



香港學術及職業資歷評審局
Hong Kong Council for Accreditation of
Academic & Vocational Qualifications

APPENDIX 5

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(By fax and post)

5 June 2012

Ms. Miranda Hon
Clerk
Public Accounts Committee
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Ms. Hon,

The Director of Audit's Report on the results of value for money audits
(Report No. 58)
Hong Kong Council for Accreditation of Academic and Vocational
Qualifications ("HKCAAVQ") (Chapter 2)

I refer to your letter dated 30 May 2012, and am pleased to provide the answers to your questions as follows.

Questions

- (a) whether the HKCAAVQ has made it a mandatory requirement under its revised guidelines that specialists having conflicts of interest with the operators must not be appointed as panel members, and that all panel members must submit a declaration form on conflicts of interest to HKCAAVQ. Please also provide a copy of the revised guidelines to the Committee; and
- (b) if the requirements mentioned in (a) above are not mandatory, how the HKCAAVQ can ensure that the situation of non-submission of declaration forms and appointment of panel members having conflicts of interest (referred to in paragraphs 3.13 and 3.14 of the Director of Audit's Report) will not occur again.

Response

The declaration of conflict of interests by panel chairpersons and members of a HKCAAVQ accreditation panel is a mandatory requirement under the Code of Conduct for Panels (attachment) and practice of the HKCAAVQ.

HKCAAVQ will not appoint specialists with conflict of interests as panel chairpersons or members. The appointment of all panels is approved by the Deputy Executive Director. Before formal appointment, the HKCAAVQ requires prospective panel chairpersons and members to complete declaration forms, declaring that they do not foresee any potential conflict of interests in engaging in the accreditation exercise and have read the HKCAAVQ Code of Conduct for Panels. Prospective panel chairpersons and members must return the declaration forms to HKCAAVQ before their appointment. Staff of HKCAAVQ will follow up on whether they have returned the declaration forms properly and on time. During the pre-accreditation exercise briefing, the Secretary of the Panel, a staff of the HKCAAVQ, will also ensure that the declaration forms are in place as a matter of practice. HKCAAVQ has good reasons to suspect that the situation of non-submission of declaration forms occurred mainly as a result of misplaced documentation or filing errors relating to the declaration forms in the subject instances mentioned in the Director of Audit's Report. HKCAAVQ assures that, in the future, there will be proper documentation on all matters related to declarations of conflict of interests.

Under the current Code of Conduct for Panels, panel chairpersons and members are required to inform HKCAAVQ of any possible conflict of interests which may arise either before, during or following the accreditation activity, and make full disclosure of their interests to HKCAAVQ at the earliest available opportunity. If a conflict of interests issue is identified in the course of an accreditation exercise, the panel chairperson or member involved must immediately place such issue before the panel and seek instruction. Depending on the circumstance, he/she may be required by the panel to withdraw from the exercise or be excused from the discussion and decision-making of a particular subject matter where the conflict of interests lies. In some cases, where the conflict is considered to be slight or only tangibly possible, the panel chairperson or member involved may be allowed to continue in the panel's work.

HKCAAVQ is revising the code to give more specific advice to enhance staff's understanding of what constitutes conflict of interests. Examples will be developed into a database for reference. HKCAAVQ expects that the revision will be completed by September 2012.

Yours sincerely,



Prof. Yiu-Kwan Fan
Executive Director

Enclosure

YK/RL/dl

c.c. Mr. Martin Liao, Chairman, HKCAAVQ
Mr. Michael Suen, Secretary for Education, Education Bureau
Ms. Michelle Li, Deputy Secretary for Education (1), Education Bureau



Hong Kong Council for Accreditation of Academic and Vocational Qualifications

Code of Conduct for Panels

Preamble

1. This document sets out general guiding principles for the chairpersons and members of HKCAAVQ panels conducting accreditation, audit, review or other assessment activities (hereafter referred to generally as accreditation activity) regarding possible conflict of interests and the duty of confidentiality.

Conflict of Interests

General Principles

2. HKCAAVQ panel chairpersons and members (hereafter referred to generally as panel members) may experience conflict of interests between their role(s) with the HKCAAVQ and their other professional activities.
3. Panel members should advise the HKCAAVQ of any possible conflict of interests which may arise either before, during or following the accreditation activity, and make full disclosure of their interests to the HKCAAVQ at the earliest available opportunity.

4. If the conflict of interests issue is only identified in the course of their engagement in the accreditation activity, the panel member should immediately place such matter before the respective panel and seek instructions. Depending on the circumstance, he/she might be required by the panel to withdraw from the exercise or be excused from the discussion or decision-making of a particular subject matter. In some cases, where the conflict is slight or only perceivedly possible, the panel member may be allowed to continue in the panel's work but both the declaration and the reason for the special treatment must be on record.
5. It is however not intended that a panel member should make a declaration of interest simply because he or she has particular knowledge or experience on a subject matter.

Potential Conflict of Interest Situations

6. For illustration, the following are examples of potential conflict of interests:
 - (a) The panel member was/is serving, with or without pay, as an adviser, examiner, consultant to the client organisation concerned; or if he/she has recently been an applicant for a position (irrespective of whether the outcome is known to the applicant), or is a current applicant or intending applicant for a position in the client organisation.
 - (b) The panel member has any other close association/partnership with the client organisation concerned. Examples of such could include any joint commercial or professional activity carried out by the panel member in a personal capacity in conjunction with staff member(s) in the client organisation concerned and who are closely associated with the accreditation activity in question, or any potential involvement of a similar nature.
 - (c) The panel member who, as a barrister, solicitor, accountant or other professional adviser, has personally or otherwise advised or represented or had frequent dealings with the client organisation concerned, or any person or body closely connected with the client organisation.

- (d) Pecuniary interests in a matter under consideration by the HKCAAVQ, held either by the panel member or by any close relative of his/hers.
 - (e) Kinship or some friendship which might be so close as to warrant declaration in order to avoid situation where an objective observer might believe that an advice from the panel member could have been influenced by the closeness of the association.
 - (f) Personal conflicts could also include animosity or any interest likely to lead an objective observer to believe that the panel member's advice might have been motivated by personal interest rather than a duty to give impartial advice.
7. Where the panel member is working in a client organisation that is in competition with one which is subject to the accreditation activity by the HKCAAVQ, such situation will normally not be considered as to constitute a potential for conflict of interest, as long as the connection is known to the HKCAAVQ, the Panel and the client organisation concerned.
8. In order to avoid a conflict-of-interests situation arising, panel members are advised to abstain from accepting or negotiating consultancies or performing other services for the client organisation which is subject to the accreditation activity by the HKCAAVQ, and to abstain from accepting hospitality from the organisation concerned, before, during and immediately after the accreditation activity when the relevant report has been issued.

Confidentiality of Documents

General Principles

9. All documents generated through the HKCAAVQ accreditation activities are confidential information and should be used solely for the purpose of the exercise concerned.

10. Panel chairpersons or members shall treat as proprietary and confidential any information or material made available to them either through the HKCAAVQ or the client organisation in question for the purpose of conducting the exercise concerned.
11. Panel members have a right to ask for (and receive) through the HKCAAVQ any information and explanation they need in order to discharge their roles in the context of the accreditation activity. However, these privileges and rights must not be abused and must be exercised with care and integrity so that requests for personal or commercial information of a sensitive nature would be kept to the essential minimum.
12. The materials collected from the client organisation subject to the accreditation activity or the report produced by the HKCAAVQ for the purpose of the exercise, and the copyright therein shall be and shall remain the exclusive property of the HKCAAVQ or the client organisation concerned, as the case may be.
13. Panel members may make notes during the course of exercise in order to help them understand the issues being discussed and to facilitate the performance of their roles in the exercise as required by the HKCAAVQ. These notes should not be divulged to any other party unrelated to the accreditation activity.
14. Panel members shall not communicate, or make known, any information or documents collected in the exercise or views expressed by another member or any person met in the course of the accreditation activity at any time without prior approval by the HKCAAVQ.
15. Upon the completion of the exercise with the issuance by the HKCAAVQ accreditation report, panel members are expected to destroy all information gathered for the exercise, except for any information which is in the public domain.

HKCAAVQ
May 2008