

**The Sixteenth Report on the Work
of the
Advisory Committee on
Post-retirement Employment**

**(1 January 2004 -
31 December 2004)**

INTRODUCTION

The Advisory Committee on Post-retirement Employment (Advisory Committee) was established in October 1987 to advise the Administration on civil service post-retirement employment policy and to consider applications submitted by directorate officers retiring / retired on pensionable terms for post-retirement employment. The Advisory Committee's ambit was extended in January 1997 to advise on applications to take up post-contract employment from agreement officers ranked at Directorate Pay Scale Point 3 or above. The terms of reference of the Advisory Committee are at **Annex A**.

2. This report informs the Chief Executive of the work of the Advisory Committee in 2004. It also outlines the principles and guidelines adopted by the Advisory Committee in considering applications for post-retirement / post-contract employment and the recent pattern of taking up outside employments by former civil servants as revealed by the applications processed in the year.

MEMBERSHIP OF THE ADVISORY COMMITTEE

3. The Chairman and Members of the Advisory Committee are appointed by the Chief Executive. The membership in 2004 comprised -

Chairman: The Hon Mr Justice Pang Kin-kee

Members: Mr James Edward Thompson, GBS
Dr Elizabeth Shing Shiu-ching, JP
Dr Dennis Sun Tai-lun, BBS, JP
Mr Joseph W P Wong, GBS, JP,
Secretary for the Civil Service (SCS)¹

Chief Executive Officer (Pensions) of the Civil Service Bureau (CSB) serves as secretary to the Advisory Committee.

POLICY

4. The Government's policy governing post-retirement / post-contract employment of former civil servants aims to ensure that they do not enter into any business or take up outside employment which may constitute conflict of interest with their previous government service, or cause negative public perception embarrassing the Government and affecting the image of the civil service. It contributes to public confidence in the integrity of the civil service. At the same time, the policy recognises individual civil servants' right to pursue employment after leaving government service and the value of their continued contribution of expertise and experience to the community.

5. In accordance with the relevant provisions in the pensions legislation², retiring or retired officers appointed on pensionable terms are

¹ Following a review of the membership of the Advisory Committee, SCS ceased to be a member of the Advisory Committee with effect from 1 June 2005.

² Section 16 of the Pensions Ordinance (Cap. 89) and section 30 of the Pension Benefits Ordinance (Cap. 99).

required to seek prior permission from the Chief Executive before taking up any post-retirement employment or engaging in any business activity (referred hereafter as outside employment) the principal part of which is carried on in Hong Kong, within a specified control period after retirement. At present, the control period for officers at the rank of Administrative Officer Staff Grade A1 (AOSGA1) who retire on pensionable terms is **three years** after retirement. The control period for other pensionable retirees is **two years** from retirement. Non-compliance with the prior permission requirement may result in suspension of the officers' monthly pensions. Blanket approval is given for all pensionable staff remunerated on the Model Scale I Pay Scale to take up outside employment after retirement.

6. Since January 1997, through a provision in the relevant memoranda on conditions of service, agreement officers on Directorate Pay Scale Point 3 or above are required to seek approval before taking up any outside employment or appointment, or engaging in any business, trade or profession the principal part of which is carried on in Hong Kong, within **one year** immediately following the expiry of their terminal leave under specified circumstances. This requirement applies where the proposed employment / appointment is in the same field as an officer's civil service employment and where there is possible conflict of interest. Non-compliance with this requirement will be regarded as a breach of contract and may result in legal action against the officer concerned.

7. Retired senior civil servants are not normally allowed to undertake more than six post-retirement appointments at any one time. To ensure that possible conflicts of interest arising from post-retirement

employment outside Hong Kong will not be overlooked, all retired **directorates** officers are required to notify CSB of any paid employment undertaken anywhere outside Hong Kong during the control period.

VETTING PROCEDURE AND CRITERIA

8. Applications from directorate officers up to AOSGA1 rank retiring/retired on pensionable terms are subject to SCS's approval under delegated authority, whereas those from their non-directorate counterparts are subject to the approval by the respective Heads of Department / Heads of Grades, under delegated authority. Applications from agreement officers on Directorate Pay Scale Point 3 or above, except for AOSGA1 officers and Heads of Department, are also subject to SCS's approval.

9. With the advice of the Advisory Committee over the years, guidelines on taking up post-retirement / post-contract employment have been promulgated in the Civil Service Regulations (CSRs) and through CSB Circulars. The key factors to be taken account of in considering applications for permission to take up post-retirement / post-contract employment are conflict of interest and possible negative public perception.

10. Directorate officers are more likely to have been involved in policy formulation or have access to sensitive information, and their taking up outside employment would more likely draw public attention. All applications from directorate officers are submitted to the Advisory Committee for advice to ensure that the established guidelines are applied prudently and consistently.

11. In considering an application to take up post-retirement / post-contract employment, the Advisory Committee in tendering its advice and SCS as the approving authority will, inter alia, take into account -

- * any direct relationship between the applicant's duties during his/her government service and the duties he/she proposes to undertake in the outside employment;
- * whether the applicant was involved in policy formulation or decision, the effects of which could have benefited his/her prospective employer;
- * whether the prospective employer might gain an unfair advantage over competitors because of the applicant's special knowledge and experience acquired from his/her previous government service; and
- * whether the proposed employment would result in an undesirably high public profile, embarrass the Government or give rise to any suggestion of impropriety.

Views are also sought from the relevant Permanent Secretary and/or Head of Department/Grade.

12. For applications that merit approval, the Advisory Committee will also advise the Administration on the need for a sanitisation period during which the applicant will be barred from taking up the proposed employment. Normally, a six-month sanitisation period counted from cessation of active service will be imposed. Where appropriate, restrictions

may be imposed on the scope of activities to be undertaken by the applicant, for instance, forbidding him/her from getting involved in dealings between the Government and his/her prospective employer, either absolute or with reference to a stated area or areas.

POST-RETIREMENT / POST-CONTRACT EMPLOYMENT OF FORMER DIRECTORATE OFFICERS

Overview of Applications Processed

13. For the period from 1 January 2004 to 31 December 2004, the Advisory Committee considered 71 applications submitted by 51 directorate officers. Out of the 71 applications, two were rejected. Of the 69 applications approved, there were 40 cases in which the applicant had already ceased active service for six months or more at the time of approval and on average, such officers had ceased active service for 16 months before taking up the outside employment. In another 14 cases, sanitisation periods ranging from six to 30 months were imposed and the average duration of sanitisation was 11 months. For the remaining 15 cases, the applicants were allowed to take up the outside employment within six months from cessation of active service and these cases concerned medical service, educational work, work in professional institutes/public bodies or commercial employment unrelated to the applicants' former duties. In respect of the 69 approved cases, the overall average break between cessation of active service and commencement of outside employment was 12 months. More details on the approved
_____ employments and the applicants' background are at **Annex B**.

14. In interpreting the seemingly low rejection rate, it is relevant to note that the policy governing post-retirement / post-contract employment and the processing criteria are clearly set out in the CSRs and relevant circulars, and retired civil servants are generally well aware of the approving criteria. As such, where an intended employment or business may potentially cause conflict of interest or a public perception problem, the officer concerned would most likely not submit an application knowing very well that such application would not be approved.

15. There was no application for permission to take up post-contract employment in 2004.

16. Of the many cases which the Advisory Committee advised on, one in particular attracted considerable public attention. This case involved the post-retirement employment of a former Deputy Director of Housing / Deputy Secretary for Housing. The Advisory Committee was invited to give advice on the case on a few occasions. Upon the Advisory Committee's advice, in March 2004 SCS granted permission to the former Deputy Director of Housing / Deputy Secretary for Housing to take up employment with a ferry company as Director of Business Development and to work in the fields of travel, transport, hotel, cultural, recreational and hospitality services. The former officer was subsequently reported to have involvement in a bid of another company for the West Kowloon Cultural District (WKCD) development project, and such involvement aroused public concern about possible conflict of interest. In response to the concern of the public and some Legislative Council Members, CSB looked into the various allegations.

With the advice of the Advisory Committee, CSB concluded in March 2005 that while the former officer had been working largely within the approved scope of work, her making public appearances, comments and presentation on the cultural aspects of the particular WKCD proposal in October and November 2004 amounted to participation in the promotion of the proposal to the public and fell outside the scope of approved work, and hence was inappropriate and unacceptable. It was also considered that the former officer did not exercise sound judgement commensurate with her previous senior government ranking to distance herself from any promotional activities connected with any bid for the WKCD project, to the detriment of the image and public confidence in the integrity of the civil service. As a result, she was issued a written warning.

Review of Policy on Post-service Employment of Former Directorate Civil Servants

17. The existing policy and arrangement governing post-retirement and post-contract employment were put in place in 1987 and 1997 respectively. With the community's high and rising expectation of the integrity and impartiality of the civil service, CSB undertook in May 2004 to embark on a review of the policy governing post-service employment of former directorate officers, with a view to making improvements to the existing regime to better safeguard against conflict of interest and negative public perception. The Advisory Committee was kept informed of the progress of the review and was consulted on CSB's preliminary proposals before they were put forth for staff consultation.

POST-RETIREMENT EMPLOYMENT OF NON-DIRECTORATE OFFICERS

18. Applications for post-retirement employment from non-directorate officers are handled by the respective Heads of Department / Heads of Grade. The assessment criteria set out in paragraphs 8 and 10 above are also applicable to such applications.

19. From 1 January 2004 to 31 December 2004, a total of 1 229 applications from 1 114 non-directorate officers were processed. Of the applications processed, four were rejected, 106 were approved with conditions and the others were approved without sanitisation or restriction. More details on the approved employments and the applicants' background are at **Annex C**.

Advisory Committee on Post-retirement Employment

Terms of Reference

- (a) To advise the Chief Executive on the principles and the criteria to be adopted to deal with applications for post-retirement and post-contract employment;
- (b) To consider and advise on all applications for post-retirement employment from directorate officers on pensionable terms;
- (c) To consider and advise on all applications for post-contract employment from agreement officers on Directorate Pay Scale Point 3 or above; and
- (d) To consider and advise on other applications which may be referred by the Secretary for the Civil Service.

**Post-retirement Employment of Former Directorate Officers
(1.1.2004 – 31.12.2004)**

(A) No. of applications

Number of applications processed:	71
Number of applications approved:	69
Number of applications rejected:	2
Number of applicants:	51

(An applicant may submit more than one applications)

(B) Break between government service and outside employment

- Overall average break between cessation of active service and commencement of approved employment: 12 months
- Breakdown –

Applicants had already ceased active service for 6 months or more at the time of approval and no additional sanitisation period was imposed <i>[Average break from cessation of active service: 16 months]</i>	40
Sanitisation period of 6 months or more imposed <i>[Average sanitisation: 11 months]</i>	14
Applicant was allowed to take up the outside employment within 6 months from cessation of active service <i>[Average break from cessation of active service: 2 months]</i>	15 ¹
Total:	69

¹ The approved employments concerned the provision of medical service, educational work, work in professional institutes/public bodies or commercial appointments unrelated to former duties.

(C) Nature of approved employment/business

Management	7
Medical	1
Works	8
Finance & Accounting	6
Education	19
Security	2
Information Technology	2
Others	24
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Total:	69

(D) Applicants' background

(i) By Age

Below 50	2
50 – 54	4
55 – 59	34
60 & above	11
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Total:	51

(ii) By Salary Scale

D1 – D2	32
D3 – D4	13
D5 & above	6
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Total:	51

(iii) By type of work previously engaged in the civil service

Policy Formulation & Execution	14
Medical	1
Works	8
Education	2
Disciplined Services	5
Legal	2
Accounting	7
Others	12
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Total:	51

**Post-retirement Employment of Former Non-directorate Officers
(1.1.2004 – 31.12.2004)**

(A) No. of applications

Number of applications processed:	1 229
Number of applications approved:	1 225
Number of applications rejected:	4
Number of applicants:	1 114

(An applicant may submit more than one applications.)

(B) Nature of approved employment/business

Professional	57
General Administration	306
Education	211
Technical	232
Security	156
Others	263
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Total:	1 225

(C) Applicants' background

(i) By age

Below 50	543
50 – 54	240
55 – 59	277
60 & above	54
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Total:	1 114

(ii) By salary scale

Below MPS Point 14	110
MPS Point 14 – 33	677
MPS Point 34 & above	327

Total: 1 114

(iii) By type of work previously engaged in the civil service

Administrative / Executive	121
Medical	167
Works	85
Education	131
Disciplined Services	197
Housing Management	149
Others	264

Total: 1 114