

For information

LEGISLATIVE COUNCIL PANEL ON PUBLIC SERVICE

Follow-up to meeting on 15 December 2008

Civil Service Code

Purpose

This paper summarises the views expressed during the consultation on the draft Civil Service Code (“the draft Code”), and attaches a copy of the finalised Code.

Background

2. On 15 December 2008, we consulted the Legislative Council Panel on Public Service (“the Panel”) on the draft Code (referenced LC Paper No. CB(1) 745/08-09). We also informed the Panel that we had commenced consultation on the draft Code, and undertook to revert to the Panel with a summary of the salient views expressed during the consultation.

Consultation

3. The consultation on the draft Code ended in the first quarter of 2009. During the consultation, we invited views from the staff sides¹, civil servants and politically appointed officials. We also uploaded the draft Code onto the homepage of the Civil Service Bureau for comments by interested members of the public.

4. During the consultation, we received a total of seven written submissions from staff associations, a civil servant, a LegCo Member and a member of the public respectively. We also noted the views expressed by various parties as reported in the media. A summary of the salient points of such submissions/views, categorised by individual sections of the draft

¹ Our established staff consultative mechanism comprises the four central consultative councils, namely, the Senior Civil Service Council, Police Force Council, Disciplined Services Consultative Council and Model Scale I Staff Council. In this consultation exercise, we have additionally covered the four major civil service-wide staff unions/associations, namely, the Government Employees Association, the Hong Kong Civil Servants General Union, the Hong Kong Federation of Civil Service Unions and the Government Disciplined Services General Union.

Code, is at **Annex A**.

5. At the Panel meeting on 16 February 2009, we listened to the deputations of two staff unions (the Government Disciplined Services General Union and the Hong Kong Federation of Civil Service Unions), and noted the submissions made to the Panel by the Staff Sides of the Senior Civil Service Council (including the Hong Kong Chinese Civil Servants' Association and the Hong Kong Senior Government Officers Association) and of the Police Force Council. The views expressed in these deputations and submissions were recorded/noted in the meeting minutes (referenced LC Paper No. CB(1)1647/08-09).

Finalised Code

6. Having regard to the comments made by various parties, we have reviewed the draft Code and revised it where appropriate. A copy of the finalised Code is at **Annex B**. It has just been promulgated to all civil servants (on 9 September 2009).

Civil Service Bureau
September 2009

**Summary of major views expressed
during the consultation on the draft Civil Service Code**

在諮詢期內就《公務員守則》擬稿所表達的主要意見總覽表

(I) 中文意見如下：

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
第 1 節	<p>《守則》擬稿的《引言》，在公務員與特區“小憲法”—《基本法》、與行政長官的關係方面，比《指南》有了較多的闡述，不過仍嫌不足、宜再補充。</p> <p>建議《引言》首段，先開宗明義說明：</p> <p>“根據《中華人民共和國香港特別行政區基本法》(下稱《基本法》)第 4 章的規定，香港特別行政區的政治體制包括行政長官、行政機關、立法機關、司法機關、區域組織及公務人員。”</p> <p>“特別行政區政府作為行政機關，在行政長官領導下，透過包括主要官員在內的全體公務人員去履行《基本法》規定的行政管理職責。”</p> <p>並可在適當位置加上：公務員須效忠及執行《基本法》，履行“一國兩制、港人治港、高度自治”。</p> <p>其次，建議《引言》增加如下內容：</p>	一公務員團體

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
	<p>(1) 闡明優質的公共服務(Quality Public Services)是社會繁榮安定和健康發展的基石。</p> <p>(2) 強調並概括闡明新時代下的香港，應擁有具有如下特質、能向全社會提供優質公共服務的公務員隊伍：穩定、廉潔、高效率、高質素、有國家觀念、能向市民高度問責、能有效處理危機及回應全球經濟一體化帶來的挑戰、對政府有向心力、對社會有歸屬感和承擔、政治中立、士氣高昂的公務員隊伍。</p> <p>(3) 為締造和維持這樣一支隊伍，各級公務員要更好地回應市民的期望和社會的需求，要努力提升自己履行職務、統籌兼顧執行政策以及處理危機的水準，要更好地裝備自己，擴闊視野、審時度勢。</p> <p>(4) 為此，全體政治委任官員與各級公務員均要共同努力，對內，構築夥伴合作型的公務員文化；對外，與社會各界共同構築社會夥伴關係。(《守則》只在涉及“公務員與政治委任官員共事”一節的第 5.10 段，才提到“公務員必須致力與政治委任官員建立有效夥伴關係和發揮團隊合作精神”，不論在主催或涵蓋方面都是不足夠、不完整的，宜予擴充並將之納入《引言》。)</p>	
<p>第 1.1 段</p>	<p>第 1.1 段以及其他各段所用的英文“...of the day”譯為“在任的……”，似非貼切，建議改為“當日的……”。</p>	<p>一公務員團體</p>

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
第 1.3 段	<p>第 1.3 段所提到的用人原則和紀律機制處理均為較具體的技術性問題，似應另開一段，並毋須列入《引言》之內。</p> <p>同段以及其他各段所用的英文“prevailing”譯為“當前”似非貼切，建議改為“當時”。</p>	一公務員團體
第 2 節	<p><u>關於《基本信念》</u></p> <p>為更明確公務員與《基本法》的關係，建議加上“忠於《基本法》”並作為公務員基本信念之首。把它僅僅放在《操守準則》的“堅守法治”項目下，並不足夠，有把特區的“小憲法”等同香港法律的貶意。</p> <p>在公務員政治中立方面，《公務員良好行為指南》（下稱《指南》）只有 4 個字，《守則》則有了較清晰的闡釋，這也是政府第一次這麼做。由於這項大原則十分重要，應把它放在較前的位置。各項基本信念也應在先後次序上作出必要調動。此外，公務員須廉潔奉公已是全社會的重要共識，若在項目清單的標題中列出會較好。</p> <p>建議《基本信念》清單修訂如下：</p> <ol style="list-style-type: none"> (1) 忠於《基本法》； (2) 緊守法治； (3) 政治中立； 	一公務員團體

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
	<p>(4) 盡忠職守，對特別行政區政府負責；</p> <p>(5) 廉潔奉公、誠實可信、守正忘私；</p> <p>(6) 行事客觀、不偏不倚；</p> <p>(7) 對所作決定和行動負責；以及</p> <p>(8) 全心全意、竭盡所能、專業勤奮。</p>	
第 3.2 段	<p>“堅守法治”項下表明，公務員“如在執行職務時發現任何懷疑舞弊行爲，須從速向廉政公署舉報；如屬其他刑事行爲，則應向警務處舉報”。這是否表明公務員可以而且應該繞過管理層或甚至部門／職系首長，直接舉報？當局宜澄清。</p>	一公務員團體
第 3.7 段	<p>在英國，永久性公務員可以稱爲永久性，因爲他們在工作上保持「政治中立」，不制訂政策，不上電視解釋政策。在國內，中央政府沒有「永久性」公務員和「短暫性」政治委任官員的區別，也沒有西方社會「政治中立」的概念。但是，香港政府既然採用了「永久性」公務員和「短暫性」政治委任官員的區別，也應該採用西方社會「政治中立」的概念，禁止永久性公務員上電視解釋政策。</p> <p>外國的政治領袖訪問香港時，經常被永久性公務員上電視的情況嚇到目瞪口呆，因爲他們無法相信，今天上電視介紹政策甲的永久性公務員，可以將來在新行政長官領導下，上電視推翻政策甲，而同時保持「政治中立」。嚴格來說，《公務員守則》擬稿將「政治中立」的概念扭曲，令香港永久性公務員與世界</p>	一報章報導

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
	先進社會脫節。	
第 3.7 及 3.8 段	在闡述政治中立原則的部分，重點放在公務員避免參與涉及「政黨活動」或「政黨的政治考慮」方面。這點當然正確。但在香港政治情況下，有不少政治活動家，例如許多沒有政黨背景的「獨立」立法會議員，都可能希望影響公務員隊伍的運作，所以公務員中立原則應該適用於「非政黨」的政治活動，而這些政治活動並不限於「助選活動」。所以建議《守則》在這部分作出適當的修改，確保日後不會有人把「政治中立」曲解為只是不受政黨影響。	一報章報導
第 3.7 – 3.10 段	<p><u>關於公務員政治中立</u></p> <p>《守則》較清晰闡釋了公務員政治中立的涵義，並把有關參與政黨活動及參選行政長官、立法會、區議會和出任政治委任官員的規定集中在《操守準則》內，有利於公務員參照。惟鑑於公務員政治中立這項大原則的重要性，以及仍有容易混淆之處，應再予宣示、強調、釐清，便於公務員日常參考。</p> <p>建議增補如下內容：</p> <p>(1) 公務員服務於當日的特別行政區政府，服務不受政府的換屆—行政長官／主要官員的更換所影響。</p> <p>(2) 公務員的個人政治傾向、取態、信仰、立場應不超越特別行政區的自治範圍及《基本法》雖無提及但中央規定的、有可能損害特別行政區與中央關係，因而</p>	一公務員團體

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
	<p>有礙特別行政區安定，甚至生存的界限，須審慎處理。</p> <p>(3) 公務員須忠誠地執行當日政府的政策：</p> <p>(a) 公務員須對中華人民共和國香港特別行政區政府負責，忠誠地執行當日政府的政策（這些政策由特別行政區最高負責者和決策者，即行政長官或其授權者制定），不論這些政策本人是否同意，或是否符合自己所屬意政黨的政策立場。</p> <p>(b) 公務員忠誠地執行當日政府的政策，將令特區政府得在中央政府的授權下，依法、順利、有效地管治香港，符合香港的整體、長遠利益。</p> <p>(c) 公務員作為公民的一份子，不論高中低級，當然可以保留本人的政治／宗教傾向、取態、信仰、立場，惟公務員不應因此影響特區政府對市民的服務。</p> <p>(d) 鑑於公務員同時兼有特區政府政策執行者、公共服務提供者、政府僱員及市民的身份，恰當處理公務員政治中立問題，可避免導致公務員與政府、其他公務員及市民出現混淆不清的矛盾。</p> <p>(e) 公務員應在《基本法》和香港法例的法律框架下對所有政黨／政團一視同仁，不偏向／偏幫或遷就某一個政黨／團，避免捲入政黨政治。</p> <p>(f) 公務員保持政治中立，忠誠地執行政府的政策，與參與下列事務並無衝突：</p> <ul style="list-style-type: none"> • 有關履行“一國兩制、港人治港、高度自治”的事宜； 	

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
	<ul style="list-style-type: none"> • 有關執行／宣傳／學習《基本法》的事宜； • 依法參與《基本法》規定的國家事務，例如港區全國人民代表大會代表的選舉； • 依法參與選舉委員會／行政長官提名委員會的選舉； • 參與中央人民政府、內地地方政府的活動； • 與中央人民政府駐港機構的交往； • 參與與其公職並無利益衝突的內地非官方團體／機構的活動； • 參與慶祝回歸紀念、慶祝國慶、有關國情教育的活動。 	
第 4 節	對照內容，單看這一章的標題：《主管當局》讀者似有不知所云之感，宜重擬。	一公務員團體
第 4 節	<p>近百年來，關於香港政治制度最重要的文件，首要二份是基本法及聯合聲明，《公務員守則》擬稿有潛質成為第三份最重要的政制文件，它不單只涉及永久性公務員，也涉及規定主要官員（及其他政治委任官員）的責任。三位司長和各主要官員可能問，為何永久性公務員在他們的《員工守則》規定上級的責任？《公務員守則》擬稿並沒有圓滿地解釋，為何公務員事務局局長有特權，可以不合邏輯地同時屬於「永久性」公務員和「短暫性」政治委任官員。要真正履行問責制，公務員事務局局長應該只可以屬於「短暫性」政治委任官員。</p>	一報章報導

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
第 4.1 段	其第 4.1 段末提到的“公務員須恪守這些規例、規則和指引……”應屬守法範疇，宜移去《操守準則》的“堅守法治”項下。	一公務員團體
第 4.1 段	<p>根據二〇〇二年時的安排，公務員事務局局長有權處理所有涉及主要官員（包括政務司司長和財政司司長）的投訴，如果事件未能解決，公務員事務局局長會把自己的意見連同個案一併提請行政長官裁決。涉及公務員事務局局長的投訴會由行政長官辦公室直接處理。</p> <p>根據《守則》擬稿，雖然文件說明「公務員事務局局長須就公務員政策和公務員隊伍的管理事宜，向行政長官負責」，但假如令公務員擔憂的事件提升至公務員事務局局長的層次仍未解決，則公務員事務局局長須按情況把個案提交政務司司長或財政司司長親自處理（見擬稿第7.8段）。這個安排矮化公務員事務局局長的角色，亦有意無意地容許政治委任的司長（特別是與公務員事務局局長沒有從屬關係的財政司司長）直接裁決涉及公務員管理的投訴。一個弱勢的公務員事務局局長對維護公務員做事不偏不倚的原則沒有好處。</p>	一報章報導

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
第 5 節	<p>《守則》較清晰列明了政治委任制度下的主要官員、副局長和政治助理的主要職責，又列明常任公務員與他們的分野，有助雙方的合作，由於副局長和政治助理剛剛引入，不僅與常任公務員的共事屬全新事物，與主要官員的共事也屬全新事物，不僅彼此需要磨合及相互適應，也需要時間去累積經驗及在一段時間後予以檢討，對此，議員、政黨／政團、傳媒等無必要反應過於負面，更不應事事挑剔、上綱上線，宜給予時間、給予包容和協助。有關方面則宜虛心聽取意見、‘有則改之’，‘無則加勉’。否則任何新生事物均會夭折，任何新嘗試永無出頭之日，港人的探索、創新思維將被扼殺。此絕非香港之福。</p>	一公務員團體
第 5 節	<p>對《守則》感到失望，有關《守則》未有清晰列明問責官員與公務員之間的權責關係，若執行政策出現爭議，「公務員仍有機會成為批評的擋箭牌」。</p>	一報章報導
第 5 節	<p>公務員一向問責、一向負責，犯錯要接受紀律聆訊，不明白《守則》要提及公務員的責任角色，質疑在增設多兩重政治任命官員後，是否動不動便要公務員「你要負責、你要下台」，擔心政治任命官員犯錯都要推卸責任到公務員，影響公務員中立。</p>	一報章報導

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
第 5.1 段	<p>近年才引入的行政長官辦公室主任，在香港的政治制度扮演的角色十分重要，此職位在《基本法》中不存在，不屬於永久性公務員，但奇怪地，此職位的責任卻在《公務員守則》擬稿中列出，包括與各主要官員協調，他的職責是否重複政務司司長的職責？</p>	一報章報導
第 5.2 及 5.3 段	<p>當局向立法會提交的《守則》擬稿指，主要官員有責任處理與立法會有關事務，亦有責任向立法會、政黨及傳媒等進行游說，副局長則負責協助司局長處理包括立法會相關的政治工作，並與傳媒、政黨及區議會等保持密切聯繫，但並未說明「有責任」是表示一定要帶隊到立法會出席會議，或若局長有事，就由副局長帶隊到立法會。</p>	一報章報導

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
第 5.5 段	<p>香港面對的選擇很簡單，行政長官應該依賴誰？依賴受他委任的政治任命官員？還是依賴非受他委任的永久性公務員？照常理，行政長官多數會依賴受他委任，共同進退的政治任命官員（包括行政會議成員），《基本法》第五十四條明文規定，行政會議是協助行政長官決策的機構，但《公務員守則》擬稿擬將協助制訂政策的權力（它叫「責任」）賜給永久性公務員，該擬稿是由公務員事務局提稿，公務員隊伍在此的「利益衝突」問題，非常棘手。</p> <p>法律上，《公務員守則》擬稿可能侵犯《基本法》第五十四條，《公務員守則》絕對不是修改《基本法》的適當工具，未來的爭議，對香港政府的穩定性沒有幫助。今屆全體行政會議尚未正式表示同意公務員隊伍「自動獻身」，在行政長官未表態前，行政會議不方便表態，但在行政長官表態後，行政會議便不需要表態，今屆行政會議的內心矛盾，香港居民未必了解。假設今屆行政會議「同意」永久性公務員可以齊齊參與協助行政長官決策，當一件事可以有二組人負責時，每組人的責任感便會減少，混亂的機會便會增加，或者甲組以為乙組做，乙組又以為甲組做。哪一組協助行政長官制訂政策？這個問題真是愈搞愈亂，愈搞愈糊塗。看來《公務員守則》擬稿可能會激化行政會議與永久性公務員奪取「協助行政長官決策權」的明爭暗鬥。</p>	一報章報導

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
第 5.6 段	公務員「也須協助政治委任官員尋求立法會批撥所需款項和其他資源，並闡明理據。」同意有時理據涉及技術因素或詳細數字，公務員負責解釋比較適合。但副局長或政治助理在什麼情況下須出席立法會財務委員會及其轄下的人事編制小組委員會及工務小組委員會，亦應該有清楚的規定。現在政府有不少撥款申請的政治敏感度絕對不低！	一報章報導
第 5.6 段	不少副常任秘書長級別官員或助理秘書長官員私下指，是否增設了副局長後，他們職責是否主要協助局長制定政策，毋須出席立法會解畫；但《守則》指出，較高層公務員除制定政策或建議，如有需要，須出席行政會議解畫，亦須向立法會、區議會、持分者解畫，意即高級公務員的工作不會因增設副局長後，毋須向立法會解畫。	一報章報導
第 5.6 段	《守則》指公務員在有需要的情況下，須出席行政會議，協助問責官員向立法會、區議會及傳媒等，闡釋政府政策或措施，並協助問責官員尋求立法會批撥所需款項和其他資源，但並未說明「如有需要」是由誰來決定的。	一報章報導

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
第 5.6 段	與其說《公務員守則》釐清分工，不如說是把政策局內公務員與政治官員的工作勉強融合，變成你中有我、我中有你。例如《守則》規定公務員在「有需要」的情況下，必須出席行政會議、立法會、區議會和傳媒節目等，協助闡釋政策或措施，這等於認可目前分工不清的混亂狀態。	一報章報導
第 5.6 段	<p>政治任命官員是由行政長官任命，由行政長官遣使，他們的首要工作，是協助行政長官，包括制訂及解釋政策，然後由十七萬永久性公務員執行政策。但是，《公務員守則》擬稿將公務員的職責，伸展（增加）到制訂及解釋政策。《公務員守則》擬稿提及《香港基本法》第九十九條及第六十條，但該兩條文沒有規定公務員的職責包括制訂政策。</p> <p>如果《公務員守則》擬稿全面落實，當永久性公務員與短暫性政治任命官員的觀點不同時，短暫性政治任命官員不敢或不能自行制訂政策，永久性公務員不會執行尚未制訂的政策。整個政府或有關部門，可能會停滯不前，或經常要行政長官協調，影響效率，如有特別事故，香港居民必定是「不動政府」或「被動政府」的最終受害者。</p>	一報章報導
第 5.7 段	《守則》最精彩的一段，是分工安排產生疑問時，由司局長、副局長與常任秘書長按工作所涉及的政治敏感度安排分工，莫非這就是政務司司長口中凸顯「團體精神」的「集體決定」？	一報章報導

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
第 5.7 段	<p>公務員須協助政治委任官員向立法會、區議會、政黨、傳媒及公眾介紹和闡釋政府政策或措施，原則上沒有問題。但何謂協助？具體如何分工？《守則》擬稿說明在有疑問的情況下，「有關主要官員應與屬下的常任秘書長仔細考慮該職責或工作所涉及的政治敏感度，並決定應由政治委任官員或公務員負責處理。」這個說法，彈性很大。何謂政治敏感度？敏感度高達什麼級數，才由「政委」負責？</p> <p>在擴大問責制下，局長有副局長及政治助理，政治性或政治敏感的工作，原則上不應由公務員去處理，如果政府認為擬稿的安排有需要，那最好是把準則說得清楚，及把工作分得仔細。舉一個例子，目前商務及經濟發展局發表的有關檢討淫褻及不雅物品條例的諮詢文件，是交由副局長去處理，這是個別情況或是會成為慣例？以後政府的政策諮詢文件是不是由「政委」負責？又舉另一個例子，在英國，公務員不會就政府政策公開發言，只會在有需要時，向部長或副局長遞字條，或者只是負責解釋目前政策的執行情況。現時問責制多了兩層，公務員依然需要處理政治敏感的工作，是否合理？這是值得大家關注的問題。</p>	一報章報導

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
第 5.7 段	至於對某工作應由問責官員或公務員負責產生疑問時，《守則》只籠統說有關司長應與其常任秘書長及副局長考慮所涉的政治敏感度來作決定。	一報章報導
第 5.7 段	在概念上，《公務員守則》沒有清楚處理「領導」及「執行」，反而引進不必要、混亂，及反效率的機制，例如要求主要官員，在「政治敏感」的情況下，必需與常任秘書長和副局長作「集體決定」，才可執行。沒有「集體決定」，主要官員怎麼辦？要求常任秘書長參與「政治敏感」的考慮，等於要求永久性公務員放棄「政治中立」，對一心想隔離政治考慮，專心行政，希望誠實地遵守「政治中立」的永久性公務員不公平。	一報章報導
第 5.8 段	在《守則》中有提及，當政策和行動決定後，不論個人意見如何，「不應試圖妨礙或阻撓政治委任官員所制訂的政策或作出的決定，也不應延誤政策的執行……應保密處理他們或其他公務員曾向政治委任官員提供的建議或意見」，更不得向公眾提出異議，顯見執行有問題時，提出不同意見的公僕可能首先會被懷疑。	一報章報導
第 6 節	此一節的第 6.1 段專門闡述公務員與政治委任官員的工作和從屬關係。但它的開頭第一句“公務員必須廉潔守正，並竭盡所能為在任政府服務”與此節有關內容無必然關係，宜刪去。 有論者認為，有了政治委任官員，在立法會等場合解釋、捍衛和推銷政府政策等工	一公務員團體

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
	<p>作均只應由他們負責，這種觀點其實並不正確。</p> <p>引入主要官員問責制，政治委任官員制度的最大目的，應該是提高和強化特區政府的良好管治(good governance)。其他諸如培養政治人才，承擔政治責任等等實質上說到底皆是手段。</p> <p>處理政治議題、作出政治考慮的工作，自然應由政治委任官員來承擔，並無疑地必須為政府的決策，政治考慮的最終責任負上政治責任（包括引咎辭職）。這項政治責任不應由常任公務員承擔。政黨／政團、議員、傳媒、社會人士不應把這責任推向常任公務員。對此，《守則》應更清晰地闡明。</p> <p>惟有關公務員（例如常任秘書長、署長等首長級公務員—他們的薪酬並無因兩層政治委任官員的引入而減少）仍可繼續分擔在不同場合解釋、捍衛和推銷政府政策、以及走入群眾、了解民情等工作（只是有如上所述，毋須為此承擔政治責任）。現實上這不單仍有需要，也可提高特區政府整體的施政能力、處理政治議題的能力，有利一支為社會整體利益，提供優質公共服務的公務員隊伍的建立。此舉還可為公務員隊伍培養政治人才，為社會多提供一個政治人才的來源。</p>	
第 6.1 段	<p>《公務員守則》擬稿嘗試釐清問責官員與公僕的權責，但有意見指出要公務員「無畏無私地向政治委任官員提供周詳、坦誠和持平的意見」，本來問題不大，只是當你明知意見與政治任命官員相違背時，提出意見後，卻可能有不少的風險，例如政策執行時失敗，可能被指未有盡力執行成為代罪羔羊。</p>	一報章報導

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
第 6.4 段	<p>根據《守則》擬稿第 6.4 段，副局長以至政治助理可以代表主要官員或要求公務員預備和提供資料及數據。但這些可能涉及大量工作的要求無須經過常任秘書長過目或同意，確保有實際需要。這個安排可能產生兩個不良後果，一是一要求很多，令公務員疲於奔命，或借機增加人手，開設應付政委要求的新職位，在你追我趕的情況下，政委及高級公務員人數齊齊增加，愈忙愈多人，愈多人愈忙，充分體現帕金森定律（Parkinson's Law）。第二個不良後果是這些資料性的要求未必實際，而副局長或政治助理有否濫用主要官員的「令箭」，有時也很難核實（除非有仔細規定）。因此，「政委」和公務員就這些要求發生衝突，便會經常發生。解決這問題的唯一辦法就是把這些要求的規定、範圍、程序寫得清楚。這對兩方面都有好處。</p>	一報章報導
第 6.4 段	<p>有指《守則》內權責方面非常含糊，例如《守則》內提及日後副局長及政治助理可以代替局長，吩咐常秘或其他公務員做事，「（公務員與政治委任官員）直情係有從屬關係」。</p>	一報章報導
第 6.4 及 6.5 段	<p>任何政策的制訂，必須有適當的數據及事實作根據。在一般的情況下，永久性公務員的責任是提供數據及事實，給予政治任命官員作參考，作為政策制訂的基礎。可是，《公務員守則》擬稿卻指示，永久性公務員整體上不是從屬於政治任命官員，而一般永久性公務員的職業前途，並不受政治任命官員評核。換句話說，永久性公務員可以名正言順地「獨立」運作，香港現在的民主訴求，《基本法》第四十五條行政長官最終由普選產生的最終目標，在《公務員守則》擬稿全部落實後，便變得毫無</p>	一報章報導

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
	意義了。	
第 6.5 段	有指公務員如有錯及接受懲罰，須按紀律聆訊一套規則，公務員與政治任命的官員權責要清楚，不可把政治任命官員的責任推在公務員身上。但《守則》目前指公務員與副局長們沒有從屬關係，與事實不符，因副局長會署任，定有從屬關係。現有三層政治任命人員中，究竟邊個問責，政府要作出澄清。	一報章報導
第 6.5 段	<p>《守則》列明政治任命官員與公務員無從屬關係，但只寫明副局長「不會也不應被要求評論常任秘書長的工作表現」，但「與副局長在工作上有密切聯繫的公務員，其公務員上司可徵詢副局長的意見，作為評核有關公務員工作表現的參考。」實在有雙重標準，難道常秘與副局長無密切工作關係。另外亦有質疑，是否那些與副局長有密切工作關係的公務員，也可以應局長的查詢，評核副局長的工作表現？</p> <p>既然問責官員與公僕是兩個不同系統，實在無必要由不同系統的人來作評核，相信公務員的上司已有足夠的資料評核其表現。甚至有問責官員也認為，副局長毋須進行評核工作，建議取消相關條文，以確保兩個系統的獨立性。</p>	一報章報導
其他	<p>與《公務員良好行為指南》比較</p> <p>回歸後，特區政府曾於 1999 年頒佈了《指南》(Civil Servants' Guide to Good Practices)。《指南》說明了各級公務員應有的良好行為，羅列了公務員須堅守的基</p>	一公務員團體

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	<p>本信念。其後，因應新的經驗教訓，於 2005 年作了一些修訂，新增了有關公職人員行為失當的內容。</p> <p>與之比較，新的《守則》擬稿是在《指南》的基礎上撰寫的。《守則》羅列的基本信念，與《指南》基本相同。不過《指南》所闡釋的公務員須遵循的一些良好行為，如“勤奮不懈”、“督導屬員”不見了；“誠實正直”變身為《守則》的“誠實可信”，但內容大為縮減。獨立成章的“公職人員行為失當”一篇也不見了。</p> <p>《指南》有關利益款待、利益衝突、申報投資、外間工作及離職後就業、廉潔守正的內容被全部濃縮在《守則》的“守正忘私”段內；原來的《常見問答》附件沒有了，代之的附件羅列了與公務員品行和操守有關的《公務員事務局規例》、公務員事務局通告和通函的編號和標題的一份索引清單，這是《指南》所沒有的。好處是不瑣碎，索引集中在一起，便於需要時跟蹤翻查，但相關內容散見不同的規例、規則、指引，却又不便一般公務員查閱，不及《指南》的一目了然。</p> <p>整體而言，在表述的形式上，《指南》似較簡潔易讀，《守則》則多了大段大段的文字，少了可讀、可親近的感覺，建議作出修改。</p> <p>在《守則》面世後，原《指南》應作何處理？某些有用的內容沒有放在《守則》內，會不會放在別處？當局宜作交代。</p>	
其他	<p><u>適用於非公務員僱員問題</u></p> <p>公務員事務局表明，公務員須恪守這份《守則》闡述的基本信念及操守準則。由於公務員隊伍中有相當多不具公務員身份的合約僱員，也有暫委法官等，本《守則》</p>	一公務員團體

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
	的各項規定，除個別外，是否適用於他們？當局宜交代。	
其他	<p><u>定期檢討</u></p> <p>《與政治委任官員的關係》和《溝通、投訴和申訴機制》兩節闡釋了公務員與政治委任官員之間的工作關係，應能澄清一些疑慮，有利雙方的合作。然而，當局在草擬《公務員守則》擬稿時，副局長、政治助理才引入不久，建議當局根據未來累積的更多經驗，定期進行檢討。</p>	一公務員團體
其他	當局草擬《守則》時黑箱作業，未有諮詢職方意見。	一報章報導
其他	《守則》措詞含糊，未有吸取近期的士堵塞機場事件的教訓，不僅未有清楚釐清公務員與副局長之間的權責，反而製造更多混亂。有公務員工會代表更斥當局草擬《守則》時沒有諮詢職方意見。	一報章報導
其他	《守則》只是「過時嘅規定」，因未有吸取近期泰國包機事件及的士堵塞機場事件所反映的教訓。此外，亦有批評《守則》無訂明局長有承擔政策失敗的責任，又無讓公務員在提出意見後，若不被局長接納可備案的權利，更無提及在局長不在港時的處理方法，質疑《守則》只是製造更多混亂。	一報章報導

Section/ paragraph number of draft Code 《守則》擬稿的 節/段落	Views 意見	By 提交者
其他	<p>有批評《守則》只回應了公務員一旦面對局長指令，令他們違反誠信和政治中立原則時，可「越級」投訴至司長和特首，但並沒有處理問責制的癥結，「誰是政策成敗最終負責者，例如『包機』事件中，一句『集體負責』是否代表常任秘書長下的公務員也有份呢？」</p> <p>此外，「包機」事件也突顯當局長不在港時，即使有副局長署任，但與常秘互不從屬，解決不到「政策真空」的情況。</p>	一報章報導
其他	<p>香港的問責制只實行了幾年，副局長更只有半年，不似英國等國家，有很深厚的傳統和慣例，例如公僕根本不必到議會解釋；但在香港官場，政治和政策怎樣劃分，很難講得清，惟有慢慢摸索，現時這份指引，只是主要寫出問責官員和公務員的從屬關係等，權責分野仍有很多灰色地帶。</p>	一報章報導

(II) Views in English are set out below:

<p>Section/ paragraph number of draft Code 《守則》擬稿 的節/段落</p>	<p>Views 意見</p>	<p>By 提交者</p>
<p>Para 1.4</p>	<p>The last sentence states that “<i>Failure to comply with the Code may render a civil servant liable to disciplinary action.</i>” Given that paragraph 5.10 also admits that “<i>The division of role and responsibilities between politically appointed officials and civil servants relies on a good working relationship, and the maintenance of mutual trust and confidence</i>”, whether civil servants can satisfactorily fulfil some requirements set out in the latter sections may, to some extent, be subject to factors outside their own control. As such, there are concerns about how disciplinary action will be triggered in practice if the Code covers more than the core values and standards of conduct.</p>	<p>A staff association</p>
<p>Para 1.4</p>	<p>It is agreed that there should be Core Values which civil servants are required to uphold so as to maintain the public confidence. In the Code, there are corresponding Standards of Conduct which may be construed as examples of actions that should, or should not, be taken by civil servants. However, there is no clear and explicit indication in the Code as to whether breaches of the Core Values would lead to disciplinary action or not, and if that is the case, the threshold at which the Core Values are breached that would lead to disciplinary action. It is stipulated in paragraph 1.4 that failure to comply with the Code may render a civil servant liable to disciplinary action. It is considered that there should be clear and defined differentiation between the disciplinary contraventions prescribed in the Code and the disciplinary codes of the respective bureaux issued to cater for their own area of responsibility.</p>	<p>A civil servant</p>

Section/ paragraph number of draft Code 《守則》擬稿 的節/段落	Views 意見	By 提交者
Paras 3.7 and 3.8	<ul style="list-style-type: none"> • The third sentence states that “They (civil servants) shall bear in mind that party political considerations are for politically appointed officials to address.” However, the job nature of some posts may require the post holders to take into account party political considerations in their work on a day-to-day basis. When they do so, they are actually acting in accordance with the code in paragraph 3.6, i.e. carrying out duties in accordance with the policies and decisions of the Government of the day. As such, consideration may be given to removing the above sentence altogether to avoid confusion, or paragraph 3.7 should be qualified appropriately. • Political parties may not be confined to organisations that have certain political belief or stance. Paragraphs 3.7 and 3.8 may therefore need some adjustment in this regard. 	A staff association
Paras 3.11 & 5.1	The draft code, especially paragraphs 3.11 and 5.1, should be re-worded to properly reflect the accountability system.	A staff association

Section/ paragraph number of draft Code 《守則》擬稿 的節/段落	Views 意見	By 提交者
Para 4.2	<p>The interface between the Code and departmental codes is an important issue. It should be considered carefully what sort of misbehaviours, and of what severity, would lead to disciplinary action.</p>	A civil servant
Section 5	<p>The draft spells out in generally accurate terms the statutory, operational, administrative and managerial responsibilities of civil servants. It however understates the continuing policy role of civil servants, especially that of senior administrative officers. Although paragraphs 5.5 and 5.6 of the draft code do attempt to describe the role of senior civil servants in providing policy input to principal officials, they understate the on-going heavy policy input provided by senior civil servants. As the political tier in Hong Kong’s governmental structure is thin and underdeveloped at this stage, and will probably remain so for some time, civil servants play a much bigger role in influencing and making policies than suggested in the draft code. The “charter flight incident” which occurred at the end of last year is a case in point. Decisions to rely on commercial flights as opposed to arranging special charter flights were apparently handled by senior civil servants until an advanced stage in the development of the ensuing crisis. In reality it is likely that civil servants exert much greater influence on policy-making, especially in bureaux led by rookie outsiders with little government or public policy experience, than suggested in the draft code.</p>	A member of the Legislative Council

Section/ paragraph number of draft Code 《守則》擬稿 的節/段落	Views 意見	By 提交者
Para 5.6	<p>With the further development of the political appointment system in Hong Kong, it is high time the government enhanced the protection of civil servants' anonymity in this respect. Unfortunately, the draft Code still requires them to participate in public debates and to assist ministers in presenting, explaining and justifying policy proposals in the legislature and before the public. This kind of public engagement in politics does not argue well for the political neutrality of the civil service and will easily politicise individual civil servants or create a perception among the public that these civil servants, not the policy secretaries, should be politically accountable.</p>	A newspaper report
Para 5.8	<p>This paragraph needs to distinguish the performance of official duties from the actions of employees in pursuing legitimate needs with respect to their employment and welfare issues and policies that directly affect the welfare of civil servants.</p>	A staff association
Para 5.9	<p>An ambiguity in the draft code relates to civil servants who are also controlling officers. The draft Code makes them responsible for the efficient and effective use of departmental resources under their charge. At the same time, it also requires them to use such resources in compliance with the directions and decisions made by their principal officials. What happens if such directions and decisions are, in the view of the controlling officer concerned, inconsistent with the efficient and effective use of such resources?</p>	A newspaper report

Section/ paragraph number of draft Code 《守則》擬稿 的節/段落	Views 意見	By 提交者
Section 6	There are a lot of points in the draft Code which should be amended, especially on the relationship between civil servants and political appointees. The wording is too general and it will cause further anxiety among civil servants if not improved.	A newspaper report
Section 6	The draft Code regulating the relationship between civil servants and politically appointed under secretaries was very ambiguous, partly because it made civil servants de facto subordinates.	A newspaper report
Para 6.4	The draft Code is unclear in that it says both under secretaries and political assistants can order the permanent secretary on behalf of the secretary, without knowing whether the order actually comes from the secretary.	A newspaper report
Paras 6.4 & 6.5	Even assuming that the draft code becomes a real code, its contents provide much leeway for confusion. Aside from the predictable words about how both parties should strive to work amicably together, there is much vague talk about what the mini-ministers can and cannot do. They could, for example, be asked to provide input on work appraisals for civil servants and they may ask civil servants to perform special tasks – but, on the other hand, they may not and, even if they do, they need to keep permanent secretaries informed of their requests. However, it is not clear who takes the lead on politically sensitive matters – indeed, no one quite knows what falls into the category of politically sensitive.	A newspaper report

Section/ paragraph number of draft Code 《守則》擬稿 的節/段落	Views 意見	By 提交者
Para 6.5	<p>Again it is understandable that the civil service wants to keep the political tier and the civil service separate, in not assigning any formal responsibility for staff appraisal to politically appointed officials, other than to the principal official who will have inescapable responsibility for supervising and assessing the performance of his or her permanent secretary. Yet it is well-established civil service practice to <i>consult</i> widely before writing a performance appraisal report. It is not unusual for supervising officers, even before the installation of the Political Appointment System, to consult non-official members or other close work associates of the officer under appraisal, before finalising the performance appraisal. The appraising officer is inevitably influenced by the opinions of those who come into contact with the officer under appraisal. Thus, in paragraph 6.5, the injunction that under secretaries should not be asked to comment on the performance of permanent secretaries etc, may be too rigid and unrealistic. In any event, it conflicts with the sentence which follows.</p>	A member of the Legislative Council
Para 6.7	<p>Instead of stating that politically appointed officials are generally not involved in issues affecting civil services' careers, it is suggested that the exceptions under which politically appointed officials would be involved should be spelt out explicitly to avoid unnecessary concern and confusion.</p>	A staff association

Section/ paragraph number of draft Code 《守則》擬稿 的節/段落	Views 意見	By 提交者
Section 7	<ul style="list-style-type: none"> • The number of tiers of politically appointed officials currently proposed to be involved in assessing the complaint cases may appear to be on the high side and that the proposed mechanism should be streamlined. • The relevant heads of grade should also be involved in dealing with cases under the proposed complaint and redress mechanism. 	A staff association

Section/ paragraph number of draft Code 《守則》擬稿 的節/段落	Views 意見	By 提交者
Section 7	<ul style="list-style-type: none"> • The wish to protect civil servants from political interference is thoroughly understandable. At this point in time, when the political class is budding and likely to be heavily reliant on support from their civil servants, such political interference is unlikely to constitute anything near to a real threat. But blatant interference has occurred in mature democracies, such as the US. In the US, in the administration of President George W. Bush, it is well known that Defense Secretary Rumsfeld had fired generals who disagreed with him; the White House had played an improper role in firing attorneys which did not give advice on political lines and had suppressed scientific evidence which the political masters did not like. To deal with such abuse, the US administration has set up an Office of Professional Conduct in some departments, prominently the Justice Department. Such offices allow complaints about political interference to be reviewed only by senior professional officers, separate from the political stream. If all such complaints end up on the desk of the President or his Chief of Staff, obviously no real redress is likely to be forthcoming. It is also open for aggrieved staff to complain to Congress. • Such blatant interference is unlikely to occur in Hong Kong in the foreseeable future. But if such gross interference did occur, it would not make sense to invite the Chief Executive, himself a political figure, to be the ultimate arbiter. Such complaints should be handled by an independent professional authority separate from the political stream. It would also be open for aggrieved officers, or their staff associations, to take such complaints to the Legislative Council. 	A member of the Legislative Council

Section/ paragraph number of draft Code 《守則》擬稿 的節/段落	Views 意見	By 提交者
Section 7	<p>The Secretary for the Civil Service should continue to be the authority to handle complaints from civil servants relating to other principal officials. This principal official post should be brought back to the civil service from the political appointment system so that the post-holder may act in the capacity of the professional head of the service in defending its integrity and neutrality.</p>	A newspaper report
General	<ul style="list-style-type: none"> • The Civil Service Code should only cover fundamental principles and rules which should be upheld and observed at all times and under all circumstances, and it should not be amended once promulgated unless with exceptionally good reasons. • Given that our political appointment system is evolving and hence the conventions and rules governing these aspects may need to be reviewed from time to time, the respective roles and responsibilities of the civil service and the political tiers and the relationship among them should be separately addressed in another document, perhaps in the form of CSB Circular, which can then be updated periodically. • Some wordings of the draft Code appear to be rather abstract or high sounding. It is difficult to understand how the performance of civil servants will be assessed on the basis of these wordings, and particularly when disciplinary action may be triggered in cases of non-compliance with certain provisions. It may be useful to include some “must do” and “must not do” examples for better illustration. 	A staff association

Section/ paragraph number of draft Code 《守則》擬稿 的節/段落	Views 意見	By 提交者
General	<p>Following the installation of a political tier in government, the wish to more clearly define the code of conduct and responsibilities of civil servants and their respective role and relationship with politically appointed officials is understandable. It is important to bear in mind, however, that at this stage in the HKSAR's political development, the political class is new and the relationship between the political class and the supporting civil servants is evolving. The under secretaries and the political assistants are a recent creation. Most of them are still finding their feet. In these early days it is unrealistic to expect that the respective roles of the political appointees and the civil servants, and their relationship, can be conclusively spelt out and wrapped up in a civil service code. It would be unwise to expect the final document to be a conclusive description of a tricky, evolving situation.</p>	A member of the Legislative Council
General	<p>The draft Civil Service Code is in order and serves the intended purpose.</p>	A staff association
General	<p>Enquired whether Non-Civil Service Contract (“NCSC”) staff is required to comply with the requirements of the Civil Service Code and whether the NCSC staff is invited to make comments on the draft Code.</p>	A member of the public

CIVIL SERVICE CODE

1 Introduction

1.1 The Civil Service is the backbone of the Government of the Hong Kong Special Administrative Region. It is responsible to the Chief Executive. It supports the Chief Executive and the Government of the day in formulating, explaining and implementing policies; conducting administrative affairs; delivering public services; and undertaking law enforcement and regulatory functions. It serves the community, and contributes to the effective governance and stability and prosperity of Hong Kong.

1.2 Article 99 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (hereafter referred to as "the Basic Law") states "... Public servants must be dedicated to their duties and be responsible to the Government of the Hong Kong Special Administrative Region". Article 60 of the Basic Law states "The head of the Government of the Hong Kong Special Administrative Region shall be the Chief Executive of the Region...". Article 48 provides that the "Chief Executive of the Hong Kong Special Administrative Region shall exercise the powers and functionsto appoint or remove holders of public office in accordance with legal procedures....". Civil servants, being a key component of the public service, have the constitutional role to give their best in serving the Chief Executive and the Government of the day.

1.3 Civil servants are appointed, managed and promoted on the basis of merit and in accordance with the principles of openness and fairness and with the prevailing rules and regulations applicable to the Civil Service. They are subject to the prevailing disciplinary system for the Civil Service, under which allegations of misconduct against individual civil servants are determined through an impartial process based on consideration of factual evidence. The independent and statutory Public Service Commission advises the Chief Executive on the appointment, promotion, conduct and discipline of civil servants under the Public Service Commission Ordinance (Chapter 93 of the Laws of Hong Kong).

1.4 The *Civil Service Code* sets forth the core values and standards of conduct of civil servants. It also sets out the general duties and responsibilities of civil servants in relation to officials under the political appointment system (hereafter referred to as "politically appointed officials"). Civil servants should familiarise themselves with the contents of the *Code* and comply with it.

1.5 The *Civil Service Code* is to be read in conjunction with the *Code for Officials under the Political Appointment System* which all politically appointed officials are required to comply with. In this context, politically appointed officials consist of -

- (a) principal officials under the political appointment system (i.e. the Secretaries of Department and Directors of Bureau) (hereafter referred to as “principal officials”);
- (b) Director of the Chief Executive’s Office;
- (c) under secretaries (i.e. Deputy Directors of Bureau); and
- (d) political assistants.

The Secretary for the Civil Service, who is one of the principal officials and a Director of Bureau, has a special role as explained in sections 3, 4, 6 and 7 below.

2 Core Values

2.1 The Civil Service is a permanent, honest, meritocratic, professional and politically neutral institution. The core values set out below are central to the integrity and probity of the Civil Service. They underpin good governance and help the Civil Service gain and retain the respect and confidence of the public.

2.2 Civil servants are required to uphold the following core values, which are of equal importance -

- (a) commitment to the rule of law;
- (b) honesty and integrity;
- (c) objectivity and impartiality;
- (d) political neutrality;
- (e) accountability for decisions and actions; and
- (f) dedication, professionalism and diligence.

3 Standards of Conduct

3.1 Based on the above core values, civil servants are required to follow the standards of conduct set out below.

3.2 ***Commitment to the rule of law:*** Civil servants shall uphold the rule of law and the administration of justice. They shall exercise executive powers in compliance with the Basic Law and the Laws of Hong Kong. When making decisions, they shall act within the scope of the power or discretion conferred on them, and within their delegated authority as relevant. They shall always observe due process. They shall report promptly, either directly or through their bureaux/departments as appropriate, to the Independent Commission Against Corruption any suspected corrupt act or to the Police other criminal act encountered in discharging their duties.

3.3 ***Honesty:*** Civil servants shall set out facts and relevant issues truthfully, and correct any errors as soon as possible. They shall use public resources only for the authorised purposes for which the resources are provided.

3.4 ***Integrity:*** Civil servants shall ensure that no actual, perceived or potential conflict of interest shall arise between their official duties and private interests. Where an actual, perceived or potential conflict of interest arises, they shall declare it to their supervisors so that the latter can determine how best to proceed or escalate the matter for a determination as necessary. They shall not use their official position to further personal interests or the private interests of others. They shall not solicit or accept, directly or indirectly, any advantage or gift which would, or might reasonably be seen to, compromise their integrity or judgment or influence the discharge or non-discharge of their duties and responsibilities. They shall not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties. They shall ensure that the views they express will not compromise their capacity to fulfil their official duties professionally, effectively and impartially. They shall use information gained by virtue of their official position for authorised purposes only. They shall not disclose documents, information or knowledge received in confidence from others in the course of their duties or by virtue of their official position.

3.5 ***Objectivity:*** Civil servants shall provide information and advice on the basis of evidence, and accurately present the options and facts. They shall base decisions on rigorous analysis of the facts and the merits of the case. They shall take due account of expert and professional advice. They shall not ignore

inconvenient facts or relevant considerations when providing advice or making decisions.

3.6 ***Impartiality***: Civil servants shall carry out their duties and responsibilities in accordance with the policies and decisions of the Government of the day and in a way that is fair, just and equitable. They shall act according to the merits of the case.

3.7 ***Political neutrality***: Civil servants shall serve the Chief Executive and the Government of the day with total loyalty and to the best of their ability, no matter what their own political beliefs are. They shall not allow their own personal party political affiliation or party political beliefs to determine or influence the discharge of their official duties and responsibilities, including the advice they give and the decisions or actions they take. In their official capacity, they shall not engage in party political activities¹ or use public resources for party political purposes such as electioneering or fund-raising activities for political parties.

3.8 In joining political parties or participating in political party activities in their private capacity, civil servants shall comply with the relevant prevailing regulations, rules and guidelines applicable to the Civil Service. They shall refrain from political party activities that might lead to any actual, perceived or potential conflict of interest or bias with their official positions or with the discharge of their duties and responsibilities. They shall also ensure that their private participation in political party activities would not compromise, or might not reasonably be seen to compromise, their impartiality and political neutrality in their official capacity; or cause any embarrassment to the Government. They shall comply with any restrictions that have been laid down on participation in political party and/or electioneering activities.

3.9 Civil servants are disqualified from being nominated as a candidate at an election of the Chief Executive, of the Legislative Council or of a District Council under the Chief Executive Election Ordinance (Chapter 569 of the Laws of Hong Kong), the Legislative Council Ordinance (Chapter 542 of the Laws of Hong Kong) and the District Councils Ordinance (Chapter 547 of the Laws of Hong Kong) respectively. They are also disqualified from being elected as an elected member of the Legislative Council or a District Council under the relevant ordinances. Civil servants who wish to stand for election of the Chief Executive, the Legislative

¹ For the avoidance of doubt, civil servants attending social functions of political parties upon invitation on a purely goodwill basis would not be regarded as engaging in party political activities. They shall observe the principle of impartiality as stipulated in paragraph 3.6 above when handling such invitations from political parties. They shall also observe the prevailing rules and regulations governing civil servants' participation in political activities.

Council or a District Council must retire – age permitting – or resign from the Civil Service.

3.10 Civil servants must retire – age permitting – or resign from the Civil Service before becoming a politically appointed official. The only exception to this is the civil servant appointed to serve as the Secretary for the Civil Service².

3.11 ***Accountability for decisions and actions:*** Civil servants shall act in accordance with government policies and procedures. They are responsible for decisions and actions taken in their official capacity and for the use of public resources. They are accountable for the exercise of various statutory powers conferred on them under the Laws of Hong Kong. Civil servants appointed as controlling officers under the Public Finance Ordinance (Chapter 2 of the Laws of Hong Kong) are accountable for all public moneys, property and expenditure under their charge, and the use of such resources in compliance with the directions and decisions made by their principal officials³. They are responsible for the efficient and effective use of resources under their charge. They are required to ensure compliance with all the regulations made and directions or instructions given by the Financial Secretary under the Public Finance Ordinance.

3.12 ***Dedication, professionalism and diligence:*** Civil servants shall act with a spirit of service to the community and in a professional manner. They shall conduct themselves in a way that instils and retains the confidence of all those whom they have official dealings with. They shall fulfil their duties and obligations responsibly. They shall deal with the public and their affairs fairly, efficiently, promptly, effectively and sensibly, to the best of their ability. Where necessary, the Government has a prior call at all times on the abilities, energies and attention of civil servants.

² Under the present arrangement, the person filling the position of the Secretary for the Civil Service under the political appointment system is to be drawn from the body of serving civil servants. He is not obligated to resign or retire from the Civil Service before taking up the position. Age permitting, he may return to the Civil Service after leaving the position of the Secretary for the Civil Service.

³ The *Code for Officials under the Political Appointment System* (paragraphs 2.24 and 2.25) provides that politically appointed officials shall note that controlling officers designated under the Public Finance Ordinance are responsible and accountable for all expenditure of the policy bureaux or departments or agencies falling within their purview, and that controlling officers are required to obey all regulations made and directions or instructions given by the Financial Secretary for the safety, economy and advantage of public moneys and government property. It also states that politically appointed officials have a duty to give fair consideration and due weight to honest, informed and impartial advice from the controlling officers.

4 Authority for the Management of the Civil Service

4.1 The Secretary for the Civil Service is responsible to the Chief Executive for policies and management of the Civil Service. One of the Secretary's major tasks is to safeguard the core values and define the standards of conduct of the Civil Service. In the performance of this role, the Secretary may issue regulations, rules and guidelines governing, among other subjects, avoidance of conflict of interest by civil servants, acceptance of advantages and entertainment, declaration of private investments, participation in political party or group activities, use of information obtained in a civil servant's official capacity, and outside work during service and for a specified period after leaving service. The Secretary may also revise existing regulations, rules and guidelines from time to time in the light of changing circumstances and needs. Civil servants are required to adhere to these regulations, rules and guidelines. Attached at the **Annex** is a list of the currently in force Civil Service Regulations, Civil Service Bureau's circulars and circular memoranda that are relevant to the core values and standards of conduct of the Civil Service. Civil servants are also required to comply with all the Laws of Hong Kong, including the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) and the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong).

4.2 Individual heads of policy bureaux, departments and agencies may issue their own mission and value statements provided they are in conformity with the *Civil Service Code*. Concerned civil servants are required to uphold and comply with these supplementary statements and guidelines as well.

5 Role and Responsibilities of Civil Servants in relation to Politically Appointed Officials⁴

5.1 Principal officials are responsible for their respective portfolios designated to them by the Chief Executive and for the policy bureaux, departments and agencies within their respective portfolios. They are responsible primarily for strategic direction, policy formulation, policy decisions and public advocacy of policy proposals. They are accountable to the Chief Executive for the success or failure of their policies. The Director of the Chief Executive's Office works with principal officials on, amongst other things, policy formulation and priority setting to ensure full implementation of the Chief Executive's agenda and decisions.

⁴ As stated in paragraph 1.5 above, the *Civil Service Code* is to be read in conjunction with the *Code for Officials under the Political Appointment System*. Further details on the role and responsibilities of politically appointed officials are set out in the latter *Code* and the Report on Further Development of the Political Appointment System issued in October 2007.

5.2 Principal officials have a duty to represent the Government and to transact business at meetings of the Legislative Council, and as necessary its committees, subcommittees and panels, e.g. to explain policy proposals, defend government policies, introduce bills or motions, present papers, make statements, answer questions, take part in debates, and secure funding and other resources required for their respective portfolios. They also have a duty to canvass support for government policies, decisions and actions from the Legislative Council, District Councils, the community, stakeholders, political parties, the media, etc.

5.3 Under secretaries are responsible primarily to assist their Directors of Bureau in undertaking the full range of political work, including the handling of Legislative Council business, maintaining regular liaison with members of the Legislative Council; attending public forums and other functions to explain and defend government proposals and decisions; maintaining close contact with the media and other stakeholders such as District Councils, political parties and groups, community organisations, etc.; and nurturing and securing community-wide support on government policies and decisions. They will deputise for their Directors of Bureau during the latter's temporary absence or when necessary. They also have to take up any specific policy areas or projects assigned by their Directors of Bureau.

5.4 Political assistants render support to principal officials and under secretaries. They are mainly responsible for providing political support and input, monitoring views from interest groups and the general public on policy issues, and assessing political implications. They are also responsible, at the instruction of principal officials and under secretaries, for liaising with political parties and groups, District Councils and other stakeholders and the media; and drafting speeches and media statements.

5.5 Civil servants support politically appointed officials in formulating policies. They are responsible for executing policies, carrying out executive tasks, managing and delivering services to the public, and undertaking law enforcement and regulatory functions, in accordance with the decisions of the Government of the day and directions of principal officials. Permanent secretaries of policy bureau, being the most senior echelon in the Civil Service, are responsible to their Directors of Bureau for the operation and full range of policy areas under the purview of their respective policy bureaux. Civil servants who are heads of departments or agencies are responsible, through permanent secretaries where relevant, to their principal officials for the operation of their departments or agencies.

5.6 Civil servants, particularly the more senior ones, are responsible for developing policy options or proposals and assessing their full implications, including the financial and manpower implications and the possible consequences of adopting or not adopting a particular policy option or course of action, based on intellectual rigour, objective research, professional knowledge and expertise. They are to attend before the Executive Council, as necessary, to assist politically appointed officials in explaining proposed policy initiatives or government policies. They are to assist, as necessary, politically appointed officials in presenting and explaining proposed policy initiatives or government policies to the Legislative Council, District Councils, the community, stakeholders, political parties, the media, etc. They are also to assist, as necessary, politically appointed officials in justifying requests, and securing the approval of the Legislative Council, for funding and other resources.

5.7 Civil servants shall support and implement policies and take actions, once decided by the Government of the day, fully and faithfully irrespective of their personal views. They shall ensure that their involvement in, or contribution to, any public debate or discussion on public matters is in accordance with the policies and decisions of the Government of the day and is appropriate to the official positions they hold. They shall not seek to obstruct or frustrate a policy or decision taken by politically appointed officials, or delay its implementation. They shall maintain confidentiality of the advice and views that they or other civil servants have given to politically appointed officials. They shall not suggest for public consumption any alternative to a policy proposed, or decided, by the Government or a politically appointed official.

5.8 Civil servants who serve as controlling officers have a particular responsibility to see that appropriate advice is tendered to politically appointed officials on all matters of financial propriety and regularity and more broadly as to all considerations of prudent and economically-sound administration, efficiency and effectiveness and value for money.

5.9 The division of role and responsibilities between politically appointed officials and civil servants relies on a good working relationship and the maintenance of mutual trust and confidence. Civil servants shall work in effective partnership with politically appointed officials.

6 Relationship between Civil Servants and Politically Appointed Officials

6.1 Civil servants shall serve the Government of the day with integrity and to the best of their ability. They shall follow the directives and work priorities determined by principal officials. They shall provide politically appointed officials their full, honest and impartial advice, without fear or favour, and whether or not the advice accords with the views of politically appointed officials. To uphold their integrity and professionalism, civil servants shall endeavour to provide politically appointed officials with the best advice they believe they can give and all relevant information they have access to. They shall work together with politically appointed officials in the spirit of partnership and foster mutual trust and confidence.

6.2 Under the *Code for Officials under the Political Appointment System*, politically appointed officials are required at all times to actively uphold and promote a permanent, honest, meritocratic, professional and politically neutral Civil Service; and, in particular, to uphold and promote the core values of the Civil Service as set out in section 2 above. In their dealings with civil servants, they are to have due regard to the *Civil Service Code*.

6.3 Permanent secretaries and those civil servants directly supporting principal officials (as stated in paragraph 6.6 below) have unlimited and direct access to principal officials. In general, other civil servants have access to principal officials through permanent secretaries. They may also have direct access to principal officials where appropriate; and permanent secretaries and the appropriate civil servants in the relevant line of command are to be kept informed of such communication as far as possible.

6.4 Under secretaries may, on behalf of their Directors of Bureau, convey to civil servants the views and work priorities of the Directors of Bureau; request civil servants to prepare and provide information and data, including internal analyses and papers; and hold meetings with civil servants to discuss the advice being put to Directors of Bureau. Political assistants may, on behalf of principal officials or under secretaries, request civil servants to prepare and provide information and data. Under secretaries shall also be kept closely informed of policy issues of their bureaux, especially those issues which are politically sensitive or may involve the Legislative Council. Such working contact is to be made in the spirit of partnership and does not constitute, and should not be perceived as constituting, a supervising or subordinating relationship between the under secretaries/political assistants and civil servants.

6.5 Permanent secretaries of policy bureau report direct to their Directors of Bureau. Their performance is appraised by their Directors of Bureau. Under secretaries have no direct line of command over permanent secretaries, except when the former are deputising for their Directors of Bureau. When this happens, the permanent secretary concerned shall report to the under secretary concerned where available. Where there is no under secretary (e.g. the position is not filled) or where the under secretary concerned is also temporarily absent or where another principal official has not been directed to perform the duties of the absent Director of Bureau⁵, the permanent secretary concerned shall keep the absent Director of Bureau informed and consult or report to him⁶ on the operation of the bureau concerned as necessary and where possible. The permanent secretary shall also consult and seek direction from the Chief Secretary for Administration or the Financial Secretary where necessary. In doing so, the permanent secretary concerned shall discharge his role and responsibilities as a civil servant and shall not be subject to political accountability.

6.6 Those civil servants assigned to provide support to principal officials (e.g. Administrative Assistants, Press Secretaries, Personal Secretaries, Drivers) and those assigned to provide support to other politically appointed officials (e.g. Personal Secretaries) report direct to the politically appointed officials concerned and their performance is appraised by them. Where appropriate, permanent secretaries or other senior civil servants may provide input on the performance appraisal of the civil servants concerned.

6.7 Civil servants (other than those in paragraphs 6.5 and 6.6) report direct to their supervisors in the Civil Service. Their performance is appraised by their supervisors in the Civil Service. For civil servants who work closely with under secretaries, their supervisors in the Civil Service may seek the views of under secretaries to ensure a comprehensive and multi-dimensional assessment of the civil servants concerned. Such solicitation of views does not constitute, and should not be perceived as constituting, a supervising or subordinating relationship between the under secretaries and civil servants concerned; and the supervisors in the Civil Service shall have the final say on the performance appraisals of the civil servants concerned.

⁵ Paragraph 2.7 of the *Code for Officials under the Political Appointment System* provides that principal officials “may be directed as necessary by the Chief Executive, during the temporary absence of other principal officials, to exercise the powers or perform the duties of the absent principal officials, including the duty to attend meetings of the Legislative Council, its committees, subcommittees and panels and to speak on behalf of the Government.”

⁶ Words importing the masculine gender in this *Code* shall include the feminine gender.

6.8 While the Secretary for the Civil Service is responsible for the management of the Civil Service and the Secretary for Justice plays a role in managing the Government Counsel Grade as the head of grade, politically appointed officials are generally not involved in issues relating to civil servants' careers, such as appointment, promotion and discipline.

7 Communication, Complaint and Redress Mechanism

7.1 There may be occasions where a civil servant feels that he has been directed to act in a way which he considers is illegal. In such circumstances, he should follow the guidelines set out in CSB Circular No. 20/79.

7.2 There may be occasions where a civil servant feels that he has been directed to act in a way which he considers -

- (a) is improper or in conflict with the core values of the Civil Service;
- (b) is in breach of any government regulations including Civil Service Regulations and regulations governing the use of public money;
- (c) would conflict with his role as a civil servant; or
- (d) may involve possible maladministration.

Communication

7.3 In such circumstances, the civil servant concerned is encouraged to first discuss the matter with his immediate supervisor or with the officer who issued the direction. If for any reason he would find this difficult, he should discuss with another officer in his line management chain. He must not do anything to circumvent or undermine the policy which the direction flows from. It is important to cultivate and nurture a culture of open communication between supervisors and subordinates. Open communication works positively towards building mutual trust and loyalty. It is possible that many situations which may lead to misunderstanding will be addressed by the civil servants concerned discussing the matter with their supervisors or with officers whose directions have given rise to the concerns in the first place.

Complaint

7.4 If a civil servant remains concerned following a candid airing of his concerns before his immediate supervisor or the officer giving the direction or another officer in his line management chain, he should report the matter in accordance with the complaint procedures laid down by his policy bureau or department or agency. A civil servant will not be penalised for lodging a complaint which is made in good faith. The policy bureau or department or agency concerned shall follow up on the complaint in accordance with laid down procedures.

Redress mechanism

7.5 If the matter giving rise to the concerns of a civil servant originates from a direction or action taken by a politically appointed official at under secretary or below level, the civil servant is encouraged to discuss and resolve the matter with the concerned politically appointed official. He may also bring the matter to the personal attention of the relevant permanent secretary, who shall consider all the relevant information, discuss with the concerned civil servant and politically appointed official with a view to resolving the matter. If the matter cannot be resolved, the permanent secretary shall bring it to the personal attention of the relevant principal official for resolution. If the matter remains unresolved, it shall be brought to the attention of the Secretary for the Civil Service for resolution.

7.6 If the matter giving rise to the concerns of a civil servant originates from a direction or action taken by a principal official other than the Secretary for the Civil Service⁷, the civil servant is encouraged to discuss and resolve the matter with the concerned principal official. He may also bring the matter to the personal attention of the relevant permanent secretary, who shall discuss and resolve the matter with the principal official concerned. If the matter cannot be resolved, the relevant permanent secretary shall bring it to the personal attention of the Secretary for the Civil Service, who shall consider all the relevant information, discuss with the concerned civil servant and principal official and other officers as necessary, before taking a view.

7.7 Under the *Code for Officials Under the Political Appointment System*, politically appointed officials are to cooperate fully with the Secretary for the Civil Service to follow up on concerns from civil servants relating to their role or to the core values of the Civil Service.

⁷ This paragraph also applies if the matter giving rise to the concerns of a civil servant originates from a direction or action taken by the Director of the Chief Executive's Office.

7.8 If the matter giving rise to concerns from a civil servant remains unresolved after escalation to the Secretary for the Civil Service, the latter shall bring it to the personal attention of the Chief Secretary for Administration or the Financial Secretary as appropriate for resolution.

7.9 If the matter giving rise to concerns from a civil servant originates from a direction or action taken by the Secretary for the Civil Service, the civil servant is encouraged to discuss and resolve the matter with the said Secretary. He may also bring the matter to the personal attention of the relevant permanent secretary who is encouraged to discuss and resolve the matter with the Secretary for the Civil Service. If the matter cannot be resolved, the permanent secretary concerned shall bring it to the personal attention of the Chief Secretary for Administration for resolution.

7.10 If, pursuant to the procedures set out above, the matter still remains unresolved after escalation to the Chief Secretary for Administration or the Financial Secretary as appropriate, the matter shall be brought to the attention of the Chief Executive. The Chief Executive may refer representations to the Public Service Commission on matters which fall under its purview and the Commission shall tender its advice to the Chief Executive. If the Chief Executive decides to uphold the complaint, the politically appointed official concerned must implement the decision of the Chief Executive. If the Chief Executive is satisfied there is no question of impropriety and upholds the direction or action taken by the politically appointed official concerned, the civil servant concerned must faithfully carry out the instruction as directed.

Civil Service Bureau
September 2009

Civil Service Regulations (CSRs), Civil Service Bureau (CSB) Circulars and Circular Memoranda Relating to Conduct and Integrity

Conflict of Interest

- (1) CSB Circular No. 2/2004 on “Conflict of Interest”

Acceptance of Advantages and Entertainment

- (2) CSB Circular No. 3/2007 on “Acceptance of Advantages Offered to an Officer in his Private Capacity”
- (3) CSB Circular No. 4/2007 on “Advantages/Entertainment Offered to an Officer in his Official Capacity and Gifts and Donations to a Department for the Benefit of Staff”
- (4) CSB Circular No. 11/2007(C) on “Sponsored Visits”
- (5) CSRs 431-435 on “Acceptance of Entertainment”
- (6) CSR 444 on “Acceptance of Advantages”
- (7) CSR 448 on “Retirement Gifts”

Investments

- (8) CSB Circular No. 8/2006 on “Declaration of Investments by Civil Servants”
- (9) CSB Circular Memorandum No. 14/2008 on “Declaration of Investments by Civil Servants - Revised Declaration and Report Forms”
- (10) CSRs 461-466 on “Investments”

Outside Work

- (11) CSB Circular No. 13/95 on “Acceptance of Outside Appointments after Retirement”

- (12) CSB Circular Memorandum No. 50/96 on “Outside Appointments during Pre-retirement Leave and after Retirement”
- (13) CSB Circular No. 3/97 on “Permission to Take up Outside Appointment on Completion of Agreement”
- (14) CSB Circular No. 10/2005 on “Taking Up Outside Work by Directorate Civil Servants after Ceasing Active Service”
- (15) CSRs 397-398 on “Taking Up Outside Work after Ceasing Active Service”
- (16) CSRs 550-564 on “Outside Work”

Indebtedness

- (17) CSB Circular No. 4/2002 on “Managing Personal Finance and Management Measures on Staff Indebtedness in the Civil Service”
- (18) CSRs 455-459 on “Insolvency and Bankruptcy”
- (19) CSRs 480-482 on “Lending Money and Borrowing Money at Interest”
- (20) CSR 483 on “Use of Subordinates as Guarantors”

Reporting Crime and Corruption

- (21) CSB Circular No. 20/79 on “Reporting of Criminal Offences”
- (22) CSB Circular No. 10/80 on “Reporting of Attempted Bribes”
- (23) CSB Circular No. 9/94 on “Allegations of Corruption against Civil Servants”

Production by Government Officers of Publications Containing Paid Advertisements

- (24) CSB Circular No. 6/77 on “Production by Government Officers of Publications Containing Paid Advertisements – CSR 530”
- (25) CSB Circular No. 23/77 on “Production by Government Officers of Publications Containing Paid Advertisements – CSR 530”
- (26) CSR 530 on “Publications”

Public Communications by Officers

- (27) CSRs 520-525 on “Public Communications by Officers”

Public Donations

- (28) CSR 531 on “Public Donations”

Participation in Political Activities by Civil Servants

- (29) CSB Circular No. 26/90 on “Civil Servants Joining Political Organisations and Participating in Political Activities”
- (30) CSB Circular No. 15/97 on “Civil Servants Standing for Elections and Participating in Electioneering Activities”
- (31) CSB Circular No. 6/2003 on “Civil Servants Standing as Candidates in Village Representative Elections”
- (32) CSB Circular No. 4/2005 on “Civil Servants Standing for the Election Committee Subsector Elections and Participating in Electioneering Activities for the Chief Executive Election”
- (33) CSB Circular Memorandum No. 20/2007 on “Civil Servants Participating in Electioneering Activities for the District Council Elections”
- (34) CSB Circular Memorandum No. 2/2008 on “Civil Servants Standing for Elections and Participating in Electioneering Activities”
- (35) CSB Circular No. 6/2008 on “Civil Servants Participating in Electioneering Activities for the Legislative Council Elections”

Avenues for Complaint/Seeking Redress

- (36) CSB Circular No. 20/91 on “Staff Complaints Procedure”
- (37) CSR 486 on “Representation to the Chief Executive”
- (38) Section 20 of the Public Service (Administration) Order - Representations by Officers