

**The 21st Report on the
the Work of
the Advisory Committee on
Post-service Employment of Civil Servants**

**(1 January 2009 –
31 December 2009)**

INTRODUCTION

The Government's policy on post-service outside work 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 hereafter 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 service.

2. The Advisory Committee on Post-service Employment of Civil Servants (referred hereafter as the "Advisory Committee"), formerly known as the Advisory Committee on Post-retirement Employment, was established in October 1987. The terms of reference of the Advisory Committee are as follows –

- (a) to advise the Government on the principles and the criteria to be adopted in formulating policy and arrangements to control post-service employment;
- (b) to consider and advise on all applications to take up post-service employment from directorate officers; and
- (c) to consider and advise on other applications which may be referred by the Secretary for the Civil Service.

3. This report informs the Chief Executive (CE) of the work of the Advisory Committee in 2009. It also outlines the recent pattern of taking up outside work by former civil servants as revealed by the applications processed in the year.

MEMBERSHIP OF THE ADVISORY COMMITTEE

4. The Chairman and Members of the Advisory Committee are appointed by the CE. The membership of the Advisory Committee in 2009 comprised –

Chairman: The Hon Mr Justice Pang Kin-kee
(up to 13.7.2009)
Mr Moses Cheng Mo-chi, GBS, JP
(from 14.7.2009)

Members: Mr James Edward Thompson, GBS
(up to 13.7.2009)
Mr Simon Ip Sik-on, JP
Ms Marina Wong Yu-pok, JP
Mr Yeung Ka-sing, SBS, JP
Mr Nicky Lo Kar-chun, JP
(from 9.6.2009)

Secretary: Chief Executive Officer (Pensions) of the Civil Service Bureau

WORK OF THE ADVISORY COMMITTEE IN 2009

Key Elements of the Arrangements Governing Post-service Outside Work of Directorate Civil Servants

5. The current control regime governing the taking up of post-service outside work of directorate civil servants has evolved over time. A review undertaken in 2005 led to the adoption of a new set of arrangements (referred hereafter as the “new arrangement”) since 1 January 2006. The new arrangement is applicable to directorate civil servants who cease active service or enter into new agreements on or after 1 January 2006¹. For directorate civil servants who ceased active service or entered into agreements before 1 January 2006, the pre-1 January 2006 arrangements (referred hereafter as the “old arrangement”) continue to apply to them. Key elements of the new arrangement, as compared with the old arrangement, are set out in **Annex A**.

¹ The new arrangement applies to directorate civil servants on pensionable/new permanent terms who cease active service on or after 1 January 2006; and directorate civil servants on agreement terms who enter into new agreements on or after 1 January 2006.

6. Briefly, under the new arrangement, all directorate civil servants, irrespective of their terms of appointments or the circumstances under which they leave the civil service, need to obtain prior permission from the Secretary for the Civil Service (SCS) to take up any outside work during their final leave period before formally leaving the Government and/or within a specified control period counting from the said departure. In general, directorate civil servants are subject to a minimum sanitisation period of six months (for civil servants below Directorate Pay Scale Point 4 (D4) or equivalent) or 12 months (for civil servants at D4 or above or equivalent) counting from cessation of active government service, during which outside work is not permitted. In addition, all directorate civil servants are normally not permitted to take up outside work of a commercial nature or full-time remunerated work, other than part-time or notionally remunerated work with specified non-commercial organisations², for the whole duration of their final leave period (even if it exceeds the afore-stated minimum sanitisation period). The Government also applies a set of standard restrictions on the scope of approved outside work, which prohibits directorate civil servants from being personally involved, directly or indirectly, in the bidding for any government land, property, projects, contracts or franchises; or from undertaking work that is connected with their former government service, or involves any sensitive information that they had access to while in government service. Where necessary, the Advisory Committee may advise, and SCS as the approving authority may impose, a longer sanitisation period and/or additional work restrictions for specific applications.

Vetting Procedures and Criteria

7. The application for post-service outside work from a directorate civil servant is first scrutinised by 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 when in

² The specified non-commercial organisations include (a) charitable, academic or other non-profit making organisations not primarily engaged in commercial operations; (b) non-commercial regional or international organisations; and (c) the Central Authorities of the People's Republic of China.

government service. Depending on the nature of the outside work under application and the business nature of the prospective employer, Civil Service Bureau (CSB), where necessary, also invites views from other Permanent Secretary(ies) of the policy bureau(x) responsible for the policy area(s) in which the applicant's prospective employment and the business nature of the prospective employer fall. CSB then forwards the application, together with the assessments made by the relevant parties within the Administration, including CSB's initial views and recommendations, to the Advisory Committee for consideration and advice. The Advisory Committee meets to discuss the application on a need basis. The application, with the Advisory Committee's advice, is then decided on by SCS.

8. In line with the criteria promulgated by the Government, the key factors taken into account by the Advisory Committee in considering applications for permission to take up outside work are real or potential conflict of interest and public perception. 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 an 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 work under application would give rise to public suspicion of conflict of interest or other impropriety; and

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

9. For applications that the Advisory Committee supports, the Committee may, based on the specific circumstances of an application, make recommendations on the need for and duration of a sanitisation period during which the applicant will be barred from taking up the outside work under application. Where appropriate, the Advisory Committee may also recommend the imposition of work restrictions on the scope of activities that the applicant may undertake, for instance, forbidding him/her from getting involved in dealings between the Government and his/her prospective employer on an across-the-board basis or in respect of a stated area or areas.

Applications Involving Directorate Civil Servants

10. For the period from 1 January 2009 to 31 December 2009, the Advisory Committee considered and advised on 59 applications for post-service outside work from 36 directorate civil servants under both the old and new arrangements. Among the 59 applications, 15 were considered by the Advisory Committee through discussion at meetings, 44 were considered by way of paper circulation. The Advisory Committee recommended approval of 55 applications and rejection of two applications, and advised on another two applications. Having taken into account the views of the Advisory Committee, SCS approved 57 applications and rejected two applications.

11. Of the 57 approved applications (9 processed under the old arrangement and 48 under the new arrangement), the average break between cessation of active service and commencement of outside work was 14 months. Other than applying the standard work restrictions to the approved 48 applications processed under the new arrangement, SCS also imposed additional conditions on 39 approved applications (9 processed under the old arrangement and 30 under the new arrangement). More details of the 59 applications, including the rank of applicants when in government service, are set out in **Annex B**. The Annex also provides information on the work nature of

employers and the functional nature of the post-service work for the 57 approved applications.

Applications Involving Non-directorate Civil Servants

12. Applications for outside work from non-directorate civil servants who retired on pensionable terms are considered and decided by the relevant HoD/HoG. The Advisory Committee is presented with the summary statistics for information. In 2009, a total of 509 applications from 403 non-directorate civil servants were considered. Among them, five were rejected, 39 were approved with conditions, and the remainder were approved without sanitisation requirement or work restriction. More details of these 509 applications, including the rank of applicants when in government service, are set out in **Annex C**. The Annex also provides information on the work nature of employers and the functional nature of the post-service work for the 504 approved applications.

Review on Post-service Outside Work for Directorate Civil Servants

13. In response to the public concern over the approval given to Mr Leung Chin-man, a retired directorate civil servant, to take up post-service employment with a private property developer, the CE appointed on 30 September 2008 an independent Committee on Review of Post-service Outside Work for Directorate Civil Servants (referred hereafter as the “Review Committee”) to review the existing policy and arrangements relating to post-service work control of directorate civil servants. On 10 July 2009, the Review Committee submitted its Report on the Review of Post-service Outside Work for Directorate Civil Servants (referred hereafter as the “Report”) to the CE.

14. In the Report, the Review Committee made a total of 23 recommendations, covering four different aspects of the control regime, namely (a) underlying principles; (b) policy objective; (c) design and operation of the control regime; and (d) public monitoring. Given that one of the terms of reference of the Advisory Committee is to advise the Government on the principles and criteria to be adopted in formulating policy and arrangements to

control post-service outside work, and that some of the Review Committee's recommendations touched upon the role, composition, modus operandi of and the support for the Advisory Committee, the Advisory Committee had offered its views on the Review Committee's recommendations to the Administration. The Advisory Committee noted that the Administration would formulate its response having regard to the comments received from all the parties concerned and submit its proposal to the Chief Executive-in-Council for consideration.

Related matter

15. The Chairman and members of the Advisory Committee who had handled Mr Leung's application were invited by the Legislative Council's Select Committee to inquire into matters relating to the post-service work of Mr Leung Chin-man to give evidence. They attended the hearing of the Select Committee on 15 April 2009.

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**Key Elements of the Old Arrangement and the New Arrangement
Governing the Post-service Outside Work of Directorate Civil Servants**

Old Arrangement	New Arrangement
1. Coverage	
<ul style="list-style-type: none"> * Directorate civil servants on pensionable terms who retired and ceased active service before 1 January 2006. * Directorate civil servants on agreement terms at D3 or above (or equivalent) whose last agreement with the Government was entered into before 1 January 2006. 	<ul style="list-style-type: none"> * Directorate civil servants on pensionable or new permanent terms who cease active service on or after 1 January 2006. * Directorate civil servants on agreement terms upon their entering into agreements, including renewal of 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"> * Minimum sanitisation period for directorate civil servants retired on pensionable terms – 6 months. * No minimum sanitisation period for directorate civil servants on agreement terms at D3 or above (or equivalent). Such requirement may be imposed on a case-by-case basis. 	<ul style="list-style-type: none"> * Minimum sanitisation period for directorate civil servants retired or retiring on pensionable or new permanent terms – <ul style="list-style-type: none"> D4 or above (or equivalent) – 12 months; Others – 6 months. * No minimum sanitisation period is specified for directorate civil servants leaving the civil service on grounds other than retirement (e.g. agreement officers and resignees). Each case will be considered on its own merits.

Old Arrangement	New Arrangement
	<p>* 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) –</p> <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, <p>where the work would not give rise to conflict of interest and is unlikely to cause negative public perception.</p> <p>* 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.</p> <p>* 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.</p>
3. Final leave period	
<p>* Subject to prior permission.</p>	<p>* The taking up of outside work during the final leave period is subject to the rules governing sanitisation.</p>

Old Arrangement	New Arrangement
	<ul style="list-style-type: none"> * Directorate civil servants are not permitted to take up any full-time paid work or any work of a commercial nature (including self-employment) during the final leave period, unless there are special considerations. Directorate civil servants on final leave may, upon approval, take up part-time or notionally paid work with specified non-commercial organisations, subject to there being no problem of dual identity.
<p>4. Control period (counting from formal departure from the Government during which prior permission is required for taking up outside work)</p>	
<ul style="list-style-type: none"> * Directorate civil servants retired on pensionable terms – D8 or equivalent – 3 years; Others – 2 years. * Directorate civil servants on agreement terms at D3 and above – 1 year (only 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 civil servants retired on pensionable or new permanent term – D8 or equivalent – 3 years; Others – 2 years. * Directorate civil servants who left the service on grounds other than retirement after six or more years of continuous service – D8 or equivalent – 3 years; Others – 2 years. * Directorate civil servants who left the service on grounds other than retirement after less than six years of continuous service – D8 or equivalent – 1.5 years; Others – 1 year.
<p>5. Vetting criteria</p>	
<ul style="list-style-type: none"> * The key factors of consideration are conflict of interest (real or 	<ul style="list-style-type: none"> * The key factors of consideration are conflict of interest (real or potential) and public perception.

<p style="text-align: center;">Old Arrangement</p>	<p style="text-align: center;">New Arrangement</p>
<p>potential) and public perception.</p>	<p>* The specific considerations include –</p> <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 an unfair advantage over its 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 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.
<p>6. Restrictions on scope of work</p>	
<p>* Work-specific restrictions may</p>	<p>* Standard work restrictions will be imposed on all</p>

Old Arrangement	New Arrangement
be imposed on a case-by-case basis.	approved cases of outside work. The applicants 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 decision; (ii) sensitive information; (iii) contractual or legal dealings; (iv) assignments or projects; and/or (v) enforcement or regulatory duties, in which he had been involved or to which he had access during his last three years of service; or (c) engage in any activities which would cause embarrassment to the Government or bring disgrace to the civil service. * Further specific restrictions on scope of work may be imposed on a case-by-case basis.
7. <i>Blanket permission</i>	
* No blanket permission (but the blanket permission under the new arrangement has been extended to civil servants subject to the old arrangement).	* 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.

Old Arrangement	New Arrangement
8. Transparency	
<ul style="list-style-type: none">* Information pertaining to individual cases of outside work is not disclosed, unless with the prior consent of the civil servants concerned.	<ul style="list-style-type: none">* For approved outside work taken up by directorate civil servants at D4 or above (or equivalent), the basic information (limited to the name of the applicant, his last civil service post title, date of cessation of active service, restrictions/sanitisation imposed on the approved work, commencement date of the approved work, and where applicable, identity of outside employer, the applicant's position in the outside organisation and a brief description of his main duties in the outside organisation) will be included in a register for public inspection on request. An entry will be kept until the expiry of the applicant's control period or after he has notified the Civil Service Bureau of the cessation of the outside work, whichever happens earlier.* For approved outside work taken up by directorate civil servants below D4 (or equivalent), where there is public concern about the propriety of the work, the basic information may be disclosed on a case-by-case basis.* As regards unpaid outside work performed under the blanket permission for all directorate civil servants, the relevant information may be disclosed on a case-by-case basis where there is public concern.

**Applications for Post-service Outside Work by Directorate Civil Servants
Considered by the Advisory Committee**

(1 January 2009 – 31 December 2009)¹

(A) Applications

No. of applications considered:	59
No. of applications approved:	57
No. of applications rejected:	2
No. of applicants (<i>an applicant may submit more than one application</i>):	36

(B) Break between government service and outside work

- Overall average break between cessation of active government service and commencement of approved outside work: 14 months
- Breakdown of approved applications –

Applications where the applicants had/would have ceased active government service for 6 months or more by the time of commencement of outside work and no extension of sanitisation period was recommended <i>[Average break from cessation of active service: 21 months]</i>	34 ²
Applications where imposition of sanitisation period of 6 months or more was recommended <i>[Average sanitisation period: 8 months]</i>	5 ³
Applications where the applicants were recommended to take up specific outside work within the minimum sanitisation period of 6/12 months <i>[Average break from cessation of active service: 4 months]</i>	18 ⁴
Total:	57

¹ Data are prepared on the basis of the date of approval/rejection of an application.

² Comprising 9 applications subject to the old arrangement and 25 applications subject to the new arrangement.

³ The applications were considered under the new arrangement.

⁴ Comprising work with specified non-commercial/non-profit making organisations (10 applications) and work of commercial nature unrelated to/with no conflict of interest with former government duties (8 applications) considered under the new arrangement.

(C) Number of applicants by rank and applications

Directorate rank (or equivalent)	Number of applicants⁵	Number of applications
D1	5	5
D2	10	12
D3	8	14
D4	3	11
D5	4	5
D6	3	9
D7	0	0
D8	3	3
Total	36	59

(D) Approved post-service outside work applications by nature of prospective employers

Work nature	Private commercial organisations	Other entities⁶	Total
Paid work	19	28	47
Unpaid work	7	3	10
Total	26	31	57

⁵ A directorate civil servant may submit more than one application for post-service outside work. Such applicants are counted only once.

⁶ Other entities include statutory organisations, academic institutions, charitable organisations, non-profit making organisations not primarily engaged in commercial operation and regional/international organisations.

(E) Approved post-service outside work applications with private commercial organisations by nature of business

Nature	Paid work			Unpaid work			Total
	Part-time	One-off Project	Full-time	Part-time	One-off Project	Full-time	
Banking/Finance	0	1	0	0	0	0	1
Education	0	2	0	0	0	0	2
Information Technology	0	0	0	1	0	0	1
Legal Service	0	0	2	0	0	0	2
Management Consultancy	0	0	0	0	0	0	0
Manufacturing/ Trading	1	0	0	0	0	0	1
Medical	0	0	2	0	0	0	2
Real Estate/ Property Development	0	0	0	0	0	0	0
Security	0	0	1	0	0	0	1
Transport and Logistics	1	0	0	1	0	0	2
Works	0	0	0	0	0	0	0
Others	3	4	2	5	0	0	14
Total	5	7	7	7	0	0	26

(F) Approved post-service outside work applications with non-commercial entities

Nature	Paid work			Unpaid work			Total
	Part-time	One-off Project	Full-time	Part-time	One-off Project	Full-time	
Statutory organisations	1	0	7	3	0	0	11
Academic institutions	8	9	0	0	0	0	17
Charitable organisations	1	0	1	0	0	0	2
Non-profit making organisations not primarily engaged in commercial operation	0	1	0	0	0	0	1
Regional/international organisations	0	0	0	0	0	0	0
Total	10	10	8	3	0	0	31

(G) Approved post-service outside work applications by functional nature

Education	22
Finance & Accounting	0
Information Technology	0
Legal Service	3
Management	21
Medical	2
Real Estate/ Property Development	0
Security	0
Works	0
Others	9
TOTAL	57

**Post-retirement Outside Work of Non-directorate Civil Servants
(1 January 2009 – 31 December 2009)**

(A) Applications

No. of applications considered:	509
No. of applications approved:	504
No. of applications rejected:	5
No. of applicants (<i>an applicant may submit more than one application</i>):	403

(B) Number of applicants by rank and applications

Master Pay Scale (MPS) (or equivalent)	Number of applicants ¹	Number of applications
Below MPS Point 14	69	86
MPS Point 14 – 33	231	279
MPS Point 34 or above	103	144
Total	403	509

¹ A non-directorate civil servant may submit more than one application for post-service outside work. Such applicants are counted only once.

(C) **Approved post-service outside work applications by nature of prospective employers**

Work nature	Private commercial organisations	Other entities²	Total
Paid work	321	178	499
Unpaid work	2	3	5
Total	323	181	504

(D) **Approved post-service outside work applications with private commercial organisations by nature of business**

Nature	Paid work			Unpaid work			Total
	Part-time	One-off Project	Full-time	Part-time	One-off Project	Full-time	
Banking/Finance	0	0	7	0	0	0	7
Education	9	1	2	0	0	0	12
Information Technology	0	0	1	0	0	0	1
Legal Service	1	0	4	0	0	1	6
Management Consultancy	0	0	5	0	0	0	5
Manufacturing/ Trading	1	0	6	0	0	0	7
Medical	8	0	8	0	0	0	16
Real Estate/ Property Development	2	0	10	1	0	0	13
Security	16	0	88	0	0	0	104
Transport and Logistics	12	0	18	0	0	0	30
Works	4	0	39	0	0	0	43

² Other entities include statutory organisations, academic institutions, charitable organisations, non-profit making organisations not primarily engaged in commercial operation and regional/international organisations.

Nature	Paid work			Unpaid work			Total
	Part-time	One-off Project	Full-time	Part-time	One-off Project	Full-time	
Others	29	0	50	0	0	0	79
Total	82	1	238	1	0	1	323

(E) Approved post-service outside work applications with non-commercial entities

Nature	Paid work			Unpaid work			Total
	Part-time	One-off Project	Full-time	Part-time	One-off Project	Full-time	
Statutory organisations	33	2	4	0	0	0	39
Academic institutions	66	5	13	0	0	0	84
Charitable organisations	11	1	7	0	0	0	19
Non-profit making organisations not primarily engaged in commercial operation	25	0	11	1	1	1	39
Regional/international organisations	0	0	0	0	0	0	0
Total	135	8	35	1	1	1	181

(F) Approved post-service outside work applications by functional nature

Education	96
Finance & Accounting	4
Information Technology	0
Legal Service	3
Management	24
Medical	48

Real Estate/ Property Development	14
Security	102
Works	34
Others	179
TOTAL	504
