

**The Seventeenth Report on the
Work of the
Advisory Committee on
Post-service Employment of Civil Servants**

**(1 January 2005 –
31 December 2005)**

INTRODUCTION

The Government's policy on post-service outside work aims to ensure that civil servants on final leave or who have left the Government will not take up any work outside the Government (referred hereafter as outside work) which may constitute real or potential conflict of interest with their previous government service, or cause negative public perception embarrassing the Government and undermining the image of the civil service, without at the same time unduly restricting the said individuals' right to pursue employment or other work after ceasing government service.

2. The Advisory Committee on Post-service Employment of Civil Servants (the Advisory Committee), formerly known as the Advisory Committee on Post-retirement Employment, was established in October 1987 to advise the Government on post-retirement employment policy and to consider and advise on applications for permission to take up outside work from directorate officers retired on pensionable terms. Its ambit was expanded in January 1997 to consider and advise on applications from former agreement officers ranked at Directorate Pay Scale Point 3 (D3) or above. Following a review by the Government in 2005 of the policy and arrangements governing the taking up of outside work by directorate officers after cessation of active government service, the Advisory Committee has been re-titled as Advisory Committee on Post-service Employment of Civil Servants from 1 January 2006 to align with its expanded ambit to consider and advise on applications from all directorate officers, irrespective of their terms of appointment or circumstances under which they leave the civil service.

3. This report informs the Chief Executive of the work of the Advisory Committee in 2005. It also outlines the recent pattern of taking up outside work by former civil servants as revealed by the applications processed in the year.

MEMBERSHIP AND TERMS OF REFERENCE OF THE ADVISORY COMMITTEE

4. The Chairman and Members of the Advisory Committee are appointed by the Chief Executive. The membership of the Committee in 2005 comprised –

Chairman: The Hon Mr Justice Pang Kin-kee

Members: Dr Elizabeth Shing Shiu-ching, BBS, JP
Dr Dennis Sun Tai-lun, BBS, JP
Mr James Edward Thompson, GBS
Mr Simon Ip Sik-on, JP (since 1 June 2005)
Mr Joseph W P Wong, GBS, JP,
Secretary for the Civil Service (SCS)¹
(up to 31 May 2005)

Secretary: Chief Executive Officer (Pensions) of the Civil Service Bureau (CSB).

5. The terms of reference of the Advisory Committee, as revised after the 2005 review, are at **Annex A**.

WORK OF THE ADVISORY COMMITTEE IN 2005

Input to the Government's 2005 Review

6. As mentioned in paragraph 2 above, the Government conducted a review of the policy and arrangements governing the taking up of outside work by directorate officers in 2005. The review took into account the community's concerns about the effectiveness of the then policy and arrangements in guarding against conflict of interest between former senior civil servants' previous government duties and their outside work. Throughout the review, the Advisory Committee was kept informed of the

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.

progress and was consulted on the proposals before they were put forth for staff consultation and implementation.

7. Following staff consultation and taking account of views expressed by Members of the Legislative Council, the community and the Advisory Committee, the Government promulgated the revised arrangements governing the taking up of post-service outside work by directorate officers in December 2005. The new arrangements are applicable to directorate officers who cease active service or enter into new agreements on or after 1 January 2006². Under the new arrangements, all directorate officers, irrespective of their terms of appointments or circumstances under which they leave the civil service, need to obtain prior permission from SCS to take up any outside work during their final leave period before formally leaving the Government and/or within a specified control period counting from the said departure. As compared to the old arrangements, the more notable changes include: extension of the minimum sanitization period (during which outside work is not permitted) to 12 months for officers at D4 or above (or equivalent) who retire on pensionable or new permanent terms; application of a set of standard restrictions on scope of work in all approved cases; and restrictions on the taking up of full-time remunerated work or work of a commercial nature during final leave. Furthermore, basic information on approved cases of outside work taken up by directorate officers may be disclosed by the Government. On the other hand, relaxation is made for outside work taken up with specified non-commercial organizations³, and blanket permission is given for unpaid work taken up with such organizations. Key elements of the new and old arrangements are set out in **Annex B** for reference.

² The revised arrangements apply to directorate officers on pensionable/new permanent terms who cease active service on or after 1 January 2006; and directorate officers on agreement terms who enter into new agreement on or after 1 January 2006.

³ The specified non-commercial organizations include (a) charitable, academic or other non-profit making organizations not primarily engaged in commercial operations; (b) non-commercial regional or international organizations; and (c) the Central Authorities.

Vetting Procedures and Criteria

8. Applications from directorate officers up to and including D8 (or equivalent) are subject to SCS' approval. An application is first scrutinised by the Head of Department (HoD) or Head of Grade (HoG) and the Permanent Secretary concerned. CSB then forwards the application, together with the assessments made by the relevant HoD or HoG and Permanent Secretary, to the Advisory Committee for consideration and advice. The application, with the Advisory Committee's advice, is submitted to SCS for his decision.

9. In line with the processing criteria promulgated by the Government, the key factors taken into account by the Advisory Committee in considering applications for permission to take up outside work are conflict of interest and possible negative public perception. The specific considerations include –

- (a) whether the applicant was involved in the formulation of any policy or decisions, the effects of which directly or specifically benefited or could directly or specifically benefit his/her own business or prospective employer;
- (b) whether the applicant or his/her prospective employer might gain unfair advantage over competitors because of the applicant's access to sensitive information while in government service;
- (c) whether the applicant was involved in any contractual or legal dealings to which his/her prospective employer was a party;
- (d) whether the proposed work would have any connection with the assignments/projects and/or regulatory/enforcement duties in which the applicant was involved while in government service;
- (e) whether the applicant's taking up of the proposed work would give rise to public suspicion of conflict of interest or other impropriety; and

- (f) whether any aspects of the proposed work would cause embarrassment to the Government or bring disgrace to the civil service.

10. For applications that the Advisory Committee supports, the Committee may, based on the specific circumstances of an application, make recommendations on the need for and duration of a sanitization period during which the applicant will be barred from taking up the proposed outside work. Where appropriate, the Advisory Committee may also recommend the imposition of work restrictions on the scope of activities that the applicant may undertake, for instance, forbidding him/her from getting involved in dealings between the Government and his/her prospective employer on an across-the-board basis or in respect of a stated area or areas.

Applications Involving Directorate Officers

11. For the period from 1 January 2005 to 31 December 2005, the Advisory Committee considered 93 applications for post-retirement/post-contract employment from 57 directorate officers under the pre-1 January 2006 arrangements (referred hereafter as the old arrangements)⁴. Under the old arrangements, former directorate officers retired on pensionable terms are normally subject to a minimum six-month sanitization period (counting from cessation of active service) which may only be shortened or waived on exceptional grounds. Where necessary, the Advisory Committee may advise, and SCS as the approving authority may impose, a longer sanitization period and/or restrictions on the scope of work to be undertaken by the applicant.

12. Out of the 93 applications, the Advisory Committee recommended rejection of one. In this connection, it is relevant to note that the policy and arrangements governing post-service outside work and the processing criteria are clearly set out in the Civil Service Regulations and

⁴ Of the 93 applications, 91 were from officers who either ceased active service or entered into their last agreements with the Government before 1 January 2006. The other two applications were processed before promulgation of the new arrangements.

relevant circulars, and civil servants are generally well aware of the approving criteria. As such, where an intended post-service 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.

13. Of the **92** applications recommended for approval by the Advisory Committee (involving **56** officers), the average break between cessation of active service and commencement of outside work was **14 months**. In 13 out of all the recommended applications, the Advisory Committee considered restrictions on scope of work should be imposed. More details of the recommended cases are at **Annex C**. The decisions of SCS in all the 93 applications fully reflected the Committee's advice.

Applications Involving Non-directorate Officers

14. Applications for post-retirement employment from non-directorate officers retired on pensionable terms are considered and decided by the respective HoD/HoG. The Advisory Committee is presented with the summary statistics for information. In 2005, a total of 1 180 applications from 985 non-directorate officers were considered. Among them, two were rejected, 83 were approved with conditions and the others were approved without sanitization requirement or work restriction. More details of the approved cases are at **Annex D**.

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**Advisory Committee on Post-service Employment of Civil Servants -
Terms of Reference**

- (a) To advise the Government on the principles and criteria to be adopted in formulating policy and arrangements to control post-service employment;
- (b) To consider and advise on all applications to take up post-service employment from directorate officers; and
- (c) To consider and advise on other applications which may be referred by the Secretary for the Civil Service.

**Key Elements of Old and New Arrangements
Governing Post-Service Employment of Directorate Officers**

Old Arrangements	New Arrangements
1. Application	
<ul style="list-style-type: none"> * Directorate officers who ceased active service before 1 January 2006 and who have retired or will retire on pensionable terms * Agreement officers at D3 and above whose last agreement with the Government was entered into before 1 January 2006 	<ul style="list-style-type: none"> * Directorate officers appointed on pensionable or new permanent terms and have ceased or will cease active service on or after 1 January 2006 * Directorate officers appointed on agreement terms who have entered or will enter into new/further agreements on or after 1 January 2006
2. Control period (counting from formal departure from the Government during which prior permission is required for taking up outside work)	
<ul style="list-style-type: none"> * Directorate officers retired on pensionable terms AOSGA1 (D8) – 3 years Others – 2 years * Agreement officers at D3 and above – 1 year (in respect of outside work in the same field and where there is a possible conflict of interest) 	<ul style="list-style-type: none"> * Directorate officers retired on pensionable or new permanent terms D8 or equivalent – 3 years Below D8 or equivalent – 2 years * Directorate officers who left the Government for a reason other than retirement after six or more years of continuous service D8 or equivalent – 3 years Below D8 or equivalent – 2 years * Directorate officers who left the Government for a reason other than retirement after less than six years of continuous service D8 or equivalent – 1¹/₂ years Below D8 or equivalent – 1 year
3. Approving criteria	
<ul style="list-style-type: none"> * The key factors of consideration are conflict of interest (real or potential) and 	<ul style="list-style-type: none"> * The key factors of consideration are conflict of interest (real or potential) and public perception. * The specific considerations include –

Old Arrangements	New Arrangements
<p>public perception.</p>	<ul style="list-style-type: none"> (a) whether the applicant was involved in the formulation of any policy or decisions, the effects of which directly or specifically benefited or could directly or specifically benefit his/her own business or his/her prospective employer; (b) whether the applicant or his/her prospective employer might gain unfair advantage over competitors because of the applicant's access to sensitive information while in government service; (c) whether the applicant was involved in any contractual or legal dealings to which the prospective employer was a party; (d) whether the proposed work would have any connection with the assignments/projects and/or regulatory/enforcement duties in which the applicant was involved while in government service; (e) whether the applicant's taking up of the proposed work would give rise to public suspicion of conflict of interest or other impropriety; and (f) whether any aspects of the proposed work would cause embarrassment to the Government or bring disgrace to the civil service.
<p>4. Standard restrictions on scope of work</p>	
<p>* Work-specific restrictions may be imposed on a case-by-case basis.</p>	<p>* In all approved cases of outside work, the officer involved should not –</p> <ul style="list-style-type: none"> (a) be personally involved, directly or indirectly, in the bidding for any government land, property, projects, contracts or franchises; (b) undertake, or represent any person in, any work including any litigation or lobbying activities that are connected in any way with – <ul style="list-style-type: none"> (i) the formulation of any policy or decision;

Old Arrangements	New Arrangements
	<ul style="list-style-type: none"> (ii) sensitive information; (iii) contractual or legal dealings; (iv) assignments or projects; and/or (v) enforcement or regulatory duties <p>in which he/she was involved or to which he/she had access during his/her last three years of government service; or</p> <ul style="list-style-type: none"> (c) engage in any activities which will cause embarrassment to the Government or bring disgrace to the civil service. <p>* Further specific restrictions on scope of work may be imposed on a case-by-case basis.</p>
5. Sanitization (counting from cessation of active service during which outside work is not permitted)	
<ul style="list-style-type: none"> * Directorate officers retired on pensionable terms – minimum 6 months, may be shortened if there is no clear conflict of interest or may be lengthened having regard to the circumstances of a case. * Directorate agreement officers at D3 or above – no specified minimum sanitization period but such requirement may be imposed on a case-by-case basis. 	<ul style="list-style-type: none"> * Minimum sanitization period for directorate officers retired or retiring on pensionable or new permanent terms – <ul style="list-style-type: none"> D4 or above (or equivalent) – 12 months Below D4 (or equivalent) – 6 months * The minimum sanitization period will normally be shortened or waived for notionally remunerated work and may be shortened for remunerated work taken up with the following organizations (the specified organizations) – <ul style="list-style-type: none"> (a) charitable, academic or other non-profit making organizations not primarily engaged in commercial operations; (b) non-commercial regional or international organizations; or (c) the Central Authorities, <p>where the work will not give rise to conflict of interest and is unlikely to cause negative public perception.</p> * For all other outside work (in particular those of a commercial nature), the minimum sanitization period will only be shortened where there are special considerations, and provided that the work will not give rise to conflict of interest or negative public

Old Arrangements	New Arrangements
	<p>perception.</p> <ul style="list-style-type: none"> * Having regard to the circumstances of a particular case, a longer sanitization period may be imposed if so required to more fully forestall conflict of interest or negative public perception. * No minimum sanitization periods are specified for directorate officers not retiring or retired on pensionable or new permanent terms such as agreement officers and resignees. Each case will be considered on its own merits.
6. Restrictions on outside work during final leave	
<ul style="list-style-type: none"> * The taking up of paid outside work during the final leave period, irrespective of whether such work is undertaken in Hong Kong or elsewhere, is subject to prior permission. 	<ul style="list-style-type: none"> * The taking up of outside work during the final leave period is subject to the rules governing sanitization. * In addition, directorate officers are not permitted to take up any full-time remunerated work or any work of a commercial nature (including self-employment) during the final leave period, unless there are special considerations. In this regard, directorate officers on final leave may, on application, normally only take up part-time or notionally remunerated work with a specified organization, subject to the rules on sanitization and there being no problem of dual identity.
7. Blanket permission	
<ul style="list-style-type: none"> * No blanket permission (but the blanket permission under the new arrangements has been extended to officers subject to the old arrangements). 	<ul style="list-style-type: none"> * Blanket permission is given for unremunerated work with the specified organizations throughout the entire period from cessation of active service to the expiry of control period.

**Post-retirement / Post-contract Employment of Former Directorate Officers
Considered by the Advisory Committee
(1 January 2005 – 31 December 2005)**

(A) No. of applications

No. of applications processed:	93
No. of applications recommended for approval:	92
No. of applications recommended for rejection:	1
No of applicants (<i>an applicant may submit more than one applications</i>):	56

(B) Break between government service and outside work

- Overall average break between cessation of active service and commencement of outside work recommended for approval: **14 months**
- Breakdown of cases recommended for approval –

Cases in which the applicant had already ceased active service for 6 months or more at the time of recommendation for approval of his/her outside work and no additional sanitization period was recommended <i>[Average break from cessation of active service: 20 months]</i>	60
Cases in which imposition of sanitization period of 6 months or more was recommended <i>[Average sanitization: 9 months]</i>	10
Cases in which the Advisory Committee recommended allowing the applicant to take up the specific outside work within 6 months from cessation of active service <i>[Average break from cessation of active service: 2 months]</i>	22 ¹
Total:	92

¹ The specific outside work included medical service (2 cases), educational work (6 cases), social service/religious/professional organizations (8 cases), international organization or the Central Authorities (2 cases), legal practice (2 cases), and recreational clubs (2 cases).

(C) Nature of post-service employment/business in the recommended applications

Education	29
Finance & Accounting	2
Information Technology	0
Legal	5
Management	13
Medical	3
Planning	2
Security	4
Works	5
Others	29
Total:	92

(D) Applicants' background

(i) By Age

Below 50	3
50 – 54	9
55 – 59	30
60 or above	14
Total:	56

(ii) By Salary Scale

D1 – D2	34
D3 – D4	11
D5 or above	11
Total:	56

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

Accounting	4
Disciplined Services	10
Education	2
Housing Management	2
Information Technology	0
Legal	4
Medical	2
Planning	2
Policy Formulation and Execution	12
Works	7
Others	11
Total:	<hr/> 56

**Post-retirement Employment of Former Non-directorate Officers
(1 January 2005 – 31 December 2005)**

(A) No. of applications

No. of applications processed:	1 180
No. of applications approved:	1 178
No. of applications rejected:	2
No. of applicants (<i>an applicant may submit more than one applications</i>):	985

(B) Nature of approved employment/business

Education	220
General Administration	205
Professional	61
Security	142
Technical	284
Others	266
Total:	1 178

(C) Applicants' background**(i) By age**

Below 50	436
50 – 54	217
55 – 59	279
60 or above	53
Total:	985

(ii) By salary scale

Below MPS Point 14	334
MPS Point 14 – 33	590
MPS Point 34 or above	61
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Total:	985

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

Administrative / Executive	99
Disciplined Services	203
Education	110
Housing Management	40
Medical	238
Works	55
Others	240
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Total:	985
