

**Select Committee to Inquire into Matters Relating to
the Post-service Work of Mr Leung Chin-man**

WITNESS STATEMENT OF DR ELIZABETH SHING SHIU-CHING

I, Elizabeth SHING Shiu-ching, was a member of the Advisory Committee on Post-service Employment of Civil Servants (ACPE) from 7 October 2002 to 6 October 2008. In preparing this witness statement, I set out the questions raised by the Select Committee and then provide my answers to the best of my knowledge.

Q1(a) Role and Duties in the Vetting and Consideration of Applications for Post-Service Work from Directorate Civil Servants

According to the Terms of Reference of the ACPE issued in 2005, the role and duties of the ACPE were:

- (a) To advise the Government on the principles and the 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.

Under the new arrangement which came into effect on 1 January 2006, all directorate civil servants, irrespective of their terms of appointment and the circumstances of their leaving the civil service, have been subject to control. The new arrangements govern post-service outside work for directorate civil servants on pensionable or new permanent terms who cease active service on or after 1 January 2006, as well as those on agreement terms who enter into new agreement on or after 1 January 2006.

Q1(b) Procedure for Considering Applications for Post-Service Work from Directorate Civil Servants by ACPE

The Civil Service Bureau (CSB) would submit applications and its recommendation to the ACPE for advice before submitting the application together with ACPE's advice to the Secretary for the Civil Service (SCS) for a decision. Apart from its recommendation, the CSB would provide ACPE with relevant information which is to do with the policy for vetting applications for post-service outside work by directorate civil servants, as well as the views

and assessments of the relevant Head of Department, Head of Grade and/or Permanent Secretary. An application might be approved with or without conditions/work restrictions imposed, or be refused.

The ACPE would study the recommendation and information provided by the CSB in relation to an application. Members of the ACPE would discuss among ourselves if there were matters in the documents provided which we did not understand. In case of doubt, we would seek clarification from the ACPE Secretariat.

Having considered the information provided by the CSB and found the recommendation to be reasonable, members of the ACPE would give their support individually in writing by completing a Reply Slip to the Secretary to ACPE recommending that approval be given to the applications concerned. While the above process was usually carried out by circulation, if the need arose, a meeting of the ACPE would be called to discuss the application concerned.

Q1(c)(i) Understanding of the circumstances under which a member of ACPE is required to declare interest in relation to an application for post-service work from a directorate civil servant

According to the Note on Declaration of Interest provided to the ACPE by CSB, when a member (including the chairman) has a potential conflict of interest in a matter placed before the ACPE, he/she should make full disclosure of his/her interest. The basic principle to be observed is that member's advice should be disinterested and impartial and it is the responsibility of each member to judge and decide if the situation warrants a declaration, and to seek a ruling from the chairman in case of doubt.

Some potential conflict of interest situations include:

- (a) A member or his/her close relative had a financial interest in a matter under consideration by the ACPE;
- (b) The applicant was a relative or a close friend of the member;
- (c) Any interest which might likely to lead an objective observer to believe that the advice given by the member might have been motivated by personal interest rather than a duty to give impartial advice.

Q1(c)(ii) Understanding of the factors to be taken into account in the consideration of an application for post-service work from a directorate civil servant

First of all, an application should adhere to the prevailing policy and the established process and criteria for such applications, including the (1) sanitization period, (2) final leave period, (3) control period, (4) standard restrictions on the scope of work and (5) blanket permission.

Under the vetting criteria, the key factors to be taken into account are whether there is any real or potential conflict of interest between the applicant's former government duties and the proposed work, and whether the applicant's taking up of the proposed work is likely to give rise to negative public perception. The specific considerations include:

- (a) whether the applicant, while in government service, had been 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, while in government service, had been 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 had been 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.

In applying the considerations above to an application, we would normally focus on the duties in which the applicant was involved during the last three years of his/her active government service. However, where the applicant is a directorate officer at D4 or above (or equivalent) or if the work handled is of particular sensitivity, duties prior to the three-year period may also be taken into account.

Furthermore, we would take into account an individual's right to work and to contribute his or her expertise and experience to the community after leaving the Government. This is an important consideration, especially when such expertise and experience is beneficial to Hong Kong.

Q2 Factors I had taken into account in considering Mr Leung's application

Based on the information given by the CSB, I had taken into account whether Mr Leung's application had adhered to the prevailing policy and the established process and criteria for such applications, including the (1) sanitization period, (2) final leave period, (3) control period, (4) standard restrictions on the scope of work.

Other factors which had been taken into account were whether there would be any real or potential conflict of interest between Mr Leung's former government duties and the proposed work, and whether Mr Leung's taking up of the proposed work is likely to give rise to negative public perception.

Consideration had also been given to the need to balance the directorate civil servants' right to work after leaving the Government and prevention of conflict of interest.

Q3 Reason for recommending approval of Mr Leung's application

First, the prevailing policy and the established process and criteria for vetting applications for post-service outside work by directorate civil servants had, in my view, been adhered to in the vetting of Mr Leung's application.

The paper which the CSB had prepared to facilitate the consideration of the ACPE noted that New World Development Company Limited was the parent company of New World China Land Limited, the company that Mr Leung sought permission to work in. It further noted that Mr Leung's proposed appointment with New World China Land Limited would involve overseeing the company's business in the Mainland only. It relayed the advice received from the two concerned bureaux and Head of Grade on Mr Leung's application. It also contained the views of CSB, namely that Mr Leung had left the posts of Director of Buildings and Permanent Secretary for Housing/Director of Housing for six years and over two years respectively, that Mr Leung had no previous dealings or business connection with New World China Land Limited, and that Mr Leung's proposed appointment with New World China Land Limited involved overseeing the company's business in the Mainland only.

Having taken into account the above information, I felt that the additional work restrictions imposed on Mr Leung would be enough to address the public perception issue. I considered it reasonable to recommend approval of the application based on the information given by the CSB provided that the specified additional work restrictions were imposed.

Q4 View on whether Mr Leung's taking up of the appointment with NWCL would constitute or give rise to problems of conflict of interest

Having regard to the above considerations, I agreed with CSB's view that the proposed appointment would unlikely constitute problems of conflict of interest, and that approval might be given to Mr Leung's application without further sanitization. However, given Mr Leung's former senior position in the Government and to address the public perception issue, I agreed with CSB's proposal to impose the following work restrictions in addition to the standard work restrictions:

- (a) He should not involve himself in any business of New World China Land Limited that is connected with Hong Kong;
- (b) He should not use or disclose any classified or sensitive information acquired while he was in government service in the course of his employment with New World China Land Limited;
- (c) He should not represent New World China Land Limited in any discussion with the Government; and
- (d) For avoidance of doubt, he should confine his proposed appointment to New World China Land Limited.

Q5 The personal relationship between myself and Mr Leung, and whether I have made any declaration of interest on Mr Leung's application

I do not know Mr Leung and I have not made any declaration of interest on Mr Leung's application.

Dr Elizabeth SHING Shiu-ching

24 March 2009