

For discussion  
on 17 May 2004

## **LEGISLATIVE COUNCIL PANEL ON PUBLIC SERVICE**

### **Policy governing the acceptance of post-retirement employment of civil servants**

#### **PURPOSE**

This paper sets out the existing policy governing acceptance of outside appointments by civil servants after retirement.

#### **THE POLICY**

2. Under section 16 of the Pensions Ordinance (Cap. 89) and section 30 of the Pension Benefits Ordinance (Cap. 99), a retired civil servant who has been granted a pension is required to seek prior permission from the Chief Executive (CE) before he enters into business or takes up an employment within two years after his retirement (or a longer period as determined by the CE), if the principal part of his business or employment is carried on in Hong Kong.

3. At present, retired officers at the Administrative Officer Staff Grade A1 rank have to seek permission within three years after retirement. Other retirees are required to seek approval within a two-year period after retirement. Blanket approval is given for all staff remunerated on the Model Scale I Pay Scale<sup>1</sup>. Failure to seek prior permission may result in the suspension of pension. Since January 1997, officers on agreement term who are ranked at Directorate Pay Scale D3 and above are also required to seek prior permission before they take up employment outside the Government within one year after completion of their agreements. This requirement is written into the agreements offered since January 1997 and is enforced as a contractual obligation.

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<sup>1</sup> Staff remunerated on the Model Scale I Pay Scale are junior staff such as Workman and Property Attendant whose post-retirement employment, if any, are not expected to result in a conflict-of-interest problem.

## **Objectives and Principles**

4. The objective of the post-retirement employment policy is to ensure that former civil servants do not enter into any business or take up any employment which may constitute a conflict of interest with their previous service in the Government or adversely affect the image of the Government. This policy contributes to public confidence in the integrity of the civil service. On the other hand, we have to take into account the fact that former civil servants as individuals have the right to pursue employment or business after retirement. Therefore, in pursuing the post-retirement employment policy, we need to strike a balance between the rights of individuals to pursue employment or business after retirement on the one hand and the public interest and the aspirations of the community regarding the integrity and impartiality of the civil service on the other.

5. Former civil servants seeking permission to take up post-retirement employment have to provide detailed information of their prospective employment (e.g. name of the employer, duties, remuneration, expected date of employment, etc.), whether they have had any previous contacts with the prospective employers, and their accessibility to commercially sensitive information while serving in the Government. The basic principle to follow in considering applications is that there should be no impropriety in the proposed employment. In this regard, the Administration takes into account the following factors –

- (a) whether the officer, while serving in the Government, was involved in policy formulation or decision which could have benefited his prospective employer;
- (b) whether the prospective employer might gain an unfair advantage over competitors because of the officer's previous knowledge and experience; and
- (c) the public perception of the officer taking up the proposed business or employment.

## **Approving mechanism**

6. Applications from non-directorate officers are handled by the respective Head of Department/Grade under delegated authority. Applications from

directorate officers are first scrutinised by the Head of Department/Grade or Permanent Secretary concerned. Their recommendation would be processed by the Civil Service Bureau and forwarded to the Advisory Committee on Post-retirement Employment for consideration and advice (see paragraphs 11-12 below). Each application, together with the advice of the Advisory Committee, will be submitted to the Secretary for the Civil Service for approval or otherwise under delegated authority. Applications from officers at the Administrative Officer Staff Grade A1 rank follow the same procedure as that for other directorate officers except that they will be submitted to the Chief Executive for approval or otherwise.

7. For applications which warrant approval, the Administration will, having regard to the factors set out in paragraph 5, also consider whether it is necessary to specify a sanitisation period (counting from the date of cessation of active service of the applicant) during which the applicant would be barred from taking up the post-retirement employment. The length of the sanitisation period, if any, varies depending on the specific circumstances of each case. Normally, a six-month sanitisation period counting from the date of cessation of active service will be imposed in the case of directorate officers. For applications from directorate officers, the need for a sanitation period, and if so, its duration, are invariably put to the Advisory Committee for consideration and advice.

8. Where appropriate, the Administration may also impose restrictions on the scope of activities to be undertaken by the former civil servant. For instance, forbidding the applicant from being involved in dealings between the Government and his prospective employer, either absolute or with reference to a stated area or areas.

### **Suspension of monthly pension**

9. In accordance with the pensions legislation, monthly pension payment will be suspended for those retired civil servants who are re-appointed to the Government or appointed to subvented organisations determined as public service for the purpose of pension suspension by the CE.

### **Number of applications**

10. In respect of directorate officers, a total of 76 applications involving 52 applicants were received for the period from 1 January 2003 to 31 December 2003. Of these applications, one was rejected; 23 were approved with sanitisation

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period and/or restrictions; and the remaining 52 cases were approved without any conditions. Breakdown of these cases according to the applicants' background and by nature of intended business/employment after retirement is at **Annex**. During the same period, 1 297 applications involving 1 244 applicants were received from non-directorate officers. All of them were approved, with sanitisation/restrictions imposed on 56 of them.

### **Advisory Committee on Post-retirement Employment**

11. To enhance public confidence and to strengthen the mechanism, the Government established in October 1987 the Advisory Committee on Post-retirement Employment. The Chairman and members of the Committee are appointed by the Chief Executive. The Committee is at present chaired by a Judge of the Court of First Instance of the High Court, and has three other non-official members.

12. The Committee advises the Administration on the principles and criteria to be adopted in dealing with applications in general. Considering that directorate officers are more likely to have been involved in policy formulation or have access to sensitive information and their taking up of post-retirement employment would probably draw public attention to potential conflict of interest, the Committee is also invited to consider each and every application from directorate officers. Its advice on whether an application should be approved, and if so, whether a sanitation period or other conditions should be imposed is taken fully into account by the Administration before reaching a decision. This mechanism provides an independent safeguard to ensure that the established guidelines on post-retirement employment are applied prudently and consistently. The Administration follows the advice of the Advisory Committee on each individual application as a matter of practice.

13. The Committee produces a report on its work every year. A copy of its 2003 report was provided to members of the Panel for information on 3 May 2004.

### **CONCLUSION**

14. The Government attaches great importance to ensuring that post-retirement employment of former civil servants would not result in conflict of interest with their previous service with the Government. The principles and criteria for post-retirement/post-agreement employment are clearly laid down in

Government circulars and Civil Service Regulations. All officers concerned are aware that any post-retirement employment applications would be subject to close scrutiny and are thus conscious of the need to avoid potential conflict of interest in seeking employment post-retirement/post-agreement.

15. The post-retirement employment mechanism has been revised from time to time to ensure it continues to serve our policy objective effectively and that the procedures are clear and well understood by all officers concerned. With the introduction of the Civil Service Provident Fund (CSPF) in mid-2003 whereby officers joining the civil service under the new entry terms on or after 1 June 2000 will be eligible for CSPF instead of pension upon their appointment to permanent terms, we have been considering how the mechanism should be similarly applied to these officers. We will consult staff in accordance with the normal procedures when proposals are available.

Civil Service Bureau

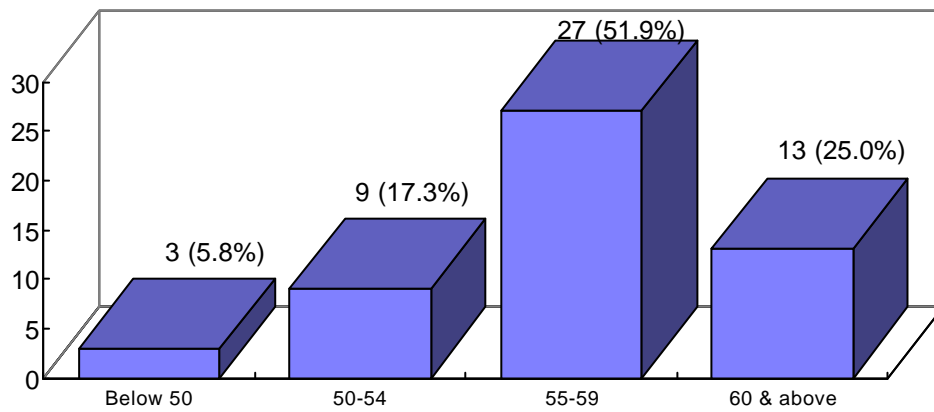
May 2004

## Post-Retirement Employment For Retired Directorate Officers (1.1.2003 - 31.12.2003)

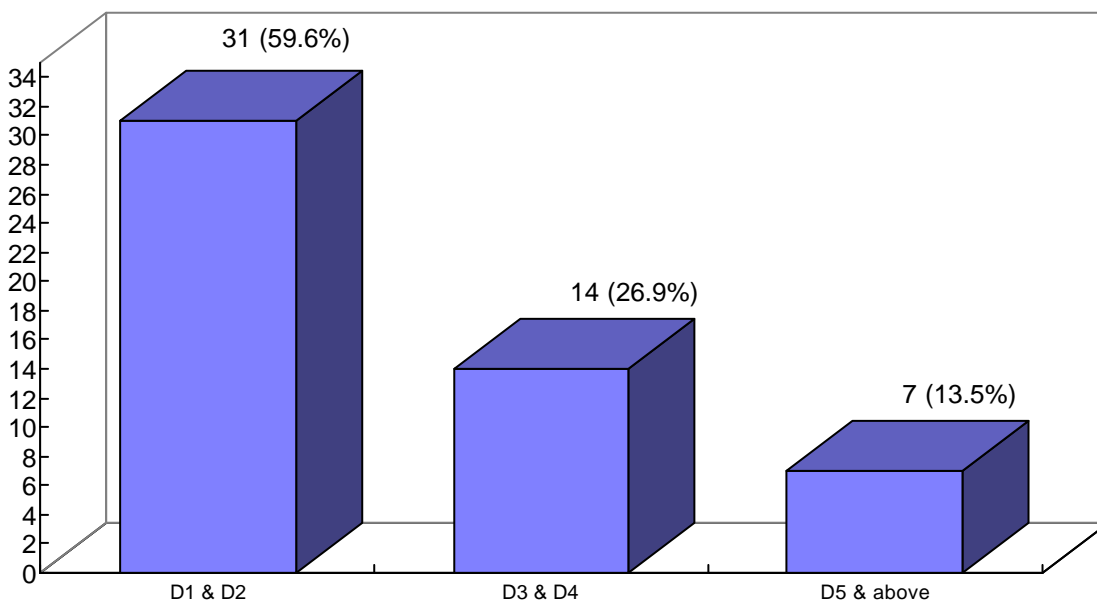
Number of applicants:	*52
Number of applications:	76
Number of applications approved:	75
Number of applications rejected:	1

### Breakdown by Applicants' Background

(a) Age

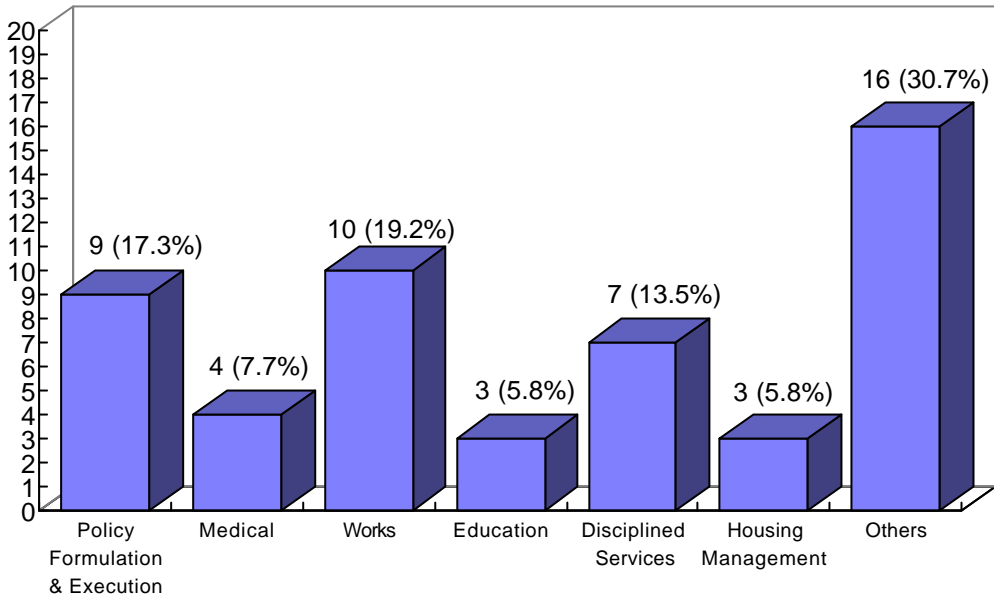


(b) Salary at the time of retirement



\*Of the 52 applicants, some have submitted more than one applications.

(c) Type of work previously engaged in  
the Civil Service



### Breakdown by the Nature of intended Business/Employment after Retirement

