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Panel on Public Service

Meeting on 21 July 2014

Updated background brief on integrity enhancement initiatives for civil servants

Purpose

This paper provides background information on the work of the Civil Service Bureau ("CSB") in the promotion of integrity in the civil service, and summarizes the major views and concerns expressed by members of the Panel on Public Service ("the Panel") on the subject in past discussions.

Background

2. According to the information on the website of CSB, the Government adopts a three-pronged approach to promote good conduct within the civil service, namely prevention, education and sanctions.

Prevention

3. To forestall misconduct, clear policies, guidelines and procedures are available to provide guidance to individual officers. Rules and guidelines governing the conduct of a civil servant in particular activities are contained in respective civil service regulations and circulars. Individual bureaux/departments ("B/Ds") may prescribe supplementary guidelines for compliance by their staff, in the light of their own operational requirements. These rules and guidelines, be they promulgated at the central or departmental levels, are reviewed on a regular basis in keeping with changes in circumstances and operational needs.

4. The Corruption Prevention Department ("CPD") of the Independent Commission Against Corruption ("ICAC") assists government departments in carrying out preventive work. It provides consultancy service to departments in the form of assignment studies on their work systems and procedures. The CPD

also offers advice on safeguards to eliminate and reduce opportunities for corruption or malpractices.

Education

5. All civil service recruits, on appointment, are briefed on corruption prevention and other good management practices to avoid conflict of interest situations. The Administration issues from time to time reference materials to assist senior managers in strengthening ethical values among their staff and in guarding against corruption in their organisations. The Civil Service Training and Development Institute under CSB and individual B/Ds provide training programmes for new recruits and staff at all levels to promote the core values of the civil service.

6. To enable departmental managers to have more ready access to ethics development materials and to facilitate the sharing of information and experience amongst different government departments, CSB has set up an electronic resource centre to promote integrity management in the civil service. The content of the website is constantly updated and enhanced.

Sanction

7. Civil servants are liable to disciplinary action if they –

- (a) fail to observe any government regulations or official instructions;
- (b) misconduct themselves in any manner; or
- (c) by their actions, bring the civil service into disrepute.

8. A criminal conviction constitutes circumstances that may lead to disciplinary action, depending on whether and if so to what extent the service is brought into disrepute.

9. For minor and isolated cases of misconduct, such as lateness for duty, informal disciplinary action involving the issue of verbal or written warning may be taken.

10. Formal disciplinary action is taken for serious misconduct or repeated minor misconduct. Depending on the gravity of the misconduct or criminal conviction, punishment under formal disciplinary action may include reprimand, severe reprimand, financial penalty, demotion, compulsory retirement or dismissal.

11. When taking formal disciplinary action against a civil servant, the Administration would follow procedures laid down in the Public Service (Disciplinary) Regulation made under the Public Service (Administration) Order.

For rank-and-file staff and officers up to certain ranks in the disciplined services, provisions prescribed in the relevant disciplined services legislation would apply.

Discussions at the Panel on Public Service

12. The Administration regularly updates the Panel on the integrity enhancement initiatives for civil servants. The Panel last discussed the subject on 22 February 2010. The major views and concerns raised by Panel members in the past discussions and the Administration's responses are summarized in the ensuing paragraphs.

Prevention

13. Some members opined that civil servants should not be lightly granted discretionary power in recognition of the difficulty in monitoring the exercise of such power. Proper checks and balances should be put in place to prevent abuses. The Administration advised that there was a need to allow the exercise of discretionary power by designated officers in justified circumstances in order to better serve the public. For example, there was a need for the exercise of discretion on compassionate or other justified grounds to waive the stated years of residence requirement for public rental housing or eligibility for Comprehensive Social Security Assistance. Where the exercise of discretionary power by concerned officers would have significant implications, the B/Ds concerned would seek ICAC's assistance in conducting corruption prevention studies and putting in place the necessary checks and balances.

14. Some members considered it necessary to guard against the "soft corruption" (e.g. acceptance of gifts and free/discounted meals or entertainment, or association with people involved in criminal activities and triad elements) which might develop into more serious forms of corruption. The Administration advised that clearer guidelines on the acceptance of advantages by civil servants and gifts or entertainment offered to an officer in his official capacity would be provided.

15. At the meeting on 22 February 2010, some members expressed concern about a rising trend in misconduct cases involving abuse of public resources, conflict of interest and unscrupulous use of public money in non-government public bodies, as revealed by the Audit Commission. CSB agreed to relay members' concern to relevant Bureaux for consideration and necessary action.

Education and training

16. Members opined that more corruption prevention and integrity training courses should be provided for civil servants, non-civil service contract staff and

staff of Government contractors. Training should also be provided to prepare civil servants for trends and likely changes in trade and corruption practices in Hong Kong. The Administration replied in the affirmative and advised that talks and seminars were regularly organized in collaboration with ICAC for Government employees and contractors of public works projects.

Sanction

17. Noting that some civil servants had expressed concern about the ambiguities associated with the common law offence of "misconduct in public office", members urged the Administration to ensure that the Government would provide clear guidelines on the circumstances which determined whether a type of misconduct should be dealt with as a disciplinary matter or as a criminal case.

18. The Administration explained that corrupt conduct contrary to the ethical standards that a public official was expected to apply when discharging his/her official duties might not be dealt with merely as an in-house disciplinary matter. It might be criminally actionable, under the common law offence of "misconduct in public office". For cases with prima facie evidence of misconduct with criminal liability, the disciplinary authority would refer them to the law enforcement authority for further investigations, and the disciplinary proceedings would then be suspended. Irrespective of whether legal proceedings were then taken against the officers concerned and whether they were convicted of the offences, the evidence collected by the law enforcement authority and/or the judgment of the Court would be taken into account by the disciplinary authority when considering sanctions against the officers, if any.

Management of staff indebtedness

19. Concerning about the impact of the problem of indebtedness on the integrity of civil servants, some members saw a need to ascertain whether there was any relationship between the increase in misconduct in public office and the economic climate. Certain members, however, opined that bankruptcy had no bearing on the integrity and probity of a person, and considered it unfair that it should be regarded as an act of misconduct.

20. The Administration responded that the Government had monitored the number of bankruptcy cases involving civil servants and noted that these cases normally had a relationship with the economy. Apart from this, the Administration did not see any direct relationship between the state of the economy and the integrity in the civil service. The causes of insolvency or bankruptcy cases in the civil service were varied. While some were the result of investment failure, others might have resulted from the need to help family members, or spouses' loss of jobs due to the economic downturn.

21. Some members suggested expanding the scope of the declaration system of investments to cover liabilities over a certain amount. The Administration explained that in requiring civil servants to declare their personal information, a proper balance between public interests and civil servants' right to privacy should be maintained. CSB, having consulted the Department of Justice and ICAC, came to the view that it was inappropriate to require civil servants to declare their liabilities if the loans were obtained through legal means and their performance had not been affected.

Council question

22. Hon James TO raised a written question on the expenses on overseas visits and entertainment activities incurred by disciplined services at the Council meeting of 29 May 2013. Hyperlink to the relevant Hansard is provided in the **Appendix**.

Latest developments

23. The Administration will update the Panel on the integrity enhancement initiatives for civil servants at the Panel meeting on 21 July 2014.

Relevant papers

24. A list of relevant papers is in the **Appendix**.

Integrity enhancement initiatives for civil servants

List of relevant papers

Meeting	Date of meeting	Paper
Panel on Public Service	18.4.2005 (Agenda item IV)	<u>Agenda</u> <u>Administration's paper</u> <u>Updated version of the "Civil Servants' Guide to Good Practices"</u> <u>Administration's follow-up paper</u> <u>Minutes</u>
Panel on Public Service	8.2.2007 (Agenda item V)	<u>Agenda</u> <u>Administration's paper</u> <u>Minutes</u>
Panel on Public Service	18.2.2008 (Agenda item VI)	<u>Agenda</u> <u>Administration's paper</u> <u>Administration's follow-up paper</u> <u>Minutes</u>
Panel on Public Service	29.5.2009 (Agenda item V)	<u>Agenda</u> <u>Administration's paper</u> <u>Minutes</u>
Panel on Public Service	22.2.2010 (Agenda item V)	<u>Agenda</u> <u>Administration's paper</u> <u>Minutes</u>
Council meeting	29.5.2013	<u>Official Record of Proceedings Pages 126 - 132 (Written question raised by Hon James TO)</u>