

For information on
25 October 1999

Legislative Council Panel on Constitutional Affairs

Existing practices of employees of tertiary institutions funded by the University Grants Committee and public-funded bodies taking up public offices

Background

In the course of its discussion on the Elections (Corrupt and Illegal Conduct) Bill, the Bills Committee has expressed concern about the existing practices of employees of tertiary institutions funded by the University Grants Committee (UGC) and public-funded bodies taking up public offices, and whether these practices should be standardised. The Bills Committee has agreed that the matter should be followed up by the Panel on Constitutional Affairs. This paper provide Members with information on the practices of tertiary institutions funded by the UGC and public-funded bodies (the Hospital Authority and subvented organizations in the welfare sector) in respect of their staff engagement in public services.

University Grants Committee-funded institutions

2. All UGC-funded institutions have established and promulgated to staff clear procedures and guidelines governing their employees' engagements in outside practice. Such procedures differ slightly among the institutions. In general, an employee has to seek the permission of the Head of his department, or in some cases the Head of his institution, to engage in outside practice, including taking up public offices or consultancy services. An employee applying for outside practice must submit to the management of the institution information which generally includes name of the client, nature of the outside practice, number of working hours involved, level of remuneration, if any, and whether there will be any use of the institution's facilities.

3. If the time spent on outside practice is so little and that there is no interference with the normal duties, there will be no adjustment of salaries and benefits. If the time spent on outside practice exceeds a certain percentage of an employee's time of work in his institution, his/her salary from the institution will be reduced on a pro-rata basis. If this percentage is 50% or more, he/she may apply for, or be required to take, no-pay leave, or change his/her full-time appointment during the tenure of such outside practices. There is no requirement for an employee to change his/her terms of appointment from permanent to contract terms in such case.

4. Alternatively, the institution concerned may also charge a levy on the remuneration received by the employee for the outside practice, the amount of which he/she has to report to the institution. The actual amount of the levy to be charged depends on the level of remuneration and the rates of the levy which differ among the institutions.

Hospital Authority

5. The Hospital Authority has a set of guidelines on arrangement concerning its staff who are engaged in public offices. Details of the guidelines are set out in the Human Resources Policy Manual of the Hospital Authority extracted at Annex.

Subvented organizations in the welfare sector

6. As regards subvented organizations in the welfare sector, many of them require their staff to inform or to seek approval from the management before taking up public service. The Hong Kong Council of Social Service, which is the main coordinating body of the non-governmental organizations (NGO) in the welfare sector, has a set of administrative guidelines for the reference of its member agencies, including subvented organizations, in respect of NGO employees taking up public offices. The Social Welfare Department monitors the performance of subvented organizations to ensure that their services would not be affected by their staff taking up public services.

Conclusion

7. It is clear from the above cases that the arrangements adopted by different public-funded organizations concerning their staff's engagement in public offices vary from organization to organization. While the Administration believes that employers should be encouraged to adopt a positive attitude towards their staff taking up public offices because such service will be beneficial to the community, we also recognize that flexibility should be provided to the relevant organizations to decide on the detailed arrangements that can best suit their needs. Each organization is an autonomous entity entitled to make its own rules/arrangement to govern their relationship with their staff in the best interest of the organization. Instead of having a set of standardized guidelines for all organizations across the board, we are of the view that the employers and the employees concerned would be in the best position to work out the most practical arrangements between them.

Education and Manpower Bureau/
Health and Welfare Bureau/
Administration Wing
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Annex, X

Human Resources Policy Manual of the Hospital Authority

Chapter H8 OUTSIDE WORK

- H8.8** Engagement in Public Offices (including campaigning for public offices)
- H8.8.1** As a general rule, an employee who wishes to campaign for a public office (such as the Legislative Council, Regional/Urban Council or District Boards) should not be released to conduct electioneering activities during normal working hours. Approval may normally be given for the employee to take leave to conduct such activities except if it interferes with the efficient discharge of the employee's normal duties.
- H8.8.2** An employee who has been elected to a public office will need to declare the proportion of normal working hours to be spent in taking up the office. He is also required to obtain agreement from the Hospital Chief Executive or the HAO(CE), as appropriate, regarding the arrangement of his working hours, any corresponding changes in his wages, or if necessary, the need to take no pay leave or change the nature of his appointment with the HA according to the policy stated in H8.8.3 to H8.8.5 below.
- H8.8.3** If the work is expected to take up fewer than 12 working days of official release per calendar year (subject to operational requirement), the employee may be permitted to retain 100% of the remuneration received from the public office.
- H8.8.4** If the work is expected to take up more than 12 working days of official release per calendar year but the amount of time involved is still considered as acceptable, in terms of the extent of which the employee is able to fulfil his roles and responsibilities, the employee may be permitted to retain 100% of the remuneration received from the public office, and his wages may be deducted on a pro-rated basis in accordance with the declared proportion of time to be spent in taking up the public office.

Chapter H8 OUTSIDE WORK

- H8.6.5 Depending on the nature of the job and the position of the employee concerned, if the amount of normal working hours to be taken up by the employee due to his engagement in public office is considered as substantially restraining the employee from fulfilling his roles and responsibilities, he (i) may apply for no pay leave of up to his tenure of public office or (ii) may be required by HA (if circumstances allow) to change the nature of appointment during the tenure of public office to an appropriate type of employment available under Chapter B1 on Types of Employment and Conditions of Service.
- H8.8.6 The employee should inform the approving authority of any change in the proportion of time spent in taking up the public office and the approving authority should closely monitor this proportion of time so that adjustment to the conditions of approval can be made in a timely manner.

**Chapter B1 TYPES OF EMPLOYMENT AND
CONDITIONS OF SERVICE**

B1.2 Types of Employment

**B1.2.1 Different types of employment may be offered by the
HA. These include :**

(a) Permanent employment

- (i) permanent full-time employment; and**
- (ii) permanent part-time employment**

(b) contract employment

- (i) contract employment (full-time);**
- (ii) contract employment (full-time, short-term);**
and
- (iii) contract employment (part-time)**

(c) temporary employment