

LegCo Public Service Panel Meeting on 19 June 2000

Preventive Measures Against Abuse of Office by Senior Civil Servants

Purpose

To brief Members of the measures of the Administration to prevent abuse of office by senior civil servants.

The Policy

2. An honest and clean civil service is vital to maintaining public trust and support in the Government. We attach great importance to upholding the highest standard of integrity and conduct within the civil service. Such commitment is codified in the Civil Service Regulations which provide clear guidelines and impose specific requirements to prevent malpractices. These include -

- (a) civil servants should not abuse their official position to benefit themselves or their families, relatives or friends;
- (b) civil servants should not without permission publish or communicate to unauthorised persons any information obtained in his official capacity;
- (c) every civil servant should report and avoid conflict of interest situations. Officers in designated posts should additionally report their investments in and outside Hong Kong on a regular basis. They should follow instructions given where necessary to divest or to place certain investments in blind trust to avoid real or apparent conflict of interest situations;
- (d) officers should seek permission to undertake outside work;
- (e) officers should not accept without permission advantages (including gifts, discounts, loans of money and passages) other than those permitted in the Acceptance of Advantages Notice 1992; and
- (f) civil servants should avoid lavish or unreasonably generous

entertainment.

Efforts to Prevent Abuse of Office

3. Statistics for disciplinary action taken against officers for acts of misconduct which involve abuse of office are at Annex. These acts of misconduct include conviction under the Prevention of Bribery Ordinance, Cap 201 (PBO), unauthorised acceptance of advantages from persons with official dealings, unauthorised outside work for persons with official dealings, unauthorised disclosure of official information, abusing Government properties/resources and the use of official information/authority for personal gains etc.

4. We maintain a three-pronged approach in our efforts to prevent abuse of office by senior civil servants.

Prevention

5. Proper delegation of authority is necessary for the efficient functioning of Government activities. Authority requiring delegation includes statutory authority, authority under various Government Regulations and other administrative authority. To deter possible abuse of office, the Administration has put particular emphasis on ensuring that clear policies, guidelines and procedures are available to steer the exercise of authority and proper checks and balances are built into the various departmental operational and service systems. In this regard, the Corruption Prevention Department of the ICAC provides advice to Heads of Department to minimize opportunities for abuse of office.

6. In addition to internal checks and balances, public reporting is also an important source of information to unveil any cases of misuse of authority by senior civil servants. The public have various channels of complaints and appeals against any improper exercise of authority by officials, including departmental complaint machinery, ICAC, Police, and the Chief Executive. Given their positions, the senior civil servants are naturally subjected to a high degree of vigilance from the public and the media, and they are fully aware of the expectation of the community that they must be above reproach.

Sanctions

7. There are various sanctions against abuse of office by civil servants, including –

- (a) civil servants abusing office for personal gains may be liable to prosecution under the PBO. For example, it is a criminal offence for a civil servant to solicit or accept any advantage without the general or special permission of the Chief Executive or his delegates (Section 3);

and solicit or accept any advantage offered as an inducement to, or reward for, him to use his official position to reciprocate (Section 4);

- (b) abuse of office by civil servants involving criminal elements, e.g. falsification of documents, may also lead to criminal proceedings taken by the Police; and
- (c) officers who are criminally convicted under (a) and (b) above are subject to disciplinary action under the Public Service Administration Order (PS(A)O) (Section 11). Officers who have been convicted of criminal charges under the PBO may be dismissed or compulsorily retired from the civil service. Disciplinary action under the PS(A)O will also be taken if an investigation into an officer's offence does not reveal any evidence of criminal nature but there are grounds to support disciplinary action, or if any officer is in breach of any of the Civil Service Regulations. Upon conviction, punishment may range from reprimand to dismissal, depending on the gravity of the cases.

Education

8. Parallel to maintaining proper mechanism for the exercise of authority and to administering a sanction mechanism with deterrent effect, we make substantial efforts in the promotion of good standards of conduct in the civil service. Departments are ever alert to the need to maintain staff integrity and have taken positive steps to ensure this is done. We will also keep our existing rules and regulations under constant review and updated to ensure that they provide clear guidelines and suit present-day circumstances.

**Statistics of Civil Servants Disciplined for
Abuse of Official Position for Personal Gains
(1996/1997 – 1998/1999)**

Offence	Period			Total
	1996/1997	1997/1998	1998/1999	
Conviction under Prevention of Bribery Ordinance (Cap. 201)	10	8	14	32
Unauthorised acceptance of advantages/entertainment from persons with official dealings	9	8	17	34
Unauthorised outside work for persons with official dealings	2	0	0	2
Unauthorised disclosure of official information	3	1	1	5
Abuse of Government properties	6	4	7	17
Use of official information / authority for personal gains	19	28	11	58
Total	49	49	50	148

Note : As a result, 58 officers were warned verbally or in writing; 43 officers were punished with a reprimand, severe reprimand, demotion and or financial penalty; and the remaining 47 officers were dismissed or compulsorily retired from the civil service.