

Legislative Council Panel on Constitutional Affairs
System of Declaration of Investments and Interests
by Principal Officials under the Accountability System

Introduction

The Legislative Council Panel on Constitutional Affairs will, at the request of Members, discuss “System of declaration of investments and interests by Principal Officials under the Accountability System” at the coming meeting held on 25 July. We passed a set of “Registration of Interests and Affiliation with Political Parties for Public Inspection” filled by the Principal Officials under the Accountability System and the Director of the Chief Executive’s Office, and the relevant Guidance Notes, to the Panel Secretariat on 20 July. Moreover, as requested by the Clerk to the Panel, we have prepared this note to facilitate discussion.

The Code for Principal Officials under the Accountability System

2. The Code for Principal Officials under the Accountability System (“the Code”) applies to the Secretaries of Department and Directors of Bureau, i.e. principal officials under the accountability System (“POs”). It outlines the basic principles and requirements which POs should follow in the performance of their duties, including measures which aimed at preventing conflict of interest. The Code also applies to the Director of the Chief Executive’s Office, which is also a politically appointed position.

Guiding Principles

3. POs should observe the principles of fairness and impartiality in discharging their duties. They should avoid putting themselves in a position where they might arouse any suspicion of dishonesty, unfairness or conflict of interest, and should refrain from handling cases with actual or potential conflict of interest.

4. Without the written consent of the Chief Executive (CE), POs should not engage, or be concerned either directly or indirectly as principal, agent, director or shadow director, employee or otherwise, in any other trade, business, occupation, firm, company (private or public), chamber of commerce or similar bodies, public body or private professional practice. POs should ensure that there is no actual or apparent conflict of interest between his official duties and any interests that he may have in any organizations or bodies and that his interests in such organizations or bodies would not cause embarrassment to the Government, the CE or other POs of the Government.

5. POs should report to the CE any private interests that might influence, or appear to influence, their judgement in the performance of their duties.

Specific Requirements regarding Declaration of Investments/Interests

6. To prevent conflict of interest, specific requirements are set out in the Code to provide practical guidelines for POs on matters such as declaration and handling of investments/interests and arrangements on stepping down from office.

7. POs should declare their investments and interests for the purpose of securing public trust and confidence. Interests declared include land and buildings (including self-occupied property); proprietorships, partnerships or directorships; and shareholdings of 1% or more of the issued share capital in any company (both listed and unlisted). The declaration is made available for public inspection.

8. If it appears to the CE that there is or may be a conflict of interest between a PO's investments or interests and his official duties, the CE may require the PO to take any one or more of the following measures –

- (a) to divest himself of all or any of the investments or interests;
- (b) to refrain from acquiring or disposing of the investments or interests;
- (c) to freeze any investment transaction for a specified period;
- (d) to place the investments or interests in a “blind trust”;

- (e) to refrain from handling cases with actual or potential conflict of interest; and
- (f) to take other actions as directed by the CE.

Arrangements on Stepping Down from Office

9. Within one year after stepping down from office, POs should not represent any person in connection with any claim, action, demand, proceedings, transaction or negotiation against or with the Government; nor should they engage in any lobbying activities on matters relating to the Government.

10. POs should seek the advice of a committee appointed for this purpose by the CE before commencing any employment, becoming a director or a partner in any business or profession or starting any business or profession on his own account or with others within one year after stepping down from office. The proceedings of the committee are kept confidential, but the advice given should be made public.

Conclusion

11. The current system regarding declaration of investments and interests was drawn up in accordance with the Code for Principal Officials under the Accountability System. The employment contract of POs requires that they should comply with the provisions set out in the Code. The Code also provides rules and principles for appropriate conduct expected of POs. The system has been effective and transparent to the public in the past five years.

Constitutional and Mainland Affairs Bureau
July 2007