

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

**(1 January 2007 –
31 December 2007)**

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 (referred hereafter as "the Advisory Committee"), formerly known as the Advisory Committee on Post-retirement Employment, was established in October 1987. In addition to advising the Government on the principles and criteria to be adopted in formulating policy and arrangements to govern post-service outside work, the Advisory Committee considers and advises on applications for permission to take up outside work from 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 2007. 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 2007 comprised –

Chairman: The Hon Mr Justice Pang Kin-kee

Members: Dr Elizabeth Shing Shiu-ching, BBS, JP
Mr James Edward Thompson, GBS
Mr Simon Ip Sik-on, JP
Dr Dennis Sun Tai-lun, BBS, JP (up to 13.7.2007)
Ms Marina Wong Yu-pok, JP (since 14.7.2007)

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

5. The terms of reference of the Advisory Committee are at **Annex A**.

WORK OF THE ADVISORY COMMITTEE IN 2007

Key Elements of the Arrangements Governing Post-service Outside Work of Directorate Civil Servants

6. Following a review, the Government promulgated a set of 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 2006¹. For directorate officers who ceased active service or entered into agreements before 1 January 2006, the pre-1 January 2006 arrangements continue to apply to them. Key elements of the new arrangements, as compared with the pre-1 January 2006 arrangements (referred hereafter as "the old arrangements"), are set out in **Annex B**.

7. Briefly, 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 the Secretary for the Civil Service (SCS) to take up any outside work during their final leave period before formally leaving the Government and/or within a specified

¹ The new 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 agreements on or after 1 January 2006.

control period counting from the said departure. Retired directorate officers are normally subject to a minimum sanitisation period of six months (for officers below Directorate Pay Scale Point 4 (D4) or equivalent) or 12 months (for officers at D4 or above or equivalent) counting from cessation of active government service, during which outside work is not permitted. All directorate officers are also normally not permitted to take up outside work of a commercial nature or full-time remunerated work, other than part-time or notionally remunerated work with specified non-commercial organisations², for the whole duration of their final leave period (even if it exceeds the afore-stated minimum sanitisation period). The Government also applies a set of standard restrictions on the scope of approved outside work, which prohibits directorate officers from being personally involved, directly or indirectly, in the bidding for any government land, property, projects, contracts or franchises; or from undertaking work that is connected with their former government service or any sensitive information that they had access to while in government service. Where necessary, the Advisory Committee may advise, and SCS as the approving authority may impose, a longer sanitisation period and/or additional work restrictions.

Vetting Procedures and Criteria

8. An application for outside work is first scrutinised by the Head of Department (HoD) or Head of Grade (HoG) and the Permanent Secretary concerned. Civil Service Bureau (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 then decided on by SCS.

9. In line with the 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 real or potential

² The specified non-commercial organisations include (a) charitable, academic or other non-profit making organisations not primarily engaged in commercial operations; (b) non-commercial regional or international organisations; and (c) the Central Authorities of the People's Republic of China.

conflict of interest and 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 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 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 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.

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 sanitisation 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 2007 to 31 December 2007, the Advisory Committee considered 55 applications for post-service outside work from 37 directorate officers under both the old and new arrangements and recommended approval of all of them. 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 relevant circulars, and civil servants are well aware of them. As such, officers would unlikely apply for outside work that may potentially cause real or perceived conflict of interest.

12. Of the 55 applications recommended for approval by the Advisory Committee (25 processed under the old arrangements and 30 under the new arrangements), the average break between cessation of active service and commencement of outside work was **12 months**. In 14 of the recommended applications (seven processed under the old arrangements and seven under the new arrangements), the Advisory Committee considered that additional restrictions on the scope of outside work should be imposed. More details of the recommended applications are at **Annex C**. The decisions of SCS in all the 55 applications fully reflected the Advisory Committee's advice.

Applications Involving Non-directorate Officers

13. Applications for outside work 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 2007, a total of 590 applications from 494 non-directorate officers were considered. Among them, one was rejected, 87 were approved with conditions and the remainder were approved without sanitisation requirement or work restriction. More details of the approved cases are at **Annex D**.

Annex A

**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 the Old and New Arrangements
Governing the Post-Service Outside Work of Directorate Officers**

Old Arrangements	New Arrangements
1. Coverage	
<ul style="list-style-type: none"> * Directorate officers who ceased active service before 1 January 2006 and who have retired 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. Sanitisation period (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. * Agreement officers at D3 or above – no specified minimum sanitisation period but such requirement may be imposed on a case-by-case basis. 	<ul style="list-style-type: none"> * Minimum sanitisation 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 sanitisation period is normally shortened or waived for notionally remunerated work and may be shortened for remunerated work taken up with the following organisations (the specified organisations) – <ul style="list-style-type: none"> (a) charitable, academic or other non-profit making organisations not primarily engaged in commercial operations; (b) non-commercial regional or international organisations; or (c) the Central Authorities of the People's Republic of China, <p style="margin-left: 20px;">where the work would not give rise to conflict of interest and is unlikely to cause negative public</p>

Old Arrangements	New Arrangements
	<p>perception.</p> <ul style="list-style-type: none">* For all other outside work (in particular work of a commercial nature), the minimum sanitisation period would only be shortened where there are special considerations, and provided that the work would not give rise to conflict of interest or negative public perception.* Having regard to the circumstances of a particular case, a longer sanitisation period may be imposed if so required to more fully forestall conflict of interest or negative public perception.* No minimum sanitisation period is specified for directorate officers not retiring, or not retired, on pensionable or new permanent terms (e.g. agreement officers and resignees). Each case will be considered on its own merits.
3. <i>Final leave period</i>	
<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 sanitisation.* 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 organisation, subject to the rules on sanitisation and there being no problem of dual identity.

4. 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 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 other than retirement after less than six years of continuous service D8 or equivalent – 1½ years Below D8 or equivalent – 1 year
5. Vetting criteria	
<ul style="list-style-type: none">* The key factors of consideration are conflict of interest (real or potential) and public perception.	<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 –<ul style="list-style-type: none">(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

	<p>applicant had been involved while in government service;</p> <p>(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</p> <p>(f) whether any aspects of the proposed work would cause embarrassment to the Government or bring disgrace to the civil service.</p>
<p>6. <i>Restrictions on scope of work</i></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> <p>(a) be personally involved, directly or indirectly, in the bidding for any government land, property, projects, contracts or franchises;</p> <p>(b) undertake, or represent any person in, any work including any litigation or lobbying activities that are connected in any way with –</p> <p>(i) the formulation of any policy or decision;</p> <p>(ii) sensitive information;</p> <p>(iii) contractual or legal dealings;</p> <p>(iv) assignments or projects; and/or</p> <p>(v) enforcement or regulatory duties, in which he/she had been involved or to which he/she had access during his/her last three years of government service; or</p> <p>(c) engage in any activities which would cause embarrassment to the Government or bring disgrace to the civil service.</p> <p>* Further specific restrictions on scope of work may be imposed on a case-by-case basis.</p>

7. <i>Blanket permission</i>	
* No blanket permission (but the blanket permission under the new arrangements has been extended to officers subject to the old arrangements).	* Blanket permission is given for unremunerated work with the specified organisations throughout the entire period from cessation of active service to the expiry of control period.

**Post-service Outside Work of Former Directorate Officers
Considered by the Advisory Committee
(1 January 2007 – 31 December 2007)**

(A) Applications

No. of applications processed:	55
No. of applications recommended for approval:	55
No. of applications recommended for rejection:	0
No. of applicants (<i>an applicant may submit more than one application</i>):	37

(B) Break between government service and outside work

- Overall average break between cessation of active government service and commencement of outside work recommended for approval: **12 months**
- Breakdown of applications recommended for approval –

Applications where the applicants had/would have ceased active government service for 6 months or more by the commencement of outside work and no additional sanitisation period was recommended <i>[Average break from cessation of active service: 14 months]</i>	39 ¹
Applications where imposition of sanitisation period of 6 months or more was recommended <i>[Average sanitisation: 14 months]</i>	5 ²
Applications where the applicants were recommended to take up specific outside work within the minimum sanitisation period of 6/12 months <i>[Average break from cessation of active service: 3 months]</i>	11 ³
Total:	55

¹ Comprising 21 applications processed under the old arrangements and 18 applications processed under the new arrangements.

² All 5 applications processed under the new arrangements.

³ Comprising -

- work with specified non-commercial/non-profit making organisations (3 applications) and work with commercial organisation unrelated to former government duties (1 application) processed under the old arrangements; and
- work with specified non-commercial/non-profit making organisations (6 applications) and work with commercial organisation unrelated to former government duties (1 application) processed under the new arrangements.

(C) Nature of outside work of the recommended applications

Education	16
Finance & Accounting	2
Information Technology	0
Legal	0
Management	16
Medical	1
Planning	0
Security	1
Works	3
Others	16

Total: 55

(D) Applicants' background

(i) Age

Below 50	3
50 - 54	2
55 - 59	18
60 or above	14

Total: 37

(ii) Salary Scale

D1 - D2 (or equivalent)	16
D3 - D4 (or equivalent)	9
D5 or above (or equivalent)	12

Total: 37

(iii) Nature of work previously undertaken in the civil service

Accounting	1
Disciplined Services	6
Education	1
Housing Management	0
Information Technology	0
Legal	2
Medical	1
Planning	1
Policy Formulation and Execution	10
Works	6
Others	9
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<i>Total:</i>	<i>37</i>

**Post-retirement Outside Work of Former Non-directorate Officers
(1 January 2007 – 31 December 2007)**

(A) Applications

No. of applications processed:	590
No. of applications approved:	589
No. of applications rejected:	1
No. of applicants (<i>an applicant may submit more than one application</i>):	494

(B) Nature of outside work of the approved applications

Education	132
General Administration	103
Professional	75
Security	124
Technical	72
Others	83
Total:	589

(C) Applicants' background**(i) Age**

Below 50	67
50 – 54	71
55 – 59	255
60 or above	101
Total:	494

(ii) Salary scale

Below MPS Point 14 (or equivalent)	142
MPS Point 14 – 33 (or equivalent)	310
MPS Point 34 or above (or equivalent)	42
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<i>Total:</i>	<i>494</i>

(iii) Nature of work previously undertaken in the civil service

Administrative/Executive	83
Disciplined Services	203
Education	75
Housing Management	5
Medical	32
Works	32
Others	64
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<i>Total:</i>	<i>494</i>
