

For information on
16 April 2012

LEGISLATIVE COUNCIL PANEL ON PUBLIC SERVICE

Mechanism and Regulations on Preventing Unauthorised Disclosures of Confidential Information by Civil Servants

Purpose

This paper sets out for Members' information the mechanism and regulations on preventing unauthorised disclosures of confidential information by civil servants.

Principle

2. As an open and accountable Government, it is the Government's policy to make available information it holds, unless there are valid reasons to withhold the information. The Government endeavours to strike an appropriate balance between openness and the need to protect confidential and sensitive information, which is essential to good governance and effective operation and is in the public interest.

3. As a general rule, civil servants shall not disclose documents, information or knowledge received in confidence from others in the course of duties or by virtue of their official position unless they are authorised to do so.

Existing mechanism and regulations

4. All civil servants have to abide by statutory and administrative rules on confidentiality. A civil servant who has disclosed specified information without authority is liable to criminal sanction under the Official Secrets Ordinance (Cap. 521). He/she may be subject to the common law offence of Misconduct in Public Office if the act of unauthorised disclosure of government information constitutes a misconduct of his/her public office. Civil servants are also required to observe administrative regulations and instructions on preventing unauthorised disclosures as set out in the Civil Service Code, Security Regulations, Civil Service Regulations, Stores and Procurement Regulations, relevant circulars and departmental instructions. These regulations and instructions are binding on civil servants through their employment contracts.

5. Civil servants performing different functions and roles must strictly follow the relevant confidentiality rules in their discharge of duties. For example, all civil servants involved in the procurement of goods and services for the Government or in the award of leases, franchises and licences must observe the relevant Security Regulations, Stores and Procurement Regulations, bureau/departmental instructions, etc. They shall not make unauthorised disclosure or take advantage of any tender-related information whether or not for personal gain. Civil servants involved in preparing tender documentation and assessing tenders are further required to sign an undertaking to, among other declarations, refrain from making unauthorised disclosure of any tender information.

6. The existing mechanism and regulations on preventing unauthorised disclosures of confidential information are well-established and have been operating effectively. While it is incumbent upon civil servants to acquaint themselves with the statutory and administrative requirements on confidentiality, bureaux/departments circulate, on a regular basis, the relevant legislation and administrative rules to their staff to ensure that they are familiarised with such requirements and reminded of their obligation to prevent unauthorised disclosure. The subject of confidentiality of government information is also covered in the induction training courses for new appointees arranged by the Civil Service Training and Development Institute of the Civil Service Bureau. Security Bureau will also arrange briefings on the Security Regulations upon the request by individual bureaux/departments.

7. Civil servants who have disclosed classified government information without authority is liable to disciplinary proceedings, and in certain circumstances, criminal prosecution. The Administration does not tolerate any breach of the confidentiality requirements by civil servants and will take appropriate action against those who have breached such requirements in accordance with the established procedures.

Conclusion

8. The Administration will continue to strike an appropriate balance between openness and the need to protect confidential and sensitive information; and ensure that the relevant confidentiality requirements are observed by civil servants.