2006 * Directorate officers appointed on agreement terms who have entered or will enter into new/further agreements on or after 1 January 2006
2. Sanitisation period (counting from cessation of active service during which outside work is not permitted)	
<ul style="list-style-type: none"> * Directorate officers retired on pensionable terms – minimum 6 months, may be shortened if there is no clear conflict of interest or may be lengthened having regard to the circumstances of a case. * Agreement officers at D3 or above – no specified minimum sanitisation period but such requirement may be imposed on a case-by-case basis. 	<ul style="list-style-type: none"> * Minimum sanitisation period for directorate officers retired or retiring on pensionable or new permanent terms – <ul style="list-style-type: none"> D4 or above (or equivalent) – 12 months Below D4 (or equivalent) – 6 months * The minimum sanitisation period is normally shortened or waived for notionally remunerated work and may be shortened for remunerated work taken up with the following organisations (the specified organisations) – <ul style="list-style-type: none"> (a) charitable, academic or other non-profit making organisations not primarily engaged in commercial operations; (b) non-commercial regional or international organisations; or (c) the Central Authorities of the People's Republic of China, where the work would not give rise to conflict of interest and is unlikely to cause negative public

Old Arrangements	New Arrangements
	<p>perception.</p> <ul style="list-style-type: none"> * For all other outside work (in particular work of a commercial nature), the minimum sanitisation period would only be shortened where there are special considerations, and provided that the work would not give rise to conflict of interest or negative public perception. * Having regard to the circumstances of a particular case, a longer sanitisation period may be imposed if so required to more fully forestall conflict of interest or negative public perception. * No minimum sanitisation period is specified for directorate officers not retiring, or not retired, on pensionable or new permanent terms (e.g. agreement officers and resignees). Each case will be considered on its own merits.
3. <i>Final leave period</i>	
<ul style="list-style-type: none"> * The taking up of paid outside work during the final leave period, irrespective of whether such work is undertaken in Hong Kong or elsewhere, is subject to prior permission. 	<ul style="list-style-type: none"> * The taking up of outside work during the final leave period is subject to the rules governing sanitisation. * In addition, directorate officers are not permitted to take up any full-time remunerated work or any work of a commercial nature (including self-employment) during the final leave period, unless there are special considerations. In this regard, directorate officers on final leave may, on application, normally only take up part-time or notionally remunerated work with a specified organisation, subject to the rules on sanitisation and there being no problem of dual identity.

4. Control period (counting from formal departure from the Government during which prior permission is required for taking up outside work)	
<ul style="list-style-type: none">* Directorate officers retired on pensionable terms AOSGA1 (D8) – 3 years Others – 2 years* Agreement officers at D3 and above – 1 year (in respect of outside work in the same field and where there is a possible conflict of interest)	<ul style="list-style-type: none">* Directorate officers retired on pensionable or new permanent terms D8 or equivalent – 3 years Below D8 or equivalent – 2 years.* Directorate officers who left the Government other than retirement after six or more years of continuous service D8 or equivalent – 3 years Below D8 or equivalent – 2 years* Directorate officers who left the Government other than retirement after less than six years of continuous service D8 or equivalent – 1¹/₂ years Below D8 or equivalent – 1 year
5. Vetting criteria	
<ul style="list-style-type: none">* The key factors of consideration are conflict of interest (real or potential) and public perception.	<ul style="list-style-type: none">* The key factors of consideration are conflict of interest (real or potential) and public perception.* The specific considerations include –<ul style="list-style-type: none">(a) whether the applicant, while in government service, had been involved in the formulation of any policy or decisions, the effects of which directly or specifically benefited or could directly or specifically benefit his/her own business or his/her prospective employer;(b) whether the applicant or his/her prospective employer might gain unfair advantage over competitors because of the applicant's access to sensitive information while in government service;(c) whether the applicant, while in government service, had been 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

	<p>applicant had been involved while in government service;</p> <p>(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</p> <p>(f) whether any aspects of the proposed work would cause embarrassment to the Government or bring disgrace to the civil service.</p>
<p>6. Restrictions on scope of work</p>	
<p>* Work-specific restrictions may be imposed on a case-by-case basis.</p>	<p>* In all approved cases of outside work, the officer involved should not –</p> <p>(a) be personally involved, directly or indirectly, in the bidding for any government land, property, projects, contracts or franchises;</p> <p>(b) undertake, or represent any person in, any work including any litigation or lobbying activities that are connected in any way with –</p> <p>(i) the formulation of any policy or decision;</p> <p>(ii) sensitive information;</p> <p>(iii) contractual or legal dealings;</p> <p>(iv) assignments or projects; and/or</p> <p>(v) enforcement or regulatory duties,</p> <p>in which he/she had been involved or to which he/she had access during his/her last three years of government service; or</p> <p>(c) engage in any activities which would cause embarrassment to the Government or bring disgrace to the civil service.</p> <p>* Further specific restrictions on scope of work may be imposed on a case-by-case basis.</p>

7. <i>Blanket permission</i>	
* No blanket permission (but the blanket permission under the new arrangements has been extended to officers subject to the old arrangements).	* Blanket permission is given for unremunerated work with the specified organisations throughout the entire period from cessation of active service to the expiry of control period.

(Source: Annex B to the Nineteenth Report on the work of the Advisory Committee on Post-service Employment of Civil Servants)

**Post-service outside work of former directorate officers
considered by the Advisory Committee
(1 January 2005 - 31 December 2008)**

Period	No. of applications				Applicants' background						
	Processed	Recommended for approval	Recommended for rejection	No. of Applicants (Note)	Age				Salary Scale		
					Below 50	50-54	55-59	60 or above	D1-D2	D3-D4	D5 or above
1 Jan - 31 Dec 2005	93	92	1	56	3	9	30	14	34	11	11
1 Jan - 31 Dec 2006	64	63	1	40	4	5	22	9	16	12	12
1 Jan - 31 Dec 2007	55	55	0	37	3	2	18	14	16	9	12
1 Jan - 31 Dec 2008	56	53	3	33	(Not available from the Administration)				16	9	8

Note: An applicant may submit more than one application

(Source: Seventeenth, Eighteenth, Nineteenth and Twentieth Report on the Work of the Advisory Committee on Post-service Employment of Civil Servants)

**Recommendations made by the Committee on
Review of Post-Service Outside Work for Directorate Civil Servants**

I. Underlying Principles

Recommendation 1

Protection of the public interest and protection of an individual's right should continue to be the two principles underlying the control regime, with protection of the public interest taking precedence over protection of an individual's right.

II. Policy Objective

Recommendation 2

The policy objective should be expanded to make specific references to –

- (a) avoiding suspicion or perception of 'deferred reward'; and
- (b) making good use of limited human resources.

There is no need to make a specific reference in the policy objective to maintaining the attractiveness of the civil service as a career.

III. Design and Operation

(a) *Periods of Restriction*

Recommendation 3

A lifetime total ban on paid post-service outside work should not be imposed. *A lifetime specific ban* on particular types of post-service employment should also not be imposed (with the Honourable Albert Ho registering a different view). The Honourable Albert Ho considers that the possibility of a lifetime 'employer-specific' ban on a former directorate civil servant who has had dealings in land, property or award of franchise matters when in government service should be further explored.

Recommendation 4

No change should be made to the minimum sanitization period.

Recommendation 5

The length of the control period should not be determined by specified fields of work during government service.

Recommendation 6

The length of the control period should not be determined by post-service outside work in the same field as a directorate civil servant's past government duties.

Recommendation 7

The length of the control period should be as follows (with the Honourable Audrey Eu and the Honourable Albert Ho registering a different view) –

- (a) two years for Directorate Pay Scale (DPS) D1 to D3 (or equivalent) civil servants (i.e. no change to the length of the existing period);
- (b) three years for DPS D4 to D7 (or equivalent) civil servants (i.e. lengthening the existing period by one year); and
- (c) five years for DPS D8 (or equivalent) civil servants (i.e. lengthening the existing period by two years).

The Honourable Audrey Eu and the Honourable Albert Ho recommend that the length of the control period should be –

- (a) three years for DPS D1 to D3 (or equivalent) civil servants (i.e. lengthening the existing period by one year); and
- (b) five years for DPS D4 to D8 (or equivalent) civil servants (i.e. lengthening the existing period by three years for DPS D4 to D7 (or equivalent) civil servants and by two years for DPS D8 (or equivalent) civil servants).

(b) *Internal Assessment Process*

Recommendation 8

The provision of information by an applicant in the application form should be improved as follows –

- (a) irrespective of whether or not an applicant will be involved in the business of the parent or related companies of the prospective employer, he should be required to disclose his material past contractual, legal, official and other contacts/dealings (if any) with these entities during his last three years of government service if he is at DPS D1 to D3 (or equivalent), and during his last six years of government service if he is a DPS D4 or above (or equivalent) civil servant;
- (b) an applicant should be required to provide any other information which he considers relevant to the assessment of his application; and
- (c) the policy objective and the assessment criteria should be stated upfront on the application form so as to remind an applicant of the factors that would be taken into account in the assessment process. This should help him to decide

what other relevant information to provide as required under (b) above.

Recommendation 9

All applications from DPS D4 to D8 (or equivalent) directorate civil servants should be assessed with reference to the applicants' last six years of active government service.

(c) *External Assessment Process*

Recommendation 10

The Advisory Committee should retain its advisory role (with the Honourable Audrey Eu registering a different view). The Honourable Audrey Eu considers that the control regime, including the power to approve or reject post-service outside work applications, should be placed in a body independent of the Administration.

Recommendation 11

The membership of the Advisory Committee should be expanded to nine members (including the chairman) with a broadened composition. Possible categories of candidates for appointment on an *ad personam* basis include (but not restricted to) academics, representatives from civil service groups, former directorate civil servants, personalities from professional fields and/or the business sector, as well as former or serving members of the Executive Council, the Legislative Council and the District Councils.

Recommendation 12

The Advisory Committee should be given the power to invite outside expert(s) in the field(s) relevant to a post-service outside work application to give advice if necessary.

Recommendation 13

The Advisory Committee should draw up guidelines on its mode of operation, which should provide for the holding of meetings when appropriate or upon request by its chairman or any of its members. In addition, these guidelines should be made known to the public and applicants.

Recommendation 14

The secretariat of the Advisory Committee should be independent of the Civil Service Bureau. Depending on workload, it may be a dedicated secretariat, or it may be an existing independent secretariat for advisory bodies on civil service-related matters with an expanded ambit.

(d) *Enforcement of Work Restrictions Imposed*

Recommendation 15

The imposition and enforcement of work restrictions should be strengthened as follows –

- (a) the current arrangement of imposing standard work restrictions and, where necessary, additional application-specific work restrictions should continue;
- (b) the decision authority should directly inform the prospective employer of the work restrictions imposed on an applicant and of the requirement for the latter to notify and to seek prior approval from the decision authority if there is any material change to the work;
- (c) if the enforcement of work restrictions imposed on an applicant may involve certain bureaux/departments, the decision authority should also inform them of the imposed work restrictions; and
- (d) an applicant who has taken up an approved post-service outside work should be required, as part of the approval conditions, to provide the decision authority with a copy of the signed employment agreement or appointment letter within 30 days of signature or issue as well as any material changes made later.

(e) *Review/Appeal Channels*

Recommendation 16

The decision authority should set out the review and appeal channels when notifying an applicant of the decision on his application. The decision authority should, as a standard practice, seek the advice of the Advisory Committee again if an applicant seeks a review of the decision.

(f) *Performance Pledge on Processing Time*

Recommendation 17

The Administration should make a practicable performance pledge on the processing time, having regard to the recommended enhancement to the internal and external assessment processes.

(g) *Integrity of the Civil Service*

Recommendation 18

The integrity enhancement initiatives should give greater emphasis on the importance of avoiding possible conflicts of interest by directorate civil servants, in particular the public concern over perception or suspicion of ‘deferred reward’, both during active government service and in the pursuit of post-service outside work.

(h) 'Exit Interview'

Recommendation 19

The Administration should conduct an 'exit interview' with every departing directorate civil servant, and devise guidelines on the matters to be covered.

(i) Pension Suspension Arrangement

Recommendation 20

The suspension of monthly pension payments to retired pensionable civil servants (directorate and non-directorate) working on a full-time and paid basis in the 16 specified subvented organizations should be discontinued (with the Honourable Audrey Eu and the Honourable Albert Ho registering a different view). These two members recognize the anomalies under the existing arrangement but consider that such recommendation should not be made in the absence of a general review on the employment of former civil servants in all other quasi-government agencies or publicly funded organizations.

IV. Public Monitoring

(a) Coverage of Public Register

Recommendation 21

The public disclosure arrangement should be extended to cover junior directorate civil servants at DPS D1 to D3 (or equivalent) as well.

(b) Advisory Committee's Advice

Recommendation 22

The Advisory Committee's advice on every approved and taken up post-service outside work should be disclosed on the public register.

(c) Advisory Committee's Annual Report

Recommendation 23

More information should be included in the Advisory Committee's annual report, including but not limited to the categorization of employers of approved and taken up post-service outside work, the cases on the public register on which the Advisory Committee's advice and the final decision of the authority differs, and the guidelines on

the mode of operation of the Advisory Committee.

Appendix V

Policy on post-service employment of former directorate civil servants

List of relevant papers (Position as at 8 October 2009)

Meeting date	Committee	Paper/Document
17 May 2004	Public Service Panel (PS)	Administration's paper on policy governing the acceptance of post-retirement employment of civil servants http://www.legco.gov.hk/yr03-04/english/panels/ps/papers/ps0517cb1-1786-3e.pdf
		Minutes of meeting (paragraphs 4 to 27) http://www.legco.gov.hk/yr03-04/english/panels/ps/minutes/ps040517.pdf
1 December 2004	Council	Hon KWONG Chi-kin raised a question on retired senior civil servants taking up jobs in the private sector. (Hansard "page 6") http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm1201ti-translate-e.pdf
21 December 2004	PS	The Administration's paper dated 14 December 2004 on policy governing post-retirement employment of civil servants http://www.legco.gov.hk/yr04-05/english/panels/ps/papers/pscb1-473-2e.pdf
		Minutes of meeting (Paragraphs 3 to 33) http://www.legco.gov.hk/yr04-05/english/panels/ps/minutes/ps041221.pdf

Meeting date	Committee	Paper/Document
21 March 2005	PS	<p>Administration's paper on post-retirement employment of Ms Elaine CHUNG, former Deputy Director of Housing/Deputy Secretary for Housing</p> <p>http://www.legco.gov.hk/yr04-05/english/panels/ps/papers/ps0321cb1-1095-1e.pdf</p>
		<p>Administration's paper on review of policy on post-service employment of former directorate civil servants</p> <p>http://www.legco.gov.hk/yr04-05/english/panels/ps/papers/ps0321cb1-1112-5e.pdf</p>
		<p>Minutes of meeting (Paragraphs 38 to 84)</p> <p>http://www.legco.gov.hk/yr04-05/english/panels/ps/minutes/ps050321.pdf</p>
21 November 2005	PS	<p>Administration's paper on arrangements governing the taking up of outside work by directorate civil servants after ceasing active government service</p> <p>http://www.legco.gov.hk/yr05-06/english/panels/ps/papers/ps1121cb1-295-3e.pdf</p>
		<p>Background brief prepared by the LegCo Secretariat on the review of the policy on post-service employment of former directorate civil servants</p> <p>http://www.legco.gov.hk/yr05-06/english/panels/ps/papers/ps1121cb1-295-4e.pdf</p>
		<p>Minutes of meeting (Paragraphs 9 to 40)</p> <p>http://www.legco.gov.hk/yr05-06/english/panels/ps/minutes/ps051121.pdf</p>
—	PS	<p>The Seventeenth Report on the Work of the Advisory Committee on Post-service Employment of Civil Servants (1 January 2005 - 31 December 2005)</p> <p>http://www.legco.gov.hk/yr05-06/english/panels/ps/papers/pscb1-2150-e.pdf</p>

Meeting date	Committee	Paper/Document
—	PS	<p>The Eighteenth Report on the Work of the Advisory Committee on Post-service Employment of Civil Servants (1 January 2006 - 31 December 2006)</p> <p>http://www.legco.gov.hk/yr06-07/english/panels/ps/papers/pscb1-2452-1-e.pdf</p>
—	PS	<p>The Nineteenth Report on the Work of the Advisory Committee on Post-service Employment of Civil Servants (1 January 2007 - 31 December 2007)</p> <p>http://www.legco.gov.hk/yr07-08/english/panels/ps/papers/pscb1-2115-1-e.pdf</p>
—	PS	<p>Letter from Ms Margaret NG expressing concern about the post-retirement employment of Mr LEUNG Chin-man, the former Permanent Secretary for Housing, Planning and Lands</p> <p>http://www.legco.gov.hk/yr07-08/english/panels/ps/papers/pscb1-2259-1-e.pdf</p>
—	—	<p>Press release dated 15 August 2008 on SCS submits report to Chief Executive on LEUNG Chin-man's case</p>
—	—	<p>Report on the processing of the application from Mr LEUNG Chin-man to take up post-service outside work with New World China Land Limited</p>
—	—	<p>Press release dated 15 August 2008 on statement of the Chief Executive's Office</p>
—	—	<p>Press release dated 15 August 2008 on statement by the Housing Branch of the Transport and Housing Bureau</p>
—	—	<p>Press release dated 16 August 2008 on remarks by CE after visiting Hong Kong Olympic Equestrian Venue (Sha Tin)</p>

Meeting date	Committee	Paper/Document
27 October 2008	PS	<p>Administration's paper on control regime for post-service outside work of directorate civil servants</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/ps1027cb1-84-1-e.pdf</p>
		<p>Administration's paper on processing of the application from Mr LEUNG Chin-man to take up post-service employment with New World China Land Limited and related issues</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/ps1027cb1-84-2-e.pdf</p>
		<p>Paper on the policy on post-service employment of former directorate civil servants prepared by the Legislative Council Secretariat (Background brief)</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/ps1027cb1-86-e.pdf</p>
		<p>Minutes of meeting</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/minutes/ps20081027.pdf</p>
16 February 2009	PS	<p>Paper on work progress and public consultation plan from Committee on Review of Post-service Outside Work for Directorate Civil Servants</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/ps0216cb1-747-3-e.pdf</p>
		<p>Administration's paper on number of approved applications from directorate civil servants of major professional grades to take up post-service outside work with organisations related to their professions (from 2006 to 2008)</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/ps0216cb1-781-1-e.pdf</p>

Meeting date	Committee	Paper/Document
		Minutes of meeting http://www.legco.gov.hk/yr08-09/english/panels/ps/minutes/ps20090216.pdf
16 March 2009	PS	Consultation document published by Committee on Review of Post-Service Outside Work for Directorate Civil Servants on 20 February 2009 http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/ps0316-cppr090220-e.pdf
		Minutes of meeting http://www.legco.gov.hk/yr08-09/english/panels/ps/minutes/ps20090316.pdf
13 July 2009	PS	Administration's paper on Report on Review of Post-Service Outside Work for Directorate Civil Servants http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/ps0713cb1-2236-1-e.pdf
—	PS	The 20th Report on the Work of the Advisory Committee on Post-service Employment of Civil Servants (1 January 2008 - 31 December 2008) http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/pscb1-2330-1-e.pdf