

**Motion Debate on
“Post-office employment arrangements for politically-appointed
officials” at the Legislative Council meeting
on 12 January 2011**

Progress Report

Purpose

This report sets out the views of the Administration with regard to the motion debate on “Post-office employment arrangements for politically appointed officials” held at the Legislative Council (“LegCo”) meeting on 12 January 2011. The motion carried by the LegCo is at the [Annex](#).

Post-office employment regime for politically appointed officials

2. The objective of the post-office employment restrictions on former politically appointed officials (“PAOs”) is to guard against former PAOs taking up any work, within a prescribed period of time after leaving office, which may constitute a conflict of interest, adversely affect or compromise the Government’s performance, cause negative public perception or enable the prospective employer or business to gain an unfair advantage over its competitors.
3. Under the existing regime, within one-year after leaving office, former PAOs are:
 - (a) prohibited from representing any person in connection with any claim, action, demand, proceedings, transaction or negotiation against or with the Government and prohibited from engaging in any lobbying activities on matters relating to the Government; and
 - (b) required to seek the advice of Advisory Committee on Post-office Employment for Former Chief Executives and Politically Appointed Officials (“Advisory Committee”) before commencing any work.
4. The Advisory Committee’s advice would be made public through a press release. The community, the media and the LegCo can effectively monitor the post-office employment for former PAOs.

5. We have taken note of and considered very carefully the Members' views expressed during the motion debate on the post-office employment arrangements for PAOs. However, the Administration remains of the view that different post-office employment regimes should be provided for civil servants and PAOs, and that the existing arrangements for PAOs are working well. We consider that no change is required for the following reasons:

- (a) the terms of employment of PAOs and civil servants are different (i.e. most civil servants are appointed on permanent terms while term of office of PAOs would not exceed the five-year term of the CE who appoint them or nominate them for appointment);
- (b) without prejudice to the policy objective of prevention of conflict of interest, unduly limiting the freedom and right of PAOs to pursue employment upon leaving office would deter people from the professional, business or other sectors from joining the Government and would consequently limit the field of candidates for appointment as political officials;
- (c) without prejudice to the policy objective of prevention of conflict of interest, allowing PAOs to continue to apply their professional expertise and experience to serve the community after leaving office would facilitate the mobility of talents, which is in Hong Kong's overall interest; and
- (d) the existing regime for post-office employment for PAOs is reasonable compared with practices in other mature democratic jurisdictions¹; and

¹ According to our research, the practices governing the post-office employment for PAOs in the United Kingdom, Australia, Canada and the United States are as follows –

- (a) **The United Kingdom** – on leaving office, ministers will be prohibited from lobbying Government for two years. They must also seek advice from the independent Advisory Committee on Business Appointments about any appointments or employment they wish to take up within two years of leaving office. Former ministers must abide by the advice of the Committee.
- (b) **Australia** – ministers are required to undertake that, for an eighteen month period after ceasing to be a minister, they will not lobby, advocate or have business meetings with members of the government, parliament, public service or defence force on any matters on which they have had official

- (e) PAOs have, upon leaving office, respected and complied with the regime.

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dealings as minister in their last eighteen months in office.

- (c) **Canada** –former ministers of the Crown and former ministers of state (who were former reporting public office holders) are prohibited from -
 - (1) entering into a contract of service with, accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he or she had direct and significant official dealings;
 - (2) making representations whether for remuneration or not, for or on behalf of any other person or entity to any department, organization, board, commission or tribunal with which he or she had direct and significant official dealings; and
 - (3) making representations to a current minister of the Crown or minister of state who was a minister of the Crown or a minister of state at the same time as the former reporting public office holder, for a period of two years following the minister’s last day in office.
- (d) **The United States** – political appointees are subject to a one-year, two-year or lifetime ban on making representations to employees of his former government agency (depending on whether the former political appointee has been personally and substantially involved in the matter concerned); and no prohibition or prior approval for post-service employment with private or public entities.

Annex

At the Legislative Council meeting of 12 January 2011, the following motion moved by Dr Hon Margaret Ng as amended by Dr Hon Philip Wong was carried:

“That, as politically appointed officials have greater access to sensitive information and stronger influence on policy formulation than directorate civil servants, the control over the post-office employment of politically appointed officials should be very stringent; however, under the existing Code for Principal Officials under the Accountability System, the control over the post-office employment of politically appointed officials is less stringent than the existing control over the post-service work of directorate civil servants; although politically appointed officials are different from civil servants in that they do not enjoy any security of tenure, in order to avoid public concern about any possible conflicts between accountability officials’ exercise of powers and responsibilities and their pursuit of private interests, and to maintain public confidence in the governance of the HKSAR Government, this Council urges the Government to expeditiously conduct a review of this issue.”