

Report of the Independent Panel of
Inquiry on the Incidents Relating to the
Equal Opportunities Commission

February 2005

The Panel's Observations

4.20 Mr Wong had exercised due diligence in seeking the necessary approval for the continuation of his pension payments, first from the CJ and later from the Chief Executive through SHA.

4.21 The Chief Executive had acted within his authority in approving Mr Wong's case. In his response to Hon Albert HO Chun-yan's question at LegCo²⁰, SHA mentioned that --

"The exercise of the power [to suspend payment of pension] is discretionary rather than obligatory. In fact, it has been the Government's policy to exercise the discretionary power to suspend payment of monthly pension to judicial officers who have retired under the Pensions Ordinance or the Pensions Benefits (Judicial Officers) Ordinance and re-appointed to the public service. The criteria for suspension of payment of pension are not set out in the Ordinances. The Chief Executive may consider whether to exercise the discretionary power according to the circumstances of individual cases."

4.22 SHA added that --

"In appointing [Mr Michael WONG as the EOC Chairperson], we have taken into account that he has to withdraw from his retirement and resign from various offices in the public and private sectors in order to devote himself to work full-time for the EOC and to serve the community. After careful consideration of all factors, the Chief Executive considered [Mr Wong] the most suitable candidate and decided to accept his request for not suspending payment of his pension."

Allegations about Acceptance of Gifts by Mr Michael WONG

Findings

4.23 In late October and early November 2003, there were media reports, alleging that Mr Wong had accepted gifts (i.e. residence and air tickets) from a local businessman either directly or through his daughter.

²⁰ Please refer to Question 5 of the LegCo at the sitting on 22 October 2003.

Residence

4.24 According to information provided by Mr Wong and Miss Rosaline WONG, Miss Wong was the owner of the property in question, and Mr Wong did not have, and had never had, any proprietary or beneficial interest in the property. The property was purchased in 1998 by Miss Wong through a company.

4.25 In 1999, Mr Wong underwent a cancer surgery. In order to take better care of her parents, Miss Wong repeatedly requested Mr Wong to move to her flat. In around September 1999, Mr and Mrs Wong moved into the residence. While staying with Miss Wong, Mr Wong either paid or contributed to household expenses.

Air Tickets

4.26 There were media reports alleging that Mr Wong had received air tickets from a local businessman a few years before his appointment as the EOC Chairperson. The alleged events took place when Mr Wong was in the Judiciary. ~~Both Mr Wong and Miss Wong confirmed that Mr Wong had never accepted any air-tickets or gifts from the local businessman either directly or through her.~~ In Mr Wong's view, the media coverage on the air tickets was taken out of context, and was a distortion of the conversation between him and the reporter.

Responses of Parties Concerned

4.27 The local businessman in question issued a press statement on 29 October 2003 and held a press conference on 30 October 2003, denying having given Mr Wong any gifts. On 30 October 2003, the Judiciary responded to media enquiries, stating that —

“Regarding circumstances under which judges and judicial officers can accept gifts, the Prevention of Bribery Ordinance (Cap. 201) and the Acceptance of Advantages (Governor's Permission) Notice 1992 are applicable to judges and judicial officers. Unless allowed by relevant provisions, judges and judicial officers are required to seek permission for receiving gifts. Under the Acceptance of Advantages (Governor's Permission) Notice 1992, Government employees are permitted to solicit or accept from a relation any gift (whether of money or otherwise), any discount, any loan of money or any air, sea or overland passage. “Relation” includes child.

There are no provisions governing receipts of personal gifts by their children. During this short period of time, the Judiciary has checked the record for the ten years prior to Mr Wong's retirement. During this ten years' period, Mr Wong did not seek any permission for receiving air tickets as gifts.....As far as can be ascertained by the Judiciary, Mr Wong had not heard any cases concerning the local businessman, companies under his name or his employer."

4.28 On 3 November 2003, the Judiciary issued another statement that —

"The Judiciary has viewed with concern the allegation in the media that Mr Wong, a retired judge, had when holding office accepted as a gift of air tickets from a businessman. The acceptance of gifts by judges is governed by section 3 of the Prevention of Bribery Ordinance (Cap. 201) and the Acceptance of Advantages Notice 1992. The Judiciary notes that according to reports in the media —

- (i) The allegation apparently arose from something which Mr Wong had allegedly said in a media interview;
- (ii) the allegation has been denied by the businessman in question and also by Mr Wong's daughter who said it was a gift from her; and
- (iii) the allegation has been reported by members of the public to the ICAC for investigation.

In view of the legal position as regards retired judges..... and noting that according to media reports, the allegation has been reported to the ICAC for investigation, the Judiciary does not consider it appropriate at present to initiate an inquiry into the matter."

The Panel's Observations

4.29 Whilst the personal affairs of Mr Wong and his family should not have any bearing on the EOC, as things unfolded, these private matters unfortunately became intertwined with the appointment of Mr Wong as the EOC Chairperson and his involvement in the termination of Mr Patrick YU as Director (Operations) of the EOC. The alleged events

took place when Mr Wong was in the Judiciary and there are well-established rules governing the acceptance of advantages by judges. According to media reports, the allegation has been reported to the ICAC for investigation. We therefore do not consider it appropriate to make further comment.

Allegation about Disclosure of an Internal Document by Mr Wong

Findings

4.30 On 1 November 2003, a newspaper report alleged that Mr Wong had disclosed a confidential document to the media. According to Mr Wong, during the conversation with a reporter on 28 October 2003, they talked about the former EOC Chairperson Ms Anna WU and what she told the media in relation to Mr Patrick YU. According to Mr Wong's understanding, Ms Anna WU was quoted as saying²¹ that she did not know Mr Yu before the recruitment exercise and that she had not given his particulars to the head-hunter prior to the recruitment. The reporter asked and Mr Wong told her that he had a note prepared for him by his staff that showed the contrary. The reporter then asked whether she could have a copy. Mr Wong told her that he would let her have a copy only provided that the newspaper would not print the document and would not disclose the source of information. She promised and Mr Wong sent her an extract. He did so because he thought and believed at that time that he should not allow a wrong statement to pass unchecked and unchallenged.

The Panel's Observations

4.31 The document in question was a note prepared by the EOC Office for Mr Wong on the sequence of events relating to the recruitment of Director (Operations). We have access to the original document and note that it was unclassified. The document is an internal EOC document and not a government document and is therefore not governed by the Official Secrets Ordinance.

4.32 Whilst Mr Wong's intention was to clarify misunderstanding, it would be advisable not to disclose documents containing sensitive information to outsiders, albeit an unclassified document.

²¹ According to Ms Anna WU, she had disclosed at all relevant stages the fact that she had met Mr Yu before his recruitment.