LEGISLATIVE COUNCIL OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION

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

The minutes of evidence which comprise the verbatim transcripts, in their original language, of the public hearings are part of the Report and are available in CD-ROM only.

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Executive Summary

Introduction

On 1 August 2008, New World China Land Limited ("NWCL") announced the appointment of Mr LEUNG Chin-man as an Executive Director and Deputy Managing Director of the company with effect from that date. The announcement aroused public controversy as Mr LEUNG was the former Permanent Secretary for Housing, Planning and Lands (Housing) and Director of Housing prior to his retirement from the Government on 10 January 2007, and was involved in the disposal of the Private Sector Participation Scheme flats in the Hunghom Peninsula development which were sold to the developer at a lease modification premium considered to be too low at the time by the public. The public was greatly concerned that the appointment smacked of being a reward for favours given to the developer by Mr LEUNG during his tenure, and questioned the propriety of the Secretary for the Civil Service ("SCS") giving approval for Mr LEUNG to take up the appointment.

- 2. Immediately upon commencement of the Fourth Legislative Council ("LegCo") in October 2008, Members took up the matter. On 10 December 2008, LegCo passed a resolution to appoint a select committee to inquire into the post-service work of Mr LEUNG and related matters ("the Resolution"). The Resolution also authorized the Select Committee, in the performance of its duties, to exercise the powers under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to order the attendance of witnesses to give evidence and the production of papers, books, records or documents by witnesses.
- 3. The terms of reference, membership, areas of study and work plan, practice and procedure of the Select Committee to Inquire into

Matters Relating to the Post-service Work of Mr LEUNG Chin-man ("the Select Committee") are set out in detail in Chapter 1. The Select Committee held nine meetings from 18 December 2008 to 10 March 2009 to undertake preparatory work for the inquiry. A total of 23 public hearings were held between 17 March and 17 November 2009 during which evidence was taken from 24 witnesses attending the hearings. The Select Committee also held 81 meetings to discuss the evidence obtained and deliberate on the report of the Select Committee, and matters relating to the inquiry.

Conclusions of the Select Committee

- 4. The Select Committee has conducted a thorough inquiry into the post-service employment of Mr LEUNG Chin-man with NWCL and his participation in the Hunghom Peninsula case, the details of which are set out in Chapters 4, 5, 7 and 8. Based on its observations, the Select Committee has come to the following conclusions:
 - (1) Mr LEUNG Chin-man was deeply and directly involved in the disposal of the Hunghom Peninsula flats, and assumed a steering and co-ordinating role in the matter.
 - (2) The Hunghom Peninsula development was developed by a company owned by a subsidiary of the parent company of NWCL. The business interests of the subsidiaries are inseparable from those of the parent company. There is plainly conflict of interest for Mr LEUNG to take up employment with NWCL. Mr LEUNG's taking up the employment with NWCL was therefore inappropriate.
 - (3) In his application to the Civil Service Bureau ("CSB") for approval to take up the employment with NWCL,

Mr LEUNG did not give all information relevant to his application in a frank and honest manner, and thus failed to observe the good practices expected of civil servants when taking up post-service work as set out in the "Civil Servants' Guide to Good Practices". Mr LEUNG's conduct was unbecoming of a former senior official, and was liable to bring the civil service into disrepute.

(4) A great majority of the officials involved in processing Mr LEUNG's application had adopted a blinkered view in considering the application. They had not fully considered the six assessment criteria set out in CSB Circular No. 10/2005. Their understanding of the assessment criteria differed among themselves. The practices they adopted in processing the application varied, the way they handled the process was careless and perfunctory, and they placed too much dependence on the honour system.

Recommendations of the Select Committee

- 5. The Select Committee's recommendations on improvements to the control regime governing post-service work of directorate civil servants ("the Control Regime") are highlighted below. A detailed account of the recommendations is set out in Chapter 9.
- (1) Restrictions on the taking up of post-service work
- Recommendation 1 It is inappropriate for the Government to impose a total prohibition on the taking up of post-service work by directorate civil servants in the same field of work as those in which they

have engaged in their past government duties, nor is it appropriate to impose a ban on the taking up of post-service work by directorate civil servants either across-the-board or on a sectoral basis.

Recommendation 2 –

The Government should put in place a system of vetting and approving post-service work applications from directorate civil servants for the protection of the public interest and an individual's right to work, but under all circumstances, protection of the public interest must be the overriding concern.

Recommendation 3 –

The existing sanitization period for the taking up of post-service work by directorate civil servants leaving the Government on retirement is appropriate and does not need to be changed, while there is a need for the Government to review the sanitization period for the taking up of post-service work by directorate civil servants leaving the Government on grounds other than retirement.

Recommendation 4 –

In processing applications from directorate civil servants at Directorate Pay Scale Point 1 ("D1") to D3, the assessing parties make assessments with reference to the information on the service history of their last three years of government service. This assessment period is appropriate and may remain unchanged. In respect of applications from D4 to D8 officers, the Government should consider taking their last

six years of active government service as the assessment period.

- **Recommendation 5** The control period for directorate civil servants leaving the Government on retirement should:
 - (a) remain unchanged for D1 to D3 directorate civil servants;
 - (b) be extended to four years for D4 to D7 directorate civil servants; and
 - (c) be extended to five years for D8 directorate civil servants.
- (2) <u>Inclusion of public suspicion of deferred reward or benefit in return</u> as a factor for consideration in the assessment criteria
- Recommendation 6 The Government should consider revising the assessment criteria so that public suspicion of deferred reward or benefit in return would be included in the specific considerations for making assessments by the approving authority.
- Recommendation 7 CSB should provide clear guidelines to officials concerned and the Advisory Committee on Post-service Employment of Civil Servants ("ACPE") on how assessment of public suspicion of deferred reward or benefit in return should be made to facilitate the vetting and consideration of applications.

(3) The responsibilities of applicants

Recommendation 8 – The Government should consider revising the application procedure to clearly reflect that before submitting an application to CSB, it is incumbent upon an applicant to provide the information as required in the application form (including disclosing possible conflict of interest involved in his application) and to assess and evaluate his application post-service work against the assessment criteria set out in the relevant circulars in a frank and honest manner.

Recommendation 9 — The Government should consider specifying in the relevant CSB circulars the good conduct expected of civil servants in respect of their taking up of post-service work, as stated in the "Civil Servants' Guide to Good Practices".

Recommendation 10 — The Government should consider requiring an applicant to provide information on major assignments or projects relating to the prospective employer and other companies within the same group as the prospective employer in which he was involved during the last three years (for D1 to D3 applicants) or the last six years (for D4 to D8 applicants) of his government service for consideration by the approving authority.

Recommendation 11 – The Government should require an applicant to provide information on his previous dealings

while in government service with the prospective employer and with other companies within the same group as the prospective employer.

Recommendation 12 – The Government should also require an applicant to provide any other information pertaining to his prospective employer and proposed employment during his government service.

Recommendation 13 – The Government should consider developing guidelines which would enable the applicants to have a clear understanding of the requirements under the Control Regime as set out in the relevant **CSB** circulars, including assessment criteria and coverage, as well as the way in which the applicants should assess and evaluate their applications. The Government should also consider specifying clearly in the relevant circulars that, upon a breach of the requirements under the Control Regime, the approval given for an application will become invalid and the applicant will be liable to sanctions.

Recommendation 14 — Bureaux/departments should render assistance to an applicant in providing the information required for his application, and allow him to have access to information on his last three years or six years of service history in the Government as well as major assignments or projects in which he had been involved.

(4) <u>Standardization of the processing and vetting practices</u>

- Recommendation 15 The Government should improve the current practices in processing and vetting applications, including giving consideration to the following measures:
 - (a) devising a set of standardized practices for processing and vetting applications for adoption by bureaux/departments;
 - (b) providing clear guidelines with examples of precedent cases to officials responsible for vetting and assessing applications to ensure that they fulfil their responsibilities, and to assist them in making sound judgment in assessing issues of conflict of interest, public perception and public suspicion of deferred reward or benefit in return;
 - (c) reviewing and enhancing communication with civil servants to ensure that they fully understand the policy objective of the Control Regime and the relevant assessment criteria, and that they would consider applications from a broad perspective; and
 - (d) strengthening measures so that officials responsible for vetting and assessing applications in individual bureaux/

departments would have a thorough understanding of their due responsibilities, thereby ensuring that the vetting and approval work is carried out in a prudent and conscientious manner.

(5) <u>Undesirability of relying solely on the honour system</u>

Recommendation 16 — The assessing parties should thoroughly and proactively vet the information provided by the applicants, and CSB should step up efforts in monitoring the compliance of successful applicants with the conditions imposed on the approved work, in order to enhance the effectiveness of the honour system.

Recommendation 17 — An applicant should provide a copy of the appointment letter or employment contract to CSB within a specified period after the granting of the approval to enable verification of the terms of employment; otherwise the approval granted to him would become invalid.

Recommendation 18 — In the event of any subsequent changes to an approved application, including those which may impact on the relevant information provided by the applicant and considered by the approving authority in granting the approval, the applicant should report such changes to CSB.

(6) <u>Improvement to the application form</u>

Recommendation 19 – The Government should revise the application form to ensure that an applicant would provide the following information:

- (a) the channels through which the applicant has acquired the job;
- (b) relevant information including the name of the introducer of the job and his relationship with the prospective employer;
- (c) the assessment and evaluation made by the applicant on his application; and
- (d) information on major assignments and projects in which the applicant had been involved, as well as any previous dealings, that were connected with his prospective employer and other companies within the same group as the prospective employer.

(7) Extension of coverage and accessibility of the public register

Recommendation 20 — The coverage of the public register should be extended to include all approved cases of D1 to D8 directorate civil servants, and the register be made accessible to the public on the Government website.

- (8) <u>Improvement to the operation of the Advisory Committee on</u>
 Post-service Employment of Civil Servants
- Recommendation 21 The Government should consider whether the existing role of ACPE should be revamped to expand its functions and enhance its independence.
- Recommendation 22 ACPE should improve its operation by measures including holding regular meetings to consider post-service work applications, and inviting officials responsible for vetting and assessing applications in CSB and in other relevant bureaux/departments to the meetings to present their views and explain their recommendations on the applications.
- **Recommendation 23** The Government should enhance the ACPE. importance of including giving consideration to the following measures: expanding the composition of ACPE, making it a practice for SCS to attend the meetings of ACPE in keeping with the importance the Government attaches to ACPE, reviewing the relevant guidelines on declaration of interests a regular basis, and enhancing transparency of ACPE, such as having the annual report on its work laid on the Table of LegCo.

Chapter 1 Introduction

Background

1.1 On 1 August 2008, New World China Land Limited ("NWCL") announced the appointment of Mr LEUNG Chin-man as an Executive Director and Deputy Managing Director of the company with effect from NWCL is a subsidiary company of New World Development Company Limited ("NWDCL"), the parent company of another subsidiary company, NWS Holdings Limited ("NWS"), which owns 50% of the shareholding in First Star Development Limited ("FSDL"). FSDL is the developer of the Hunghom Peninsula Private Sector Participation Scheme ("PSPS") development. The introduction of the re-positioned housing policy by the Government in 2002, which included the cessation of production and sales of the Home Ownership Scheme ("HOS") flats and the termination of PSPS, had necessitated the disposal of the PSPS flats in the Hunghom Peninsula development. In 2003, the Government sold the 2470-unit development, which was located on a waterfront site in the urban area, to FSDL at a lease modification premium of \$864 million allowing it to sell the flats in the open market. The announcement of Mr LEUNG's appointment by NWCL aroused public controversy as Mr LEUNG was the former Permanent Secretary for Housing, Planning and Lands (Housing) and Director of Housing ("PSH/D of H") prior to his retirement from the Government on 10 January 2007, and was involved in the disposal of the flats in the development to the developer at a premium considered to be too low at the time by the public. public was greatly concerned that the appointment smacked of being a reward for favours given to the developer by Mr LEUNG during his tenure, and questioned the propriety of the Secretary for the Civil Service ("SCS") giving approval for Mr LEUNG to take up the appointment.

1.2 At the time, the Third Legislative Council ("LegCo") had come to an end, and general election for Members of the Fourth LegCo was set for 7 September 2008. Immediately upon commencement of the Fourth LegCo, Members took up the matter relating to the post-service work of Mr LEUNG Chin-man. At the House Committee meeting on 17 October 2008, Members endorsed a proposal to appoint a select committee to inquire into the matter. A subcommittee of the House Committee was appointed to undertake the preparatory work. subcommittee held three meetings in November 2008 and submitted a report to the House Committee on 21 November 2008 with recommendations on the terms of reference, membership size and the procedure for the nomination of members of the select committee. The recommendations were endorsed by the House Committee.

Appointment of the Select Committee and its terms of reference

1.3 On 10 December 2008, LegCo debated on and passed a resolution to appoint a select committee to inquire into the post-service work of Mr LEUNG and related matters ("the Resolution"). The Resolution also authorized the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man ("the Select Committee"), in the performance of its duties, to exercise the powers conferred by section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) ("LCPPO") to order the attendance of witnesses to give evidence and the production of papers, books, records or documents by witnesses. The Resolution sets out the terms of reference of the Select Committee as follows:

"RESOLVED

that this Council appoints a select committee to inquire into the vetting and approval for Mr LEUNG Chin-man, former Permanent Secretary for Housing, Planning and Lands (Housing) and Director of Housing, to take up post-service work with New World China Land Limited and other real estate organizations, and whether there was any connection between such work and the major housing or land policies which Mr LEUNG had taken part in their formulation or execution and decisions which he had made pursuant to such policies while serving as Director of Buildings, Permanent Secretary for Housing, Planning and Lands (Housing) and Director of Housing, that had given rise to any potential or actual conflict of interest, as well as related matters, and based on the results of the above inquiry, to make recommendations on the policies and work arrangements governing post-service directorate civil servants and other related matters; and that in the performance of its duties the committee be authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to exercise the powers conferred by section 9(1) of that Ordinance."

Membership of the Select Committee

1.4 On the recommendation of the House Committee, the President of LegCo appointed on 12 December 2008 the Chairman, Deputy Chairman and members of the Select Committee in accordance with Rule 78(2) of the Rules of Procedure of LegCo. The 12 members of the Select Committee are as follows:

Hon LI Fung-ying, SBS, JP (Chairman)
Hon LEE Wing-tat (Deputy Chairman)
Dr Hon Margaret NG
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon LAU Kong-wah, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, BBS, JP
Dr Hon PAN Pey-chyou
Dr Hon Samson TAM Wai-ho, JP
Hon LEUNG Kwok-hung (up to 28 January 2010 and rejoined

on 14 June 2010)

1.5 Hon LEUNG Kwok-hung resigned from office as a LegCo Member with effect from 29 January 2010. The Select Committee decided after due deliberation that it was not necessary to fill the vacancy in membership left by Mr LEUNG as the Select Committee had already completed its hearings and was in the process of drafting its report. Select Committee's decision was endorsed by the House Committee at its meeting held on 26 February 2010. Members also decided that it was not necessary to revise the membership size of the Select Committee. the by-election held on 16 May 2010, Hon LEUNG Kwok-hung was re-elected. After the commencement of his term of office, Mr LEUNG requested to rejoin the Select Committee. The Select Committee discussed the matter in June 2010. Taking into account the fact that the Select Committee had completed its hearings prior to Mr LEUNG's resignation, that Mr LEUNG had participated in the work involved and read the relevant documents, and that, at that stage, the Select Committee had already begun to deliberate on the evidence obtained for the purpose of drafting its report, members were of the view that Mr LEUNG could provide input on the draft report based on his participation in the hearings and his examination of the evidence. The Select Committee considered that no issue of procedural unfairness arose from allowing Mr LEUNG to rejoin the Select Committee. The Select Committee therefore raised no objection to his request. Having regard to the Select Committee's view, the House Committee made a recommendation to the President of LegCo for the appointment of Hon LEUNG Kwok-hung to the Select Committee. The President re-appointed Hon LEUNG Kwok-hung as a member of the Select Committee on 14 June 2010.

Areas of study and work plan

- 1.6 The Select Committee endorsed its areas of study and work plan at the open meeting held on 18 December 2008. Based on the terms of reference of the Select Committee set out in the Resolution, the Select Committee decided to inquire into the following major areas:
 - (a) the post-service work of Mr LEUNG Chin-man with real estate organizations. This includes the policies and arrangements governing the post-service work of directorate civil servants; the vetting and approval of Mr LEUNG's application for post-service work with NWCL covering the circumstances surrounding the appointment, and the vetting and approval of the application and the termination of the employment contract between NWCL and Mr LEUNG; as well as the vetting and approval of Mr LEUNG's applications for post-service work with other real estate organizations;
 - (b) major housing or land policies which Mr LEUNG had taken part in their formulation or execution and decisions which he had made pursuant to such policies while serving as Director of Buildings ("D of B") from August

1999 to June 2002 and as PSH/D of H from July 2002 to January 2006. This includes the disposal of PSPS flats at the Hunghom Peninsula, and the exercise of discretionary power by Mr LEUNG in respect of land and planning matters in the development of the Grand Promenade; and

- (c) the connection, if any, between (a) and (b) above which might have given rise to any potential or actual conflict of interest, as well as related matters.
- 1.7 Based on the study in (a) to (c) above, the Select Committee will make recommendations on the policies and arrangements governing the post-service work of directorate civil servants and on other related matters. The Select Committee also agreed that the areas of study might be refined where necessary in the light of work progress of the Select Committee.
- 1.8 The Select Committee decided to conduct its inquiry in three phases:
 - (a) Phase I for undertaking preparatory work. This would be in the form of internal deliberations. The work included drawing up the practice and procedure of the Select Committee, deciding on the areas of study and the information to be obtained from relevant parties, and identifying the witnesses to be summoned;
 - (b) Phase II for conducting hearings to obtain evidence from witnesses and for deliberating on the evidence obtained; and

- (c) Phase III for holding internal deliberations for preparing and discussing the draft report of the Select Committee.
- The Select Committee's plan was for the three phases to commence in mid December 2008 and to end in about October 2009. However, two witnesses instituted judicial review proceedings against members of the Select Committee in July 2009 in relation to the Select Committee's power to summon witnesses and the taking of evidence on matters concerning the inquiry of the disposal of the Hunghom Peninsula PSPS development. The Select Committee was therefore unable to proceed with its work as scheduled. Details of the judicial review proceedings are given in paragraphs 1.30 to 1.39. As a result, the Select Committee adjusted its work plan. Phase III was completed in November 2010.

Practice and procedure

- 1.10 The proceedings of the Select Committee are governed by relevant provisions in LCPPO and the Rules of Procedure of LegCo. In addition, the Select Committee has also made its own practice and procedure on matters not expressly provided for in the above-mentioned ordinance and rules.
- 1.11 In determining its practice and procedure, the Select Committee has drawn reference from those adopted by previous select committees and has given regard to the following principles:
 - (a) the practice and procedure should be fair and seen to be fair, especially to parties whose interests or reputation may be affected by the proceedings of the Select Committee;

- (b) there should be maximum transparency in its proceedings as far as practicable;
- (c) the practice and procedure should facilitate the ascertaining of the facts relevant to, and within the scope of, its inquiry, as set out in the Select Committee's terms of reference, which do not include the adjudication of the legal liabilities of any parties or individuals;
- (d) its proceedings should be conducted with efficiency; and
- (e) the cost of the proceedings should be kept within reasonable bounds.
- 1.12 At the open meeting held on 18 December 2008, the Select Committee endorsed its practice and procedure which was updated on 30 May 2009 by the addition of provisions regarding the payment of a witness allowance to eligible persons appearing before the Select Committee¹. A copy of the updated Practice and Procedure of the Select Committee is in **Appendix 1**.

Meetings of the Select Committee

1.13 Under Rule 79(2) of the Rules of Procedure of LegCo, the meetings of a select committee shall be held in public unless the chairman otherwise orders in accordance with any decision of the committee. The Select Committee decided that, as a general rule, the taking of evidence should be conducted at open hearings. However, witnesses were informed that if they wished their evidence or any part thereof to be taken

After considering the request from a witness and with reference to the arrangements on witness allowance in courts and tribunals, the Select Committee proposed that eligible persons appearing before the Select Committee be paid a witness allowance. The LegCo Commission endorsed the proposal and decided to pay a witness allowance to eligible persons.

at closed door meetings, they should submit their reasons in writing to the Select Committee for a decision.

- 1.14 The Select Committee also decided that witnesses should be summoned through issuance of summonses served on them, instead of being invited, to attend the hearings of the Select Committee, and that they should be examined on oath. The witnesses who are lawfully ordered to attend the hearings of the Select Committee to give evidence or to produce documents are entitled, in respect of such evidence or documents, to the same right or privilege as before a court of law by virtue of section 14(1) of LCPPO.
- 1.15 In line with the practice of previous select committees, the Select Committee decided that its internal deliberations should be held at closed meetings. The Select Committee agreed that members should not disclose its internal deliberations or documents considered at these meetings, and that the Chairman and Deputy Chairman should be the only persons authorized to handle enquiries from the media concerning the work of the Select Committee.
- 1.16 The Select Committee held a total of nine meetings between 18 December 2008 and 10 March 2009 to undertake preparatory work for the inquiry. The total meeting time spent was 14 hours. This was followed by 23 public hearings between 17 March 2009 and 17 November 2009 during which evidence was taken from 24 witnesses attending the hearings. The number of hearing hours was 80. The Select Committee spent another 21 hours to prepare for these hearings. The Select Committee also held 81 meetings comprising a total of 161 hours to discuss the evidence obtained and deliberate on the report, and matters relating to the inquiry. A schedule of the hearings and the names of the witnesses are in **Appendix 2**.

Disclosure of interests

1.17 In addition to Rules 83A and 84 of the Rules of Procedure of LegCo governing the disclosure of pecuniary interest, the Select Committee also decided that members who wished to declare non-pecuniary interests should write to the Chairman to declare such interests. The Chairman and two members of the Select Committee have made such declarations.

Verbatim transcripts of hearings

- 1.18 The minutes of evidence, in the form of verbatim transcripts made from the sound recordings of the proceedings of the meetings at which witnesses were examined, form part of the Select Committee's report to the Council. In order that witnesses can have a fair and reasonable opportunity to consider whether their oral evidence is accurately transcribed, the Select Committee had sent to all witnesses the parts of the draft verbatim transcripts of their respective oral evidence so that they could have the opportunity to propose corrections, subject to their signing of an undertaking that they would not make any copy of the draft and would return it to the Select Committee before a specified date. The Select Committee accepted corrections proposed so long as they did not materially alter the general sense of the evidence so recorded.
- 1.19 The Select Committee also agreed that where considered appropriate, copies of the transcripts of evidence taken in public might be provided to witnesses and prospective witnesses on request upon payment of a fee, subject to the unpublished and/or uncorrected status of the transcripts being stated clearly, and also subject to the conditions that the witnesses or prospective witnesses shall not make public use of the transcripts, or quote directly from the transcripts, or use the transcripts in a manner prejudicial to the interest of the Select Committee or other persons. This arrangement is based on the principles that:

- (a) the provision of verbatim transcripts to witnesses and prospective witnesses will enable them to keep track of the proceedings of the Select Committee and facilitate their response to questions raised by the Select Committee, which in turn will facilitate the conduct of the Select Committee's proceedings in an effective and efficient manner; and
- (b) it will enhance procedural fairness, especially to those whose interests or reputation may be affected by the Select Committee's proceedings.
- 1.20 The procedures for provision of transcripts of evidence are set out in Annex III to Appendix 1. Requests from other parties for the provision of transcripts were considered by the Select Committee on a case-by-case basis and handled in accordance with the conditions set out above.

Classification of documents

1.21 For the purpose of its inquiry, the Select Committee had ordered witnesses to produce certain papers, records and documents in their possession. The Administration requested the Select Committee to treat some of the documents it had provided as confidential for the reason that such documents were classified as confidential by the Administration and some contained commercially sensitive or personal information. As the Select Committee was of the view that the documents concerned were relevant to the subject matter of its inquiry for which there was a legitimate public concern, and the commercially sensitive or personal information contained in the said documents had already been obliterated by the Administration, the Select Committee decided not to accede to the Administration's request. The Administration subsequently requested

the Select Committee not to release these documents to the public or upload them onto the LegCo website. After consideration, the Select Committee acceded to the Administration's request. The Select Committee also decided that all unclassified documents obtained by the Select Committee would be kept in the LegCo Library and uploaded onto the LegCo website for public inspection.

Draft findings and observations

- 1.22 The Select Committee attaches great importance to ensuring that its procedure is fair and seen to be fair to parties whose interests or reputation may be affected by its proceedings. Where the Select Committee considered appropriate, relevant parts of the draft findings and observations of its report were provided to the named parties to give them an opportunity to comment. After the comments were received from the parties concerned, the Select Committee held four meetings comprising a total of 15 hours to consider the comments carefully before finalizing its report.
- 1.23 The findings and observations of the Select Committee are based on the oral and written evidence given by the witnesses, as well as the evidence provided by the relevant government bureaux and departments and organizations and persons concerned. The Select Committee understands that witnesses giving evidence had different perspectives owing to their different standpoints and roles. witnesses largely relied on their memory for their accounts of what had occurred with respect to matters taking place certain years ago. In view of this, the Select Committee has exercised great care in examining the evidence obtained during the inquiry. Some of the witnesses invited to comment on the draft report expressed worries about the findings and observations of the Select Committee being unfair to them, given that the Select Committee had examined the case with the benefit of hindsight and with information which was not known, or available, to them at the

time when they handled the relevant matters. The Select Committee has to point out that inquiry committees can only conduct inquiries after the event. In order to ensure the impartiality of the inquiry, the Select Committee has based its inquiry on what the witnesses knew when they handled and made decisions on the relevant matters, or what they should have known given the circumstances at the time. Although some witnesses may find the views so formulated severe on them, the Select Committee must stress that it is performing a public function and has a responsibility to the public. Its conclusions and recommendations are intended to serve as a reference for the future for persons concerned in the processing, vetting and approving of post-service work applications from directorate civil servants, so that similar cases may be avoided, and the effectiveness of the Control Regime may be improved.

Transparency of inquiry

- 1.24 Following the practice of previous select committees, members of the public can obtain copies of the sound recordings of public hearings of the Select Committee upon payment of a fee. In order to enhance the transparency of the Select Committee's proceedings and to assist persons in the public galleries of the LegCo Chamber in understanding the proceedings, they were provided with copies of the written statements of the witnesses who were appearing before the Select Committee. Their attention was, however, drawn to the fact that the statements were made available to them only for the purpose of assisting them to understand the proceedings at the public hearings. They were also reminded that the use of the contents of the written statements for other purposes was not protected by the privileges provided under LCPPO, and they should obtain legal advice before doing so.
- 1.25 In order to keep the media updated on the work of the Select Committee, briefings for the media were conducted by the Chairman and/or Deputy Chairman after closed meetings.

Invitation of public views

1.26 Members of the public were invited to give views on the subject matter under inquiry by the Select Committee. A general invitation for submissions was posted on the website of LegCo on 22 December 2008. The Select Committee has received four submissions and a list of the parties making the submissions is in **Appendix 3**.

Report

- 1.27 Under Rule 78(4) of the Rules of Procedure of LegCo, the Select Committee shall, as soon as it has completed consideration of the matter referred to it, report to the Council thereon and shall thereupon be dissolved. The Select Committee has completed consideration of the matters specified in the Resolution which appointed it and submits this Report to the Council.
- 1.28 The Report of the Select Committee consists of the main report, lists of written evidence and relevant documents, the minutes of proceedings, as well as the minutes of evidence in the form of verbatim transcripts in the original language used at the public hearings. For environmental protection purpose, the minutes of evidence are available on CD-ROM only. This Report is also accessible on the LegCo website at www.legco.gov.hk.
- 1.29 The main report comprises nine Chapters. This Chapter is mainly an introduction to the background and sequence of events leading to the formation of the Select Committee, as well as important matters relating to the work of the Select Committee. Chapter 2 outlines the existing Control Regime governing the post-service work of directorate civil servants. Chapter 3 gives an account of the applications for

post-service work made by Mr LEUNG Chin-man prior to his application for employment with NWCL after retiring from the Government. Chapters 4 and 5 set out the circumstances leading to Mr LEUNG Chin-man's employment with NWCL, the process in which the application was handled within the Government and by the Advisory Committee on Post-service Employment of Civil Servants ("ACPE"), as well as the Select Committee's observations on the performance of parties involved in the assessment, vetting and approval of the application. Chapter 6 provides an account of the major housing and land policies which Mr LEUNG Chin-man had taken part in their formulation or execution during his last six years of service in the Government prior to retirement. Chapters 7 and 8 set out the disposal of Hunghom Peninsula PSPS flats by the Government, the relationship of Mr LEUNG Chin-man with some other witnesses, the evidence given by Mr LEUNG regarding his role and participation in the Hunghom Peninsula case and his application for the post-service work with NWCL, as well as the Select Committee's observations on such issues. Chapter 9 sets out the conclusions and recommendations of the Select Committee.

Judicial review proceedings

1.30 Pursuant to the summonses issued under section 10 of LCPPO and served respectively on Dr Henry CHENG Kar-shun (who was the Chairman and Managing Director of NWCL and Managing Director of NWDCL) and Mr Stewart LEUNG Chi-kin (who was an Executive Director of NWCL and Executive Director and the Group General Manager of NWDCL) on 2 March 2009 ordering their attendance at the Select Committee's hearings to give evidence and produce documents on matters relating to the taking up of post-service work by Mr LEUNG Chin-man with NWCL, they attended two public hearings in April 2009 and produced documents as ordered by the Select Committee.

- 1.31 In order to ascertain whether there was any potential or actual conflict of interest arising from Mr LEUNG's taking up of post-service work with NWCL by virtue of his role and participation in the disposal of the Hunghom Peninsula PSPS flats while serving as PSH/D of H, the Select Committee ordered in April 2009 Dr Henry CHENG and Mr Stewart LEUNG ("the two witnesses") to attend its hearings in May 2009 to give evidence and produce documents on the subject, as they were involved on the side of the developer in the disposal of the Hunghom Peninsula PSPS flats. As the taking of evidence from witnesses relating to the post-service work of Mr LEUNG Chin-man with NWCL had taken longer than originally envisaged, the hearings for Dr CHENG and Mr Stewart LEUNG were subsequently re-scheduled to 23 and 25 June 2009.
- 1.32 The two witnesses wrote to the Select Committee through their legal representatives several times in May and June 2009 and raised queries on a number of issues, including whether the Select Committee had the power to summon witnesses to give evidence and produce documents at its hearings and to compel the witnesses to give written statements; the legal validity of the summonses served on them; whether the questions asked by the Select Committee were an infringement of the witnesses' right of privacy; and whether the hearings on the disposal of the Hunghom Peninsula development were contrary to the sub-judice rule as the High Court action initiated in 2003 by the developer of the Hunghom Peninsula development against the Government and the Hong Kong Housing Authority ("HA") was still pending. On the basis of these queries, the two witnesses requested the Select Committee to adjourn its hearings on the Hunghom Peninsula development scheduled for 23 and 25 June 2009.
- 1.33 Following legal advice, the Select Committee refused to accede to the two witnesses' request to adjourn its hearings. However, to allow more time for the two witnesses to seek legal advice and consider the

production of documents ordered, the Select Committee decided to postpone the said hearing to 15 July 2009. Without prejudice to the Select Committee's view on the validity of the summonses served on the two witnesses on 2 March 2009, fresh summonses ordering their attendance on 15 July 2009 were issued and served on Mr Stewart LEUNG and Dr Henry CHENG on 8 and 10 July 2009 respectively.

- 1.34 On 10 July 2009, the two witnesses made an *ex parte* application to the Court of First Instance for leave to apply for judicial review of the order of the Select Committee for their attendance at its hearing on 15 July 2009 to give evidence and produce documents and for interim relief to stay the said hearing. The main grounds for the application were that LegCo's power to summon witnesses to testify or give evidence pursuant to Article 73(10) of the Basic Law could only be exercised by LegCo and not by a select committee thereof, and the Select Committee's order for the two witnesses to appear at hearings to give evidence and produce documents concerning matters relating to the disposal of the Hunghom Peninsula PSPS flats were *ultra vires* as these matters went beyond the matters specified in the Resolution passed by LegCo.
- 1.35 The application was heard by the Court of First Instance before the Honourable Mr Justice Andrew CHEUNG on 14 July 2009. The Court granted leave in respect of part of the items of the relief sought. The application for interim relief of staying the Select Committee's hearing on 15 July 2009 was not dealt with as the Select Committee had decided to withhold the summonses ordering the two witnesses' attendance at the said hearing. The substantive hearing of the application for judicial review took place before Mr Justice CHEUNG from 17 to 20 August 2009. On the first day of the substantive hearing, as a preliminary issue, the Court granted leave for the President of LegCo to be joined as a co-respondent in the proceedings on the ground that the summonses served on the two witnesses were issued under the hand of

the Clerk to LegCo by direction of the President. On 24 September 2009, judgment was handed down dismissing the application. In summary, the reasons for dismissing the application are as follows:

- (a) The Court rejected the two witnesses' interpretation of Article 73(10) of the Basic Law. It held that the power to summon under Article 73(10) of the Basic Law can be exercised by LegCo, whether sitting as a full body, or functioning through a select committee in accordance with its Rules of Procedure. The exercise of that power must also be in accordance with the provisions of LCPPO, which forms part of the laws in force in Hong Kong.
- (b) On the issue of whether the inquiry of the Select Committee into the role and participation of Mr LEUNG Chin-man in the disposal of flats in the Hunghom Peninsula development was ultra vires its terms of reference, the Court held that the Legislature should have control over the conduct of its own affairs; alleged irregularities in the conduct of parliamentary business are primarily a matter for the Legislature, rather than the courts, subject to any overriding provisions in the written constitution. Accordingly, an application for judicial review on the ground that the orders of the Select Committee requiring them to attend before it are ultra vires and of no effect should only be entertained by the court if, and only if, it is concerned with a clear-cut case of *ultra vires*, or of an abuse or misuse of the power to order attendance of witnesses. The Court did not find that the two witnesses had made out a clear-cut case of ultra vires.

- On the issue of whether the terms of reference, if (c) construed as directed to an inquiry into anything improper for which there was a later reward given to Mr LEUNG Chin-man by the New World group of companies in the form of his post-service employment with NWCL, would go outside the powers and functions of LegCo provided in Article 73 of the Basic Law, the Court held that it is within the terms of reference of the Select Committee to look into the possible reasons for NWCL to hire Mr LEUNG after his retirement from the Government, and whether such reasons had anything to do with his pre-retirement service in the Government and with any potential or actual conflict of interest. Court further considered that the ultimate purpose of the inquiry is for the Select Committee to come up with recommendations on the policies and arrangements governing post-service work of senior civil servants generally, and the specific case of Mr LEUNG Chin-man is used as a sort of object lesson from which experience is to be learnt in order to make the recommendations. so happens that in the course of the inquiry, Mr LEUNG's case is found to have involved some previous improper conduct for which a reward was given later to Mr LEUNG by way of the post-service employment, that does not alter the essential nature of the inquiry or the ultimate purpose for holding it. It remains an inquiry to be held for the ultimate purpose of making relevant general recommendations to the Government. basis, the Court did not accept that such an inquiry would be ultra vires Article 73 of the Basic Law.
- 1.36 With the Court's dismissal of the application, the Select Committee decided that the hearing originally scheduled for 15 July 2009

should be resumed, and ordered the two witnesses to attend before the Select Committee at its hearings on 3 and 17 November 2009. On 22 October 2009, the two witnesses served a Notice of Appeal on members of the Select Committee and the President of LegCo to give notice of their appeal to the Court of Appeal against the judgment of the Court of First Instance. They filed with the Court of Appeal the said Notice of Appeal together with a Notice of setting down an appeal on 27 October 2009. The grounds of appeal are similar to or stem from the original grounds of the application for judicial review.

- 1.37 Although the two witnesses lodged their appeal, they provided written statements and relevant documents on matters relating to the disposal of the Hunghom Peninsula PSPS flats to the Select Committee and attended its hearings on 3 and 17 November 2009 to give evidence on the subject. The taking of evidence from the two witnesses was completed on 17 November 2009.
- 1.38 As at the date this Report was finalized, the two witnesses have not applied to the Court of Appeal to fix a date for the hearing of the appeal.
- 1.39 The Select Committee has originally planned to complete the taking of evidence from all witnesses in June/July 2009. This schedule was disrupted as the hearing scheduled for the two witnesses on 15 July 2009 was resumed only in November 2009 after the conclusion of the court proceedings taken out by the two witnesses before the Court of First Instance.

Chapter 2 Control regime governing the post-service work of directorate civil servants

- 2.1 The taking up of post-service work by civil servants has been subject to Government control since the 1940s, and the control has evolved over the years. In May 2004, to address LegCo Members' concern about whether the prevailing control regime could effectively ensure that retired civil servants would not take up employment which would constitute a conflict of interest with their previous service in the Government, the Government undertook to review the control regime and arrangements governing the post-service work of civil servants. October of the same year, the public expressed concern about possible conflict of interest in the work undertaken by a retired directorate civil servant (who had been responsible for the formulation of housing policy during government service) in a company belonging to a real estate group As the directorate civil servant had participated in of companies. promotional activities relating to real estate projects organized by the real estate group of companies in spite of the fact that the scope of approved post-service work of the officer in the company did not cover real estate business, the public was concerned that the work undertaken by the officer was outside the scope of the approved work and considered that the prevailing control regime had failed to meet the aspirations of the community. LegCo Members urged the Government to expedite its review of the regime. Subsequently, the Government promulgated in December 2005 a set of revised arrangements governing the post-service work of directorate civil servants, which came into effect on 1 January The relevant policy and arrangements are set out in Civil Service Bureau ("CSB") Circular No. 10/2005 (**Appendix 4**).
- 2.2 This Chapter outlines the policy objective of the control regime currently in force governing the post-service work of directorate civil

servants² ("the Control Regime"), periods of restriction, criteria used to assess applications for post-service work, work restrictions, procedures for processing the applications, role of ACPE, appeal mechanism, register for inspection by the public, monitoring of approved cases, and the sanctions applicable in the event of breach of the requirements under the Control Regime. It also sets out the measures taken by the Government to enhance civil servants' understanding of the policy objective of the Control Regime and related arrangements.

Policy objective

2.3 The policy objective of the Control Regime is to ensure that civil servants on final leave or who have left the service will not take up any work outside the Government which may constitute a 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 their right to pursue employment or other work after ceasing government service³.

Periods of restriction

2.4 Directorate civil servants who wish to take up post-service work during their final leave period and/or within a specified sanitization period and/or control period are required to seek prior permission from SCS.

Post-service work of directorate civil servants referred to in this Report means the taking up of employment outside the Government and does not include re-employment with the Government.

The Select Committee's view on the right to work of former directorate civil servants is given in Chapter 9 of this Report.

- 2.5 The final leave period refers to the period when a directorate officer ceases active service and proceeds on final leave on full pay before he leaves the Government formally. Directorate civil servants are normally not allowed to take up full-time paid work or work of a commercial nature during their final leave period. The approving authority will only consider approving such applications if there are very exceptional reasons and if no conflict of interest and dual identity issues are involved. The approving authority will consider an application to take up part-time or notionally remunerated work with a specified non-commercial organization from a directorate civil servant on final leave on its own merits. In doing so, the approving authority will have regard to whether or not an application might give rise to concern over conflict of interest and the problem of dual identity. Such organizations include:
 - (a) charitable, academic or other non-profit making organizations not primarily engaged in commercial operations;
 - (b) non-commercial regional or international organizations; and
 - (c) the Central Authorities of the People's Republic of China.
- 2.6 The sanitization period starts from the date when a directorate civil servant proceeds on final leave. The minimum sanitization period is six months for a directorate civil servant at Directorate Pay Scale Point 1 ("D1") to D3, and 12 months for those at D4 or above⁴. No minimum sanitization period is prescribed for directorate civil servants taking up post-service work on grounds other than retirement (e.g. on completion of agreement or resignation). For these civil servants, the

⁴ Reference made in this Report to D1 to D8 ranks of the Directorate Pay Scale includes also the equivalent ranks in the civil service.

approving authority will consider the need for, and length of, sanitization period on a case-by-case basis.

2.7 The control period starts from the date of a directorate civil servant's formal departure from the Government upon exhaustion of his final leave. For directorate civil servants leaving the Government on retirement ground, the control period is two years for those at D1 to D7, and three years for those at D8. For directorate civil servants with six or more years of continuous government service leaving the Government on grounds other than retirement, the control period is the same as that for those leaving the Government on retirement ground; for those at D1 to D7 with less than six years of continuous government service, the control period is one year, and for those at D8, one and a half years.

Assessment criteria

- 2.8 The criteria for assessing applications are set out in CSB Circular No. 10/2005⁵ issued on 1 December 2005. The key factors to be taken into account in vetting and approving an application to take up post-service work 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 was involved in the formulation of any policy or decisions, the effects of which directly or specifically benefited or could directly or specifically benefit his own business/prospective employer;

Under the old arrangements governing post-service work applications, four principles were to be considered by the approving authority. The revised arrangements promulgated in December 2005 list out six specific criteria to be taken into account.

- (b) whether the applicant/prospective employer might gain unfair advantage over competitors because of the applicant's access to sensitive information while in government service;
- (c) whether the applicant was involved in any contractual or legal dealings to which the prospective employer was a party;
- (d) whether the proposed work would have any connection with the assignments/projects and/or regulatory/ enforcement duties in which the applicant was involved while in government service;
- (e) whether the applicant's taking up of the proposed work would give rise to public suspicion of conflict of interest or other impropriety; and
- (f) whether any aspects of the proposed work would cause embarrassment to the Government or bring disgrace to the civil service.
- When vetting an application based on the criteria above, the relevant Head of Department/Head of Grade/Permanent Secretary and SCS as the approving authority would normally focus on the duties in which the applicant was involved during the last three years of his active service in the Government. Where the applicant is a directorate officer at D4 or above or if the work he handled is of particular sensitivity, duties prior to the three-year period may also be taken into account. When assessing applications made by these applicants, the assessing officials responsible for completing Part III Assessment A and B of the application

form may take into account either the last three years or six years of their active government service.

Work restrictions

- 2.10 The taking up of post-service work by a directorate civil servant is subject to the standard restrictions that the concerned person should not in his post-service work:
 - (a) be personally involved, directly or indirectly, in the bidding for any government land, property, projects, contracts or franchises;
 - (b) undertake or represent any person in any work including any litigation or lobbying activities that are connected in any way with:
 - (i) the formulation of any policy or decisions;
 - (ii) sensitive information;
 - (iii) contractual or legal dealings;
 - (iv) assignments or projects; and/or
 - (v) enforcement or regulatory duties

in which he was involved or to which he had access during his last three years of government service; or

(c) engage in any activities which will cause embarrassment to the Government or bring disgrace to the civil service.

2.11 Apart from the standard work restrictions, the approving authority may, where necessary, impose additional work restrictions in approving an application for post-service work.

Processing procedures

- 2.12 A directorate civil servant who wishes to take up post-service work is required to submit an application form, as shown in **Appendix 5**, at least one month before the commencement of the work. If an applicant was a Head of Department or a Permanent Secretary immediately before leaving the civil service, he should send his application form to CSB. Other directorate civil servants should send their applications to the relevant Permanent Secretary or Head of Department who will provide assessments on the applications and forward them to the applicants' Head of Grade. The Permanent Secretary or Head of Department or Head of Grade are required to assess an application from the conflict of interest and public perception perspectives before submitting it to CSB for further processing.
- 2.13 The applicant is required to provide in the application form his particulars such as the date of cessation of active service, date of leaving the Government, terms of appointment and service history covering the last three years (for a D1 to D3 officer) or six years (for a D4 or above officer) before his cessation of active service. In addition, he is required to provide the details of the prospective outside work (including the job title, major duties and responsibilities, etc.) and the prospective employer's details (including the employer's name, major clientele, parent company and subsidiaries, etc.). He is also required to answer questions on whether he has any contractual or legal dealings, or official or unofficial contacts/dealings, with the prospective employer, etc. during his last three years of active service in the Government. If the applicant

will be involved in the business of the prospective employer's parent company or subsidiaries, he should also answer the questions in the application form with reference to any contractual or legal dealings, or official or unofficial contacts/dealings, with these parent or subsidiary companies. Except where the applicant has clearly indicated that the proposed work will involve the business of the prospective employer's parent or subsidiary companies, the officials assessing the application will not cover these companies in their assessment.

- 2.14 Upon receipt of the application from a former Permanent Secretary or Head of Department, CSB will forward the application to the incumbent Permanent Secretary and/or Head of Department and Head of Grade, who are required to provide assessment of the application. assessment covers questions which reflect the assessment criteria on whether the applicant had any contractual, legal or official dealings with the prospective employer; whether he was involved in the formulation of any policy or decisions, the effect of which benefited or could benefit the prospective employer; whether he or his prospective employer might gain an unfair advantage over the prospective employer's competitors because of his access to sensitive information while in government service; whether he was involved in any assignments/projects or regulatory/ enforcement duties which are connected in any way with his duties and responsibilities under the prospective work with the prospective employer; and whether the proposed appointment would give rise to any negative public perception or cause embarrassment to the Government.
- 2.15 Depending on the nature of the work under application, CSB will also invite other concerned bureaux or departments to give their views on an application.
- 2.16 After receiving the assessments and views on an application from within the Government, CSB will seek the views of ACPE, an

independent advisory committee, on the application before submitting the application to SCS for approval.

Advisory Committee on Post-service Employment of Civil Servants

- 2.17 ACPE⁶ was set up in October 1987 to render independent advice to the Government on the principles and criteria to be adopted in formulating policy and arrangements to govern post-service employment of civil servants. Since 1 January 2006⁷, ACPE considers and advises on all applications from directorate civil servants. The terms of reference of ACPE are as follows:
 - (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 SCS.
- 2.18 The chairman and members of ACPE are appointed by the Chief Executive ("CE"), and ACPE submits annual reports on its work to CE.

ACPE was formerly known as "Advisory Committee on Post-retirement Employment" and was renamed "Advisory Committee on Post-service Employment of Civil Servants" in January 2006.

Prior to 1 January 2006, applications for post-service employment considered by ACPE were restricted to those from directorate civil servants retired on pensionable terms and civil servants appointed on agreement terms at D3 or above.

<u>Procedures for considering applications by the Advisory Committee on</u> <u>Post-service Employment of Civil Servants</u>

2.19 After the collation of views from within the Government on an application from a directorate civil servant, CSB provides a draft paper to the chairman of ACPE. The draft paper contains information concerning the policy for vetting such applications, as well as the views and assessment of the relevant Head of Department, Head of Grade and/or Permanent Secretary on the application. The chairman may either convene a meeting to discuss the application or advise that it be dealt with by circulation of papers. In the latter case, CSB will include in the paper a paragraph on "Views of the Chairman" and circulate the paper to members of ACPE for their advice.

<u>Declaration of interest by members of the Advisory Committee on</u> <u>Post-service Employment of Civil Servants</u>

2.20 To ensure the impartiality of advice given by ACPE, CSB has issued a note on Declaration of Interest for the chairman and members of ACPE. When a member, including the chairman, has a potential conflict of interest in a matter placed before the Committee, he is required to make full disclosure of his interest. 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.

2.21 The guidelines issued by CSB state specifically that:

(a) if a member (including the chairman) has any direct personal or pecuniary interest or if he is acquainted with the individuals in any matter or applications under consideration by ACPE, he must as soon as practicable after he has become aware of it, disclose it to the chairman (or ACPE) prior to the discussion of the item;

- (b) the chairman (or ACPE) shall decide whether the member disclosing an interest may express views or vote on the matter, may remain in the meeting/discussion as an observer or should withdraw from the meeting/discussion;
- (c) if the chairman declares an interest in a matter under consideration at meetings, ACPE shall elect a member to take over the meeting in respect of the discussion of the matter in question;
- (d) when a known direct pecuniary interest exists in respect of a member, the secretary may withhold circulation of relevant papers to him. Where a member is in receipt of a paper for discussion which he knows presents a direct conflict of interest, he should immediately inform the secretary and return the paper; and
- (e) all cases of declaration of interests shall be recorded in the minutes of the meeting or in other appropriate format where no meeting is held.
- 2.22 After ACPE tenders its advice, CSB will submit the application together with the assessments and views from the parties concerned to SCS. SCS will then decide whether to approve or reject the application, or to approve the application but impose additional work restrictions.

Appeal mechanism

2.23 If an applicant is aggrieved by SCS's decision, he can ask for a review of the decision. SCS will then review the decision having regard to the justifications and any supplementary information provided by the applicant. An applicant may also make representations to CE under section 20 of the Public Service (Administration) Order, or lodge a petition or a complaint to CE in accordance with Article 48 of the Basic Law.

Public register

- 2.24 When a decision has been made by SCS, CSB will inform the applicant of the decision in writing. If the application is approved, the applicant will be asked to notify CSB of the commencement date of the work and notify the prospective employer of the terms of approval, including any sanitization or restrictions imposed. If the application is rejected, the applicant will be informed of the reasons for rejection.
- 2.25 Where approval is given to a directorate civil servant at D4 or above and he takes up the work, he is required to complete a case record on the work and return it to CSB. The case record will be entered on a register, as shown in **Appendix 6**, which is available for public inspection upon request. The case record includes basic information covering the commencement date of the approved work; restrictions/sanitization imposed on the approved work; identity of the employer; and the applicant's position in the organization, etc. The case record will be removed upon the expiry of the control period for post-service work of the officer concerned, or upon his notification to CSB that he has ceased the work, whichever occurs first. Approved work not taken up by the applicant will not be entered on the register.

Monitoring of approved cases

2.26 To facilitate the monitoring of approved cases, the directorate civil servant concerned is required to, before commencing any approved post-service work, confirm the commencement date of the work with CSB, and notify the prospective employer of the terms of approval including any sanitization or restrictions imposed. Thereafter, the directorate civil servant should notify CSB of any material change to the approved work (including cessation) until the expiry of the control period for his post-service work, and update CSB on the status of his involvement in the approved work annually within the control period or upon request by CSB.

Sanctions

- 2.27 If a directorate civil servant contravenes a requirement under the Control Regime, SCS may consider invoking either one or a combination of the following forms of sanction against him:
 - (a) suspension of pension under the pension legislation for civil servants on pensionable terms;
 - (b) civil action for injunction or damages;
 - (c) withdrawal of approval or suspension of the approval for a specified period;
 - (d) where it concerns professional negligence/misconduct or may involve a breach of the code of conduct of a relevant profession, reporting the matter to the relevant professional body;

- (e) issuing a public statement of criticism;
- (f) placing a warning or reprimand in a register for public inspection; and/or
- (g) issuing a reprimand or warning letter which may be copied to the employer.

Enhancement of understanding by civil servants

2.28 To ensure that directorate civil servants are aware of the requirement to seek permission before taking up post-service work, the requirement is set out in the Memorandum on Conditions of Service that accompanies the letter of appointment and forms part of the contract of employment between the Government and a civil servant. The requirement is set out along the following lines:

"A directorate civil servant is required to seek the Government's prior permission for taking up outside work during the final leave period before his formal departure from the Government and/or within a specified control period counting from the said departure upon expiry of the final leave. "Outside work" refers to appointments, employment or any other work undertaken outside the Government and includes entering into business on one's own account, becoming a partner in a partnership, becoming a director of a company, becoming an employee, etc. The officer is subject to the arrangements governing the taking up of outside work by directorate civil servants as set out in

Civil Service Regulation 397 and Civil Service Bureau Circular No. 10/2005."

- 2.29 CSB Circular No. 10/2005 (in Appendix 4) sets out the policy and arrangements governing the taking up of post-service work by directorate civil servants. These arrangements are also reflected in Civil Service Regulations 397 (for directorate civil servants) and 398 (for non-directorate civil servants) which are appended to the Circular. All civil servants are required to observe the Civil Service Regulations and the relevant CSB circulars, which are conditions of service for civil servants. The Government has stressed that the contractual obligations to observe the Civil Service Regulations on post-service work of civil servants and the relevant CSB circulars survive after a civil servant has ceased service.
- Apart from the above, CSB has published a "Civil Servants' Guide to Good Practices". Notwithstanding that the Guide has no binding effect on serving or former civil servants and breaches of or non-compliance with the requirements therein would not result in punishment, it contains the core values and good behaviour civil servants at all levels are expected to uphold. Chapter 8 of the Guide (version published in March 2005) which relates to "Outside Work and Post-Service Employment", states that:

"To maintain the standing and integrity of the civil service, it is important that civil servants, even after they have left the service, should continue to conduct themselves in an appropriate manner as the activities which they take up would continue to be seen by the public as a reflection of the culture and character of the civil service. Retired civil servants should act with good sense and propriety in pursuing post-service employment or business and avoid engaging themselves

in activities which could be construed as being in conflict with their previous duties in the Government, or might bring the civil service into disrepute, or expose them or the Government to public controversy."

Chapter 3 Mr LEUNG Chin-man's applications for post-service work prior to his application for employment with New World China Land Limited

- 3.1 Mr LEUNG Chin-man joined the civil service in October 1966. In October 1976, he joined the Administrative Officer ("AO") grade. He had taken up a number of posts, the last two of which were D of B from August 1999 to June 2002, and PSH/D of H from July 2002 to January He proceeded on pre-retirement final leave from January 2006 to January 2007. Between September 2006 and November 2007, Mr LEUNG made four applications for post-service work, all of which were approved by SCS. The applications were for appointment with the Hong Kong Housing Society ("HKHS"), Trust Company International Pty Limited ("TCL"), Fineland Real Estate (Holdings) Company Limited ("Fineland") and PuraPharm International (Hong Kong) Limited ("PuraPharm") respectively. As only the first three organizations were related to the real estate sector, the Select Committee has focused on these three applications.
- 3.2 This Chapter gives an account of Mr LEUNG's applications with HKHS, TCL and Fineland and sets out the observations of the Select Committee on the applications.

Appointment by Hong Kong Housing Society

3.3 Mr LEUNG Chin-man's first application for post-service work was made on 1 September 2006 when he was still subject to the 12-month sanitization period restriction under the Control Regime. The application was related to a part-time and unpaid appointment as a member of the Supervisory Board of HKHS. HKHS is an independent and not-for-profit organization aimed at serving the needs of the Hong

Kong community in housing and related services. It provides housing through a number of schemes and as a partner of the Government. Since its inception in 1948, about 67,000 units have been built under different housing schemes including Rental Estate, Rural Public Housing, Flat-For-Sale, Sandwich Class Housing, Urban Improvement and Senior Citizen Residences. Apart from property development, the business of HKHS includes also property management, commercial leasing, housing loan schemes, and building management and maintenance. The primary role of the Supervisory Board is to set the mission and guiding principles for HKHS.

- 3.4 After consulting PSH/D of H whose assessment was that the appointment would not give rise to conflict of interest or negative public perception, CSB recommended approval of the application. analysis was that although HKHS was not a specified non-commercial organization and was engaged in property development, it also provided other housing-related services in collaboration with the Government to serve the community and might not have a strong "commercial flavour per se" compared with other business organizations. Furthermore, given the voluntary nature of Mr LEUNG's proposed appointment and in view of the assessment of PSH/D of H, CSB considered that Mr LEUNG's application warranted special consideration for shortening the 12-month sanitization period and recommended approval of the application. was subject to the standard work restrictions and an additional restriction that Mr LEUNG should not use or disclose any classified or market sensitive information acquired while he was in government service to HKHS. AO Grade Management concurred recommendation and the assessment that the proposed appointment would not constitute conflict of interest, nor give rise to negative public perception.
- 3.5 The Chairman of ACPE, when consulted on the application, declared interest that Mr LEUNG was his secondary schoolmate and they

had known each other since 1965. The Chairman indicated no objection to CSB's recommendation. Members of ACPE also agreed that Mr LEUNG's application could be approved without further sanitization, but should be subject to the above-stated work restrictions.

3.6 On 25 September 2006, SCS approved the application. Mr LEUNG took up the appointment but had ceased to be a member of the HKHS Supervisory Board as from 11 September 2007.

Appointment by Trust Company International Pty Limited

- 3.7 On 23 November 2006, Mr LEUNG made another application for post-service work. This was a part-time appointment (of 16 hours a month) as Chairman of Trust (Hong Kong) Limited with TCL. The appointment carried a remuneration of A\$50,000 per annum (subsequently revised to HK\$100,000 per annum).
- 3.8 At the time of Mr LEUNG's application, TCL provided financial solutions to individuals, intermediaries and corporate clients in Australia and the Asia region. Its major business activities included corporate services for institutions such as securitization, structured finance, infrastructure/property custody; funds management; services for private clients such as financial planning and retirement planning; and estates and trusts services. At that time, TCL had offices in Singapore and Hong Kong which provided independent trustee services to the growing Asian Real Estate Investment market.
- 3.9 As Chairman of Trust (Hong Kong) Limited, Mr LEUNG would be responsible for the promotion of TCL's brand in Hong Kong. His main duties were to: (a) assist with introduction to local companies which might be potential users of TCL's range of trustee services and which were identified as counterparts with whom TCL would like to do

business; (b) provide feedback to senior management on areas of cultural issues particularly in respect of following up a sales lead or proposal submitted by the management; (c) assist with approaching contacts where functions or marketing events might be held by Trust Management to market the Trust brand and capability; and (d) assist with high-level meetings generally in Hong Kong to promote TCL's brand in the market.

- 3.10 CSB requested PSH/D of H and the AO Grade Management to give their assessment of the application. Having regard to TCL's business areas in financial services, CSB also sought comments from the Permanent Secretary for Financial Services and the Treasury (Financial Services) on the application. PSH/D of H considered that the duties of the proposed appointment did not suggest any real or potential conflict of interest with Mr LEUNG's former duties as Director of Housing ("D of H"), and the AO Grade Management had no objection to the application. The Permanent Secretary for Financial Services and the Treasury (Financial Services) also advised that there did not appear to be any real or potential conflict which would arise.
- 3.11 CSB took the view that the nature of the proposed appointment was not related to Mr LEUNG's former service as PSH/D of H and the appointment, as advised by Mr LEUNG, was non-executive in nature. On that basis, CSB recommended approval of the application subject to the standard work restrictions. In view of TCL's business which was to provide independent trustee services to the growing Asian Real Estate Investment market, and Mr LEUNG's former senior position and his involvement in the public listing of The Link Real Estate Investment Trust ("The Link REIT")⁸, CSB recommended the additional work restrictions that Mr LEUNG:

In July 2003, HA agreed to divest of its retail and car-parking facilities through the public listing of The Link REIT.

- (a) should not use or disclose any classified or sensitive information acquired while he was in government service in the course of his appointment with TCL, and
- (b) should not represent TCL in any discussion with the Government.
- 3.12 As with the HKHS application, the Chairman of ACPE declared that he and Mr LEUNG were secondary schoolmates and raised no objection to CSB's recommendation. ACPE agreed that Mr LEUNG's application be approved.
- 3.13 On 4 January 2007, SCS approved the application with the standard and the additional work restrictions. CSB informed Mr LEUNG of the result of his application on the same date.
- 3.14 On 24 January 2007, Mr LEUNG informed CSB that his job title had been changed from "Chairman of Trust (Hong Kong) Limited" to "Chairman (Asia Region)" as a result of subsequent discussion between TCL and himself. Mr LEUNG advised that his duties would be the same as those of the previous title, except that the region to be covered was Asia instead of just Hong Kong, and the appointment would start from 1 February 2007.
- 3.15 CSB sought the views of parties concerned on the revised scope of appointment, and recommended approval as the parties consulted (including ACPE) had indicated no objection. SCS approved the revised scope of appointment on 2 February 2007, and CSB notified Mr LEUNG of the approval on the same date.

Appointment by PuraPharm International (Hong Kong) Limited

3.16 Mr LEUNG's third application for post-service work was made on 27 November 2006 for appointment as Executive Director of PuraPharm. As stated in Mr LEUNG's application, the main business activities of PuraPharm were the development, production and marketing of health and Chinese herb products in Hong Kong and the Mainland. As such businesses were not related to the real estate sector, the Select Committee has not looked into Mr LEUNG's appointment with PuraPharm.

Appointment by Fineland Real Estate (Holdings) Company Limited

3.17 On 26 November 2007, Mr LEUNG made his fourth application for post-service work, as an Independent Non-executive Director of Fineland. At the time of the application, the major business activities of the company were to develop residential properties in Guangdong Province in the Mainland; develop business and commercial properties in the Pearl River Delta region; develop service apartments in the Mainland; and explore new investment opportunities in retail and office in the Yangtze River Delta region. The company was preparing for initial public offering in Hong Kong in March 2008. As Non-Executive Director, Mr LEUNG would give independent advice on the direction of the company with a view to safeguarding the interest of the shareholders. He would also act as the chairman of the Audit Committee as well as a member of the Nominating Committee of the company. This was a part-time appointment (of about eight hours a month) and carried a remuneration of about HK\$250,000 a year.

- 3.18 The assessment of the Permanent Secretary for Transport and Housing (Housing)/Director of Housing ("PS(H)/D of H")⁹ was that Mr LEUNG's proposed appointment would not constitute any real or potential conflict of interest with his former government duties, nor would it give rise to any negative public perception or embarrassment to the Government. PS(H)/D of H recommended that CSB should give approval to the application.
- 3.19 CSB's analysis was that since Mr LEUNG had no previous dealings with the company which dealt with property development in the Mainland only, and the proposed appointment was non-executive in nature and was not directly related to his former service as PSH/D of H, the application could be approved. Nevertheless, given Mr LEUNG's former senior position in the Government and that his prospective employer was preparing for initial public offering in Hong Kong, it was considered prudent to impose the following additional work restrictions:
 - (a) 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 the company;
 - (b) he should not represent the company in any discussion with the Government; and
 - (c) he should not involve himself in the company's business that involved the real estate sector in Hong Kong.

The AO Grade Management agreed to CSB's recommendations.

Upon the reorganization of policy bureaux of the Government Secretariat in July 2007, the post of Permanent Secretary for Housing, Planning and Lands (Housing)/Director of Housing ("PSH/D of H") was re-titled as Permanent Secretary for Transport and Housing (Housing)/Director of Housing ("PS(H)/D of H").

- 3.20 As with Mr LEUNG's previous applications, the Chairman of ACPE declared interest as Mr LEUNG's secondary schoolmate. ACPE agreed that the application should be approved subject to the standard and the additional work restrictions.
- 3.21 On 4 January 2008, SCS approved the application with the standard and the additional work restrictions. On 10 January 2008, CSB informed Mr LEUNG of the approval. On 9 August 2008, Mr LEUNG informed CSB that he had resigned from his position in the company as from 1 August 2008.

Observations of the Select Committee

- 3.22 The Select Committee has considered the post-service work of Mr LEUNG Chin-man with HKHS, TCL and Fineland and has the following observations.
- 3.23 The Select Committee notes that HKHS is a non-profit-making organization whose mission is to provide housing services to the community in Hong Kong in partnership with the Government. Mr LEUNG's appointment was unpaid and CSB had imposed additional work restrictions on his job so that he could not use or disclose to HKHS any classified or market-sensitive information which he had obtained during his service in the Government. Mr LEUNG had ceased to be a member of the HKHS Supervisory Board as from 11 September 2007. The Select Committee considers that it is unlikely that Mr LEUNG's appointment as a member of the Supervisory Board of HKHS would constitute a conflict of interest with his previous duties as PSH/D of H.
- 3.24 The Select Committee notes that at the time of Mr LEUNG's application, TCL was an Australian company which provided financial services to clients in Australia and the Asia region including Hong Kong.

Its relationship with the Hong Kong real estate sector lay in its provision of trustee services to the growing Asian Real Estate Investment market. Mr LEUNG's appointment with TCL was part-time and non-executive in nature and carried an annual remuneration of HK\$100,000. The Select Committee notes that SCS had imposed additional work restrictions on Mr LEUNG's appointment with TCL so that he could not use or disclose any classified or sensitive information of the Government in the course of his employment with the company and could not represent the company in any discussions with the Government. The Select Committee also notes that while serving as PSH/D of H, Mr LEUNG had been involved in the listing of The Link REIT which was established by HA¹⁰ to implement the divestment of its retail and car-parking facilities. Nonetheless, the information obtained by the Select Committee in the course of its study does not suggest that TCL had dealings with HA or was involved in the listing of The Link REIT.

3.25 The Select Committee notes that at the time of Mr LEUNG's application, Fineland was a real estate developer in the Mainland. It was based in Guangzhou and engaged in the development of residential, business and commercial properties, and service apartments. Its clientele was Mainland residents. Although the company was preparing for initial public offering in Hong Kong in 2008, the listing arrangement was put on hold subsequently. Mr LEUNG's appointment with Fineland was of a part-time and non-executive nature, and carried a remuneration of about HK\$250,000 per annum. SCS had also imposed additional work restrictions on the appointment so that Mr LEUNG could not use or disclose any classified or sensitive information of the Government in the course of his appointment with the company and could not involve himself in any real estate development of the company in Hong Kong.

HA is a statutory body tasked to develop and implement a public housing programme, and the Housing Department acts as the executive arm of HA. The Permanent Secretary for Housing, Planning and Lands (Housing) also assumes the office of D of H to underpin the Secretary for Housing, Planning and Lands who also serves as the Chairman of HA as from 1 April 2003.

Mr LEUNG had resigned from his position in Fineland as from 1 August 2008. As in the case of TCL, the information obtained by the Select Committee in the course of its study does not suggest that HA or the Housing Department ("HD") had dealings with Fineland nor does it suggest that the company has any parent, subsidiary or associated companies which are engaged in real estate development in Hong Kong.

3.26 In addition to the observations above, the Select Committee notes that the above three post-service appointments taken up by Mr LEUNG have not aroused public concern. In the course of its study, the Select Committee does not find any issues that warrant special attention. Accordingly, the Select Committee has not made further inquiry into these three post-service appointments of Mr LEUNG.

Chapter 4 Mr LEUNG Chin-man's application for employment with New World China Land Limited

4.1 Mr LEUNG Chin-man's fifth application for post-service work was with NWCL. This Chapter sets out the circumstances leading to his employment with NWCL and provides a brief account of the process in which the application was handled within the Government and by ACPE, the decision of SCS, and how the employment contract was subsequently terminated. It also describes the relationship between NWCL and its parent company, NWDCL.

Appointment by New World China Land Limited

Sequence of events relating to Mr LEUNG Chin-man's appointment

According to the evidence given by Mr LEUNG Chin-man, he was formally introduced by a personal friend, Mr CHUNG Kwok-cheong, to Dr Henry CHENG for the first time at a cocktail reception at the University of Hong Kong in around March 2006¹¹. He did not meet Dr CHENG again after the reception. In October 2007, he had lunch with Mr Stewart LEUNG and other senior personnel of some real estate developers. Later, Mr Stewart LEUNG rang him up and said that Dr CHENG would like to know whether he would be interested in taking up any employment. On 22 October 2007, he met Mr Stewart LEUNG to discuss whether he would be interested in joining NWCL, as

According to Mr CHUNG Kwok-cheong's evidence, he made a donation to the University of Hong Kong in early 2006 to set up the Paul KC CHUNG Professorship in Jurisprudence under the Law Faculty. The University of Hong Kong organized a donation ceremony cum cocktail reception at the Vice-Chancellor's Residence on 30 March 2006.

Dr CHENG would like to know¹². At that meeting, Mr LEUNG Chin-man said that he was interested in joining NWCL in principle but would need to give the matter fuller consideration. However, he did not go back to Mr Stewart LEUNG or Dr CHENG after that. Neither did Mr Stewart LEUNG follow up the matter with him.

- 4.3 According to the evidence given by Mr Stewart LEUNG, in about November 2007, Dr Henry CHENG asked him whether he knew Mr LEUNG Chin-man as a person. Dr CHENG did not disclose the purpose of his enquiry at that time. A few weeks later, Dr CHENG asked him to ascertain whether Mr LEUNG Chin-man was interested in joining New World. Mr Stewart LEUNG then rang up Mr LEUNG Chin-man to arrange a meeting with him. During that meeting, Mr Stewart LEUNG asked Mr LEUNG Chin-man whether he was interested in joining New World. Mr LEUNG Chin-man said that he would consider the matter and would talk about it again when he came back from a trip. Mr Stewart LEUNG reported the matter to Dr CHENG. After that, he did not have further contact with Mr LEUNG Chin-man.
- Mr LEUNG Chin-man told the Select Committee that, in early May 2008, Dr Henry CHENG invited him through Mr CHUNG Kwok-cheong to have lunch on 8 May 2008. During the lunch meeting, after Mr CHUNG had left early for another commitment, Dr CHENG asked Mr LEUNG whether he was interested in joining NWCL as an Executive Director, and they discussed the terms of employment and duties of the job. Dr CHENG said that all of Mr LEUNG's work would be carried out in the Mainland. He would like Mr LEUNG to formulate an overall strategy for the company and establish a procurement system to be followed in the Mainland. When Dr CHENG asked Mr LEUNG about his expected salary, Mr LEUNG said that he would like to have a

At that time, Dr Henry CHENG was the Chairman and Managing Director of NWCL and Managing Director of NWDCL; Mr Stewart LEUNG was an Executive Director of NWCL, and Executive Director and the Group General Manager of NWDCL.

remuneration package of HK\$3 million to HK\$4 million inclusive of the annual salary. Mr LEUNG indicated acceptance of the offer in principle but said that he had to obtain the Government's approval before he could take up the appointment. After the lunch meeting, Dr CHENG asked his son, Mr Adrian CHENG Chi-kong, an Executive Director of NWCL, to follow up the matter with Mr LEUNG.

- 4.5 At the hearing on 9 May 2009, Mr LEUNG Chin-man gave evidence that he started to fill in the application form for the post-service work on 9 May 2008. He put down the date of 9 May in the application However, according to Mr LEUNG, he started to fill in the application form on that day, and completed and submitted it to CSB on He put down in the application form that the job was 16 May. "Introduced by a family friend" without giving the friend's name. Mr LEUNG told the Select Committee that the "family friend" was Mr CHUNG Kwok-cheong. He explained that as it was Mr CHUNG who had introduced him to Dr CHENG, and Dr CHENG subsequently asked him to work for NWCL, the job had arisen from Mr CHUNG. response to further questions of the Select Committee, Mr LEUNG said that he had not asked Mr CHUNG whether he knew about the job in NWCL, nor had he discussed with Mr CHUNG whether the job suited As to when he thought Mr CHUNG become aware of his joining NWCL, Mr LEUNG said that he had not told Mr CHUNG about working for NWCL, and he believed that Mr CHUNG probably learnt about this through NWCL's press announcement¹³.
- 4.6 Mr CHUNG Kwok-cheong told the Select Committee at the hearing on 4 June 2009 that due to another commitment, he left early after the lunch with Dr Henry CHENG and Mr LEUNG Chin-man on 8 May 2008. While he was there, Dr CHENG and Mr LEUNG did not

NWCL made a press announcement on 1 August 2008 on the appointment of Mr LEUNG Chin-man as the Executive Director and Deputy Managing Director of the company (Appendix 7).

say anything about Mr LEUNG joining New World. About one to two weeks later, Mr CHUNG received a call from Mr LEUNG who told him that he was going to work for New World in the Mainland and needed to apply for the Government's approval. Mr LEUNG asked whether he could put down Mr CHUNG's name in the application form as the introducer. Mr CHUNG agreed because Mr LEUNG and Dr CHENG were introduced to each other by him. He did not know that Mr LEUNG eventually did not put down his name in the application form.

- 4.7 In view of the discrepancies between the evidence of Mr LEUNG Chin-man on 9 May 2009 and the evidence of Mr CHUNG Kwok-cheong on 4 June 2009 regarding when Mr CHUNG came to know of Mr LEUNG joining NWCL, the Select Committee questioned Mr LEUNG on the matter again at the hearing on 20 July 2009. Mr LEUNG said at that hearing that he probably rang up Mr CHUNG around mid May 2008 to inform him of the matter before submitting the application form. Mr LEUNG said that at the time, he told Mr CHUNG that since Mr CHUNG introduced him to Dr CHENG in early 2006, he would put down Mr CHUNG as the introducer. Mr LEUNG recalled that Mr CHUNG told him that there was no problem putting down his name. However, Mr LEUNG said to Mr CHUNG that it would not be appropriate to do so as it was a private matter; he said he would put down "personal friend" instead. Mr LEUNG admitted that during the telephone conversation, he did not state clearly to Mr CHUNG that "he introduced the job to me", but only mentioned to Mr CHUNG that he (Mr CHUNG) introduced that person. Neither had Mr LEUNG referred to the application form.
- 4.8 According to the evidence of Mr LEUNG Chin-man, he discussed the details of his scope of work in NWCL with Mr Adrian CHENG and Ms Lynda NGAN Man-ying (another Executive Director of NWCL) between 9 and 16 May 2008. He submitted his application to

CSB on 16 May 2008. The application was approved by SCS on 8 July 2008.

- According to documents produced by Dr Henry CHENG to the Select Committee, Mr LEUNG Chin-man sent an email to Ms Lynda NGAN on 14 July 2008 listing the duties of his employment with NWCL. Mr LEUNG informed Ms NGAN that to facilitate the approval of his application by the Government and broadly in line with the understanding between him and Dr CHENG, he had filled in the duties listed in the email in the application form submitted to CSB. He hoped that the duties in his contract could be couched in general terms to provide flexibility in his actual work after joining NWCL.
- 4.10 According to Dr CHENG's evidence, he and Ms NGAN met Mr LEUNG Chin-man on 17 July 2008 to finalize the details of Mr LEUNG's job in NWCL, the scope of which included the procurement system and cost control in respect of the company's hotel business, as well as enhancement of communication among different regional offices of the company in the Mainland.
- 4.11 The documents produced by Dr CHENG to the Select Committee show that Mr LEUNG provided his bio data to Ms NGAN on 20 July 2008 for the preparation of a public announcement on his appointment. Mr LEUNG confirmed his acceptance of the terms of the employment set out in the draft offer letter provided by Ms NGAN, and stated to Ms NGAN that he hoped Dr CHENG would be amenable to the job title of "Executive Director and Deputy Managing Director" because it would facilitate his dealing with the regional managers and other colleagues in the company. On 22 July 2008, Ms NGAN provided through an email to Mr LEUNG the employment letter, employment contract, draft press announcement and Form B (regarding declaration and undertaking of directors to be submitted to the Stock Exchange of Hong Kong). Mr LEUNG made some amendments to the press

announcement and filled in Form B. According to the emails sent by Mr LEUNG to Ms NGAN on 13 and 22 July 2008, Mr LEUNG would meet Mr Adrian CHENG on 23 July 2008 to finalize the terms of the employment.

- 4.12 According to the documents produced by Dr CHENG to the Select Committee, the Executive Committee of the Board of Directors of NWCL endorsed the appointment of Mr LEUNG Chin-man on 1 August 2008. Mr LEUNG accepted the appointment and signed the employment contract on the same day. NWCL made an announcement on 1 August 2008 on the appointment of Mr LEUNG as the Executive Director and Deputy Managing Director of the company (please refer to **Appendix 7**).
- 4.13 Noting from the press announcement that Mr LEUNG Chin-man's job title had been changed from "Executive Director", as stated in his application form, to "Executive Director and Deputy Managing Director", CSB wrote to Mr LEUNG on 4 August 2008 for clarification. On 11 August 2008, Mr LEUNG and NWCL wrote separately to CSB and explained that the title of Deputy Managing Director was a functional title for Mr LEUNG. Both confirmed that the functional title would not alter the scope of Mr LEUNG's duties as approved by SCS.

Employment contract with New World China Land Limited

4.14 Both the draft and finalized employment contracts between Mr LEUNG Chin-man and NWCL contained a transfer clause as follows:

"The Company has the right to transfer and/or second you [Mr LEUNG Chin-man] to work part time or full time for any subsidiary or associated company of the Company or any subsidiary company of the Company's holding company (these companies together with the Company hereinafter collectively called "the Group") or to procure your service to support any of such companies."

Nonetheless, in item 22 of his application form for the post-service work submitted to CSB, Mr LEUNG stated that he would not be involved in the business of NWCL's parent company or subsidiary companies.

4.15 The draft employment contract set out the duties of Mr LEUNG Chin-man, and included those specified in his application form forwarded to CSB and in his email sent to Ms Lynda NGAN on 14 July 2008¹⁴. However, no item of duties was specified in the finalized employment contract signed by Mr LEUNG.

Handling of Mr LEUNG Chin-man's application within the Government and by the Advisory Committee on Post-service Employment of Civil Servants

- 4.16 Mr LEUNG Chin-man submitted his application for appointment with NWCL to CSB on 16 May 2008. He had applied to take up a full-time appointment as Executive Director of NWCL, with a remuneration of about HK\$3 million per annum.
- 4.17 In his application form, Mr LEUNG provided his major duties as D of B and as PSH/D of H respectively as follows:

Mr LEUNG Chin-man put down four major duties of his work in NWCL in his application form. However, the draft employment contract set out five items of duties for Mr LEUNG. The additional duty was to oversee the hotel development function in China, which was related to one of the major business activities of NWCL, i.e. operation of and investment in hotels in China.

- (a) as D of B from October 1999 to June 2002
 - (i) processing and approval of building plans under the law;
 - (ii) removal of illegal building works; and
 - (iii) supervision of the operation of the Buildings Department ("BD").
- (b) as PSH/D of H from July 2002 to November 2006¹⁵
 - (i) help developing overall housing policy/strategy;
 - (ii) act as the chief executive of HA;
 - (iii) reorganize HA and HD;
 - (iv) lead the privatization of HA's commercial portfolio; and
 - (v) oversee the operation of the Estate Agents Authority.
- 4.18 Mr LEUNG stated in his application form that the major business activities of NWCL included the operation of and investment in hotels in China; development of real estate in China; operation of golf courses in China; and operation of holiday resorts in China. As

According to the information provided by the Administration, Mr LEUNG Chin-man served as PSH/D of H from July 2002 to January 2006, and he proceeded on pre-retirement final leave in January 2006 until January 2007. However, the period of his service as PSH/D of H, as put down by Mr LEUNG in his application form, was from July 2002 to November 2006.

Executive Director of NWCL, Mr LEUNG's major duties and responsibilities would include the following:

- (a) to develop design and construction modules for projects in different cities of China;
- (b) to identify ways in constructing environmentally friendly and sustainable buildings in China;
- (c) to set up a comprehensive procurement system in China; and
- (d) to provide general support for the administration of the regional offices in China.
- 4.19 Mr LEUNG also stated in his application form that he would be based in a major city in China. He further stated that NWCL's parent company was NWDCL, but he would not be involved in any way in the business of the parent company.

Consultation with bureaux concerned on the application by the Civil Service Bureau

4.20 Since Mr LEUNG had served as PSH/D of H immediately before his cessation of active service and as D of B immediately prior to that, and in the light of the business nature of his prospective employer, CSB considered that the principal bureau to advise and make recommendations on Mr LEUNG's application was the Transport and Housing Bureau ("THB"), and that the Development Bureau ("DEVB") should also be invited for views. In line with the established practice, CSB sought the views of the three relevant Permanent Secretaries on 19 May 2008. CSB drew their attention to the fact that the parent company of Mr LEUNG's prospective employer was NWDCL. The

following briefly sets out how different branches of THB and DEVB, CSB as well as ACPE had handled, vetted and assessed Mr LEUNG's application. The performance of the government officials and ACPE in carrying out their duties during the vetting and assessment of Mr LEUNG's application and the Select Committee's observations in this respect will be given in Chapter 5.

Handling of application by the Housing Branch of the Transport and Housing Bureau

- 4.21 The officer in the Housing Branch ("HB") who assisted in handling the application was Mr David CHOW Chor-kong, the then Assistant Director (Administration). Mr CHOW considered that the application should be approved. His views and recommendations were set out in a submission sent to PS(H)/D of H, Mr Thomas CHAN Chun-yuen, through his supervisor, Deputy Director (Corporate Services) Mr LEE Tat-chi, who agreed to his recommendations. Mr Thomas CHAN was also of the view that the application should be approved.
- In its reply to CSB on 5 June 2008, HB stated that it had no objection to Mr LEUNG's application and its reply was copied to the Planning and Lands Branch ("PLB") and the Works Branch ("WB") of DEVB. HB's completed assessment (Part III Assessment A of the application form) was returned to CSB on 10 June 2008. In the assessment, it was recommended that CSB should give approval to the application without any additional restrictions.

<u>Handling of application by the Planning and Lands Branch of the Development Bureau</u>

4.23 The memorandum from CSB enclosing Mr LEUNG's application reached the Chief Executive Officer ("CEO") (Administration), Mrs Pearl SIU NG Che-sheung, of PLB of DEVB on

19 May 2008. Mrs SIU consulted her supervisor, Principal Executive Officer ("PEO") (Administration) Ms Wilma TOONG Shui-tze, on Mr LEUNG's application. She also obtained the assistance of Senior Executive Officer (Personnel) Miss Alice CHEONG Fung-yu, and conducted research for information relevant to the application. Mrs SIU sought information from the Assistant Director/Support of BD, Mr LAM Siu-tong on BD's dealings, e.g. contractual dealings, with NWCL and its parent company NWDCL, and invited his comments on the application.

- 4.24 basis of the information gathered, Mrs SIU recommended that CSB be informed that: (a) the Branch had no objection to the application as Mr LEUNG's tenure as D of B ceased almost six years ago; and (b) according to BD, the department had no contractual dealings with NWCL or NWDCL, but there were building plans submissions for development projects (e.g. the Hunghom Peninsula project, the Tsim Sha Tsui New World redevelopment project) made under the Buildings Ordinance (Cap. 123) ("BO") by subsidiary companies of NWDCL. Mrs SIU made her recommendations to the Acting Permanent Secretary for Development (Planning and Lands) ("PS(PL)"), Mrs Susan MAK LOK Suet-ling, via Ms TOONG Shui-tze and Deputy Secretary for Development (Planning and Lands) 2, Mr Tommy YUEN Man-chung. Ms TOONG disagreed with Mrs SIU's recommendation under (a). Mr YUEN observed that Mr LEUNG's job was outside Hong Kong and he would not be involved in official dealings with any part of the Government. He therefore did not see why the Branch would have any comment on CSB's referral.
- 4.25 The views of Ms TOONG and Mr YUEN were accepted by Mrs Susan MAK who instructed that the words "no objection" be excluded from the reply to CSB. PLB advised CSB on 30 May 2008 that BD had no contractual dealings with NWCL or its parent company NWDCL. It also advised that there were building plans submissions for development projects (e.g. the Hunghom Peninsula project, the Tsim Sha

Tsui New World redevelopment project) made under BO by the subsidiary companies of NWDCL.

4.26 On 30 May 2008, CSB again sought the views of PLB to see whether they had any specific comments on Mr LEUNG's application. The Branch replied to CSB on the same day stating that it had no specific comment on the application.

Handling of application by the Works Branch of the Development Bureau

- 4.27 The officer in WB responsible for assisting in processing Mr LEUNG Chin-man's application was Mr WONG Kwai-kuen, acting PEO (Works). Upon receipt of the memorandum from CSB attaching Mr LEUNG's application, Mr WONG, with the assistance of Senior Executive Officer (Works) Personnel, Miss Sheila WONG Pui-yee, consulted colleagues in WB to ascertain if NWCL and its related companies were listed contractors of WB.
- 4.28 Since Mr LEUNG Chin-man had not worked in WB or the departments under its purview prior to his retirement, and WB had little or no knowledge about Mr LEUNG's responsibilities, the Branch did not consider itself in a position to comment on or object to the application. It was also of the view that it was unable to assess whether Mr LEUNG's application would constitute any real or potential conflict of interest with his former responsibilities in the Government. The Branch was, however, of the view that although the business operation of Mr LEUNG's prospective employer was outside Hong Kong, an issue of public perception might still arise given the business nature of Mr LEUNG's prospective employer and Mr LEUNG's senior position when he was in the Government and his involvement in the approval of building plans when serving as D of B.

- 4.29 Mr WONG made his recommendations along the above lines to the Permanent Secretary for Development (Works) ("PS(W)"), Mr MAK Chai-kwong, who agreed to the recommendations.
- 4.30 On 26 May 2008, WB advised CSB that NWCL and its parent company NWDCL were not listed contractors of WB. Nonetheless, NWDCL owned NWS (around 56% of the shareholding) which in turn, through some other companies, wholly owned nine companies that were listed contractors of WB and had 13 outstanding public works contracts. It also pointed out that in the light of the business nature of Mr LEUNG's prospective employer in real estate development, construction and management matters, the appointment applied for by Mr LEUNG, on account of the relevance of his former responsibilities as D of B, might have a public perception issue despite the operation of his prospective employer being outside Hong Kong.
- 4.31 On 17 June 2008, CSB again sought views from WB. It informed WB that HB and PLB had indicated they had no objection to the application and asked whether WB had any objection to Mr LEUNG's application. On 24 June 2008, WB advised CSB that as Mr LEUNG had not served in WB nor its departments prior to his retirement, WB was not in a position to comment on or object to the application. The Branch, however, reiterated its concern about public perception.

<u>Handling of application by the Administrative Officer Grade</u> Management

4.32 As Mr LEUNG Chin-man was a member of the AO grade, an assessment of the Head of the AO Grade Management was also sought on the application. The assessment was made by Mrs Sarah KWOK TAM Pui-yi, Deputy Secretary for the Civil Service 1 ("DS(CS)1"), to whom the authority for assessment from the perspective of the AO Grade Management had been delegated by Mr Andrew WONG Ho-yuen,

Permanent Secretary for the Civil Service ("PSCS"). As a representative of the AO Grade Management, Mrs KWOK advised on 25 June 2008 that based on the information provided in the application, there did not appear to be any apparent conflict between the prospective employment applied for and Mr LEUNG's former responsibilities. She therefore recommended that the application be approved.

Referral of the application to the Advisory Committee on Post-service Employment of Civil Servants by Civil Service Bureau

- 4.33 On the basis of the available information and the assessment made by the relevant bureaux and Head of Grade, CEO (Pensions) of CSB, Mrs Carrie WONG HO Ka-lai, recorded her preliminary views and recommendations on the application in a file minute to Mrs Sarah KWOK, via the Principal Assistant Secretary (Appointments) Mrs Sharon YIP LEE Hang-yee, for clearance for the purpose of consulting ACPE. Mrs Carrie WONG was also the secretary of ACPE.
- 4.34 It was stated in the file minute submitted by Mrs Carrie WONG that NWDCL was the parent company of NWCL, and that Mr LEUNG's proposed appointment with NWCL would involve overseeing the company's business in the Mainland only. The file minute relayed the views of THB, DEVB and the AO Grade Management on the application. It also contained CSB's views that Mr LEUNG had left the posts of D of B and PSH/D of H for six years and over two years respectively, that Mr LEUNG had no previous dealings or business connection with NWCL, and that he would only be overseeing NWCL's business in the Mainland. Having regard to these considerations, CSB considered 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.

- 4.35 However, given Mr LEUNG's former senior position in the Government and to address the public perception issue, CSB proposed to impose four additional work restrictions in addition to the standard work restrictions. These were, that Mr LEUNG:
 - (a) should not involve himself in any business of NWCL that was connected with Hong Kong;
 - (b) should not use or disclose any classified or sensitive information acquired while he was in government service in the course of his employment with NWCL;
 - (c) should not represent NWCL in any discussion with the Government; and
 - (d) for avoidance of doubt, should confine his proposed appointment to NWCL.

Handling of application by the Advisory Committee on Post-service Employment of Civil Servants

- 4.36 After clearance and endorsement of the views recommendations as stated above by Mrs Sharon YIP and Mrs Sarah KWOK, Mrs Carrie WONG prepared a draft paper based on such views and recommendations to facilitate the consideration of Mr LEUNG's application by ACPE. She forwarded the paper to the ACPE Chairman, Mr PANG Kin-kee, on 30 June 2008. Mr PANG made the declaration that Mr LEUNG was his secondary schoolmate. He advised that the application could be considered by circulation of papers, and indicated his agreement with CSB's recommendations.
- 4.37 Mrs Carrie WONG then included in the paper a paragraph containing the Chairman's views and declaration and circulated the paper

on 2 July 2008 to ACPE members for advice. The members were Dr Elizabeth SHING Shiu-ching, Mr James Edward THOMPSON, Ms Marina WONG Yu-pok, and Mr Simon IP Sik-on. All four members recommended that approval be given for Mr LEUNG to take up the proposed appointment with NWCL without further sanitization, but subject to the standard and the additional work restrictions.

Decision of the Secretary for the Civil Service

- 4.38 On 4 July 2008, after receiving the comments from ACPE, Mrs Sharon YIP submitted a file minute on Mr LEUNG's application to SCS, Miss Denise YUE Chung-yee, via Mrs Sarah KWOK and Mr Andrew WONG. The file minute contained information on the proposed appointment and the views of parties consulted. It recommended that Miss YUE approve Mr LEUNG's application to take up the appointment with NWCL as Executive Director with effect from a current date without further sanitization, but subject to the standard and the additional work restrictions. The recommendation was supported by both Mrs KWOK and Mr WONG.
- 4.39 Miss Denise YUE accepted the recommendation and approved the application on 8 July 2008. CSB informed Mr LEUNG Chin-man of the decision on 9 July 2008. In the approval letter, Mr LEUNG was also requested to notify his prospective employer of the terms of approval for his application.

Public register

4.40 In line with the arrangement for basic information on approved post-service work taken up by civil servants at D4 and above to be placed on a register for public inspection upon request, CSB requested Mr LEUNG Chin-man to complete and return the required information for entry onto the register. Mr LEUNG submitted the return to CSB on

30 July 2008, and the information was placed on the register on the same date. A copy of the register is in **Appendix 8**.

Subsequent development

4.41 The public announcement on 1 August 2008 by NWCL of Mr LEUNG Chin-man's appointment as an Executive Director and Deputy Managing Director of the company aroused considerable public concern and controversy. On 4 August 2008, CE, Mr Donald TSANG Yam-kuen, requested Miss Denise YUE to submit a report on the processing of Mr LEUNG's application. Miss YUE submitted her report to CE on 15 August 2008. Upon receipt of the report, CE noted that in the process of approving Mr LEUNG's application, there was no mention of Mr LEUNG's involvement in the handling of the Hunghom Peninsula development, and no analysis of the public perception of Mr LEUNG's involvement in the development, nor were these matters brought to the attention of ACPE when seeking its advice. CE, therefore, asked Miss YUE to obtain the assessment of Mr LEUNG's application from the relevant bureaux afresh, with due regard to his involvement in the Hunghom Peninsula development, and to present the relevant information to ACPE for its further advice. This was to be followed by Miss YUE's re-assessment of Mr LEUNG's application and presentation of a further report to CE.

Announcements made by the Secretary for the Civil Service and the Housing Branch of the Transport and Housing Bureau

4.42 At a media session on 15 August 2008, Miss Denise YUE expressed her sincere apologies to the public for not having considered Mr LEUNG Chin-man's involvement in the handling of the Hunghom Peninsula development and for the public concern, comments and queries which Mr LEUNG's case had caused. On CE's request for her to consult

the relevant policy bureaux on Mr LEUNG's application again and present the relevant information to ACPE for further advice, Miss YUE stressed that she would endeavour to submit the report to CE as soon as possible. HB of THB also issued a statement on the same day apologizing for not having considered Mr LEUNG's involvement in the Hunghom Peninsula development in processing his application, and undertook to render full support to CSB in preparing the re-assessment requested by CE.

<u>Termination of appointment</u>

4.43 On 16 August 2008, NWCL announced that the employment contract between the company and Mr LEUNG Chin-man was terminated unconditionally by mutual agreement with immediate effect. A copy of the announcement is in **Appendix 9**. A Termination Agreement between Mr LEUNG and NWCL terminating the employment contract between them unconditionally with effect from 16 August 2008 with both parties agreeing not to claim against each other in connection with the termination was approved by the Executive Committee of the Board of Directors of NWCL on 18 August 2008. Mr LEUNG also made a public response, copy in **Appendix 10**, and notified CSB of the termination on 16 August 2008.

Appointment of the Committee on Review of Post-service Outside Work for Directorate Civil Servants

4.44 In view of this development, CE announced that the re-assessment of Mr LEUNG Chin-man's application for post-service work with NWCL was no longer necessary. At the same time, he announced the setting up of an independent Committee on Review of Post-service Outside Work for Directorate Civil Servants ("the Review Committee") to review the existing policy and arrangements governing post-service work for directorate civil servants. The terms of reference

and membership of the Review Committee were announced on 30 September 2008.

Relationship between New World China Land Limited and New World Development Company Limited

4.45 The appointment of Mr LEUNG Chin-man by NWCL had aroused public controversy mainly because the parent company of NWCL is NWDCL and another subsidiary company of NWDCL (i.e. NWS) owned the developer of Hunghom Peninsula PSPS flats (i.e. FSDL), and Mr LEUNG Chin-man was involved in the disposal of Hunghom Peninsula PSPS flats when he served as PSH/D of H. The relationships among NWDCL, NWCL, NWS and FSDL are set out below.

4.46 According to the information provided in the website of NWDCL¹⁶, NWDCL was a listed company and one of the major real estate developers in Hong Kong. While NWDCL had been engaging in property business in Hong Kong since its establishment, it had become a business conglomerate in recent years with business expanded to cover the core areas of property and hotel, infrastructure and service, department stores, and direct investment and other businesses. The property and hotel business of NWDCL focused on the development of residential buildings, hotels and shopping malls in Hong Kong and the Mainland, and investment in hotels in the Mainland and Southeast Asia.

4.47 On the other hand, as shown in the above website, NWCL was also a Hong Kong listed company. It was a subsidiary of NWDCL with 70% of its shares owned by the parent company and served as the property flagship of NWDCL in the Mainland. The business of NWCL included the development of property for sale, management of investment

The information set out in paragraphs 4.46 to 4.48 is from the website of NWDCL on 16 September 2009.

property, and operation of resorts and hotels in the Mainland. The company had a diversified property portfolio comprising projects including residential estates, service apartments, villa, offices, shopping centres, mixed-use complexes, resorts and hotels in over 21 Mainland cities. Up to the end of December 2008, the property portfolio of NWCL comprised 37 major development projects for sale with a total gross floor area ("GFA") of 26.7 million square metres, 21 major investment properties and hotels with a total GFA of 1.71 million square metres, and six hotels.

4.48 The Chairman and Managing Director of NWCL was Dr Henry CHENG, who was also the Managing Director of NWDCL and the Chairman of another subsidiary company of NWDCL, NWS. Mr Stewart LEUNG was an Executive Director of NWCL, as well as an Executive Director and the Group General Manager of NWDCL. NWS was NWDCL's infrastructure and service flagship in Hong Kong and the Mainland. NWS owned 50% of the shareholding in FSDL, the developer of the Hunghom Peninsula PSPS project. In short, NWDCL was the parent company of NWCL and also an "indirect shareholder" of FSDL.

Chapter 5 The performance of parties involved in processing Mr LEUNG Chin-man's application for post-service work with New World China Land Limited

- 5.1 In view of the controversy caused by the approval of Mr LEUNG Chin-man's application for post-service work with NWCL, the Select Committee considers it necessary to inquire into the process for the vetting and approval of Mr LEUNG's application within the Government and the consideration of the application by ACPE in order to evaluate the way the parties performed their roles. In assessing an application, CSB would seek the views of parties concerned. The Select Committee takes the view that this is part of the assessment process and the parties concerned are all playing an important role irrespective of whether they are making recommendations or giving their views on the application. The Select Committee summoned government officials and the Chairman and members of ACPE who had handled the application to give evidence as witnesses at its public hearings. To facilitate the conduct of proceedings at the hearings, the witnesses were also asked to provide written statements on the areas on which evidence would be taken from them.
- 5.2 This Chapter provides a detailed account of the processing of Mr LEUNG's application within the Government and by ACPE, and how the witnesses discharged their responsibilities. It also sets out the Select Committee's observations on the performance of the witnesses and the inadequacies of the officials responsible for the vetting and approval in general.
- 5.3 The focus of the public controversy caused by SCS's approval of Mr LEUNG's post-service employment with NWCL is that in vetting and approving Mr LEUNG's application, the Administration had failed to consider Mr LEUNG's involvement in the Hunghom Peninsula case.

Moreover, as Mr LEUNG had taken part in the formulation and execution of major housing or land policies and decisions while in government service, his taking up of post-service work in the real estate sector would give rise to a public perception issue. Having regard to these considerations, the Select Committee's questions to witnesses had paid particular attention to Mr LEUNG's role and involvement in the Hunghom Peninsula case and the possibility of a public perception issue arising from his taking up of the employment with NWCL.

Housing Branch of the Transport and Housing Bureau

5.4 Upon receiving an application for post-service work from a directorate civil servant, HB of THB will assess the application with reference to the guidelines set out in CSB Circular No. 10/2005. application will be vetted by the Assistant Director (Administration) to find out if there is any impropriety. If it is observed that there are aspects which may give rise to potential conflict of interest as a result of the applicant's taking up of the prospective post-service work, the Assistant Director (Administration) will conduct file research, consult other senior directorate officers, or ask the applicant to provide further information, and alert PS(H)/D of H. After vetting the application, the Assistant Director (Administration) will submit his assessment and recommendations together with a draft completed assessment form for return to CSB (if required) to PS(H)/D of H via the Deputy Director (Corporate Services). The Assistant Director (Administration) will reply to CSB after PS(H)/D of H's endorsement of the application.

Mr Thomas CHAN, Permanent Secretary for Transport and Housing (Housing)/Director of Housing and Mr David CHOW, former Assistant Director (Administration)

5.5 Since Mr LEUNG Chin-man had served as PSH/D of H immediately before his cessation of active service in the Government, according to CSB's procedure, HB of THB was required to provide an assessment of Mr LEUNG's application stating whether his application should be supported, and to complete Assessment A of Part III of the application form. Mr David CHOW was the then Assistant Director (Administration), responsible for vetting Mr LEUNG's application and making a submission via the Deputy Director (Corporate Services), Mr LEE Tai-chi, to PS(H)/D of H, Mr Thomas CHAN. Mr CHAN was responsible for making the decision on whether Mr LEUNG's application should be supported taking into account the recommendation of his staff, and for signing Assessment A of Part III of the application form. Mr CHAN and Mr CHOW had an important role in handling Mr LEUNG's application, the Select Committee summoned them to attend its hearings.

Evidence obtained from Mr Thomas CHAN and Mr David CHOW

Mr Thomas CHAN took over the post of PSH/D of H from Mr LEUNG Chin-man in January 2006 when Mr LEUNG proceeded on pre-retirement leave. According to Mr CHAN, he had known Mr LEUNG as an AO grade colleague but Mr LEUNG had never been his supervisor or subordinate. They did not have any close personal relationship. Mr David CHOW was the Assistant Director (Administration) of HB, THB since January 2007 up to his retirement from the Government in December 2008. According to Mr CHOW, he did not know Mr LEUNG personally.

- According to the file minute on Mr LEUNG's application submitted to Mr Thomas CHAN via Mr LEE Tat-chi on 4 June 2008, Mr David CHOW pointed out that HD did not have direct dealings with NWCL. He commented that it was unlikely that the information which Mr LEUNG had come across during his tenure as D of H would enable his prospective employer to gain any undue/unfair advantage over its competitors, and the possibility for Mr LEUNG's former position as D of H to benefit directly or specifically his prospective employer was also remote. As no real or potential conflict of interest had arisen from Mr LEUNG's former position as D of H and his prospective employment, Mr CHOW recommended no objection to Mr LEUNG's application.
- 5.8 As regards the factors which Mr CHOW had considered in coming to the above conclusion and whether he had conducted any file research or consulted other officers in processing Mr LEUNG's application, Mr CHOW gave evidence that when vetting Mr LEUNG's application, he had examined the information provided in the application form and consulted the guidelines set out in CSB Circular No. 10/2005. He noticed that the business of Mr LEUNG's prospective employer, NWCL, was conducted in the Mainland, and Mr LEUNG would be based in a major city in China and would not be involved in the business of NWCL's parent company. He had visited the website of NWCL to ascertain its business. Mr CHOW explained that as he was an ex-officio member of the Senior Officials' Meeting of HD, he was familiar with the business of HD. He knew that HB, HA, or HD did not have business dealings with companies in the Mainland. As PSH/D of H, Mr LEUNG was responsible for formulating local housing policies and the development and management of local public housing. Mr CHOW took the view that Mr LEUNG's previous duties should not have any connection with the business of NWCL which was mainly involved in the development of hotels and real estate in the Mainland; Mr LEUNG should not have been involved in formulating any policy that could have benefited NWCL during his tenure as PSH/D of H; and the information

which he had obtained would not enable NWCL to gain any undue/unfair advantage over its competitors. Hence, Mr CHOW concluded that Mr LEUNG's prospective work with NWCL would not constitute any real or potential conflict of interest with his previous duties of PSH/D of H. As to the parties whom he had consulted in processing Mr LEUNG's application, Mr CHOW said that he had submitted the file minute through Mr LEE Tai-chi to Mr Thomas CHAN.

- 5.9 Mr CHOW had made his assessment of Mr LEUNG's application based on his knowledge of the operation of HB, HA and HD, and the information provided by Mr LEUNG in the application form. Mr CHOW had answered "No" to items 33 to 39 of Assessment A of Part III of the application form for Mr Thomas CHAN's signature. Mr CHOW also stated under item 40 that "it is unlikely that the proposed employment will give rise to any negative public perception or embarrassment to the Government." This answer was made on the basis that there was no connection between the business of Mr LEUNG's prospective employer with HA or HB, that Mr LEUNG would be working in the Mainland, and that he would not be involved in the business of the prospective employer's parent company, NWDCL, or any of its subsidiaries.
- 5.10 In respect of the Hunghom Peninsula case, Mr CHOW said that he knew that Mr LEUNG was involved in the Hunghom Peninsula case but he had not associated the case with Mr LEUNG's application. He explained that in his assessment, he had focused on Mr LEUNG's prospective employer, NWCL. As Mr LEUNG had indicated in item 22 of the application form that he would not be involved in the business of NWDCL, he had not considered past dealings between Mr LEUNG and NWDCL, and had not given any special consideration to Mr LEUNG's involvement in the Hunghom Peninsula case or NWCL's status as a subsidiary of NWDCL. Mr CHOW further advised that during his service as Assistant Director (Administration), he had not come across

any matters relating to the Hunghom Peninsula development in his work, nor had the subject matter been raised for discussion at the Senior Officials' Meeting of HD.

- operated under an honour system. He considered that Mr LEUNG had the responsibility to provide full and accurate information to the approving authority. Unless he found the information provided by Mr LEUNG unclear and improper, or he had doubts about the information, he would accept the information. As he did not have doubts on the answer of "Introduced by a family friend" for item 25 of the application form relating to how the offer of outside work arose, he had not asked Mr LEUNG for clarification.
- In response to the Select Committee, Mr CHOW admitted that he had not made a thorough assessment of Mr LEUNG's application. He said that had Mr LEUNG stated in the application form that the appointment with NWCL was offered through his previous business contact in the Government, he would have asked Mr LEUNG for further information. He expressed regrets for having failed to take into account the Hunghom Peninsula case and to bring the issue to the attention of his supervisors. He acknowledged that there was a gap between his assessment of and the public reaction on Mr LEUNG's application. Mr CHOW admitted that he had underestimated the public's perception of the application.
- 5.13 On the other hand, Mr Thomas CHAN told the Select Committee that he had examined the information provided in the application form, considered the recommendation of Mr David CHOW and Mr LEE Tat-chi, and paid regard to the considerations set out in CSB Circular No. 10/2005 before formulating his views on Mr LEUNG's application.

- 5.14 According to Mr CHAN, when considering Mr LEUNG's application he noted that Mr LEUNG had stated in item 22 of the application form that he would not be involved in the business of NWCL's parent company or any of NWCL's subsidiaries. Hence, he had focused on the business activities of NWCL, which were conducted in the Mainland. Mr CHAN also noted that Mr LEUNG had stated in the application form that he did not have contractual or legal dealings, or official or unofficial contacts with NWCL during his previous government service. According to his understanding, neither HA nor HD had any dealings with NWCL. He did not ask his staff to check the relevant facts as he believed that there were no files relating to the connection of HA or HD with companies in the Mainland. In these circumstances, he did not think that Mr LEUNG's duties when serving as PSH/D of H would give rise to any conflict with his future business activities in the Mainland. He also did not consider that Mr LEUNG was likely to have obtained sensitive information relevant to the business of NWCL which would enable NWCL to gain any undue/unfair advantage over its competitors. Likewise, he considered that the fact that NWCL was a subsidiary company of NWDCL did not materially affect the assessment of whether Mr LEUNG's past duties in anyway conflicted with his future business activities. Hence, Mr CHAN considered that the application had no conflict with Mr LEUNG's past duties, and the prospective work would unlikely give rise to any negative public perception or embarrassment to the Government. He agreed with Mr CHOW's recommendation that Mr LEUNG's application be approved, and that it was unnecessary to impose additional work restrictions on the application.
- 5.15 As regards the Hunghom Peninsula case, Mr CHAN told the Select Committee that he was aware of the case and Mr LEUNG's involvement in it, as well as the wide public concern about the negotiation of land premium between the Government and the developer. But his recollection was that media reports relating to the case focused on

Mr Michael SUEN Ming-yeung, the then Secretary for Housing, Planning and Lands ("SHPL"). Mr CHAN said that his memory of the Hunghom Peninsula case was like information stored in the hard disk of a computer, which might not be always in use. The memory of that case did not come to his mind at the time when he considered Mr LEUNG's Since Mr LEUNG had stated that he would not be involved in the business of NWCL's parent company and he would be working in the Mainland, Mr CHAN was unable immediately to associate Mr LEUNG's prospective work with his past dealings with NWCL's parent company in Hong Kong. Mr CHAN further informed the Select Committee that since he took up the post of PSH/D of H in January 2006, he had not come across any matters relating to the Hunghom Peninsula development until May 2008 when he received documents through an email from his staff on the sales arrangement of the flats in Harbour Place¹⁷ which was mentioned only as a private property development project rather than a PSPS project.

5.16 Mr CHAN admitted that he had taken a narrow view in assessing Mr LEUNG's application and was not sufficiently sensitive about the issue of public perception. He agreed that he should have taken into account Mr LEUNG's past dealings with NWDCL in assessing the application, even though Mr LEUNG had stated that he would not be involved in the business of the company.

Observations of the Select Committee

5.17 The Select Committee has to point out that HB of THB was the only party consulted who was requested to assess Mr LEUNG Chin-man's application and make a recommendation on whether it should be approved. The views and recommendations of HB were crucial to CSB's consideration of Mr LEUNG's application as only HB had in its

The Hunghom Peninsula PSPS development was renamed as "Harbour Place" by the developer when the flats were put up for sale in the private property market in 2007.

possession first-hand material of Mr LEUNG's involvement in the Hunghom Peninsula case, and a complete picture of Mr LEUNG's dealings with real estate organizations when he served as PSH/D of H. The Select Committee considers that HB should have conducted file search before assessing Mr LEUNG's application. However, HB did not conduct any file search, with the result that the officials concerned had neither provided sufficient information including information on the Hunghom Peninsula case which aroused public concern, nor had they brought to the attention of CSB the public perception issue. It was astonishing that, without first conducting file search to establish the facts, HB came to the view that Mr LEUNG's duties in his proposed employment would not have any real or potential conflict of interest with his previous duties in the Government, that the prospective employment would unlikely give rise to any negative public perception or embarrassment to the Government, and recommended that CSB approve the application. The Select Committee considers that HB's failure to bring Mr LEUNG's involvement in the Hunghom Peninsula case to the attention of CSB was a serious omission.

5.18 On the performance of Mr David CHOW, the Select Committee considers that when processing Mr LEUNG's application, he should have conducted a thorough research on Mr LEUNG's past duties in HB and HD by searching through the files in HB and HD before making his recommendation. Furthermore, given the wide range of business under the purview of HD, Mr CHOW should have consulted senior officers of various divisions on the major projects and/or business which Mr LEUNG had handled when serving as PSH/D of H. The Select Committee is surprised to find that, except for looking up the business of NWCL from the company's website, Mr CHOW did not search for any other information or conduct file research, nor did he consult officers in HB and HD. Although he said that he was aware that Mr LEUNG had been involved in the Hunghom Peninsula case, he did not check the relevant files. Instead, he relied solely on the information provided by

Mr LEUNG in the application form and on his own knowledge about the operation of HA and HD, and made his recommendation on the basis of superficial information and subjective judgment and assumptions. The Select Committee notes from the further information provided by Mr CHOW that when serving as Assistant Director (Administration), he had handled another nine post-service work applications made by directorate civil servants without having conducted any file research. The Select Committee considers that Mr CHOW had not done what he should in processing post-service work applications made by directorate civil servants, but plainly acted in a perfunctory manner and failed to discharge his responsibility in this respect. The Select Committee expresses regret that Mr CHOW had not done his duty to assist Mr Thomas CHAN to assess Mr LEUNG's application.

- As regards Mr Thomas CHAN, he should have known that HB was the only party consulted who was requested to assess Mr LEUNG's application and make a recommendation on whether it should be approved. As PS(H)/D of H, he should be the person most familiar with the duties and responsibilities of the post, and hence was in the best position to assess whether the prospective work would constitute any conflict of interest with Mr LEUNG's previous duties in the post and whether it would cause embarrassment to the Government, as well as recommend to CSB as to whether the application should be approved. Regrettably, Mr CHAN did not provide the crucial information and a reliable assessment of Mr LEUNG's application to CSB. The Select Committee considers that Mr CHAN had not discharged his responsibility in assessing Mr LEUNG's application.
- 5.20 The Select Committee considers that even though Mr LEUNG had stated in the application form that he would not be involved in the business of NWDCL, Mr CHAN, as the gatekeeper of HB, should have considered the relationship between Mr LEUNG and his prospective employer's parent company and the parent company's subsidiaries, and

should not have confined his assessment to Mr LEUNG's past dealings with NWCL. The Select Committee has to point out that under item 40 of Assessment A of Part III of the application form, in assessing whether the prospective employment would cause embarrassment to the Government or bring disgrace to the civil service, the assessing party should take into account a number of factors including the background of Moreover, given that CSB had informed HB in its the employer. memorandum dated 19 May 2008 that NWDCL was the parent company of NWCL, Mr CHAN should have taken all such considerations into account when assessing Mr LEUNG's application. Furthermore, the Select Committee is of the view that when considering Mr LEUNG's application, Mr CHAN should not merely accept Mr CHOW's views and endorse his recommendation by signing on the assessment form prepared by Mr CHOW. Mr CHAN should have noticed that the file minute submitted by Mr CHOW had not attached any information in support of Mr CHOW's recommendation of approving Mr LEUNG's application. Mr CHAN should have given his serious consideration to the application, made enquiries and discussed the matter with his staff. Committee finds the way in which Mr CHAN handled Mr LEUNG's application totally unacceptable, and that there was plainly a dereliction of duty on the part of Mr CHAN.

5.21 The Select Committee has to point out in particular that Mr CHAN had served for almost five years as the Director of Information Services from 1997 to 2002. With the vast working experience of the media and sectors in the community he must have gathered while serving in the post, Mr CHAN should have been astute in grasping the public sentiment and anticipating public reaction on sensitive issues. However, even though he was aware of Mr LEUNG's involvement in the Hunghom Peninsula case, he had failed to foresee the negative public reaction to Mr LEUNG's employment with NWCL. Mr CHAN's performance is deeply to be regretted.

Planning and Lands Branch of the Development Bureau

5.22 Upon receipt of a post-service work application from a directorate civil servant from CSB, the Administration Unit of PLB will examine the application and seek clarifications from CSB on the information sought where required. CEO (Administration) will bring the application to the attention of her supervisor, PEO (Administration). If PEO (Administration) advises that the application should be handled in accordance with the relevant CSB circulars, CEO (Administration) will search for the relevant information, give an analysis/comments/ recommendations on the application, and prepare a file minute for submission to PS(PL) for consideration and endorsement, PEO (Administration) and the respective Deputy Secretary for Development (Planning and Lands) ("DS(PL)"). There are two DS(PL) in PLB, namely DS(PL)1 and DS(PL)2. DS(PL)1 is responsible for policy issues relating to the Planning Department ("PD") and the Lands Department ("LD"), and DS(PL)2 is responsible for policy issues including those relating to BD. The respective DS(PL) will give comments on an application concerning department(s) under his portfolio and then submit it to PS(PL) for consideration. The Administration Unit will respond to CSB on the application after PS(PL) has considered the recommendations.

Mrs Susan MAK, former Deputy Secretary for Development (Planning and Lands)1 and Mrs Pearl SIU, Chief Executive Officer (Administration)

In processing Mr LEUNG Chin-man's application, Mrs Susan MAK was the then DS(PL)1 who considered and endorsed the reply to CSB on 28 May 2008 in her capacity as the acting PS(PL) when the then PS(PL) Mr Raymond YOUNG Lap-moon was on sick leave from 21 to 28 May 2008. As CEO (Administration), Mrs Pearl SIU researched for

relevant information, made analysis and prepared the file minute on Mr LEUNG's application. The Select Committee therefore summoned them to attend its hearings.

Evidence obtained from Mrs Susan MAK and Mrs Pearl SIU

- According to Mrs Susan MAK, Mr LEUNG Chin-man was her supervisor for about four months when she joined the AO grade in 1981. She had no personal relationship with Mr LEUNG. Mrs Pearl SIU told the Select Committee that she had no personal or official relationship with Mr LEUNG.
- 5.25 According to Mrs Pearl SIU's evidence, in processing Mr LEUNG Chin-man's application, she had conducted information search on the internet relating to NWCL and NWDCL with the assistance of her staff, and had also sought comments from BD on the application and requested BD to provide information on the department's dealings, e.g. contractual dealings, with NWCL and its parent company NWDCL. BD advised that it did not have any contractual dealings with NWCL or NWDCL, but there were building plans submissions for development projects (e.g. the Hunghom Peninsula project and the Tsim Sha Tsui New World redevelopment project) made under BO by the subsidiary companies of NWDCL. In the file minute prepared by Mrs Pearl SIU on Mr LEUNG's application for submission to Mrs Susan MAK, she had given a detailed account of the application including the business of NWCL and the proposed employment of Mr LEUNG as well as the above information provided by BD. Mrs SIU also mentioned the Grand Promenade case, attached extracts of the reports of the Public Accounts Committee ("PAC") and the Independent Committee of Inquiry on the Sai Wan Ho Development on Inland Lot No. 8955 ("ICI"), and the press release on the speech of the then Chief Secretary for Administration ("CS") at the LegCo motion debate on 17 May 2006 concerning PAC's conclusions and recommendations on the Grand Promenade development.

As she considered that there were no conflict of interest issues or negative public perception between Mr LEUNG's proposed work with NWCL and his former duties as D of B (the tenure of which had ceased for almost six years), she recommended informing CSB that PLB had no objection to Mr LEUNG's application and conveying to CSB the information provided by BD on contractual dealings between NWCL or NWDCL and BD, as well as building plans submissions by NWDCL's subsidiaries.

- Mrs Pearl SIU told the Select Committee that as Mr LEUNG had participated in the Grand Promenade case during his service as D of B, she considered it worthwhile to draw the attention of her supervisors to the facts relating to the case. She explained to the Select Committee that she had noticed from CS's speech that PAC did not consider Mr LEUNG to have acted *ultra vires* or abused his power in the case. She had also noted ICI's view that Mr LEUNG should bear no blame in the case. Given that NWCL's business was mainly in the Mainland and that Mr LEUNG had stated that he would be based in a major city in the Mainland, she considered Mr LEUNG's proposed appointment to be a Mainland-oriented job and concluded that his application would not constitute any conflict of interest or give rise to negative public perception.
- As regards the Hunghom Peninsula case, Mrs SIU said that she had not associated the case with Mr LEUNG's application. She explained that in processing the application, she had focused on whether Mr LEUNG's former duties as D of B would have any conflict of interest with his major duties and responsibilities in NWCL. Since her focus was on whether there were any contractual dealings between BD and NWCL or NWDCL, and given BD's advice that there were no such dealings, it did not cross her mind that there was any need to seek further information from BD on the building plans relating to the Hunghom Peninsula project.

5.28 CSB enquired with PLB by email on 30 May 2008 on whether PLB had any specific comments on Mr LEUNG's application. According to Mrs Pearl SIU, after consulting Ms Wilma TOONG, PEO (Administration), she replied to CSB that PLB had no specific comment on the application. She explained that it was because Mrs Susan MAK had accepted on 28 May Ms TOONG's advice as set out in the file minute:

"as SCS has asked us to comment on Mr LEUNG's application in view of the business nature of the company, we [PLB] should refrain from giving a recommendation on Mr LEUNG's proposed appointment."

Mrs SIU said that PLB's reply of "no comment" neither indicated that it objected nor that it had no objection to the application.

5.29 Mrs Susan MAK said that in considering Mr LEUNG's application, she noted that the major business activities of NWCL were based in the Mainland, that the major duties and responsibilities of Mr LEUNG in NWCL would be performed outside Hong Kong, that there were standard work restrictions for post-service work taken up by a directorate civil servant, and that PLB had taken into account a similar case as well as Mr LEUNG's previous post-service work applications which had been approved by CSB. She also considered the comments given by Mrs Pearl SIU, Ms Wilma TOONG and Mr Tommy YUEN, DS(PL)2, on the application. Ms TOONG was of the view that PLB should refrain from giving a recommendation on Mr LEUNG's application since CSB had only invited PLB's comment on the application in view of the business nature of NWCL. Mr YUEN also made the observation that notwithstanding the business nature of NWCL's parent company, since Mr LEUNG's job was outside Hong Kong and he would not be involved in official dealings with the

Government, Mr YUEN did not see why the Branch would have any comment at all on CSB's referral. As Assessment A of Part III of the application form was to be completed by PS(H)/D of H, and PS(PL) was not asked to give an assessment of or recommendations on Mr LEUNG's application, and SCS had only invited comments from PS(PL) on Mr LEUNG's application in relation to the business nature of NWCL, Mrs MAK considered that the words "no objection" in the reply proposed by Mrs SIU should be deleted, and only the information provided by BD should be forwarded to CSB.

- As regards the exclusion of the information on the Grand Promenade case in PLB's reply to CSB, Mrs MAK said that in considering the application, she had taken note of Mrs SIU's file minute relating to the Grand Promenade case and the extracts attached thereto. She noted that both PAC and ICI did not consider that Mr LEUNG had abused his power in the case, that the case had occurred some six to seven years ago, and that the developer of the Grand Promenade did not have any direct relationship with Mr LEUNG's prospective employer. Therefore, she considered it unnecessary to include such information in the reply to CSB.
- As regards the reason for not seeking LD's views on Mr LEUNG's application, Mrs MAK explained to the Select Committee at the hearing on 3 April 2009 that in considering Mr LEUNG's application, she had focused on the period during which he served as D of B. As Mr LEUNG had not served in LD before, PLB had not sought LD's views on Mr LEUNG's application. She added that after considering Mrs SIU's file minute and the comments made by Mr YUEN and Ms TOONG, it did not occur to her that there was any need to seek views or information from LD. She had not associated the information on "Hunghom Peninsula project building plans submissions" with the Hunghom Peninsula case which occurred in 2003. Since DEVB was established in 2007 and housing matters were not under the purview of

the Bureau, PLB did not have any files relating to the case and hence could not raise any particular concern in this respect. She pointed out that the disposal of the Hunghom Peninsula PSPS flats was not under the policy area of the then PLB, and she also understood that a staff member in LD was seconded to HB of the then Housing, Planning and Lands Bureau ("HPLB") to assist in the negotiation of the lease modification premium with the developer of the Hunghom Peninsula development.

- 5.32 The Select Committee was concerned about whether Mrs MAK had knowledge of the negotiation on the lease modification premium between the Government and the developer of the Hunghom Peninsula development when she was considering Mr LEUNG's application. Mrs MAK said at the hearing on 8 April 2009 that she had no such knowledge, nor did she know about LD's involvement in the negotiation process since she took up the post of DS(PL)1 in July 2007. It was after the public had shown concern about the approval for Mr LEUNG to take up post-service employment with NWCL that she came to know that PLB of the then HPLB was not involved in the negotiation of lease modification premium. She also clarified that the LD staff involved in the negotiation reported directly to the then HB rather than through a secondment arrangement. Mrs MAK told the Select Committee that she could not recall when and from whom she picked up the above She agreed that, with hindsight, she should have consulted information. LD on Mr LEUNG's application and asked for information on LD's dealings with NWCL and NWDCL. She also acknowledged that she had not obtained more detailed information on Mr LEUNG's application for CSB's consideration.
- 5.33 Mrs MAK agreed that post-service employment of directorate civil servants was a matter of public interest as it concerned the public's trust and confidence in the civil service. She also agreed that the protection of the public interest should be the prime consideration in vetting post-service work applications, but a balance should be struck

between the protection of the public interest and the individual's right to work. She pointed out that public perception of post-service work had a very wide scope and was difficult to measure. As regards public suspicion about the possibility of Mr LEUNG's appointment being a deferred reward from NWDCL, Mrs MAK said that she had not considered the aspect of "deferred reward" in considering Mr LEUNG Chin-man's application because this was not a specified factor for consideration under the existing Control Regime.

Observations of the Select Committee

- 5.34 The Select Committee observes that PLB had only provided CSB with the information on the contractual dealings of BD with NWCL and NWDCL and building plans submissions for development projects from the subsidiary companies of NWDCL, without further details and analysis on any possible real or potential conflict of interest involved. This was not helpful in facilitating CSB's and SCS's consideration of Mr LEUNG's application. Had PLB given further thoughts to the information provided by BD on building plans submissions for the Hunghom Peninsula project from the subsidiary companies of NWDCL, it would have obtained more details which would have revealed information concerning Mr LEUNG's involvement in the Hunghom Peninsula case to facilitate CSB's consideration. The Select Committee considers that PLB had the duty to give a clear view and detailed information to CSB. In giving an ambiguous response to CSB, PLB had failed to discharge its duty in this respect.
- 5.35 The Select Committee also observes that in considering Mr LEUNG's application, Mrs Susan MAK had confined her assessment to the business nature of NWCL and the contractual dealings between NWCL/NWDCL and Mr LEUNG when Mr LEUNG served as D of B. The Select Committee considers that Mrs Susan MAK, who was acting Permanent Secretary at that time, should have been alert to the six

specific considerations set out in CSB Circular No. 10/2005 and give them full consideration. However, she failed to discern that Mr LEUNG's taking up of work with NWCL would cause embarrassment to the Government and bring disgrace to the civil service. Even though Mr LEUNG had not served in LD prior to his retirement, he had taken part in the formulation and execution of major housing or land policies and decisions when in government service. Her failure to consult LD was a serious weakness in her consideration of Mr LEUNG's application. The Select Committee considers that as acting PS(PL), Mrs Susan MAK had failed to discharge her due responsibility to assist CSB to consider Mr LEUNG's application.

5.36 On the other hand, the Select Committee observes that in processing Mr LEUNG's application, Mrs Pearl SIU made a comprehensive search of the files and gathered all the relevant information, and presented a detailed analysis for her supervisors' consideration. The Select Committee considers that she had conscientiously discharged her responsibility.

Works Branch of the Development Bureau

Upon receipt of CSB's requests to provide comments and/or recommendations on the post-service work applications from directorate civil servants, the Administration Unit of WB will examine the applications and, where necessary, seek clarifications/supplementary information from the applicants, CSB and/or departments concerned. The Administration Unit will make a detailed analysis of the case, having regard to the guidelines promulgated in the CSB Circular concerned. If the prospective employer is engaged in the construction field, the Administration Unit will consult the Work Policies 2 Section of WB, which will conduct a search of the two contractor lists managed by WB, namely, the List of Approved Contractors for Public Works and the List

of Approved Suppliers of Materials and Specialist Contractors for Public Works to ascertain if the company concerned or its related companies were/have been/are contractors of the government departments to facilitate an assessment of whether there is any real or potential conflict of interest between the applicant's proposed post-service work and his former government duties. The Administration Unit will prepare a file minute, setting out information and a recommended reply to CSB, for submission to PS(W) for endorsement where the applicant is at the rank of D4 or above, or Deputy Secretary for Development (Works)1 where the applicant is at a rank below D4. The Administration Unit will convey the recommendations and/or comments to CSB.

Mr MAK Chai-kwong, Permanent Secretary for Development (Works), and Mr WONG Kwai-kuen, Chief Executive Officer (Works) Administration

5.38 Mr WONG Kwai-kuen was acting PEO (Works) from 19 to 30 May 2008. In his acting capacity, Mr WONG was responsible for making an initial assessment and recommendation to Mr MAK Chai-kwong, PS(W), on Mr LEUNG Chin-man's application. Mr MAK endorsed the reply to CSB after considering Mr WONG's analysis and recommendation. The Select Committee therefore summoned them to attend its hearing.

Evidence obtained from Mr MAK Chai-kwong and Mr WONG Kwai-kuen

- 5.39 According to Mr MAK Chai-kwong, he did not have any social contacts with Mr LEUNG Chin-man. Mr WONG Kwai-kuen said that he did not have any personal relationship with Mr LEUNG.
- 5.40 On the procedures adopted by WB in processing Mr LEUNG's application, Mr WONG Kwai-kuen informed the Select Committee that while Mr LEUNG had not retired from positions in WB or departments

under its policy portfolio, CSB had invited WB to comment on the application as the business of Mr LEUNG's prospective employer involved real estate development, construction and management. He had sought information from the Works Policies 2 Section on whether NWCL and its related companies (including NWDCL) were involved in engineering or construction contracts with the Government in order to assess whether there was any real or potential conflict of interest between Mr LEUNG's former government duties and the proposed work with NWCL. After searching the two contractors' lists managed by WB and the relevant websites, the Works Policies 2 Section advised that as at the time of checking, neither NWCL nor NWDCL were WB's listed contractors but the latter owned about 56% of the shareholding in NWS, which in turn, through some other companies, wholly owned nine companies which were WB's listed contractors and had 13 outstanding public works contracts at that time.

5.41 Mr WONG pointed out that since Mr LEUNG had not served in WB or its departments prior to his retirement, WB had little knowledge about his previous duties in the Government. WB advised CSB that it was difficult for it to assess whether the application would constitute any real or potential conflict of interest with Mr LEUNG's previous duties in the Government. WB would focus on providing factual information on the involvement of NWCL in public works contracts. Mr WONG recommended in his file minute to PS(W) that WB should provide CSB with factual information about public works contracts involving NWCL and its group of companies and WB's general observation on the application, that is, in view of the fact that Mr LEUNG's prospective employer was engaged in the business of real estate development, construction and management, the proposed appointment by NWCL, on account of the relevance of Mr LEUNG's former responsibilities as D of B, might raise a public perception issue.

- 5.42 In explaining why he considered that Mr LEUNG's application might raise a public perception issue, Mr WONG said that he had noted from the information provided in the application that Mr LEUNG was involved in the processing and approval of building plans from real estate developers when serving as D of B. Since Mr LEUNG's prospective employer was engaged in real estate business, and Mr LEUNG had occupied senior positions in the Government, and that his previous duties as D of B involved the processing and approval of building plans from developers, Mr WONG considered that Mr LEUNG's taking up of an appointment with NWCL might give rise to a public perception issue even though NWCL's business was outside Hong Kong. Mr WONG added that given the close relationship between NWCL and NWDCL, the public might consider NWDCL to be Mr LEUNG's prospective employer. In his file minute to PS(W), Mr WONG referred to a previous case of a similar nature when WB was consulted by CSB in January 2008 in respect of which WB had also expressed to CSB its concern about a possible issue with public perception.
- As to the reason why WB did not raise objection to Mr LEUNG's application when further consulted by CSB on 17 June 2008, Mr WONG pointed out that as Mr LEUNG had not served in WB nor its departments prior to his retirement, WB was not in a position to comment on or to object to the application. He had therefore reiterated WB's general observation that given the business nature of Mr LEUNG's prospective employer and the senior positions he held during his service in the Government, the application might give rise to a public perception issue. On whether the disclosure of the "no objection" stance of HB and PLB on Mr LEUNG's application by CSB in its further consultation with WB had put any pressure on WB, Mr WONG said that he did not consider that the information had exerted pressure on WB, as each bureau, branch, or department would formulate its own views on an application based on its respective established procedures.

- Mr MAK Chai-kwong told the Select committee that in assessing Mr LEUNG's application, he took note of the information provided in Mr LEUNG's application and the analysis made by the Administration Unit on the application. He agreed with the analysis and endorsed the assessment. He agreed that as a consulted party, WB had the duty to provide all relevant views and information to assist CSB in its consideration. He said that it was WB's intention to point out the public perception issue to CSB in order to alert the latter to the matter.
- 5.45 As to how public perception was assessed, Mr WONG said that he had viewed the application from the perspective of an ordinary member of the public. In view of Mr LEUNG's senior positions during his government service, his involvement in the regulation of the real estate and building sectors, and the business nature of his prospective employer, he considered that the taking up of work with NWCL by Mr LEUNG might give rise to a public perception issue. Mr WONG told the Select Committee that while he was aware of the Hunghom Peninsula case as it had been widely reported by the media in 2003 and 2004, he had not associated the case with the application when assessing Mr LEUNG's application. Mr MAK Chai-kwong concurred with Mr WONG's assessment that given that Mr LEUNG was a former high ranking official who had served in senior positions in the Government and as D of B, and his previous duties were related to planning and land policies, his taking up post-service work in the real estate sector might lead to a public perception issue. Mr MAK said that he had not associated the Hunghom Peninsula case with the application when assessing Mr LEUNG's application.
- 5.46 As to whether the four additional work restrictions imposed by CSB on Mr LEUNG's appointment with NWCL could address the public perception issue, Mr WONG Kwai-kuen considered that they could not mitigate the concern effectively although they might address the issue of conflict of interest. Mr MAK Chai-kwong said that he agreed with the

view that the taking up of post-service employment in the real estate sector by a senior official who had previously worked in HD or had handled land and planning work would give rise to negative public perception. Mr MAK also told the Select Committee that conflict of interest and public perception were two separate issues in the consideration of post-service work applications.

Observations of the Select Committee

- 5.47 The Select Committee considers that unlike other branches and bureaux, WB, in assessing Mr LEUNG's application, had adopted a different approach by considering whether the application would give rise to public suspicion about conflict of interest or a public perception issue. The officials of WB had also considered the relationship between NWCL and NWDCL, the nature of business of Mr LEUNG's prospective employer, and Mr LEUNG's previous duties and senior positions during his government service. WB had conducted a search on the relevant files and collected information on the dealings between the works departments and NWCL, NWDCL and its subsidiaries. The Select Committee considers that WB was the only party among those consulted by CSB which had adopted a responsible and practical approach in vetting and assessing Mr LEUNG's application.
- Despite the fact that Mr LEUNG had not served in WB or its departments prior to his retirement, and WB had no knowledge of the works or building projects he had been involved in when serving as D of B, Mr MAK Chai-kwong and Mr WONG Kwai-kuen had given regard to Mr LEUNG's senior positions and his heavy involvement in policy matters concerning the real estate sector during his previous government service, and to the relationship between a parent company and its subsidiaries, and were thus able to bring the public perception concern repeatedly to CSB's attention. The Select Committee considers that Mr MAK and Mr WONG had discharged their responsibilities in

vetting and assessing Mr LEUNG's application. The Select Committee commends their performance. Regrettably, CSB had not fully considered and properly dealt with the public perception alert raised by WB. CSB had not informed HB and PLB about WB's concern, but had instead asked WB to clarify whether it had any objection to Mr LEUNG's application and disclosed to WB that the other two branches had taken a stance of "no objection", and had eventually approved Mr LEUNG's application, resulting in a serious error.

Advisory Committee on Post-service Employment of Civil Servants

- ACPE is the only external assessment body under the Control Regime responsible for advising SCS on post-service work applications from directorate civil servants. The chairman and members of ACPE perform a public service on a voluntary and part-time basis. After collating the views from the relevant parties within the Government on a post-service work application by a directorate civil servant, CSB will prepare a draft paper on the application which is forwarded by the secretary of ACPE to the chairman for consideration and advice. If there is anything unclear in the paper, the chairman will seek clarifications from CSB. The chairman will also decide whether the application should be dealt with by circulation or in a meeting with members convened for the purpose.
- 5.50 If the chairman of ACPE considers that the application can be dealt with by circulation, he will advise the secretary of his views on the application and, where applicable, any declaration of interest that he wishes to make. The secretary of ACPE will finalize the paper by adding a paragraph headed "Views of the Chairman" and, where applicable, a description on the interest he declared. The secretary will then circulate the paper to members with a copy to the chairman. Members will give their views on the application separately and, make

any declaration of interest that they wish by completing a reply slip. A copy of the reply slip is in **Appendix 11**.

5.51 If the chairman of ACPE considers it necessary to convene a meeting to deal with the application, the secretary of ACPE will make arrangements for the meeting and circulate before the meeting a paper which will not contain "Views of the Chairman". Members will discuss and express their views on the application during the meeting. The secretary of ACPE will circulate the notes of meeting for confirmation by the chairman and members after the meeting.

The Chairman and members of the Advisory Committee who were responsible for considering Mr LEUNG Chin-man's application

5.52 Mr PANG Kin-kee, Chairman of ACPE¹⁸, and four members of the Committee, namely Dr Elizabeth SHING Shiu-ching¹⁹, Mr James Edward THOMPSON²⁰, Ms Marina WONG Yu-pok²¹ and Mr Simon IP Sik-on²² gave views on Mr LEUNG Chin-man's application. Mrs Carrie WONG, CEO (Pensions) of CSB, was the secretary of ACPE responsible for preparing the draft paper on Mr LEUNG's application, consulting the Chairman's views and circulating the paper to the members. The Select Committee therefore summoned the above six persons to appear before the Committee at its hearing.

Evidence obtained from the Chairman and members of the Advisory Committee

5.53 Mr PANG told the Select Committee that he and Mr LEUNG Chin-man were in the same class during the years 1964 to 1966 when

¹⁸ Mr PANG Kin-kee was Chairman of ACPE from July 2003 to July 2009.

Dr Elizabeth SHING was a member of ACPE from October 2002 to October 2008.

Mr James Edward THOMPSON was a member of ACPE from July 2003 to July 2009.

²¹ Ms Marina WONG has been a member of ACPE since July 2007.

²² Mr Simon IP has been a member of ACPE since June 2005.

they attended secondary school. In the 42 years since he left school, he had never had any dealing with Mr LEUNG in a personal capacity although they had met on several occasions at alumni functions. As regards the four members of ACPE, all of them said that they did not have any personal relationship with Mr LEUNG. Mrs Carrie WONG also told the Select Committee that she did not have any personal relationship with Mr LEUNG.

5.54 Mrs Carrie WONG gave evidence that she had prepared the draft paper on Mr LEUNG's application and submitted it to Mr PANG on The paper contained the background information of 30 June 2008. Mr LEUNG's last two postings in government service, his previous post-service work applications, information on his prospective work, and the assessment of the consulted parties. On 2 July 2008, Mr PANG called her and advised the application be dealt with by circulation of papers to members of ACPE. He said that he agreed to CSB's recommendation and had no objection to the approval of Mr LEUNG's application, and that the appointment concerned should be subject to the standard work restrictions and the four additional work restrictions. Mr PANG also declared that Mr LEUNG was his secondary schoolmate and asked her to disclose this to members of ACPE. Mrs WONG finalized the paper by adding a paragraph on "Views of the Chairman" and the Chairman's declaration of his relationship with Mr LEUNG. the same day, she circulated the paper for consideration and advice of members of ACPE with a copy to the Chairman. None of the four members of ACPE made any declaration of interest in relation to Mr LEUNG's application. All of them recommended approval for Mr LEUNG to take up the appointment with NWCL without further sanitization and subject to the standard work restrictions and the four additional work restrictions.

5.55 The Note on Declaration of Interest issued by CSB to ACPE states that:

"If the chairman declares an interest in a matter under consideration at meetings, the Advisory Committee shall elect a member to take over the meeting in respect of the discussion of the matter in question."

As regards whether a member should be elected to take over the Chairman in handling Mr LEUNG's application after Mr PANG had made a declaration on his relationship with Mr LEUNG, Mr PANG said that it was a matter for other members to decide. Mr PANG told the Select Committee that since his relationship with Mr LEUNG was not close, he was of the view that he could continue consideration of the application. He added that he would have refrained from considering Mr LEUNG's application if pecuniary interests were involved in his relationship with Mr LEUNG, or if Mr LEUNG was his close relative, or if they had close personal or business relationship.

- 5.56 Mrs Carrie WONG told the Select Committee that, in respect of the declaration made by Mr PANG, she had not consulted ACPE members on the need to elect a member to take over the Chair in handling Mr LEUNG's application. Mrs WONG said that she had included Mr PANG's declaration in the paper circulated to members of ACPE. She added that if members considered it inappropriate for Mr PANG to handle Mr LEUNG's application, they would have informed her. If ACPE members considered it necessary to convene a meeting to discuss the application, they would also have made such a request.
- 5.57 Mr PANG said that he had taken into account the following factors in considering Mr LEUNG's application: the prevailing policy in handling post-service work applications by retired directorate officers of Mr LEUNG's grade, the information regarding Mr LEUNG's last two postings in government service and the major duties involved, the dates of Mr LEUNG's cessation of active service and retirement, Mr LEUNG's

previous post-service work applications processed by ACPE, the particulars of Mr LEUNG's proposed employment with NWCL including its core business and Mr LEUNG's major duties and responsibilities in the appointment, and the views and recommendations of the various parties including PS(H), PS(PL), PS(W), the AO Grade Management and CSB.

- 5.58 As regards the reasons for his decision to deal with Mr LEUNG's application by circulation of papers instead of in a meeting, Mr PANG said that since he considered that there was sufficient information in the paper, the issues had been adequately addressed by the various government departments consulted, and there was no major divergence in views, he did not see the need to convene a meeting to discuss the application. He added that if he observed any serious disagreement in the views on an application or any issues requiring clarification, he would convene a meeting to discuss the matter.
- 5.59 In respect of the comments made by WB and PLB on Mr LEUNG's application, Mr PANG said that he noted that while WB had raised the public perception concern, WB had not elaborated on its observations, nor had it explicitly raised an objection to the proposed appointment; WB had only pointed out that both NWDCL and NWCL were not listed contractors of WB. As for PLB's response, Mr PANG said that he noted that BD had no dealings with NWCL although there were building plans submissions from subsidiaries of NWDCL. Mr PANG believed that PS(W) and PS(PL) had formed their views on the application with full understanding of the criteria contained in CSB Circular No. 10/2005, and that the issues raised by them should have been resolved. As such, Mr PANG considered that there was sufficient information and it was not necessary to seek clarifications on the issues raised by CSB, WB and PLB.
- As regards how he had considered the public perception issue raised by WB, Mr PANG told the Select Committee that it was difficult to

measure public perception on post-service work applications. ACPE could not possibly conduct an opinion survey to gauge public views on an application, he had adopted the legal concept of "the reasonable man" in assessing Mr LEUNG's application. a reasonable man was an ordinary person who would view and consider matters in a rational and neutral manner. He added that if an application, viewed from the perspective of a reasonable man, would give rise to concerns about public perception, he would consider recommending work restrictions on the application to mitigate the concern. In respect of Mr LEUNG's application, he considered that the standard work restrictions together with the four additional work restrictions could adequately address the public perception concern. As to whether a question of deferred reward would arise when the application was assessed from the perspective of a reasonable man, Mr PANG said that in considering Mr LEUNG's application, he had not thought of the factor of deferred reward.

5.61 On whether Mr LEUNG's taking up of the appointment with NWCL would constitute problems of conflict of interest, Mr PANG told the Select Committee that having considered the views of various consulted parties as contained in CSB's paper, he did not consider there to be any conflict of interest in Mr LEUNG's appointment with NWCL. He noted that WB had raised a concern about public perception, but it did not give any views on conflict of interest. He took the view that WB did not consider there to be a real conflict of interest issue. He further noted that CSB had considered that the proposed appointment would unlikely constitute problems of conflict of interest, and that the AO Grade Management also considered that there did not appear to be any apparent conflict between the appointment and Mr LEUNG's former duties. believed that, as recommended by CSB, any conflict of interest which might arise had been adequately addressed by imposing the standard restrictions and the four additional work restrictions.

- 5.62 The four members of ACPE also gave evidence on whether they considered Mr LEUNG's appointment with NWCL would constitute conflict of interest and how they had considered the public perception issue raised by WB.
- 5.63 Dr Elizabeth SHING said that she agreed with CSB's view and she considered that the appointment would unlikely constitute problems of conflict of interest, the imposition of the four additional work restrictions would address the public perception issue, and approval might be given to Mr LEUNG's application. In arriving at her conclusion, Dr SHING had taken note that although NWDCL was the parent company of NWCL, Mr LEUNG's proposed appointment with NWCL would only involve the company's business in the Mainland. She also noticed that Mr LEUNG had left the posts of D of B and PSH/D of H for six years and over two years respectively, and that Mr LEUNG had no previous dealings or business connection with NWCL.
- Mr James THOMPSON said that as Mr LEUNG would not be employed by a company operating in Hong Kong and would not be physically present in Hong Kong in the performance of his duties in NWCL, he considered that the approval of Mr LEUNG's application would not constitute or give rise to any conflict of interest or negative public perception. He noted that WB had stated that approval of Mr LEUNG's application "may have a public perception issue". He considered that the word "may" only indicated a possibility and was not definitive. He had weighed the views of WB against the more definitive statements of other bureaux, and concluded that the approval of Mr LEUNG's application was justified in light of the imposition of the four additional work restrictions.
- 5.65 Ms Marina WONG told the Select Committee that she had taken into consideration the assessment criteria stated in CSB Circular No. 10/2005 and the factors relating to conflict of interest and possible

negative public perception when considering Mr LEUNG's application. Since Mr LEUNG had left the post of D of B for six years and the control period under the new arrangements applicable to Mr LEUNG was only three years, she did not take note of WB's comment regarding the public perception issue. She had also considered the comments of PLB and was of the view that as NWCL did not have business operations in Hong Kong, it would not be able to benefit from Mr LEUNG's experience, knowledge and connections gained previously during his service with the Government. She took the view that the appointment should not give rise to problems of conflict of interest, and hence recommended approval of Mr LEUNG's application subject to imposition of the four additional work restrictions.

- Mr Simon IP said that after considering the information and views set out in CSB's paper, he concluded that there would be no actual conflict of interest between Mr LEUNG's former duties in the Government and his duties for the prospective employer. He considered that the imposition of the standard work restrictions and the four additional work restrictions could remove any potential conflict of interest that might arise, and address the public perception issue raised by WB. As Mr LEUNG's work would be based entirely in the Mainland while his previous duties in the post of D of B and PSH/D of H were exclusively Hong Kong based, Mr IP considered that the work restrictions would effectively insulate Mr LEUNG from anything connected with Hong Kong or with any other company in the New World group of companies. He had hence supported the application.
- 5.67 On whether ACPE should have conducted its assessment of applications in a critical manner and should not have relied solely on CSB's information and recommendations, Mr PANG considered that he should not adopt a critical approach in considering applications but should assess them on the facts and information provided by CSB. He said that ACPE had no resources to carry out independent research or

investigation on the applications and had to rely on CSB's support for its work. Under the existing set-up of ACPE, he considered that he had done his duty in the consideration of Mr LEUNG's application.

- 5.68 Members of ACPE shared the view that they had to rely on CSB to provide them with the information on which to assess an application. Ms Marina WONG and Dr Elizabeth SHING said that CSB could provide more information including newspaper clippings on issues which attracted wide public concern and in which the applicant was involved during his previous government service. This might alert them to possible concerns of public perception, and would assist them in considering the application.
- 5.69 As regards whether consideration had been given to the Hunghom Peninsula case when handling Mr LEUNG's application, Mr PANG told the Select Committee that he was not aware of Mr LEUNG's role in the Hunghom Peninsula case when he considered Mr LEUNG's application. He understood from the media that Mr Michael SUEN was involved in the disposal of the Hunghom Peninsula development. Mr Simon IP said that the Hunghom Peninsula case was not mentioned in CSB's paper. His only recollection of the case was that there was objection to the demolition of the development. He did not connect the case to Mr LEUNG's application when he considered the application. Mr James THOMPSON said that he had no knowledge of the Hunghom Peninsula case. He was of the view that if Mr LEUNG would be working in the Mainland, it would not give rise to any conflict of interest with his previous duties in the Government. Mrs Carrie WONG said that she had not included such information in the paper to ACPE as Mr LEUNG's involvement in the Hunghom Peninsula case had not been raised by any of the parties consulted within the Government, and she had also noted that Mr LEUNG would not be involved in the business of NWCL's parent company or any of its subsidiaries.

According to Mr PANG's evidence, of the 395 post-service work applications considered by ACPE during the period from July 2003 to April 2009, five were dealt with at meetings; the rest were dealt with by circulation of papers. Four of these five cases were considered at meetings after Mr LEUNG's case. ACPE had offered views on some of the 395 cases²³. Mr PANG told the Select Committee that as the Chairman of ACPE, he had made decisions on whether or not the applications should be dealt with by circulation of papers or discussion at meetings, and he was responsible for his decisions in this respect. Mr Simon IP said that if CSB had provided adequate information on an application, it would not be necessary to conduct a meeting to discuss the application. In his view, one could not come to the conclusion that ACPE did not discharge its duties properly on the mere fact that meetings were not convened to discuss the applications.

5.71 As to how ACPE perceived its role and functions, Mr PANG said that ACPE was an advisory organization responsible for advising SCS on post-service work applications from directorate civil servants. In considering applications, ACPE should have regard to the policy objective of the Control Regime of protecting the public interest and safeguarding former directorate civil servants' right to work. Mr Simon IP concurred that ACPE should assume an advisory role and not act as the gatekeeper under the Control Regime. He also stressed the need for striking a balance between the above two aims under the policy objective of the Control Regime. Mr James THOMPSON told the Select Committee that, like other advisory committees in Hong Kong, ACPE functioned as another set of "experienced eyes" and its members would

ACPE considered 395 post-service work applications during the period from July 2003 to April 2009. According to the Administration, ACPE's majority views differed from the preliminary recommendations of the Administration in respect of 13 applications. Of these, ACPE recommended the imposition of a longer sanitization period for eight applications, and the imposition of additional/stricter work restrictions for the remaining five. The vetting and approving authority had accepted ACPE's views on these cases.

try their best to give their views on applications on the basis of information provided by the Government. He understood that the Government was not bound to accept their views.

Observations of the Select Committee

- 5.72 The Select Committee notes that the terms of reference of ACPE include considering and advising SCS on post-service work applications from directorate civil servants. The Select Committee considers that ACPE has an important role as it is the only external assessment body under the Control Regime. The Select Committee appreciates that the Chairman and members of ACPE perform a public service on a voluntary and part-time basis. The Select Committee also understands the limits within which they operate, including not having their own secretariat and the limited resources available. However, from the evidence, the Select Committee observes that there are inadequacies in the operation of ACPE, as explained below.
- 5.73 The Select Committee observes that during the period from July 2003 to April 2009, only five out of 395 applications were dealt with by ACPE by way of discussion at meetings, while 390 cases were dealt with by circulation of papers. Of the five cases, only one was discussed at meetings held before the public controversy arising from the approval of Mr LEUNG's application. Although there may not be any direct or necessary relationship between the effectiveness of ACPE's work and the number of meetings held, the Select Committee would stress that meetings are an effective means for ACPE members to discuss and exchange views on applications. The Select Committee also considers that apart from the Chairman, ACPE members should also be requested to give a view on whether a meeting should be convened to discuss applications.

- 5.74 Mr PANG said that it was not possible for ACPE to conduct an opinion survey to gauge public views on a post-service work application, and that he had considered Mr LEUNG's application from the perspective of a reasonable man. He also considered that imposing the four additional work restrictions on Mr LEUNG's application would be adequate to address any public perception concern. Other members of ACPE also considered that the imposition of the additional work restrictions could address the public perception issue raised by WB. However, as a matter of fact, there was grave negative public reaction immediately after Mr LEUNG's case had come to light. In the view of the Select Committee, this shows that ACPE did not grasp the public perception issue.
- 5.75 The Select Committee notes that, in respect of declaration of interests by the Chairman of ACPE, the relevant guideline on declaration of interests states that:

"If the chairman declares an interest in a matter under consideration at meetings, the Advisory Committee shall elect a member to take over the meeting in respect of the discussion of the matter in question."

There is, however, no guideline in cases where post-service work applications from directorate civil servants are considered by circulation of papers. The Select Committee considers that there are obvious loopholes in the guideline in this respect.

5.76 In sum, the Select Committee observes that most of the previous post-service work applications from directorate civil servants considered by ACPE had been dealt with by circulation of papers, and seldom by way of discussion at meetings. There was a lack of interactive and in-depth discussions and exchange of views among members in considering applications. In considering Mr LEUNG's application,

ACPE had relied solely on the information provided by CSB and had not attached sufficient importance to the public perception concern. The Select Committee is of the view that the above reflects that ACPE did not attach sufficient importance to its role and was too content to play a passive role in the assessment process. The Select Committee considers that ACPE should perform its role proactively, consider post-service work applications from the public's perspective and give independent and impartial advice to SCS; otherwise, ACPE would not be able to play an effective role. The Select Committee's recommendations on improvements to the operation of ACPE are set out in Chapter 9.

Civil Service Bureau

After receiving an application for post-service work from a directorate civil servant, CSB will consult the relevant Permanent Secretary, Head of Department or Head of Grade to seek their comments and assessment. After obtaining their comments and assessment, CEO (Pensions) of CSB will prepare a paper and submit to DS(CS)1, via Administrative Assistant to SCS²⁴, for clearance²⁵ and then circulate it for the consideration of ACPE and consultation with ACPE members. After receiving the advice of ACPE, Administrative Assistant to SCS will make the final recommendation and prepare the case file for submission, via DS(CS)1 and PSCS, for SCS's decision.

Prior to 7 July 2008, Principal Assistant Secretary (Appointments) was responsible for the processing of such post-service work applications.

With effect from October 2008, papers prepared by CEO (Pensions) of CSB for the consideration of ACPE are subject to clearance by DS(CS)1.

Miss Denise YUE, Secretary for the Civil Service, Mr Andrew WONG, Permanent Secretary for the Civil Service, and Mrs Sarah KWOK, former Deputy Secretary for the Civil Service 1

5.78 In respect of the vetting and approval of Mr LEUNG Chin-man's application, Mrs Sarah KWOK, the then DS(CS)1, was responsible for ensuring that Mr LEUNG's application was processed in accordance with established procedures and all relevant parties had been consulted; providing an assessment of Mr LEUNG's application as the Head of the AO grade under delegated authority by Mr Andrew WONG, PSCS; clearing CSB's proposed preliminary views and recommendations on Mr LEUNG's application for consultation with ACPE; and providing advice to Miss Denise YUE, SCS, on the application when the final submission was routed through her to Mr WONG and Miss YUE. Mr Andrew WONG was responsible for providing advice on the application after obtaining the comments, assessment, advice and recommendations from all concerned parties, for SCS to make the final As the approving authority for post-service work applications, Miss Denise YUE decided to approve Mr LEUNG's application with the imposition of the standard and other additional work restrictions. Having regard to their important role in assessing and approving Mr LEUNG's application, the Select Committee summoned Miss YUE, Mr WONG and Mrs KWOK to attend its hearings.

Evidence obtained from Mrs Sarah KWOK

- 5.79 According to Mrs Sarah KWOK, she was DS(CS)1 from November 2007 to October 2008, and she did not have any personal relationship with Mr LEUNG Chin-man.
- 5.80 As regards the factors considered in vetting Mr LEUNG's application, Mrs Sarah KWOK said that she had taken into account the policy objective and the specific considerations in vetting post-service

work applications as set out in CSB Circular No. 10/2005, the information provided in the application form and collated by her staff including the business of NWCL being in the Mainland, Mr LEUNG's duties being to oversee the company's business in the Mainland only, his being based in a major city in the Mainland and not being involved in the business of NWCL's subsidiaries or its parent company, NWDCL. Having regard to the above information, she considered that there was no apparent conflict of interest between Mr LEUNG's proposed appointment with NWCL and his former duties in the Government.

5.81 As to whether Mrs KWOK had considered public suspicion that Mr LEUNG's appointment by NWCL might involve a deferred reward from NWDCL, she pointed out that deferred reward was not a specific consideration listed in the approving criteria for post-service work applications under the existing Control Regime. She said that the vetting parties had the responsibility to assess public perception issues on an application and, in her view, a public perception problem might arise if there was real or potential conflict of interest between the prospective work and the former government duties of the applicant. In the absence of a scientific formula for measuring public perception, she had made her assessment of Mr LEUNG's application based on the facts. Mr LEUNG's prospective work with NWCL involved property business in the Mainland only, she considered that there was no real conflict of interest between Mr LEUNG's taking up of the work and his previous duties in the Government. In order to guard against any potential conflict of interest which might give rise to public perception concern, Mrs KWOK considered it necessary to impose additional work restrictions on Mr LEUNG's application which included confining his appointment to NWCL only, and restricting him from being involved in any business of NWCL that was connected with Hong Kong. additional work restrictions would ensure insulation of Mr LEUNG's previous service in the Government and his proposed work in NWCL.

- 5.82 Mrs KWOK informed the Select Committee that she had not considered the Hunghom Peninsula case in assessing Mr LEUNG's She noted from the information provided by PLB that the subsidiary companies of NWDCL had submitted building plans submissions of the Hunghom Peninsula project. However, she said that the public concern over the Hunghom Peninsula case was about the negotiation of lease modification premium with the developer. recollection was that Mr Michael SUEN, the then SHPL, had spoken on the matter on behalf of the Government, and she had not associated Mr LEUNG with the case, nor did it come to her mind that Mr LEUNG was the then PSH/D of H. Although she noted that NWDCL was the parent company of NWCL, her assessment of the application had not covered Mr LEUNG's previous dealings with NWDCL because Mr LEUNG had stated in the application form that he would not be involved in the business of the parent company of NWCL. This was in accordance with the practice under the existing Control Regime. Moreover, none of the consulted policy bureaux had made reference to the Hunghom Peninsula case in their replies. In response to the Select Committee, Mrs KWOK said that had the relevant branches mentioned Mr LEUNG's involvement in the Hunghom Peninsula case, she would have raised the matter with her supervisor.
- 5.83 Mrs KWOK completed Assessment B of Part III of Mr LEUNG's application form. In assessing the application from the perspective of the AO Grade Management, she took into account Mr LEUNG's last three years (instead of the alternative period of the last six years) of active government service. As to the reason why Mrs KWOK had based her assessment of the shorter period of three years, she told the Select Committee that in considering post-service work applications from directorate civil servants, the assessing parties would generally focus on the duties of the applicants in their last three years of active government service. It was already over six years since Mr LEUNG served as D of B at the time he made the application, and his

service as D of B had already been assessed by PLB. Therefore, she had chosen three years as the basis for the AO Grade Management's assessment. When formulating the views of the AO Grade Management, she had made reference to the information provided by Mr LEUNG in the application form, as well as the information, assessment and views given by the relevant policy bureaux. She had also considered the senior positions that Mr LEUNG had held in the Government and the duties of those positions.

5.84 Mrs KWOK had read the memorandum dated 26 May 2008 from WB to CSB, in which WB advised that as Mr LEUNG's prospective employer was engaged in the business of real estate development, construction and management, Mr LEUNG's application for post-service work, on account of the relevance of his former responsibilities as D of B, might give rise to a public perception issue even though his prospective employer's business was outside Hong Kong. Mrs KWOK instructed Mrs Carrie WONG to consult WB again on whether it had objection to the application. CSB asked for WB's view again on 17 June 2008 and at the same time disclosed the "no objection" stance of HB and PLB to WB. Mrs KWOK explained that as WB's reply had not provided an overall recommendation on the application, it was necessary to clarify its position and ascertain whether the public perception concern raised could be addressed by imposing restrictions and conditions on the application. The disclosure of the stance of HB and PLB was merely to provide additional information for WB's reference. In any event, HB had copied its "no objection" reply dated 5 June 2008 to PLB and WB. Mrs KWOK stressed that CSB had no intention to exert pressure on WB for its support for Mr LEUNG's application. Consulted parties were expected to give comments on the application from their respective purview, and CSB would take note of the different views expressed and convey them to ACPE and SCS for consideration. As to why CSB had not conveyed WB's dissenting views to PLB and HB, Mrs KWOK pointed out that as PS(H)/D of H and PS(PL) had provided clear views on Mr LEUNG's

application, there was no need to seek their views again or to forward WB's views for their reference.

As advised by Mrs KWOK, she had not raised doubts over the information provided by Mr LEUNG in item 25 of his application form (regarding how the offer of outside work arose), that is "Introduced by a family friend". According to Mrs KWOK, item 25 only provided background information on the application. She added that CSB would follow up with the applicant for verification of the information provided in the application form in case of doubt or if an item was left blank. She said that the Control Regime operated under an honour system, and an applicant was required to make a declaration in the application form that he had provided full and accurate information; an applicant would be subject to sanctions if he provided false information or withheld material information.

Evidence obtained from Mr Andrew WONG

5.86 Mr Andrew WONG informed the Select Committee that he came to know Mr LEUNG through their work in the Government over the years and his previous contacts with Mr LEUNG were mainly work-related. He said that he received the submission on Mr LEUNG's application prepared by Mrs Sharon YIP, Principal Assistant Secretary (Appointments) from Mrs Sarah KWOK's office on 7 or 8 July 2008. In vetting the application, he took into account the policy objective of the Control Regime and the specific assessment criteria in CSB Circular No. 10/2005. He went through the views of different parties and considered their analysis. He also considered and agreed with the recommendations made by officers in CSB. Mr WONG endorsed the submission by putting down the word "Supported" and passed it to Miss Denise YUE on 8 July 2008. Mr WONG said that he had not discussed Mr LEUNG's application with officers in CSB. He believed that if his staff came across any difficulties in vetting the application, they would have come to him for advice. If Mrs Sarah KWOK had encountered difficulties, she would have consulted him as well.

- 5.87 Mr WONG said that since PSCS is the Head of the AO grade, he is responsible also for giving comments on applications from directorate AOs by completing Assessment B of Part III of the application form. In practice, Mr WONG had delegated this latter aspect of work to Mrs Sarah KWOK under the division of work between them as both were responsible for the management of the more senior members of the AO grade.
- 5.88 In considering Mr LEUNG's application, Mr WONG said that he noted the following points: the major business of NWCL was in the Mainland, Mr LEUNG's proposed appointment was to oversee NWCL's business in the Mainland only; Mr LEUNG would be physically based in a major city in the Mainland, and would not be involved in the business of NWCL's parent company or subsidiaries. Hence, he considered that Mr LEUNG's application would unlikely constitute any conflict of Mr WONG had also considered Mrs Sarah KWOK's interest. assessment of the application as the Head of the AO grade, which was that there did not appear to be any apparent conflict of interest between Mr LEUNG's application and his former government duties. Mr LEUNG's former senior positions in the Government, Mr WONG agreed with the recommendation made by officers in CSB for imposing the four additional work restrictions on the application to mitigate the negative perception arising from the application.
- 5.89 Mr WONG told the Select Committee that although the issue of deferred reward was not directly dealt with under the existing Control Regime, according to the assessment criteria set out in CSB Circular No. 10/2005, officials responsible for assessment would consider whether an applicant's previous duties, the decisions he had made and policies he had participated in formulation could benefit his prospective employer.

5.90 As regards the Hunghom Peninsula case, Mr WONG said that the matter had not been considered by CSB or the relevant bureaux when processing Mr LEUNG's application, and thus it was not mentioned in the submission to SCS. Mr WONG told the Select Committee that he had indeed not associated the Hunghom Peninsula case with the application when considering Mr LEUNG's application. He knew that the then HPLB was responsible for handling the Hunghom Peninsula case. remembered Mr Michael SUEN handling the case as SHPL, but it did not occur to him that Mr LEUNG Chin-man was probably involved. response to further questions of the Select Committee, Mr WONG agreed that when considering Mr LEUNG's application, it should have come to his mind that Mr LEUNG, as the then Permanent Secretary for Housing, Planning and Lands (Housing), might have been involved in the Hunghom Peninsula case. In response to the Select Committee's request for further information after the hearing, Mr WONG clarified that at the time when he considered Mr LEUNG's application, he did not know about Mr LEUNG's involvement in the Hunghom Peninsula case. He only came to know of Mr LEUNG's involvement after it was reported by the media in early August 2008. According to the information provided by Mr WONG, when he served as Director of Administration from August 2000 to March 2004, he attended the Policy Committee ("PC") meeting held on 24 October 2002, which Mr LEUNG also attended in his capacity as the then PSH/D of H. At the meeting, the comprehensive market-oriented housing policy was discussed. In the paper submitted for discussion at the meeting, there was a reference to the fact that the two PSPS projects of Hunghom Peninsula and Kingsford Terrace were awaiting disposal, but these matters were not discussed at the meeting. Mr WONG also attended the Senior Officials' Meeting held on 13 February 2004 at which it was mentioned that the sale of the Hunghom Peninsula flats had attracted lots of commentaries and Mr Michael SUEN gave a brief report on the sale of these flats. Mr LEUNG was not present at that meeting.

he was not sufficiently meticulous and thorough in processing Mr LEUNG's application. He informed the Select Committee that since Mr LEUNG's case, his colleagues had been more careful when processing applications. He also said that had any bureaux consulted mentioned the Hunghom Peninsula case in their response to CSB, CSB would have considered Mr LEUNG's involvement in the case and whether his taking up of the post-service work with NWCL would involve any conflict of interest. Mr WONG told the Select Committee that he would take personal responsibility for having failed to assess Mr LEUNG's application from every angle in order to assist Miss YUE to make the decision.

Evidence obtained from Miss Denise YUE

- 5.92 Miss Denise YUE said that she and Mr LEUNG Chin-man were members of the AO grade in the civil service. She was Mr LEUNG's supervisor during the period from November 1995 to July 1997 when she was the Secretary for Trade and Industry and Mr LEUNG was Director of the Toronto Economic and Trade Office. Besides, both Mr LEUNG and Miss YUE had served on the AO Recruitment Board in 1983.
- On 8 July 2008, Miss YUE received a written submission prepared by Mrs Sharon YIP on Mr LEUNG's application to take up appointment with NWCL as Executive Director. The submission, issued via Mrs Sarah KWOK and Mr Andrew WONG, set out the information on Mr LEUNG, his approved post-service work, details of the prospective employment, the assessment of the relevant parties within the Government, the advice tendered by ACPE, and CSB's final recommendation for approval of the application subject to the standard work restrictions and the imposition of four additional work restrictions.

The information and views provided by the relevant parties were as follows:

- (a) HB of THB recommended approval of the application without sanitization subject to the standard work restrictions.
- (b) WB of DEVB advised that NWCL and NWDCL were not the listed contractors of WB but NWS, a subsidiary of NWDCL, through other companies, owned nine companies which were listed contractors and had 13 outstanding public works contracts. WB was of the view that as Mr LEUNG's prospective employer was engaged in the business of real estate development, construction and management, Mr LEUNG's proposed appointment, on account of the relevance of his former responsibilities as D of B from October 1999 to June 2002, might give rise to a public perception issue although his prospective employer's business was conducted outside Hong Kong.
- (c) PLB of DEVB pointed out that BD had no contractual dealings with NWCL or NWDCL but there were building plans submissions for development projects, such as the Hunghom Peninsula and the Tsim Sha Tsui New World redevelopment which were made under BO by the subsidiary companies of NWDCL.
- (d) Approval had been given in February 2008 to a similar application from another D8 directorate civil servant to take up a full-time paid appointment with NWCL subject to the standard work restrictions and a set of additional work restrictions.

- (e) The AO Grade Management considered that there did not appear to be any apparent conflict between Mr LEUNG's proposed appointment and his former duties.
- (f) NWCL was the property flagship of NWDCL in the Mainland, and its business covered development projects of residential estates, service apartments, offices and shopping centres, hotels and resorts which were based in large Mainland cities. CSB's view was that the would constitute appointment unlikely proposed problems of conflict of interest as: (i) Mr LEUNG had left the posts of D of B and PSH/D of H for six years and over two years respectively, and he had no previous dealings with NWCL; (ii) NWCL dealt with property development in the Mainland and Mr LEUNG would be responsible for overseeing the company's business in the Mainland only; and (iii) both WB and PLB had no business connection with NWCL. Nonetheless, given Mr LEUNG's former senior positions in the Government, the full-time basis of the proposed appointment, and the need to address the public perception issue, CSB considered it desirable to impose additional work restrictions on the appointment.
- (g) ACPE had been consulted on the application and it agreed with CSB's recommendation for imposing the four additional work restrictions.
- (h) Mrs YIP, Mrs KWOK and Mr WONG had all given support for Mr LEUNG's application.

- 5.94 Miss YUE approved Mr LEUNG's application on the same day with the imposition of the standard and the four additional work restrictions.
- 5.95 As regards the factors that she had taken into account when considering Mr LEUNG's application, Miss YUE said that the key factors for consideration included the policy objective of the Control Regime; whether there was any real or potential conflict of interest between Mr LEUNG's former government duties and the proposed work; and whether his taking up of the proposed work was likely to give rise to negative public perception. She had also taken into account the specific considerations set out in paragraph 7 of CSB Circular No. 10/2005, the views expressed by the concerned parties within the Government including the public perception issue raised by the WB, and the advice given by ACPE. Miss YUE concluded that Mr LEUNG's proposed appointment would unlikely constitute problems of real or potential conflict of interest, but there might be some negative public perception. She decided to approve the application with four additional work restrictions over and above the standard work restrictions.
- 5.96 Miss YUE said that she had considered that the proposed appointment would unlikely constitute problems of real or potential conflict of interest having regard to the business nature of the prospective employer, which was in real estate development in the Mainland, and the duties of Mr LEUNG who would be based in a major city in the Mainland. Miss YUE noted that Mr LEUNG had stated in his application that NWCL's parent company was NWDCL, but that he would not be involved in any way in the business of the parent company or any subsidiaries of NWCL.
- 5.97 With regard to the public perception issue involved in Mr LEUNG's application, Miss YUE said that she considered that there was a need to mitigate possible negative public perception that might

ensue by imposing work restrictions in addition to the standard ones. She also considered that such additional work restrictions would further ensure that Mr LEUNG would not be involved in any business of his prospective employer that was connected with Hong Kong, and that the prospective employer would not have an unfair advantage over its competitors through obtaining classified or sensitive information that Mr LEUNG might have acquired during his government service or through any influence that he would still have with serving officers in the Government or any pressure that he would be able to bring upon serving officers in the Government in any discussion between his prospective employer and the Government.

- 5.98 As regards Mr LEUNG's involvement in the Hunghom Peninsula case, Miss YUE stated in her written statement to the Select Committee that NWCL had nothing to do with the Hunghom Peninsula case in which Mr LEUNG was involved, and therefore it did not occur to her that it would be a relevant factor in considering Mr LEUNG's At the public hearings, Miss YUE admitted that in vetting and approving Mr LEUNG's application, the Hunghom Peninsula case was not in her mind and she had not associated the application with the Hunghom Peninsula case. If the matter had come to her mind, she would have considered the application afresh, requested the relevant bureaux and departments to assess Mr LEUNG's involvement in the case, and sought ACPE's views on the application again. When the media reported in August 2008 on the appointment of Mr LEUNG by NWCL and drew attention to his involvement in the Hunghom Peninsula case, Miss YUE realized that she had not been thorough enough in processing his application and had omitted to consider his involvement in the Hunghom Peninsula case. She had made an apology to the public for the great concern this omission had caused.
- 5.99 As to whether or not Mr LEUNG should have mentioned his involvement in the Hunghom Peninsula case in his application,

Miss YUE said that she considered that Mr LEUNG had provided the information required by the application form under the existing Control Regime, but it would have been more helpful to those involved in assessing and approving his application if Mr LEUNG had provided information on his involvement in the Hunghom Peninsula case in his application.

5.100 As to how the protection of the public interest and the protection of a directorate civil servant's right²⁶ to pursue post-service employment and freedom to choose his occupation should be balanced against each other if there was a conflict between the two, Miss YUE told the Select Committee that while she would endeavour to strike an appropriate balance between the two, in the event of conflict, the former should take precedence. If she should decide to restrict a former directorate civil servant from taking up, in whole or in part, the employment applied for, the restriction must be no more than was necessary to protect the public interest and other legitimate rights. the decision authority, she must consider the circumstances of each application and weigh up all the relevant factors, including the public interest and the individual's right to work and freedom of choice of occupation, before coming to a decision. There was no set formula or Miss YUE stated that she would not approve an application if it would give rise to real conflict of interest. If she thought that an application would give rise to potential conflict of interest (which might lead to negative public perception) or give rise to negative public perception or embarrass the Government even if there was no potential conflict of interest, she would consider whether the potential conflict of interest and/or negative public perception and/or embarrassment to the Government might be sufficiently addressed by imposing additional work restrictions. If so, she would likely approve the application with

Please refer to footnote 3 of paragraph 2.3.

additional special work restrictions; and if not, she would likely reject the application.

5.101 On whether public suspicion about deferred reward could be included in the assessment of post-service work applications, Miss YUE was of the view that cases of deferred reward, if substantiated, would amount to corruption practices and must be reported to the authorities. She said that while public suspicion of deferred reward was not an explicitly stated factor in CSB Circular No. 10/2005 for consideration, the factors of public suspicion of conflict of interest and embarrassment to the Government taken broadly would be wide enough to include public suspicion of deferred reward.

5.102 The employment contract dated 1 August 2008 signed between Mr LEUNG and NWCL did not specify the duties of the appointment, and it contained a clause under which NWCL could transfer Mr LEUNG to work in any subsidiary or associated company of NWCL and those of its holding company. In relation to this, Miss YUE said that as the Control Regime operated under an honour system and Mr LEUNG had declared in his application that the information provided was accurate, she did not think that there was any need to ask Mr LEUNG to provide a copy of the employment contract he signed with NWCL. Miss YUE told the Select Committee that the absence of specification of the duties in Mr LEUNG's employment contract with NWCL did not constitute a breach of the terms of the approval of the application, as there was no requirement for the applicant's duties to be specified in the employment There was also no requirement for the draft employment contract to be enclosed with the application for approval. The mere inclusion of a transfer clause in itself and Mr LEUNG's signing the contract without notifying CSB would not constitute a breach of the terms of the approval. This was because there was no requirement under the existing system for the terms of approval to be included in an applicant's employment contract, and an applicant was not required to notify CSB of the actual terms of his employment contract. However, CSB would request a successful applicant to notify his prospective employer of the terms of approval for his application. After consulting the Department of Justice ("DoJ"), Miss YUE said that so long as NWCL did not exercise its right of transfer or Mr LEUNG did not agree to be transferred, Mr LEUNG would not be in breach of the terms of the approval. Furthermore, Miss YUE also told the Select Committee that the case record of Mr LEUNG's appointment with NWCL was open for public inspection, and the public and the media would act as watchdogs should Mr LEUNG do anything improper.

5.103 As regards the answer of "Introduced by a family friend" for item 25 of the application form (regarding how the offer of outside work arose), Miss YUE said that she had not raised the matter nor discussed Mr LEUNG's application with any of her staff. She explained that the Control Regime operated by way of an honour system under which applications for post-service work were assessed and decided based on the information provided by the applicants in the application form. Mr LEUNG had made a declaration in section (E) of Part II of the application form that the information provided was full and accurate, and had also confirmed that he had read CSB Circular No. 10/2005, she had accepted the information provided²⁷. She added that there were few applications in the past in which applicants were required to provide supplementary information on particular items. Nevertheless, she stressed that applicants who wilfully gave false information or withheld any material information in the application form would be subject to sanctions.

According to the information provided by the Administration, the CSB officials involved in processing Mr LEUNG Chin-man's application did not notice anything that caused them to raise doubts on the accuracy of the information provided by Mr LEUNG and hence did not take further steps to verify the information.

5.104 On the number of applications which Miss YUE had handled, she informed the Select Committee that she had handled about 180 to 200 post-service work applications in the past three years. The answers of "family friend", "friend" or "personal friend" for item 25 of the application form were found in less than 10% of the cases²⁸. The majority of the applicants had stated in the application form that they were approached by the prospective employer. A small portion of the applicants stated that they directly approached the prospective employer, while some applicants stated that they got the job through open recruitment or headhunters. She considered that item 25 was only for background information, to see whether his job had been acquired through open recruitment, headhunters or some other contacts.

Observations of the Select Committee

5.105 As the policy bureau responsible for the overall management and development of the civil service, CSB is also the authority which formulates the policy on post-service employment of civil servants and the Control Regime. CSB has the important role of gatekeeper in the vetting and approval of post-service work applications from directorate civil servants. It should have a thorough understanding of the policy objective of the Control Regime and, in vetting and approving an application, should adhere to and fully implement the policy objective in order to make a sound and fair decision.

According to the further information provided by the Administration after the hearings, during the period from 24 January 2006 to 21 April 2009, Miss Denise YUE had handled 182 applications, comprising 96 processed under the new arrangement and 86 under the old arrangement governing post-service work of directorate civil servants. The breakdown of the answers for the item (relating to how the offer of the work/appointment arose) is as follows: (a) introduced by a family friend (2 cases); (b) introduced by a friend/personal friend (13 cases); (c) self-initiated (including self-employment) (19 cases); (d) approached by the prospective employer (120 cases); (e) through headhunters (5 cases); (f) through open recruitment (14 cases); and (g) through other contacts (9 cases).

- 5.106 On the vetting and approval of Mr LEUNG's application, the Select Committee notes that even though WB had raised the public perception concern, CSB did not place any importance on the warning. Instead, it told WB that HB and PLB had taken the stance of "no objection" on Mr LEUNG's application. The Select Committee considers it inappropriate for CSB to have done so. Regardless of the motive, what CSB did would have the effect of exerting pressure on WB. The Select Committee also notes that due to their over-reliance on the honour system, the responsible officials in CSB had accepted at face value the information provided by Mr LEUNG in the application form without requiring him to provide supplementary information and/or verifying the information provided, thereby preventing themselves from acquiring all the relevant information needed to assist SCS to make a decision on the application.
- 5.107 The Select Committee is concerned that notwithstanding that the Government had reviewed and introduced changes to the Control Regime to address public concern about the post-service work of a directorate civil servant responsible for housing policies in 2004, Mr LEUNG's case reflects that CSB has failed to learn its lesson from the incident. In the assessment of Mr LEUNG's application in 2008, CSB did not adhere to and fully implement the relevant policy objective and ended up approving Mr LEUNG's application, thus giving rise once again to public controversy and causing embarrassment to the Government. The Select Committee considers that the Bureau had failed to fulfil its responsibility.
- 5.108 On the performance of Mrs Sarah KWOK, the Select Committee observes that her assessment of the application from the perspective of the AO Grade Management covered only the shorter period of Mr LEUNG's last three years of service. Having regard to the senior positions of Mr LEUNG in the Government, the Select Committee considers that Mrs KWOK should have taken six years as the basis for

assessment of the application. Moreover, her assessment Mr LEUNG's application had not taken full account of the six key factors set out in CSB Circular No. 10/2005 but had only focused on the business The Select Committee is of the view that Mrs KWOK, as a senior officer in the AO grade, should be experienced in assessing public perception and thus should have been capable of making a sensible assessment of Mr LEUNG's application. However, the Select Committee finds it regrettable and unacceptable that Mrs KWOK had paid no regard to the alert given repeatedly by WB on the public perception issue and claimed that there was no scientific formula for measuring public perception, had even instructed Mrs Carrie WONG to ascertain with WB whether it had any objection to Mr LEUNG's application, and had failed to make an effective assessment of the public perception issue to assist SCS in approving the application.

As regards Mr Andrew WONG's performance, the Select 5.109 Committee notes that according to Mr WONG, he was not aware of Mr LEUNG's involvement in the Hunghom Peninsula case when considering the application. However, the Select Committee notes that when Mr WONG served as Director of Administration, he knew that the then HPLB was in charge of the Hunghom Peninsula case and was also Mr WONG aware that Mr LEUNG was PSH/D of H at that time. agreed at the hearings that he should have thought of Mr LEUNG's involvement in the Hunghom Peninsula case, but the case had not come to his mind when he considered the application of Mr LEUNG. Select Committee considers that Mr WONG should have thought of Mr LEUNG's involvement in the Hunghom Peninsula case, and yet it did not occur to him that Mr LEUNG could have been involved in the case. This is a serious oversight on the part of Mr WONG in handling Mr LEUNG's application.

5.110 The Select Committee further notes that Mr WONG did not take into full consideration the six key factors set out in CSB Circular

No. 10/2005 when assessing Mr LEUNG's application. He had confined the consideration of public perception issue to the real or potential conflict of interest problem associated with the applicant's previous government duties and his prospective work. It is difficult to understand how Mr WONG could have paid so little regard to the alert given by WB on the public perception issue when he claimed that he had gone through the views of the relevant bureaux and considered their analysis. The Select Committee is of the view that he should have drawn Miss Denise YUE's attention to the alert instead of merely putting down the word "Supported" on the submission. The Select Committee deeply regrets that as PSCS with 26 years' experience in the AO grade, Mr WONG did not have the sense of responsibility and alertness which he should possess, nor had he provided reliable and solid support to assist Miss YUE in processing Mr LEUNG's application.

5.111 Regarding the performance of Miss Denise YUE, the Select Committee considers that the ultimate responsibility rests with her as the She must ensure that all post-service work approving authority. applications from directorate civil servants meet the policy objective of the Control Regime, and take into full consideration the six key factors set out in CSB Circular No. 10/2005. Miss YUE was aware of the public perception concern raised by WB on Mr LEUNG's application. She should have realized that given his participation in the formulation and execution of major housing and land policies while in government service, his post-service employment with real estate organizations would give rise to a public perception issue and the public suspicion about the employment involving a potential conflict of interest. In approving the application, Miss YUE focused her attention only on the business of NWCL and the execution of Mr LEUNG's duties being in the Mainland. In her view, the proposed appointment would unlikely constitute problems of conflict of interest and might only give rise to some negative public perception, which she thought could be reduced by the imposition of four additional work restrictions over and above the standard work restrictions. Yet, the approval given for Mr LEUNG to take up the employment with NWCL aroused public controversy as it is known to the public that Mr LEUNG was involved in the Hunghom Peninsula case. This indicates an obvious gap between Miss YUE's assessment and the views of the public. The Select Committee considers that Miss YUE, being a Principal Official under the Accountability System, had not demonstrated political sensitivity in handling Mr LEUNG's application. She had failed to grasp public sentiments and understand public expectations and concerns. She had committed a grave error of judgment and had not discharged her role as the final gatekeeper of the Control Regime.

5.112 Miss Denise YUE told the Select Committee that she would endeavour to strike a proper balance between the protection of the public interest and the protection of a directorate civil servant's right to pursue post-service employment and freedom of choice of occupation, and that the former would take precedence over the latter if there was a conflict between the two. Miss YUE also said that the six key factors for consideration set out in CSB Circular No. 10/2005 were sufficiently broad to cover the consideration of public suspicion of deferred reward. Nevertheless, in approving Mr LEUNG's application, she had failed to associate it with the Hunghom Peninsula case, nor had she taken note of the possibility of public concern about deferred reward. The Select Committee deeply regrets that as reflected in Mr LEUNG's case, Miss YUE had neither given precedence to the protection of the public interest nor upheld the approval criteria of the Control Regime, resulting in the Government's credibility being damaged.

General observations of the Select Committee on the processing of Mr LEUNG Chin-man's application for employment with New World China Land Limited by the officials involved

Failure to consider the Hunghom Peninsula case

5.113 In response to the Select Committee as to whether they had considered the Hunghom Peninsula case when vetting and approving Mr LEUNG's application, the officials who attended the hearings gave an almost stereotyped answer that they had not associated Mr LEUNG's employment with his involvement in the Hunghom Peninsula case. particular, Mr Thomas CHAN (who took over from Mr LEUNG as PSH/D of H in 2006) and Mr Andrew WONG (who was Director of Administration from 2000 to 2004) should, in their respective posts, have had knowledge of Mr LEUNG's involvement in the Hunghom Peninsula The Select Committee has to point out that there had been wide media coverage about Mr LEUNG's involvement in the disposal of the Hunghom Peninsula flats and the sale of these flats to the developer at a lease modification premium which was considered too low by the public. It was also known to the public that the developer concerned belonged to the same group of companies as NWCL. In the view of the Select Committee, it is incredible that the officials concerned had not associated Mr LEUNG's application with the Hunghom Peninsula case during the vetting and approval process.

<u>Different understanding of the assessment criteria and narrow perspective</u> <u>of the public perception issue</u>

5.114 Miss Denise YUE told the Select Committee at the hearings that CSB Circular No. 10/2005 did not use expressions such as "deferred reward". Interpreted from a broad perspective, the six key factors set out in the circular could include public suspicion of deferred reward. However, the Select Committee notes that other officials involved in the

processing of Mr LEUNG's application had a different understanding. Mrs Sarah KWOK and Mrs Susan MAK told the Select Committee that public suspicion of deferred reward was not listed as a specific consideration among the six key factors. They had apparently not considered the factor of deferred reward. This shows that Miss Denise YUE and the officials responsible for assessing Mr LEUNG's application had different understandings of the assessment criteria.

- 5.115 The Select Committee is also concerned that most of the officials involved in the processing of Mr LEUNG's application had assessed public perception from a narrow perspective. They had only considered that Mr LEUNG's duties with NWCL would be carried out in the Mainland and he would not be involved in the business of NWDCL. They had however neglected the fact that NWCL is a subsidiary company of NWDCL and the business interests are inseparable. Because of this, most of the officials overlooked the possibility that the approval of Mr LEUNG's application might give rise to negative public perception. Only the officials in WB adopted a broad perspective in vetting and assessing the application and raised the public perception concern.
- 5.116 The Select Committee has to point out that the public takes a common sense view of the jobs and duties to be taken up by directorate civil servants in their post-service employment. The public has no knowledge about an applicant's past service records with the Government or the details of his official contacts and dealings, nor would they look into an applicant's relationship with his prospective employer. The public may have a negative perception of a post-service work application if it suspects conflict of interest or other impropriety. In processing Mr LEUNG's application, the officials concerned had not adopted a common sense approach and had failed to consider the public perception issue from a broad perspective, resulting in an obvious gap between the officials' assessment of and the public's views on the issue. Therefore,

the routine measures adopted, i.e. imposing additional work restrictions, could by no means address public concern.

Inconsistent processing practices

The Select Committee is concerned that officials of different 5.117 policy bureaux and branches adopt different practices in assessing post-service work applications from directorate civil servants. processing Mr LEUNG's application, officials in WB had collated information and conducted file research before making analysis and recommendations; officials in PLB, while having conducted research on the application, had only provided the relevant information to CSB without making any analysis of or giving their views on the application; and officials in HB had processed the application based on superficial information and subjective judgment, but had not undertaken file research or consultation. The Select Committee considers that this suggests that some officials were not serious enough in processing the application. The Government should adopt enhanced measures to ensure that the vetting and approving officials would act in a conscientious and dutiful manner and implement the Control Regime and its policy objective effectively.

Over-reliance on the honour system

5.118 The vetting and approving officials advised the Select Committee that the Control Regime operates under an honour system whereby the officials concerned would usually accept the information provided in the application form, so long as the applicant had declared in the form that he had read CSB Circular No. 10/2005 and confirmed that the information provided in the form was full and accurate. The Select Committee has to point out that when making an application, the applicant should provide full and accurate information in a frank and honest manner, and comply truthfully with the requirements of the

Control Regime. In considering post-service work applications from directorate civil servants, the vetting and approving authority should search for information and give objective and independent consideration to the facts and circumstances concerned, and where necessary, require the applicants to provide further information. On the other hand, CSB should also closely monitor the approved cases. In Mr LEUNG's case, the officials concerned had accepted at face value the information provided by Mr LEUNG in the application form without asking for further information or clarification, and they also left it to Mr LEUNG to take the initiative to report to CSB any changes to his approved application. This shows that the officials involved in the vetting and assessment process overly relied on the honour system.

Chapter 6 Major housing and land policies which Mr LEUNG Chin-man had taken part in their formulation or execution

- 6.1 During his last six years of service in the Government, Mr LEUNG Chin-man had served as D of B and PSH/D of H. He was heavily involved in the formulation and implementation of major housing and land policies, some of which had aroused wide public concern. Among these were the Grand Promenade case and the Hunghom Peninsula case.
- 6.2 This Chapter gives an account of the major housing and land policies and decisions implementing these policies in which Mr LEUNG had taken part while serving as D of B and PSH/D of H. It also sets out Mr LEUNG's exercise of discretionary power in the Grand Promenade case and the Select Committee's observations.

Tenure of office as the Director of Buildings

Responsibilities of the Director of Buildings and the Building Authority

6.3 Mr LEUNG Chin-man took up the post of D of B as head of BD in August 1999. BD was under the then Planning and Lands Bureau which was headed by the then Secretary for Planning and Lands. As D of B, Mr LEUNG's main duties and responsibilities were to oversee and co-ordinate the work of BD in formulating, implementing and reviewing the policies and strategies on private building development and control throughout Hong Kong. He also acted as the main advisor to the Government on these matters.

- Authority ("BA"). BA is responsible for the administration of BO and exercising the powers granted to him under the Ordinance for controlling the safety of private buildings. The main duties and powers of BA under BO and its regulations include the approval of plans of new buildings, the regulation of the design and construction of building works, and the implementation of legislation requiring owners to repair their buildings or slopes and remove unauthorized building works ("UBWs"). Under BO, BA's duties may be carried out and exercised by D of B or an officer of BD authorized by D of B. In order to provide flexibility in the control of building development, BO confers discretionary power on BA in areas including approval of building plans, exempting GFA²⁹/site coverage calculations, and granting concessions such as bonus GFA and additional plot ratio and site coverage.
- In performing his statutory duties under BO and its regulations, BA is assisted by staff in BD. BA also has the assistance and advice of the Building Authority Conference ("BAC") and, if necessary, legal advice from DoJ. BAC provides a forum for discussion to enable BA to decide or advise on major controversial issues which require his direction in the course of administrating BO. Mr LEUNG Chin-man, in his capacity as D of B/BA, chaired BAC³⁰ and a number of other committees including the Building Sub-Committee of the Land and Building Advisory Committee, and BD's Senior Directorate Meeting. He was also a member of a number of committees including the Board Meeting

This Chapter sets out Mr LEUNG Chin-man's exercise of discretionary power in the Grand Promenade case and in this connection, the term"建築樓面面積 "has been adopted as the Chinese equivalent of "gross floor area" in this Report, which is the same as the term used in the Director of Audit's Report No. 45, PAC Report No. 45 and the Report of ICI. In BO, the Chinese equivalent of "gross floor area" is "總樓面面積".

BAC members comprise senior officials of BD including the Deputy Director of Buildings, Assistant Director/Legal and Management, Assistant Director of the case concerned, one Assistant Director on rotation as a member, and Technical Secretary/Buildings as secretary. Representatives from other relevant departments are invited to attend BAC to provide advice.

of the Urban Renewal Authority and the Lands and Building Advisory Committee.

Major building control policies in which Mr LEUNG Chin-man was involved during his tenure as the Director of Buildings

6.6 The major building control policies, the formulation or implementation of which Mr LEUNG Chin-man was involved in during his tenure as D of B/BA, are highlighted in the ensuing paragraphs. As the head of BD, Mr LEUNG sought advice, considered the analysis of his subordinates, gave direction and steered in policy research in relation to these policies. In his implementation of the policies, he met with relevant stakeholders, professionals and government officials concerned to solicit their views and support. He also attended meetings of the relevant committees of LegCo to explain the matters and answer questions.

Promoting building safety and timely maintenance

In early 2000, the then Planning and Lands Bureau set up a task force to devise a comprehensive strategy for the promotion of timely maintenance of buildings, tackling of UBWs and illegal rooftop structures, and control of advertisement signboards. The strategy was subsequently incorporated in the policy initiative on "Developing Hong Kong" put forward in October 2000. BD, as the department responsible for taking forward the initiative, had introduced measures to promote the rehabilitation and maintenance of buildings and tackle the problem of UBWs.

Promoting green and innovative buildings

6.8 Another important policy initiative under the "Developing Hong Kong" was to revamp the Buildings Regulations with the objective to modernize and increase the flexibility of the regulations to remove barriers and facilitate innovative building designs and construction of Proposals to promote green and environmentally green buildings. friendly buildings included the provision of green features (e.g. balconies and communal sky gardens), and providing incentives to developers to construct green buildings (e.g. giving fast-track plan approval, exempting green facilities from GFA calculation, granting extra floor area for green methods of construction upon payment of premium, and giving open commendation for outstanding green buildings). In this connection, Mr LEUNG Chin-man, as D of B, had set up a Working Group on Incentives for Environmentally Friendly and Innovative Buildings and chaired various meetings which resulted in the issuance of Joint Practice Notes 1 and 2³¹ in 2001 and 2002 respectively and through which the initiative of exemption of green features from GFA calculation was adopted.

Review of the Buildings Ordinance

6.9 The Administration carried out a comprehensive review of BO and its regulations in 2000. As D of B, Mr LEUNG was involved in the formulation of relevant measures which were incorporated into legislative amendments proposed by the Administration in June 2002 in order to rationalize the building control regime, facilitate law enforcement and

Joint Practice Note 1 issued in 2001 set out the criteria and conditions for exempting the first package of green and innovative features from GFA and/or site coverage calculations under BO. Green and innovative features included, among others, balconies, wider common corridors and lift lobbies, communal sky gardens and communal podium gardens. In February 2002, Joint Practice Note 2 was issued to advise on the second package of incentives to promote green and innovative buildings, including non-structural prefabricated external walls, utility platforms, and mail delivery rooms with mailboxes.

improve services to the public. Major proposed amendments included the introduction of a minor works control system, providing for the registration and control of geotechnical engineers, clarifying the party responsible for removal orders of UBWs, and empowering BA to issue warning notices on UBWs and register the notices in the Land Registry.

Tenure of office as the Permanent Secretary for Housing, Planning and Lands (Housing) and Director of Housing

Responsibilities of the Permanent Secretary for Housing, Planning and Lands (Housing) and Director of Housing

6.10 Mr LEUNG Chin-man took up the post of PSH/D of H in July 2002, which was his last posting before he ceased active government service in January 2006. As PSH/D of H, Mr LEUNG assisted SHPL to formulate and review government policies and strategies on the development of public and private housing, and supported him in working with LegCo and HA³². Mr LEUNG was responsible for steering and co-ordinating government departments/bureaux in the implementation of housing policies and programmes. He liaised with HKHS, Urban Renewal Authority and private developers in the provision of housing, co-ordinated the activities of government departments to ensure an adequate supply of land to meet the demand for housing, and monitored the residential property market. As D of H, Mr LEUNG directed and supervised HD in all areas of its work including the development, construction, allocation, management and sale of public and government subsidized housing, and all other related activities including attending the meetings of HA's key committees. D of H is vested with statutory powers under the Housing Ordinance (Cap. 283) ("HO") including the stipulation of terms and conditions of sale for flats

Please refer to footnote 10 of paragraph 3.24.

sold by HA (e.g. HOS flats) and flats in respect of which HA is authorized to nominate purchasers (e.g. PSPS flats).

Major housing policies in which Mr LEUNG Chin-man was involved during his tenure as the Permanent Secretary for Housing, Planning and Lands (Housing) and Director of Housing

6.11 A brief account of Mr LEUNG's participation in the formulation and execution of major housing policies when he was PSH/D of H is given below.

Disposal of overhung Home Ownership Scheme and Private Sector Participation Scheme flats after the announcement of the re-positioned housing policy

6.12 SHPL made a statement on housing policy at the LegCo meeting on 13 November 2002 to re-position the Government's housing The re-positioned housing policy aimed at facilitating the efficient operation of the property market and restoring public confidence It covered a package of nine new measures one of which was the cessation of the production and sale of flats under HOS and PSPS. meant the Government had to deal with the disposal of some 25 000 overhung HOS and PSPS flats. The case of the two PSPS projects of Hunghom Peninsula and Kingsford Terrace will be discussed in Chapter 7. HD set up a task force to consider the disposal of the overhung HOS and PSPS flats. Recommendations relating to the disposal of the overhung HOS and PSPS flats were discussed at the Senior Officials' Meeting of HD³³ chaired by Mr LEUNG Chin-man, and

Senior Officials' Meeting is a regular in-house meeting of HD to discuss matters under its purview. PSH/D of H is the Chairman and its members include the Deputy Directors and some Assistant Directors.

the Senior Directorate Meeting ³⁴ chaired by SHPL and of which Mr LEUNG was a member.

Divestment of retail and car-parking facilities by the Hong Kong Housing Authority

6.13 To enable HA to withdraw from commercial operations and focus its resources on its core functions as a provider of subsidized public housing, and to help it to meet its short and medium term funding requirements, the Executive Council ("ExCo") decided in July 2003 that the Government should seek HA's agreement in principle to divest it of its retail and car-parking facilities, and keep the net proceeds from the divestment. HA subsequently agreed to divest itself of 180 retail and car-parking facilities through the public listing of The Link REIT. The first public listing scheduled for December 2004 was postponed due to an application for judicial review by two public rental housing ("PRH") tenants against HA's statutory power to divest itself of its assets. The exercise was re-launched after the conclusion of legal proceedings at the Court of Final Appeal in July 2005, and The Link REIT was listed in November 2005.

6.14 To take forward the divestment exercise, HD set up the Commercial Properties Divestment Steering Committee which was responsible for overseeing the preparation and administration of the scheme for divestment of commercial properties for approval by HA and giving direction on policy issues. Mr LEUNG chaired the Committee, steered the discussion and made decisions on matters discussed. He also participated in the discussion of the subject matter as a member of the Supervisory Group on Divestment, the Listing and Logistics Committee, the Search Committee, and the Strategic Partner Selection Committee of HA. Moreover, Mr LEUNG attended meetings of the relevant Panels of

Senior Directorate Meeting was a regular in-house meeting of the then HPLB to discuss matters relating to the policy areas of the Bureau.

LegCo to present the divestment scheme and respond to questions raised by Members.

Regulation of the sales arrangements and provision of information in the sales descriptions of private uncompleted first-hand residential properties

6.15 When Mr LEUNG served as PSH/D of H, HB had worked in conjunction with LD, the Consumer Council, the Estate Agents Authority and the Real Estate Developers Association to introduce initiatives to strengthen the regulation of sales arrangements and information to be provided in the sales materials of private uncompleted first-hand residential properties. In the development of the policy initiatives, Mr LEUNG directed and advised subject officers on significant issues and represented HB in discussions with the trade and relevant stakeholders.

Policies relating to the provision and maintenance of public rental housing

6.16 During his tenure as PSH/D of H, Mr LEUNG was involved in the formulation and implementation of important policies relating to the provision and maintenance of PRH, including the review of domestic rent The review was suspended from 2002 to 2005 policy for PRH in 2001. on account of judicial review proceedings initiated by some tenants concerning HA's decision to defer the rent review of its estates, and The review resulted in the introduction of a new rent resumed in 2006. adjustment mechanism to adjust PRH rent according to an income index reflecting changes in PRH household income levels. As PSH/D of H and Chairman of the Senior Officials' Meeting, Mr LEUNG was briefed on the position of the review and the legal proceedings. He attended meetings of HA and the relevant Panel of LegCo to report on the development of the court cases and the findings of the Ad Hoc Committee on Review of Domestic Rent Policy. Other policies in which Mr LEUNG were involved included the Marking Scheme introduced in August 2003, under which PRH tenants who committed specified misdeeds in their residing estates would be liable to be given penalty points which could result in the tenancy of the subject household being terminated. They also included the Total Maintenance Scheme announced in 2005 to implement a new maintenance strategy for PRH estates. Mr LEUNG supervised and gave policy directions and advice to the subject officers in the implementation of these policies.

The Grand Promenade Case

- 6.17 The foregoing shows that Mr LEUNG Chin-man was heavily involved and provided steer in the formulation of major housing and land policies which had significant impact on the public as well as the real estate sector during his service as D of B and PSH/D of H. In his capacity as BA, Mr LEUNG was vested with discretionary powers under BO in the control and regulation of building developments. One of the cases where he had exercised such powers was the Grand Promenade development in Sai Wan Ho.
- As BA, Mr LEUNG Chin-man had exercised discretionary power in granting GFA concessions to the developer of the Grand Promenade development. As the case aroused grave public concern, the Select Committee considers it necessary to examine whether there was any connection between Mr LEUNG's discretion exercised in the Grand Promenade case and the post-service work which he had taken up with real estate organizations, and whether there would be a conflict of interest.
- 6.19 The Select Committee notes that the Audit Commission ("Audit"), PAC and ICI had conducted inquiries into the Grand Promenade case on issues under their respective ambits and published

reports containing their findings, observations, conclusions and recommendations³⁵. The Select Committee has made reference to these reports and has also obtained information on the case from the Administration. Having regard to the thorough inquiries conducted and the extensive information already available, the Select Committee considers it unnecessary to conduct hearings to take evidence from witnesses, and has decided to carry out its study on the basis of the above materials.

Mr LEUNG Chin-man's decisions made under the discretionary power conferred on the Building Authority in the Grand Promenade case

- 6.20 The developer of the Grand Promenade development is Yieldway International Limited, a company under Henderson Land group of companies ("Henderson Group"). The Grand Promenade developer bought the site through tender at a premium of \$2,430 million in January 2001 and completed the residential development in April 2005.
- 6.21 In his capacity as BA, Mr LEUNG Chin-man had exercised the discretionary power conferred upon him under BO to make a number of decisions in relation to the applications made by the Grand Promenade developer. The decisions aroused great public concern. The following provides a brief description of the background and result of these decisions made by Mr LEUNG.

Exclusion of the public transport terminus from and inclusion of the marine police operational area in the Gross Floor Area calculation

6.22 The lease conditions for tender of the site provided for a minimum domestic GFA for the development but were silent on the

For details of the inquiries into the Grand Promenade case conducted by Audit, PAC and ICI, please refer to the Director of Audit's Report No. 45, PAC Report No. 45 and the Report of ICI.

maximum permissible GFA. On the other hand, while the developer was required to provide at the site Government Accommodation comprising a public transport terminus ("PTT") and a marine police operational area ("MPOA"), the tender conditions had not specified whether the Government Accommodation should be accountable for GFA. Before the sale of the site, in reply to prospective tenderers' enquiries, LD cited BD's advice that the Government Accommodation "shall be included" in the GFA calculation. After the sale of the site, Mr LEUNG Chin-man decided at the BAC on 22 October 2001 and agreed to the developer's request to exclude PTT from the GFA calculation under regulation 23(3)(b) of the Building (Planning) Regulations ("B(P)R")³⁶. Mr LEUNG also decided to include MPOA in the GFA calculation. Mr LEUNG's decision at that time was made having regard to a number of considerations including the absence of clear requirements or guidelines on whether PTT should be accountable for GFA, and he considered that the provision of PTT on the site was in the public interest.

Granting of bonus areas in accepting the developer's suggestion on the dedication of areas for public passage

After the sale of the site, the developer claimed that PTT had to be extended to the "Reserved Areas" on the ground floor to provide extra space for constructing MPOA and proposed that the reserved areas encroached by PTT be dedicated for public passage. The developer further proposed dedicating a strip of land at the south-eastern boundary

B(P)R 23(3)(b) (Provisions supplementary to regulations 19, 20, 21 and 22) specifies that in determining GFA for the purposes of regulations 20, 21 and 22, BA may disregard any floor space that he is satisfied is constructed or intended to be used solely for parking motor vehicles, loading or unloading of motor vehicles, or for refuse storage chambers, refuse storage and material recovery chambers, material recovery chambers, refuse storage and material recovery rooms, refuse chutes, refuse hopper rooms and other types of facilities provided to facilitate the separation of refuse to the satisfaction of BA, or for access facilities for telecommunications and broadcasting services, or occupied solely by machinery or equipment for any lift, air-conditioning or heating system or any similar service.

as public passage to facilitate access to PTT. In return, the developer asked for bonus areas for the dedication of the two areas³⁷.

At the BAC on 1 August 2001, Mr LEUNG Chin-man agreed to grant bonus areas to the developer in return for the dedication of the two areas for public passage. BD approved the building plans and granted the bonus areas on 1 September 2001. In view of the concern expressed by LD, another BAC was held on 23 April 2002 to reconsider the dedication of areas. BAC upheld Mr LEUNG's decision after discussion and the factors considered included its being in the public interest to accept the dedication of areas since the redesigned PTT was more environmentally friendly and more open for public use.

Classification of the site as a Class C site

Class B site. In order to give the site a Class C status³⁸, LD included a 4.5 metre wide strip of land along the south-eastern site boundary making it clear that the area was to be developed as a street. BD pointed out that this area should be demarcated as a non-building area and open for public passage at all times, and should be excluded from the site area in plot ratio and site coverage calculations. The lease conditions for the tender of the site had not specified the classification of the site, nor stated that the non-building area be excluded from the site area in plot ratio and site coverage calculations.

Under B(P)R 22(1) a developer may dedicate areas of the site for public passage if BA agrees to accept. In compensation, the developer may be awarded bonus plot ratio of five times the GFA if the area dedicated is on the ground floor. The calculations of bonus site coverage and bonus plot ratio are stipulated in B(P)R 22(1)(a) and (b).

According to B(P)R, a Class B site is a corner site that abuts on two streets neither of which is less than 4.5 metres wide. The site is not regarded as abutting on two streets unless at least 40% of the boundary of the site abuts on the streets. A Class C site is a corner site that abuts on three streets none of which is less than 4.5 metres wide. The site is not regarded as abutting on three streets unless at least 60% of the boundary of the site abuts on the streets. The maximum plot ratio permitted for a domestic building on a Class B site is 9, whereas that on a Class C site is 10.

After the sale of the site, the developer submitted building plans on the basis of a Class C site, and considered that the non-building area should not be excluded from the site area coverage as another strip of government land in the south-eastern boundary of the site which provided an access road of more than 4.5 meters wide to the marine fuelling stations was a street. At the BAC on 1 August 2001, Mr LEUNG Chin-man agreed that the access road referred to by the developer was a street and decided that the site was a Class C site. The developer was not required to exclude the non-building area from the site area in the plot ratio and site coverage calculations.

Granting of exemption areas for green features and other amenities

6.27 In 2000, the Administration introduced a "green and innovative building" policy with the objective, among others, of encouraging green features (such as balconies, sky gardens, wider corridors and lift lobbies) and amenity and communal facilities (such as refuse storage and material recovery chambers) by the developers in their building projects. Mr LEUNG Chin-man as BA had exercised the discretionary power under section 42 of BO³⁹ and B(P)R 23(3)(b) to exempt such features/facilities from the GFA calculation in the Grand Promenade development upon the developer's application.

The result of decisions made by Mr LEUNG Chin-man in exercising the discretionary power

6.28 The decisions made by Mr LEUNG Chin-man in exercising the discretionary power in his capacity as BA had increased the GFA in the Grand Promenade development. As a result of Mr LEUNG's

Subsection (1) of section 42 of BO on the BA's powers of exemption provides that where in the opinion of BA special circumstances make it desirable to modify the provisions of the Ordinance, he may permit modifications upon the application.

discretionary power exercised in respect of site classification, exemption of PTT and granting of bonus areas, the developer had gained a total extra GFA of 19 937 square metres⁴⁰. Moreover, by virtue of Mr LEUNG's exercise of the discretionary power conferred to BA under section 42 of BO and B(P)R 23(3)(b), the developer was granted exemption of GFA of some 66 000 square metres for the provision of green features, amenity and communal facilities. These concessions had increased the bulk, height and density of the development. The Government's original planning parameters for the site were for the development to comprise five 37-storey residential blocks of 1 480 units, a maximum permissible domestic GFA of 107 950 square metres, and a total GFA of 126 116 square metres. The resultant development consisted of five 61 to 64-storey residential blocks of 2 020 units, a total actual domestic GFA of 135 451 square metres, and a total GFA of about 200 000 square metres⁴¹.

Observations of the Select Committee

6.29 The objective of the Select Committee's study on the Grand Promenade case is to examine whether there was any connection between the exercise of discretion by Mr LEUNG Chin-man in his capacity as BA in the Grand Promenade case and the post-service work which he had taken up with real estate organizations, and whether there would be a conflict of interest. The Select Committee notes that Mr LEUNG had granted GFA concessions to the developer of the Grand Promenade

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According to the Report of ICI, the breakdown is as follows: (a) 1 940 square metres for the decision on site classification (the site was regarded as a Class C site instead of a Class B site, which resulted in the GFA being calculated at times 10 rather than times 9); (b) 7 297 square metres for the exclusion of PTT from GFA calculation; and (c) 10 700 square metres for the dedication of the Reserved Areas and the strip of land at the south-eastern boundary of the site for public passage.

As set out in paragraph 10.28 of the Report of ICI, the total GFA constructed was about 200 000 square metres. This figure is reached by adding the exempted areas to the total actual domestic GFA of 135 451 square metres. Not including the PTT over 35 000 square metres were exempted under B(P)R 23(3)(b). This figure is the result of normal application of the regulation. The PTT was also exempted under the same regulation, and amounted to 7 297 square metres. In addition, over 31 000 square metres were exempted by virtue of section 42 of BO.

development under the discretionary power conferred on BA, and the developer was a company under the Henderson Group. The information obtained by the Select Committee in the course of its study does not suggest that the four organizations related to the real estate sector with which Mr LEUNG Chin-man had taken up post-service work i.e., HKHS, TCL, Fineland and NWCL, had connection with the Henderson Group.

6.30 The Select Committee considers that given that Mr LEUNG had exercised the discretionary power in his capacity as BA in controlling and regulating building developments during his government service, and the nature and areas of the discretionary power he exercised were closely related to the real estate sector, including approval of building plans (including the application for revisions), determination of whether and when occupation permits were to be issued to new buildings, issue of orders for demolition of unauthorized or dangerous buildings or building works, approval of applications for change in use of buildings, and approval of applications for GFA exemption (which might result in an increase of the GFA of the development concerned)⁴², his taking up of post-service work with real estate organizations would indeed impact on the public's confidence in the fairness and impartiality of BA in his exercise of discretionary power.

⁴² It is pointed out in paragraph 10.19 of the Report of ICI that "the one instance in which we [ICI] think the discretion was wrongly exercised was in the decision to exclude the GFA of the PTT from calculation", and it is stated in paragraph 10.20 that "although the discretion was wrongly exercised no blame rests upon Mr Leung or upon those advising him at the BAC".

Chapter 7 Mr LEUNG Chin-man's role and participation in the Hunghom Peninsula case

7.1 This Chapter gives the background of the disposal of PSPS flats in Hunghom Peninsula and Kingsford Terrace following the cessation of the production and sale of HOS/PSPS flats in 2002. It also sets out Mr LEUNG Chin-man's role and participation in the Hunghom Peninsula case.

Disposal of outstanding Private Sector Participation Scheme flats

Private Sector Participation Scheme

- The Government announced the implementation of HOS in 1976 to help eligible households and public housing tenants to purchase flats at discounted prices. It further announced the launching of PSPS in 1977 to supplement HOS under which private developers were invited to tender for housing sites on which they were required to build flats conforming to certain specifications stipulated by the Government. Unlike HOS developments which are owned by HA, PSPS developments are owned by the developers.
- 7.3 Similar to other Government land sale, the land title of a PSPS site is vested in the developer. The developer holds the legal title to the land lot, owns the residential units, car parking spaces and commercial facilities it builds under the same lease. The obligations of the contracting parties are stipulated in the Conditions of Sale for the housing site, under which HA is named to nominate eligible purchasers to purchase the residential units from the developer within 20 months from the date of the issue of the Consent to Sell. In the event that flats are

unsold at the end of the 20-month period, HA is obliged to purchase the flats at the guaranteed purchase price.

Moratorium on the sale of Home Ownership Scheme and Private Sector Participation Scheme flats

- Since its peak in mid-1997, the property market in Hong Kong had been falling. With the global and local economies falling into recession in the years which followed, the demand for private residential flats declined. To stabilize and re-establish the confidence of the public and investors in the property market, the Government saw a pressing need to put in place a clear, comprehensive and consistent housing policy, and introduce measures concerning HOS/PSPS sale to address the imbalance between the supply and demand of private residential flats and the overlap between HOS/PSPS and private residential market.
- 7.5 In January 2000, HA endorsed a gradual approach to reduce its sale flat production and convert HOS/PSPS flats into PRH. On 3 September 2001, CS announced a moratorium on the sale of HOS/PSPS flats until the end of June 2002 and that the annual flat sale after the moratorium would not exceed 9 000 units up to 2005-2006.

<u>Introduction of a re-positioned housing policy</u>

Having regard to the imbalance between the demand and supply of private residential flats and the overlap between HOS/PSPS and the private residential market which had not improved, the Government, after conducting a comprehensive review, introduced a re-positioned housing policy in late 2002 with the objective of withdrawing from the role of property developer and minimizing its intervention in the market. On 13 November 2002, SHPL delivered a Statement at a LegCo meeting and announced the following package of nine measures:

- (a) to adjust the land supply strategy;
- (b) to co-ordinate the pace and timing of tendering of railway-related property developments, and to enable an orderly disposal of the properties;
- (c) to put in place an annually adjustable PRH programme;
- (d) to cease the production and sale of HOS flats;
- (e) to stop the mixed development projects undertaken by HKHS and HA in collaboration with private developers, and to terminate PSPS;
- (f) to introduce flexibility to the Home Assistance Loan Scheme;
- (g) to halt the sale of PRH units under the Tenants Purchase Scheme;
- (h) to relax tenancy control; and
- (i) to remove anti-speculation measures in the private property market.
- 7.7 On the cessation of the production and sale of HOS/PSPS flats, the Government stated that it would dispose of HOS/PSPS flats which had been completed or were under construction through market-friendly means.
- 7.8 On 28 November 2002, HA endorsed the recommendation to cease the production and sale of HOS/PSPS flats. It also decided that the unsold and returned HOS/PSPS flats would not be put up for sale

before the end of 2006. Some 25 000 outstanding HOS/PSPS flats had to be disposed of as at November 2002, among which were flats in the two PSPS projects of Hunghom Peninsula and Kingsford Terrace.

Overview of the Hunghom Peninsula case

The land lease of the Hunghom Peninsula development was granted to FSDL at a tender price of \$583 million in October 1999. FSDL was a wholly owned company of Wai Kee Holdings Limited ("Wai Kee") when it tendered for the development of Hunghom Peninsula in 1999. NWS, a subsidiary company of NWDCL, acquired 49% shareholding of FSDL from Wai Kee in June 2000 and increased its shareholding to 50% in July 2003. In February 2004, Sun Hung Kai Properties Limited ("SHKP") acquired 50% shareholding of FSDL from Wai Kee. NWS owned 16.5% shareholding of Wai Kee in June 2000 and increased the shareholding to 26.9% in September 2009⁴³.

According to the paper provided by the Administration, construction of the Hunghom Peninsula development, which comprises 2 470 flats, 494 car parking spaces and shopping facilities, commenced in October 1999 and was completed in 2002. With a total saleable floor area of 123 500 square metres and a per square metre guaranteed purchase price of \$15,500, the total guaranteed purchase price for all the 2 470 residential units was \$1,914 million. FSDL applied for the Consent to Sell for the project in March 2000 and it was granted in November 2002. The 20-month period for HA to nominate eligible home purchasers to purchase the flats expired in July 2004. On account of the policy for ceasing the production and sale of PSPS flats, a decision had to be made on how to dispose of the flats.

The information on the change in shareholding in FSDL is based on the evidence of Dr Henry CHENG. According to the evidence of Dr CHENG, NWDCL owned 57% shareholding of NWS in March 2000.

- 7.11 The disposal options that were explored by the Government in 2002 and 2003 included: HA to purchase all the flats from the developer and dispose of them as HOS flats or guesthouses, or convert them into PRH; HA to nominate a single purchaser to take up all the flats from the developer and dispose of the flats in the private market; to obtain the developer's consent for the Government or HA to sell the flats by way of tender or auction in the open market; or to allow the developer to sell the flats in the open market subject to payment of a lease modification premium.
- 7.12 The Government did not consider the first three options feasible for the following reasons. The option of disposing of the flats as HOS flats would run contrary to the policy direction and adversely affect the The flats were not suitable for conversion into PRH property market. because of excessive sizes and a provision standard higher than PRH Furthermore, as the developer of a PSPS project held the legal title of the land and owned the entire property, disposal of the flats through nomination of a single purchaser to take up the flats or sale by tender/auction, or changing their use, required modification to the land lease with the agreement of the developer. In view of this uncertainty and the fact that the commercial and car parking facilities in the development were owned by the developer, the Government considered that the developer's agreement would unlikely be secured without protracted negotiations. The Government came to a view that allowing the developer to sell the flats in the open market subject to payment of lease modification premium was in line with the re-positioned housing policy introduced in late 2002.
- 7.13 On 12 November 2002, ExCo endorsed the proposal for the Administration to negotiate with the developers of Hunghom Peninsula and Kingsford Terrace. In January 2003, the Government started negotiation with the developer of Hunghom Peninsula. The negotiation was suspended around end March 2003 as an agreement could not be

reached on the premium. From April to June 2003, the Government reconsidered feasible options for disposing of the flats. In July 2003, the developer initiated litigation in the High Court⁴⁴ against the Government and HA for breaches of the terms of the contract under the Memorandum of Agreement relating to Hunghom Peninsula and claimed for damages. On 28 July 2003, SHPL submitted a file minute to CE seeking endorsement to re-open negotiation with the developer of Hunghom The approval of ExCo was obtained on 28 October 2003 to negotiate with the developers of the two PSPS projects for settlement of the lease modification by way of mediation. The mediation between the Government (led by LD) and the developer of Hunghom Peninsula took place from 8 to 23 December 2003 before an independent mediator. mediation concluded with the parties agreeing on a premium of \$864 million to be paid by the developer for the lease modification and the developer to give up its right to receive the guaranteed purchase price of \$1,914 million. The mediation did not resolve the question of damages claimed by the developer in the court action. The lease modification for the lot was completed on 26 February 2004 with the developer signing and the Government approving the modified Conditions of Sale.

7.14 On 29 November 2004, NWS and SHKP made a joint announcement of their plan to demolish and redevelop Hunghom Peninsula. The announcement aroused grave public concern. On 10 December 2004, the developer announced that it would not proceed with the demolition plan after considering the controversy over the issue and the discord caused in the community.

⁴⁴ High Court Action No. 2761 of 2003.

Disposal of Kingsford Terrace flats

7.15 Kingsford Terrace⁴⁵ comprises a total of 2 010 flats, 337 car parking spaces and a shopping area of 1 880 square metres. Its construction was completed in 2003. The developer applied for the Consent to Sell in September 2001 which was granted in October 2002. The total saleable floor area of the flats was about 100 058 square metres. The guaranteed purchase price for all the flats, calculated on the basis of \$14,400 per square metre of saleable area, was about \$1,441 million. HA should nominate eligible home purchasers to purchase the flats before June 2004, i.e. within 20 months from the date of the Consent to Sell issued in October 2002.

As with the Hunghom Peninsula PSPS flats, the developer of Kingsford Terrace held the legal title to the lot and the development. The Government was faced with similar constraints as in the disposal of the Hunghom Peninsula development, and considered it logical to adopt negotiation in disposing of Kingsford Terrace. On 28 October 2003, ExCo endorsed the recommendation for the Administration to negotiate with the developer of Kingsford Terrace through mediation. At its meeting on 11 March 2004, HA's Subsidized Housing Committee ("SHC") further discussed the disposal of the Kingsford Terrace development and agreed that the best way was to negotiate with the developer through mediation to allow it to dispose of the flats in the open market subject to payment of a lease modification premium. SHC also agreed to set up a Monitoring Group to oversee and monitor progress of the negotiation and give views to SHPL on any proposed settlement for his decision.

The developer of Kingsford Terrace development is Advance Planner Limited. When the Government considered the disposal of the Kingsford Terrace PSPS development in 2002, the company was jointly owned by Chow Tai Fook Enterprises Limited, NWDCL and New World Services Limited.

- 7.17 In May 2004, the Government commenced negotiation through mediation with the developer of Kingsford Terrace. The mediation team was led by LD and reported to the Monitoring Group. The Government could not come to terms with the developer on the lease modification premium and agreement could not be reached. In order to comply with the terms of the Conditions of Sale, SHC decided on 19 May 2004 to purchase all the 2 010 residential units from the developer at the guaranteed purchase price. The purchase took place in August 2004. SHC further agreed that the Government should negotiate with the developer to purchase the non-domestic portion of Kingsford Terrace. However, the negotiation was not successful. On 18 November 2004, HA decided that the 2 010 flats should be sold under HOS in 2007. These flats were sold in Phases 1 and 2 of the Sales Programme of Surplus HOS Flats launched in 2007.
- 7.18 Mr LEUNG Chin-man was a member of SHC but was not a member of the Monitoring Group or the mediation team. He had attended the SHC meeting at which it was decided that HA should purchase all the residential units of Kingsford Terrace at the guaranteed price. Mr Michael SUEN said that he and Mr LEUNG were both briefed on the progress of the mediation from time to time at the Senior Directorate Meetings ("SDMs") and through reports of the mediation team.

Mr LEUNG Chin-man's role and participation in the Hunghom Peninsula case

Reorganization of policy bureaux

7.19 At the time when the process for the disposal of the Hunghom Peninsula PSPS flats was underway, a reorganization of the policy portfolios of bureaux took place within the Government following the implementation of the Accountability System for Principal Officials on 1 July 2002. A new HPLB, headed by Mr Michael SUEN as SHPL, was established. The Bureau consisted of a new HD⁴⁶ and PLB⁴⁷. Mr LEUNG Chin-man was PSH/D of H and assisted SHPL in the formulation and implementation of housing policies and programmes. Mr John TSANG Chun-wah was the Permanent Secretary for Housing, Planning and Lands (Planning and Lands) ("PSPL") and assisted SHPL in the policy portfolio of planning and lands. Mr SUEN, Mr LEUNG and Mr TSANG assumed their posts on 1 July 2002. An organization chart of HPLB showing the key officials involved in the disposal of the Hunghom Peninsula flats is in **Appendix 12**.

Formulation of disposal options for the Hunghom Peninsula flats (from June to November 2002)

The developer's concern about the sale of Hunghom Peninsula

On 5 June 2002, Mr Donald TSANG Yam-kuen, the then CS, announced a HOS/PSPS flat sale programme for the period from July 2002 to June 2003 after expiry of the moratorium on sale of HOS/PSPS on 30 June 2002. In respect of the non-inclusion of Hunghom Peninsula PSPS flats in the programme, Mr Stewart LEUNG, on behalf of FSDL, wrote to Mr Anthony MILLER, the then D of H, on 10 June 2002 to express the developer's concern. The letter pointed out that the delay in the sale of flats would generate unexpected extra costs and losses (including rates and Government rents payable by the developer, and loss of rental income from shops and car parking spaces in the project) estimated to be \$167 million per year for the developer.

The new HD was formed by the amalgamation of the former Housing Bureau and the former HD. According to the Administration, the new HD was referred to as the "Housing Branch" from time to time.

PLB oversaw departments including LD, BD, PD and the Land Registry.

- 7.21 On 27 June 2002, Dr CHENG Yu-tung, the Chairman of NWDCL, and Mr Stewart LEUNG had a meeting with CS on the sale of the Hunghom Peninsula flats. After the meeting, Dr CHENG wrote to CS on 2 July 2002 reiterating the developer's concern and urging the Government to deal with the matter expeditiously. FSDL proposed two options for consideration by the Government:
 - (a) the Government converting the flats into private flats and putting them up for sale jointly with the developer. The developer would be responsible for upgrading the development and acting as the agent in selling the flats. The developer would be entitled to the price of the flats as stipulated in the Conditions of Sale. The remaining profits after deduction of the relevant expenses would be shared between the Government and the developer; or
 - (b) outright buy-out by the developer at a price to be negotiated, which technically meant modifying the land lease to allow the developer to sell the units in the open market subject to an agreed premium.
- 7.22 Mr LEUNG Chin-man was instructed by the CS Office to reply to FSDL's letter of 2 July 2002. Mr LEUNG replied to FSDL on 3 October 2002, pointing out that the Government would bring the matter to a mutually satisfactory resolution with the developer as soon as possible, and that he had been in close contact with Mr Stewart LEUNG on the subject.

Discussion on disposal of the Hunghom Peninsula flats

7.23 On 13 August 2002, the disposal of flats in the Hunghom Peninsula and Kingsford Terrace projects was discussed at the meeting of the Steering Committee on Land Supply for Housing chaired by SHPL.

The Steering Committee members included PSH/D of H, PSPL, Director of Lands ("D of L"), and the Deputy Secretary for the Treasury (3). Mr Marco WU Moon-hoi, the then Deputy Secretary for Housing (2), attended the meeting and introduced the following three options, set out in a discussion paper prepared by HD, for disposal of the PSPS flats in the Hunghom Peninsula and Kingsford Terrace developments:

- (a) Option A to convince the developers to initiate lease modification for the PSPS sites with payment of land premium by the developers, by charging full market value premium, so that the flats could be sold in the open market;
- (b) Option B the Government to buy back the PSPS flats from the developers at the pre-determined price and sell them as private flats at a later date; or
- (c) Option C to obtain consent from the developers to initiate lease modification allowing the Government to sell all completed flats by way of tender or auction in the open market.
- 7.24 It was pointed out in the paper that Option A was the least problematic, would generate immediate revenue to the Government and avoid possible contractual disputes with the developers. According to the extract of minutes of the Steering Committee meeting on 13 August 2002, Mr Marco WU recommended Option A. Deputy Secretary for the Treasury (3) cautioned that the option might be criticized as favouring New World. The meeting noted that there had been precedent cases with the Government or HA selling flats to HKHS, and that allowing modification of land lease conditions subject to payment of land premium by developers was not uncommon. The meeting agreed to adopt this option. The meeting further agreed that HD would seek ExCo's

approval and take the lead in negotiating with the developers for their acceptance of the option. LD would then follow up the negotiation with the developers on the lease modification and the premium. Subsequently, ExCo endorsed the proposal at its meeting on 12 November 2002 and set a six-month time-frame for the Administration to complete the negotiation, i.e. by mid-May 2003.

Negotiation between the Government and the developer of the Hunghom Peninsula (from December 2002 to March 2003)

Negotiation on the lease modification premium

- 7.25 Mr Stewart LEUNG, on behalf of the developer, submitted a formal application to LD for lease modification on the Hunghom Peninsula development on 27 November 2002. He pointed out that the flats had been completed and the developer would need to make substantial improvement to the flats before selling them in the private market. LD replied to Mr LEUNG on 6 December 2002, stating that the proposed modification should achieve the objective of amending/deleting all "PSPS peculiar clauses and conditions" included in the Conditions of Sale to facilitate the disposal of the flats in the private market.
- According to LD's letter dated 7 February 2003 to FSDL, LD was prepared to recommend to the Government to proceed with the proposed lease modification with a set of basic terms, and a condition that FSDL agreed to give up its right to claim against the Government, D of L, and HA in respect of any loss, damages, costs and expenses in connection with the conversion of the Hunghom Peninsula development into a private development as a result of the Government's prevailing housing policy. FSDL replied to LD on 20 February 2003 stating its acceptance in principle with the terms of the lease modification proposed in LD's letter, subject to the amount of premium being satisfactorily agreed between the Government and the developer which should take into

account FSDL's claim against the Government, D of L, and HA. FSDL also indicated that while the company agreed to enter into negotiation with the Government on the proposed lease modification, it reserved the right to claim for losses and damages from the Government on the delay in the sale of the flats.

- 7.27 LD commenced negotiation with the developer on the premium in January 2003. The negotiation team was led by Mr John CORRIGALL, the then Deputy Director of Lands (Specialist), who was the authority in LD for the approval of premium over \$50 million. Mr CORRIGALL told the Select Committee that he had volunteered to lead the negotiation team and considered himself suitable. He knew that the developer would be fielding "big guns" and he did not want his team members to feel intimidated in any way.
- 7.28 The developer was represented by Mr Stewart LEUNG in the negotiation. LD assessed a premium figure of around \$2,394 million and started the negotiation by proposing a premium of \$2,500 million to the developer. The approach adopted by LD was to charge the full enhancement in the market value of the lot arising from the lease modification, i.e. the robust approach. The premium figure was worked out by professional staff in the Valuation Section of LD. Factors which were taken into account in determining the lease modification premium included the transaction prices of comparable flats in the vicinity, costs to be incurred by the developer to upgrade the PSPS flats to meet the standard in the private market before sale, and the bulk purchase discount to the developer in view of the large number of flats in the development.
- 7.29 On 25 February 2003, Mr John CORRIGALL wrote to Mr Thomas TSO, the then Deputy Secretary (Planning and Lands)1, with a copy to Mr LEUNG Chin-man, pointing out that the developer was only prepared to accept a premium between \$600 million and \$700 million. Mr CORRIGALL also pointed out that LD could justify a lower premium

(compared to \$2,500 million) of \$1,950 million by taking into account the marketing expenses as claimed by the developer and allowing a greater bulk purchase discount of 15%. However, Mr CORRIGALL reckoned that there was a substantial gap between the premium figures, and if an agreement could not be reached between the developer and the Government within the time-frame set by ExCo (i.e. by mid-May 2003), the Government might need to consider purchasing the flats from the developer in accordance with the lease conditions and arrange for sale of the flats in the open market by tender or auction.

- 7.30 In his reply to Mr John CORRIGALL on 26 February 2003, Mr Thomas TSO advised that LD was acting as the agent of HD to negotiate the premium with the developer of the Hunghom Peninsula project, and Mr CORRIGALL should report to and seek instructions from Mr LEUNG Chin-man with copy to PLB.
- According to the paper provided by the Administration, the developer made a counter offer on 13 March 2003 for premium figures in the range of \$522 million to \$747 million. According to the evidence given by Dr Henry CHENG, the said figures were calculated on the basis of sale prices in the range of \$2,600 to \$2,800 per square foot having regard to the market value of nearby properties at the time and the discount to the developer owing to the unsatisfactory layout/design and shortcomings of the PSPS flats.

Suspension of negotiation

7.32 Mr John CORRIGALL reported to Mr Thomas TSO and Mr LEUNG Chin-man on 25 March 2003 on the counter premium offers made by the developer. Mr CORRIGALL was of the view that there were grounds to further reduce the premium to \$1,750 million having regard to the further weakening of the property market and allowing a slightly greater discount for inferior design and layout of the flats as well

as a slightly longer period for carrying out the upgrading works. Mr CORRIGALL considered that the figure was still much higher than the latest assessment made by the developer and a deal with the developer would unlikely be reached. He recommended halting the negotiation and suggested that consideration be given to purchasing the flats in accordance with the lease conditions and arranging for sale of the flats in the open market. He also pointed out that the developer had acknowledged the gap between the premium figures and had proposed to explore other alternatives for resolving the matter. Mr Thomas TSO replied on 26 March 2003, reiterating that Mr CORRIGALL should obtain instructions from Mr LEUNG Chin-man and keep PLB informed of the development.

As shown in an email dated 27 March 2003 from Ms Mable CHAN, Administrative Assistant to SHPL, to Mr LEUNG Chin-man and others, Mr Stewart LEUNG went to see Mr Michael SUEN on 26 March 2003 to discuss the disposal of Hunghom Peninsula. According to the email, Mr Stewart LEUNG had proposed several options to the Government including: (a) re-assessment of the premium levels by LD for further discussion with the developer; (b) appointment of separate independent surveyors by the developer and LD to assess the premium levels, the average of which would form the basis for further discussion; and (c) buying back of all the flats by the Government at the guaranteed price for sale in the open market and reimbursing the developer the cost for upgrading the flats and other administrative costs. He also mentioned that the developer would consider taking legal action against the Government as a last resort.

7.34 According to the extract of minutes of SDM⁴⁸ on 24 March 2003, Mr Michael SUEN asked Mr LEUNG Chin-man to seek internal legal advice on the viability of HA to nominating a single purchaser for

The evidence relating to discussions at SDMs is based on the extracts of the relevant minutes of SDMs.

all flats in the Hunghom Peninsula and Kingsford Terrace developments. At the SDM on 31 March 2003, Mr SUEN noted the internal legal advice. He indicated that there was no intention to pursue the option, and asked LD to continue negotiation with the developer of Hunghom Peninsula on the basis of the latest premium assessment. He also agreed that LD should sound out to the developer the possibility of commissioning three independent surveyors to assess the premium levels, the average of their assessments to be binding on both parties as the agreed premium.

Communications between the Government and the developer of Hunghom Peninsula after suspension of negotiation from April to November 2003 and revisiting of the disposal options by the Government

Communications between the Government and the developer in April 2003

On 4 April 2003, Mr Vincent TONG Wing-shing, the then Deputy Director (Business Development and Construction), wrote to Mr Thomas TSO stating that PLB's continuous leading role in the negotiation with the developer of Hunghom Peninsula was essential in reaching a satisfactory agreement. In a memorandum to Mr TONG on 7 April 2003, Mr John CORRIGALL reiterated his view that there was no point negotiating further with the developer. Mr Thomas TSO replied to Mr TONG on 8 April 2003, stating that:

"All along it is your [HD's] intention to sell all the flats to the developer and charge a premium on the latter. LD has been acting as your agent to negotiate the premium with the developer. PLB is not in a position to give instructions to LD in this exercise. There is simply no land policy involved in the matter.....negotiations seem to have reached a deadlock. LD is awaiting further instructions to move forward."

- 7.36 John According to Mr CORRIGALL, he approached Mr Stewart LEUNG in early April 2003 to ascertain his view on the proposal of appointing three independent surveyors to evaluate the premium levels the average of which would be binding on both parties. Mr Stewart LEUNG had rejected the proposal. Mr CORRIGALL reported to Mr LEUNG Chin-man through an email on 11 April 2003, and said that LD awaited Mr LEUNG Chin-man's further instruction on the way forward. Mr LEUNG Chin-man told the Select Committee that Mr Stewart LEUNG also came to see him around that time on his rejection of Mr CORRIGALL's proposal.
- 7.37 Mr Stewart LEUNG told the Select Committee that Mr CORRIGALL's proposal was unacceptable to the developer because the developer could not be bound to accept any premium worked out by the three independent surveyors which might be unacceptable or unaffordable to the developer. Mr LEUNG said that given the grave concern of the developer to solve the problem, it was appropriate for him to meet any senior officials in the Government to discuss the matter at that time.

Revisiting options for disposal of the Hunghom Peninsula flats

- 7.38 With the negotiation having come to a standstill, it was necessary for HPLB to explore other means to dispose of the Hunghom Peninsula PSPS flats. HD prepared a number of papers in collaboration with other departments for discussion at a series of SDMs from April to June 2003. The following options were considered:
 - (a) to continue negotiation with the developer with a view to narrowing the gap in premium figures of the two sides.Independent surveyors would be engaged to find a

- reasonable and mutually acceptable figure, while justifiable concessions might have to be made;
- (b) to nominate a single purchaser to purchase all the flats from the developer; or
- (c) HA to purchase all the flats at the guaranteed price of \$1,914 million by the end of the 20-month period and to sell or rent them out for use as service apartments, guesthouses or time-share accommodation, or to convert the flats into PRH.
- 7.39 The papers analyzed the merits of continuing negotiation with the developer of Hunghom Peninsula and pointed out many problems associated with the other options, such as difficulty in waiving the restrictions for the nominated purchasers to resell the flats; complications involved in converting the flats into service apartments, guesthouses or time-share accommodation; and the anticipated lower premium to be fetched. The papers concluded that the breakdown in negotiation with the developer would result in substantial financial loss to the Government.
- As regards the option of nominating a single purchaser to purchase all the flats from the developer, the SDM on 31 March 2003 had considered the internal legal advice obtained on the option. The option was revisited at the SDM on 28 April 2003. Mr LEUNG Chin-man opined that consideration could be given to lifting the restriction in HO on resale of flats to facilitate the resale arrangement by the single purchaser. Mr Michael SUEN took the view that it was necessary to confirm the legal viability of the single purchaser option expeditiously. Pursuant to the meeting, the Government sought outside legal advice regarding the viability of the single purchaser option.

- 7.41 The option of nominating a single purchaser was discussed again at the SDMs on 12 and 19 May 2003. According to a paper for the SDM on 12 May 2003, the option would not require modification of the lease, and the restriction under HO on further alienation by the single purchaser could be dealt with by administrative means. option, the carpark and commercial facilities within the same lot together with the initial management right would still be held by the developer. On the other hand, the paper pointed out that there were a number of problems associated with the option which could affect its viability. These included: (a) the inferior legal titles of the flats sold under this option as the restrictive PSPS terms would still remain; (b) other developers might have doubts over the practicality of the option both legally and administratively which, together with the large volume of the property, would raise the risk and lower the flat price; and (c) LD's reservations over the legal feasibility of the proposed arrangement to get around the constraint on alienation imposed by HO.
- On 20 May 2003, Cheung, Chan & Chung Solicitors & Notaries ("Messrs Cheung, Chan & Chung"), i.e. the developer's solicitors, issued letters to CE, Mr Michael SUEN, Mr LEUNG Chin-man and Mr Patrick LAU (the then D of L) indicating that they intended to claim against the Government and HA for damages, extra costs, and losses in the order of \$167 million per year for the delay in nomination of purchasers for the Hunghom Peninsula PSPS flats.
- According to the Government's in-house lawyers and outside Senior Counsel, the option of nominating a single purchaser to take up the Hunghom Peninsula PSPS flats could be considered as providing housing to the general public and as such HA could be challenged for acting outside its authority and powers under HO. Moreover, such option was also outside the terms of the relevant Conditions of Sale and might be subject to claims by the developer. At the SDM on 26 May 2003, Mr Michael SUEN said that the best way forward was to conclude

a deal with the developer expeditiously in view of the legal advice obtained on the single purchaser option and the time constraint. LD estimated that the revised premium could be reduced to \$1,400 million if negotiation with the developer was re-opened.

Resumption of negotiation with the developer

- 7.44 At the SDM on 9 June 2003, HD put forth the following three options for consideration at the meeting:
 - (a) to continue negotiation with the developer on the amount of premium with a view to reaching an agreement early;
 - (b) to secure the developer's consent to modify the lease such that HA's involvement would be removed and the Government could sell the flats to a single purchaser through open tender; or
 - (c) HA to take up all the flats at the guaranteed price and explore different disposal options.
- 7.45 At the SDM on 9 June 2003, Mr LEUNG Chin-man commented that the option in (c) might be viewed as contrary to the policy on cessation of the production and sale of HOS and PSPS flats if HA would eventually have to dispose of the flats in the market. Mr Michael SUEN instructed that a paper setting out the implications of the options be prepared for his discussion with CE.
- 7.46 In a paper prepared for the SDM on 16 June 2003, it was recommended that negotiation with the developer be resumed by taking a new strategy with a view to reaching a commercial settlement, including the agreement of an equitable land premium to modify the land lease so as to release HA's obligations and allow the developer to sell the flats in

the open market. According to the paper, LD considered that for a realistic chance of reaching a settlement, it would be necessary to depart from the robust approach in assessing the lease modification premium. It was also suggested in the paper that the Government might adopt a flexible approach in assessing the extra costs incurred by the developer and the level of bulk purchase discount in order to achieve a settlement.

At the SDM on 16 June 2003, Mr Michael SUEN pointed out that the feasible option was to resume negotiation with the developer with a view to reaching a commercial settlement as early as possible. Mr LEUNG Chin-man stated that the matter should be handled carefully so as not to attract criticism that the Government/HA had shown favouritism towards the developer. He also pointed out that the Administration might need to seek further advice from ExCo when a decision on the proposed way forward was made. Mr SUEN also mentioned the need for the Government to formulate a public relations strategy to take forward the matter.

7.48 In an email to Mr Vincent TONG on 27 June 2003, Mr John CORRIGALL stated that, as it was the Government which had sought to change the lease relating to the Hunghom Peninsula development, it seemed unreasonable for the Government to seek full increase in value arising from the lease modification from the developer as the latter had expected all the usual PSPS terms would be followed and did not wish to He considered it not unreasonable for the Government to share the increase in value of the lot with the developer by charging it 50% of the premium ("the 50/50 proposal"). He mentioned that LD had settled a couple of cases in the past at 50% premium where there were doubts on the ability to require a lease modification and at least one such case was discussed at ExCo. According to the documents produced to the Select Committee by Mr CORRIGALL, there were three cases where it was decided that to accept 50% premium was a better option than to go to litigation with the risk of getting no premium and having to pay costs as well. These cases were at Fuk Lo Tsuen Road, Kowloon City; Tak Fung Street, Hunghom; and a redevelopment proposal at Tai Uk Wai, Tsuen Wan.

- on 30 June 2003. Mr LEUNG Chin-man suggested that the Government should re-start negotiation with the developer as early as possible on public interest ground. He mentioned the need for the Government to manage public perception that a fair deal had been concluded between the Government and the developer, and to put in place a suitable public relations strategy to back up the case. He also considered that there was no need to seek further advice from ExCo having regard to the latter's decision in November 2002. Mr Michael SUEN said that he would take a further view on the matter having regard to ExCo's previous decision, and would brief CE on the suggested way forward.
- 7.50 On 25 July 2003, the developer issued a writ to claim damages from HA and the Government arising from the delay in nomination of purchasers for the flats in the Hunghom Peninsula development. Mr Stewart LEUNG told the Select Committee that the Government had not responded to the counter premium offers made by the developer in March 2003, and the property market had further plummeted as a result of of outbreak Severe Acute Respiratory Syndrome February/March 2003. The developer was anxious to recover all money incurred in the project. Upon receiving legal advice, the developer issued the writ of summons against the Government and HA in July 2003.
- 7.51 On 28 July 2003, Mr Michael SUEN submitted a file minute to CE seeking his instructions on the way forward for the disposal of the Hunghom Peninsula and Kingsford Terrace PSPS projects. In the minute, Mr SUEN pointed out the huge gap between Government's offer and the developer's indicative premium figure over the lease modification of the Hunghom Peninsula development. He also mentioned the options

studied by the Government including nomination of a single purchaser to take up the flats and HA buying back the flats at the guaranteed price, and that the developer of Hunghom Peninsula had initiated litigation against the Government and HA. Mr SUEN put forward two options for the Hunghom Peninsula development: (a) to re-open negotiation with the developer; or (b) to modify the lease conditions removing the PSPS restrictions, and the developer to upgrade the flats, sell the units and recoup the guaranteed price and related costs, whereupon the Government would recoup the profit HA would have made, had PSPS purchasers been nominated, from the sales proceeds with any surplus sales proceeds being shared. Mr SUEN recommended adoption of option (a) and seeking a settlement with the developer on a 50% premium basis.

7.52 In early October 2003, CE directed that the matter be submitted for discussion at ExCo. At the ExCo meeting on 28 October 2003, approval was given for the Administration to negotiate on the Hunghom Peninsula and the Kingsford Terrace developments by way of mediation to seek expeditious settlement with the developers and to allow the developers to put up the flats for sale in the open market subject to payment of agreed premiums. In respect of the Hunghom Peninsula development, ExCo's decision was for the Administration to be given the authority to settle the case at \$1,150 million to achieve a global settlement of all the related issues including the lease modification premium, the alleged damages and the guaranteed price; anything lower than that figure was to be approved by SHPL. According to an email dated 24 November 2003 from Mr CORRIGALL to Mr LEUNG Chin-man, the figure of \$1,150 million was arrived at on the basis insisted by the Financial Services and the Treasury Bureau, i.e. a 70/30 split between the developer and the Government based on the full market value premium assessed at that time, instead of the 50/50 split proposed by LD.

Preparation for the mediation with the developer

On 30 October 2003, Mr LEUNG Chin-man chaired a meeting held at the office of DoJ, with the attendance of Mr John CORRIGALL, Mr Vincent TONG and others. Mr LEUNG said at the meeting that the scope of the mediation was to cover matters relating to the Hunghom Peninsula development, and the client for the mediation was SHPL with delegated authority from ExCo. The Government mediation team ("the Mediation Team") would be led by Mr CORRIGALL and comprised representatives from LD, HA/HD and DoJ⁴⁹. Mr LEUNG, as PSH/D of H, would act on behalf of SHPL and give instructions to the Mediation Team. According to Mr Stewart LEUNG's evidence, he headed a team representing the developer in the mediation.

7.54 On 31 October 2003, Mr LEUNG Chin-man sent an email to Mr John CORRIGALL informing him of SHPL's agreement that the Mediation Team could decide on the settlement amount with the assistance of the mediator, and in the event that the team intended to settle at an amount below \$1,150 million, it should refer the matter to SHPL for decision. Mr LEUNG also stated that:

"Given that I have completed the first communications with the other side, I will not be taking any part in the negotiation process personally from now on. Vincent

⁴⁹ Members of the Government mediation team included-

⁽a) LD: Mr John CORRIGALL (Deputy Director(Specialist)), Mr Anthony Lucas ROBERTSON (Assistant Director/Legal (Kowloon and Conveyancing)), Ms Susan KU Pik-so (Senior Estate Surveyor/Valuation 3);

⁽b) HA/HD: Mr Vincent TONG (Deputy Director (Business Development & Construction)), Ms Peggy CHAN Siu-ling (Chief Estate Surveyor (PSPS & Tenant Purchase Scheme)), Mr CHAN Nap-ming (Chief Manager/Business Development), Ms Handa LAM Ching-fan (Assistant Legal Advisor), Mr Santiago CHUEN Kwok-wai (Senior Finance Manager/Business Management & Support (2)); and

⁽c) DoJ: Mr Gregory PAYNE (Senior Government Counsel), Mr Enzo CHOW Wai-hung (Government Counsel).

TONG will of course be accountable to me for anything that may affect the interest of the HA. Apart from that, I will not be involved in this exercise."

- 7.55 In response to the Select Committee about his "first communications" with the developer, Mr LEUNG Chin-man said that he might have called Mr Stewart LEUNG for more than once on 28 and 29 October 2003 to inform him of the mediation arrangement and the composition of the Mediation Team. He pointed out to Mr Stewart LEUNG that he would not be involved in the actual negotiation of the premium for the lease modification and told Mr LEUNG not to contact or call him during the mediation period. According to Mr Stewart LEUNG, he did not have any formal or informal discussions with Mr LEUNG Chin-man on the disposal of the Hunghom Peninsula development during the mediation period.
- On 5 November 2003, Messrs Cheung, Chan & Chung wrote to DoJ and made a premium offer of \$700 million on behalf of the developer for the Government's consideration. On 12 November 2003, DoJ replied to Messrs Cheung, Chan & Chung stating that the Government was under a mandate to resolve the dispute with the developer through mediation and the mediation would be proceeded on a global settlement basis (i.e. settlement of the lease modification premium and all outstanding issues arising out of the Hunghom Peninsula development).
- 7.57 In an email on 10 November 2003, the Mediation Team sought Mr LEUNG Chin-man's views on the recommended mediator to conduct the mediation, and the recommendation of appointing a valuer to act as advisor to the mediator. In his reply on 11 November 2003, Mr LEUNG said that he would leave such matters entirely to the Mediation Team and would not want to be involved in the mediation process unless the Team considered it necessary to go below the bottom line of \$1,150 million, in

which case reference would need to be made to SHPL and he would be consulted on the matter by SHPL.

Mediation between the Government and the developer on the disposal of the Hunghom Peninsula development (in December 2003)

The mediation process

- 7.58 The mediation commenced on 8 December 2003 and concluded on 23 December 2003 before an independent and accredited mediator. During the mediation process, Mr John CORRIGALL filed reports to Mr LEUNG Chin-man via emails on the progress, the various elements of the premium assessment that the parties had discussed and the outcome. Mr CORRIGALL also copied the reports to D of L.
- 7.59 In his email dated 10 December 2003 to Mr LEUNG Chin-man, Mr John CORRIGALL reported that the developer had made a revised premium offer of \$864 million and both sides had not touched on the issue of damages. He sought Mr LEUNG's agreement to point out to the developer at the next session that although the developer's premium offer was substantially below its assessment, the Mediation Team was willing to proceed to explore the developer's breakdown of the offer to see if the premium could be increased and then discuss the issue of damages. Mediation Team considered that the chance of seeking the developer to increase the offer significantly and offer a global sum at or above the ExCo approved figure for settlement was very slim. Mr CORRIGALL was of the view that if a settlement was to be reached, it was almost certain that SHPL's authority had to be sought. In another report made on 13 December 2003, Mr CORRIGALL informed Mr LEUNG Chin-man that there were inconsistencies in the breakdown of the developer's premium offer of \$864 million. LD considered that the figure should be \$955.5 million, and the developer had refused to increase the amount. On the other hand, the developer had indicated an

amount of around \$250 million as the damages claimed in the litigation. Mr CORRIGALL pointed out that by deducting \$250 million from \$955.5 million, the figure would be close to the \$700 million proposed by the developer in early November 2003 before the commencement of the mediation.

7.60 On 18 December 2003, Mr John CORRIGALL sent an email to Mr LEUNG Chin-man which was copied to Ms Mable CHAN. Mr CORRIGALL pointed out that given the huge damages claimed by the developer, the Mediation Team had explored with the developer whether it would be willing to go ahead with the lease modification at a premium of \$864 million, with the question of damages deferred for further negotiation or resolved through litigation. He also pointed out that the developer had put forward a revised damages claim of Moreover, Mr CORRIGALL advised that it was \$264 million. justifiable for the Government to accept the premium amount of He explained that if the Government's latest premium \$864 million. assessment was to be slightly revised (i.e. the Government to slightly revise the assessed premium after making minor concessions in the light of the factors raised by the developer including deferments, costs of upgrading the flats and marketing costs), the premium amount of \$864 million would be close to 50% of the revised premium assessment. He further pointed out that the 50/50 split of the premium had been taken on board by Mr Michael SUEN in his minute submitted to CE. Mr CORRIGALL said that as settlement at a figure below \$1,150 million would require SHPL's authorization, he sought Mr LEUNG Chin-man's agreement to continue the mediation on that basis. Mr CORRIGALL also gave his views on the advantages for the Government to settle the lease modification premium without agreement on damages as follows:

(a) it would obviate the need for HA to pay \$1,914 million to purchase all the flats which remained subject to the PSPS

- conditions that could not be removed without the developer's agreement;
- (b) it would set a limit on the period for which the developer could claim to have suffered losses due to the alleged failure of HA to nominate purchasers for the flats;
- (c) the Government could collect a lease modification premium of \$864 million; and
- (d) the question of damages could be objectively assessed by the Court.
- 7.61 On 24 December 2003, Mr John CORRIGALL reported the situation to Mr LEUNG Chin-man via email which was also copied to Ms Mable CHAN. He reported that the developer agreed to go ahead with the lease modification at a premium of \$864 million. As regards the developer's damages claim, Mr CORRIGALL pointed out that there were inherent difficulties in reaching an agreement on the issue, including the Government/HA having to assume that the developer had established a breach on the part of the Government/HA. He sought SHPL's authority through Mr LEUNG to settle the lease modification at the premium of \$864 million which excluded the developer's damages claim. He also reiterated his views contained in his email of 18 December 2003 about the advantages for such approach taken by the Government. Given that the agreement to be reached with the developer was not "a global settlement", Mr CORRIGALL raised the question as to whether it was necessary to obtain ExCo's approval.
- 7.62 In his email to Mr Michael SUEN at 11:13 am on 27 December 2003 (to which Mr CORRIGALL's email on 24 December 2003 was attached), Mr LEUNG Chin-man suggested that Mr SUEN accept Mr CORRIGALL's recommendation for acceptance of the developer's

premium offer of \$864 million for settlement of the lease modification. Mr LEUNG said that:

"I think our negotiation team [the Mediation Team] have made their best endeavours to fetch a fair deal for the government and HA. It is clear, and in a way fortunate, that the developer's view on the premium i.e. a 50/50 split is close or almost identical to that of Corrigall at the very beginning, bearing in mind that HA's failure to nominate purchasers upon completion of the flats is subject to clear and serious legal challenge and the developer's knowledge that we do not want to purchase this property the disposal of which is entirely at their mercy. In fact, I find it rather amazing that the developer is prepared to come this far."

He also considered that:

"The present premium figure is defensible, and indeed it would look much more shabby if we settled on a global figure i.e. with a considerable sum for the damages being deducted from the premium. In the latter case, we would never be able to explain to the public about the two separate components [the premium and claim for damages], and the relatively low premium figure will give our critics a field day on this case."

7.63 Mr LEUNG Chin-man told the Select Committee that it was his duty as PSH/D of H to put forward his analysis and views on the recommendation made by Mr John CORRIGALL. As regards whether ExCo's endorsement for settlement at the premium of \$864 million was required, Mr LEUNG Chin-man told the Select Committee that he pointed out to Mr Michael SUEN in his email on 27 December 2003 that

Mr SUEN had been authorized to decide on the premium, irrespective of the "bottom line" set in the submission to ExCo in October 2003, and the only condition imposed by ExCo was that the negotiation should proceed with the aid of a mediator. Therefore, Mr LEUNG considered that there was no need to seek further approval from ExCo and advised Mr SUEN that he as SHPL had the authority to make the decision.

- 7.64 Mr Michael SUEN replied to Mr LEUNG Chin-man's email at 11:30 am on the same day. Mr SUEN told the Select Committee that having gone through the report from Mr John CORRIGALL, he accepted in full the recommendation put forward with regard to the reasons mentioned by Mr LEUNG in the latter's email. On the need for the Administration to consult ExCo again, Mr SUEN considered that he had ExCo's delegated authority to conclude the deal and decided to accept the developer's premium offer of \$864 million. As to why Mr SUEN had made his decision in as short as 17 minutes after receiving the email, he explained to the Select Committee that he was aware of the progress of the mediation between Government and the developer Mr CORRIGALL's reports on the last two mediation sessions were copied to his Administrative Assistant, Ms Mable CHAN.
- According to the Administration, the premium of \$864 million accepted by the Government was the result of the mediation and not based on a 50/50 or 70/30 split of the premium between the developer and the Government. In response to the Select Committee at the hearing, Mr Michael SUEN said that when the Government decided to re-open negotiation with FSDL, it had considered the huge difference between the premium figures of both sides and decided that mediation be conducted with a view to reaching a commercial settlement. By taking this approach, both parties would have to make concessions and compromise on a mutually agreed figure.

On 26 January 2004, the Government and the developer reached a preliminary agreement on the lease modification of the Hunghom Peninsula development to amend the Conditions of Sale⁵⁰ allowing the flats to be sold in the open market. In return, the developer agreed to give up its right to receive the guaranteed purchase price at \$1,914 million from HA and to pay a premium of \$864 million for the lease modification. The details of the lease modification for the Hunghom Peninsula development were set out in an offer letter dated 21 January 2004 from D of L to Messrs Cheung, Chan & Chung. The lease modification process was completed on 26 February 2004.

7.67 The drawing up of provisions in the modified land lease was under the purview of LD. Mr John CORRIGALL said that the matter was handled by other senior officers in LD and he was not involved; the other departments including HD, Transport Department, Architectural Services Department and PD were also invited to give comments. Mr LEUNG Chin-man also told the Select Committee that he was not involved in the matter.

Settlement of the lease modification premium at \$864 million

7.68 In response to the Select Committee on the premium of \$864 million offered by the developer, Mr Stewart LEUNG said that the developer had revised its offer from \$700 million made in early November 2003 to \$900 million when the mediation with the Government commenced. The premium offer of \$900 million had taken

Clauses 11(a) and 11(b) in the Special Conditions on "Restrictions on development or redevelopment" had remained unchanged. In accordance with Clause 11(a), "the lot or any part thereof shall not be developed or redeveloped except in accordance with these Conditions, the Master Layout Plans and the Approved Landscaping Proposals and no building or structure which is not shown on the Master Layout Plans and the Approved Landscaping Proposals shall be erected, constructed or maintained on or within the lot." Clause 11(b)(i) stipulated that "the total gross floor area of any building or buildings erected or to be erected on the lot designed and intended to be used for private residential purposes, shall not exceed 144 300 square metres."

into account the market value and trend of neighbouring residential units, the sale and purchase transactions in the vicinity of the Hunghom Peninsula development between November 2002 and December 2003, and the drawbacks of the Hunghom Peninsula being a PSPS development. Mr LEUNG pointed out that the lease modification would result in the loss of 100 car parking spaces being used for conversion into a club house, and with the value for each car parking space being assessed at \$360,000, \$36 million was deducted from \$900 million to arrive at \$864 million.

7.69 In response to the Select Committee at the public hearing on 17 November 2009, Dr Henry CHENG said that the developer might have made a profit of about \$2,000 million to \$3,000 million from the sale of Harbour Place⁵¹ flats in the private market. He said that the profit was not related to the premium of \$864 million. The developer could not have possibly foreseen in 2003 the profit that could be fetched from the flat sale in 2008 and 2009. He indicated that during the mediation in late 2003, the developer in fact considered that the offered premium of \$864 million was on the high side, and this was the main reason why NWS had refused to purchase the other 50% shareholding in FSDL from Wai Kee in early 2004. Dr CHENG said that the developer was willing to offer the premium of \$864 million as it wanted to resolve the matter expeditiously and get back its investment in the project as soon as possible after selling the flats. He pointed out that the developer had spent almost \$2,000 million on the project. It would be commercially sound to accept the Government's proposal to modify the land lease to avoid further delay and recover the money incurred.

7.70 At the hearing on 20 July 2009, the Select Committee asked Mr LEUNG Chin-man that given that the resultant premium of \$600 million (after deducting the estimated damages of \$250 million in

Please refer to footnote 17 of paragraph 5.15.

the Hunghom Peninsula litigation from \$864 million) was quite favourable to the developer, whether he agreed with Mr Michael SUEN's statement made at the hearing on 14 July 2009 that the public had grounds to suspect that there was deferred benefit in his employment with Mr LEUNG Chin-man told the Select Committee that his recommendation to Mr SUEN was based on Mr John CORRIGALL's analysis and recommendation that "it makes perfect sense to accept the developer's offer". He considered Mr CORRIGALL's proposal reasonable and also agreed with Mr CORRIGALL that from the perspective of public interest, it was the best agreement that could be reached under the circumstances at that time. Mr LEUNG also considered that it would be easier to explain to the public by separating the lease modification premium from the damages claimed by the developer in the Hunghom Peninsula litigation, and he considered it misleading to say that the premium actually fetched was \$600 million with deduction of the estimated damages of \$250 million since the damages claimed by the developer was a matter pending the court's determination in an outstanding litigation. Mr LEUNG further said that he would not make any comments on Mr SUEN's personal view and reiterated that he had acted impartially and had not done anything contrary to the proper procedures or against his own conscience in the premium issue. Mr LEUNG admitted that he had intensive participation in the Hunghom Peninsula case, but considered that it did not mean that he had done anything wrong in the matter.

7.71 The Select Committee asked Dr Henry CHENG whether it was the developer's intention at the outset to buy out the Hunghom Peninsula PSPS flats for sale in the private market knowing that this could yield the greatest profit for the developer. In response, Dr CHENG pointed out that in addition to the buy-out option, the developer had proposed other options to dispose of the Hunghom Peninsula flats for consideration of the Government, including converting the flats into private flats and putting them up for sale jointly with the Government, and the

Government buying back the flats at the guaranteed price. Dr CHENG said that the Government buy-back option had been provided in the Conditions of Sale, and thus only the developer buy-out option and the joint-sale option had been included in Mr Stewart LEUNG's letter to CS on 2 July 2002. Dr CHENG also said that he understood that there were difficulties for the Government to pursue the buy-back option given that it had announced the policy on ceasing the production and sale of HOS and PSPS flats.

- 7.72 On the joint-sale option, both Dr CHENG and Mr Stewart LEUNG told the Select Committee that the developer considered it more advantageous to the Government as it involved the least efforts from the latter. As for the Government's position of not accepting the option, it was Mr Stewart LEUNG's impression at that time that the Government was concerned about possible public perception of collusion between the Government and the developer. On the buy-back option, Mr Stewart LEUNG said that the Government had never told the developer that it would not buy back the Hunghom Peninsula PSPS flats. He disagreed with Mr LEUNG Chin-man's remarks in the latter's email of 27 December 2003 to Mr Michael SUEN that the developer had knowledge that the Government did not want to purchase the PSPS flats. Mr Stewart LEUNG understood that the Government had the right to buy back the flats and could achieve this through various means.
- 7.73 In response to the Select Committee on whether the Government was at a disadvantageous position and had no bargaining chips in the premium negotiation, Mr John CORRIGALL replied that he considered this to be the case.
- 7.74 The Select Committee has asked for the reason why the Administration had not adopted the buy-back option in the Hunghom Peninsula case as it had done for the Kingsford Terrace development in mid 2004. Mr Michael SUEN gave evidence that when the Government

considered the disposal of the Hunghom Peninsula development, HA was facing serious financial difficulties which were attributed mainly to two outstanding court cases at that time, namely on HA's decision to defer the review of public housing rents and on the public listing of The Link REIT. If HA lost in both court cases, there would be serious implications on the financial position of HA. Mr SUEN said that the worst scenario forecast at that time was that HA would be on the brink of bankruptcy, and thus would not be in a position to buy back the flats in the Hunghom Peninsula development at the guaranteed price. According to the financial outlook of HA in early 2003, the projected cash balance for 2005-2006 was at a deficit of \$5,491 million. Mr SUEN pointed out that HA's financial outlook had improved significantly in early 2004. The revised projection showed a surplus of \$14,985 million following inclusion of the expected cash inflow arising from the listing of The Link REIT.

Developer's plan to demolish and redevelop the Hunghom Peninsula development

7.75 Dr Henry CHENG gave evidence that after the conclusion of the premium negotiation with the Government, SHKP bought the 50% interest in FSDL owned by Wai Kee in February 2004. According to Mr Stewart LEUNG, it was SHKP which suggested redeveloping the Hunghom Peninsula development and NWS did not object to the proposal. Since it became a shareholder of FSDL, SHKP had taken over the role of the Project Manager of the development and was responsible for the communications with the Government relating to the redevelopment plan. According to the information provided by SHKP in response to the Select Committee's request, redevelopment of the Hunghom Peninsula development was among the options considered by SHKP for achieving the overall objective of maximizing the financial return for its investment in the project. SHKP acted as the Project Manager of the project after its acquisition of a 50% shareholding in FSDL. The decision of

redeveloping the project was made by SHKP and NWS shortly before the announcement of the redevelopment plan on 29 November 2004.

- 7.76 As to the reason for proposing to redevelop the Hunghom Peninsula development, Dr Henry CHENG told the Select Committee that it was a commercial decision. He pointed out that the development was a PSPS project which was not attractive in the private property market. The costs for upgrading the interior and exterior of the development to make it marketable and attractive would cost more or less the same as redevelopment. Dr CHENG said that the developer considered it more sensible and commercially worthwhile to redevelop the project. He further considered that the Government had no ground to restrict the redevelopment of the Hunghom Peninsula development. Dr CHENG understood that a lease modification involving premium payment from the developer might be required for the plan. He pointed out that as the redevelopment plan had aroused public concern, the developer had subsequently cancelled the plan in order to maintain community harmony.
- As regards the time when the Government became aware of the developer's plan to redevelop Hunghom Peninsula, Mr Michael SUEN and Mr John CORRIGALL gave evidence that LD received letters on 31 January 2004 and 11 February 2004 from Messrs Cheung, Chan & Chung requesting further modification of the Conditions of Sale (including, inter alia, deletion of Special Condition 11(a) which required development and redevelopment to accord with the approved Master Layout Plans and Approved Landscaping Proposals). Mr SUEN said that although the letters did not disclose the reason for seeking further modification, LD considered that the proposal was to facilitate redevelopment. As LD held the view that the further modification proposed by the developer was not necessary to achieve the aim of allowing the developer to sell the flats in the private market, it rejected

the request vide its letter dated 12 February 2004 to Messrs Cheung, Chan & Chung.

- Mr Stewart LEUNG explained to the Select Committee that the amendments proposed by the developer in the lease modification of the Hunghom Peninsula development in 2003 were mainly for converting the PSPS development into a private housing development for sale in the open market. Dr Henry CHENG told the Select Committee that after the conclusion of the premium negotiation with the Government in December 2003, the developer discovered that the terms and conditions in the land lease should be further amended to provide it with more flexibility in selling the flats in the private market. Consequent upon LD's rejection of the proposal, the developer had not insisted on the matter and signed the modified land lease in February 2004.
- Having regard to press reports about the possible demolition of the Hunghom Peninsula development, the Director of Environmental Protection wrote to NWDCL and SHKP on 3 March 2004 urging them to avoid demolishing Hunghom Peninsula. In SHKP's reply dated 16 March 2004, the company pointed out it was discussing with its partner in the Hunghom Peninsula project possible options for the project and demolition was among the various options being considered.
- 7.80 The possible redevelopment of the Hunghom Peninsula development was discussed at a number of SDMs held in April to November 2004. On 5 July 2004, LD wrote to Messrs Cheung, Chan & Chung reiterating LD's rejection of the developer's request made in January 2004 for further modification to the Conditions of Sale which was geared to allowing redevelopment of the lot. Following the joint announcement made by NWS and SHKP on 29 November 2004 on their plan to demolish and redevelop the Hunghom Peninsula, LD further wrote to Messrs Cheung, Chan & Chung on 7 December 2004, pointing out that redevelopment of the lot would not be permitted except in

accordance with Special Condition (11)(a) in the Conditions of Sale, and the consent of D of L had to be obtained before the commencement of building works following demolition as required under General Condition 7(b). On 10 December 2004, NWS and SHKP jointly announced the cancellation of the redevelopment plan. In November 2005, the developer applied for a lease modification to facilitate major upgrading works in the Hunghom Peninsula. It subsequently submitted a smaller scale upgrading proposal. The lease modification for the proposal was concluded at a premium of \$36.99 million in November 2007.

7.81 gave evidence Michael **SUEN** that the proposed redevelopment of the Hunghom Peninsula development and subsequent alteration and additional works undertaken by the developer were subjects outside the purview of HB. BD and LD were involved to ensure that the developer would comply with all statutory requirements and lease conditions. He said that he did not expect and was not aware of Mr LEUNG Chin-man's involvement in the matters except for the fact that he was informed of the progress during SDMs as a member of SDM. Mr LEUNG Chin-man also told the Select Committee that he was not involved in the discussions within the Government on matters relating to the developer's plan to redevelop the Hunghom Peninsula development, and he had no discussion with the developer on the matter. Mr John CORRIGALL gave evidence that his involvement in the discussion between the Government and the developer on the latter's redevelopment plan was minimal given that mainly legal issues were involved, i.e. essentially on whether or not the requirement to redevelop in accordance with the Master Layout Plans under the Conditions of Sale would restrict any redevelopment. He said that there had been some discussion between his colleague, Mr Anthony ROBERTSON, and Mr Stewart LEUNG on the matter.

The foregoing sequence of events and developments shows Mr LEUNG Chin-man's role and participation in the Hunghom Peninsula case. In order to ascertain whether there was any connection between Mr LEUNG's role and participation in the Hunghom Peninsula case and his taking up of the post-service work with NWCL that might have given rise to conflict of interest, the Select Committee considers it necessary to examine further the relationship between Mr LEUNG Chin-man and some other related witnesses, and the evidence given by Mr LEUNG himself regarding his role and participation in the Hunghom Peninsula case and his employment with NWCL. These matters will be covered in Chapter 8.

Chapter 8 The relationship between Mr LEUNG Chin-man and some other witnesses and the evidence given by Mr LEUNG

8.1 This Chapter gives an account of the relationship among Mr LEUNG Chin-man, Mr CHUNG Kwok-cheong, Dr Henry CHENG and Mr Stewart LEUNG, and the Select Committee's observations on a series of events concerning them. It also sets out the evidence given by Mr LEUNG Chin-man regarding his role and participation in the Hunghom Peninsula case and his application for the post-service work with NWCL, as well as the Select Committee's observations on Mr LEUNG's evidence having regard also to the evidence obtained from other witnesses.

Relationship among Mr LEUNG Chin-man, Mr CHUNG Kwok-cheong, Dr Henry CHENG and Mr Stewart LEUNG

Mr CHUNG Kwok-cheong

According to the witness statements provided by Dr Henry CHENG and Mr LEUNG Chin-man to the Select Committee, they were introduced to each other by Mr CHUNG Kwok-cheong, who also arranged a lunch meeting between Dr CHENG and Mr LEUNG on 8 May 2008. When attending the hearing on 18 April 2009, Dr CHENG said that in respect of FSDL's dispute with HA and the Government on the disposal of the Hunghom Peninsula PSPS flats, he had asked Mr CHUNG to act for the developer to institute legal proceedings against the Government and HA. At the hearing on 9 May 2009, Mr LEUNG said that when he put down "Introduced by a family friend" in answer to the question under item 25 (i.e. "How did the offer of outside work arise?") of the application form submitted to CSB on his employment with

NWCL, the family friend he referred to was Mr CHUNG. Mr LEUNG also said that he had nominated Mr CHUNG as a member of HA's Commercial Properties Committee ("CPC") in 2003. Given that Mr CHUNG was the "family friend" stated in Mr LEUNG's application form; that Messrs Cheung, Chan & Chung, the solicitors' firm to which he belonged, were appointed as the legal representatives of the developer in the Hunghom Peninsula dispute with HA and the Government in 2003; and that he was nominated as a member of CPC by Mr LEUNG in the same year, the Select Committee hoped to find out through the conduct of hearings whether Mr CHUNG was involved in Mr LEUNG's employment with NWCL, and whether he was in any way connected with Mr LEUNG's participation in the Hunghom Peninsula case. The Select Committee therefore summoned Mr CHUNG to attend the hearing on 4 June 2009.

Relationship between Mr LEUNG Chin-man and Mr CHUNG Kwok-cheong

- 8.3 Mr LEUNG Chin-man and Mr CHUNG Kwok-cheong told the Select Committee that they had known each other since 1972/1973 when Mr CHUNG was a matriculation student. According to Mr CHUNG, they met about two to three times a year ever since Mr CHUNG went to university, except when Mr LEUNG was working overseas in the mid 1990s. Mr CHUNG regarded Mr LEUNG as his mentor. Mr LEUNG said that he regarded Mr CHUNG as his student and treasured their relationship, as Mr CHUNG was the only one among his friends with whom he could just talk about their common interests without touching on their respective work or business.
- Mr LEUNG Chin-man told the Select Committee that he only had three work-related dealings with Mr CHUNG Kwok-cheong: (a) in 2003 when he nominated Mr CHUNG as a member of CPC; (b) at the end of 2005 when he requested Mr CHUNG to refer a solicitor to act for

him in his application for judicial review against the Director of Audit's report in relation to the Grand Promenade development; and (c) when he was preparing his witness statement to the Select Committee, he sought Mr CHUNG's consent to disclose his name in the witness statement. According to Mr CHUNG, he had provided legal services to Mr LEUNG in redeeming the mortgages of three properties during the period from 1999 to 2006.

8.5 In relation to Mr LEUNG's taking up of the employment with NWCL, Mr CHUNG gave evidence that upon invitation by Dr Henry CHENG, he had arranged the lunch meeting between Dr CHENG and Mr LEUNG on 8 May 2008. On the other hand, Mr LEUNG told the Select Committee that as Mr CHUNG had known him for years and Mr CHUNG also knew his wife, he regarded Mr CHUNG as a family friend. Mr LEUNG said that Mr CHUNG was the family friend he was referring to when he stated in item 25 (i.e. "How did the offer of outside work arise?") of the application form submitted to CSB for taking up the employment with NWCL that such work was "Introduced by a family friend".

Relationship among Mr CHUNG Kwok-cheong, Dr Henry CHENG and Mr Stewart LEUNG

8.6 Mr CHUNG Kwok-cheong stated that he was introduced to Dr Henry CHENG by an accountant friend during a social function in 1996/1997. Since then, he and Dr CHENG and their mutual friends had social gatherings from time to time. Mr CHUNG became a partner of Messrs Cheung, Chan & Chung in 1982⁵². Messrs Cheung, Chan & Chung had provided legal services to the New World group of companies

Mr CHUNG Kwok-cheong resigned from the partnership in 2000 and became a Senior Consultant of Messrs Cheung, Chan & Chung until his retirement in March 2005. Mr CHUNG was re-appointed as the Senior Consultant of the firm in May 2005. According to the firm, Mr CHUNG had participated exclusively in the conveyancing practice of the firm as well as clientele development and related legal work.

in respect of property transactions and related litigation, and were instructed in March/April 2003 as the solicitors of FSDL in the latter's dispute with HA and the Government on the disposal of the Hunghom Peninsula PSPS flats. According to Mr CHUNG, he had been a non-executive director of Citybus Limited⁵³ since March 2004 and was still in that position when he attended the hearing on 4 June 2009, and he was an independent non-executive director of Lifestyle International Holdings Limited⁵⁴ from 2004 to 2005. Mr CHUNG informed the Select Committee that he was appointed by Dr Henry CHENG or Dr CHENG Yu-tung to these positions. Dr Henry CHENG told the Select Committee that Mr CHUNG was appointed to the above positions because Mr CHUNG was his friend and he trusted him.

As regards the relationship between Mr CHUNG Kwok-cheong and Mr Stewart LEUNG, Mr CHUNG said that he came to know Mr LEUNG in March 2003. Their contacts were related to work concerning the New World group of companies and they did not have any personal relationship. In respect of the Hunghom Peninsula litigation initiated by FSDL against HA and the Government in July 2003, Mr Stewart LEUNG told the Select Committee that his contact was mainly with the solicitors of Messrs Cheung, Chan & Chung who handled the case.

Relationship among Mr LEUNG Chin-man, Dr Henry CHENG and Mr Stewart LEUNG

8.8 Both Mr LEUNG Chin-man and Dr Henry CHENG stated that they came to know each other through Mr CHUNG Kwok-cheong at a donation ceremony cum cocktail reception held around March 2006 at the

⁵³ Citybus Limited is jointly owned by Chow Tai Fook Enterprises Limited and NWS.

Chow Tai Fook Enterprises Limited is a substantial shareholder of Lifestyle International Holdings Limited.

University of Hong Kong⁵⁵. Since then, they had no further contact until the lunch meeting on 8 May 2008, during which Mr LEUNG's employment with NWCL was discussed.

8.9 Mr Stewart LEUNG told the Select Committee that he came to know Mr LEUNG Chin-man through official contacts after the latter took up the post of D of B. Since then, there had been no personal contact between them until after Mr LEUNG Chin-man's retirement from the Government, when both of them attended a lunch gathering in mid October 2007 with senior personnel of some real estate developers. Mr Stewart LEUNG said that the closest official contact that he had with Mr LEUNG Chin-man was in the disposal of the Hunghom Peninsula PSPS flats.

Events concerning Mr LEUNG Chin-man, Mr CHUNG Kwok-cheong, Dr Henry CHENG and Mr Stewart LEUNG

Appointment of Messrs Cheung, Chan & Chung as the solicitors for the developer in the dispute with the Hong Kong Housing Authority and the Government on the disposal of the Hunghom Peninsula Private Sector Participation Scheme flats

8.10 At the hearing on 4 June 2009, the Select Committee enquired with Mr CHUNG Kwok-cheong the circumstances surrounding the appointment of Messrs Cheung, Chan & Chung as the solicitors of FSDL in the Hunghom Peninsula dispute with HA and the Government and Mr CHUNG's involvement. Mr CHUNG declined to answer on the grounds that the information requested involved communications between his client and himself in the capacity of solicitor and hence was protected by legal professional privilege. The Select Committee

Please refer to footnote 11 of paragraph 4.2.

appreciated that legal professional privilege protected the confidentiality of communications made between clients and their lawyers, and the privilege could only be waived by the clients to whom the privilege The Select Committee considered that the questions put to Mr CHUNG were important and relevant to the subject matter of the Select Committee's inquiry and hence, after the hearing, requested Mr CHUNG to provide information on how and why the information requested was covered by legal professional privilege, and other related information. Mr CHUNG subsequently advised that his clients in the Hunghom Peninsula dispute with HA and the Government had refused to waive their legal professional privilege. In order to assist the Select Committee's inquiry, Mr CHUNG had provided to the Committee supplementary information which was not restricted from disclosure under the legal professional privilege. Having considered Mr CHUNG's supplementary information, the Select Committee did not request further information from him.

- 8.11 The following events relating to the appointment of Messrs Cheung, Chan & Chung as the solicitors of FSDL in the Hunghom Peninsula dispute with HA and the Government and Mr CHUNG Kwok-cheong's involvement in the dispute are based on the evidence given by Mr CHUNG and Dr Henry CHENG at the hearings, supplementary information provided by Mr CHUNG, and other documentary evidence obtained by the Select Committee.
- 8.12 Mr CHUNG Kwok-cheong told the Select Committee that FSDL approached him around mid to late March 2003 for instructing Messrs Cheung, Chan & Chung as FSDL's solicitors in the Hunghom Peninsula dispute with HA and the Government. Mr CHUNG said that as a Senior Consultant of Messrs Cheung, Chan & Chung, he had referred the case to the firm and was entitled to share the profit costs generated from the case.

- 8.13 According to Dr Henry CHENG, Mr CHUNG was instructed to act for FSDL in the Hunghom Peninsula litigation because Mr CHUNG had handled the Aldrich Bay PSPS development in 1999⁵⁶. Mr CHUNG told the Select Committee that as Messrs Cheung, Chan & Chung were not on HA's list of HOS panel solicitors at that time, he had to work as a consultant of another solicitors' firm, Hobson & Ma Solicitors & Notaries which was on HA's list of HOS panel solicitors, in order to be eligible for handling the Aldrich Bay PSPS project. Mr CHUNG said that he was responsible for providing professional networking services in the Aldrich Bay PSPS project, including liaising with banks and other law firms and making progress reports to the client, while the substantive work was done by Hobson & Ma Solicitors & Notaries.
- 8.14 According to the witness statement provided by Mr CHUNG Kwok-cheong to the Select Committee, in respect of FSDL's dispute with HA and the Government over the Hunghom Peninsula development, he was not the solicitor responsible for handling the case and had not taken part in the substantive work relating to it. At the hearing on 4 June 2009, Mr CHUNG reiterated that he had not taken part in any substantive work in connection with the Hunghom Peninsula dispute. In response to the Select Committee's questions on his role in the Hunghom Peninsula dispute, Mr CHUNG initially said that around mid to end of March 2003, he had arranged the first meeting for the teams from Messrs Cheung, Chan & Chung and FSDL which were responsible for the Hunghom He had attended the first meeting as well as a Peninsula dispute. subsequent meeting held for the dispute. When asked repeatedly by the Select Committee about the meaning of substantive work, Mr CHUNG said that introducing a client to the solicitors' firm or undertaking liaison work for a particular case did not fall within the meaning of substantive In his view, substantive work for a particular case would include work.

The developer of Aldrich Bay PSPS project is Golden Forum Limited which is a subsidiary of Chow Tai Fook Enterprises Limited. Chow Tai Fook Enterprises Limited is the majority shareholder of NWDCL.

studying the case thoroughly, preparing letters and court documents, and providing legal advice and recommendations relating to the case. Upon further enquiry by the Select Committee, Mr CHUNG admitted that he had received briefings on the Hunghom Peninsula dispute from the solicitor(s) in his firm handling the case, but he had not given any views on it. When further questioned by the Select Committee, Mr CHUNG said that the briefings concerned were merely informal and infrequent, but he admitted that important issues including the premium figures were covered.

8.15 As shown in the correspondence between Messrs Cheung, Chan & Chung and DoJ, and between the firm and LD in late 2003 and early 2004, the solicitors' firm was involved in the mediation between the developer and the Government (please refer to paragraphs 7.56 and 7.66). In the letters issued by Messrs Cheung, Chan & Chung, the contact person/solicitor was not Mr CHUNG Kwok-cheong but his name and title as Senior Consultant appeared in the letterhead used by the firm⁵⁷.

Nomination of Mr CHUNG Kwok-cheong as a member of the Commercial Properties Committee of the Hong Kong Housing Authority

8.16 Mr CHUNG Kwok-cheong served as a member of CPC for a two-year term from April 2003 to March 2005. The terms of reference of CPC for the relevant period are in **Appendix 13**. They included advising HA on policies concerning its commercial, industrial and other non-domestic facilities, and exercising HA's powers and functions in accordance with the relevant prevailing policies including the determination of letting and promotional strategy, rents and other tenancy terms in the management and maintenance of HA's non-domestic properties. According to Mr CHUNG, Mr LEUNG Chin-man raised the

The name and post title of Mr CHUNG Kwok-cheong appeared at the footer of the firm's letterhead which showed the partners, senior consultants, associates and consultants of the firm.

proposed nomination with him around February 2003 and he confirmed his acceptance in about early or mid March 2003 after talking to a partner of Messrs Cheung, Chan & Chung. Mr CHUNG said that at the request of Mr LEUNG, he provided a reference letter dated 18 March 2003 issued by Messrs Cheung, Chan & Chung for consideration by HA.

- 8.17 At the hearing on 9 May 2009, the Select Committee asked LEUNG Chin-man about his nomination of Mr CHUNG Kwok-cheong as a member of CPC. Mr LEUNG said that it was through his recommendation that Mr CHUNG was appointed as a CPC He "thought of him [Mr CHUNG] at that time" because he found Mr CHUNG suitable for the position, and he considered that Mr CHUNG should try to take up this public office. Mr LEUNG also said that in nominating Mr CHUNG, he had not checked whether Mr CHUNG had any public service experience, nor had he asked whether Mr CHUNG had handled any HOS contractual transactions for HA. However, when further questioned by the Select Committee at the hearing on 12 May 2009, Mr LEUNG said that he had nominated Mr CHUNG Kwok-cheong because he considered Mr CHUNG a suitable person given his legal professional background, analytical power and social experience, although he knew that Mr CHUNG had not served on any government advisory bodies before.
- At the hearing on 4 June 2009, Mr CHUNG Kwok-cheong said that he should be competent to serve as a CPC member in view of his experience gained from his legal practice in dealing with commercial properties, management of shopping centres and related rental matters. He notified HA before his tenure of office expired in March 2005 that he did not wish to be re-appointed as a member of CPC. According to Mr CHUNG, this was because he did not find interest in the work of CPC. He had not taken up any position in government advisory bodies since then.

8.19 Select Committee enquired about the process The Mr LEUNG Chin-man's nomination of Mr CHUNG as a member of CPC. According to Mr LEUNG at the hearing on 9 May 2009, he had told his colleagues in charge of the matter that he found Mr CHUNG competent for the position, and had left it to his colleagues to follow up. When further questioned by the Select Committee, Mr LEUNG pointed out that there was no specified procedure for the appointment of members of the public to public offices by the Government. However, at the hearing on 12 May 2009, Mr LEUNG Chin-man said that in the light of the Select Committee's enquiry at the hearing on 9 May, he had sought information from the Government on the procedure for the nomination of Mr CHUNG. He noted from the information that no guideline or circular had been issued by the relevant departments or HA on the nomination for committees. He also pointed out that according to a practice adopted for many years, D of H and the deputy directors of HD would hold a meeting to discuss any persons they knew who might be suitable for nomination as members of HA or its committees, and a paper would be submitted to the Chairman of HA afterwards. He pointed out that there were no minutes of such meetings, nor was there any record on the parties/persons who made the nominations. The nomination procedure did not require the nominator to know about the business, work or activities, etc. in which the nominee had previously engaged. Mr LEUNG told the Select Committee that the process of nominating Mr CHUNG Kwok-cheong also followed the above procedure. He had discussed the proposed nomination with deputy directors of HD at that time, but he could no longer recall the content of the discussion. He further pointed out that a nominee was required to register his/her interests within one month from the date of appointment. Any changes to the information provided by members concerned should be reported within 14 days.

8.20 The Select Committee subsequently sought clarification from the Administration on the procedure for the appointment of members to HA's committees. According to the information provided by the

appointment exercise of members Administration, the HA's committees commenced with nominations from various sources including the Home Affairs Bureau and senior directorates of HD. Discussions were held among senior directorates on the nominations made as and when necessary. A submission on the proposed membership would be made to the Chairman of HA/Bureau Secretary responsible for housing This was followed by a presumption paper matters for agreement. issued to HA members for their approval of the proposed membership. The Administration has advised that, while the above nomination and appointment procedures were applicable to Mr CHUNG's case, there was no file record showing who proposed the nomination of Mr CHUNG. According to the Administration, Mr CHUNG's name first appeared in a submission dated 25 March 2003 to the then SHPL on membership of HA's committees for 2003-2004. The Administration could not confirm whether Mr CHUNG was on other lists of proposed membership for HA's committees prepared earlier than the above submission. With the then SHPL's agreement, a presumption paper was issued on 1 April 2003 to HA members for their approval of the committees' membership. tenure of office of the members commenced on the same day.

8.21 As regards the discussion of Mr CHUNG Kwok-cheong's nomination within HD, Mr Marco WU and Mr Vincent TONG said that they had not taken part in the relevant discussions. At the request of the Select Committee, the Administration has sought confirmation on the matter from the other four senior directorates of HD at that time. Three of them confirmed that they either had no discussion with Mr LEUNG on the matter or had no re-collection of any such discussions. One former senior directorate advised that he had a very vague impression that Mr LEUNG had proposed a few names for membership of committees at a meeting, but he could not recall exactly the names mentioned or the date of the meeting.

Registration/declaration of interests made by Mr CHUNG Kwok-cheong during his tenure as a member of the Commercial Properties Committee

8.22 The Administration informed the Select Committee that during Mr CHUNG Kwok-cheong's tenure as a member of CPC from 2003 to 2005, he had made two annual registrations of interests, in April 2003 upon his taking up of the CPC membership and in April 2004. Mr CHUNG stated in both registrations that he was a Senior Consultant of Messrs Cheung, Chan & Chung and received remuneration from the position or had pecuniary interest with the firm. In the registration made in April 2004, he stated that he was an independent non-executive director of Lifestyle International Holdings Limited and an independent director of Citybus Limited, and received remuneration from both positions. Mr CHUNG had not mentioned Messrs Cheung, Chan & Chung or himself acting as the legal representatives of FSDL in the Hunghom Peninsula litigation in both registrations.

8.23 The Select Committee asked Mr CHUNG the reason why he did not declare interest in relation to the appointment of Messrs Cheung, Chan & Chung as the solicitors of FSDL in the Hunghom Peninsula dispute when he took up the position as a member of CPC in April 2003. Mr CHUNG replied that he had considered whether it was necessary to make a declaration. Given that the terms of reference of CPC were to deal with matters relating to the non-domestic properties of HA and that the non-domestic portion of the Hunghom Peninsula development which was wholly owned by FSDL was not under the purview of CPC, he took the view that the Hunghom Peninsula dispute was not related to the work of CPC and did not consider it necessary to make a declaration on the Moreover, Mr CHUNG said that after perusing the prescribed matter. form on registration of interests, he could not find any appropriate item under which he could make the declaration relating to his position or capacity as a legal representative of a party in the litigation against HA. Mr CHUNG also told the Select Committee that he had discussed the matter on declaration of interests with the Chairman of CPC in June/July 2003, but the discussion did not change his view that it was not necessary to make any declaration of interest on the matter.

8.24 Mr CHUNG Kwok-cheong wrote to the Chairman of CPC on 28 October 2003, stating that Messrs Cheung, Chan & Chung were acting for FSDL in the Hunghom Peninsula litigation and, in order to avoid any possible conflict of interest or allegation of disclosure of confidential information on his part (whether to FSDL or to HA), he would refrain from attending CPC meetings or discussion relating to the litigation, or receiving relevant papers. The letter was copied to D of H. Mr CHUNG explained to the Select Committee that he had made the declaration in October 2003 after discussion with the solicitor in Messrs Cheung, Chan & Chung responsible for the Hunghom Peninsula dispute, and he had taken the solicitor's advice that it would be more prudent to make the declaration to HA. The Select Committee was concerned about a possible conflict in Mr CHUNG's roles as a member of CPC and a Senior Consultant of Messrs Cheung, Chan & Chung which had been appointed to act for the developer in the Hunghom Peninsula dispute with HA and the Government, and asked whether the declaration was triggered by his knowledge about the imminent commencement of the mediation between the Government and the developer on the disposal of the Hunghom Peninsula PSPS flats⁵⁸. Mr CHUNG replied in the negative.

According to the paper provided to the Select Committee by the Administration, HPLB sought ExCo's endorsement at the ExCo meeting on 28 October 2003 to re-open negotiation by way of mediation with the developer of the Hunghom Peninsula PSPS project.

Declaration of interests issue involved in the relationship between Mr LEUNG Chin-man and Mr CHUNG Kwok-cheong

8.25 The Select Committee asked Mr LEUNG Chin-man the reason why he had not made any declaration of interests regarding his personal relationship with Mr CHUNG Kwok-cheong or his relationship with Messrs Cheung, Chan & Chung by virtue of his personal relationship with Mr CHUNG. Mr LEUNG replied that he first noticed that Messrs Cheung, Chan & Chung were the solicitors of FSDL in the Hunghom Peninsula litigation in July/August 2003 when he saw the legal documents or letters of the firm issued to HA and the Government by the firm in July 2003 regarding FSDL's dispute with HA and the Government over the Hunghom Peninsula development. While he had seen the correspondence relating to the litigation bearing the letterhead of Messrs Cheung, Chan & Chung, he did not know at that time that Mr CHUNG was involved in the case. Mr LEUNG also said that the litigation was a legal matter and he had left it to be handled by the legal advisers in HD and DoJ. Mr LEUNG said that he only learned from the evidence given by Dr Henry CHENG at the hearing on 18 April 2009 that Mr CHUNG had acted for FSDL in the Hunghom Peninsula litigation. After the hearing, he had checked with HD and found that a solicitor surnamed CHENG, not Mr CHUNG Kwok-cheong, was mentioned in the legal documents filed by the developer in the litigation against the Government at that time.

8.26 On the question of declaration of interests in relation to his relationship with Mr CHUNG Kwok-cheong, Mr LEUNG Chin-man told the Select Committee that during his service in the Government, he had been involved in litigation in his official capacity and he had lawyer friends who were working for solicitors' firms acting for parties against the Government. He had never made any declaration of his personal relationship with those friends on such occasions. Mr LEUNG admitted at the hearing that if he had learnt that Mr CHUNG was acting for the

developer in the Hunghom Peninsula litigation, he would have to report his relationship with Mr CHUNG to Mr Michael SUEN. However, since he had not asked Mr CHUNG about the matter, the question of whether he should make a declaration did not arise.

8.27 As to whether Mr LEUNG Chin-man should have declared his relationship with Mr CHUNG Kwok-cheong as being close friends to dispel suspicion about potential conflict of interest, Mr LEUNG remarked that it was not necessary to dispel suspicion about conflict of interest as he had handled the disposal of the Hunghom Peninsula development in an open and fair manner. The Select Committee has enquired with the Administration whether the non-declaration by Mr LEUNG of his personal relationship with Mr CHUNG when he nominated Mr CHUNG as a CPC member would constitute any breach of relevant guidelines on declaration of conflict of interest. The Administration advised that according to the then prevailing guidelines when Mr LEUNG nominated Mr CHUNG in 2003, there was no specific declaration requirement for the nomination of personal friends as members of HA and its committees. However, whether personal relationship was declarable would depend on whether such relationship had a potential or real conflict of interest with one's official duties. In the case of Mr LEUNG and Mr CHUNG, a conflict of interest would arise if Mr LEUNG's loyalty to the Government conflicted with his loyalty to Mr CHUNG who was his personal friend. The Administration added that one could only come to a firm view as to whether Mr LEUNG had breached Government or official guidelines after consideration of all the facts in detail.

8.28 The Select Committee has made reference to CSB Circular No. 19/92 on "Conflict of Interest" ⁵⁹ which was applicable when Mr LEUNG Chin-man was handling the Hunghom Peninsula case. The circular specified that:

"All officers are strongly reminded that they should at all times make a conscious effort to avoid or declare, as appropriate, any conflict [of interest] that may arise or has arisen [between his official duties and his private interests]."

and that an officer should

"avoid putting himself in a position where he might arouse any suspicion of dishonesty,.....An officer should.....report to his superior officer any private interest that might influence, or appear to influence, his judgement in the performance of his duties."

8.29 In response to the Select Committee as to whether there would be any role conflict in Mr CHUNG Kwok-cheong being both a member of CPC and the Senior Consultant of Messrs Cheung, Chan & Chung who were the solicitors of the developer in the Hunghom Peninsula litigation against HA and the Government, Mr LEUNG Chin-man said that Mr CHUNG could not have knowledge about the strategies and matters relating to the lease modification of the Hunghom Peninsula development

⁵⁹ CSB Circular No. 19/92 on "Conflict of Interest" was issued on 4 December 1992 by the then SCS for circulation to all officers in the civil service. It set out the common areas in which a conflict of interest might arise between an officer's official duties and his private interests, and gave guidance on how such conflicts could be avoided. This circular was superseded by CSB Circular No. 2/2004 on "Conflict of Interest" issued by CSB on 30 January 2004. The latter contained requirements similar to those in the former, such as an officer in the Government being required to make a conscious effort at all times to avoid or declare, as appropriate, any conflict of interest that might arise or had arisen, and to report to his superior officer any private interest that might be seen to compromise the officer's personal judgment in the performance of his duties.

and the Hunghom Peninsula litigation from his work in CPC, as these matters were not within the CPC's terms of reference. According to the Administration, during Mr CHUNG's tenure as a CPC member from 2003 to 2005, CPC had not convened any meeting concerning the disposal of the Hunghom Peninsula PSPS development or issued any paper on the subject.

8.30 Mr CHUNG Kwok-cheong told the Select Committee that during his tenure as a CPC member from 2003 to 2005, he did not have any contact or discussion with Mr LEUNG Chin-man on matters relating to the Hunghom Peninsula case. On the other hand, Dr Henry CHENG said that he did not have any discussion with Mr CHUNG on matters relating to the Hunghom Peninsula case during the same period. Mr Stewart LEUNG also said that he had no knowledge about Mr CHUNG being a member of CPC when Messrs Cheung, Chan & Chung were appointed to act for FSDL in the Hunghom Peninsula litigation in 2003. In respect of the Hunghom Peninsula litigation, his contact was mainly with the solicitor(s) of Messrs Cheung, Chan & Chung responsible for handling the case.

Employment of Mr LEUNG Chin-man by New World China Land Limited

Factors considered by Dr Henry CHENG in the employment

8.31 The Select Committee asked Dr Henry CHENG the reason for employing Mr LEUNG Chin-man. Dr CHENG explained that since 2007, he had considered creating a new department in NWCL to be responsible for central procurement in the Mainland and to co-ordinate the administration of regional offices of the company in the Mainland. He wanted to appoint a person to head the new department which was very important to the management and cost saving of NWCL. Dr CHENG said that he had tried to fill the post by internal recruitment

but could not find any suitable candidate. He had also approached a friend for filling the post but was not successful. Dr CHENG told the Select Committee that he had not looked for the suitable candidate through headhunters or open recruitment. He considered the post a key position and did not wish to employ someone whom he did not know very well to fill it. In his view, the right person for the job must fulfil the three criteria: being loyal and trustworthy, possessing rich administrative experience, and having sufficient qualifications to He considered that Mr LEUNG had rich command respect. administrative experience as he had worked for the Government for almost 30 years, some posts which he had held in the policy bureaux and departments were related to real estate work, and Mr LEUNG had gone through many investigations and his name was cleared after each of these investigations. Dr CHENG had found Mr LEUNG suitable for the post and hence made the offer. Dr CHENG told the Select Committee that he had not thought about how the public would perceive his employment of He stressed that the appointment did not involve any Mr LEUNG. transfer of benefits between them when Mr LEUNG was serving in the On the other hand, as Mr LEUNG's duties in NWCL would be carried out in the Mainland, he did not consider there to be any conflict of interest between the appointment and Mr LEUNG's previous government duties.

8.32 Dr Henry CHENG informed the Select Committee that apart from Mr LEUNG Chin-man, NWDCL and its subsidiaries had also employed other former directorate civil servants. Dr CHENG said that the attributes of the former civil servants which he had considered included: discipline, administrative experience, leadership, experience in real estate development, and their network. According to the information provided to the Select Committee by Dr CHENG after the hearing, the New World group of companies had employed a total of seven former directorate civil servants in the past 10 years.

8.33 Mr LEUNG Chin-man told the Select Committee that he had initiated the termination of his employment with NWCL because of the strong public reaction over his taking up of the employment with NWCL and the announcement of the Government that it had not given thorough consideration to his application. According to Dr Henry CHENG, he had accepted Mr LEUNG's proposal for termination as the appointment had aroused much public concern, although he did not consider that there was anything wrong with the appointment. Dr CHENG also told the Select Committee that from the termination of Mr LEUNG Chin-man's contract in August 2008 to 18 April 2009 when Dr CHENG attended the hearing of the Select Committee, Mr LEUNG's post in NWCL had been left vacant and the procurement department had not yet been set up.

The lunch meeting between Dr Henry CHENG and Mr LEUNG Chin-man on 8 May 2008

- 8.34 Noting that Dr Henry CHENG had asked Mr Stewart LEUNG around November 2007 to find out whether Mr LEUNG Chin-man was interested in joining New World, the Select Committee asked Dr CHENG why he asked Mr CHUNG Kwok-cheong to arrange the lunch meeting on 8 May 2008. Dr CHENG said that he was told by Mr Stewart LEUNG that Mr LEUNG Chin-man would be out of town for some time and would consider the matter when he returned. However, Mr Stewart LEUNG had not informed him of any development after that. Dr CHENG considered that it might be better for him to meet Mr LEUNG Chin-man personally and hence requested Mr CHUNG to arrange the lunch meeting. Dr CHENG added that even if Mr LEUNG Chin-man turned down the job offer, he would not feel embarrassed as the lunch was arranged by a friend.
- 8.35 Mr CHUNG Kwok-cheong told the Select Committee that Dr Henry CHENG rang him up sometime in May 2008 saying that he would like to invite Mr LEUNG Chin-man to lunch. Mr CHUNG said

that he had not asked Dr CHENG about the purpose of the lunch because he regarded it as a social gathering of friends and did not consider it necessary to enquire about the details. Mr CHUNG further said that he had lunch with Dr CHENG and Mr LEUNG on 8 May 2008. However, he left early because of another commitment. Up to the time he left, Mr LEUNG and Dr CHENG had not raised the matter of Mr LEUNG joining New World.

Evidence given by Mr LEUNG Chin-man regarding his role and participation in the Hunghom Peninsula case

- 8.36 This section highlights the evidence given by Mr LEUNG Chin-man on his role and participation in the Hunghom Peninsula case and related evidence given by some witnesses.
- 8.37 Mr LEUNG Chin-man gave evidence that after he took up the post of PSH/D of H on 1 July 2002, he held ad hoc meetings as head of HB with his staff to discuss the direction of the housing policy including the policy on the cessation of the production and sale of HOS and PSPS flats. For the disposal of PSPS flats in the Hunghom Peninsula development, Mr LEUNG said that while he had attended the meeting of the Steering Committee on Land Supply for Housing chaired by SHPL on 13 August 2002 and agreed that Option A (i.e. to convince the developer to initiate lease modification for the PSPS site to allow the flats to be sold in the open market subject to payment of lease modification premium by the developer) would be the least problematic, adoption of Option A was the decision of the meeting after discussion. Mr LEUNG told the Select Committee that he had vetted the papers drafted by his staff in HD on the re-positioned housing policy and the disposal options for PSPS flats before clearance by Mr Michael SUEN, the then SHPL, for submission to

the PC⁶⁰ and ExCo. Mr LEUNG had attended the PC meeting on 24 October 2002 and the ExCo meetings on 5 and 12 November 2002⁶¹ at which the item on "A Comprehensive Market-Oriented Housing Policy", which included the cessation of the production and sale of HOS and PSPS flats, was discussed. He, however, had not attended the PC meetings on 12 and 19 September 2002 and the part of the ExCo meeting on 12 November 2002 at which the disposal options for PSPS flats were discussed.

8.38 Mr Michael SUEN told the Select Committee that the policy on the cessation of the production and sale of HOS/PSPS flats and the adoption of Option A for disposal of the PSPS flats in the Hunghom Peninsula and the Kingsford Terrace developments were the collective decisions of the Government. HB of HPLB was responsible for the formulation of the cessation policy and the disposal options discussed at the Steering Committee on 13 August 2002. PLB of HPLB, Financial Services and the Treasury Bureau, and LD were involved in the preparation of draft papers for both PC and ExCo on the disposal of PSPS flats in Hunghom Peninsula through Option A.

8.39 The Select Committee asked Mr LEUNG Chin-man about communications with the developer of the Hunghom Peninsula development between July 2002 and late 2002. Mr LEUNG Chin-man said that he vaguely remembered that Mr Stewart LEUNG had come to see him in his office grumbling about the delay in granting the Consent to Sale for the Hunghom Peninsula development. Mr LEUNG Chin-man told the Select Committee that although he had stated in the letter to

The PC has been established following the introduction of the Accountability System of Principal Officials in July 2002 to provide a forum for considering policy proposals before their submission to ExCo. It is co-chaired by the Chief Secretary for Administration and the Financial Secretary and comprises all politically appointed Principal Officials.

Mr LEUNG was accompanied by Mr Marco WU in attending the ExCo meetings on 5 and 12 November 2002 for the item.

NWDCL on 3 October 2002 that he was in "close contact with Mr Stewart LEUNG on the matter", the reply was only meant to be a delaying tactic to pacify Dr CHENG Yu-tung, and he in fact had not been in close contact with Mr Stewart LEUNG from July to October 2002.

- 8.40 Mr Stewart LEUNG informed the Select Committee that he and his colleagues had a meeting with Mr LEUNG Chin-man and HD staff on 10 August 2002 in Mr LEUNG Chin-man's office to discuss the disposal options for the Hunghom Peninsula development. He told the Select Committee that this was the only occasion that he had met Mr LEUNG Chin-man between July and October 2002 on the matter. After the meeting, he had a few other meetings with HD officials to follow up on the matter.
- 8.41 Mr LEUNG Chin-man told the Select Committee that he was not involved in the negotiation between the Government and the developer on the lease modification premium during the period from January to March 2003. Lease modification and the related discussions on premium were matters for LD and should be steered by PLB instead of HB. He stressed that he had not given any instructions to LD or Mr John CORRIGALL at the negotiation stage.
- 8.42 Mr Stewart LEUNG told the Select Committee that at the negotiation stage, the developer was mainly in contact with LD and he did not have any formal or informal discussions with Mr LEUNG Chin-man on the disposal of the Hunghom Peninsula development during that period of time.
- 8.43 Mr John CORRIGALL advised that while he had not received any instructions from Mr LEUNG Chin-man during the negotiation stage on the premium figure or the bulk purchase discount to be offered to the developer, he had made regular reports on the progress of the negotiation with the developer to HB and PLB.

- Mr LEUNG Chin-man told the Select Committee that, towards the end of March 2003 when the negotiation between LD and the developer came to a standstill, and following the memoranda issued by Mr Thomas TSO of PLB to LD dated 26 February and 26 March 2003 in which Mr John CORRIGALL was advised to report to and seek instructions from Mr LEUNG Chin-man on the progress and way forward of the premium negotiation, he started to take on a significant role in the disposal of the Hunghom Peninsula PSPS flats. Mr LEUNG said that PLB's memoranda were "to pass the ball" to HD but he did not dispute it with PLB. Mr LEUNG pointed out that at that time he had actually accepted that the matter relating to the Hunghom Peninsula flats would be handled by him.
- 8.45 According to Mr LEUNG Chin-man, he started liaising closely with Mr John CORRIGALL and related parties on the disposal of the Hunghom Peninsula PSPS flats upon suspension of the negotiation with the developer. Mr CORRIGALL reported to Mr LEUNG Chin-man through an email on 12 April 2003 that he had approached Mr Stewart LEUNG to seek his view on the proposal of appointing three independent surveyors to evaluate the premium levels the average of which would be binding on both parties, but Mr Stewart LEUNG had rejected the proposal. In his response to Mr CORRIGALL by email on the same day, Mr LEUNG Chin-man stated that Mr Stewart LEUNG had also come to see him on or before 12 April 2003 to discuss the proposal of appointing three independent surveyors to assess the premium for the lease modification. After repeated questions of the Select Committee, Mr LEUNG Chin-man said that he could not recall the exact time and manner of the meeting with Mr Stewart LEUNG, nor could he recall what they had discussed.
- 8.46 Furthermore, Mr LEUNG Chin-man said that he and his colleagues in HD started to re-visit the various options for disposal of the

PSPS flats in April 2003. Between April and June 2003, HD had prepared six papers providing analysis of the various options for consideration at SDMs. Mr LEUNG denied that he had any preference or preconception on any of the options, and stressed that he had endeavoured to provide an analysis on the pros and cons of each option in the papers.

8.47 Mr LEUNG advised that in making the decision in June/July 2003 to re-open negotiation with the developer, he had participated in formulating the strategy and was aware of the Government's position. He pointed out that the decision to resume negotiation with the developer by way of mediation was made by Mr Michael SUEN after discussion at According to the evidence given by Mr SUEN, HB of the then HPLB recommended the re-opening of the negotiation with the developer through mediation to dispose of the Hunghom Peninsula PSPS flats. As to why Mr LEUNG did not consider it necessary at the SDM on 30 June 2003 to seek ExCo's approval for re-opening negotiation with the developer, Mr LEUNG explained that his view was based on a briefing note prepared for the SDM. Since re-opening the negotiation would not depart from ExCo's decision made on 12 November 2002 for the Government to negotiate with the developers of the Hunghom Peninsula and the Kingsford Terrace PSPS projects for modifying the land leases subject to payment of land premium by the developers, he considered that there was no need to seek ExCo's endorsement on re-opening the negotiation.

8.48 Mr LEUNG Chin-man said at the hearing that in the mediation between the Government and the developer in December 2003, he had acted on behalf of Mr Michael SUEN in giving instructions to the Mediation Team, except on the premium figure which was to be determined by the Team. Mr LEUNG also told the Select Committee that before the mediation started, he had contacted Mr Stewart LEUNG over the phone on the mediation arrangements, but had pointed out to

Mr Stewart LEUNG that he would not be involved in the actual negotiation and told Mr Stewart LEUNG not to contact or call him during Mr LEUNG Chin-man further stated that the the mediation period. Mediation Team had sought his views and advice on certain issues in the preparatory work for the mediation and during the mediation process. They included the scope of authority of the Mediation Team, the person recommended as the mediator, the recommendation of appointing a valuer to act as an advisor to the mediator, whether the developer should be informed of the figure of \$1,150 million set by ExCo, whether the mediation should continue on the basis of the \$864 million premium offered by the developer, and whether they should proceed with the mediation to reach settlement of the premium only. Mr LEUNG said that while he had not participated in the mediation, he had received progress reports on the mediation from Mr John CORRIGALL. further confirmed that he did not have any contact with Mr Stewart LEUNG or any other member of the developer during the mediation period.

- 8.49 According to the evidence given by Mr Michael SUEN, Mr LEUNG had sought his agreement on the scope of authority of the Mediation Team. While Mr LEUNG had not participated in the actual mediation process, he had considered Mr John CORRIGALL's progress reports and given his comments including a recommendation to Mr SUEN to conclude the mediation at the lease modification premium of \$864 million.
- 8.50 In response to the Select Committee's question whether there were grounds for the public to suspect that Mr LEUNG Chin-man's employment with NWCL was a deferred benefit related to the Hunghom Peninsula case, Mr Michael SUEN said that in his personal opinion, there were grounds for the public to have such suspicion.

Evidence given by Mr LEUNG Chin-man regarding his application for post-service work with New World China Land Limited

Non-provision of information on the Hunghom Peninsula case in the application form

8.51 In the application form for employment with NWCL he submitted to CSB, Mr LEUNG Chin-man did not provide information on his role and participation in the Hunghom Peninsula case. However, in his public statement made on 16 August 2008 on the termination of his employment contract with NWCL, Mr LEUNG said that he did consider his role in the Hunghom Peninsula case and the fact that the New World group of companies was the purchaser of the Hunghom Peninsula flats, and was most astonished to learn that the approving authority had omitted to consider the important factor of the Hunghom Peninsula case when processing his application (Appendix 10). At the hearings on 9 and 19 May 2009, Mr LEUNG told the Select Committee that since Mr SUEN was his supervisor when he served as PSH/D of H, and CSB Circular No. 10/2005 was circulated to Directors of Bureaux and the relevant assessing officers, he believed that Mr Michael SUEN would be consulted and would make an assessment on his application. believed that in the process of assessment, Mr SUEN would certainly have taken into account his participation in the Hunghom Peninsula case. However, the Select Committee notes from the report submitted by Miss Denise YUE to CE on 15 August 2008 on Mr LEUNG's case that CE and Principal Officials appointed under the Political Appointment System (other than SCS) would not participate in the vetting and approval of post-service work applications from directorate civil servants. Mr SUEN also told the Select Committee at the hearing on 14 July 2009 that as a Principal Official, he would not be consulted by the Government on post-service work applications from directorate civil servants. Therefore, he was not aware of the application made by Mr LEUNG, and did not take part in the assessment process.

8.52 Considering Mr LEUNG Chin-man's view that the Hunghom Peninsula case was an important factor that should have been considered by the approving authority in processing his application, the Select Committee asked why Mr LEUNG had not provided information on his role and participation in the case in the application and whether he had deliberately played down his role and participation in the case. response, Mr LEUNG said that his responsibility as an applicant was to provide accurate information as required in the application form. approving authority would have notified him if further information was required. He pointed out that both Miss Denise YUE and Mr Andrew WONG had told the Select Committee that he had not omitted any information required in the application form. As he would not be involved in the business of the parent company of NWCL, i.e. NWDCL, or NWCL's subsidiaries, there was no need for him to provide information on his previous dealings with NWDCL or NWCL's subsidiaries. As for the information on his service history during the last three years of government service as required in item 8 of the application form, Mr LEUNG pointed out that the general practice was for the applicants to set out the major duties undertaken during the period instead of giving a detailed account of the projects they had been involved in. Mr LEUNG added that he had mentioned in the application form that NWDCL was the parent company of NWCL. In his view, that information was sufficient for the approving authority to take the Hunghom Peninsula case into account. It was far-fetched and unreasonable to conclude that he had deliberately played down his role and participation in the Hunghom Peninsula case.

<u>Information provided by Mr LEUNG Chin-man regarding how the offer</u> <u>of work arose</u>

8.53 The Select Committee asked Mr LEUNG Chin-man the reason why he had filled in "Introduced by a family friend", instead of

Mr CHUNG Kwok-cheong's name, in item 25 of "How did the offer of outside work arise?" of the application form. The Select Committee was also interested to know why Mr LEUNG regarded Mr CHUNG, instead of Mr Stewart LEUNG or Dr Henry CHENG, as the person who had introduced the job to him.

8.54 Mr LEUNG Chin-man explained to the Select Committee that Mr Stewart LEUNG had approached him in October 2007 to ascertain his Although he agreed to give serious interest in joining NWCL. consideration to the matter, he had not responded to Mr Stewart LEUNG He only regarded Mr Stewart LEUNG as a person who afterwards. relayed Dr Henry CHENG's message to him. According to Mr LEUNG Chin-man, it was through Mr CHUNG Kwok-cheong that he came to know Dr CHENG during a cocktail reception at the University of Hong Kong in 2006⁶², and it was Mr CHUNG who arranged the lunch meeting with Dr CHENG on 8 May 2008. Therefore, Mr LEUNG considered that the job had arisen from Mr CHUNG. Mr LEUNG further explained that he had not put down Mr CHUNG's name in the application form because he considered it necessary to protect Mr CHUNG's privacy. added that he had also put down "Introduced by a friend" for item 25 in the application form in respect of some of his previous applications for post-service work⁶³.

8.55 The Select Committee has repeatedly asked Mr LEUNG Chin-man whether it was his intention to avoid any association of his involvement in the Hunghom Peninsula case by not mentioning Mr Stewart LEUNG or Dr Henry CHENG in the application form. Mr LEUNG Chin-man said that he found such a view far-fetched and unreasonable. There was no reason for him to avoid stating the names

Please refer to footnote 11 of paragraph 4.2.

In his application for post-service work with TCL, Mr LEUNG had stated "Introduction by a personal friend" in item 25 of the application form. In his application for post-service work with PuraPharm, Mr LEUNG had stated "Invited by the company chairman, a long-time personal friend" in that item.

of Dr CHENG and Mr Stewart LEUNG. He said that he had put down the website address of NWCL in the application form, and it was widely known that Dr CHENG and Mr Stewart LEUNG were holding senior management positions in the New World group of companies.

8.56 The Select Committee asked Mr LEUNG Chin-man whether he contacted Mr CHUNG Kwok-cheong about his employment with NWCL before 1 August 2008. Mr LEUNG told the Select Committee at the hearing on 9 May 2009 that he had not informed Mr CHUNG of his taking up of the employment with NWCL and believed that Mr CHUNG learned about the employment through NWCL's public announcement made on 1 August 2008. However, when further questioned by the Select Committee at the hearing on 20 July 2009, Mr LEUNG said that he might have called Mr CHUNG to inform him of the matter before mid May 2008.

8.57 According to Mr CHUNG Kwok-cheong's evidence, due to another commitment, he left early at the lunch with Dr Henry CHENG and Mr LEUNG Chin-man on 8 May 2008. Up to the time he left, Dr CHENG and Mr LEUNG had not raised the matter of Mr LEUNG joining New World. About one to two weeks later, Mr CHUNG received a call from Mr LEUNG who indicated that he was joining New World to work in the Mainland and had to seek approval from the Government. Mr LEUNG asked whether he could put down in the application form Mr CHUNG's name as the introducer. Mr CHUNG said that at that time, he thought that Mr LEUNG regarded him as the introducer to Dr Henry CHENG; he considered it appropriate for Mr LEUNG to fill in his name and so gave his consent. On further questions by the Select Committee, Mr CHUNG said that he had not seen the application form or sought clarification with Mr LEUNG on the meaning of "introducer". With hindsight, Mr CHUNG agreed that before giving his consent, he should have clarified the matter with Mr LEUNG and asked Mr LEUNG to write clearly in the application form that he was the person who had introduced Dr CHENG to Mr LEUNG. Furthermore, he should have asked Mr LEUNG to state clearly that it was Dr CHENG who offered the job to him.

8.58 According to Mr Stewart LEUNG's evidence, Dr Henry CHENG asked him around November 2007 whether he knew Mr LEUNG Chin-man as a person. Dr CHENG did not disclose the purpose of his enquiry at that time. A few weeks later, Dr CHENG asked him to find out whether Mr LEUNG Chin-man was interested in working in New World. He then rang up Mr LEUNG to arrange a meeting with him. During the meeting, he asked about Mr LEUNG's latest situation and whether Mr LEUNG was interested in joining New Mr LEUNG said that he would consider the matter and would discuss it when he came back from his trip. Mr Stewart LEUNG Thereafter, he had no further reported to Dr CHENG afterwards. contact with Mr LEUNG Chin-man, nor did he take part in the discussions on the employment of Mr LEUNG with NWCL. He also had no discussion with Mr LEUNG about the employment.

Factors which Mr LEUNG Chin-man had considered before accepting the offer

8.59 The Select Committee repeatedly asked Mr LEUNG Chin-man whether he had considered that his taking up post-service employment with NWCL would create a public perception issue which would embarrass the Government. Mr LEUNG reiterated a number of times that he had considered the public perception issue regarding his taking up of the employment before submitting the application for employment with NWCL to CSB. He also said that when consulted on post-service work applications from directorate civil servants during his government service, he had endeavoured to give his best assessment and offered his views on whether negative public perception might arise. The Select Committee also asked Mr LEUNG Chin-man several times whether civil

servants making post-service work applications had the responsibility of considering public perception. In response, Mr LEUNG said repeatedly that it was not the responsibility of applicants to consider public perception. He considered that his responsibility as an applicant was to provide information required by the approving authority, and civil servants who had left or retired from the civil service did not have the ability or resources to assess public perception. In his view, it was the responsibility of the approving authority, not the applicant, to assess and consider public perception. Having regard to the fact that he was just an ordinary member of the public after he had retired from the Government, he had put the question of assessment of public perception to one side, and asked himself the following three questions:

- (a) whether he had acted fairly and without bias in handling cases involving the New World group of companies during his service with the Government, including the disposal of the Hunghom Peninsula PSPS flats;
- (b) whether his employment with NWCL would constitute a real or potential conflict of interest with his previous duties in the Government; and
- (c) whether he had complied with the relevant procedures when making the application for approval for taking up post-service work, as he would only take up the job if the Government approved his application.

Mr LEUNG told the Select Committee that his answers to questions (a) and (c) were in the affirmative and to (b) in the negative. Mr LEUNG therefore considered that he had not done anything wrong. In the circumstances, he did not see the need for him to avoid public suspicion in relation to his taking up of the employment with NWCL.

8.60 Mr LEUNG Chin-man said that he was aware of the policy objective of the Control Regime as enshrined in CSB Circular No. 10/2005 (please refer to Appendix 4). Mr LEUNG considered that it was the responsibility of the Government to achieve the policy objective concerned in the assessment of post-service work applications. He also reckoned that it was the responsibility of the approving authority, in considering his application for post-service employment with NWCL, to strike a balance between public perception and an individual's right to work, and public perception should not be the overriding consideration.

Mr LEUNG Chin-man's employment contract with New World China Land Limited

8.61 On the employment contract which Mr LEUNG Chin-man signed with NWCL, the Select Committee has compared its provisions with the information provided to CSB by Mr LEUNG and found that there were inconsistencies in three aspects. Firstly, Mr LEUNG's post title had been changed from "Executive Director", as stated in his application submitted to CSB, to "Executive Director and Deputy Managing Director" in the contract signed by Mr LEUNG on 1 August 2008. Secondly, Mr LEUNG had filled in four major duties of his employment with NWCL as required in the application form submitted to CSB (please refer to paragraph 4.18), and such duties were also set out in However, the employment contract the draft employment contract. which Mr LEUNG signed with NWCL on 1 August 2008 did not specify the duties to be undertaken by him in NWCL. Thirdly, the employment contract contained a transfer clause under which NWCL could transfer or second Mr LEUNG to work for NWCL's subsidiaries or associated companies, or subsidiaries or associated companies of NWCL's holding However, according to the application submitted by company. Mr LEUNG to CSB, Mr LEUNG's prospective employer was NWCL with its business largely conducted in the Mainland, and he would be based in a major city in the Mainland. Mr LEUNG also stated in his application form (i.e. item 22 on involvement in the business of employer's parent company and employer's subsidiary companies) that he would not be involved in the business of NWDCL or any subsidiaries of NWCL. Furthermore, according to the first and fourth items of additional work restrictions imposed by CSB on Mr LEUNG's employment with NWCL, he should confine his work to NWCL and should not involve himself in any business of NWCL that was connected with Hong Kong.

Regarding the change in post title, Mr LEUNG Chin-man stated in an email dated 20 July 2008 to Ms Lynda NGAN of NWCL that:

"I hope Henry [Dr Henry CHENG] is amenable to the post title 'Executive Director and Deputy Managing Director', which will facilitate my dealing with the regional managers and, for that matter, other colleagues in the company [NWCL]."

On the other hand, in CSB's approval letter issued on 9 July 2008 to Mr LEUNG, he was reminded of the need to notify CSB of any material changes to his approved appointment in a timely manner and to apply for a separate or fresh approval as necessary. However, Mr LEUNG had not informed CSB about the change in his post title. It was only when CSB noticed the change from NWCL's press announcement on 1 August 2008 and wrote to Mr LEUNG on 4 August 2008 to clarify the matter, and at the same time reminded him again on the need to notify CSB of any material changes to his approved appointment in a timely manner during the control period, that Mr LEUNG apologized in his reply to CSB on 11 August 2008 for not notifying it of the change earlier.

8.63 On the change in his post title, Mr LEUNG Chin-man explained to the Select Committee that it was the result of discussion among Dr Henry CHENG, NWCL and himself. The title of Deputy Managing

Director was a functional title and did not alter his duties in NWCL as submitted in his application to CSB. On the other hand, Dr Henry CHENG told the Select Committee that when he discussed the job offer with Mr LEUNG in May 2008, he had not thought of the most suitable post title for the appointment. The post title of "Executive Director" was to facilitate Mr LEUNG in making his application to the Government. After further consideration on the matter, he decided to use the post title of "Executive Director and Deputy Managing Director" for Mr LEUNG.

8.64 On the non-specification of his duties in the employment contract with NWCL, Mr LEUNG Chin-man explained to the Select Committee that he had accepted the employment contract which did not stipulate the scope of his main duties because he considered it reasonable for NWCL to maintain certain flexibility in deploying his service. As regards whether the non-specification of his duties and the inclusion of a transfer clause in the employment contract would constitute a breach to the work restrictions imposed by CSB, Mr LEUNG said that as the senior management of NWCL including Dr Henry CHENG was aware of the work restrictions, he believed that NWCL would not require him to violate the restrictions. Since it was his responsibility to observe the work restrictions, in the event that NWCL did request him to violate the restrictions, it would be a matter for him to deal with NWCL and to report the situation to CSB. If CSB did not approve, he would consider terminating the employment contract with NWCL. Mr LEUNG advised that the inclusion of a transfer clause in the employment contract did not mean that he would violate the work restrictions or his work would go beyond the scope of duties as stated in his application. With no actual changes to the appointment and no violation of the work restrictions, Mr LEUNG did not consider it necessary to report to CSB. He further explained that he had not informed CSB of the relevant provisions in the employment contract because there was no requirement for an applicant to submit his employment contract to CSB.

8.65 Dr Henry CHENG told the Select Committee that it was his decision not to specify the scope of his main duties in Mr LEUNG Chin-man's employment contract. He said that, as the Deputy Managing Director of NWCL, Mr LEUNG would be expected to perform other duties of NWCL in addition to his main duties. The non-specification of duties in the employment contract would provide flexibility to the As regards the transfer clause, Dr CHENG said that it was a standard provision in the employment contracts of the parent company of NWCL, i.e. NWDCL, to provide flexibility in deploying staff to work in its subsidiary companies. It was also a standard provision in the employment contracts of the subsidiaries of NWDCL including NWCL He confirmed that there were no previous cases of staff and NWS. members of subsidiary companies being transferred to work for the parent company by virtue of the transfer clause.

8.66 On the issue of whether the signing by Mr LEUNG Chin-man of the contract which did not specify the duties and which included the transfer clause constituted a breach of the terms of approval of his application, Miss Denise YUE advised the Select Committee at a hearing held in April 2009 that it was necessary for her to consult DoJ. Select Committee subsequently requested her to provide further information on the above issue. After consulting DoJ, Miss YUE pointed out in the information provided to the Select Committee that there was no requirement for the job duties of an applicant to be specified in the employment contract, nor was there any requirement for the application to be submitted together with the draft employment contract. There was also no requirement for the terms of the approval given by the decision authority for post-service work to be included in an applicant's employment contract with the prospective employer. Therefore, Miss YUE considered that the absence of specification of Mr LEUNG's job duties in his employment contract with NWCL did not constitute a breach of the terms of approval. As regards the transfer clause in Mr LEUNG's employment contract, Miss YUE reckoned that the mere inclusion of such a clause would not constitute a breach of the terms of approval. If NWCL did not exercise its right of transfer or Mr LEUNG did not comply with the required transfer, there would be no breach of the terms of approval to take up employment with NWCL on the part of Mr LEUNG.

8.67 In response to the enquiry of the Select Committee, Miss Denise YUE said that she found the Select Committee's view, i.e. applicants should be required to submit a copy of the employment contract after the granting of approval of post-service work applications made by directorate civil servants, a positive recommendation. She said that if the above view was taken on board, and if the content of the contract submitted by an applicant was found to be inconsistent with the approved application, action could be taken in respect of the application.

Observations of the Select Committee

8.68 The following sets out the Select Committee's observations, based on the evidence obtained, on Mr LEUNG Chin-man's involvement in the Hunghom Peninsula case, and the connection between the involvement of Mr LEUNG Chin-man, Mr CHUNG Kwok-cheong, Dr Henry CHENG and Mr Stewart LEUNG in the Hunghom Peninsula case on the one hand and Mr LEUNG Chin-man's taking up of the employment with NWCL on the other.

Mr LEUNG Chin-man's involvement in the Hunghom Peninsula case

8.69 The evidence obtained from documents provided by the Administration and from Mr Vincent TONG, Mr John CORRIGALL, Mr Michael SUEN and Mr LEUNG Chin-man himself reveals that Mr LEUNG had started to participate in the Hunghom Peninsula case as early as July 2002 when he took up the post of PSH/D of H, and he had

assumed an increasingly significant role. The Select Committee considers that he played a steering and co-ordinating role in the Hunghom Peninsula case. (please refer to paragraphs 7.19, 7.21 to 7.24, 7.29 to 7.34, 7.36, 7.38 to 7.47, 7.49, 7.53 to 7.55, 7.57 to 7.64, 7.67, 7.70, 7.81 and 8.36 to 8.50)

- 8.70 In response to the Select Committee's questions as to whether Mr LEUNG Chin-man was involved in the preparation of papers in relation to the disposal of the Hunghom Peninsula PSPS flats, Mr Vincent TONG said at the hearings on 30 May and 2 June 2009 that Mr LEUNG would normally discuss the draft papers with the subject officers and give his views and directions. The papers which had been vetted by Mr LEUNG would be submitted for discussion and consideration at SDMs. In response to the Select Committee, Mr TONG said that he agreed with the Select Committee's view that Mr LEUNG had actively participated in the disposal of the Hunghom Peninsula flats. Mr TONG also pointed out that Mr LEUNG gave instructions to HD staff on research to be carried out as well as information and legal advice to be sought in relation to the disposal exercise. In the view of the Select Committee, this evidence shows that Mr LEUNG had important influence on the direction of the papers prepared and the formulation of disposal strategies (please refer to paragraphs 7.34, 7.38, 7.39, 7.41, 7.43 and 7.46).
- 8.71 The evidence obtained from other witnesses has also pointed to the steering role played by Mr LEUNG Chin-man in the Hunghom Peninsula case. On 13 August 2002, Mr LEUNG, in his capacity as PSH/D of H, attended the meeting of the Steering Committee on Land Supply for Housing chaired by Mr Michael SUEN. At the meeting, he had taken part in the discussion on the disposal of the Hunghom Peninsula PSPS flats and the decision to adopt HD's proposed option of convincing the developer to initiate lease modification for the PSPS site so that the flats could be sold in the open market subject to payment of

land premium. During the negotiation and mediation between LD and the developer in early 2003 and December 2003 respectively, although Mr LEUNG had not participated personally in the premium negotiation with the developer, he was kept informed by Mr John CORRIGALL of how things were proceeding. He had access to important information including the premium figures put forward by both sides as well as ExCo's decision, and was fully informed of the progress of the negotiation and mediation. He had participated in making major decisions and given important advice and directions in the process. These included exploring afresh options for disposing of the Hunghom Peninsula development and analyzing the pros and cons of each option, and presenting these views in discussion papers from April to June 2003, after the negotiation between the Government and the developer was suspended; deciding in June/July 2003, to re-open negotiation with the developer through mediation; taking charge of the mediation process in December 2003 on behalf of Mr SUEN and giving instructions to the Mediation Team; and recommending to Mr SUEN to accept the developer's offer of the lease modification premium of \$864 million without settling the claim for damages in the Hunghom Peninsula litigation. (please refer to paragraphs 7.23, 7.24, 7.29 to 7.32, 7.34, 7.36, 7.38 to 7.49, 7.52 to 7.64, 8.43 and 8.49)

8.72 Mr Michael SUEN told the Select Committee at the hearing on 14 July 2009 that Mr LEUNG Chin-man had assisted him in handling the policy issues on the disposal of the Hunghom Peninsula PSPS flats and implementing decisions relating to the disposal exercise. Mr SUEN said that although Mr LEUNG had not personally participated in the negotiation or mediation with the developer on the lease modification premium, Mr LEUNG had an intensive participation in the case, particularly in the mediation process, and gave advice to the Mediation Team. Mr LEUNG was fully informed of the development of the case, and had access to information including the Government's strategies and positions on the disposal options and the premium figure.

8.73 The Select Committee has to point out that in response to questions about his handling of the Hunghom Peninsula case in July 2003, Mr LEUNG Chin-man said at the hearing on 12 May 2009 that:

"It's between the end of November and December [2003] that I [LEUNG Chin-man] was instructed by my supervisor [Michael SUEN] to co-ordinate the negotiation of Hunghom Peninsula. At that time [July 2003] it was not my duty......I had not yet taken charge of the co-ordination. But I was D of H, when someone sued us on this matter [the Hunghom Peninsula flats], of course I had to know....."

However, after Mr Michael SUEN had pointed out Mr LEUNG's intensive participation in the Hunghom Peninsula case at the hearing on 14 July 2009, Mr LEUNG, at the hearing of 20 July 2009, stated that he had started to take over the disposal of Hunghom Peninsula after the negotiation between the Government and the developer on the lease modification premium was suspended in March 2003. After repeated questions by the Select Committee, Mr LEUNG said at last:

"I [LEUNG Chin-man] had substantial participation [in the Hunghom Peninsula case]. When I said that I had not participated in the matter, I meant I had not participated in the negotiation on the land premium, by directly negotiating with the other side on what the premium should be; that part was led by Mr John CORRIGALL.....I played a very important role. In fact I co-ordinated the entire exercise and did a lot of work."

Furthermore, Mr LEUNG admitted at the hearing on 22 July 2009 that he had been heavily involved in the disposal exercise including making major decisions and putting forward important views and comments, all of which had affected the way and outcome of the disposal of the The Select Committee notes that Hunghom Peninsula PSPS flats. Mr LEUNG had been playing a steering role in the handling of the case, and not, as he said when giving evidence in May 2009, that he did not take charge of the co-ordination for the Hunghom Peninsula case before November/December 2003. There was an apparent inconsistency between the evidence of Mr LEUNG Chin-man on his participation in the Hunghom Peninsula case he gave at the hearings held in May and July 2009 respectively. The Select Committee considers that Mr LEUNG has attempted to play down his role and participation in the Hunghom Peninsula case. The Select Committee has to point out that Mr LEUNG's involvement in the Hunghom Peninsula case is the focus of this inquiry. The Select Committee is disappointed that Mr LEUNG, a former senior directorate officer at D8 level, has deliberately concealed his involvement in the Hunghom Peninsula case during the hearings.

Connection between the involvement of Mr LEUNG Chin-man, Mr CHUNG Kwok-cheong, Dr Henry CHENG and Mr Stewart LEUNG in the Hunghom Peninsula case and Mr LEUNG Chin-man's taking up of the employment with New World China Land Limited

The involvement of Dr Henry CHENG and Mr Stewart LEUNG in the Hunghom Peninsula case

8.74 The Select Committee notes from the evidence given by Mr Stewart LEUNG that he represented the developer in the discussion with the Government on the options for disposal of the Hunghom Peninsula PSPS flats, as well as the negotiation and mediation on the lease modification with the Government. He also headed a team representing the developer in the mediation with the Government in

December 2003. Moreover, Mr Stewart LEUNG said at the hearing that he learned from Mr LEUNG Chin-man's reply to Dr CHENG Yu-tung dated 3 October 2002 that Mr LEUNG had taken over the disposal of the Hunghom Peninsula flats, and he visited Mr LEUNG Chin-man's office on 10 August 2002 to discuss with Mr LEUNG the disposal options proposed by FSDL. The Select Committee also notes from the paper provided by the Administration that Mr Stewart LEUNG had contacts with Mr LEUNG Chin-man regarding the Hunghom Peninsula case on the following occasions: a meeting with Mr LEUNG Chin-man on or before 12 April 2003 regarding the Government's proposal of appointing three independent surveyors to assess the lease modification premium, and telephone contacts with Mr LEUNG Chin-man in late October 2003 concerning the mediation arrangements. The Select Committee considers that Mr Stewart LEUNG assumed an important role in the Hunghom Peninsula case, and he was also aware of Mr LEUNG Chin-man playing a steering role and acting as an overall co-ordinator for the Government in the case. (please refer to paragraphs 7.21, 7.22, 7.25 to 7.28, 7.36, 7.37, 7.53 to 7.55, 8.9, 8.39 to 8.42, 8.45 and 8.48)

8.75 On the other hand, the Select Committee notes from Dr Henry CHENG's evidence that since July 2002, Mr Stewart LEUNG had been reporting to Dr CHENG on important matters relating to the disposal of the Hunghom Peninsula flats, including discussions between Mr Stewart LEUNG and HD officials on the disposal options for Hunghom Peninsula proposed by the developer, and negotiation with the Government on the lease modification premium. Dr CHENG said that he was aware of Mr LEUNG Chin-man being PSH/D of H at that time, and admitted that he had taken part in determining the developer's offers of the lease modification premium. In response to the enquiry of the Select Committee, Dr CHENG said that he did not know whether Mr LEUNG Chin-man had a part to play in the negotiation between the Government and the developer on the lease modification premium for Hunghom Peninsula, nor did he consider that Mr LEUNG had taken part in the negotiation because in his view, it was LD which should be responsible for the negotiation on land premium. When reporting to him on the land premium negotiation, Mr Stewart LEUNG had never told him that Mr LEUNG Chin-man had participated in the process, or mentioned that he had discussions with Mr LEUNG Chin-man on the land premium. Nevertheless, in the view of the Select Committee, given that Mr Stewart LEUNG was fully aware of Mr LEUNG Chin-man's steering role in the Hunghom Peninsula case and reported to Dr CHENG on important matters relating to the disposal of the Hunghom Peninsula flats from time to time, and that Dr CHENG knew that Mr LEUNG Chin-man was PSH/D of H at that time, Dr CHENG should have known about the key role Mr LEUNG Chin-man played in the handling of the Hunghom Peninsula case. (please refer to paragraphs 7.27, 7.28, 7.31, 7.36, 7.37 and 7.69)

The involvement of Mr CHUNG Kwok-cheong in the Hunghom Peninsula dispute

8.76 The Select Committee notes from the evidence given by Dr Henry CHENG and Mr CHUNG Kwok-cheong that Dr CHENG approached Mr CHUNG and asked him to act as the legal representative of FSDL in the Hunghom Peninsula dispute with HA and the Government, and that Mr CHUNG referred the case to Messrs Cheung, Chan & Chung. Mr CHUNG has pointed out in his witness statement provided to the Select Committee that he was not involved in any substantive work of the Hunghom Peninsula dispute. However, when questioned by the Select Committee, Mr CHUNG disclosed that he had attended the first two meetings between the solicitors' firm and FSDL. Upon repeated questions by the Select Committee, Mr CHUNG said that as a Senior Consultant of Messrs Cheung, Chan & Chung, as the person who referred the case to the firm, he was entitled to a share of the profit costs. also admitted that he had received briefings which covered important issues including the premium figure from the solicitor(s) responsible for

the case. The Select Committee considers that, on the evidence above, Mr CHUNG did participate in the substantive work on the case of the Hunghom Peninsula dispute handled by Messrs Cheung, Chan & Chung. It was not the case that he was not involved in any substantive work, as he had said. (please refer to paragraphs 7.42, 7.50, 8.12 to 8.15)

- 8.77 The Select Committee wanted to find out if Mr CHUNG's involvement in the Hunghom Peninsula dispute had any connection with Mr LEUNG Chin-man's participation in the Hunghom Peninsula case. As Mr CHUNG had claimed legal professional privilege at the hearings, this has prevented the Select Committee from getting a full picture of Mr CHUNG's role in the dispute. However, given that Mr CHUNG was a Senior Consultant of Messrs Cheung, Chan & Chung which had been appointed to deal with the Hunghom Peninsula case through the arrangement of Mr CHUNG, and that Mr CHUNG had participated in the substantive work of the firm in handling the Hunghom Peninsula dispute, the Select Committee considers that Mr CHUNG had some role in the case of the Hunghom Peninsula taken up by the firm. The Select Committee also notes that Mr CHUNG and Mr LEUNG got to know each other as early as 1972/1973, and since then Mr LEUNG has been a friend and a mentor to Mr CHUNG; Mr LEUNG nominated Mr CHUNG as a member of CPC in March 2003; and Mr LEUNG had played a steering role in the handling of the Hunghom Peninsula case. (please refer to paragraphs 8.3 to 8.5, 8.10 to 8.18, 8.69 to 8.72 and 8.76)
- 8.78 The Select Committee further considers that there was conflict of interest in the roles of Mr CHUNG Kwok-cheong as a member of CPC (a committee of HA) and as a Senior Consultant of Messrs Cheung, Chan & Chung (the solicitors of FSDL in the Hunghom Peninsula dispute with HA and the Government). The Select Committee finds it surprising that Mr CHUNG did not make a declaration about the appointment of Messrs Cheung, Chan & Chung as the solicitors of FSDL for the Hunghom Peninsula dispute when he took up the membership of CPC in

April 2003, or after his discussion with the CPC Chairman in June/July 2003, but made the declaration to HA only in late October 2003. The Select Committee notes that Mr CHUNG's declaration was made at a time when the Government was just about to re-open negotiation with the developer by way of mediation to settle the lease modification premium and the developer's claim for damages. (please refer to paragraphs 7.42, 7.50, 8.10 to 8.18, 8.22 to 8.24, 8.29 and 8.30)

Declaration of interests issue involved in the relationship between Mr LEUNG Chin-man and Mr CHUNG Kwok-cheong

8.79 The Select Committee notes from CSB Circular No. 19/92 on "Conflict of Interest" that serving officers should make a conscious effort to avoid or declare any conflict of interest between their official duties and their private interests. The Select Committee is of the view that Mr LEUNG, a former senior directorate officer at D8 level, should have been alert to the importance of avoiding public suspicion of any real or potential conflict of interest. Given Mr LEUNG Chin-man's relationship with Mr CHUNG Kwok-cheong, Mr LEUNG's role and participation in the Hunghom Peninsula case, Mr CHUNG's membership in CPC and Mr LEUNG's awareness of Mr CHUNG being a Senior Consultant of Messrs Cheung, Chan & Chung, the Select Committee considers that there is no ground for Mr LEUNG not to have declared to Mr Michael SUEN as soon as he became aware that Messrs Cheung, Chan & Chung were involved in the Hunghom Peninsula litigation, that he and Mr CHUNG had been friends for years. Mr LEUNG also had the responsibility to take the initiative to ask Mr CHUNG whether he was involved in the Hunghom Peninsula litigation, in order to avoid any potential conflict of interest which might have arisen from his relationship with Mr CHUNG. The Select Committee finds it unacceptable that Mr LEUNG has avoided the question on declaration of interest on the ground that he did not ask Mr CHUNG whether he had been involved in the litigation. (please refer to paragraphs 8.25 to 8.28)

8.80 Further, the Select Committee notes from the evidence given by Mr LEUNG Chin-man and the papers provided by the Government that D of H and deputy directors of HD would convene a meeting to discuss the nominations to HA or its committees. However, in the case of the nomination of Mr CHUNG Kwok-cheong as a member of CPC, there is no record of the person/party who nominated Mr CHUNG or any discussion on the nominations. On the other hand, the Select Committee also notes that the senior directorate officers of HD may nominate such persons as they think fit to be members of HA or its committees, but are not required to declare their relationship with the nominees. Committee considers that the nomination and appointment procedures for membership of committees under HA are not strict enough, and this might give rise to potential or actual conflict of interest. As reflected in the case of Mr CHUNG, there is room for improvement in the nomination and appointment procedures. The Select Committee sees a need for HA to consider reviewing these procedures. (please refer to paragraphs 8.17 to 8.21)

Employment of Mr LEUNG Chin-man by New World China Land Limited and Mr LEUNG's application to the Civil Service Bureau

8.81 As regards the employment of Mr LEUNG Chin-man by NWCL, the Select Committee finds the process puzzling. Although the idea of setting up a central procurement department in NWCL was conceived in 2007, Dr Henry CHENG did not look for a suitable candidate to be department head through headhunters or open recruitment but waited till August 2008 for Mr LEUNG to fill the post. While Dr CHENG told the Select Committee that he and Mr LEUNG Chin-man did not have any contact with each other after they met for the first time in March 2006, the Select Committee finds it strange that Dr CHENG should have suddenly thought of Mr LEUNG and asked Mr Stewart LEUNG in or about November 2007 to find out if he was interested in

joining New World. On the other hand, although Dr CHENG said that the central procurement department was very important to the management and cost saving of NWCL, up to 18 April 2009 when he attended the hearing of the Select Committee, Dr CHENG had made no move to set up the department in NWCL or to fill the post after the contract with Mr LEUNG was terminated on 16 August 2008. The Select Committee therefore has reasons to believe that Dr CHENG wished to employ Mr LEUNG and the post was created for him. (please refer to paragraphs 4.2 to 4.4, 8.8 and 8.31 to 8.35)

8.82 On Mr LEUNG Chin-man's application to CSB, Mr LEUNG said that it was not his responsibility to consider public perception in respect of his application and in his view such a responsibility lay with the Government. He had put the assessment of public perception to one side and, after answering three questions raised by himself, considered that he had done nothing wrong and had no need to avoid public suspicion in relation to his taking up of the employment with NWCL. However, the Select Committee notes that Mr LEUNG said in his public statement made on 16 August 2008 that his participation in the Hunghom Peninsula case was a factor which should have been taken into account by the approving authority. Mr LEUNG further stated in the hearings that before submitting the application for employment with NWCL to CSB, he had considered whether he had acted fairly and impartially in the disposal of the Hunghom Peninsula PSPS flats. These show that Mr LEUNG was fully aware that the Hunghom Peninsula case would arouse the concern of the approving authority, and he knew that the case was an important factor in vetting and approving his application. Select Committee is of the view that since the assessment of the application concerns Mr LEUNG's direct and significant pecuniary interest, involving a highly paid employment with NWCL, it was Mr LEUNG's responsibility to disclose all relevant information to the approving authority, including his participation in the Hunghom Peninsula case, so that the approving authority could properly consider issues of conflict of interest and public perception and to avoid any embarrassment to the Government. The Select Committee notes that as pointed out in the "Civil Servants' Guide to Good Practices" issued by CSB in 2005:

"[r]etired civil servants should act with good sense and propriety in pursuing post-service employment or business and avoid engaging themselves in activities which could be construed as being in conflict with their previous duties in the Government, or might bring the civil service into disrepute, or expose them or the Government to public controversy."

The Select Committee agrees with Miss Denise YUE that the Guide is a reference on the core values and good practices that all civil servants are expected to share and uphold. The Select Committee considers it a reasonable expectation that Mr LEUNG should observe the good practices above when making post-service work applications and when taking up the employment with NWCL. For these reasons, the Select Committee finds it totally unacceptable for Mr LEUNG to have said that he did not have the responsibility to consider public perception. The Select Committee considers that Mr LEUNG had not fulfilled his responsibility to provide, in a frank and honest manner, the important information on his participation in the Hunghom Peninsula case to the approving authority. (please refer to paragraphs 2.30, 5.99, 8.51, 8.52, 8.59 and 8.60)

8.83 Mr LEUNG Chin-man has explained to the Select Committee that he believed that the approving authority would consult Mr Michael SUEN on his application since Mr SUEN was his supervisor when he served as PSH/D of H, and that Mr SUEN would certainly take into account his participation in the Hunghom Peninsula case when assessing his application. The Select Committee finds no factual basis to support

Mr LEUNG's explanation, since according to the application procedures set out in CSB Circular No. 10/2005, only the relevant Head of Department, Head of Grade and Permanent Secretary would be involved in the assessment of an application. There is no provision for Directors of Bureaux to be consulted on the applications. The Select Committee considers that there is no reason why Mr LEUNG, a former D8 officer who should be familiar with civil service procedures and who declared in his application form that he had read CSB Circular No. 10/2005, should have been ignorant in this respect. Mr LEUNG's explanation is unacceptable to the Select Committee. The Select Committee has to point out that, irrespective of whether Mr SUEN would be consulted, it was Mr LEUNG's responsibility to provide information on his participation in the Hunghom Peninsula case, and he cannot push this responsibility onto others. (please refer to paragraph 8.51 and Appendix 4)

8.84 The Select Committee has to point out that even if Mr LEUNG construed item 25 (i.e. "How did the offer of outside work arise?") of the application form as "the origin of the work", and even if the family friend he referred to in "Introduced by a family friend" was Mr CHUNG Kwok-cheong, the fact remains that the employment did not originate from Mr CHUNG. According to the evidence obtained at the hearings, Mr Stewart LEUNG, as instructed by Dr Henry CHENG, approached Mr LEUNG Chin-man in late 2007 to see if he was interested in joining New World. At the lunch meeting on 8 May 2008, it was Dr CHENG who invited Mr LEUNG in person to work for NWCL and he only discussed the offer of appointment with Mr LEUNG after Mr CHUNG The Select Committee finds that it does not make sense for Mr LEUNG to consider his employment with NWCL as having arisen from Mr CHUNG, given that Mr CHUNG merely introduced Mr LEUNG to Dr Henry CHENG in March 2006. The Select Committee also considers that Mr LEUNG Chin-man had regarded his employment with NWCL as having arisen from Mr CHUNG because he did not want the parties involved in processing the application to be alerted by the mention of Dr Henry CHENG and Mr Stewart LEUNG, the two persons who had been involved in the Hunghom Peninsula case, thereby drawing attention to his participation in the Hunghom Peninsula case when they assessed the application. The Select Committee takes the view that Mr LEUNG gave the evasive answer of "*Introduced by a family friend*" when making the application for employment with NWCL to CSB to hide the fact that the job offer had come directly from the top management of New World, by which the Select Committee is led to the conclusion that he was deliberately withholding the facts. (please refer to paragraphs 4.2 to 4.7, 5.11, 5.12, 5.85, 5.103, 5.104, 8.34, 8.35 and 8.53 to 8.58)

While the Select Committee notes the Administration's advice 8.85 that the inclusion of the transfer clause and the non-specification of his duties in Mr LEUNG Chin-man's employment contract with NWCL might not constitute a breach of the terms of approval per se, the Select Committee is of the view that the Administration's requirements and procedure are too lax in this respect. Given that the approval granted to Mr LEUNG to take up post-service employment with NWCL was mainly based on the information provided by him in the application form, the information concerning Mr LEUNG's major duties in NWCL as well as his non-involvement in the business of NWCL's parent company and subsidiaries was important to the assessing parties. The accuracy of such information was essential for the Administration to make a realistic assessment of conflict of interest and public perception in relation to the Hence, the Select Committee finds it unacceptable for Mr LEUNG Chin-man not to have sought advice from CSB on such important information as the inclusion of a transfer clause and the non-specification of his main duties in his employment contract. (please refer to paragraphs 4.14, 4.15, 5.102, 8.61 and 8.64 to 8.66)

8.86 In the view of the Select Committee, the problem of Mr LEUNG Chin-man not having sought advice from CSB on the

inclusion of a transfer clause in his employment contract is particularly serious, as the clause might have bearing on his work in NWCL. the clause, NWCL could transfer or second Mr LEUNG to work for NWCL's subsidiaries or associated companies, or subsidiaries or associated companies of NWCL's holding company. However, it was stated in the application submitted by Mr LEUNG to CSB that he would be based in a major city in the Mainland, and that he would not be involved in the business of NWDCL or any subsidiaries of NWCL. Furthermore, according to the first and fourth items of additional work restrictions imposed by CSB on Mr LEUNG's employment with NWCL, he should confine his work to NWCL and should not involve himself in any business of NWCL that was connected with Hong Kong. the Select Committee considers that there is an obvious conflict between the transfer clause in the employment contract and the information provided by Mr LEUNG Chin-man in his application. The possibility of Mr LEUNG being transferred to NWDCL would have a potential conflict of interest with his previous duties in the Government. As such, the transfer clause could affect CSB's consideration of the application including the work restrictions to be imposed. The Select Committee considers it improper for Mr LEUNG to have signed the employment contract without seeking advice from CSB on the transfer clause in his contract. (please refer to paragraphs 4.14, 4.15, 4.35, 8.61, 8.64 to 8.66)

8.87 The Select Committee has to stress that the inclusion of a transfer clause in Mr LEUNG Chin-man's employment contract should not be taken lightly by the approving authority, as the problem arising from the transfer clause would very likely result in the approving authority making the same mistake which had previously triggered a review of the Control Regime. The review of the Control Regime conducted by the Government in 2004/2005 had arisen from a case of post-service employment taken up by a directorate civil servant. The case caused public controversy because the officer, who had been responsible for the formulation of housing policies in the public and

private sectors as well as drawing up plans and strategies for HA during her service with the Government, was given approval for taking up a post-service employment with a ferry company where the specified scope of duties only covered the fields of travel, transport, hotel, cultural, recreational and hospitality services. However, she had made public appearances, comments and presentation during the promotional activities hosted by a real estate developer (which was an associated company of the ferry company) for a proposal on a major cultural and real estate This was considered by CSB then to be tantamount to project. participation in the promotion of the developer's proposal to the public, which fell outside the scope of the approved work and hence was inappropriate and unacceptable. The Select Committee is of the view that as CSB has not requested applicants to submit a copy of the formal employment contract, CSB is unable to monitor effectively the taking up of approved post-service work by directorate civil servants (such as the above case and the inclusion of a transfer clause in Mr LEUNG This reflects the presence of Chin-man's employment contract). loopholes in the existing Control Regime which calls for improvement on the part of the Government.

8.88 In sum, in the view of the Select Committee, Mr LEUNG Chin-man, Dr Henry CHENG, Mr Stewart LEUNG and Mr CHUNG Kwok-cheong all played important roles and participated in the Hunghom Peninsula case, and they also had different levels of participation and roles in Mr LEUNG Chin-man's employment with NWCL. The employment of Mr LEUNG Chin-man has aroused public suspicion of whether he had acted impartially in the disposal of the Hunghom Peninsula development, and even public suspicion of the possibility of reward from the New World group of companies in return for the favour Mr LEUNG had done for the developer in the Hunghom Peninsula case. Having regard to the steering and co-ordinating role of Mr LEUNG in the Hunghom Peninsula case, the lease modification premium which was considered to be too low by the public, the circumstances surrounding

Mr LEUNG's employment with NWCL (including the possibility of the creation of the post in NWCL for Mr LEUNG), as well as the intricate connections among Dr Henry CHENG, Mr Stewart LEUNG, Mr CHUNG Kwok-cheong and Mr LEUNG Chin-man set out above, the Select Committee agrees with the view expressed by Mr Michael SUEN at the hearing that there were grounds for the public suspicion that Mr LEUNG Chin-man's taking up of the employment with NWCL was a deferred benefit related to the Hunghom Peninsula case. The Select Committee considers that there was conflict of interest in Mr LEUNG Chin-man's taking up of employment with NWCL, and it was inappropriate for Mr LEUNG to accept the appointment. (please refer to paragraphs 8.3 to 8.9, 8.12 to 8.17, 8.24 to 8.30, 8.50 and 8.69 to 8.81)

Chapter 9 Conclusions and recommendations

- 9.1 According to the Resolution passed by LegCo, the terms of reference of the Select Committee are to inquire into the vetting and approval for Mr LEUNG Chin-man to take up post-service work with NWCL and other real estate organizations, and whether there was any connection between such work and the major housing or land policies which Mr LEUNG had taken part in their formulation or execution and decisions which he had made pursuant to such policies while serving as D of B, PSH and D of H, that had given rise to any potential or actual conflict of interest, as well as related matters, and based on the results of the above inquiry, to make recommendations on the policies and arrangements governing post-service work of directorate civil servants and other related matters.
- 9.2 The Select Committee has given in Chapters 3 and 4 an account of Mr LEUNG Chin-man's applications for post-service employment with four organizations which are related to the real estate sector, namely HKHS, TCL, Fineland and NWCL. When studying these applications, the Select Committee notes that the first three appointments had not aroused public concern: Mr LEUNG's appointment with HKHS was unpaid, while his appointments with TCL and Fineland were of a part-time and non-executive nature; and Mr LEUNG had ceased the work and Fineland in September 2007 and August 2008 with HKHS In the course of its study on these three appointments, the Select Committee does not find any issues that warrant special attention. As such, the Select Committee has not made further inquiry into these three post-service appointments of Mr LEUNG. (please refer to paragraphs 3.23 to 3.26)
- 9.3 The Select Committee has focused its inquiry on the fourth appointment of Mr LEUNG Chin-man: an employment with NWCL, a

subsidiary company of NWDCL, with a remuneration of more than \$3 million per annum. The announcement of that employment had aroused widespread public concern. Mr LEUNG, while serving as PSH/D of H, was involved in the sale of the Hunghom Peninsula flats to the developer which belonged to the New World group of companies. The public at that time considered that the lease modification premium received by the Government was "ludicrous". The public was concerned that there was a conflict of interest between Mr LEUNG's acceptance of a lucrative job offered by NWCL less than two years after his retirement from the Government and his previous duties in the Government, to the extent that there was suspicion of this appointment being a reward given by NWDCL to Mr LEUNG for his handling of the Hunghom Peninsula case. The Select Committee is of the view that Mr LEUNG's taking up of the appointment had damaged the public's confidence in the proper conduct of former government officials. the central questions of the Select Committee's inquiry are whether it was inappropriate for Mr LEUNG to accept the appointment, and if it was inappropriate, why did the approving authority approve his application?

9.4 Before answering the above questions, the Select Committee considers it necessary to set out its views on the protection of the public interest and the individual's right to work, as well as what is the responsibility of directorate civil servants in considering taking up post-service work.

Protection of the public interest and an individual's right to work

9.5 The Select Committee is of the view that the public interest involved in the Control Regime governing the post-service work of directorate civil servants includes the public's confidence in the Government and its effective governance, and the trust in the civil service. The Government is duty-bound to ensure that such public interest is

protected when it considers post-service work applications and monitors applications which have been approved. At the same time, the Government is also bound to safeguard an individual's right to work and freedom of choice of occupation under the Control Regime⁶⁴.

9.6 The Select Committee respects the right of directorate civil servants to work and their freedom of choice of occupation. Committee also recognizes the contribution directorate civil servants can make to the community with their rich experience and expertise by continuing to work after their civil service career. They should not be deprived of their right to take up post-service work. However, the Select Committee has to point out that such a right is not without restriction, but must be subject to the public interest not being compromised. The Select Committee is of the view that safeguarding the public interest is the cornerstone of the Control Regime. While an appropriate balance has to be struck between the protection of the public interest and protection of the individual's right to work, the Select Committee is firmly of the view that the protection of the public interest must take precedence at all times. Only by doing so can the credibility of the civil service be upheld and effective governance be achieved by the Government.

Such rights are enshrined by Article 33 of the Basic Law and also protected under the International Covenant on Economic, Social and Cultural Rights and the Employment Policy Convention, 1964. Article 33 of the Basic Law provides that: "Hong Kong residents shall have freedom of choice of occupation". Article 6(1) of the International Covenant on Economic, Social and Cultural Rights states that: "The State Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right". Article 1(2)(c) of the Employment Policy Convention, 1964 states that: "There is freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use his skills and endowments in, a job for which he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin".

Responsibility of directorate civil servants in the taking up of post-service work

9.7 The Select Committee understands that the effective governance of the Hong Kong Special Administrative Region depends to a considerable extent on a civil service which upholds its core values and observes good practices. These core values underpinning the standards of conduct expected of civil servants include: commitment to the rule of law; honesty and integrity; objectivity and impartiality; political neutrality; accountability for decisions and actions; and dedication, professionalism and diligence⁶⁵. The Select Committee has to point out that civil servants should always put the protection of the public interest The more senior the position of the civil servant, the greater his powers, responsibilities and access to sensitive and confidential information, the higher will be the standard of conduct and integrity the public expects him to meet. The Select Committee has to stress in particular that it is the responsibility of directorate civil servants, when they are in service, to make the public believe that they are performing their official duties impartially in order to protect the credibility of the Government. This remains their responsibility after they have left the Government.

9.8 The Select Committee believes that overall, our civil servants have great integrity and are dedicated to their duties. The Select Committee notes that in the course of the execution of their duties and exercise of their powers within the Government structure directorate civil servants make policies and administrative decisions which may in fact be to the interest of some sectors or organizations. At the same time, civil servants leaving the Government are among the targets of senior recruitment for business organizations. While there is nothing against this practice in a free society, this nevertheless creates a situation in

The core values underpinning the standards of conduct expected of civil servants are set out in the Civil Service Code as annexed to CSB Circular No. 9/2009.

which the public may be concerned about possible conflict of interest, particularly the concern that a directorate civil servant may so exercise his powers and functions while in government service as to pave his way for post-service employment in a related sector or organization. concern is not confined to the situation where an unlawful agreement or actual transaction exists between the civil servant and the organization, whether or not such agreements or transaction can be substantiated. real possibility of the directorate civil servant unilaterally doing something in the hope that he may stand a better chance of getting some lucrative post-service employment with these organizations or sectors is enough to affect the public's confidence in his impartiality in the performance of his public duties. Conversely, business organizations which benefited as a result of the policy or administrative decision made by directorate civil servants may offer employment to the officers concerned after they left the Government, and this may influence serving directorate civil servants as an encouragement. In these circumstances, the public will be worried about the presence of a conflict of interest. Public confidence in the good administration where powers are exercised with fairness and impartiality by the directorate civil servant concerned will be undermined and the credibility of the Government will suffer, if proper measures are not put in place to deal with these concerns effectively. The Select Committee considers it necessary for the Government to adopt effective policies and measures which will prevent civil servants from taking up inappropriate post-service employment, so as to address the public's concern.

9.9 The Select Committee considers that both serving civil servants and those who have left the service should uphold the core values and responsibility of the civil service stated in paragraph 9.7. The Select Committee also believes that this is the public's reasonable expectation on them. In respect of the pursuit of post-service employment by civil servants, the following requirements are set out clearly in Chapter 8 of

the "Civil Servants' Guide to Good Practices" issued by CSB (version published in March 2005):

"To maintain the standing and integrity of the civil service, it is important that civil servants, even after they have left the service, should continue to conduct themselves in an appropriate manner as the activities which they take up would continue to be seen by the public as a reflection of the culture and character of the civil service. Retired civil servants should act with good sense and propriety in pursuing post-service employment or business and avoid engaging themselves in activities which could be construed as being in conflict with their previous duties in the Government, or might bring the civil service into disrepute, or expose them or the Government to public controversy."

Therefore, the Select Committee is of the view that directorate civil servants should consciously exercise self-discipline and abide by the code of good practices governing the pursuit of post-service work. They should act with good sense and propriety in pursuing post-service employment to avoid taking up work which may constitute real or potential conflict of interest with their duties during government service, or give rise to negative public perception.

Findings and conclusions of the Select Committee

9.10 To answer the questions in paragraph 9.3 above, the Select Committee looked carefully into the taking up of post-service work with NWCL by Mr LEUNG. The findings and conclusions of the Select Committee are set out below.

(1) Mr LEUNG Chin-man's participation in the Hunghom Peninsula case

9.11 Mr LEUNG Chin-man had deeply and directly participated in the disposal of the Hunghom Peninsula flats, and took a steering and co-ordinating role throughout the process. Since Mr LEUNG took up the post of PSH/D of H in July 2002, he had participated in formulating strategies on the disposal of the Hunghom Peninsula project and implementing decisions relating to the disposal exercise. He was in charge of co-ordinating the entire exercise, in particular the final mediation process leading to settlement, and recommended the Government to accept the developer's offer of the lease modification premium. The evidence obtained by the Select Committee when inquiring into Mr LEUNG's participation in the Hunghom Peninsula case also reveals that there was inconsistency in the evidence given by Mr LEUNG to the Select Committee about his role in the case. Select Committee considers that Mr LEUNG has attempted to play down his role and participation. (please refer to paragraphs 8.69 to 8.73)

(2) The taking up of employment with NWCL by Mr LEUNG Chin-man

9.12 NWDCL owns 70% shareholding of NWCL, while another subsidiary of NWDCL owns 50% of FSDL which was the developer of the Hunghom Peninsula development. Considering Mr LEUNG's deep involvement and steering role in the Hunghom Peninsula case, the inseparable business interests of the developer of Hunghom Peninsula which was owned by a subsidiary of the parent company of Mr LEUNG's prospective employer, the Select Committee has come to the conclusion that there is plainly a conflict of interest for Mr LEUNG to take up employment with NWCL. In these circumstances, it was inappropriate for Mr LEUNG Chin-man to take up the employment with NWCL. (please refer to paragraphs 4.47, 4.48, 8.69 to 8.73 and 9.11)

- (3) Mr LEUNG Chin-man's withholding of the relevant facts in his application for employment with NWCL
- 9.13 In the course of its inquiry, the Select Committee has discovered the following matters in relation to Mr LEUNG Chin-man's taking up of employment with NWCL: at the request of Dr Henry CHENG, Mr Stewart LEUNG had approached Mr LEUNG Chin-man personally to find out the latter's interest in joining New World; during the lunch meeting on 8 May 2008, Dr CHENG discussed directly with Mr LEUNG Chin-man the job offer and the main terms of employment, which were accepted by Mr LEUNG subject only to specific details to be followed up by Mr Adrian CHENG (the son of Dr CHENG) and Ms Lynda NGAN (another Executive Director of NWCL). (please refer to paragraphs 4.4, 4.8 and 8.58)
- 9.14 The Select Committee has found that when making the application to CSB for employment with NWCL, Mr LEUNG Chin-man gave the evasive answer of "a family friend" to hide the fact that the job offer had come directly from the top management of NWDCL; he did not disclose in the application his role and participation in the sale of the Hunghom Peninsula flats to NWDCL; and he gave inconsistent evidence at the hearings about his participation in the handling of the Hunghom Peninsula case and attempted to play down his role and participation. The above have led the Select Committee to the view that Mr LEUNG had deliberately withheld the truth. Mr LEUNG claimed that it was not his responsibility to consider public perception in respect of his application, and he could accept the employment with NWCL without the need to avoid public suspicion of conflict of interest. The Select Committee notes that, although he knew that the Hunghom Peninsula case would cause the approving authority to be concerned and was an important factor in vetting and approving his application, he did not provide the approving authority with the relevant information on his

participation in the Hunghom Peninsula case to enable the approving authority to consider such issues as conflict of interest and public perception this may provoke. The Select Committee considers that Mr LEUNG had not fulfilled his responsibility to provide, in a frank and honest manner, all relevant information for his application, and had failed to observe the good practices that civil servants are expected to follow when taking up post-service work as set out in the "Civil Servants' Guide to Good Practices". Mr LEUNG's conduct was unbecoming of a former senior official and liable to bring the civil service into disrepute. (please refer to paragraphs 8.69 to 8.73 and 8.82 to 8.84)

(4) Failure of the assessing parties to fulfil their due responsibilities

9.15 Notwithstanding the attempt of Mr LEUNG Chin-man to deliberately withhold certain facts when making his application to CSB and the weaknesses in the existing vetting and approving mechanism, the approval of Mr LEUNG's application would not have happened if the officials involved in the vetting and approving process had done their duty diligently and seriously in a way that the public has a right to expect. The Select Committee finds that, when making its inquiry into Mr LEUNG's application, most officials involved in the vetting and approval process took a blinkered view and did not take into full consideration the six assessment criteria set out in CSB Circular Moverover, they had different understanding of the No. 10/2005. assessment criteria. The practices they adopted in the processing of the application varied, and the way they handled the process was careless and They over-relied on the honour system and accepted perfunctory. information provided by Mr LEUNG in the application form at face value. The Select Committee's observations on the vetting and approval of Mr LEUNG's application by the officials concerned are set out in Chapter 5. (please refer to paragraphs 5.17 to 5.21, 5.34 to 5.36, 5.47, 5.48 and 5.105 to 5.118)

- 9.16 One point which particularly surprised the Select Committee is that of the three branches involved in vetting and assessing the application, the only branch that had raised a public perception alert to CSB was WB, which had the least connection with Mr LEUNG during his previous government service. The Select Committee is of the view that HB could have discovered Mr LEUNG's significant role in handling the Hunghom Peninsula case had it conducted some file search. from which LD officials had been deployed to assist the then HD in the negotiation and mediation with NWDCL, could similarly have noticed Mr LEUNG's participation in the Hunghom Peninsula case. CSB, while having to rely on information provided by the above branches, could have prevented the fiasco which caused the Government great embarrassment if it had taken an independent and objective view of the application and asked questions critically instead of just nodding it through and imposing four additional work restrictions which did not address the real issue. The public expects CSB to discharge its role properly as the gatekeeper. In failing to fulfil this primary function in the vetting and approval procedure, CSB had let the public down. (please refer to paragraphs 5.17 to 5.21, 5.34 to 5.36, 5.47, 5.48 and 5.105 to 5.118)
- 9.17 The Select Committee is of the view that the ultimate responsibility rests with Miss Denise YUE. As the approving authority for post-service work applications from directorate civil servants, it is for her to ensure that the policy objective of the Control Regime is met before any application for post-service work is approved. Regrettably, her approval of Mr LEUNG's application had resulted in not only the public's suspicion being aroused about conflict of interest and deferred reward or deferred benefit, but also embarrassment to the Government and damage to the prestige of the civil service. The Select Committee considers that as reflected in Mr LEUNG's case, Miss YUE had neither given precedence to the protection of the public interest nor upheld the approval criteria of the Control Regime, resulting in the Government's

credibility being damaged. (please refer to paragraphs 5.100, 5.111 and 5.112)

Recommendations of the Select Committee on improvements to the Control Regime

9.18 It is essential for the Government to put in place an effective regime to govern the post-service work of directorate civil servants for the protection of the public interest. However, the evidence obtained in the inquiry shows that there are inadequacies in the existing Control Regime. The Select Committee urges the Government to consider the following recommendations with a view to improving the Control Regime.

(1) Restrictions on the taking up of post-service work

Restriction/ban on type of work

9.19 As directorate civil servants have built up extensive influence within the Government, and the policies which they have taken part in formulating and decisions which they have made in the exercise of discretionary powers vested in their office have great impact on the parties concerned and the community as a whole, in the Select Committee's observation, the taking up of post-service employment by these civil servants in the same field of work as those in which they have engaged in or have exercised discretionary powers during their government service would give rise to public suspicion of conflict of interest and negative public perception. In the case of Mr LEUNG Chin-man, for instance, as he had assumed a steering and co-ordinating role in handling the Hunghom Peninsula case, his taking up post-service employment with NWCL would give rise to public suspicion as to whether he had acted impartially in the disposal of the Hunghom

Peninsula PSPS flats. The Select Committee has pointed out in Chapter 6 that Mr LEUNG had exercised the discretionary power in his capacity as BA in regulating and controlling building developments during his government service, and since the nature and areas of the discretionary power BA exercised affected the real estate sector in numerous ways, Mr LEUNG's taking up of post-service work with organizations related to the real estate sector would also cause public concern about the fairness and impartiality of BA in the exercise of discretionary power.

- 9.20 As pointed out in paragraph 9.6, the Select Committee recognizes the contribution that directorate civil servants can make to the community with their expertise by continuing to work after their civil service career, and they should not be deprived of their right to take up post-service work. At the same time, the Select Committee notes from the report of the Review Committee that none of the seven overseas jurisdictions⁶⁶ studied by the Review Committee specifically prohibits a former senior civil servant from taking up post-service work in the same field as he did while in government service.
- 9.21 Having regard to the above considerations, the Select Committee does not consider it appropriate to impose a total prohibition on the taking up of post-service work by directorate civil servants in the same field of work as those in which they have engaged in their past government duties. Neither does the Select Committee consider it appropriate to impose a ban on the taking up of post-service work by directorate civil servants either across-the-board or on a sectoral basis.
- 9.22 The Select Committee believes that it is most important for an effective system to be put in place to strike the right balance between the protection of the public interest and an individual's right to work, while at

The seven overseas jurisdictions are Australia, Canada, France, New Zealand, Singapore, the United Kingdom and the United States of America.

the same time ensuring that each application would be carefully and critically considered by the vetting and approving officials as well as ACPE which advises on the applications. Of equal importance is that when making an application, the applicant should assess and evaluate his application and provide all relevant information in a frank and honest manner for consideration by the approving authority. In short, the Select Committee advocates a system which would ensure fairness to all parties, and holds that, under all circumstances, protection of the public interest must be the overriding concern.

Length of the sanitization period

- 9.23 The Select Committee notes that under the existing Control Regime, directorate civil servants are normally not allowed to take up full-time paid work or work of a commercial nature during their final leave period or the sanitization period (the latter counting from the date when a directorate civil servant proceeds on final leave). The length of the final leave period varies depending on the period of untaken leave of the directorate civil servants. The minimum sanitization period is six months for retired directorate civil servants ranked at D1 to D3, and 12 months for those at D4 to D8. No minimum sanitization period is prescribed for the taking up of post-service work by directorate civil servants leaving the Government on grounds other than retirement (e.g. on completion of agreement or resignation). For these civil servants, the approving authority will consider the need for and length of sanitization period on a case-by-case basis.
- 9.24 The Select Committee considers that the existing sanitization period for the taking up of post-service work by directorate civil servants leaving the service on the ground of retirement is appropriate and does not recommend any change. However, during the Select Committee's inquiry, there was public concern about the approval given to directorate civil servants for taking up post-service employment with public bodies

shortly after their resignation. The Select Committee notes that the sanitization period imposed on these directorate civil servants was shorter than the usual sanitization period for civil servants of the same ranks retiring from the Government. Such cases have drawn the Select Committee's attention to the fact that, while a minimum sanitization period is specifically prescribed for the taking up of post-service work by civil servants upon retirement, no such period is imposed on directorate civil servants leaving the service on grounds other than retirement. Select Committee is concerned that, with such a great difference in the extent of control in respect of the sanitization period over the taking up of post-service work by the two groups of civil servants mentioned above, some directorate officers who resign from the Government may be able to avoid the more stringent control. From the perspective of public interest, it will affect the operation of the Government, and the Control Regime The Select Committee sees a need for the will be rendered meaningless. Government to review the sanitization period for the taking up of post-service work by directorate civil servants leaving the Government on grounds other than retirement.

Assessment period

9.25 Under the existing Control Regime, applicants ranked at D1 to D3 are required to provide information on the service history of their last three years of government service, or their last six years of government service for those at D4 to D8. The assessing parties would in general assess an application from a directorate civil servant with reference to his last three years of government service. Where the applicant is a directorate officer at D4 or above or if the work undertaken by him is of particular sensitivity, duties prior to the three-year period may also be taken into account. When assessing applications made by these applicants, the assessing officials responsible for completing Assessments A and B in Part III of the application form may take into account either

the last three years or six years of the applicants' active government service.

- 9.26 In the case of Mr LEUNG Chin-man, both Mr Thomas CHAN (who was responsible for completing Assessment A in Part III of the application form) and Mrs Sarah KWOK (who was responsible for completing Assessment B in Part III of the application form as Head of the AO Grade Management) decided to take Mr LEUNG's last three years of government service as the assessment period. As Mr LEUNG was a senior civil servant at D8 who had taken part in the formulation and execution of major policies and decisions, the Select Committee finds it grossly inadequate for the assessing parties to have considered his application only on the basis of his last three years of service.
- 9.27 The Select Committee considers that the assessment period for directorate civil servants at D1 to D3 is appropriate and may thus remain unchanged. For those at D4 to D8, given the more senior positions they had occupied, their greater access to sensitive government information and their extensive involvement in the formulation of major policies, the Select Committee considers that a longer assessment period of the service history of these officers is required in order to facilitate a thorough and comprehensive assessment of their applications for post-service work. Therefore, the Select Committee recommends that the Government should consider removing the discretion, which may be exercised by the assessing parties, in adopting the assessment period of either the last three years or six years of active government service for D4 to D8 officials making post-service work applications, so that all such applications will be assessed with reference to the applicants' last six years of service.

Length of the control period

9.28 The taking up of post-service work by directorate civil servants is also subject to a control period which counts from the date of their

formal departure from the Government upon exhaustion of final leave. During the control period, they are required to seek prior permission from SCS before taking up any post-service work. Under the existing Control Regime, the control period is two years for directorate civil servants at D1 to D7, and three years for those at D8 who have retired from the civil service. In the case of directorate civil servants leaving the Government on grounds other than retirement and who have six or more years of continuous government service, the control period is the same as that for those leaving the Government on retirement; for those with less than six years of continuous government service, the control period is one year for D1 to D7 directorate civil servants, and one and a half years for those at D8.

- 9.29 The Select Committee is of the view that the control period applicable to the taking up of post-service work by directorate civil servants would not constitute unreasonable restriction on an individual's right to work, as these civil servants can undertake post-service work subject to prior approval. In this regard, the Select Committee notes that the period of restriction for taking up post-service work in overseas control regimes ranges from one to five years after the civil servants concerned have left the government. The Select Committee has considered if the length of control period should be determined on the basis of the duties of the directorate civil servants during their government service, rather than their ranks as under the existing Control Having regard to the fact that civil servants in more senior positions have greater powers, higher responsibilities and greater access to sensitive and confidential information, the Select Committee considers it justified for the length of the control period to be determined by ranks. The Select Committee therefore takes the view that the length of the control period should be based on the ranks of directorate civil servants.
- 9.30 Taking into account the more senior and more important positions held by directorate civil servants in the Government, the public

is particularly concerned about whether their post-service work would constitute conflict of interest with their duties during government service. The Select Committee is of the view that by imposing a longer control period on directorate civil servants at more senior positions, it would reduce the possibility of conflict of interest, thereby strengthening the protection of the public interest.

9.31 Directorate civil servants at D1 to D3 include mainly junior deputy secretaries and principal assistant secretaries of bureaux, assistant heads of departments and chiefs of some professional grades. their level of participation in policy formulation is relatively lower, the Select Committee considers that the control period of two years for these directorate officers may remain unchanged. As for directorate civil servants at D4 to D7, they are mainly heads of departments and senior deputy secretaries of bureaux, who will deputize for permanent secretaries when the need arises. In comparison with D1 to D3 directorate civil servants, they have greater powers and stronger influence over the formulation or execution of government policies, as well as greater access to confidential information. As there is a notable difference in powers and responsibilities between the two groups of officers above, the Select Committee recommends that the Government should consider extending the control period for D4 to D7 officers to four years. D8 officers are the most senior civil servants who assume an important role in the formulation of government policies and have the most access to confidential and sensitive information. The public would have a greater concern about whether the post-service work taken up by these directorate officers might constitute conflict of interest with their duties during government service. The Select Committee therefore considers that the control period for D8 officers should be the longest. Nevertheless, having regard to the fact that the powers and functions of some D4 to D7 officers are not far from those of D8 officers and that it would be undesirable if there is a large gap between the control periods for these two groups of directorate civil servants, the Select Committee recommends that the Government should consider extending the control period for D8 officers to five years.

9.32 The following table summarizes the Select Committee's recommendations on improvements to the assessment period, sanitization period and control period under the Control Regime as set out in paragraphs 9.23 to 9.31:

	Assessment period (directorate civil servants retiring from the Government or leaving the Government on grounds other than retirement)		Sanitization period (directorate civil servants retiring from the Government)		Control period (directorate civil servants retiring from the Government)	
Directorate Pay Scale	Existing arrangement	Recommendation	Existing arrangement	Recommendation	Existing arrangement	Recommendation
D1 to D3	3 years	3 years	6 months	6 months	2 years	2 years
D4 to D7	3 or 6 years	6 years	1 year	1 year	2 years	4 years
D8	3 or 6 years	6 years	1 year	1 year	3 years	5 years

- (2) <u>Inclusion of public suspicion of deferred reward or benefit in return</u> as a factor for consideration in the assessment criteria
- 9.33 The Select Committee has pointed out in paragraph 5.114 that Miss Denise YUE told the Select Committee at the hearings that CSB Circular No. 10/2005 did not use expressions such as "deferred reward" and, if interpreted from a broad perspective, the six key factors set out in the circular could include the consideration of public suspicion about a deferred reward. However, other officials involved in the processing of Mr LEUNG Chin-man's application (including Mrs Sarah KWOK and Mrs Susan MAK) had a different understanding. They told the Select Committee that deferred reward was not a specified factor for consideration under the existing Control Regime.

9.34 The Select Committee considers that public suspicion of deferred reward or benefit in return is an important factor for consideration in assessing post-service work applications, and should be spelt out explicitly in the assessment criteria. It would convey a clear message to applicants, officials concerned and ACPE that this factor has to be taken into account when making and assessing applications. Select Committee recommends that the Government should consider revising the assessment criteria so that public suspicion of deferred reward or benefit in return would be included in the specific considerations when making the assessment. The Select Committee further recommends that CSB should provide clear guidelines to officials concerned and ACPE on how assessment of public suspicion of deferred reward or benefit in return should be made to facilitate the vetting and consideration of applications.

(3) The responsibilities of applicants

Providing information and assessing applications in a frank and honest manner

9.35 The Select Committee considers that it is incumbent upon an applicant to provide the information as required in the application form and to assess and evaluate his application for post-service work against the assessment criteria set out in the relevant CSB circulars in a frank and honest manner before submitting the application to the Government. Since he best knows the work he did while in government service, the applicant has the responsibility to draw to the attention of the approving authority matters which should be noted, including disclosing possible conflict of interest involved in his application. The Select Committee recommends the Government to consider revising the application procedure to clearly reflect the above responsibilities of applicants when submitting applications to CSB. Furthermore, the Government should consider specifying in the relevant CSB circulars the good conduct

expected of former civil servants in respect of their taking up of post-service work, as stated in the "Civil Servants' Guide to Good Practices".

Information on service history and information relating to prospective employer

- 9.36 The Select Committee notes that under the existing regime, an applicant is required to provide in the application form his service history with description of major duties undertaken while in government service, but he is not required to provide information on his involvement in major assignments or projects relating to the prospective employer. Committee considers that such information is essential to facilitating a comprehensive assessment of the conflict of interest and public perception issues (including public suspicion of deferred reward or benefit in return) relating to the application. The Select Committee recommends that the Government should consider requiring an applicant to provide information on major assignments or projects relating to the prospective employer and other companies within the same group as the prospective employer in which he was involved during the last three years (for D1 to D3 applicants) or the last six years (for D4 to D8 applicants) of his government service for consideration by the approving authority.
- 9.37 The Select Committee also notes that under the Control Regime, if an applicant has indicated in item 22 of the application form that he would not be involved in the business of the prospective employer's parent company or the prospective employer's subsidiaries, he is not required to provide information on his previous dealings with these companies in items 26 to 30 of the application form, and the subsequent assessment of the application by the officials concerned will not cover these companies. The Select Committee considers that information on the applicant's previous dealings with companies within the same group

as the prospective employer is essential for assessing conflict of interest and public perception relating to post-service work applications. Even if the applicant has indicated that he would not be involved in the business of other companies within the same group as the prospective employer, as the business interests of these companies are inseparable and it is possible for the applicant to have had previous dealings with these companies, the Government should not turn a blind eye to this, and should examine the information pertinent to these companies when assessing the application. The Select Committee therefore recommends that an applicant should be required to provide information on his previous dealings while in government service with the prospective employer and with other companies within the same group as the prospective employer. Moreover, the applicant should be required to provide any other information pertaining to his prospective employer and proposed employment during his government service.

9.38 The Select Committee has to stress that in considering an application, the Government should examine in detail all the information provided by the applicant in order to make a comprehensive assessment. As to how the scope of other companies within the same group as the prospective employer should be defined, it is a matter for the Government to consider thoroughly.

Assisting applicants in fulfilling responsibilities

9.39 To facilitate the applicants in fulfilling their responsibilities, the Select Committee recommends that the Government should consider developing guidelines which would enable the applicants to have a clear understanding of the requirements under the Control Regime as set out in the relevant CSB circulars, including the assessment criteria and coverage, as well as the way in which the applicants should assess and evaluate their applications. Furthermore, the Government should consider specifying clearly in the relevant circulars that, upon a breach of the

requirements under the Control Regime, the approval given for an application will become invalid and the applicant will be liable to sanctions. If an applicant encounters difficulties in providing the information required for his application, the Select Committee recommends that he may seek such information from the bureaux/departments in which he has served during his last three years or six years of service, and the respective bureaux/departments should render assistance to the applicant where necessary.

(4) <u>Standardization of the processing and vetting practices</u>

9.40 The evidence obtained from the Select Committee's inquiry shows that the officials in different policy bureaux and branches had adopted different practices in vetting and assessing post-service work applications from directorate civil servants: some officials would collate information and conduct file research before making analysis and recommendations, while some would accept in full the information provided by applicants without undertaking research and would even make subjective judgment. The Select Committee considers it necessary for the Government to ensure that officials processing the applications are conscious of the important responsibilities they have in the vetting and assessment process, and that they should perform their duties in a prudent and conscientious manner. All of them should understand clearly the policy objective of the Control Regime with full regard given to the assessment criteria, and consider applications from a broad perspective.

9.41 The Select Committee has pointed out in paragraph 5.113 that at the public hearings, the officials concerned unanimously made the remark that they had not associated Mr LEUNG's application with the Hunghom Peninsula case. In the view of the Select Committee, this reflects a need for the Government to strengthen the officials' awareness and alertness to relevant issues which may impact on the vetting and approval of applications, and to raise their sensitivity to possible public perception

Mr LEUNG's application had assessed public perception from a narrow perspective. Their only considerations were that Mr LEUNG's duties with NWCL were to be carried out in the Mainland and Mr LEUNG would not be involved in the business of his prospective employer's parent company, NWDCL. But they had neglected the fact that the business interests of a subsidiary company cannot be segregated from those of the parent company.

- 9.42 The Select Committee considers that it is necessary for the assessing parties in different bureaux/departments to adopt consistent practices and be conversant with the assessment criteria for processing, vetting and assessing applications. The Select Committee recommends that improvements should be made by the Government, including giving consideration to the following measures:
 - (a) devising a set of standardized practices for processing and vetting applications for adoption by bureaux/departments;
 - (b) providing clear guidelines with examples of precedent cases to officials responsible for vetting and assessing applications to ensure that they fulfil their responsibilities, and to assist them in making sound judgment in assessing issues of conflict of interest, public perception and public suspicion of deferred reward or benefit in return;
 - (c) reviewing and enhancing communication with civil servants to ensure that they fully understand the policy objective of the Control Regime and the relevant assessment criteria, and that they would consider applications from a broad perspective; and

(d) strengthening measures so that officials responsible for vetting and assessing applications in individual bureaux/ departments would have a thorough understanding of their due responsibilities, thereby ensuring that the vetting and approval work is carried out in a prudent and conscientious manner.

(5) <u>Undesirability of relying solely on the honour system</u>

- Regime to operate on an honour system. However, the approving authority should not rely solely on the honour system and take the information provided by applicants at face value and neglect to closely monitor the approved cases. The Select Committee considers that the assessing parties should thoroughly and proactively vet and verify the information provided by the applicants, and CSB should step up efforts in monitoring the compliance of successful applicants with the conditions imposed on the approved work. Only in this way could the effectiveness of the honour system be enhanced.
- 9.44 The Select Committee also recommends that an applicant should be required to provide a copy of the appointment letter or employment contract to CSB within a specified period after the granting of the approval to enable verification of the terms of employment; otherwise, the approval granted to him would become invalid. If there are subsequent changes to the terms and conditions in the contract, the applicant should also provide the revised version to CSB within a specified period. The Select Committee further recommends that in the event of any subsequent changes to an approved application, including those which may impact on the relevant information provided by the applicant and considered by the approving authority in granting the approval, the applicant should report such changes to CSB. The

requirements recommended above should be stated clearly in the relevant CSB circulars as well as the approval letter issued to the applicant.

(6) Improvement to the application form

9.45 The Select Committee considers that the information required in item 25 of the application form (i.e. "How did the offer of outside work arise?") should serve the purpose of informing officials responsible for vetting and approving applications of the channels through which an applicant has acquired the job (including open recruitment, personal arrangement or other contacts), the name of the introducer of the job and relevant information regarding his relationship with the prospective Such information will enable the officials concerned to be employer. alerted to any relationship which the introducer may have with the prospective employer and its group of companies, thereby facilitating them in ascertaining whether there is any real or potential conflict of interest between the proposed work and the applicant's previous duties in the Government. However, the existing item 25 of the application form The Select Committee considers that the Government falls short of this. should make improvements to address the issue. Furthermore, as stated in paragraphs 9.35 to 9.37 above, it is incumbent upon an applicant to assess and evaluate his application before submitting it to the Government, and an applicant should also be required to provide information on major assignments or projects in which he had been involved, as well as any previous dealings, that were connected with his prospective employer and other companies within the same group as the prospective employer. The Select Committee is of the view that the application form should be revised to ensure the provision of such information by applicants.

(7) Extension of coverage and accessibility of the public register

- 9.46 Currently, CSB would enter a case record on the post-service work taken up by a directorate civil servant at D4 or above on a public register which is available for public inspection upon request within the control period of the directorate civil servant concerned as long as he is still engaged in the work. This arrangement does not apply to cases of approved post-service work for directorate civil servants below D4.
- 9.47 The Select Committee recommends that the coverage of the public register be extended to include all approved cases of D1 to D8 directorate civil servants, and the register be made accessible to the public on the Government website. In respect of the period during which information in the public register should be made available for public inspection, the Select Committee takes the view that it should tally with the length of the control periods for the directorate civil servants, or upon their notification to CSB that they have ceased the work, whichever is the The Select Committee believes that by enhancing the disclosure of information on approved cases, not only will it increase the transparency of the Control Regime, thereby enabling greater public scrutiny, but it will also foster public confidence in the regime. In the view of the Select Committee, this "sunshine policy" could help to ensure that the officials concerned exercise prudence in processing and approving the applications, and that the successful applicants would be alert to the fact that their post-service employment is under public scrutiny and they should comply with the conditions of the approval and restrictions imposed at all times.
- (8) <u>Improvement to the operation of the Advisory Committee on</u>
 <u>Post-service Employment of Civil Servants</u>
- 9.48 The Select Committee has to point out that ACPE is the only external assessment body under the Control Regime responsible for

advising SCS on post-service work applications from directorate civil servants. The Select Committee notes, however, that in handling post-service work applications from directorate civil servants, ACPE has often relied solely on information provided by CSB, and seldom offered advice or convened meetings to consider the applications.

- 9.49 The Select Committee appreciates that the Chairman and members of ACPE perform a public service on a voluntary and part-time basis. The Select Committee also understands the limits within which they operate, including not having their own secretariat and the limited resources available. Nonetheless, given the important role of ACPE, the Select Committee considers that ACPE should give independent and impartial advice to SCS. On the other hand, CSB should attach greater importance to the work of ACPE and strengthen its role. Only then would ACPE be able to meet its responsibilities and play its role effectively.
- 9.50 In examining the role of ACPE, the Select Committee has considered whether the existing Control Regime should be overhauled. The options that have been explored by the Select Committee include: entrusting the power of the approving authority for post-service work applications to a body completely independent of the Government; keeping the advisory function of ACPE but turning it into a statutory body with an independent secretariat; and expanding the remit of an existing advisory body, such as the Public Service Commission, to take on the functions of ACPE. As these options represent a departure from the current regime, the Select Committee believes that the Government should seriously consider the feasibility and desirability of these options, and decide on the follow-up action.
- 9.51 The Select Committee takes the view that even if the role and organizational structure of ACPE remain unchanged, its mode of operation will have to be improved in order to enhance its credibility and

effectiveness. The Select Committee recommends that ACPE should improve its operation by, inter alia, holding regular meetings to consider applications, and inviting officials responsible for vetting and assessing post-service work applications in CSB and in other relevant bureaux/departments to the meetings to present their views and explain their recommendations on the applications. The Select Committee is of the opinion that through the exchange of views on the applications and ACPE members' proactive involvement in the process, members would have a better understanding of the views and concerns of the assessing parties, and this would facilitate their formulation of independent views on the applications in an informed manner.

- In parallel, the Select Committee considers that the Government should enhance the importance of ACPE. The Select Committee recommends that the Government should consider expanding the composition of ACPE, making it a practice for SCS to attend the meetings of ACPE in keeping with the importance the Government attaches to ACPE, reviewing the relevant guidelines on declaration of interests on a regular basis, and enhancing the transparency of ACPE, such as having the annual report on its work laid on the Table of LegCo.
- 9.53 The Select Committee trusts that the above recommendations would enable the Government to improve the Control Regime so as to strengthen the protection of the public interest in the taking up of employment by directorate civil servants after retirement, enhance the credibility of the civil service and maintain public trust in the Government.

The control over post-office employment of politically appointed officials and over the taking up of post-service work by directorate civil servants on grounds other than retirement

- 9.54 In the course of its inquiry, the Select Committee has noted that the post-office employment of politically appointed officials are subject to a different set of control arrangements which are less stringent than those governing the taking up of post-service work by directorate civil The Select Committee recognizes that politically appointed officials are different from civil servants in that they have no fixed tenure of office and will very likely pursue employment after leaving the Nevertheless, as politically appointed officials have Government. greater access to sensitive information and stronger influence on policy formulation than directorate civil servants, the Select Committee is of the view that it is essential for the post-office employment of politically appointed officials to be subject to control, and the relevant control arrangements should also be very stringent. The Select Committee is aware that the control over the post-office employment of politically appointed officials is not within its purview. Nevertheless, it believes that members of the public may have an even greater concern about the post-office employment of these officials. The Select Committee urges the Government to expeditiously conduct a review of the matter.
- 9.55 On the other hand, during the Select Committee's inquiry, there was public concern about the approval given to directorate civil servants for taking up post-service employment with public bodies shortly after their resignation. The Select Committee notes that the sanitization period imposed on these directorate civil servants is shorter than the usual sanitization period for civil servants of the same ranks leaving the service on retirement. While a minimum sanitization period is specifically prescribed for the taking up of post-service work by civil servants upon retirement, no such period is imposed on directorate civil servants leaving the service on grounds other than retirement. The Select Committee is

concerned that, given such a great difference in the extent of control in respect of the sanitization period over the taking up of post-service work by the two groups of civil servants mentioned above, some directorate officers who resign from the Government may be able to avoid the more stringent control and can take up employment with organizations in a relatively short time. Such situations will render the Control Regime meaningless. Not only does this deal a blow to the operation of the Government, but it also affects public confidence in its governance.

9.56 The Select Committee urges the Government to conduct reviews on the two matters above, and also recommends that LegCo should follow up the issues in question.

Good practices to be observed by directorate civil servants taking up post-service work and attitude expected of officials in vetting and approving the applications

- 9.57 The Select Committee observes that it is increasingly common for directorate civil servants to pursue post-service employment. These civil servants may become the targets of employment by business organizations or public bodies on account of the network they have established within the Government, as well as their familiarity with public policies and government procedures. If the post-service work taken up by directorate civil servants does constitute real or potential conflict of interest with their previous government duties, or if it gives rise to negative public perception, public interest would be prejudiced. This problem should not be overlooked by the Government.
- 9.58 While agreeing that it is the right of directorate civil servants to take up post-service work, the Select Committee must stress again that such a right should be subject to the requirement that the public interest is not compromised. With respect to the pursuit of post-service

employment by civil servants, the Select Committee reiterates that it is already stated in the "Civil Servants' Guide to Good Practices" issued by CSB that they are required to

"act with good sense and propriety.....and avoid engaging themselves in activities which could be construed as being in conflict with their previous duties in the Government, or might bring the civil service into disrepute, or expose them or the Government to public controversy."

The Select Committee has to point out that without a culture of honesty and integrity in the civil service, and vigilance of the officials involved in the vetting and approval of post-service work applications, improvement to the procedures of the Control Regime or related stipulations alone would not be able to ensure effective operation of the Regime for the genuine protection of the public interest.

9.59 Given their senior positions, substantial powers and access to a lot of sensitive and confidential information, directorate civil servants are required and expected by the public to meet a high standard of conduct and integrity. Directorate civil servants who wish to make post-service work applications should not just focus on whether their applications comply with the procedural requirements and stipulated provisions of the Control Regime. In deciding whether they should submit applications, directorate civil servants should consciously exercise self-discipline and abide by the code of good practices governing the taking up of post-service work, with full appreciation of the relevant policy objective and assessment criteria and giving overriding consideration to the protection of the public interest. If an applicant decides to submit an application, he should provide in a frank and honest manner all information which may affect the consideration of the application so as to

help the approving authority to achieve the policy objective of the Control Regime.

- 9.60 It is equally important that officials responsible for the vetting and approval of the applications exercise initiative in carrying out their responsibilities, fully understand the policy objective and assessment criteria of the Control Regime, and handle the applications in a careful and conscientious manner. In deciding whether an application should be approved or recommended for approval, they should give prime consideration to the protection of the public interest.
- 9.61 The Select Committee takes the view that both directorate civil servants and officials responsible for the vetting and approval of the applications should make a conscious effort to act responsibly. Only in this way will the recommendations on improvements to the Control Regime achieve the intended effects and the Regime meet the expectations of the community.

Acknowledgement

The Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man wishes to thank the Administration, all witnesses who have appeared before it to give evidence and all parties who have produced documents and/or made submissions to facilitate its inquiry. The Select Committee also records its appreciation to the staff of the Legislative Council Secretariat for their support and assistance throughout its work.

Signatures of members of the Select Committee

LI Fung-ying (Chairman)

LEE Wing-tat (Deputy Chairman)

Dr Margaret NG

Mrs Sophie LEUNG LAU Yau-fun

Dr Philip WONG Yu-hong

Ronny TONG Ka-wah

Dr LAM Tai-fai

Dr Samson TAM Wai-ho

Cyd HO Sau-lan

LAÚ Kong-wah

Dr PAN Pey-chyou

LEUNG Kwok-hung

Abbreviations

Abbreviations

ACPE Advisory Committee on Post-service

Employment of Civil Servants

AO Administrative Officer

Audit Audit Commission

B(P)R Building (Planning) Regulations

BA Building Authority

BAC Building Authority Conference

BD Buildings Department

BO Buildings Ordinance (Cap. 123)

CE The Chief Executive

CEO Chief Executive Officer

CPC Commercial Properties Committee

CS Chief Secretary for Administration

CSB Civil Service Bureau

D of B Director of Buildings

D of H Director of Housing

D of L Director of Lands

DEVB Development Bureau

DoJ Department of Justice

DS(CS)1 Deputy Secretary for the Civil Service 1

DS(PL) Deputy Secretary for Development (Planning

and Lands)

ExCo Executive Council

Fineland Real Estate (Holdings) Company

Limited

FSDL First Star Development Limited

GFA Gross floor area

HA Hong Kong Housing Authority

HB Housing Branch

HD Housing Department

Henderson Group Henderson Land group of companies

HKHS Hong Kong Housing Society

HO Housing Ordinance (Cap. 283)

HOS Home Ownership Scheme

HPLB Housing, Planning and Lands Bureau

ICI Independent Committee of Inquiry on the Sai

Wan Ho Development on Inland Lot No. 8955

LCPPO Legislative Council (Powers and Privileges)

Ordinance (Cap. 382)

LD Lands Department

LegCo Legislative Council

Messrs Cheung, Chan

& Chung

Cheung, Chan & Chung Solicitors & Notaries

MPOA Marine police operational area

NWCL New World China Land Limited

NWDCL New World Development Company Limited

NWS NWS Holdings Limited

PAC Public Accounts Committee

PC Policy Committee

PD Planning Department

PEO Principal Executive Officer

PLB Planning and Lands Branch

PRH Public rental housing

PS(H)/D of H Permanent Secretary for Transport and

Housing (Housing) and Director of Housing

PS(PL) Permanent Secretary for Development

(Planning and Lands)

PS(W) Permanent Secretary for Development

(Works)

PSCS Permanent Secretary for the Civil Service

PSH/D of H Permanent Secretary for Housing, Planning

and Lands (Housing) and Director of Housing

PSPL Permanent Secretary for Housing, Planning

and Lands (Planning and Lands)

PSPS Private Sector Participation Scheme

PTT Public transport terminus

PuraPharm International (Hong Kong) Limited

SCS Secretary for the Civil Service

SDM Senior Directorate Meeting

SHC Subsidized Housing Committee

SHKP Sun Hung Kai Properties Limited

SHPL Secretary for Housing, Planning and Lands

TCL Trust Company International Pty Limited

THB Transport and Housing Bureau

the Control Regime Control regime for governing the post-service

work of directorate civil servants (with effect

from 1 January 2006)

The Link REIT The Link Real Estate Investment Trust

the Mediation Team The Government mediation team handling the

mediation with the developer of the Hunghom

Peninsula PSPS flats

the Resolution Resolution passed by the Legislative Council

on 10 December 2008 to appoint a select committee to inquire into the post-service work of Mr LEUNG Chin-man and related

matters

the Review Committee Committee on Review of Post-service Outside

Work for Directorate Civil Servants

the Select Committee Select Committee to Inquire into Matters

Relating to the Post-service Work of

Mr LEUNG Chin-man

UBWs Unauthorized building works

Wai Kee Holdings Limited

WB Works Branch

Appendices

Practice and Procedure of the Select Committee

The Legislative Council passed a resolution to appoint the Select Committee on 10 December 2008. The resolution sets out the Terms of Reference of the Select Committee and authorizes the Select Committee to exercise the powers conferred by section 9(1) of the Legislative Council (Power and Privileges) Ordinance (Cap. 382). The Chairman, Deputy Chairman and the 10 members of the Select Committee were appointed by the President on 12 December 2008.

2. The procedures of select committees are regulated by the relevant provisions in the Legislative Council Rules of Procedure and Cap. 382. The practice and procedure in this paper include those not expressly provided for in the Rules of Procedure and Cap. 382.

Principles

- 3. In determining its own practice and procedure, the Select Committee has drawn reference from those adopted by previous select committees. Due regard has also been given to the following principles:
 - (a) the practice and procedure should be fair and seen to be fair, especially to parties whose interests or reputation may be affected by the proceedings of the Select Committee;
 - (b) there should be maximum transparency in its proceedings as far as practicable;
 - (c) the practice and procedure should facilitate the ascertaining of the facts relevant to, and within the scope of, its inquiry, as set out in the Select Committee's Terms of Reference, which do not include the adjudication of the legal liabilities of any parties or individuals;
 - (d) its proceedings should be conducted with efficiency; and

(e) the cost of the proceedings should be kept within reasonable bounds.

Practice and procedure

Term of office

4. In accordance with Rule 78(4) and (5) of the Rules of Procedure, the Select Committee shall be dissolved upon reporting to the Council or at the end of a term. If the Select Committee is of the opinion that it will not be able to complete consideration of the matter before the end of a term, it shall so report to the Council.

Chairmanship

5. All meetings of the Select Committee are chaired by the Chairman or, in his/her absence, by the Deputy Chairman. In accordance with Rule 79(3) of the Rules of Procedure, in the event of the temporary absence of the Chairman and Deputy Chairman, the Select Committee may elect a chairman to act during such absence.

Quorum

6. Rule 78(3) of the Rules of Procedure provides that the quorum of a select committee shall be one-third of the members excluding the chairman (a fraction of the whole number being disregarded). The quorum of the Select Committee shall therefore be three members excluding the Chairman. The Clerk to the Select Committee will draw to the attention of the Chairman on the absence of a quorum as and when there is such absence.

Voting

7. In accordance with Rule 79(5), 79(6), and 79A(1) of the Rules of Procedure, divisions in the Select Committee shall be taken by the Clerk to the Select Committee who shall ask each member separately how he/she wishes to vote and record the votes accordingly. Neither the Chairman nor any other

member presiding shall vote, unless the votes of the other members are equally divided in which case he/she shall have a casting vote, which shall not be exercised in such a way as to produce a majority vote in favour of the question put.

8. Decisions of the Select Committee shall be decided by a majority of the members present and voting, which is done by a show of hands. Abstentions are not counted for the purpose of determining the result of the vote.

Power to compel evidence

- 9. The Select Committee may, subject to sections 13 and 14 of Cap. 382, order any person to attend before it and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.
- 10. The Select Committee may also request any person or body to attend a meeting to give evidence orally, invite any person or body to give evidence in writing or any person or body to produce specified documents to the Select Committee.
- 11. The privileges and immunities provided in Cap. 382 are available in proceedings before the Select Committee which include hearings and deliberative meetings. Any person not lawfully ordered to attend to give evidence or to produce any paper, book, record or document before the Select Committee is not protected by section 14(1) of Cap. 382 relating to privileges of witnesses.

Conduct of meetings

General principles

12. In accordance with Rule 79(1) of the Rules of Procedure, the deliberations of the Select Committee shall be confined to the matter or matters referred to it by the Council.

- 13. A schedule of meetings for the Select Committee is usually agreed beforehand, but the Chairman has the authority to determine the date and time of meetings. Members will be notified by the Clerk of the time and venue of meetings. Where considered appropriate, the Select Committee may meet outside the Legislative Council Building.
- 14. In accordance with Rule 79(2) of the Rules of Procedure, meetings of the Select Committee shall be held in public unless the Chairman otherwise orders in accordance with any decision of the Select Committee.

Meetings for the examination of witnesses

- 15. Examination of witnesses will normally be conducted in public. Exceptions to open hearings may be made as decided by the Select Committee, based on the individual circumstances of each occasion.
- 16. During open hearings, members should only ask questions for the purpose of establishing the facts in connection with the inquiry. Members should not make comments or statements during these hearings.
- 17. Public hearings are generally conducted in the following manners:
 - (a) at the beginning of each open hearing, the Chairman reminds the public and the media that dissemination or disclosure of the evidence given at the hearing outside the proceedings is not protected under Cap. 382. The media should obtain legal advice as to their legal responsibilities;
 - (b) where it is decided that witnesses should be examined on oath, the Chairman will administer the oath under section 11 of Cap. 382 before the examination starts;
 - (c) facts are established by questions and evidence given at hearings. Usually, the Chairman will first make an introduction and then ask the witness an appropriate opening question, giving him/her an opportunity to state his/her case;

- (d) members wishing to ask questions should so indicate by a show of hands, and are called upon to ask questions. The Chairman will ensure, as far as possible, that members have equal opportunities to ask questions and that the hearing is conducted in a structured manner;
- (e) the Chairman will decide whether a question or evidence is relevant to, and within the scope of, the Select Committee's inquiry, as set out in its Terms of Reference;
- (f) short follow-up questions may be allowed. Follow-up questions should be questions seeking further answers to the original question or clarifications to the answers given. The Chairman has the discretion to decide whether a question is a follow-up question and whether it should be allowed or otherwise; and
- (g) the privilege in Cap. 382 is available only within the context of the hearings. All members, including non-Select Committee Members should refrain from making comments relating to the hearing outside the proceedings. Evidence given in closed meetings should not be made public by any members.
- 18. Unless excused under section 13(2) of Cap. 382 or justifiably claiming privilege under section 15, a witness summonsed under section 9 of Cap. 382 must answer all lawful and relevant questions from the Select Committee. If he/she refuses to do so, he/she commits an offence under section 17 of Cap. 382 and is liable to prosecutions. If the witness claims privilege from disclosure of evidence on grounds of public interest immunity, the procedure as set out in the Council's resolution concerning the usage and practice in regard to the determination of claims of public interest privilege in **Annex I** will be followed.
- 19. Subject to the Select Committee's decision, witnesses attending before the Select Committee may be allowed to be accompanied by other persons, who may include legal adviser(s), to assist the witnesses concerned. However, such accompanying person(s) may not address the Select Committee.

20. Witnesses attending before the Select Committee at its hearings to give evidence or to produce any paper, book, record or document may be eligible for claiming an allowance at specified rates to recompense loss of income or expenses incurred for attending the hearings. The details are in **Annex II**.

Measures taken to avoid possible prejudice to a person's interest in pending legal proceedings

- 21. In accordance with Rule 41(2) of the Rules of Procedure, a Member shall not make reference in his/her speech to a case pending in a court of law in such a way as, in the opinion of the President or the Chairman, might prejudice that case. This rule applies to the proceedings of the Select Committee by virtue of Rule 43 of the Rules of Procedure.
- 22. If there are pending legal proceedings arising from matters which are related to the subject of the Select Committee's inquiry, the following measures will be adopted to avoid possible prejudice to a person's interest in pending legal proceedings:
 - (a) the Department of Justice will be asked to keep the Select Committee informed of the development of the criminal proceedings concerned, if any;
 - (b) the Chairman would explain to each witness that the function of the Select Committee is not to adjudicate on the legal liability of any party or individual and advise him/her of the Chairman's power to disallow the making of any reference to a case pending in a court of law if such reference might, in the Chairman's opinion, prejudice the proceedings;
 - (c) where it is considered necessary and justified, either on an application by a witness or on the Select Committee's own motion, the Select Committee may determine to hold closed meetings to obtain evidence from a witness;

- (d) where the Select Committee considers necessary, it will provide the Department of Justice with a copy of the draft findings and observations of the Select Committee and request it to comment whether the contents of the draft might prejudice pending criminal proceedings, if any; and
- (e) the report of the Select Committee should not contain any material which might prejudice a pending criminal jury trial.
- 23. In respect of pending civil proceedings, the following principles also apply:
 - (a) references to matters awaiting adjudication in a court of law should be excluded if there is a risk that they might prejudice its adjudication;
 - (b) references referred to in (a) would include comments on, inquiry into and the making of findings on such matters;
 - (c) matters awaiting adjudication referred to in (a) would include matters in respect of which proceedings have been initiated by the filing of the appropriate documents; and
 - (d) prejudice referred to in (a) might arise from an element of explicit or implicit prejudgment in the proceedings of the Select Committee in two possible ways -
 - (i) the references might hinder the court or a judicial tribunal in reaching the right conclusion or lead it to reach other than the right conclusion; and
 - (ii) whether the court or judicial tribunal is affected in its conclusion or not, the references might amount to an effective usurpation of the judicial functions of the court or judicial tribunal.

Handling of requests for classifying documents as confidential

24. If requests are made by witnesses for classifying certain information or documents as confidential, the Select Committee shall consider carefully the circumstances of each case and the justifications provided.

Handling of information contained in classified documents or obtained at closed hearings

- 25. In fairness to persons who have provided classified documents for the Select Committee, if information contained in such documents is to be used at a public hearing, the source of the information will only be disclosed if it is necessary to do justice to the witness or to enable him to understand a question.
- 26. If closed meetings are held to obtain evidence from a witness who is a party to pending legal proceedings, information obtained in these closed hearings should be used with care, and where possible, the identity of the witness who has provided the information should not be disclosed.
- 27. Where the Select Committee is inclined to refer to information obtained in closed hearings in the Select Committee's report, an extract of the relevant part of the report in draft form should be provided to the witness concerned for comment. The comments received will be carefully considered by the Select Committee before its report is finalized.
- 28. Any information obtained by way of oral evidence or in the form of documents provided at closed hearings shall not be disclosed.

Internal deliberations

29. Subject to Rule 79(2) of the Rules of Procedure, the Select Committee may hold closed meetings to deliberate on procedural matters, progress of its work, the logistical arrangements for hearings, the evidence obtained, the draft report of the Select Committee and any other matters relevant to the Select Committee's work. Members including the Chairman and the Deputy Chairman should not disclose any information about the internal deliberations held or documents considered at these meetings. The

Select Committee Chairman or the Deputy Chairman should be the only persons authorized to handle media enquiries.

Handling of documents

- 30. All documents submitted to the Select Committee are numbered: by document and by page. Each member of the Select Committee will be given a copy of the documents produced to the Select Committee, unless advised otherwise with the consent of the Select Committee.
- 31. To facilitate members in perusing documents produced by the Select Committee, a room in the Legislative Council Building is reserved for keeping a complete set of documents produced to or compiled by the Select Committee. Only members of the Select Committee and the relevant staff can have access to the room. If the document is voluminous, a full copy is not issued to members of the Select Committee. Instead, members will peruse the documents which are placed inside the room. Members should not remove any paper from the room. Where a document is classified confidential, they should not make photocopy of it, in whole or in part.

Disclosure of interests

- 32. Rules 83A and 84 of the Rules of Procedure relating to Members' pecuniary interest shall apply to the proceedings of the Select Committee.
- 33. In addition, there may be situations in which a member wishes to declare non-pecuniary interests. In such a case, he/she should write to the Chairman to declare such interests. Where appropriate, the Chairman may announce at public meetings or hearings of the Select Committee the nature of interests so declared by individual members.

Participation of Non-Select Committee Members

34. While meetings held in public shall be attended by members of the Select Committee, non-Select Committee Members may also be in attendance at these meetings, but may not speak at the meeting. If a non-Select Committee Member wishes to direct any questions to a witness, he/she should put his/her questions in writing and pass them to the Chairman without

interrupting the proceedings, and the Chairman will decide whether or not the Chairman will ask the questions.

35. Non-Select Committee Members are not allowed to be present at closed meetings of the Select Committee or at hearings held at closed meetings.

Minutes of proceedings of the Select Committee

- 36. All proceedings of hearings and meetings are sound-recorded. Members of the public may obtain copies of the sound recordings of hearings and meetings held in public upon the payment of a fee.
- 37. Minutes of evidence, usually in the form of a verbatim transcript, are kept for each meeting at which witnesses are examined. Relevant parts of the draft transcript are forwarded to the person or body giving evidence for sight and correction, if any, before being incorporated into the minutes of evidence, subject to their signing of an undertaking that they would not make any copy of the draft and would return it to the Select Committee before a specified date. The procedures in **Annex III**, which apply to witnesses, shall also apply to persons or bodies other than the witnesses giving evidence requesting copies of transcripts of evidence. Any person may obtain a copy of the finalized form of transcript for meetings held in public upon the payment of a fee.
- 38. For hearings held in closed meetings, no transcripts will be provided for any person including the witnesses concerned. All witnesses however are provided with the relevant parts of the draft transcripts of evidence for sight and correction. The undertaking they are required to sign includes an additional requirement that any part of the draft transcript in question must not be divulged.
- 39. For meetings not attended by any outside party, the minutes of meetings are normally presented in a condensed form, recording the Select Committee's decisions, follow-up actions required, procedural matters and declarations of interest made by members. Verbatim record of such meetings may be prepared on the direction of the Select Committee.

Report of the Select Committee

- 40. The draft report of the Select Committee is considered by the Select Committee at closed meetings. In accordance with Rule 79(9) of the Rules of Procedure, the minutes of proceedings of the Select Committee record all proceedings on the consideration of the report and on every amendment proposed thereto, with a note of divisions, if divisions were taken in the Select Committee, showing the names of members voting in the division or declining to vote.
- 41. In order to ensure that the procedure is fair and seen to be fair to people whose interests or reputations may be affected by its proceedings, any party, person or organization against whom adverse comments are intended to be made in the Select Committee's report will be given an opportunity to comment on relevant parts of the draft findings and observations of its report. The comments received will be carefully considered by the Select Committee before its report is finalized.
- 42. In accordance with Rule 79(10) of the Rules of Procedure, a report of the Select Committee, with the minutes of proceedings and the minutes of evidence, if evidence was taken, shall be laid on the Table of the Council by the Chairman of the Select Committee.

Premature publication of evidence

43. In accordance with Rule 81 of the Rules of Procedure, the evidence taken before the Select Committee and documents presented to it shall not, except in the case of its meetings held in public, be published by a member of the Select Committee or by any other person before the Select Committee has presented its report to the Council. Any member of the Select Committee who fails to comply with this Rule may be admonished or reprimanded by the Council on a motion to that effect.

Resolution under Legislative Council (Powers and Privileges) Ordinance passed on 25 May 1994 and amended on 20 November 1996 and further amended on 16 April 1997

That with effect from 25 May 1994 the usage and practice in regard to the determination of claims of "public interest privilege" made by persons appearing before a committee of the Council shall be as set out in the Schedule annexed to this Resolution.

1. In this Schedule –

"relevant body", (有關方面) in relation to a committee before which a witness is attending to give evidence or to produce any paper, book, record or document, means -

- (a) the chairman and deputy chairman of the committee, where both are present (and references to the delivering of the opinion of the relevant body shall be taken to mean the opinion of the chairman where the chairman and deputy chairman disagree);
- (b) the chairman alone where the deputy chairman is absent;
- (c) the deputy chairman alone where the chairman is absent; or
- (d) where both the chairman and deputy chairman are absent, the member elected to act as chairman during such absence.

"witness" (證人) means -

- (a) a person lawfully ordered to attend to give evidence or to produce any paper, book, record or document before a committee; and
- (b) any public officer designated by the Governor under section 8A(2)(b) of the Legislative Council (Powers and Privileges)

Ordinance (Cap. 382) for the purpose of attending sittings of a committee.

- 2. If, at a public sitting of a committee, a witness refuses to answer publicly or privately any question that may be put to him, or to produce any paper, book, record or document, and claims privilege on the ground that the giving of the answer or the production of the paper, book, record or document would be contrary to the public interest the following procedure will apply -
 - (1) The chairman shall inform the witness that he may explain his reasons in confidence to the relevant body and that the relevant body will then deliver an opinion to the committee without disclosure of any information or paper, book, record or document claimed by the witness to be privileged from disclosure.
 - (2) If the witness agrees to explain his reasons to the relevant body the relevant body shall make arrangements to consider the reasons and deliver its opinion to the committee.
 - (3) If the relevant body delivers its opinion that the claim of privilege by the witness is justified in respect of an answer to a question or the production of any paper, book, record or document the committee shall excuse the answering of such question or the production of such paper, book, record or document.
 - (4) If the relevant body delivers its opinion that the claim of privilege by the witness is not justified in respect of any answer to a question or the production of any paper, book, record or document the committee may order the answering or production thereof.
 - (5) If the witness continues to refuse to answer any question or produce any paper, book, record or document the committee may take such action within its powers as it considers appropriate.

- (6) If the witness does not agree to explain his reasons to the relevant body under subparagraph (2) the committee may take such action within its powers as it considers appropriate.
- 3. If, at a public sitting of a committee, a witness refuses to answer in public any question that may be put to him, or to produce in public any paper, book, record or document on the ground of public interest privilege, but requests to answer such question or produce such paper, book, record or document at a private sitting of the committee, the following procedure will apply -
 - (1) The committee will deliberate in private whether to agree to the request by the witness.
 - (2) The decision of the committee will be taken by formal vote.
 - (3) If the committee decides to agree to the request by the witness no answer given by the witness at a private sitting nor any paper, book, record or document produced by him thereat shall be made public unless the committee decides during the private sitting that the request by the witness for confidentiality is not justified. Before reaching such a decision the committee shall give the witness an opportunity to state the grounds upon which he claims public interest privilege in respect of the particular answer or paper, book, record or document.

Allowance for witnesses

The following shall apply to the provision of an allowance ("the allowance") for witnesses attending before the Select Committee to Inquire into Matters relating to the Post-service Work of Mr LEUNG Chin-man at its hearings to give evidence and/or to produce documents -

I. <u>Eligibility</u>

- (a) Subject to (c) below, the allowance is payable to witnesses attending before the Select Committee at its hearings, whether or not they have the opportunity to give evidence at the particular hearings.
- (b) Witnesses who are ex-civil servants and have ceased active service with the Government and left the Government on expiry of their final leave will be eligible for the allowance.
- (c) The allowance is not payable to public officers¹ or persons in the service or employment of statutory bodies or other organizations which are funded by public money for attending the Select Committee's hearings in the course of their duties.

II. Rates

The allowance payable shall be a sum not exceeding \$180 for each attendance at a hearing of the Select Committee not exceeding four hours, and a sum not exceeding \$360 for each attendance exceeding four hours.

The term "public officer" is defined in section 3 of the Interpretation and General Clauses Ordinance (Cap. 1) to mean any person holding an office of emolument under the Government, whether such office be permanent or temporary.

III. Application procedure

Eligible witnesses may submit to the Clerk to the Select Committee claims for payment of the allowance no later than 14 days from the date of the hearings attended by the witnesses by completing the prescribed form.

Legislative Council Secretariat

Application form for payment of allowance for witness

*Please complete in BLOCK letters using black or blue pen

Part I : Personal details				
Surname			Given names	
Home/Correspondence Address				
Contact telephone no.				
Part II : Hearing details				
Name of Committ	ee			
Date of hearing(s)	Starting time of attendance required by the Committee		Ending time of attendance required by the Committee
				+
(Please use separate sheet(s				
Declaration of Applicant: I hereby apply for the payment of allowance for witness in respect of the above hearings which I have attended/been ordered to attend. I understand that any allowance so approved will be payable by cheque in my name and the cheque will be sent to my home/correspondence address as stated above. Signature Date				
For Official use only				
Part III (To be completed by Secretariat officers of the relevant Committee)			vant Part IV (T	To be completed by Accounts Office)
Total amount to be paid	. \$			
Checked by:		Approved by:	Payment made	de on
Signature/Title	- - Si	ignature/Title	Charged to c	ost center of
Date	Date		Signature _	Post Date

Notes:

- (i) A claim must be made within 14 days from the date of a hearing attended by a witness.
- (ii) The witness allowance payable shall be \$180 for each attendance at a hearing not exceeding four hours, and \$360 for each attendance exceeding four hours.

LCS37 (May 2009)

Provision of Transcripts of Evidence

The following procedures shall apply to the provision of transcripts of evidence taken by the Select Committee to Inquire into Matters relating to the Post-service Work of Mr LEUNG Chin-man -

- (a) where considered appropriate, the Select Committee may permit copies of the transcripts of evidence taken in public be provided to witnesses and prospective witnesses on request;
- (b) "witnesses" refers to persons on whom summonses have been served by the Select Committee to order their appearance before it; "prospective witnesses" refers to witnesses whom the Select Committee has decided to summon to appear before it;
- (c) where copies of transcripts of evidence taken in public are provided to witnesses or prospective witnesses, the unpublished and/or uncorrected status of the transcripts shall be stated clearly; and
- (d) the provision of unpublished and/or uncorrected transcripts of evidence taken in public to witnesses or prospective witnesses be made on the condition that they shall not make public use of the transcripts; shall not quote directly from the transcripts; and shall not use the transcripts in a manner prejudicial to the interest of the Select Committee or other persons.

Schedule of hearings and names of witnesses

<u>Hearing</u>	Dates of public hearings	Names of witnesses
1	17 March 2009	Mrs Sarah KWOK TAM Pui-yi Former Deputy Secretary for the Civil Service 1
		Mr Andrew WONG Ho-yuen Permanent Secretary for the Civil Service
2	21 March 2009	Mr Andrew WONG Ho-yuen Permanent Secretary for the Civil Service
3	3 April 2009	Mrs Pearl SIU NG Che-sheung Chief Executive Officer (Administration), Planning and Lands Branch, Development Bureau
		Mrs Susan MAK LOK Suet-ling Former Deputy Secretary for Development (Planning and Lands)1
4	8 April 2009	Mrs Susan MAK LOK Suet-ling Former Deputy Secretary for Development (Planning and Lands)1
5	15 April 2009	Mr PANG Kin-kee Chairman of the Advisory Committee on Post-service Employment of Civil Servants
		Dr Elizabeth SHING Shiu-ching Former Member of the Advisory Committee on Post-service Employment of Civil Servants
		Mr James Edward THOMPSON Member of the Advisory Committee on Post-service Employment of Civil Servants
		Ms Marina WONG Yu-pok Member of the Advisory Committee on Post-service Employment of Civil Servants

Hearing	Dates of public hearings	Names of witnesses	
		Mr Simon IP Sik-on Member of the Advisory Committee on Post-service Employment of Civil Servants	
		Mrs Carrie WONG HO Ka-lai Secretary to the Advisory Committee on Post-service Employment of Civil Servants and Chief Executive Officer (Pensions) of the Civil Service Bureau	
		Miss Denise YUE Chung-yee Secretary for the Civil Service	
6	18 April 2009	Dr Henry CHENG Kar-shun	
		Mr Stewart LEUNG Chi-kin	
7	21 April 2009	Miss Denise YUE Chung-yee Secretary for the Civil Service	
8	23 April 2009	Mr David CHOW Chor-kong Former Assistant Director (Administration), Housing Branch, Transport and Housing Bureau	
		Mr Thomas CHAN Chun-yuen Permanent Secretary for Transport and Housing (Housing)	
9	28 April 2009	Mr MAK Chai-kwong Permanent Secretary for Development (Works)	
		Mr WONG Kwai-kuen Chief Executive Officer (Works) Administration, Works Branch, Development Bureau	
10	30 April 2009	Dr Henry CHENG Kar-shun	
		Mr Stewart LEUNG Chi-kin	
11	9 May 2009	Mr LEUNG Chin-man	
12	12 May 2009	Mr LEUNG Chin-man	

<u>Hearing</u>	Dates of public hearings	Names of witnesses	
13	19 May 2009	Mr LEUNG Chin-man	
14	26 May 2009	Ms Kitty YU Wing-lun Principal Assistant Secretary (Housing) (Policy Support)/Assistant Director (Policy Support), Housing Department	
		Mr Marco WU Moon-hoi Former Deputy Director of Housing/Deputy Secretary for Housing (2), Housing Department	
15	30 May 2009	Mr Vincent TONG Wing-shing Former Deputy Director (Development and Construction), Housing Department	
16	2 June 2009	Mr Vincent TONG Wing-shing Former Deputy Director (Development and Construction), Housing Department	
17	4 June 2009	Mr CHUNG Kwok-cheong	
18	11 June 2009	Mr John Stanley CORRIGALL Former Deputy Director (Specialist), Lands Department	
19	14 July 2009	Mr Michael SUEN Ming-yeung Former Secretary for Housing, Planning and Lands	
20	20 July 2009	Mr LEUNG Chin-man	
21	22 July 2009	Mr LEUNG Chin-man	
22	3 November 2009	Dr Henry CHENG Kar-shun	
		Mr Stewart LEUNG Chi-kin	
23	17 November 2009	Dr Henry CHENG Kar-shun	
		Mr Stewart LEUNG Chi-kin	

Note: The above post titles were those held by the government officials and the Chairman and members of the Advisory Committee on Post-service Employment of Civil Servants at the time when they attended the hearings of the Select Committee.

Appendix 3

List of parties who have submitted views to the Select Committee

- 1. The Incorporated Owners of Dragon Garden
- 2. WONG, Danny
- 3. A member of the public
- 4. An anonymous member of the public

Ref.: CSBCR/AP/5-090-005/6 Pt.12

Government Secretariat Hong Kong

1 December 2005

CIVIL SERVICE BUREAU CIRCULAR NO. 10/2005

Taking Up Outside Work by Directorate Civil Servants After Ceasing Active Service

To: Directors of Bureau
Permanent Secretaries
Heads of Department
Heads of Grade

c.c. Judiciary Administrator
Commissioner, Independent
Commission Against Corruption
Secretary, Public Service Commission

(Note: Distribution of this Circular is Scale B. It should be read by Directors of Bureau, Permanent Secretaries, Heads of Department, Heads of Grade, Departmental Secretaries and all directorate officers, including those on leave or outside Hong Kong.)

Following a review, we have revised the policy and arrangements governing the taking up of outside work by directorate officers / former directorate officers during their final leave and/or after they have left the Government. This circular sets out such revised policy and arrangements.

Policy Objective

2. The policy on post-service 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 which may constitute real or potential conflict of interest with their former government duties 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.

General Arrangement

3. In general terms, directorate officers who wish to take up outside work, paid or unpaid, full-time or part-time, during their final leave period before their formal departure from the Government (retirement, completion/termination of agreement, resignation etc.), and/or within a specified control period counting from the said departure, should apply for prior permission from the Secretary for the Civil Service (SCS). "Outside work" refers to appointments, employment or any other work undertaken outside the Government and includes entering into business on one's own account, becoming a partner in a partnership, becoming a director of a company, becoming an employee, etc. SCS will decide on such applications on the advice of an independent Advisory Committee on Post-service Employment of Civil Servants. Permission may be granted with or without conditions, or be refused.

Details

Control coverage

- Directorate officers on final leave or former directorate officers, irrespective of their terms of appointment (pensionable, new permanent, agreement terms¹ etc.) and the circumstances under which they have left / are leaving the Government, should apply for prior permission from SCS to take up any outside work of which the principal part is carried on in Hong Kong during their final leave or the respective control periods. The authority to determine whether the principal part of certain outside work is being carried on in Hong Kong rests with SCS, and advice from the Civil Service Bureau (CSB) should be sought where there is doubt. For the avoidance of doubt, re-employment with the Government or appointment to a government advisory board / committee is not regarded as outside work and is therefore not subject to the arrangements set out in this circular.
- 5. For the avoidance of doubt, directorate officers should seek prior permission in respect of paid outside work involving duties outside Hong Kong during their final leave and/or control period, if they are to be based in Hong Kong, or if they are to work outside Hong Kong, either for an organization or on their own account, in a business that has any connection with Hong Kong. They are further required to

¹ Officers on agreement terms include those who are appointed on local agreement terms, locally modelled agreement terms, overseas agreement terms, common agreement terms, new probationary terms or new agreement terms.

continue to apply for prior permission to take up any other paid work outside Hong Kong during their final leave, and to notify CSB of the taking up of such work during their control period. A form will be prescribed by CSB for such notification.

Control period

6. The control period is to count from an officer's formal departure from the Government (on exhaustion of final leave if any), and during the control period prior permission is required for taking up outside work. The control periods for different categories of directorate officers are as follows -

Directorate officers below D8 or equivalent

*	who have retired	on pensionable /	new 2	2 years
	permanent terms ² ;	or		

- * who have left the Government for a 2 years reason other than retirement after six or more years of continuous service; or
- * who have left the Government for a 1 year reason other than retirement after less than six years of continuous service

Directorate officers at D8 or equivalent

- * who have retired on pensionable / new 3 years permanent terms²; or
- * who have left the Government for a 3 years reason other than retirement after six or more years of continuous service; or
- * who have left the Government for a 1-1/2 years reason other than retirement after less than six years of continuous service

Approving criteria

7. The key factors to be taken into account by the relevant Head of Department (HoD), Head of Grade (HoG), Permanent Secretary, and SCS in vetting /

Where an officer retired on pensionable / new permanent terms and has been re-employed in the Government on agreement terms without a break in service, the control period will count from the completion of the re-employment period. Where there is a break in service between his/her service on pensionable / new permanent terms and the re-employment, the officer will be subject to the respective control periods.

approving an application to take up outside work 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 was involved in the formulation of any policy or decisions, the effects of which directly or specifically benefited or could directly or specifically benefit his/her own business/prospective employer;
- (b) whether the applicant/prospective employer might gain unfair advantage over competitors because of the applicant's access to sensitive information while in government service;
- (c) whether the applicant was involved in any contractual or legal dealings to which the prospective employer was a party;
- (d) whether the proposed work would have any connection with the assignments/projects and/or regulatory/enforcement duties in which the applicant was involved while in government service;
- (e) whether the applicant's taking up of the proposed work would give rise to public suspicion of conflict of interest or other impropriety; and
- (f) whether any aspects of the proposed work would cause embarrassment to the Government or bring disgrace to the civil service.
- 8. In applying the considerations above to an application, the relevant HoD / HoG / Permanent Secretary and SCS as the approving authority 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.

Standard restrictions on scope of work

- 9. The taking up of any outside work by a directorate officer during final leave and / or the control period is subject to the standard restrictions that the officer should not
 - (a) be personally involved, directly or indirectly, in the bidding for any government land, property, projects, contracts or franchises;

- (b) undertake or represent any person in any work including any litigation or lobbying activities that are connected in any way with
 - (i) the formulation of any policy or decisions;
 - (ii) sensitive information;
 - (iii) contractual or legal dealings;
 - (iv) assignments or projects; and/or
 - (v) enforcement or regulatory duties

in which he/she was involved or to which he/she had access during his/her last three years of government service; or

- (c) engage in any activities which will cause embarrassment to the Government or bring disgrace to the civil service.
- 10. In addition to the standard restrictions set out in paragraph 9 above, the approving authority may, having regard to the circumstances of a case, impose further restrictions on the scope of work so that the officer will not be permitted to take up the restricted work within a specified period. If there is doubt on the interpretation of the restrictions on scope of work, the officer should seek clarification from CSB.

Sanitization period

- 11. The purpose of specifying a sanitization period is to forestall real or potential conflict of interest and/or negative public perception by instituting a break between an officer's government duties and outside work. During the sanitization period the officer is not permitted to take up any outside work other than that covered by the blanket permission mentioned in paragraph 15 below. The sanitization period is to count from the date on which an officer ceases active government service (and proceeds on final leave, if any).
- 12. For directorate officers who are retiring / retired on pensionable or new permanent terms³, the respective minimum sanitization periods are –

The minimum sanitization periods are applicable to directorate officers who retired on pensionable or new permanent terms and who have been re-employed in the civil service on agreement terms, with or without a break in service. For those officers who have been re-employed without a break in service, the minimum sanitization period will count from the completion of their re-employment period. For those officers who have been re-employed with a break in service, the specified minimum sanitization period imposed with regard to their service on pensionable / new permanent terms, and the sanitization period imposed with regard to their re-employment, if any, will be applied separately.

* Directorate officers at D4 or above(or equivalent)

* Directorate officers below D4 (or equivalent)

12 months 6 months

The minimum sanitization period will normally be shortened or waived for notionally remunerated⁴ work with the non-commercial organizations listed in paragraphs 15(a) to (c) below, and may be shortened for remunerated work with these organizations, subject to there being no conflict of interest and the work being unlikely to cause negative public perception. For all other outside work (in particular that of a commercial nature), the sanitization period will only be shortened where there are special considerations⁵, subject to there being no conflict of interest and the work being unlikely to cause negative public perception. On the other hand, having regard to the circumstances of a particular case, a longer sanitization period may be specified if so required to forestall conflict of interest or negative perception.

13. No minimum sanitization periods are specified for directorate officers other than those retiring / retired on pensionable or new permanent terms (e.g. agreement officers and resignees). For outside work involving such officers, the relevant HoD, HoG, Permanent Secretary and SCS will consider the need for and length of the sanitization period on a case-by-case basis. Generally the sanitization period in such cases would not exceed that applicable to their counterparts on pensionable or new permanent terms under similar circumstances.

Restrictions on outside work during final leave

14. The taking up of outside work during the final leave period is subject to the rules governing sanitization. In addition, as directorate officers on final leave remain civil servants on full pay, they 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 and no problem of dual identity. In this regard, directorate offices on final leave may, on application, normally only take up part-time or notionally remunerated work with the non-commercial organizations listed in paragraphs 15(a) to (c) below, subject to the rules on sanitization and there being no problem of dual identity.

⁴ The guiding principle in considering whether certain work is "notionally remunerated" is that the remuneration involved should be token in nature and the onus would be on the applicant to advance sufficient proof for CSB's consideration.

⁵ As an illustration, special considerations may include –

⁽a) significant public interest that will be advanced by the taking up of the outside work; or

⁽b) personal circumstances that warrant compassionate consideration.

Blanket permission

- 15. Blanket permission is given for all directorate officers to take up unremunerated work with the following non-commercial organizations
 - (a) charitable, academic or other non-profit making organizations not primarily engaged in commercial operations;
 - (b) non-commercial regional/international organizations; or
 - (c) the Central Authorities,

throughout the final leave and control periods, i.e. the entire period from cessation of active service up to the expiry of the relevant control period. No application for permission is required for the said unpaid work but an officer should notify CSB of the taking up of such work beforehand on a form to be prescribed by CSB. Advice from CSB should be sought if an officer is in doubt as to whether certain unpaid work is covered by the blanket permission.

Application procedures

- CSB. An application should be forwarded to the relevant HoD, HoG and Permanent Secretary for them to assess against the considerations set out in paragraph 7 above, before it is transmitted to CSB for further processing. Applications from Permanent Secretaries or HoD should be sent to CSB direct. When all the requested information and assessments are available, CSB will submit the application, together with the assessments made by the relevant HoD, HoG and/or Permanent Secretary, to the Advisory Committee on Post-service Employment of Civil Servants for advice before submitting the application to SCS for a decision. The provision of certain personal data and information relating to the proposed work is obligatory. An application will not be processed if the applicant fails to provide the requested information.
- 17. In view of the time required for consultation with the various parties, an application should be submitted in good time, at least one month before the commencement date of the proposed work. Failure to do so may result in the application not being processed in time. Retrospective approval is not normally given.

Monitoring of approved cases

18. Before commencing any approved outside work (including self-employment), the officer should confirm the commencement date of the work with CSB, and where applicable, notify the prospective employer of the terms of approval including any sanitization or restrictions imposed. Thereafter, the officer should notify CSB of any material change to the approved work including cessation, and update CSB on the status of his/her involvement in the approved work annually within the control period or upon request by CSB.

Disclosure of basic information on approved cases

- 19. For approved outside work taken up by officers at D4 or above (or equivalent), the basic information (limited to the name of the applicant, his/her last government post title; date of cessation of active government service; restrictions/sanitization imposed on the approved work; commencement date of the approved work; and where applicable, identity of the outside employer, the applicant's position in the outside organization and a brief description of his/her main duties in the outside organization) will be included in a register for public inspection on request. An entry will be kept until the expiry of the applicant's control period or after he/she has notified CSB of the cessation of the outside work, whichever happens earlier.
- For approved outside work taken up by officers below D4 (or equivalent), CSB may, where there is public concern about the propriety of the work, disclose the above basic information in response to public enquiries / queries on a case-by-case basis.
- 21. As regards unremunerated work performed under the blanket permission in paragraph 15 above, the relevant information may also be disclosed on a case-by-case basis where there is public concern.

Sanctions

22. Where there is a breach of the rules in the new CSR 397, this circular, or any other relevant CSB Circulars / Circular Memoranda / Memoranda, depending on the nature and gravity of the breach, SCS may consider invoking either one or a combination of the following forms of sanction –

- (a) pension suspension under the pension legislation for officers on pensionable terms;
- (b) initiating civil action to seek an injunction or sue for damage;
- (c) withdrawal of approval;
- (d) suspension of approval for a specified period;
- (e) reporting of an incident to the relevant professional body where it concerns professional negligence/misconduct or may involve a possible breach of the code of conduct of the relevant profession;
- (f) issue of a public statement of criticism;
- (g) placing a warning/reprimand in a register for public inspection;
- (h) issue of a reprimand letter which may be copied to the outside employer; and/or
- (i) issue of a warning letter which may be copied to the outside employer.

Implementation

23. The arrangements set out in paragraphs 3 to 22 above will apply to

- (a) directorate officers appointed on pensionable or new permanent terms and who will cease active service on or after 1 January 2006; and
- (b) directorate officers appointed on agreement terms who will enter into new agreements, including upon renewal of agreement, on or after 1 January 2006.

Applications from directorate officers who have ceased / will cease active service before 1 January 2006 and have retired / will retire on pensionable terms⁶, and those from agreement officers at D3 or above who entered / will enter into their last agreement with the Government before 1 January 2006, will continue to be dealt with under CSB Circular No. 13/95 dated 12 July 1995 and CSB Circular No. 3/97 dated 6 January 1997 respectively. The blanket permission in paragraph 15 above, however, is extended to these two groups of officers with effect from 1 January 2006.

⁶ If an officer is re-employed on agreement terms without a break after retirement on pensionable terms, and if his/her last agreement is entered into on or after 1 January 2006, his/her application to take up outside employment will be dealt with in accordance with CSR 397 and the arrangements set out in this circular.

Advisory Committee on Post-service Employment of Civil Servants

24. The Advisory Committee on Post-retirement Employment has been renamed as "Advisory Committee on Post-service Employment of Civil Servants" to reflect its new span of responsibilities. 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 will consider and advise on all post-service outside work applications from directorate officers and other applications which may be referred by SCS.

Amendment to Civil Service Regulations

25. The arrangements in paragraphs 3 to 23 are reflected in the new CSR 397. CSR 559 has also been slightly revised. The existing CSR 326 has been transferred to the new CSR 398, with minor amendments mainly consequential upon the making of a separate regulation for directorate officers, to set out the existing arrangements which will continue to apply to non-directorate officers who retired / will retire on pensionable terms. The replacements sheets of the CSRs are enclosed.

Enquiries

26. Enquiries on this circular should be directed to the Departmental Secretaries who, if in doubt, may contact the Pensions Sections, Appointments Division of this Bureau.

(Miss Jennifer Mak)

for Secretary for the Civil Service

scarge Shak

Jun. 2004

(The provisions of CSRs 326-359 apply only to officers who are serving on terms which attract pension benefits under the pensions legislation, specifically the Pensions Ordinance (Cap.89) and the Pension Benefits Ordinance (Cap.99).)

NORMAL RETIREMENT AND VOLUNTARY PREMATURE RETIREMENT

(a) General

Jun. 2004 (i) Replacement for a retiring officer

Jun. 2004 325 When approval has been given for an officer to retire, his Permanent
Secretary or Head of Department should take necessary action to
ensure that a replacement will be available at the appropriate time.

Dec. 2005 (ii) (Deleted)
Dec. 2005 326 (Deleted)

Dec. 2005 TAKING UP OUTSIDE WORK AFTER CEASING ACTIVE SERVICE

Dec. 2005 (a) Directorate Officers

Dec. 2005

397 (1) Directorate officers on final leave or former directorate officers, irrespective of their terms of appointment (pensionable, new permanent, agreement terms etc.) and the circumstances under which they have left / are leaving the Government (retirement, completion/termination of agreement, resignation etc.), should apply for prior permission for taking up outside work, paid or unpaid, part-time or full time, the principal part of which is carried on in Hong Kong, during the final leave period and/or a specified control period.

Dec. 2005

(2) Directorate officers should seek prior permission in respect of paid outside work involving duties outside Hong Kong during their final leave and/or control period, if they are to be based in Hong Kong, or if they are to work outside Hong Kong, either for an organization or on their own account, in a business that has any connection with Hong Kong. They are also required to apply for prior permission to take up any other paid work outside Hong Kong during their final leave, and to notify Civil Service Bureau (CSB) of the taking up of such work during their control period.

Dec. 2005

(3) Outside work in this regulation and the relevant CSB Circulars / Circular Memoranda / Memoranda on the subject refers to appointments, employment or any other work outside the Government and includes entering into business on one's own account, becoming a partner in a partnership, becoming a director of a company, becoming an employee etc.

Dec. 2005

(4) The control period for an officer counts from his/her formal departure from the Government (upon exhaustion of final leave if any). The respective control periods for different categories of directorate officers are set out below —

397 (4) (a) Directorate officers below D8 or equivalent

- (Cont'd) (i) who have retired on pensionable / new 2 years permanent terms;
 - (ii) who have left the Government for a reason 2 years other than retirement after six or more years of continuous service; or
 - (iii) who have left the Government for a reason 1 year other than retirement after less than six years of continuous service
 - (b) Directorate officers at D8 or equivalent
 - (i) who have retired on pensionable / new 3 years permanent terms;
 - (ii) who have left the Government for a reason 3 years other than retirement after six or more years of continuous service; or
 - (iii)who have left the Government for a reason 1-1/2 years other than retirement after less than six years of continuous service

Dec. 2005

(5) The Secretary for the Civil Service (SCS) is the approving authority for all applications from directorate officers up to D8 or equivalent for permission to take up outside work during the final leave period and/or control period.

Dec. 2005

(6) The key factors to be taken into account when vetting / approving an application are whether there is real or potential conflict of interest between the applicant's former government duties and the proposed outside work, and whether the applicant's taking up of the proposed work is likely to give rise to negative public perception. Specific pointers for consideration are set out in the relevant CSB Circular / Circular Memorandum / Memorandum. In considering an application, the relevant Head of Department / Head of Grade / Permanent Secretary and SCS as the approving authority would normally focus on the duties in which the applicant was involved during the last three years of 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.

Dec. 2005 397 (7) Blanket permission is given for directorate officers to take up (Cont'd) unremunerated work with the following non-commercial organizations –

- (a) charitable, academic or other non-profit making organizations not primarily engaged in commercial operations;
- (b) non-commercial regional / international organizations; or
- (c) the Central Authorities

throughout the final leave and respective control periods. The officers concerned however should inform CSB of their taking up the work beforehand.

Dec. 2005

- (8) Directorate officers who retired / retiring on pensionable terms or new permanent terms are subject to the following minimum sanitization periods
 - (a) Directorate officers at D4 or above (or equivalent) 12 months
 - (b) Directorate officers below D4 (or equivalent) 6 months

During the sanitization period, no outside work other than that covered by the blanket permission in CSR 397(7) is permitted. As the objective of sanitization is to forestall real/potential conflict of interest and/or negative public perception by instituting a break between an officer's government duties and outside work, the sanitization period counts from the date on which the officer ceases active service (and proceeds on final leave, if any).

Dec. 2005

(9) The sanitization period specified in CSR 397(8) may be shortened for remunerated work with the non-commercial organizations listed in CSR 397(7), subject to there being no conflict of interest and the work being unlikely to cause negative public perception. For other outside work (in particular that of a commercial nature), the sanitization period will only be shortened where there are special considerations, as well as subject to there being no conflict of interest and the work being unlikely to cause negative public perception. A longer sanitization period may be imposed if such is required to avoid conflict of interest and/or negative public perception in the circumstances of a case.

Amendment No. 14(c)/2005

Dec. 2005 397 (10) No minimum sanitization periods are specified for directorate officers (Cont'd) who did not retire / are not retiring on pensionable / new permanent terms (e.g. agreement officers and resignees). In considering applications from these officers, the relevant Heads of Department / Heads of Grade / Permanent Secretaries and SCS will consider the

need for and length of sanitization period on a case-by-case basis.

Dec. 2005 (11) The taking up of outside work during the final leave period is subject to the sanitization rules above. In addition, directorate officers are normally not permitted to take up full-time remunerated work or work of a commercial nature (including self-employment) during the final leave period, unless there are special considerations and there is no problem of dual identity.

Dec. 2005 (12) The taking up of any outside work during the final leave period and/or the control period is subject to a set of standard restrictions promulgated through the relevant CSB Circular / Circular Memorandum. In addition to the standard restrictions, SCS may, having regard to circumstances of a case, impose further restrictions on scope of work so that an officer is not permitted to take up the restricted work during a specified period.

Dec. 2005 (13) Applications should be made on an application form to be prescribed by CSB. The relevant Head of Department / Head of Grade and Permanent Secretary should assess an application from the conflict of interest and public perception perspectives before submitting it to CSB for further processing. CSB will seek further comments from other relevant bureaux/departments on the application where necessary, and will obtain the advice of the Advisory Committee on Post-service Employment of Civil Servants before submitting the application to SCS for a decision. The provision of certain personal data and information relating to the proposed work is obligatory. An application will not be processed if the applicant fails to provide the requested information. The application procedures are detailed in the relevant CSB Circular / Circular Memorandum / Memorandum.

Dec. 2005 397 (14) Before commencing any approved employment, the applicant should (Cont'd) notify the prospective employer of the terms of approval including any sanitization or restrictions imposed.

Dec. 2005 (15) For any approved outside work, the officer concerned should observe the reporting requirements as promulgated by CSB from time to time.

Dec. 2005 (16) Basic information relating to cases of approved outside work may be disclosed as follows –

- (a) For approved outside work taken up by officers at D4 or above (or equivalent), certain specified basic information (e.g. name of the applicant, his/her last post title in the Government, date on which he/she ceases active government service, identity of the outside employer etc.) will be included in a register for public inspection on request. An entry will be kept until the expiry of the applicant's control period or after he/she has notified CSB of the cessation of the outside employment, whichever happens earlier.
- (b) For approved outside work taken up by officers below D4 (or equivalent), the basic information may be disclosed on a case-by-case basis, where there is public concern about the propriety of the employment.
- (c) As to outside work performed under the blanket permission set out in CSR 397(7), the basic information may also be disclosed on a case-by-case basis where there is public concern.

Dec. 2005 (17) Where there is a breach of the rules in this Regulation and/or the relevant CSB Circulars / Circular Memoranda / Memoranda, depending on the nature and gravity of the incident, SCS may consider invoking either one or a combination of the forms of sanction set out in the relevant CSB Circular.

Dec. 2005 397 (18) This Regulation applies to (a) directorate officers on pensionable or (Cont'd) new permanent terms who cease active service on or after 1 January 2006; and (b) directorate officers on agreement terms upon their entering into agreements, including upon renewal of agreement, on or after 1 January 2006.

Dec. 2005 (b) Non-directorate officers appointed on pensionable terms

Jul. 1995

398 (1) Section 16 of the Pensions Ordinance, Cap. 89, and Section 30 of the Pension Benefits Ordinance, Cap. 99 provide that any pension or allowance granted to a person may be suspended if such person has, within 2 years of his retirement, or such longer period as may be determined by the Chief Executive, without the prior permission of the Chief Executive in writing -

- (a) entered business on his own account;
- (b) become a partner in a partnership;
- (c) become a director of a company; or
- (d) become an employee,

if the principal part of such business or of the business of such partnership or company or of his employment is, in the opinion of the Chief Executive, carried on in Hong Kong.

Dec. 2005 (2) N

Dec. 1997

(2) Non-directorate civil servants on pre-retirement leave and during the first two years of retirement, or such longer period as may be determined by the Chief Executive, should write to their approving authority (referred to in CSR 398(4) below) informing it of any intended paid part-time or full-time work which involves duties outside Hong Kong, if they are to be based in Hong Kong or are to work in places outside Hong Kong for a company that has any business connections at all with Hong Kong, to see whether permission is required.

Jul. 1995 (3) It is important that there should be no impropriety in the proposed employment, for example, conflict of interest. Account will be taken of -

Amendment No. 14(f)/2005

398 (3) (a) whether the officer had been involved in policy formulation or decision, the effects of which could have benefitted the prospective employer;

- (b) whether the employer might gain an unfair advantage over their competitors because of the officer's previous knowledge and experience;
- (c) the public perception of the officer taking up the employment in question; and
- (d) especially for senior officers, whether the proposed employment would result in an undesirably high public profile, embarrass the Government or give rise to any suggestions of impropriety.

Dec. 2005 (4) The authorities for approving applications to take up outside employment are vested as follows –

(a) Head/Deputy Head/Assistant Non-directorate officers
Head of Department or Grade,
and Departmental Secretary

(b) Head/Deputy Head/Assistant
Head of Department, Chief
Superintendent, Conditions of
Service and Discipline/
Senior Superintendent,
Conditions of Service and
Discipline and Superintendent,
Conditions of Service,
Retirement and Agreements

Non-directorate disciplined officer of the HKPF, including junior police officer

Dec. 2005

(5) Applications should be made by way of a prescribed form.

Dec 2005

(6) An applicant should complete the relevant part of the prescribed form and forward the form to his Head of Department and / or Grade, as appropriate, for a decision in accordance with the criteria set out in CSR 398(3).

Jul. 1995 398 (7) The decision on an application should be conveyed to the applicant in (Cont'd) writing.

Dec. 2005

- (8) Blanket permission is given for non-directorate officers to take up unremunerated work with the following non-commercial organizations
 - (a) charitable, academic or other non-profit making organizations not primarily engaged in commercial operations;
 - (b) non-commercial regional / international organizations; or
 - (c) the Central Authorities

throughout the final leave and respective control periods. The officers concerned however should inform the approving authority of their taking up the work beforehand.

Jul. 1995

(9) Officers remunerated on Model Scale 1 are exempted from the provisions of CSR 398(1) – (7).

399

CHAPTER III - CONDUCT AND DISCIPLINE

Dec. 2005 559 (4) (Cont'd)

For non-directorate officers, except where specifically exempted, prior approval is required for an officer to take up paid outside work whilst on pre-retirement leave, irrespective of whether such work is undertaken in Hong Kong or elsewhere. Where the paid outside work commences during pre-retirement leave and continues after the date of retirement and is undertaken in Hong Kong, the application procedure and approving authorities will be as set out in CSR 398. If the work whilst on pre-retirement leave is to be undertaken outside Hong Kong approval should be sought under CSR 559.

Dec. 2005

(5) Directorate officers who wish to take up outside work during their final leave should apply for prior permission in accordance with CSR 397.

560 - 561

III. Outside work with the Auxiliary Forces

- 562 (1) Government employees should be given every encouragement to join the Auxiliary Forces and, having joined, to fulfil their training and other commitments. However, all officers who are members of the Auxiliary Forces must conform with Regulations 550 to 559 and obtain permission from their Head of Department when they wish to perform duties with the Auxiliary Forces, except when this is done out of working hours for no remuneration.
 - 2) For the purposes of Regulations 562 to 564, the following organisations are considered to be Auxiliary Forces: the Government Flying Service, the Hong Kong Auxiliary Police Force, the Auxiliary Medical Service, and the Civil Aid Services.

Source of information: Civil Service Bureau

Form CSB/PSE/1 (12/2005)

Application for Permission to Take up Outside Work after Ceasing Active Government Service

PA	ART I: PARTICUL	ARS OF T	HE APPLIC	CANT (To be completed by the applicant)
 3. 	Last substantive ran	k : e no.:		(Chinese): 5. Date of leaving the Government
4.	(commencement of f			
	Terms of appointme ☐ Pensionable ☐ New Permanent ☐ Agreement (local overseas / common new agreement / break in service as service as service history during the service history dur	l / locally i on / new pro re-employed after retireme	bationary / I without a ent *)	7. Circumstances of leaving the Government: Retirement under Old Pension Scheme / New Pension Scheme / Civil Service Provident Fund Scheme * Completion / termination * of agreement Resignation Others (Please specify)
	Title &	Da	ites	Description of major duties
	rank of post	From	То	(list five items for each post)

[☐] Please tick in the appropriate box.

^{*} Please delete whichever is inappropriate.

8. Service history during the last three years of government service (Cont'd)

Title &	Dates		Description of major duties
Rank of post	From	To	(list five items for each post)

9. Service history in the three years prior to the three-year period referred in item 8 above: (To be completed by the applicant if he/she is/was at D4 or above(or equivalent))

Post title	Da	tes	Description of major duties
& rank	From	To	(list three items for each post)
			• /

		Please	tick	in	the	ap	pro	priate	box.
--	--	--------	------	----	-----	----	-----	--------	------

^{*} Please delete whichever is inappropriate.

PART II: INFORMATION ON PROPOSED OUTSIDE WORK (To be completed by the applicant)

	Name of the employer (English):	(Chinese):
	Address:	
	The employer belongs to the following category –	
	☐ charitable / academic / other non-profit making commercial operations *	organizations not primarily engaged in
	☐ non-commercial regional/international organization	on *
	☐ Central Authorities	
	\square none of the above	
3.	Major business activities of the employer (please list prospectus, information sheet, website address, etc):	st at least 4 items and provide company
1.	The employer's major clientele:	
5.	The employer's parent company, if applicable:	
).	The employer's subsidiaries, if applicable:	
	(Please use and attach a separate sheet if space provide	ded is insufficient.)
3)	The Proposed Outside Work	
7.	Job title (English):	(Chinese):
	Work address (if different from the address in item 11	

 $[\]Box$ Please tick in the appropriate box.

^{*} Please delete whichever is inappropriate.

Corporate support / general administration* Voluntary work Consultancy /advisory service* Others (please specify): Professional service Sales and marketing Major duties and responsibilities (please list at least 4 items):	19.	Field(s) of work (you may tick more than one	ite	ems):
business services* Community / social* services Land / real estate or property* development Land / real estate or property* development Legal service Management consulting Medical service Others (please specify): Corporate governance / management* Corporate support / general administration* Consultancy / advisory service* Professional service Sales and marketing Major duties and responsibilities (please list at least 4 items): Will you be involved in any way in the business of the employer's parent company or any of its subsidiaries listed in items 15 and 16? If yes, please provide details.		☐ Academic /education / research*		Manufacturing / retail / trading*
Community / social* services ☐ Tourism / hospitality service* ☐ Land / real estate or property* development ☐ Transport and logistics ☐ Legal service ☐ Works / engineering / construction* ☐ Management consulting ☐ Others (please specify): ☐ Medical service ☐ Works / engineering / construction* ☐ Others (please specify): ☐ Medical service ☐ Teaching / academic research / education-related* ☐ Corporate support / general administration* ☐ Voluntary work ☐ Others (please specify): ☐ Professional service ☐ Sales and marketing ☐ Sales and marketing ☐ Others (please specify): ☐ Professional service ☐ Sales and responsibilities (please list at least 4 items). ☐ Others (please specify): ☐ Proposed commencement date of the outside work: ☐ No parent company or any of its subsidiaries listed in items 15 and 16? If yes, please provide details. ☐ Others (please work: ☐ No parent company or any of its subsidiaries listed in items 15 and 16? If yes, please provide details. ☐ Others (please work: ☐ No parent company or any of its subsidiaries listed in items 15 and 16? If yes, please provide details. ☐ Others (please work: ☐ No parent company or any of its subsidiaries listed in items 15 and 16? If yes, please provide details. ☐ Others (please work:		0		Public utilities
Land / real estate or property* development Transport and logistics Legal service Works / engineering / construction* Management consulting Others (please specify): Medical service Works / engineering / construction* Medical service Others (please specify): Corporate governance / management* Teaching / academic research / education-related* Voluntary work Voluntary work Others (please specify): Professional service Others (please specify): Professional service Sales and marketing Major duties and responsibilities (please list at least 4 items): Will you be involved in any way in the business of the employer's Yes No parent company or any of its subsidiaries listed in items 15 and 16? If yes, please provide details.				Security service
□ Legal service □ Works / engineering / construction* □ Management consulting □ Others (please specify): □ □ □ □ □ □ □ □ □ □ □ □ □ □ □ □ □ □ □		•		Tourism / hospitality service*
Management consulting				Transport and logistics
Medical service		_		Works / engineering / construction*
20. Nature of work (you may tick more than one items): Corporate governance / management*				Others (please specify):
Corporate governance / management*		☐ Medical service		
Corporate support / general administration* Voluntary work Consultancy /advisory service* Others (please specify): Professional service Sales and marketing Major duties and responsibilities (please list at least 4 items):	20.	Nature of work (you may tick more than one i	iter	ms):
Corporate support / general administration* Voluntary work Consultancy /advisory service* Others (please specify): Professional service Sales and marketing 21. Major duties and responsibilities (please list at least 4 items): 22. Will you be involved in any way in the business of the employer's Yes No parent company or any of its subsidiaries listed in items 15 and 16? If yes, please provide details. 23. Proposed commencement date of the outside work:				Teaching / academic research / education-
□ Professional service □ Sales and marketing 21. Major duties and responsibilities (please list at least 4 items): 22. Will you be involved in any way in the business of the employer's □ Yes □ No parent company or any of its subsidiaries listed in items 15 and 16? If yes, please provide details. 23. Proposed commencement date of the outside work: □				
□ Sales and marketing 21. Major duties and responsibilities (please list at least 4 items): 22. Will you be involved in any way in the business of the employer's □ Yes □ No parent company or any of its subsidiaries listed in items 15 and 16? If yes, please provide details. 23. Proposed commencement date of the outside work: □		☐ Consultancy /advisory service*		Others (please specify):
21. Major duties and responsibilities (please list at least 4 items): 22. Will you be involved in any way in the business of the employer's		☐ Professional service		
22. Will you be involved in any way in the business of the employer's		☐ Sales and marketing		
parent company or any of its subsidiaries listed in items 15 and 16? If yes, please provide details. 23. Proposed commencement date of the outside work:	21.	Major duties and responsibilities (please list a	ıt le	east 4 items):
	22.	parent company or any of its subsidiaries listed		1 2
* Please delete whichever is inappropriate.		Please tick in the appropriate box.	wo	rk:

24.	The	outside work is				
	(a)	\square full time	□ part time	hours / days * per we	ek/ montl	n/ year*
		\square one-off from	to	_		
	(b)	□ paid □ unp	oaid nt of remuneration : \$	per month / ann	um / assi	onment*
25	Hay	w did the offer of our		por monur, um	tani / assi	Similar
23.	ПО	w did the offer of our	side work arise?			
you any	r go of it.	v <mark>ernment service</mark> . If s subsidiaries (see ite	in items 26 to 30 on the basis you will be involved in the bu m 22 above), the reference to he subsidiaries, as applicable	usiness of the employer's p the employer in items 26 t	arent con	npany or
26.	(a)	party? If yes, pleas contract administer	y contractual dealings to whice provide details (e.g. receipting and monitoring, giving er the award of the contract,	and award of a contract, professional / technical	□ Yes	□No
	(b)	Did/do you have a provide details.	ny legal dealings with the en	mployer? If yes, please	□Yes	□No
	(c)	of funds, approval	y other official contacts / dea of applications, regulation of lease provide details.		□Yes	□No
	(d)		nofficial contacts/dealings wi made? If yes, please provide		□ Yes	□No

Vere/are you involved in any assignments/projects and/or gulatory/enforcement duties (other than those covered in items 26 and 27) hich are connected in any way with your duties and responsibilities under the roposed outside work? If yes, please provide details. Did/do you have any access to commercially sensitive information, including that of commercial property is a sensitive of the commercial property and the commercial property is a sensitive of the commercial property and the commercial property is a sensitive of the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in the commercial property is a sensitive of the commercial property in th	□ Yes	□ No
including that of competitors of the employer / your own business? If yes, please provide details and assess whether as a result of such access the employer / your own business would gain an unfair advantage over the competitors.	□ Yes	□No
Did/do you have any contacts or dealings with companies which may be considered as competitors of the employer / your own business? If yes, please provide details.	□Yes	□No
part from the information / knowledge gained through the means mentioned items 26 to 29 above, did/do you gain any other information / knowledge hile in government service which is relevant to the business of the employer your own business? If yes, please provide details.	□ Yes	□No
r	employer / your own business would gain an unfair advantage over the competitors. Did/do you have any contacts or dealings with companies which may be considered as competitors of the employer / your own business? If yes, please provide details. part from the information / knowledge gained through the means mentioned items 26 to 29 above, did/do you gain any other information / knowledge nile in government service which is relevant to the business of the employer	employer / your own business would gain an unfair advantage over the competitors. Did/do you have any contacts or dealings with companies which may be considered as competitors of the employer / your own business? If yes, please provide details. part from the information / knowledge gained through the means mentioned items 26 to 29 above, did/do you gain any other information / knowledge tile in government service which is relevant to the business of the employer

Please tick in the appropriate box. Please delete whichever is inappropriate.

(C) Note on Standard Restrictions

The taking up of any outside work by a (former) directorate officer during final leave and / or the specified control period is subject to the standard restrictions that the officer should not –

- be personally involved, directly or indirectly, in the bidding for any government land, property, projects, contracts or franchises;
- (ii) undertake or represent any person in any work, including any litigation or lobbying activities, that are connected in any way with
 - (a) the formulation of any policy or decisions;
 - (b) sensitive information;
 - (c) contractual or legal dealings;
 - (d) assignments or projects; and/or
 - (e) enforcement or regulatory duties

in which he/she was involved or to which he/she had access during his/her last three years of government service; or

(iii) engage in any activities which will cause embarrassment to the Government or bring disgrace to the civil service.

(D) Notes on Use of Personal Data

Purpose of Collection

- (i) The personal data and other related information provided by the applicant in this form or through subsequent communication will be used for the purposes of
 - (a) processing the application by government departments / bureaux;
 - (b) verifying information with government departments / bureaux and/or parties outside the Government which are relevant to the application;
 - (c) disclosing the basic information on approved outside work to the public; and
 - (d) applying sanctions against the applicant in case of non-compliance with any of the stipulated rules or arrangements;

in accordance with the rules and arrangements promulgated in Civil Service Bureau (CSB) Circular No. 10/2005 and any other circulars/circular memoranda to be issued by CSB from time to time on the taking up of outside work by (former) directorate officers after ceasing active government service.

(ii) The provision of personal data and other related information is obligatory. The application will not be processed if the applicant fails to provide adequate and accurate data as requested in this application form or through subsequent communication.

Classes of Transferees

(iii) The personal data and other related information provided in this form or through subsequent communication may be disclosed to:

- (a) government departments / bureaux for the purposes stated in paragraph i (a) and (b) above;
- (b) parties outside the Government which are relevant to the application for the purpose stated in paragraph i (b) above;
- (c) the public including the media and the Legislative Council (LegCo) for the purpose stated in paragraph i (c) above; and
- (d) the outside employer of the applicant, the relevant professional body and/or the public including the media and LegCo for the purpose stated in paragraph i (d) above.

Access to Personal Data

(iv) The applicant has the right to request access to or correction of the personal data and other related information provided in this form or through subsequent communication with the approving authority in accordance with the provisions of the Personal Data (Privacy) Ordinance (Cap. 486). Such requests should be made in writing to the Pensions Section of the Appointments Division, Civil Service Bureau, 11/F, West Wing, Central Government Offices, 11 Ice House Street, Hong Kong, or to e-mail address: csb.gov.hk

(E) Declaration

- (i) I have read CSB Circular No. 10/2005 and the Notes on Use of Personal Data above.
- (ii) I confirm that the information provided in this application is full and accurate. I understand that if I wilfully give any false information or withhold any material information in this application form, the approving authority may suspend or withdraw the approval granted for my application and where necessary, invoke appropriate sanction including legal action.

PART III: ASSESSMENTS ON THE APPLICATION

Please read the following notes before completing the assessment

- (i) An application made by a **Permanent Secretary** should be forwarded to CSB direct for arranging assessment(s) as appropriate and for processing.
- (ii) For other applications, assessments should be completed in the sequences shown below before the applications are forwarded to CSB for further processing -
 - (a) An application made by a **Head of Department** (HoD): The relevant Permanent Secretary to complete Assessment A.
 - An application made by a departmental grade directorate officer serving / formerly served (b) in a bureau: The relevant Permanent Secretary to complete Assessment A → the relevant Head of Grade (HoG), if applicable, to complete Assessment B.
 - An application made by a departmental grade directorate officer (not a HoD) serving / (c) formerly served in a department: The relevant HoD to complete Assessment $A \rightarrow$ the relevant Permanent Secretary to complete Assessment B → the relevant HoG (if not the same person as the HoD) to complete another Assessment B.
 - (d) An application made by a general grade directorate officer serving / formerly served in a bureau: The relevant Permanent Secretary to complete Assessment A → the relevant HoG to complete Assessment B.
 - (e) An application made by a general grade directorate officer serving / formerly served in a department: The relevant HoD to complete Assessment A → the relevant Permanent Secretary to complete Assessment $B \rightarrow$ the relevant HoG to complete another Assessment B.

A

AS	SESSMENT A
31.	If the applicant is/was a directorate officer at D4 or above (or equivalent) or if the work that he/she handles/handled is of particular sensitivity , please refer to his/her service history in items 8 and 9 above, and advise on the period of government service before cessation of active service which should be taken into account in assessing the application and provide your assessment below accordingly.
	□ last 3 years of active government service □ last 6 years of active government service
32.	If any of the information provided by the applicant in Parts I and II is, to your knowledge, incorrect, please indicate below –

Please tick in the appropriate box.

Please delete whichever is inappropriate.

33.	(a)	Did/does the applicant have any contractual dealings to which the employer was/is a party? If yes, please elaborate on his/her involvement (e.g. receipt and award of a contract, contract administering and monitoring, giving professional / technical advice before or after the award of the contract, the number/value/nature of the contracts etc.)	□Yes	□ No
	(b)	Did/does the applicant have any legal dealings with the employer? If yes, please provide details.	□ Yes	□ No
	(c)	Did/does the applicant have any other official contacts / dealings with the employer? If yes, please provide details.	□Yes	□ No
34.	than bene	Tis the applicant involved in the formulation of any policy or decisions (other those covered in item 33), the effects of which directly or specifically fited, or could directly or specifically benefit the employer or his/her own ness? If yes, please provide details.	□Yes	□No
35.	regul are	is the applicant involved in any assignments/projects and / or atory/enforcement duties (other than those covered in items 33 and 34) which connected in any way with his/her duties and responsibilities under the osed outside work? If yes, please provide details.	□Yes	□ No
36.		Did/does the applicant have any access to commercially sensitive information, including that of competitors of the employer / the applicant's own business? If yes, please provide details and assess whether as a result of such access the employer / the applicant's own business would gain an unfair advantage over the competitors.	□Yes	□No
 *		e tick in the appropriate box. e delete whichever is inappropriate.		

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	(b)	Did/does the applicant have any contacts or dealings with companies which may be considered as competitors of the employer or his/her own business? If yes, please provide details.	□ Yes	□ No
37.	mea kno	art from the information / knowledge that the applicant gained through the ans mentioned in items 33 to 36 above, did he/she gain any other information / wledge while in government service which is relevant to the business of the bloyer or his/her own business? If yes, please provide details.	□Yes	□ No
38.	appl	you have any additional points to make on the connection between the icant's former government duties and his/her proposed outside work? If yes, se provide details.	□Yes	□ No
39.	wor	you think the applicant's duties and responsibilities under the proposed outside k would constitute any real or potential conflict of interest with his/her former ernment duties? If yes, please provide details.	□Yes	□ No
40.	rise	ase give an assessment on whether the applicant's taking up the proposed outside to any negative public perception (e.g. public suspicion of conflict of in	iterest, a	any other
40.	Plearise	ernment duties? If yes, please provide details. ase give an assessment on whether the applicant's taking up the proposed outside	iterest, a	any
*		se tick in the appropriate box. se delete whichever is inappropriate.		

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Re	comi	nendation on	the application –			
	App	prove the app		sation or any restriction	n (other than the standard r	estricti
	App	prove the app	lication subject to the	following conditions -	-	
		the followin	n period of mor g restrictions (in addit on (C) above) –		active service; and strictions on scope of work	set ou
	Rej	ect the applic	ation.			
Re	asons	s:				

Please tick in the appropriate box.
Please delete whichever is inappropriate.

AS	SESSMENT B
42.	If the applicant is/was a directorate officer at D4 or above (or equivalent) or if the work that he/she handles/handled is of particular sensitivity, please refer to his/her service history in items 8 and 9 above, and advise on the period of government service before cessation of active service which should be taken into account in assessing the application and provide your assessment below accordingly.
	\Box last 3 years of active government service \Box last 6 years of active government service
43.	Having regard to the information provided in items 26 to 30 and 33 to 38, do you have any additional points to make on the connection between the applicant's former government duties and his/her proposed outside work? If yes, please provide details.
44.	Do you think the applicant's duties and responsibilities under the proposed \square Yes \square No outside work would constitute any real or potential conflict of interest with his/her former government duties? If yes, please provide details.
45.	Please give an assessment on whether the applicant's taking up the proposed outside work would give rise to any negative public perception (e.g. public suspicion of conflict of interest, any other impropriety or unfair advantage), cause embarrassment to the Government or bring disgrace to the civil service (e.g. because of the nature of the outside work or the background of the employer).
	Please tick in the appropriate box.

* Please delete whichever is inappropriate.

Re	comn	nendation o	n the appli	cation –								
		rove the sictions set					any restric	ction	(other	than	the	standar
		rove the ap a sanitisati the followi Part II Sec	on period on period on period of the one of	of m	onths fr	om cessa	tion of act				vork	set out
	Reje	ect the appl	ication.									
Re	asons	:										
_												
Si	ignatu	re		Name		Rank	/ Post		Date			

Please tick in the appropriate box. Please delete whichever is inappropriate.

Case Record 個案資料

Serial No. 編號:
(A) Information on the officer 有關人員資料
Name 姓名
Last government post title 任職政府最後職位
Date of cessation of active government service 停止政府職務日期
(B) Information on the approved outside work 獲准擔任外間工作資料
Name of employing company /organisation or own company* 受聘公司/機構或自設公司名稱*
Position/title 職位/職銜
Commencement date of approved work 開始擔任獲准工作日期
Brief description of main duties 主要職務簡述
Sanitisation period 禁制期
Restrictions on scope of work (in addition to the applicable standard restrictions set out at the end of this form) 工作範圍限制(除了本表格末段所列的劃一工作範圍限制之外)

I confirm that the above particulars are correct and understand that the information may be disclosed to the public in accordance with the provisions set out in CSB Circular No. 10/2005. Signature: Name Date: * Delete as appropriate Standard Restrictions on Scope of Work The officer should not be personally involved, directly or indirectly, in the bidding for any government land, property, (a) projects, contracts or franchises; (b) undertake or represent any person in any work including any litigation or lobbying activities that are connected in any way with the formulation of any policy or decisions; (i) sensitive information; (ii) contractual or legal dealings; (iii) assignments or projects; and/or (iv) enforcement or regulatory duties in which he/she was involved or to which he/she had access during his/her last three years of government service; or (c) engage in any activities which will cause embarrassment to the Government or bring disgrace to the civil service.

Source of information : Civil Service Bureau

¹ For officers at D4 or above, this record will be placed in a register for public inspection.



(incorporated in the Cayman Islands with limited liability) (Stock Code: 917)

APPOINTMENT OF EXECUTIVE DIRECTOR

The board of directors (the "Board") of New World China Land Limited (the "Company") is pleased to announce that Mr. Leung Chin-man, *JP* ("Mr. Leung") was appointed as an Executive Director and Deputy Managing Director of the Company with effect from 1st August 2008.

Mr. Leung, aged 62, graduated from the University of London with a first class honours degree in philosophy in 1974. Mr. Leung has served in the government of Hong Kong for more than 30 years, having worked in a wide range of departments including the Home Affairs Department, Finance Branch and the Independent Commission Against Corruption. He has worked as Deputy Secretary for Constitutional Affairs, Director of the Hong Kong Economic and Trade office in Toronto, and Director of Buildings. In mid-2002, Mr. Leung was appointed as the Permanent Secretary for House, Planning and Lands (Housing) with the additional portfolio as Director of Housing. Mr. Leung retired from the civil service in January 2007. He is currently a non-executive director of Trust Company International, a subsidiary of Trust Company Limited which is a publicly listed trust company in Australia. Mr. Leung is also a non-executive director of PuraPharm Corporation Limited, which is engaged in Chinese medicine business in Hong Kong and China. Mr. Leung did not hold any directorship in other listed public company in the last three years.

The appointment of Mr. Leung shall be for an initial term of three years, subject to re-election by shareholders in accordance with the Company's articles of association. Mr. Leung will receive a director's fee as determined by the Board with the authorization granted by the shareholders of the Company at an annual general meeting. He will receive emoluments which comprise an annual salary package of HK\$3,120,000 and be entitled to a discretionary bonus. Such emolument has been determined with reference to his duties and responsibility with the Company and the Company's remuneration policy.

Mr. Leung is not connected with any directors, senior management, substantial shareholders or controlling shareholders of the Company. As at the date hereof, Mr. Leung does not have any interests in the securities of the Company within the meaning of Part XV of the Securities and Futures Ordinance.

Save for the information set out above, there is no other information to be disclosed pursuant to any of the requirement of Rule 13.51(2) of the Listing Rules nor are there other matters that need to be brought to the attention of the shareholders of the Company in relation to his appointment.

The Board wishes to take this opportunity to welcome Mr. Leung to join the Board.

By Order of the Board Ngan Man-ying, Lynda Company Secretary

Hong Kong, 1st August 2008

At the date of this announcement, the Board comprises (a) ten executive directors, namely Dr. Cheng Kar-shun, Henry, Mr. Doo Wai-hoi, Willian, Mr. Cheng Kar-shing, Peter, Mr. Cheng Chi-kong, Adrian, Mr. Leung Chi-kin, Stewart, Mr. Chow Kwai-cheung, Mr. Chow Yu-chun, Alexander, Mr. Fong Shing-kwong, Michael, Ms. Ngan Man-ying, Lynda and Mr. Leung Chin-man; (b) a non-executive director, namely Mr. Fu Sze-shing; and (c) three independent non-executive directors, namely, Mr. Cheng Wai-chee, Christopher, Mr. Tien Pei-chun, James and Mr. Lee Luen-wai, John.

The announcement is published on the websites of the Company (www.nwcl.com.hk) and The Stock Exchange of Hong Kong Limited (www.hkexnews.hk).

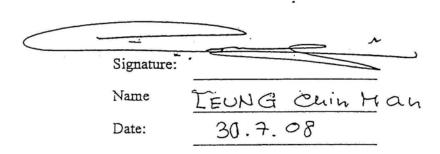
Source of information: Dr Henry CHENG Kar-shun

Case Record 個案資料

Serial No. 編號: 16/2008

(A)	Information on the officer 有關人員資	P							
Nam	Leung Chin-man	姓名	梁展文						
Last	Last government post title 任職政府最後職位								
Perm	anent Secretary for Housing, Planning and L	ands (Housing) and D	Pirector of Housing						
Date	of cessation of active government service	停止政府職務日期	10 January 2006						
(B)	Information on the approved outside wo	ork 獲准擔任外間立	作資料						
Nam	e of employing company /organization or-	own company* 受聘	公司/機構或自設公司名稱*						
	World China Land Limited								
	, ,,								
Posit	ion/title 職位/職銜 Executive Director								
Com	mencement date of approved work 開始扔	曾任獲准工作日期	1 Aug. 2008						
Brief	Brief description of main duties 主要職務簡述								
(a)	develop design and construction modules fo								
(b)	identify ways in constructing environmental		nable buildings in China;						
(c)	set up a comprehensive procurement system								
(d)	provide general support for the administration	on of the regional offi	ces in China.						
Sanit	isation period 禁制期 Nil								
Restrictions on scope of work (in addition to the applicable standard restrictions set out at the end of this form) 工作範圍限制 (除了本表格末段所列的劃一工作範圍限制之外)									
(a)	Mr Leung should not involve himself in any connected with Hong Kong;	y business of New W	orld China Land Limited that is						
(b)	he should not use or disclose any classified government service in the course of his emp								
(c)	he should not represent New World China I and	and Limited in any d	iscussion with the Government;						
(d)	for avoidance of doubt, he should confine h Limited.	nis proposed appointn	nent to New World China Land						

I confirm that the above particulars are correct and understand that the information may be disclosed to the public in accordance with the provisions set out in CSB Circular No. 10/2005.



* Delete as appropriate

Standard Restrictions on Scope of Work

The officer should not -

- (a) be personally involved, directly or indirectly, in the bidding for any government land, property, projects, contracts or franchises;
- (b) undertake or represent any person in any work including any litigation or lobbying activities that are connected in any way with
 - (i) the formulation of any policy or decisions;
 - (ii) sensitive information;
 - (iii) contractual or legal dealings;
 - (iv) assignments or projects; and/or
 - (v) enforcement or regulatory duties

in which he/she was involved or to which he/she had access during his/her last three years of government service; or

(c) engage in any activities which will cause embarrassment to the Government or bring disgrace to the civil service.



Source of information: Civil Service Bureau

For officers at D4 or above, this record will be placed in a register for public inspection.

Appendix 9



(incorporated in the Cayman Islands with limited Itability)

香港中环皇后大道中 18 号籍世界大幅第二例 9 楼 9/F, New World Tower 1, 18 Queen's Road Central, Hong Kong

电话 Tel : (852) 2131 0201 传孔 Fax : (852) 2131 0216

www.nwcl.com.hk

新聞資料 Media Information

新世界中國地產有限公司聲明

(2008 年 8 月 15 日一 香港) 新世界中國地產有限公司(「新世界中國地產」或「本公司」; 香港股份代號: 917)與執行董事及副董事總經理梁展文先生經過詳細商議後,協議無條件 提前解約,即時生效,當中不涉及任何補償。

新世界中國地產一直重視社會祥和氣氛,包容民意。本公司與梁先生均深切了解事件受到 社會高度關注,對社會的穩定和諧有一定影響。經過深思熟慮後,雙方決定顧全大局,協 議無條件提前解約,釋除社會疑慮。

- 完 -

新世界中國地產有限公司

新世界中國地產爲香港上市公司新世界發展有限公司(香港股份代號:17)的內地物業旗艦,並爲內地最大型全國性房地產發展商之一,資產總值約449.5億港元。新世界中國地產自1999年7月起在香港上市(香港股份代號:917),其多元化物業發展組合包括35個主要項目,可供發展之總樓面面積達2,610萬平方米,分佈於中國內地21個特大城市或主要交通樞紐,發展包括住宅社區、服務式公寓、別墅、寫字樓、商場、多用途綜合大廈、酒店及度假村等各類型物業。

如欲查詢詳情,請聯絡:

關則輝先生

集團總監 - 企業事務

電話:

傳呼機: 電郵:

@nwd.com.hk

Source of information: Dr Henry CHENG Kar-shun

The above statement was issued by New World China Land Limited in the early hours of 16 August 2008.

香港股份代號:0917 香港新世界集團成員 HK Stock Code:0917 Member of Hong Kong New World Group

Mr LEUNG Chin-man's public statement on 16 August 2008

梁展文之回應:

近日有關我從事新工作的決定,引來社會很大的迴響,和很多人一樣,我亦期待特首能早日作出回應。今天特首發表聲明和俞宗怡局長會見傳媒,無論離職公務員就業咨詢委員會將來如何決定,我覺得已到了應該把我在整件事的心路歷程向大家交代的時刻了。

在離開政府工作兩年多後,我過著平靜的生活,卻忽然收到鄭家純先生托人給我的口訊,問我有否興趣參與新世界集團在中國內地的地產業務。我初時對此實在有些遲疑,因爲我多年在政府內處理房屋事務,尤其新世界是當年紅灣半島的買家,而我亦是該項工作的統籌者,我是否應該避嫌?但事實上,當時紅灣的賣價,是由各有關部門組成的談判隊伍的集體建議,雖然我沒有影響談判小組在賣價上的看法,但我亦認同該建議,並向局長推薦。

從上述情況可以看到,在處理紅灣個案上,其實並非如坊間所說,我或其他個別同事有任何的酌情權,正如早些時候 i-Cable 一個由胡孟青小姐主持的評論節目中指出,正正由於政府在處理這些敏感問題上缺乏透明度,導致市民種種的疑慮,這是可以理解的。

無論如何,作爲當時最高級的公務員,我當然要就該項工作負上全部的行政責任,但我並沒 有在地價的問題上偏幫新世界,既然清白,又何懼之有?根本不應該存在所謂避嫌的問題, 但人言可畏,這想法又是否一廂情願?

在仔細考慮後,想到我在管制期內就業,必要依足程序向政府申請,如果政府認爲有問題,必定不會批准。我當時深信,政府對於我的申請一定會作出全面及客觀的評估,倘若政府認 爲沒有問題,那麼我也應該可以行使我工作的權利。而事實上,我在向政府提出申請後,已 完全處於被動地位。

今日得悉政府在考慮我的申請時,竟然遺漏我曾經參與紅灣半島的工作這個重要因素,實在使我大感驚訝。故此,特首現時的處理方法是正確的,顯示出政府肯面對問題。而俞宗怡局長坦然承認上述錯漏,這種無畏承擔的精神,我是完全認同的。故此我非常高興聽到她會留守崗位,如俞宗怡這樣有承擔精神的官員,實在應該留在政府裡,那才是市民之福。

事實上,既然我重投社會從事我熟悉的行業會引起這樣大的風波,我今後會在其他領域尋求新的挑戰。故此我今晚已向新世界中國地產提出無條件解約的要求,亦不會收取過去這段時間內的任何薪酬。

另一方面,我亦決定不會向政府追究這次不當處理對我造成的影響在法律上的責任,以免虛耗公帑。此外,我亦想向鄭家純先生致萬二分歉意,這件事實在給他帶來很多不必要的麻煩。

最後,我的感受就只有兩句:「雲散月明誰點綴,天容海色自澄清。」

Sample Reply Slip

To: Secretary, Advisory Committee on Post-service Employment of Civil Servants (Fax No.: 2523 6416)

Application for Post-service Outside Work [Name of applicant], [Rank of applicant] (Application No. x/xxxx)

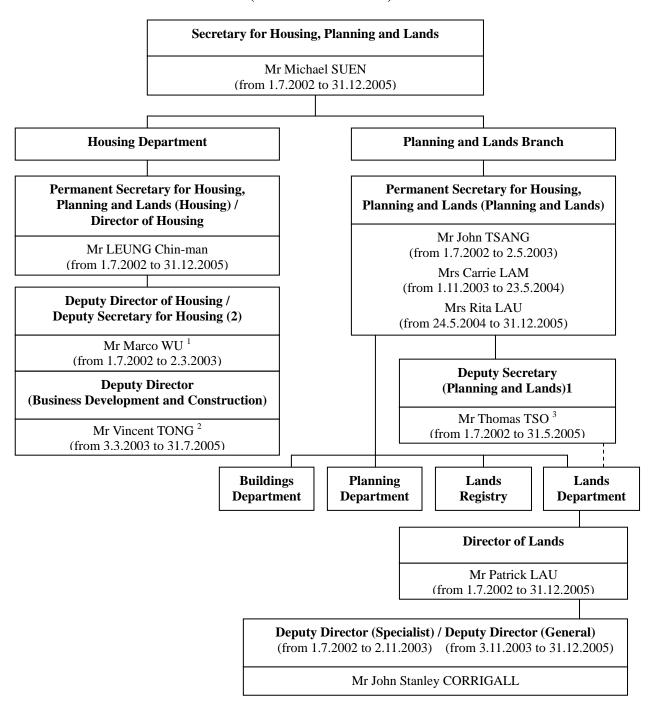
I refer to your letter ref. [file reference] dated [dd/mm/yyyy]. My views and recommendation on [name of applicant]'s application are as follows –

(A)	Recommendation on the application [Note: The recommendation would depend on the circumstances of individual case.]
(B)	Declaration of Interest
	I declare my interest on [name of applicant]'s application as follows –
	I return the paper and refrain from giving comments on [name of applicant]'s application because of the potential conflict of interest as shown below –

	Signature	:	
	Name	:	
	Date	:	
Please tick in the appropri	iate box.		

Source of information : Civil Service Bureau

Organization structure of the Housing, Planning and Lands Bureau (from 2002 to 2005)



The post title of Mr Marco WU was renamed Deputy Director (Business Development)("DD(BD)") on 1.1.2003.

Source of information: compiled by the Select Committee based on information provided by the Civil Service Bureau and the Transport and Housing Bureau

After Mr Marco WU left the Housing Department on 2.3.2003, Mr Vincent TONG succeeded him as DD(BD) in addition to his post as Deputy Director (Construction) and became Deputy Director (Business Development and Construction).

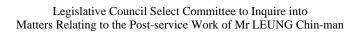
Mr Thomas TSO doubled up as Permanent Secretary for Housing, Planning and Lands (Planning and Lands) in addition to his post as Deputy Secretary (Planning and Lands)1 from 3.5.2003 to 31.10.2003.

Hong Kong Housing Authority Commercial Properties Committee

Terms of Reference (2003/04 to 2004/05)

- (1) To advise the Housing Authority on policies concerning its commercial, industrial and other non-domestic facilities and to optimize financial return on its investment.
- (2) To exercise the powers and functions of the Authority in accordance with the relevant prevailing policies -
 - (a) to endorse programmes of activities and monitor their performance, and to approve the financial targets, service standards and performance measures within the policies and objectives set by the Authority for submission to the Authority for approval;
 - (b) to manage and maintain the Authority's non-domestic properties, including determination of letting and promotional strategy, rents and other tenancy terms;
 - (c) to determine ex-gratia allowances for non-domestic properties affected by redevelopment, repair or other operational activities; and
 - (d) to endorse policy relating to the management of the Authority's lists of service providers and consultants, and to consider appeals against actions concerning status of service providers and consultants on such lists.

Source of information: Transport and Housing Bureau



Lists of written evidence/documents

Lists of written evidence/documents

- A. Evidence/documents provided by the Civil Service Bureau
- B. Documents provided by the Development Bureau
- C. Evidence/documents provided by the Transport and Housing Bureau
- D. Evidence/documents provided by witnesses and other parties
- E. Documents provided by individuals and other parties
- F. Documents referred to by the Select Committee

A. Evidence/documents provided by the Civil Service Bureau

	Documents	Select Committee reference no.
1.	Letter to the Clerk to Select Committee dated 31 December 2008	C4
2.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 18 December 2008	C5
3.	Control regime for post-service outside work of directorate civil servants	C6
4.	Review of policy on post-service employment of former directorate civil servants	C7
5.	Civil Service Bureau Circular No. 10/2005 - Taking up outside work by directorate civil servants after ceasing active service	C8
6.	Application form for permission to take up outside work after ceasing active government service	С9
7.	Establishment and organization within the Civil Service Bureau responsible for processing applications for post-service work of directorate civil servants	C10
8.	Civil Service Bureau Circular No. 13/95 - Acceptance of outside appointments after retirement	C11
9.	Civil Service Bureau Circular No. 3/97 - Permission to take up outside appointment on completion of agreement	C12
10.	Advisory Committee on Post-service Employment of Civil Servants - Terms of reference and membership	C13
11.	Guiding principles and criteria for the assessment of applications for post-service employment by directorate civil servants	C14
12.	Advisory Committee on Post-service Employment of Civil Servants - Note on declaration of interest	C15
13.	The Nineteenth Report on the Work of the Advisory Committee on Post-service Employment of Civil Servants	C16
14.	Case record containing the basic information on the approved outside work with New World China Land Limited taken up by Mr LEUNG Chin-man	C17
15.	Section 30 of the Pension Benefits Ordinance	C18
16.	Composition, role and duties of the Administrative Officer Grade Management	C19

	Documents	Select Committee reference no.
17.	Statements issued by New World China Land Limited and Mr LEUNG Chin-man on the termination of Mr LEUNG's contract	C20
18.	Procedures for processing post-service outside work applications from directorate civil servants	C21
19.	Chronology of events on the processing of Mr LEUNG Chin-man's application for post-service employment with New World China Land Limited	C22
20.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 9 January 2009	C23
21.	Case record containing the basic information on the approved outside work with Trust Company International Pty Limited taken up by Mr LEUNG Chin-man	C24
22.	Case record containing the basic information on the approved outside work with Fineland Real Estate (Holdings) Company Limited taken up by Mr LEUNG Chin-man	C25
23.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 6 April 2009 (item 2)	C30
24.	Posting history of Mrs Susan MAK LOK Suet-ling	C31
25.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 6 April 2009 (relating to the Hunghom Peninsula incident)	C32
26.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 27 April 2009	C33
27.	Statement issued by the Chief Executive's Office on 4 August 2008	C34
28.	Statement issued by the Transport and Housing Bureau (Housing Branch) on 15 August 2008	C35
29.	Press release on the remarks by the Chief Executive dated 16 August 2008	C36
30.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 25 March 2009	C37
31.	Extract from Annex A of the Secretary for the Civil Service's memo dated 22 January 2005 to the Independent Commission Against Corruption and the Department of Justice	C38

	Documents	Select Committee reference no.
32.	Extract from the discussion paper on "Review of Policy on Post-service Employment of Former Directorate Civil Servants" and Annex B attached to the discussion paper issued to the Advisory Committee on Post-retirement Employment (now renamed as the Advisory Committee on Post-service Employment of Civil Servants) for discussion on 7 March 2005	C39
33.	Extract from the Notes of Meeting of the Advisory Committee on Post-retirement Employment held on 7 March 2005 to discuss the paper on "Review of Policy on Post-retirement Employment"	C40
34.	Extract from the consultation paper on "Review of Policy on Post-service Employment of Former Directorate Civil Servants" and Annex B attached to the consultation paper issued to the relevant Staff Councils, Permanent Secretaries and Heads of Department/Grade	C41
35.	Extract of views from Bureaux/Departments, Staff Councils/Associations and Individual Officers/Groups of Officers on the "Approving Criteria" proposed in the consultation paper on "Review of Policy on Post-service Employment of Former Civil Servants" issued in March 2005	C42
36.	Discussion paper on "Review of Policy on Post-service Employment of Former Directorate Civil Servants" issued to the Panel on Public Service for discussion on 21 March 2005	C43
37.	Extract from the minutes of the Panel on Public Service meeting held on 21 March 2005 on discussion on the findings and preliminary proposals from the Civil Service Bureau's review of the policy on post-retirement employment of former directorate civil servants	C44
38.	Extract from the discussion paper on "Review of Policy on Post-service Employment of Former Directorate Civil Servants – Summary of Comments Received" issued to the Civil Service Bureau Strategy Group for discussion on 23 May 2005	C45
39.	Extract from Annex A attached to the discussion paper on "Review of Policy on Post-service Employment of Former Directorate Civil Servants" issued to the Civil Service Bureau Strategy Group for discussion on 2 August 2005	C46

	Documents	Select Committee reference no.
40.	Extract from the discussion paper on "Review of Policy on Post-service Employment of Former Directorate Civil Servants" and Annexes A and B of the discussion paper issued to the Advisory Committee on Post-retirement Employment for discussion on 5 October 2005	C47
41.	Extract from the minutes of the Panel on Public Service meeting held on 21 November 2005 on the discussion on review of policy on post-service employment of former directorate civil servants	C48
42.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 20 April 2009	C49
43.	Further information provided by the Administration in response to the Clerk to Select Committee's letter of 6 April 2009 (relating to the Hunghom Peninsula incident)	C50
44.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 4 June 2009	C51
45.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 11 May 2009	C53
46.	Membership of the Public Service Commission since establishment in 1950	C54
47.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 16 September 2009	C55
48.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 12 November 2009	C57
49.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 6 November 2009	C58
50.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 3 December 2009	C59
51.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 5 January 2010	C60
52.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 2 March 2010	C61
53.	Civil Service Bureau Circular No. 8/2002 - The Role and Responsibilities of Civil Servants in relation to Principal Officials appointed under the Accountability System	C62

	Documents	Select Committee reference no.
54.	Civil Service Bureau Memorandum No. 10/2002 - Accountability System for Principal Officials - Changes in Delegation of Authority on Civil Service Management and the Chinese Titles of Posts and Work Schedules in the Civil Service Bureau	C63
55.	Civil Service Bureau Circular No. 9/2009 - Civil Service Code	C64
56.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 1 April 2010	C65
57.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 14 June 2010	C66
58.	Tables on post-service outside work applications from former directorate civil servants who left the civil service on grounds other than retirement from 1 January 2007 to 31 May 2010	C67
59.	Information note on Mr LEUNG Chin-man's application with Fineland Real Estate (Holdings) Company Limited	C1(C)*
60.	Application form provided by Mr LEUNG Chin-man for post-service work with New World China Land Limited	C2(C)*
61.	Approval letter from Secretary for the Civil Service to Mr LEUNG Chin-man dated 9 July 2008	C3(C)*
62.	Secretary for the Civil Service's letter dated 4 August 2008 seeking Mr LEUNG Chin-man's clarification on his appointment with New World China Land Limited	C4(C)*
63.	Letters dated 11 August 2008 from Mr LEUNG Chin-man and New World China Land Limited to the Secretary for the Civil Service	C5(C)*
64.	Email from Mr LEUNG Chin-man dated 16 August 2008 notifying the Civil Service Bureau of his resignation from New World China Land Limited and the Bureau's acknowledgement dated 18 August 2008	C6(C)*
65.	Information note on Mr LEUNG Chin-man's application with Trust Company International Pty Limited	C7(C)*
66.	Submission dated 10 June 2008 to the Deputy Secretary (Civil Service)1 seeking her views and assessment on Mr LEUNG Chin-man's application	C8(C)*
67.	Submission dated 25 June 2008 to the Deputy Secretary (Civil Service)1	C9(C)*

	Documents	Select Committee reference no.
68.	Submission dated 4 July 2008 to the Secretary for the Civil Service seeking her approval on Mr LEUNG Chin-man's application	C10(C)*
69.	Secretary for the Civil Service's memo dated 19 May 2008 to three Permanent Secretaries seeking their comments on Mr LEUNG Chin-man's application	C11(C)*
70.	Memo dated 26 May 2008 from the Permanent Secretary (Works) to the Secretary for the Civil Service providing comments and observations on Mr LEUNG Chin-man's application	C12(C)*
71.	Memo dated 30 May 2008 from the Permanent Secretary for Development (Planning and Lands) to the Secretary for the Civil Service providing information on the Government's contractual dealings with New World China Land Limited and its parent company	C13(C)*
72.	Exchange of email between the Secretary for the Civil Service and the Permanent Secretary for Development (Planning and Lands) dated 30 May 2008 in relation to further comments on Mr LEUNG Chin-man's application	C14(C)*
73.	Memo dated 5 June 2008 from the Permanent Secretary for Transport and Housing (Housing) to the Secretary for the Civil Service providing recommendation on Mr LEUNG Chin-man's application	C15(C)*
74.	Memo dated 10 June 2008 from the Permanent Secretary for Transport and Housing (Housing) to the Secretary for the Civil Service providing assessment on Mr LEUNG Chin-man's application	C16(C)*
75.	Exchange of email between the Secretary for the Civil Service and the Permanent Secretary for Development (Works) dated 17 and 24 June 2008 in relation to further comments on Mr LEUNG Chin-man's application	C17(C)*
76.	Internal records of the Transport and Housing Bureau (Housing Branch) on Mr LEUNG Chin-man's application	C18(C)*
77.	Internal records of the Development Bureau (Planning and Lands Branch) on Mr LEUNG Chin-man's application	C19(C)*
78.	Internal records of the Development Bureau (Works Branch) on Mr LEUNG Chin-man's application	C20(C)*

	Documents	Select Committee reference no.
79.	Fax dated 30 June 2008 from the Secretary to the Advisory Committee on Post-service Employment of Civil Servants to the Chairman of the Advisory Committee on Post-service Employment of Civil Servants on Mr LEUNG Chin-man's application	C21(C)*
80.	Paper from the Secretary to the Advisory Committee on Post-service Employment of Civil Servants to members of the Advisory Committee on Post-service Employment of Civil Servants dated 2 July 2008 on Mr LEUNG Chin-man's application	C22(C)*
81.	Reply slip from the members of the Advisory Committee on Post-service Employment of Civil Servants on Mr LEUNG Chin-man's application	C23(C)*
82.	Information note on Mr LEUNG Chin-man's application with the Hong Kong Housing Society	C24(C)*
83.	Application form from Mr LEUNG Chin-man for post-service work with Trust Company International Pty Limited	C25(C)*
84.	Memo dated 27 November 2006 from the Secretary for the Civil Service to the Permanent Secretary for Housing, Planning and Lands (Housing) and the Permanent Secretary for Financial Services and the Treasury (Financial Services) seeking their comments on Mr LEUNG Chin-man's application for post-service work with Trust Company International Pty Limited	C26(C)*
85.	Memo dated 28 November 2006 from the Permanent Secretary for Financial Services and the Treasury (Financial Services) providing comments on Mr LEUNG Chin-man's application for post-service work with Trust Company International Pty Limited	C27(C)*
86.	Memo dated 4 December 2006 from the Permanent Secretary for Housing, Planning and Lands (Housing) providing completed assessment on Mr LEUNG Chin-man's application for post-service work Trust Company International Pty Limited	C28(C)*
87.	Submission dated 4 December 2006 to the Deputy Secretary (Civil Service)1 seeking her views and assessment on Mr LEUNG Chin-man's application for post-service work with Trust Company International Pty Limited	C29(C)*

	Documents	Select Committee reference no.
88.	Submission dated 11 December 2006 to the Deputy Secretary (Civil Service)1 on Mr LEUNG Chin-man's application for post-service work with Trust Company International Pty Limited	C30(C)*
89.	Submission dated 19 December 2006 to the Deputy Secretary (Civil Service)1 proposing an additional restriction on Mr LEUNG Chin-man's application for post-service work with Trust Company International Pty Limited	C31(C)*
90.	Fax dated 21 December 2006 from the Secretary to the Advisory Committee on Post-service Employment of Civil Servants to the Chairman of the Advisory Committee on Post-service Employment of Civil Servants seeking his views on Mr LEUNG Chin-man's application for post-service work with Trust Company International Pty Limited	C32(C)*
91.	Paper dated 22 December 2006 from the Secretary to the Advisory Committee on Post-service Employment of Civil Servants to the members of the Advisory Committee on Post-service Employment of Civil Servants seeking their views on Mr LEUNG Chin-man's application for post-service work with Trust Company International Pty Limited	C33(C)*
92.	Reply slips from the members of the Advisory Committee on Post-service Employment of Civil Servants providing their views on Mr LEUNG Chin-man's application for post-service work with Trust Company International Pty Limited	C34(C)*
93.	Submission dated 3 January 2007 to the Secretary for the Civil Service seeking her approval on Mr LEUNG Chin-man's application for post-service work with Trust Company International Pty Limited	C35(C)*
94.	Approval letter dated 4 January 2007 from the Civil Service Bureau to Mr LEUNG Chin-man on his application for post-service work with Trust Company International Pty Limited	C36(C)*
95.	Letter dated 24 January 2007 from Mr LEUNG Chin-man to the Civil Service Bureau advising the change of his job title with Trust Company International Pty Limited	C37(C)*

	Documents	Select Committee reference no.
96.	Memo dated 25 January 2007 from the Secretary for the Civil Service to the Permanent Secretary for Housing, Planning and Lands (Housing) and the Permanent Secretary for Financial Services and the Treasury (Financial Services) seeking their comments on Mr LEUNG Chin-man's revised scope of appointment with Trust Company International Pty Limited	C38(C)*
97.	Memo dated 26 January 2007 from the Permanent Secretary for Financial Services and the Treasury (Financial Services) to the Secretary for the Civil Service expressing no objection to Mr LEUNG Chin-man's revised scope of appointment with Trust Company International Pty Limited	C39(C)*
98.	Memo dated 29 January 2007 from the Permanent Secretary for Housing, Planning and Lands (Housing) to the Secretary for the Civil Service expressing no objection to Mr LEUNG Chin-man's revised scope of appointment with Trust Company International Pty Limited	C40(C)*
99.	Fax dated 29 January 2007 from the Secretary to the Advisory Committee on Post-service Employment of Civil Servants to the Chairman of the Advisory Committee on Post-service Employment of Civil Servants seeking his views on Mr LEUNG Chin-man's revised scope of appointment with Trust Company International Pty Limited	C41(C)*
100.	Paper dated 29 January 2007 from the Secretary to the Advisory Committee on Post-service Employment of Civil Servants to the members of the Advisory Committee on Post-service Employment of Civil Servants seeking their views on Mr LEUNG Chin-man's revised scope of appointment with Trust Company International Pty Limited	C42(C)*
101.	Reply slips from the members of the Advisory Committee on Post-service Employment of Civil Servants providing their views on Mr LEUNG Chin-man's revised scope of appointment with Trust Company International Pty Limited	C43(C)*
102.	Submission dated 31 January 2007 to the Secretary for the Civil Service seeking her approval on Mr LEUNG Chin-man's revised scope of appointment with Trust Company International Pty Limited	C44(C)*
103.	Approval letter dated 2 February 2007 from the Civil Service Bureau to Mr LEUNG Chin-man regarding his revised scope of appointment with Trust Company International Pty Limited	C45(C)*

	Documents	Select Committee reference no.
104.	Application form from Mr LEUNG Chin-man for post-service work with Fineland Real Estate (Holdings) Company Limited	C46(C)*
105.	Memo dated 29 November 2007 from the Secretary for the Civil Service to the Permanent Secretary for Housing, Planning and Lands (Housing) seeking his comments on Mr LEUNG Chin-man's application for post-service work with Fineland Real Estate (Holdings) Company Limited	C47(C)*
106.	Memo dated 7 December 2007 from the Permanent Secretary for Housing, Planning and Lands (Housing) providing completed assessment on Mr LEUNG Chin-man's application for post-service work with Fineland Real Estate (Holdings) Company Limited	C48(C)*
107.	Submission dated 12 December 2007 to the Deputy Secretary (Civil Service)1 seeking her views and assessment on Mr LEUNG Chin-man's application for post-service work with Fineland Real Estate (Holdings) Company Limited	C49(C)*
108.	File minute dated 17 December 2007 from the Deputy Secretary (Civil Service)1 setting out her views on Mr LEUNG Chin-man's application for post-service work with Fineland Real Estate (Holdings) Company Limited	C50(C)*
109.	Submission dated 18 December 2007 to the Deputy Secretary (Civil Service)1 on Mr LEUNG Chin-man's application for post-service work with Fineland Real Estate (Holdings) Company Limited	C51(C)*
110.	Fax dated 20 December 2007 from the Secretary to the Advisory Committee on Post-Service Employment of Civil Servants to the Chairman of the Advisory Committee on Post-Service Employment of Civil Servants seeking his views on Mr LEUNG Chin-man's application for post-service work with Fineland Real Estate (Holdings) Company Limited	C52(C)*
111.	Paper dated 20 December 2007 from the Secretary to the Advisory Committee on Post-Service Employment of Civil Servants to the members of the Advisory Committee on Post-Service Employment of Civil Servants seeking their views on Mr LEUNG Chin-man's application for post-service work with Fineland Real Estate (Holdings) Company Limited	C53(C)*

	Documents	Select Committee reference no.
112.	Reply slips from the members of the Advisory Committee on Post-Service Employment of Civil Servants providing their views on Mr LEUNG Chin-man's application for post-service work with Fineland Real Estate (Holdings) Company Limited	C54(C)*
113.	Submission dated 4 January 2008 to the Secretary for the Civil Service seeking her approval on Mr LEUNG Chin-man's application for post-service work with Fineland Real Estate (Holdings) Company Limited	C55(C)*
114.	Approval letter dated 10 January 2008 from the Civil Service Bureau to Mr LEUNG Chin-man regarding his application for post-service work with Fineland Real Estate (Holdings) Company Limited	C56(C)*
115.	Letter dated 9 August 2008 from Mr LEUNG Chin-man informing the Civil Service Bureau of his resignation from Fineland Real Estate (Holdings) Company Limited as from 1 August 2008	C57(C)*
116.	Application form provided by Mr LEUNG Chin-man for the post-service work with PuraPharm International (Hong Kong) Limited	C58(C)*
117.	Submission dated 3 January 2007 to the Secretary for the Civil Service seeking her approval on Mr LEUNG Chin-man's application for post-service work with PuraPharm International (Hong Kong) Limited	C59(C)*
118.	Memo dated 7 December 2006 from the Permanent Secretary for Housing, Planning and Lands (Housing) to the Secretary for the Civil Service	C60(C)*
119.	Memo dated 12 December 2006 from the Director of Health to the Secretary for the Civil Service	C61(C)*
120.	Memo dated 13 December 2006 from the Permanent Secretary for Health and Welfare (Acting) to the Secretary for the Civil Service	C62(C)*
121.	Assessment dated 15 December 2006 made by the Deputy Secretary for the Civil Service 1 as the Administrative Officer Grade Management	C63(C)*

	Documents	Select Committee reference no.
122.	Paper dated 22 December 2006 from the Secretary to the Advisory Committee on Post-Service Employment of Civil Servants to the members of the Advisory Committee on Post-Service Employment of Civil Servants with the views of the Chairman of the Advisory Committee on Post-Service Employment of Civil Servants incorporated	C64(C)*
123.	Reply slips from the members of the Advisory Committee on Post-Service Employment of Civil Servants providing their views on Mr LEUNG Chin-man's application for post-service work with PuraPharm International (Hong Kong) Limited	C65(C)*
124.	Information note on Mr LEUNG Chin-man's application for post-service work with PuraPharm International (Hong Kong) Limited	C66(C)*
125.	Application form provided by Mr LEUNG Chin-man for post-service work with the Hong Kong Housing Society	C67(C)*
126.	Exchange of e-mails dated 1 September 2006 between the Civil Service Bureau and Mr LEUNG Chin-man	C68(C)*
127.	Application form provided by Mr Bowen LEUNG Po-wing for post-service work with New World China Land Limited	C69(C)*
128.	Chronology on the consultation process on Mr Bowen LEUNG Po-wing's application for post-service work with New World China Land Limited	C70(C)*
129.	Memo dated 3 January 2008 from the Secretary for the Civil Service to the Chief Secretary for Administration's Office seeking the Chief Secretary for Administration's comments on Mr Bowen LEUNG Po-wing's application	C71(C)*
130.	Memo dated 3 January 2008 from the Secretary for the Civil Service to the Permanent Secretary for Development (Planning and Lands) and the Permanent Secretary for Development (Works) seeking their comments on Mr Bowen LEUNG Po-wing's application	C72(C)*
131.	Memo dated 4 January 2008 from the Administrative Assistant to the Chief Secretary for Administration to the Secretary for the Civil Service	C73(C)*
132.	Memo dated 15 January 2008 from the Permanent Secretary for Development (Works) to the Secretary for the Civil Service	C74(C)*

	Documents	Select Committee reference no.
133.	Memo dated 31 January 2008 from the Permanent Secretary for Development (Planning and Lands) to the Secretary for the Civil Service	C75(C)*
134.	Submission dated 1 February 2008 from the Chief Executive Officer (Pensions) to the Deputy Secretary for the Civil Service 1 regarding Mr Bowen LEUNG Po-wing's application	C76(C)*
135.	Fax dated 12 February 2008 from the Secretary to the Advisory Committee on Post-Service Employment of Civil Servants to the Chairman of the Advisory Committee on Post-Service Employment of Civil Servants regarding Mr Bowen LEUNG Po-wing's application for post-service work with New World China Land Limited	C77(C)*
136.	Paper dated 13 February 2008 from the Secretary to the Advisory Committee on Post-Service Employment of Civil Servants to the members of the Advisory Committee on Post-Service Employment of Civil Servants which was copied to the Chairman of the Advisory Committee on Post-Service Employment of Civil Servants	C78(C)*
137.	Reply slips from the members of the Advisory Committee on Post-Service Employment of Civil Servants providing their views on Mr Bowen LEUNG Po-wing's application for post-service work with New World China Land Limited	C79(C)*
138.	Submission dated 18 February 2008 to the Secretary for the Civil Service seeking her approval of Mr Bowen LEUNG Po-wing's application for post-service work with New World China Land Limited	C80(C)*
139.	Approval letter dated 20 February 2008 issued to Mr Bowen LEUNG Po-wing	C81(C)*
140.	Letter dated 31 March 2008 from the Secretary for the Civil Service to Mr Bowen LEUNG Po-wing inviting him to provide an update of his post-service outside work	C82(C)*
141.	Record of particulars dated 13 April 2008 provided by Mr Bowen LEUNG Po-wing	C83(C)*
142.	Exchange of e-mails dated 21 February 2008 between the Civil Service Bureau and Mr Bowen LEUNG Po-wing	C84(C)*
143.	Paper provided by the Administration concerning information that has been obliterated (as at 2 February 2009)	C26*

	Documents	Select Committee reference no.
144.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 16 February 2009 concerning information that has been obliterated	C27*
145.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 23 February 2009 concerning information that has been obliterated	C28*
146.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 26 February 2009 concerning information that has been obliterated	C29*
147.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 14 May 2009 concerning information that has been obliterated	C52*

^{*} Documents not available for public inspection

B. Documents provided by the Development Bureau

	Documents	Select Committee reference no.
1.	Information provided by the Development Bureau in response to the Clerk to Select Committee's letter dated 18 December 2008	D4
2.	Chronology of key events on the approval of the Grand Promenade development	D5
3.	Tender Notice, General and Special Conditions applicable to the Grand Promenade development	D6
4.	Extract from the Report No. 45 of the Public Accounts Committee	D7
5.	Practice Note for Authorized Persons and Registered Structural Engineers No. 13 - Calculation of Gross Floor Area and Non-accountable Gross Floor Area issued in March 2000	D8
6.	Section 1 of Practice Note No. 2 on Exemptions and Modifications issued in September 2000	D9
7.	Practice Note for Authorized Persons and Registered Structural Engineers No. 233 on Dedication of Land for Use as Public Passage issued in November 1999	D10
8.	Section 4 of Practice Note No. 23 on Discretionary Approval - Factors for Consideration issued in September 2000	D11
9.	Joint Practice Note No. 1 on Green and Innovative Buildings issued in February 2001	D12
10.	Joint Practice Note No. 2 on Second Package of Incentives to Promote Green and Innovative Buildings issued in February 2002	D13
11.	Paper on "Building Innovation Unit"	D14
12.	Joint Practice Note No. 1 on Green and Innovative Buildings issued in October 2004	D15
13.	Joint Practice Note No. 2 on Second Package of Incentives to Promote Green and Innovative Buildings issued in February 2006	D16
14.	Background brief on policy of charging premium on provision of GFA concessions	D17
15.	Practice Note No. 3/2001 on Premium Assessment for Exemption of Balconies from GFA and SC Calculation under Joint Practice Note No. 1 issued on 26 April 2001	D18

	Documents	Select Committee reference no.
16.	Practice Note No. 3/2001A on Premium Assessment for Exemption of Balconies from GFA and SC Calculation under Joint Practice Note No. 1 issued on 23 May 2003	D19
17.	Practice Note No. 6/2002 on Premium Assessment for Exemption of Balconies from GFA and SC Calculation under Joint Practice Note No. 1 (Supplementary to Practice Note No. 3/2001) issued on 20 July 2001	D20
18.	Practice Note No. 6/2002 on Premium Assessment for Exemption of Non-structural Prefabricated External Walls and Utility Platforms from GFA and SC calculation under Joint Practice Note No. 2 issued on 3 June 2002	D21
19.	Practice Note No. 3/2003 on Premium Assessment for Exemption of Non-structural Prefabricated External Walls (NSPE Wall) from GFA and SC Calculations for Residential Developments under Joint Practice Note No. 2 issued on 23 June 2003	D22
20.	The Administration's reply to a written question raised by Dr Hon Fernando CHEUNG Chiu-hung at the Council meeting on 9 April 2008 on "Residential projects with green features"	D23
21.	List of the Legislative Council Panel papers relating to building control policies in which Mr LEUNG Chin-man was involved as Director of Buildings	D24
22.	Major duties and responsibilities of the Director of Buildings during the period from 1999 to 2002	D25
23.	Organization charts of the relevant Bureaux and Departments when Mr LEUNG Chin-man was in the position of Director of Buildings and in the capacity of the Building Authority	D26
24.	Paper on "Green buildings - a proposal to enhance our quality of living"	D27
25.	List of the Legislative Council Panel Papers relating to building control policies in which Mr LEUNG Chin-man was involved as the then Director of Buildings	D29
26.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 6 February 2009	D30
27.	Press statement issued by the Buildings Department on 10 June 2002	D31

	Documents	Select Committee reference no.
28.	Further information provided by the Administration in response to the Clerk to Select Committee's letter of 16 February 2009	D32
29.	Further information provided by the Administration in response to the Clerk to Select Committee's letter of 13 March 2009	D33
30.	Correspondence between the Lands Department and other relevant Departments relating to the drawing up of the Special Conditions applicable to the Grand Promenade site	D1(C)*
31.	Correspondence between the Buildings Department and other relevant Departments relating to the granting of exemption areas to the Grand Promenade development	D2(C)*
32.	Letter from the Secretary for Housing, Planning and Lands to Clerk to Public Accounts Committee on legal advice concerning the Grand Promenade development	D3(C)*
33.	Documents/records relating to the enquiries of the lease conditions by real estate organizations before the close of tender of the Grand Promenade site	D4(C)*
34.	Building projects in respect of which Mr LEUNG Chin-man was personally involved as the then Building Authority at the Building Authority Conference in making certain decisions leading to approval of plans under the Buildings Ordinance	D5(C)*
35.	File minute dated 30 July 2001 from the Assistant Director/New Buildings 1 to the Director of Buildings, with the Director of Buildings' response in manuscript dated 30 July 2001	D6(C)*
36.	File Note dated 3 August 2001 prepared by the Chief Building Surveyor/Hong Kong East	D7(C)*
37.	Letter dated 22 September 2001 from the Authorized Person to the Buildings Department, with the Director of Buildings' instruction in manuscript dated 25 September 2001	D8(C)*
38.	Letter dated 26 September 2001 from the Authorized Person to the Buildings Department, with the Director of Buildings' instruction in manuscript dated 26 September 2001	D9(C)*
39.	Email dated 10 June 2002 (at 8:26 pm) from the Deputy Director of Buildings and copied to the Director of Buildings and others	D10(C)*

	Documents	Select Committee reference no.
40.	Email dated 10 June 2002 (at 8:38 pm) from the Deputy Director of Buildings and copied to the Director of Buildings and others	D11(C)*
41.	File Note dated 19 October 2001 prepared by the Chief Building Surveyor/Hong Kong East	D12(C)*
42.	Building Committee I 1 39/2001 dated 23 October 2001	D13(C)*
43.	Background information for the Building Authority Conference on 24 October 2001	D14(C)*
44.	Minutes of the Building Authority Conference on 24 October 2001	D15(C)*
45.	Case summary of the building project at 9-12 Chun Fai Terrace (August 1999 - present)	D16(C)*
46.	Names of the developers for the 25 projects listed in SC(2) Paper No. D5(C)	D17(C)*
47.	Attendance list of the Building Committee I meeting held on 23 October 2001	D18(C)*
48.	Details of the developments at No. 19 and 25 Tai Hang Drive	D19(C)*
49.	Case summary of the building project at Tai Hang Road, Hong Kong (I.L. 8972) from August 1999 to March 2009	D20(C)*
50.	Papers for the Building Authority Conference 8/01 (17 October 2001) (Tai Hang Road I.L.8972, Hong Kong)	D21(C)*
51.	Notes of the Building Conference I 1 38/2001 dated 16 October 2001	D22(C)*
52.	Minutes of the Building Authority Conference 7/01 meeting held on 17 October 2001	D23(C)*
53.	An account of the decision made by Mr LEUNG Chin-man in his capacity as the Building Authority on the building project at 1-4 West End Terrace and 11-11A Bonham Road, Hong Kong	D24(C)*
54.	Notes of the Building Conference I 3 4/2000 dated 1 February 2000	D25(C)*
55.	Minutes of the Building Authority Conference 1/00 meeting held on 10 February 2000	D26(C)*
56.	Papers for the Building Authority Conference 1/00 (10 February 2000) (1-4 West End Terrace and 11-11A Bonham Road, Hong Kong)	D27(C)*

	Documents	Select Committee reference no.
57.	Notes of Matters Arising I 1 16/2000 dated 25 April 2000	D28(C)*
58.	Minutes of the Building Authority Conference 2/00 meeting held on 29 April 2000	D29(C)*
59.	Papers for the Building Authority Conference 2/00 (29 April 2000) (1-4 West End Terrace and 11-11A Bonham Road, Hong Kong)	D30(C)*
60.	Notes of Matters Arising I 1 31/2000 dated 15 August 2000	D31(C)*
61.	Minutes of the Building Authority Conference 6/00 meeting held on 21 August 2000	D32(C)*
62.	Papers for the Building Authority Conference 6/00 (21 August 2000) (1-4 West End Terrace and 11-11A Bonham Road, Hong Kong)	D33(C)*
63.	Notes of Matters Arising I 1 4/2001 dated 23 January 2001	D34(C)*
64.	Minutes of the Building Authority Conference 1/01 meeting held on 2 March 2001	D35(C)*
65.	Papers for the Building Authority Conference 1/01 (2 March 2001) (1-4 West End Terrace and 11-11A Bonham Road, Hong Kong)	D36(C)*
66.	Paper provided by the Administration concerning information that has been obliterated (as at 2 February 2009)	D28*

^{*} Documents not available for public inspection

C. Evidence/documents provided by the Transport and Housing Bureau

	Documents	Select Committee reference no.
1.	Information provided by the Transport and Housing Bureau in response to the Clerk to Select Committee's letter dated 18 December 2008	T21
2.	Land lease granted to the developer of Hunghom Peninsula Private Sector Participation Scheme flats and the Conditions of Sale (No. 12547)	T22
3.	Statement on housing policy by Mr Michael SUEN Ming-yeung, the Secretary for Housing, Planning and Lands at the Council meeting on 13 November 2002	T23
4.	Minutes of meeting of the Panel on Housing on 14 January 2003	T24
5.	Paper on "Disposal of overhung Home Ownership Scheme flats" dated March 2003	T25
6.	Paper on "Disposal of surplus Home Ownership Scheme/ Private Sector Participation Scheme flats" dated October 2003	T26
7.	Paper on "Hunghom Peninsula - Private Sector Participation Scheme flats" dated February 2004	T27
8.	Paper on "Hunghom Peninsula Private Sector Participation Scheme flats - lease modification premium" dated February 2004	T28
9.	Letter from the Secretary for Housing, Planning and Lands to Clerk to Panel on Housing dated 22 December 2004 on "Correspondence with other developers"	T29
10.	Paper on "Possible options in the disposal of Kingsford Terrace Private Sector Participation Scheme flats" dated March 2004	T30
11.	Paper on "Disposal of Kingsford Terrace Private Sector Participation Scheme flats" dated July 2004	T31
12.	Hong Kong Housing Authority's revised budgets 2002/03, proposed budgets 2003/04 and financial forecasts 2004/05 to 2006/07	T32
13.	Hong Kong Housing Authority's revised budgets 2003/04, proposed budgets 2004/05 and financial forecasts 2005/06 to 2007/08	T33

	Documents	Select Committee reference no.
14.	Chronology of events relating to the negotiation with the developer of Hunghom Peninsula	T34
15.	Letter dated 27 November 2002 from First Star Development Limited to the Lands Department on Kowloon Inland Lot No. 11076	T35
16.	Letter dated 6 December 2002 from the Lands Department to First Star Development Limited on KIL No. 11076 and NKIL No. 6267	T36
17.	Extract from the minutes of the meeting of the Panel on Housing on 18 March 2003	T37
18.	Writ of Summons issued by the developer of Hunghom Peninsula on 25 July 2003	T38
19.	Minutes of meeting of the Panel on Housing on 3 November 2003	T39
20.	Letter dated 26 January 2004 from the developer's solicitors to the Lands Department on proposed lease modification of Kowloon Inland Lot No. 11076	T40
21.	Memorial of an instrument dated 26 February 2004 on lease modification of Kowloon Inland Lot No. 11076	T41
22.	Letter dated 20 February 2003 from First Star Development Limited to the Lands Department on the proposed modification of Kowloon Inland Lot No. 11076	T42
23.	Letter dated 30 December 2003 from the Lands Department to the developer's solicitors on the mediation	T43
24.	Letter dated 8 January 2004 from the Lands Department to the developer's solicitors on the mediation	T44
25.	First letter dated 8 January 2004 from the developer's solicitors to the Lands Department on the mediation	T45
26.	Second letter dated 8 January 2004 from the developer's solicitors to the Lands Department on the mediation	T46
27.	Letter dated 9 January 2004 from the developer's solicitors to the Lands Department on Kowloon Inland Lot No. 11076	T47
28.	Letter dated 15 January 2004 from the Lands Department to the developer's solicitors on the mediation	T48
29.	Letter dated 17 January 2004 from the Lands Department to the developer's solicitors on Kowloon Inland Lot No. 11076	T49

	Documents	Select Committee reference no.
30.	Letter dated 19 January 2004 from the developer's solicitors to the Lands Department on Kowloon Inland Lot No. 11076	T50
31.	Letter dated 20 January 2004 from the developer's solicitors to the Lands Department on Kowloon Inland Lot No. 11076	T51
32.	Letter dated 21 January 2004 from the Lands Department to the developer's solicitors on Kowloon Inland Lot No. 11076	T52
33.	Valuation report and information compiled by the Lands Department for the negotiation and mediation	T53
34.	Lease modification of Hunghom Peninsula - comparison between the two estimates of premium by the Government and the developer	T54
35.	Letter dated 31 January 2004 from the developer's solicitors to the Lands Department on Kowloon Inland Lot No. 11076	T55
36.	Letter dated 3 February 2004 from the Lands Department to the developer's solicitors on Kowloon Inland Lot No. 11076	T56
37.	Letter dated 4 February 2004 from the Lands Department to the developer's solicitors on Kowloon Inland Lot No. 11076	T57
38.	Letter dated 10 February 2004 from the developer's solicitors to the Lands Department on Kowloon Inland Lot No. 11076	T58
39.	Letter dated 11 February 2004 from the developer's solicitors to the Lands Department on Kowloon Inland Lot No. 11076	T59
40.	Letter dated 12 February 2004 from the Lands Department to the developer's solicitors on Kowloon Inland Lot No. 11076	T60
41.	Letter dated 12 February 2004 from the developer's solicitors to the Lands Department on Kowloon Inland Lot No. 11076	T61
42.	Letter dated 12 February 2004 from the Lands Department to the developer's solicitors on the mediation	T62
43.	Letter dated 26 February 2004 from the developer's solicitors to the Lands Department on Kowloon Inland Lot No. 11076	T63
44.	Letter dated 3 March 2004 from the Environmental Protection Department to Sun Hung Kai Properties Limited	T64
45.	Letter dated 3 March 2004 from the Environmental Protection Department to New World Development Company Limited on Hunghom Peninsula	T65

	Documents	Select Committee reference no.
46.	Letter dated 16 March 2004 from Sun Hung Kai Properties Limited to the Environmental Protection Department on Hunghom Peninsula	T66
47.	Letter dated 5 July 2004 from the Lands Department to the developer's solicitors on Kowloon Inland Lot No. 11076	T67
48.	Joint letter dated 29 November 2004 from New World Development Company Limited and Sun Hung Kai Properties Limited to the Environmental Protection Department with press release	T68
49.	Letter dated 1 December 2004 from the Environmental Protection Department to New World Development Company Limited and Sun Hung Kai Properties Limited on Hunghom Peninsula	Т69
50.	Letter dated 7 December 2004 from the Lands Department to the developer's solicitors on Hunghom Peninsula	T70
51.	Letter dated 8 December 2004 from the Buildings Department to First Star Development Limited on demolition of Hunghom Peninsula	T71
52.	Letter dated 8 December 2004 from First Star Development Limited to the Buildings Department on public access to demolition plans of Hunghom Peninsula	T72
53.	Letter dated 10 December 2004 from the Buildings Department to First Star Development Limited on demolition of Hunghom Peninsula	T73
54.	Letter dated 10 December 2004 from First Star Development Limited to the Buildings Department on demolition of Hunghom Peninsula	T74
55.	Letter dated 22 December 2004 from the Environmental Protection Department to New World Development Company Limited and Sun Hung Kai Properties Limited on Hunghom Peninsula	T75
56.	Letter dated 4 January 2005 from Sun Hung Kai Properties Limited to the Environmental Protection Department on waste management for proposed upgrading works of Hunghom Peninsula	T76

	Documents	Select Committee reference no.
57.	Letter dated 6 July 2005 from the Permanent Secretary for the Environment, Transport and Works (Environment) to New World Development Company Limited and Sun Hung Kai Properties Limited on Hunghom Peninsula	T77
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269.	Extract from the minutes of the Senior Directorate Meeting on 12 May 2003	T15(C)*
270.	Extract from the minutes of the Senior Directorate Meeting on 19 May 2003	T16(C)*
271.	Extract from the minutes of the Senior Directorate Meeting on 26 May 2003	T17(C)*

	Documents	Select Committee reference no.
272.	Briefing notes for the Senior Directorate Meeting on 9 June 2003	T18(C)*
273.	Extract from the minutes of the Senior Directorate Meeting on 9 June 2003	T19(C)*
274.	Extract from the minutes of the Senior Directorate Meeting on 16 June 2003	T20(C)*
275.	Brief for the Senior Directorate Meeting on 30 June 2003	T21(C)*
276.	Extract from the minutes of the Senior Directorate Meeting on 30 June 2003	T22(C)*
277.	Extract from the minutes of the Senior Directorate Meeting on 28 July 2003	T23(C)*
278.	Loose minute dated 28 July 2003 from the Secretary for Housing, Planning and Lands to the Chief Executive	T24(C)*
279.	Emails between 6 to 11 November 2003 between the Permanent Secretary for Housing, Planning and Lands (Housing) and the Department of Justice	T25(C)*
280.	Mediation agreement dated 8 December 2003	T26(C)*
281.	Email dated 13 December 2003 from the Deputy Director (Specialist) of the Lands Department to the Permanent Secretary for Housing, Planning and Lands (Housing)	T27(C) *
282.	Email dated 18 December 2003 from the Deputy Director of Lands (Specialist) to the Permanent Secretary for Housing, Planning and Lands (Housing)	T28(C) *
283.	Emails dated 27 December 2003 between the Secretary for Housing, Planning and Lands and the Permanent Secretary for Housing, Planning and Lands (Housing)	T29(C) *
284.	Notes of understanding by the Mediator dated 21 January 2004	T30(C)*
285.	Memo dated 1 April 2003 from the Director of Lands to the Permanent Secretary for Housing, Planning and Lands (Housing)	T31(C)*
286.	Memo dated 18 August 2003 from the Department of Justice to the Housing Department marked for the attention of the Permanent Secretary for Housing, Planning and Lands (Housing) while Mr LEUNG Chin-man was on leave	T32(C)*

	Documents	Select Committee reference no.
287.	Loose minute dated 22 October 2003 from the Permanent Secretary for Housing, Planning and Lands (Housing) to the Chief Secretary for Administration	T33(C)*
288.	Paper on Private Sector Participation Scheme at Hung Hum Bay Hunghom Peninsula, KIL No. 11076 for the Senior Directorate meeting on 16 June 2003	T34(C)*
289.	Memo enclosing a letter dated 20 February 2003 from First Star Development Limited to the Lands Department	T35(C)*
290.	Email dated 1 August 2003 from the Assistant Director/Legal Advice to the Deputy Director (Construction) of the Housing Department	T36(C)*
291.	Extract from the minutes of Private Sector Participation Scheme Tender Board meeting on 20 January 1998	T37(C)*
292.	Loose minute dated 24 September 2002 from the Head/Strategic Planning Unit (Acting) of the Housing Department to the Deputy Secretary for Housing (1) (copied to the Permanent Secretary for Housing, Planning and Lands (Housing))	T38(C)*
293.	Email dated 25 September 2002 from the Head/Strategic Planning Unit (Acting) of the Housing Department to the Deputy Secretary for Housing (1)'s personal secretary	T39(C)*
294.	Loose minute dated 2 October 2002 from the Administrative Assistant to the Secretary for Housing, Planning and Lands to the Director/Chief Executive's Office (copied to the Permanent Secretary for Housing, Planning and Lands (Housing))	T40(C)*
295.	Loose minute dated 21 October 2002 from the Head/Strategic Planning Unit of the Housing Department to the Permanent Secretary for Housing, Planning and Lands (Housing)	T41(C)*
296.	Email dated 21 October 2002 from the Head/Strategic Planning Unit of the Housing Department to the Chief Secretary for Administration's Office (copied to the Permanent Secretary for Housing, Planning and Lands (Housing))	T42(C)*
297.	Paper for the Steering Committee on Land Supply for Housing on Disposal of Private Sector Participation Scheme flats dated August 2002	T43(C)*

	Documents	Select Committee reference no.
298.	Extract from the minutes of the Steering Committee on Land Supply for Housing meeting on 13 August 2002	T44(C)*
299.	Email dated 27 September 2002 (10:37 am) from the Assistant Director/Policy Support of the Housing Department to the Administrative Assistant to the Secretary for Housing, Planning and Lands (copied to the Permanent Secretary for Housing, Planning and Lands (Housing) and others)	T45(C)*
300.	Email dated 27 September 2002 (10:55 am) from the Senior Administrative Officer/Policy Support to the Assistant Director/Sales of the Housing Department	T46(C)*
301.	Memo dated 26 May 2003 from the Assistant Director/Legal Advice of the Housing Department to the Assistant Director/ Legal (Kowloon and Conveyancing) of the Lands Department	T47(C)*
302.	Memo dated 4 April 2003 from the Deputy Director (Construction) of the Housing Department to the Deputy Secretary for Housing, Planning and Lands (Planning and Lands)(1) (copied to the Permanent Secretary for Housing, Planning and Lands (Housing) and others)	T48(C)*
303.	Emails of 11 and 12 April 2003 among the Permanent Secretary for Housing, the Deputy Director (Business Development and Construction) of the Housing Department, and the Deputy Director (Specialist) of the Lands Department	T49(C)*
304.	Email dated 22 May 2003 (2:39 pm) from the Assistant Director/Legal (Kowloon and Conveyancing) to the Administrative Assistant to the Secretary for Housing, Planning and Lands (copied to the Permanent Secretary for Housing, Planning and Lands (Housing))	T50(C)*
305.	Email dated 15 September 2003 (20:21 hours) from the Acting Deputy Director (Construction) of the Housing Department to the Administrative Assistant to the Secretary for Housing, Planning and Lands (copied to the Permanent Secretary for Housing, Planning and Lands (Housing))	T51(C)*
306.	Extract from the draft minutes of the Housing, Planning and Lands Bureau meeting on 5 September 2002	T52(C)*
307.	Extract from the minutes of the Senior Directorate Meeting on 20 January 2003	T53(C)*

	Documents	Select Committee reference no.
308.	Information attached for reference at the Senior Directorate Meeting on 17 March 2003 which is a file note prepared by the Private Secretary to the Chief Executive on 14 March 2003 copied to the Secretary for Housing, Planning and Lands	T54(C)*
309.	Extract from the minutes of the Senior Directorate Meeting on 24 March 2003	T55(C)*
310.	Information attached for reference at the Senior Directorate Meeting on 31 March 2003	T56(C)*
311.	Extract from the minutes of the Senior Directorate Meeting on 31 March 2003	T57(C)*
312.	Information attached for reference at the Senior Directorate Meeting on 14 April 2003	T58(C)*
313.	A note titled "Premium Negotiation with developer of the Hunghom Peninsula" for the Senior Directorate Meeting on 14 April 2003	T59(C)*
314.	Information attached for reference at the Senior Directorate Meeting on 28 April 2003	T60(C)*
315.	A note titled "Disposal of Private Sector Participation Scheme flats - Hung Hom Peninsula" for the Senior Directorate Meeting on 26 May 2003	T61(C)*
316.	Extract from the briefing notes for the Permanent Secretary for Housing, Planning and Lands (Housing) for the Housing, Planning and Lands Bureau meeting on 7 July 2003	T62(C)*
317.	Extract from the minutes of the Senior Directorate Meeting on 25 August 2003	T63(C)*
318.	Extract from the minutes of the Senior Directorate Meeting on 15 September 2003	T64(C)*
319.	Extract from the minutes of the Senior Directorate Meeting on 13 October 2003	T65(C)*
320.	Extract from the briefing notes for the Senior Directorate Meeting on 20 October 2003	T66(C)*
321.	Extract from the minutes of the Senior Directorate Meeting on 20 October 2003	T67(C)*
322.	Extract from the briefing notes for the Permanent Secretary for Housing, Planning and Lands (Housing) for attending the Senior Directorate Meeting on 27 October 2003	T68(C)*

	Documents	Select Committee reference no.
323.	Extract from the minutes of the Senior Directorate Meeting on 27 October 2003	T69(C)*
324.	Extract from the draft minutes of the Housing, Planning and Lands Bureau meeting on 3 November 2003	T70(C)*
325.	Brief for the Permanent Secretary for Housing, Planning and Lands (Housing) for the Senior Directorate Meeting on 17 November 2003	T71(C)*
326.	Extract from the minutes of the Senior Directorate Meeting on 17 November 2003	T72(C)*
327.	Extract from the minutes of the Senior Directorate Meeting on 19 January 2004	T73(C)*
328.	Extract from the briefing notes for the Housing, Planning and Lands Bureau meeting on 2 February 2004	T74(C)*
329.	Extract from the draft minutes of the Housing, Planning and Lands Bureau meeting on 2 February 2004	T75(C)*
330.	Extract from the minutes of the Senior Directorate Meeting on 9 February 2004	T76(C)*
331.	Extract from the minutes of the Senior Directorate Meeting on 16 February 2004	T77(C)*
332.	Extract from the minutes of the Senior Directorate Meeting on 23 February 2004	T78(C)*
333.	Extract from the draft minutes of the Housing, Planning and Lands Bureau meeting on 1 March 2004	T79(C)*
334.	Extract from the minutes of the Senior Directorate Meeting on 8 March 2004	T80(C)*
335.	Extract from the minutes of the Senior Directorate Meeting on 15 March 2004	T81(C)*
336.	Extract from the minutes of the Senior Directorate Meeting on 22 March 2004	T82(C)*
337.	Extract from the draft minutes of the Housing, Planning and Lands Bureau meeting on 29 March 2004	T83(C)*
338.	Extract from the briefing notes to the Permanent Secretary for Housing, Planning and Lands (Housing) for the Senior Directorate Meeting on 13 April 2004	T84(C)*
339.	Extract from the minutes of the Senior Directorate Meeting on 13 April 2004	T85(C)*

	Documents	Select Committee reference no.
340.	Extract from the minutes of the Senior Directorate Meeting on 19 April 2004	T86(C)*
341.	Extract from the minutes of the Senior Directorate Meeting on 23 August 2004	T87(C)*
342.	Extract from the minutes of the Senior Directorate Meeting on 13 September 2004	T88(C)*
343.	Extract from the minutes of the Senior Directorate Meeting on 18 October 2004	T89(C)*
344.	Extract from the draft minutes of the Housing, Planning and Lands Bureau meeting on 1 November 2004	T90(C)*
345.	Extract from the minutes of the Senior Directorate Meeting on 8 November 2004	T91(C)*
346.	Extract from the minutes of the Senior Directorate Meeting on 15 November 2004	T92(C)*
347.	Extract from the briefing notes for the Permanent Secretary for Housing, Planning and Lands (Housing) for attending the Senior Directorate Meeting on 22 November 2004	T93(C)*
348.	Extract from the minutes of the Senior Directorate Meeting on 22 November 2004	T94(C)*
349.	Extract from the minutes of the Senior Directorate Meeting on 29 November 2004	T95(C)*
350.	Extract from the draft minutes of the Housing, Planning and Lands Bureau meeting on 6 December 2004	T96(C)*
351.	Extract from the draft minutes of the Housing, Planning and Lands Bureau meeting on 3 January 2005	T97(C)*
352.	Extract from the minutes of the Senior Directorate Meeting on 10 January 2005	T98(C)*
353.	Extract from the minutes of the Senior Directorate Meeting on 17 January 2005	T99(C)*
354.	Extract from the minutes of the Senior Directorate Meeting on 21 March 2005	T100(C)*
355.	Extract from the minutes of the Senior Directorate Meeting on 18 April 2005	T101(C)*
356.	Extract from the draft minutes of the Housing, Planning and Lands Bureau meeting on 5 September 2005	T102(C)*

	Documents	Select Committee reference no.
357.	Extract from the minutes of the Senior Directorate Meeting on 10 October 2005	T103(C)*
358.	Extract from the draft minutes of the Housing, Planning and Lands Bureau meeting on 7 November 2005	T104(C)*
359.	Extract from the draft minutes of the Housing, Planning and Lands Bureau meeting on 5 December 2005	T105(C)*
360.	Extract from the minutes of the Senior Directorate Meeting on 12 December 2005	T106(C)*
361.	Extract from the draft minutes of the Housing, Planning and Lands Bureau meeting on 6 February 2006	T107(C)*
362.	Extract from the minutes of the Senior Directorate Meeting on 27 February 2006	T108(C)*
363.	Extract from the minutes of the Senior Directorate Meeting on 10 July 2006	T109(C)*
364.	Extract from the minutes of the Senior Directorate Meeting on 31 July 2006	T110(C)*
365.	Extract from the minutes of the Senior Directorate Meeting on 21 August 2006	T111(C)*
366.	Extract from the minutes of the Senior Directorate Meeting on 28 August 2006	T112(C)*
367.	Extract from the draft minutes of the Housing, Planning and Lands Bureau meeting on 4 September 2006	T113(C)*
368.	Email dated 31 October 2003 from Mr LEUNG Chin-man to the Deputy Director (Specialist) of the Lands Department and the Deputy Director (Business Development and Construction) of the Housing Department (copied to others)	T114(C)*
369.	Emails between 18 and 25 November 2003 among the Deputy Director (Specialist) of the Lands Department, the Senior Government Counsel of the Department of Justice, the Assistant Secretary for Financial Services and the Treasury (Treasury) and the Deputy Secretary for Financial Services and the Treasury (Treasury)	T115(C)*
370.	Email dated 25 November 2003 from the Assistant Director/ Legal (Kowloon and Conveyancing) of the Lands Department to Mr LEUNG Chin-man (copied to others)	T116(C)*

	Documents	Select Committee reference no.
371.	Email dated 10 December 2003 from the Deputy Director (Specialist) of the Lands Department to Mr LEUNG Chin-man (copied to others)	T117(C)*
372.	Emails dated 27 March 2003 between the Administrative Assistant to the Secretary for Housing, Planning and Lands and the Director of Lands	T118(C)*
373.	Email dated 27 April 2003 from the Chief Manager/Business Development of the Housing Department to the Senior Administrative Officer/Administration and the Head (Central Support Unit) of the Housing Department (copied to Mr LEUNG Chin-man and others)	T119(C)*
374.	Emails dated 28 April 2003 among Mr LEUNG Chin-man, Assistant Director/Legal Advice, the Deputy Director (Business Development & Construction) of the Housing Department, and the Administrative Assistant to the Secretary for Housing, Planning and Lands	T120(C)*
375.	Email dated 21 May 2003 from the Administrative Assistant to the Secretary for Housing, Planning, and Lands to the Deputy Director (Business Development & Construction) of the Housing Department (copied to Mr LEUNG Chin-man and others)	T121(C)*
376.	Email dated 22 May 2003 from the Assistant Director/Legal Advice of the Housing Department to the Administrative Assistant to the Secretary for Housing, Planning and Lands (copied to Mr LEUNG Chin-man and others)	T122(C)*
377.	Email dated 19 September 2003 from the Deputy Director (Specialist) of the Lands Department to the Administrative Assistant to the Secretary for Housing, Planning and Lands copied to Mr LEUNG Chin-man and others; and email dated 16 September 2003 from the Administrative Assistant to the Secretary for Housing, Planning and Lands to the Director of the Chief Executive's Office (copied to Mr LEUNG Chin-man and others)	T123(C)*
378.	Email dated 7 October 2003 from the Administrative Assistant to the Secretary for Housing, Planning and Lands to Mr LEUNG Chin-man and others	T124(C)*

	Documents	Select Committee reference no.
379.	Emails of 8 and 9 October 2003 among the Deputy Director (Strategy), the Deputy Director (Business Development & Construction), the Assistant Director (Private Housing), and the Chief Manager/Business Development of the Housing Department	T125(C)*
380.	Emails of 10 and 11 November 2003 between the Assistant Director/Legal Advice and the Assistant Legal Adviser of the Housing Department	T126(C)*
381.	Emails dated 11 November 2003 among the Assistant Director/Legal Advice, the Deputy Director (Business Development & Construction) and the Assistant Legal Adviser of the Housing Department	T127(C)*
382.	A breakdown of the major components in deriving the premium	T128(C)*
383.	Disclosure of interest dated 28 October 2003 from Mr CHUNG Kwok-cheong to the Chairman of the Commercial Properties Committee of the Hong Kong Housing Authority	T129(C)*
384.	File notes dated 11 and 13 January 2003 from the Committees' Secretary of the Housing Department; file minutes between 13 January and 4 March 2003 among the Committees' Secretary, the Deputy Director (Strategy), the Assistant Director (Policy Support), the Assistant Director (Institutional Reform), the Deputy Director (Corporate Services) and the Assistant Director (Information and Community Relations) of the Housing Department	T130(C)*
385.	Paper on the proposed membership for the Hong Kong Housing Authority and its Committees for the two-year term starting on 1 April 2003	T131(C)*
386.	Draft minute from Mr LEUNG Chin-man to the Secretary for Housing, Planning and Lands on the proposed Hong Kong Housing Authority committees' membership for 2003/04	T132(C)*
387.	Loose minute dated 17 January 2003 from the Secretary for Housing, Planning and Lands to the Chief Executive via the Chief Secretary for Administration; file minutes between 6 February and 1 March 2003 among Mr LEUNG Chin-man, the Deputy Director (Strategy), the Assistant Director (Institutional Reform), the Committees' Secretary and the Assistant Director (Information and Community Relations) of the Housing Department	T133(C)*

	Documents	Select Committee reference no.
388.	Emails of 6 and 7 March 2003 among the Deputy Director (Strategy), Committees' Secretary of the Housing Department, and the Secretary for Housing, Planning and Lands,	T134(C)*
389.	Loose minute dated 17 March 2003 from the Committees' Secretary to the Deputy Director (Strategy) of the Housing Department	T135(C)*
390.	File minute dated 18 March 2003 from the Committees' Secretary to the Administrative Assistant to the Secretary for Housing, Planning and Lands	T136(C)*
391.	Loose minute dated 25 March 2003 from the Deputy Director (Strategy) of the Housing Department to the Secretary for Housing, Planning and Lands via Mr LEUNG Chin-man	T137(C)*
392.	File minute dated 3 April 2003 from the Committees' Secretary to the Administrative Assistant to the Secretary for Housing, Planning and Lands	T138(C)*
393.	Memo dated 17 January 2002 from the Director of Housing to the Secretary for Home Affairs and the Director of Social Welfare	T139(C)*
394.	Memo dated 17 January 2002 from the Committees' Secretary to a number of officials in the Housing Department	T140(C)*
395.	Memo dated 27 November 2003 from the Deputy Director/Corporate Services of the Housing Department to a number of senior officials in the Housing Department	T141(C)*
396.	Letter dated 3 December 2004 from WSP Hong Kong Limited to the Buildings Department	T142(C)*
397.	Letter dated 4 December 2004 from WSP Hong Kong Limited to the Buildings Department	T143(C)*
398.	Letter dated 17 December 2004 from WSP Hong Kong Limited to the Buildings Department	T144(C)*
399.	Information provided by the Administration concerning information that has been obliterated (as at 6 February 2009)	T96*
400.	Further information provided by the Administration in response to the Clerk to Select Committee's letter of 26 February 2009 concerning information that has been obliterated (Part 1)	T144*

	Documents	Select Committee reference no.
401.	Further information provided by the Administration in response to the Clerk to Select Committee's letter of 26 February 2009 concerning information that has been obliterated (Part 2)	T145*
402.	Supplement to information provided by the Administration in response to the Clerk to Select Committee's letter of 23 January 2009 concerning information that has been obliterated	T153*
403.	Further information provided by the Administration in response to the Clerk to Select Committee's letter of 14 April 2009 concerning information that has been obliterated	T167*
404.	Information provided by the Administration in response to the Clerk to Select Committee's letter of 29 May 2009 concerning information that has been obliterated	T191*

^{*} Documents not available for public inspection

D. Evidence/documents provided by witnesses and other parties

	Documents	Select Committee reference no.
1.	Witness statement from Mrs Sarah KWOK TAM Pui-yi, Former Deputy Secretary for the Civil Service 1 dated 4 March 2009	W1(C)
2.	Witness statement from Mr Andrew WONG Ho-yuen, Permanent Secretary for the Civil Service dated 4 March 2009	W2(C)
3.	Witness statement from Miss Denise YUE Chung-yee, Secretary for the Civil Service dated 4 March 2009	W3(C)
4.	Witness statement from Mr David CHOW Chor-kong, Former Assistant Director (Administration), Housing Branch, Transport and Housing Bureau dated 4 March 2009	W4(C)
5.	Witness statement from Mr Thomas CHAN Chun-yuen, Permanent Secretary for Transport and Housing (Housing) dated 4 March 2009	W5(C)
6.	Witness statement from Mrs Pearl SIU NG Che-sheung, Chief Executive Officer (Administration), Planning and Lands Branch, Development Bureau dated 4 March 2009	W6(C)
7.	Witness statement from Mrs Susan MAK LOK Suet-ling, Former Deputy Secretary for Development (Planning and Lands)1 dated 4 March 2009	W7(C)
8.	Witness statement from Mr WONG Kwai-kuen, Chief Executive Officer (Works) Administration, Works Branch, Development Bureau dated 4 March 2009	W8(C)
9.	Witness statement from Mr MAK Chai-kwong, Permanent Secretary for Development (Works) dated 4 March 2009	W9(C)
10.	Witness statement from Mr PANG Kin-kee, Chairman of the Advisory Committee on Post-service Employment of Civil Servants dated 27 March 2009	W10(C)
11.	Witness statement from Dr Elizabeth SHING Shiu-ching, Former Member of the Advisory Committee on Post-service Employment of Civil Servants dated 24 March 2009	W11(C)
12.	Witness statement from Mr James Edward THOMPSON, Member of the Advisory Committee on Post-service Employment of Civil Servants	W12(C)

	Documents	Select Committee reference no.
13.	Witness statement from Ms Marina WONG Yu-pok, Member of the Advisory Committee on Post-service Employment of Civil Servants dated 24 March 2009	W13(C)
14.	Witness statement from Mr Simon IP Sik-on, Member of the Advisory Committee on Post-service Employment of Civil Servants dated 26 March 2009	W14(C)
15.	Witness statement from Mrs Carrie WONG HO Ka-lai, Secretary to the Advisory Committee on Post-service Employment of Civil Servants and Chief Executive Officer (Pensions) of the Civil Service Bureau dated 26 March 2009	W15(C)
16.	Witness statement from Dr Henry CHENG Kar-shun dated 23 March 2009	W16(C)
17.	Witness statement from Mr Stewart LEUNG Chi-kin dated 23 March 2009	W17(C)
18.	Witness statement from Mr LEUNG Chin-man dated 25 March 2009	W18(C)
19.	Further information provided by Mr Andrew WONG Ho-yuen, Permanent Secretary for the Civil Service	W19(C)
20.	Witness statement from Dr Henry CHENG Kar-shun dated 2 April 2009	W20(C)
21.	Witness statement from Mr Stewart LEUNG Chi-kin dated 2 April 2009	W21(C)
22.	Witness statement from Mrs Susan MAK LOK Suet-ling, Former Deputy Secretary for Development (Planning and Lands)1 dated 8 April 2009	W22(C)
23.	Witness statement from Mr PANG Kin-kee, Chairman of the Advisory Committee on Post-service Employment of Civil Servants dated 14 April 2009	W23(C)
24.	Witness statement from Mrs Carrie WONG HO Ka-lai, Secretary to the Advisory Committee on Post-service Employment of Civil Servants and Chief Executive Officer (Pensions) of the Civil Service Bureau dated 14 April 2009	W24(C)
25.	Further information provided by Miss Denise YUE Chung-yee, Secretary for the Civil Service dated 21 April 2009	W25(C)
26.	Further information provided by Mr LEUNG Chin-man dated 11 May 2009	W26(C)

	Documents	Select Committee reference no.
27.	Further information provided by Mr Thomas CHAN Chun-yuen, Permanent Secretary for Transport and Housing (Housing)	W27(C)
28.	Witness statement from Mr Marco WU Moon-hoi, Former Deputy Director of Housing/Deputy Secretary for Housing (2), Housing Department dated 7 May 2009	W28(C)
29.	Witness statement from Mr Vincent TONG Wing-shing, Former Deputy Director (Development and Construction), Housing Department dated 7 May 2009	W29(C)
30.	Witness statement from Mr John Stanley CORRIGALL, Former Deputy Director (Specialist), Lands Department dated 27 April 2009	W30(C)
31.	Further information provided by Mr David CHOW Chor-kong, Former Assistant Director (Administration), Housing Branch, Transport and Housing Bureau	W31(C)
32.	Witness statement from Mr CHUNG Kwok-cheong dated 29 May 2009	W32(C)
33.	Further information provided by Mrs Susan MAK LOK Suet-ling, Former Deputy Secretary for Development (Planning and Lands)1 dated 13 May 2009	W33(C)
34.	Further information provided by Mr CHUNG Kwok-cheong at the hearing on 4 June 2009	W34(C)
35.	Witness statement from Mr John Stanley CORRIGALL, Former Deputy Director (Specialist), Lands Department dated 3 June 2009	W35(C)
36.	Further information provided by Miss Denise YUE Chung-yee, Secretary for the Civil Service	W37(C)
37.	Witness statement from Mr Michael SUEN Ming-yeung, Former Secretary for Housing, Planning and Lands dated 26 June 2009	W38(C)
38.	Witness statement from Mr LEUNG Chin-man, Former Permanent Secretary for Housing, Planning and Lands (Housing)/Director of Housing dated 7 July 2009	W39(C)
39.	Statement from Mr LEUNG Chin-man, Former Permanent Secretary for Housing, Planning and Lands (Housing)/ Director of Housing	W40(C)

	Documents	Select Committee reference no.
40.	Statement from Mr LEUNG Chin-man, Former Permanent Secretary for Housing, Planning and Lands (Housing)/ Director of Housing dated 22 July 2009	W41(C)
41.	Witness statement from Dr Henry CHENG Kar-shun, Developer of the Hunghom Peninsula development dated 30 October 2009	W43(C)
42.	Witness statement from Mr Stewart LEUNG Chi-kin, Developer of the Hunghom Peninsula development dated 30 October 2009	W44(C)
43.	Further information provided by Dr Henry CHENG Kar-shun, Developer of the Hunghom Peninsula development dated 12 November 2009	W45(C)
44.	Further information provided by Mr Stewart LEUNG Chi-kin, Developer of the Hunghom Peninsula development dated 12 November 2009	W46(C)
45.	Further information provided by Dr Henry CHENG Kar-shun, Developer of the Hunghom Peninsula development at the hearing on 17 November 2009	W47(C)
46.	Further information provided by Dr Henry CHENG Kar-shun and Mr Stewart LEUNG Chi-kin, Developer of the Hunghom Peninsula development dated 31 December 2009	W48(C)
47.	Further information provided by Miss Denise YUE Chung-yee, Secretary for the Civil Service	W49(C)
48.	Further information provided by Mr Andrew WONG Ho-yuen, Permanent Secretary for the Civil Service	W50(C)
49.	Further information provided by Mr Andrew WONG Ho-yuen, Permanent Secretary for the Civil Service	W51(C)
50.	List of papers, books, records and documents which the Select Committee has ordered Dr Henry CHENG Kar-shun to produce (provided by Dr Henry CHENG Kar-shun)	R1
51.	Records of advertisement/recruitment for a Procurement Manager by New World China Land Limited (provided by Dr Henry CHENG Kar-shun)	R2
52.	Exchange of emails between Ms Lynda NGAN Man-ying on behalf of New World China Land Limited and Mr LEUNG Chin-man and standard terms and conditions of employment of New World China Land Limited staff (provided by Dr Henry CHENG Kar-shun)	R3

	Documents	Select Committee reference no.
53.	Minutes of meeting on 1 August 2008 of the Executive Committee of the Board of Directors of New World China Land Limited (provided by Dr Henry CHENG Kar-shun)	R4
54.	Letter dated 11 August 2008 from New World China Land Limited to the Secretary for the Civil Service (provided by Dr Henry CHENG Kar-shun)	R5
55.	Minutes of meeting on 18 August 2008 of the Executive Committee of the Board of Directors of New World China Land Limited and Termination Agreement between New World China Land Limited and Mr LEUNG Chin-man on 18 August 2008 (provided by Dr Henry CHENG Kar-shun)	R6
56.	Announcement dated 1 August 2008 made by New World China Land Limited on the appointment of Mr LEUNG Chin-man as an Executive Director and Deputy Managing Director of New World China Land Limited (provided by Dr Henry CHENG Kar-shun)	R7
57.	Press statement issued by New World China Land Limited on 16 August 2008 relating to the termination of employment contract of Mr LEUNG Chin-man (provided by Dr Henry CHENG Kar-shun)	R8
58.	Announcement dated 18 August 2008 made by New World China Land Limited relating to the termination of the contract between New World China Land Limited and Mr LEUNG Chin-man (provided by Dr Henry CHENG Kar-shun)	R9
59.	Mr LEUNG Chin-man's public statement relating to the resolution of his employment contract with New World China Land Limited (provided by Mr LEUNG Chin-man)	R10
60.	Letters dated 25 March, 1, 9 and 15 April 2009 from Mr LEUNG Chin-man to the Select Committee in relation to papers, books, records, and documents which the Select Committee has ordered him to produce (provided by Mr LEUNG Chin-man)	R11 (revised)
61.	Email dated 20 July 2008 from Mr LEUNG Chin-man to Ms Lynda NGAN Man-ying (provided by Mr LEUNG Chin-man)	R12
62.	Exchange of emails between Ms Joanne MA Ching-tak on behalf of New World China Land Limited and Mr LEUNG Chin-man dated 17 and 18 August 2008 (provided by Mr LEUNG Chin-man)	R13

	Documents	Select Committee reference no.
63.	List of papers, books, records and documents which the Select Committee has ordered Dr Henry CHENG Kar-shun to produce (provided by Dr Henry CHENG Kar-shun)	R14
64.	Letter dated 11 May 2002 from First Star Development Limited to the Housing Department (provided by Dr Henry CHENG Kar-shun)	R15
65.	Letter dated 27 May 2002 from the Housing Department to First Star Development Limited (provided by Dr Henry CHENG Kar-shun)	R16
66.	Letter dated 10 June 2002 from First Star Development Limited to the Director of Housing (provided by Dr Henry CHENG Kar-shun)	R17
67.	Letter dated 21 June 2002 from the Business Director/ Allocation and Marketing of the Housing Department to First Star Development Limited / Supertime Holdings Limited (provided by Dr Henry CHENG Kar-shun)	R18
68.	Letter dated 2 July 2002 from First Star Development Limited to the Chief Secretary for the Administration (provided by Dr Henry CHENG Kar-shun)	R19
69.	Reply letter dated 3 October 2002 from Mr LEUNG Chin-man on behalf of the Chief Secretary for the Administration to First Star Development Limited (provided by Dr Henry CHENG Kar-shun)	R20
70.	Letter dated 11 December 2002 from First Star Development Limited to the Lands Department (provided by Dr Henry CHENG Kar-shun)	R21
71.	Letter dated 12 December 2002 from the Lands Department to First Star Development Limited (provided by Dr Henry CHENG Kar-shun)	R22
72.	Letter dated 16 December 2002 from the Lands Department to First Star Development Limited (provided by Dr Henry CHENG Kar-shun)	R23
73.	Letter dated 19 December 2002 from the Lands Department to First Star Development Limited (provided by Dr Henry CHENG Kar-shun)	R24
74.	Letter dated 23 December 2002 from First Star Development Limited to the Director of Lands (provided by Dr Henry CHENG Kar-shun)	R25

	Documents	Select Committee reference no.
75.	Letter dated 20 February 2003 from First Star Development Limited to the Lands Department on the proposed modification of Kowloon Inland Lot No. 11076 (provided by Dr Henry CHENG Kar-shun)	R27
76.	Letter dated 13 March 2003 from First Star Development Limited to the Lands Department (provided by Dr Henry CHENG Kar-shun)	R28
77.	Letter dated 17 January 2004 from the Lands Department to the developer's solicitors on Kowloon Inland Lot No. 11076 (provided by Dr Henry CHENG Kar-shun)	R29
78.	Letter dated 26 January 2004 from the developer's solicitors to the Lands Department on proposed lease modification of Kowloon Inland Lot No. 11076 (provided by Dr Henry CHENG Kar-shun)	R30
79.	Letter dated 31 January 2004 from the developer's solicitors to the Lands Department on Kowloon Inland Lot No. 11076 (provided by Dr Henry CHENG Kar-shun)	R31
80.	Letter dated 3 February 2004 from the Lands Department to the developer's solicitors on Kowloon Inland Lot No. 11076 (provided by Dr Henry CHENG Kar-shun)	R32
81.	Letter dated 10 February 2004 from Cheung, Chan & Chung, Solicitors and Notaries to the Legal Advisory and Conveyancing Office of the Lands Department (provided by Dr Henry CHENG Kar-shun)	R33
82.	Letter dated 11 February 2004 from the developer's solicitors to the Lands Department on Kowloon Inland Lot No. 11076 (provided by Dr Henry CHENG Kar-shun)	R34
83.	Letter dated 12 February 2004 from the developer's solicitors to the Lands Department on Kowloon Inland Lot No. 11076 (provided by Dr Henry CHENG Kar-shun)	R35
84.	Letter dated 12 February 2004 from the Lands Department to the developer's solicitors on Kowloon Inland Lot No. 11076 (provided by Dr Henry CHENG Kar-shun)	R36
85.	Letter dated 12 February 2004 from the Lands Department to the developer's solicitors on the mediation (provided by Dr Henry CHENG Kar-shun)	R37

	Documents	Select Committee reference no.
86.	Memorial of an instrument dated 26 February 2004 on lease modification of Kowloon Inland Lot No. 11076 (provided by Dr Henry CHENG Kar-shun)	R38
87.	Letter dated 21 January 2004 from the Lands Department to the developer's solicitors on Kowloon Inland Lot No. 11076 (provided by Dr Henry CHENG Kar-shun)	R39
88.	Letter dated 30 October 2003 from the Department of Justice to Cheung, Chan & Chung, Solicitors and Notaries (provided by Dr Henry CHENG Kar-shun)	R40
89.	Letter dated 5 November 2003 from Cheung, Chan & Chung, Solicitors and Notaries to the Department of Justice (provided by Dr Henry CHENG Kar-shun)	R41
90.	Letter dated 12 November 2003 from the Department of Justice to Cheung, Chan & Chung, Solicitors and Notaries (provided by Dr Henry CHENG Kar-shun)	R42
91.	Letter dated 25 November 2003 from mediator Mr LEUNG Hing-fung to all parties in HCA 2761/2003 (provided by Dr Henry CHENG Kar-shun)	R43
92.	Letter dated 30 December 2003 from the Lands Department to the developer's solicitors on the mediation (provided by Dr Henry CHENG Kar-shun)	R45
93.	Letter dated 8 January 2004 from the Lands Department to the developer's solicitors on the mediation (provided by Dr Henry CHENG Kar-shun)	R46
94.	Letter dated 20 May 2003 from the developer's solicitors to the Chief Executive, the Secretary for Housing, Planning and Lands, the Hong Kong Housing Authority and the Lands Department (provided by Dr Henry CHENG Kar-shun)	R47
95.	Letter dated 12 June 2003 from the Administrative Assistant to Secretary for Housing, Planning and Lands to the developer's solicitors (provided by Dr Henry CHENG Kar-shun)	R48
96.	Writ of Summons issued by the developer of Hunghom Peninsula on 25 July 2003 (provided by Dr Henry CHENG Kar-shun)	R49
97.	Acknowledgment of Service of Writ of Summons in HCA 2761/2003 filed by the 2nd Defendant on 5 August 2003 (provided by Dr Henry CHENG Kar-shun)	R50

	Documents	Select Committee reference no.
98.	Acknowledgment of Service of Writ of Summons in HCA 2761/2003 filed by the 1st Defendant on 7 August 2003 (provided by Dr Henry CHENG Kar-shun)	R51
99.	Defence of the 2nd Defendant (Secretary for Justice (on behalf of the Government of the Hong Kong Special Administrative Region)) in respect of the pending proceedings which was filed on 1 December 2003, forwarded by the Department of Justice to the Hong Kong Housing Authority/Housing Department and the Lands Department (provided by Dr Henry CHENG Kar-shun)	R52
100.	Defence of the 1st Defendant (the Hong Kong Housing Authority) of the pending proceedings dated and filed on 2 December 2003 (provided by Dr Henry CHENG Kar-shun)	R53
101.	Amended Statement of Claim dated 15 September 2005 (provided by Dr Henry CHENG Kar-shun)	R54
102.	Amended Defence of the 1st Defendant (The Hong Kong Housing Authority) filed on 14 October 2005 (provided by Dr Henry CHENG Kar-shun)	R55
103.	Amended Defence of the 2nd Defendant (The Secretary for Justice on behalf of the Government) filed on 14 October 2005 (provided by Dr Henry CHENG Kar-shun)	R56
104.	Letter dated 22 December 2009 from Sun Hung Kai Properties Limited to the Clerk to Select Committee (provided by Sun Hung Kai Properties Limited)	R57
105.	Further information provided by Mr CHUNG Kwok-cheong dated 13 August 2009	W42(C)*
106.	Comments on relevant extracts of the draft report of the Select Committee from Mr Moses CHENG Mo-chi, Chairman of the Advisory Committee on Post-service Employment of Civil Servants	W52(C)*
107.	Comments on relevant extracts of the draft report of the Select Committee from Mr David CHOW Chor-kong, Former Assistant Director (Administration), Housing Branch, Transport and Housing Bureau	W53(C)*
108.	Comments on relevant extracts of the draft report of the Select Committee from Mr Nicky LO Kar-chun, Member of the Advisory Committee on Post-service Employment of Civil Servants	W54(C)*

	Documents	Select Committee reference no.
109.	Comments on relevant extracts of the draft report of the Select Committee from Mr CHUNG Kwok-cheong	W55(C)*
110.	Comments on relevant extracts of the draft report of the Select Committee from Mr Marco WU Moon-hoi, Former Deputy Director of Housing/Deputy Secretary for Housing (2), Housing Department	W56(C)*
111.	Comments on relevant extracts of the draft report of the Select Committee from Mr YEUNG Ka-sing, Member of the Advisory Committee on Post-service Employment of Civil Servants	W57(C)*
112.	Comments on relevant extracts of the draft report of the Select Committee from Mr Vincent TONG Wing-shing, Former Deputy Director (Development and Construction), Housing Department	W58(C)*
113.	Comments on relevant extracts of the draft report of the Select Committee from Mrs Pearl SIU NG Che-sheung, Former Chief Executive Officer (Administration), Planning and Lands Branch, Development Bureau	W59(C)*
114.	Comments on relevant extracts of the draft report of the Select Committee from Mr Thomas CHAN Chun-yuen, Former Permanent Secretary for Transport and Housing (Housing)/Director of Housing	W60(C)*
115.	Comments on relevant extracts of the draft report of the Select Committee from Mr MAK Chai-kwong, Former Permanent Secretary for Development (Works)	W61(C)*
116.	Comments on relevant extracts of the draft report of the Select Committee from Mr WONG Kwai-kuen, Chief Executive Officer (Works) Administration, Works Branch, Development Bureau	W62(C)*
117.	Comments on relevant extracts of the draft report of the Select Committee from Mr John Stanley CORRIGALL, Former Deputy Director (Specialist), Lands Department	W63(C)*
118.	Comments on relevant extracts of the draft report of the Select Committee from Mr Michael SUEN Ming-yeung, Former Secretary for Housing, Planning and Lands	W64(C)*
119.	Comments on relevant extracts of the draft report of the Select Committee from Ms Marina WONG Yu-pok, Member of the Advisory Committee on Post-service Employment of Civil Servants	W65(C)*

	Documents	Select Committee reference no.
120.	Comments on relevant extracts of the draft report of the Select Committee from Former Advisory Committee on Post-service Employment of Civil Servants (responsible for considering Mr LEUNG Chin-man's application)	W66(C)*
121.	Comments on relevant extracts of the draft report of the Select Committee from Mr PANG Kin-kee, Former Chairman of the Advisory Committee on Post-service Employment of Civil Servants	W67(C)*
122.	Comments on relevant extracts of the draft report of the Select Committee from Mr Simon IP Sik-on, Member of the Advisory Committee on Post-service Employment of Civil Servants	W68(C)*
123.	Comments on relevant extracts of the draft report of the Select Committee from Mrs Carrie WONG HO Ka-lai, Secretary to the Advisory Committee on Post-service Employment of Civil Servants and Chief Executive Officer (Pensions) of the Civil Service Bureau	W69(C)*
124.	Comments on relevant extracts of the draft report of the Select Committee from Mr WAI Chi-sing, Permanent Secretary for Development (Works)	W70(C)*
125.	Comments on relevant extracts of the draft report of the Select Committee from Mrs Sarah KWOK TAM Pui-yi, Former Deputy Secretary for the Civil Service 1	W71(C)*
126.	Comments on relevant extracts of the draft report of the Select Committee from Mrs Susan MAK LOK Suet-ling, Former Deputy Secretary for Development (Planning and Lands)1	W72(C)*
127.	Comments on relevant extracts of the draft report of the Select Committee from Dr Henry CHENG Kar-shun and Mr Stewart LEUNG Chi-kin	W73(C)*
128.	Comments on relevant extracts of the draft report of the Select Committee from Mr Thomas CHOW Tat-ming, Permanent Secretary for Development (Planning and Lands)	W74(C)*
129.	Further comments on relevant extracts of the draft report of the Select Committee from Mr Thomas CHOW Tat-ming, Permanent Secretary for Development (Planning and Lands)	W74(C)-1*
130.	Comments on relevant extracts of the draft report of the Select Committee from Mr Andrew WONG Ho-yuen, Permanent Secretary for the Civil Service	W75(C)*

	Documents	Select Committee reference no.
131.	Comments on relevant extracts of the draft report of the Select Committee from Miss Denise YUE Chung-yee, Secretary for the Civil Service	W76(C)*
132.	Comments on relevant extracts of the draft report of the Select Committee from Mr Duncan Warren PESCOD, Permanent Secretary for Transport and Housing (Housing)/ Director of Housing	W77(C)*
133.	Comments on relevant extracts of the draft report of the Select Committee from Mr LEUNG Chin-man	W78(C)*
134.	Draft employment letter from New World China Land Limited to Mr LEUNG Chin-man (provided by Dr Henry CHENG Kar-shun)	R1(C)*
135.	Employment letter dated 30 July 2008 from New World China Land Limited to Mr LEUNG Chin-man (provided by Dr Henry CHENG Kar-shun)	R2(C)*
136.	Notes of understanding by the Mediator dated 21 January 2004 (provided by Dr Henry CHENG Kar-shun)	R3(C)*
137.	Letter dated 7 February 2003 from the Lands Department to First Star Development Limited on the proposed modification of Kowloon Inland Lot No. 11076 (provided by Dr Henry CHENG Kar-shun)	R26*
138.	Mediation agreement dated 8 December 2003 (provided by Dr Henry CHENG Kar-shun)	R44*

^{*} Documents not available for public inspection

E. Documents provided by individuals and other parties

	Documents	Select Committee reference no.
1.	Submission from The Incorporated Owners of Dragon Garden dated 3 February 2009	S1
2.	Submission from a member of the public ("一直跟進事件之香港市民") dated 20 May 2009	S2
3.	Submission from a member of the public (Danny WONG) dated 10 June 2009	S3
4.	An anonymous submission from a member of the public dated 2 December 2008	S1(C)*

^{*} Documents not available for public inspection

F. Documents referred to by the Select Committee

	Documents	Select Committee reference no.
1.	Extract from the minutes of the House Committee meeting on 17 October 2008	L5
2.	Report of the Subcommittee on Preparatory Work for the Appointment of the Select Committee to Inquire into Matters relating to the Post-service Employment of Mr LEUNG Chin-man	L6
3.	Extract from the minutes of the House Committee meeting on 21 November 2008	L7
4.	Background brief on "Review of the policy on post-service employment of former directorate civil servants" for the meeting of the Panel on Public Service on 21 November 2005	L8
5.	Extract from the minutes of the meeting of the Panel on Public Service on 21 November 2005	L9
6.	Background brief on "Policy on post-service employment of former directorate civil servants" for the meeting of the Panel on Public Service on 27 October 2008	L10
7.	Minutes of the meeting of the Panel on Public Service on 27 October 2008	L11
8.	Extract from the minutes of the meeting of the Panel on Planning, Lands and Works on 21 November 2000	L12
9.	Extract from the minutes of the meeting of the Panel on Housing on 3 November 2003	L13
10.	Paper on "Powers of the Legislative Council to require the Administration to produce records and documents" for the joint meeting of the Panel on Housing and the Panel on Planning, Lands and Works on 17 February 2004	L14
11.	Paper on "Observations on the Conditions of Sale of Kowloon Inland Lot No. 11076 in relation to restrictions on disposal of units purchased by the Hong Kong Housing Authority" for the joint meeting of the Panel on Housing and the Panel on Planning, Lands and Works on 17 February 2004	L15
12.	Minutes of the joint meeting of the Panel on Housing and the Panel on Planning, Lands and Works on 17 February 2004	L16
13.	Minutes of the joint meeting of the Panel on Housing and the Panel on Planning, Lands and Works on 8 March 2004	L17

	Documents	Select Committee reference no.
14.	Extract from the minutes of the meeting of the Panel on Housing on 7 June 2004	L18
15.	Extract from the minutes of the meeting of the Panel on Housing on 5 July 2004	L19
16.	Background brief on "Disposal of surplus Home Ownership Scheme and Private Sector Participation Scheme flats" for the meeting of the Panel on Housing on 6 December 2004	L20
17.	Background brief on "Disposal of Hunghom Peninsula Private Sector Participation Scheme flats" for the meeting of the Panel on Housing on 6 December 2004	L21
18.	Background brief on "Disposal of Kingsford Terrace Private Sector Participation Scheme flats" for the meeting of the Panel on Housing on 6 December 2004	L22
19.	Paper on "Wording of the motion passed" at the meeting of the Panel on Housing on 6 December 2004	L23
20.	Minutes of the meeting of the Panel on Housing on 6 December 2004	L24
21.	Background brief on "Disposal of surplus Home Ownership Scheme and Private Sector Participation Scheme flats" for the meeting of the Panel on Housing on 12 April 2005	L25
22.	Background brief on "Disposal of Hunghom Peninsula Private Sector Participation Scheme flats" for the meetings of the Panel on Housing on 12 April 2005 and 5 January 2006	L26
23.	Background brief on "Disposal of Kingsford Terrace Private Sector Participation Scheme flats" for the meetings of the Panel on Housing on 12 April 2005 and 5 January 2006	L27
24.	Extract from the minutes of the meeting of the Panel on Housing on 12 April 2005	L28
25.	Paper on "Wording of the motion passed" at the meeting of the Panel on Housing on 12 April 2005	L29
26.	Background brief on "Disposal of surplus Home Ownership Scheme and Private Sector Participation Scheme flats" for the meeting of the Panel on Housing on 5 January 2006	L30
27.	Extract from the minutes of the meeting of the Panel on Housing on 5 January 2006	L31

	Documents	Select Committee reference no.
28.	Background brief on "Arrangements for the disposal of surplus Home Ownership Scheme and Private Sector Participation Scheme flats" for the meeting of the Panel on Housing on 4 December 2006	L32
29.	Extract from the minutes of the meeting of the Panel on Housing on 4 December 2006	L33
30.	Extract from the minutes of the meeting of the Panel on Development on 27 May 2008	L34
31.	Paper on "Information note on gross floor area concessions granted under the Buildings Ordinance" for the meeting of the Panel on Development on 19 December 2008	L35
32.	Extract from the minutes of the meeting of the Panel on Development on 19 December 2008	L36
33.	Public Accounts Committee Report No. 45 issued in February 2006 (Chapter 1 of Part 7 - Development of a site at Sai Wan Ho)	L37
34.	The Government Minute in response to the Report No. 45 of the Public Accounts Committee dated February 2006	L38
35.	Extract from the Government Minute in response to the Report No. 47 of the Public Accounts Committee dated February 2007	L39
36.	Extract from the Report No. 47 of the Public Accounts Committee dated February 2007 on the Reports of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2005 and the Results of Value for Money Audits	L40
37.	Extract from the Government Minute in response to the Report No. 49 of the Public Accounts Committee dated February 2008	L41
38.	Extract from the Report No. 49 of the Public Accounts Committee dated February 2008 on the Reports of the Director of Audit on the Accounts of the Government of Hong Kong Special Administrative Region for the year ended 31 March 2006 and the Results of Value for Money Audits (Report No. 47) and Supplemental Report of the Public Accounts Committee on Report No. 46 of the Director of Audit on the Results of Value for Money Audits	L42

	Documents	Select Committee reference no.	
39.	Question on "Applications for assessment of and exemption from paying regrant premium" raised at the Council meeting on 3 July 2002	L43	
40.	Question on "Problems arising from the cessation of production and sale of HOS flats" raised at the Council meeting on 8 October 2003	L44	
41.	Question on "Proposal to convert HOS blocks into guesthouses" raised at the Council meeting on 3 December 2003	L45	
42.	Question on "Unoccupied HOS flats" raised at the Council meeting on 24 March 2004	L46	
43.	Question on "Demolition and redevelopment of Hunghom Peninsula" raised at the Council meeting on 28 April 2004	L47	
44.	Question on "Disposal of Hunghom Peninsula and Kingsford Terrace Private Sector Participation Scheme flats" raised at the Council meeting on 17 November 2004	L48	
45.	Question on "Retired directorate grade civil servants" raised at the Council meeting on 5 January 2005	L49	
46.	Motion on "Monitoring the post-retirement employment of the Chief Executive, principal officials under the accountability system and civil servants at directorate level with private-sector organizations" passed at the Council meeting on 2 February 2005	L50	
47.	Question on "Application for lease modification of Hunghom Peninsula" raised at the Council meeting on 23 February 2005	L51	
48.	Question on "Sale of Home Ownership Scheme flats" raised at the Council meeting on 15 June 2005	L52	
49.	Question on "Renovation works for Hunghom Peninsula" raised at the Council meeting on 6 July 2005	L53	
50.	Question on "Alteration works for Hunghom Peninsula" raised at the Council meeting on 19 October 2005	L54	
51.	Question on "Eco-buildings" raised at the Council meeting on 26 April 2006	L55	
52.	Motion on "Supporting the conclusions and recommendations of the Public Accounts Committee on the development of a site at Sai Wan Ho" passed at the Council meeting on 17 May 2006	L56	

	Documents	Select Committee reference no.
53.	Question on "Residential property projects with green features" raised at the Council meeting on 25 October 2006	L57
54.	Question on "Policy on green and innovative buildings" raised at the Council meeting on 1 November 2006	L58
55.	Question on "Retired civil servants" raised at the Council meeting on 8 November 2006	L59
56.	Question on "Plot ratio" raised at the Council meeting on 28 March 2007	L60
57.	Fact sheet on local press reports on the post-service work taken up by Mr LEUNG Chin-man (from 2 August to 28 October 2008) (prepared by the Legislative Council Secretariat)	L61
58.	Fact sheet on local press reports on the Hunghom Peninsula incident (from 25 September 1999 to 24 December 2007) (prepared by the Legislative Council Secretariat)	L62
59.	Fact sheet on local press report on the Grand Promenade incident (from 27 October 2000 to 25 May 2006) (prepared by the Legislative Council Secretariat)	L63
60.	Extract from the Government Minute in response to the Report No. 51 of the Public Accounts Committee dated February 2009	L64
61.	Paper on "Arrangements governing the taking up of outside work by directorate civil servants after ceasing active government service" for the meeting of the Panel on Public Service on 21 November 2005	C1
62.	Paper on "Arrangements governing the taking up of outside work by directorate civil servants after ceasing active government service - supplementary information" for the meeting of the Panel on Public Service on 21 November 2005	C2
63.	Paper on "Processing of the application from Mr LEUNG Chin-man to take up post-service employment with New World China Land Limited and related issues" for the meeting of the Panel on Public Service on 27 October 2008	C3
64.	Paper on "Review of Post-service Outside Work for Directorate Civil Servants" for the meeting of the Panel on Public Service on 19 October 2009	C56

	Documents	Select Committee reference no.
65.	Paper on "Review of measures to promote green features in building developments" for the meeting of the Panel on Development on 27 May 2008	D1
66.	Paper on "Speaking note of the Secretary for Development" for the meeting of the Panel on Development on 27 May 2008	D2
67.	Paper on "Public engagement on measures to foster a quality and sustainable built environment" for the meeting of the Panel on Development on 19 December 2008	D3
68.	Paper on "The lease modification in respect of Kowloon Inland Lot No. 11076, Hung Hom Bay Reclamation Area, Kowloon " for the joint meetings of the Panel on Housing and the Panel on Planning, Lands and Works on 17 February and 8 March 2004	T1
69.	Paper on "The land lease provided by the Administration in respect of Kowloon Inland Lot No. 11076, Hung Hom Bay Reclamation Area, Kowloon (including clauses 25 to 26 of the General Conditions of Sale of the Lot)" for the joint meetings of the Panel on Housing and the Panel on Planning, Lands and Works on 17 February and 8 March 2004	T2
70.	Paper on "Clause 27 of the General Conditions of Sale of Kowloon Inland Lot No. 11076, Hung Hom Bay Reclamation Area, Kowloon" for the joint meetings of the Panel on Housing and the Panel on Planning, Lands and Works on 17 February and 8 March 2004	ТЗ
71.	Paper on "Private Sector Participation Scheme Projects Transferred to Public Rental Housing" for the joint meeting of the Panel on Housing and the Panel on Planning, Lands and Works on 8 March 2004	T4
72.	Paper on "Supplementary table on the comparison between the Government and the relevant developer's estimates of the lease modification premium for the PSPS flats at Hunghom Peninsula" for the joint meeting of the Panel on Housing and the Panel on Planning, Lands and Works on 8 March 2004 (follow-up paper)	T5
73.	Paper on "Response to letter from the Clerk to the Panel on Housing dated 2 March 2004 seeking comment on an anonymous letter"	T6

	Documents	Select Committee reference no.
74.	Paper on "Proposed use of surplus Home Ownership Scheme flats for reprovisioning departmental quarters for the disciplined services" for the meeting of the Panel on Housing on 7 June 2004	T7
75.	Paper on "Administration's response to members' question raised on whether there would be commercial premises on the ground floor of the Home Ownership Scheme developments identified for reprovisioning departmental quarters for the disciplined services" for the meeting of the Panel on Housing on 7 June 2004 (follow-up paper)	Т8
76.	Paper on "Disposal of Surplus Home Ownership Scheme flats and Kingsford Terrace Private Sector Participation Scheme flats" for the meeting of the Panel on Housing on 6 December 2004	Т9
77.	Paper on "Opening statement made by the Secretary for Housing, Planning and Lands" for the meeting of the Panel on Housing on 6 December 2004	T10
78.	Paper on "Administration's reply to the Panel's request for provision of information concerning the disposal of Hunghom Peninsula Private Sector Participation Scheme flats" for the meeting of the Panel on Housing on 6 December 2004 (follow-up paper)	T11
79.	Paper on "Lease modification for the Hunghom Peninsula Private Sector Participation Scheme development" for the meeting of the Panel on Housing on 6 December 2004 (follow-up paper)	T12
80.	Paper on "Lease modification for Hunghom Peninsula Private Sector Participation Scheme flats dated 10 December 2004" for the meeting of the Panel on Housing on 6 December 2004 (follow-up paper)	T13
81.	Paper on "Assessment of environmental implications arising from lease modification of Hunghom Peninsula dated 13 December 2004" for the meeting of the Panel on Housing on 6 December 2004 (follow-up paper)	T14
82.	Paper on "Lease modification dated 14 December 2004" for the meeting of the Panel on Housing on 6 December 2004 (follow-up paper)	T15

	Documents	Select Committee reference no.
83.	Paper on "Master Layout Plan of the Hunghom Peninsula Private Sector Participation Scheme Development" for the meeting of the Panel on Housing on 6 December 2004 (follow-up paper)	T16
84.	Paper on "Disposal of Surplus Home Ownership Scheme flats" for the meeting of the Panel on Housing on 12 April 2005	T17
85.	Paper on "Disposal of surplus Home Ownership Scheme flats and Private Sector Participation Scheme flats" for the meeting of the Panel on Housing on 12 April 2005 (follow-up paper)	T18
86.	Paper on "Disposal of surplus Home Ownership Scheme flats" for the meeting of the Panel on Housing on 5 January 2006	T19
87.	Paper on "Arrangements for the sale of surplus Home Ownership Scheme flats under Phase 1 of 2007" for the meeting of the Panel on Housing on 4 December 2006	T20
88.	Director of Audit's Report No. 45 (Chapter 3 - development of a site in Sai Wan Ho)	B1
89.	Report of the Independent Committee of Inquiry on the Sai Wan Ho Development on Inland Lot No. 8955	A1
90.	Paper on "Committee on Review of Post-service Outside Work for Directorate Civil Servants Work Progress and Public Consultation Plan" for the meeting of the Panel on Public Service on 16 February 2009	A2
91.	Consultation document on "Review of Post-Service Outside Work for Directorate Civil Servants" issued by the Committee on Review of Post-service Outside Work for Directorate Civil Servants on 20 February 2009	A3
92.	Report on Review of Post-service Outside Work for Directorate Civil Servants issued on 10 July 2009	A4
93.	The 20 th Report on the Work of the Advisory Committee on Post-service Employment of Civil Servants	A5

Minutes of proceedings

Ref: CB2/SC/08

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

Minutes of the eighty-ninth meeting (closed) which contains the proceedings on consideration of the report of the Select Committee held on Saturday, 13 November 2010, at 9:30 am in Conference Room C of the Legislative Council Building

Members : Hon LI Fung-ying, SBS, JP (Chairman)
present Hon LEE Wing-tat (Deputy Chairman)

Dr Hon Margaret NG

Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP

Hon LAU Kong-wah, JP Hon Cyd HO Sau-lan

Dr Hon LAM Tai-fai, BBS, JP Dr Hon PAN Pey-chyou

Dr Hon Samson TAM Wai-ho, JP

Hon LEUNG Kwok-hung

Members : Dr Hon Philip WONG Yu-hong, GBS

absent Hon Ronny TONG Ka-wah, SC

Clerk in : Ms Connie SZETO

attendance Principal Council Secretary (Select Committee)2

Staff in : Mrs Vivian KAM

attendance Assistant Secretary General 2

Ms Connie FUNG

Senior Assistant Legal Adviser 1

Mr YICK Wing-kin

Assistant Legal Adviser 8

Mr Lemuel WOO

Senior Council Secretary (2)9

Ms Alice LEUNG Senior Council Secretary (2)10

Miss Ivy LEONG Council Secretary (2)7

Ms Carmen HO Legislative Assistant (2)7

I. Consideration and endorsement of the report of the Select Committee paragraph by paragraph

(LC Paper No. CB(2)236/10-11(01))

<u>The Chairman</u> advised members that the revised draft of the Chinese text of the report of the Select Committee had incorporated comments made by members at previous meetings. <u>Members</u> agreed that the English text of the report would be considered at another meeting after the Select Committee had considered and endorsed the Chinese text of the report paragraph by paragraph.

2. In accordance with Rule 79(7) of the Rules of Procedure, the report was accepted as a basis for discussion. The question that the Chinese text of the draft report be adopted as the Chairman's report and be read a second time paragraph by paragraph, was proposed, put and agreed to. Members agreed to consider the Executive Summary after considering Chapters 1 to 9 of the report.

- 3. Paragraph 1.1 read, amended and agreed to.
- 4. Paragraph 1.2 read and agreed to.
- 5. Paragraph 1.3 read and agreed to.
- 6. Paragraphs 1.4 and 1.5 read and agreed to.
- 7. Paragraphs 1.6 to 1.9 read and agreed to.
- 8. Paragraphs 1.10 to 1.12 read and agreed to.
- 9. Paragraphs 1.13 to 1.16 read and agreed to.
- 10. Paragraph 1.17 read and agreed to.
- 11. Paragraphs 1.18 to 1.20 read and agreed to.

- 12. Paragraph 1.21 read and agreed to.
- 13. Paragraphs 1.22 and 1.23 read, amended and agreed to.
- 14. Paragraphs 1.24 and 1.25 read and agreed to.
- 15. Paragraph 1.26 read and agreed to.
- 16. Paragraphs 1.27 to 1.29 read and agreed to.
- 17. Paragraphs 1.30 to 1.37 read and agreed to.
- 18. Paragraph 1.38 read, amended and agreed to.
- 19. Paragraph 1.39 read and agreed to.

- 20. Paragraph 2.1 read and agreed to.
- 21. Paragraph 2.2 read, amended and agreed to.
- 22. Paragraph 2.3 read and agreed to.
- 23. Paragraphs 2.4 to 2.7 read and agreed to.
- 24. Paragraphs 2.8 and 2.9 read and agreed to.
- 25. Paragraphs 2.10 and 2.11 read and agreed to.
- 26. Paragraphs 2.12 to 2.16 read and agreed to.
- 27. Paragraphs 2.17 and 2.18 read and agreed to.
- 28. Paragraph 2.19 read and agreed to.
- 29. Paragraphs 2.20 to 2.22 read and agreed to.
- 30. Paragraph 2.23 read and agreed to.
- 31. Paragraphs 2.24 and 2.25 read and agreed to.
- 32. Paragraph 2.26 read and agreed to.
- 33. Paragraph 2.27 read and agreed to.

34. Paragraphs 2.28 to 2.30 read and agreed to.

Chapter 3

- 35. Paragraphs 3.1 and 3.2 read and agreed to.
- 36. Paragraphs 3.3 to 3.6 read and agreed to.
- 37. Paragraphs 3.7 to 3.15 read and agreed to.
- 38. Paragraph 3.16 read and agreed to.
- 39. Paragraphs 3.17 to 3.21 read and agreed to.
- 40. Paragraphs 3.22 to 3.26 read and agreed to.

- 41. Paragraph 4.1 read and agreed to.
- 42. Paragraph 4.2 read, amended and agreed to.
- 43. Paragraphs 4.3 and 4.4 read and agreed to.
- 44. Paragraph 4.5 read, amended and agreed to.
- 45. Paragraphs 4.6 to 4.13 read and agreed to.
- 46. Paragraphs 4.14 and 4.15 read and agreed to.
- 47. Paragraphs 4.16 to 4.19 read and agreed to.
- 48. Paragraph 4.20 read and agreed to.
- 49. Paragraphs 4.21 and 4.22 read and agreed to.
- 50. Paragraphs 4.23 to 4.26 read and agreed to.
- 51. Paragraphs 4.27 to 4.31 read and agreed to.
- 52. Paragraph 4.32 read and agreed to.
- 53. Paragraphs 4.33 to 4.35 read and agreed to.
- 54. Paragraphs 4.36 and 4.37 read and agreed to.

- 55. Paragraphs 4.38 and 4.39 read and agreed to.
- 56. Paragraph 4.40 read and agreed to.
- 57. Paragraph 4.41 read and agreed to.
- 58. Paragraph 4.42 read and agreed to.
- 59. Paragraph 4.43 read and agreed to.
- 60. Paragraph 4.44 read and agreed to.
- 61. Paragraphs 4.45 to 4.48 read and agreed to.

- 62. Paragraph 5.1 read, amended and agreed to.
- 63. Paragraphs 5.2 and 5.3 read and agreed to.
- 64. Paragraph 5.4 read and agreed to.
- 65. Paragraphs 5.5 to 5.16 read and agreed to.
- 66. Paragraphs 5.17 to 5.21 read and agreed to.
- 67. Paragraph 5.22 read and agreed to.
- 68. Paragraphs 5.23 to 5.33 read and agreed to.
- 69. Paragraphs 5.34 to 5.36 read and agreed to.
- 70. Paragraph 5.37 read and agreed to.
- 71. Paragraphs 5.38 to 5.46 read and agreed to.
- 72. Paragraphs 5.47 and 5.48 read and agreed to.
- 73. Paragraphs 5.49 to 5.51 read and agreed to.
- 74. Paragraphs 5.52 to 5.71 read and agreed to.
- 75. Paragraphs 5.72 to 5.75 read and agreed to.
- 76. Paragraph 5.76 read, amended and agreed to.

- 77. Paragraph 5.77 read and agreed to.
- 78. Paragraphs 5.78 to 5.89 read and agreed to.
- 79. Paragraphs 5.90 and 5.91 read, amended and agreed to.
- 80. Paragraphs 5.92 to 5.104 read and agreed to.
- 81. Paragraph 5.105 read and agreed to.
- 82. Paragraph 5.106 read, amended and agreed to.
- 83. Paragraphs 5.107 to 5.111 read and agreed to.
- 84. Paragraph 5.112 read, amended and agreed to.
- 85. Paragraph 5.113 read and agreed to.
- 86. Paragraphs 5.114 and 5.115 read and agreed to.
- 87. Paragraph 5.116 read, amended and agreed to.
- 88. Paragraph 5.117 read and agreed to.
- 89. Paragraph 5.118 read and agreed to.

- 90. Paragraphs 6.1 and 6.2 read and agreed to.
- 91. Paragraphs 6.3 to 6.5 read and agreed to.
- 92. Paragraphs 6.6 to 6.9 read and agreed to.
- 93. Paragraph 6.10 read and agreed to.
- 94. Paragraphs 6.11 to 6.16 read and agreed to.
- 95. Paragraphs 6.17 to 6.19 read and agreed to.
- 96. Paragraphs 6.20 to 6.28 read and agreed to.
- 97. Paragraph 6.29 read and agreed to.
- 98. Paragraph 6.30 read, amended and agreed to.

- 99. Paragraph 7.1 read and agreed to.
- 100. Paragraphs 7.2 and 7.3 read and agreed to.
- 101. Paragraphs 7.4 and 7.5 read and agreed to.
- 102. Paragraphs 7.6 to 7.8 read and agreed to.
- 103. Paragraphs 7.9 to 7.14 read and agreed to.
- 104. Paragraphs 7.15 to 7.18 read and agreed to.
- 105. Paragraph 7.19 read and agreed to.
- 106. Paragraphs 7.20 to 7.24 read and agreed to.
- 107. Paragraph 7.25 read and agreed to.
- 108. Paragraph 7.26 read, amended and agreed to.
- 109. Paragraphs 7.27 to 7.34 read and agreed to.
- 110. Paragraphs 7.35 to 7.57 read and agreed to.
- 111. Paragraphs 7.58 to 7.69 read and agreed to.
- 112. Paragraph 7.70 read, amended and agreed to.
- 113. Paragraphs 7.71 to 7.74 read and agreed to.
- 114. Paragraphs 7.75 to 7.82 read and agreed to.

- 115. Paragraph 8.1 read and agreed to.
- 116. Paragraph 8.2 read and agreed to.
- 117. Paragraphs 8.3 to 8.5 read and agreed to.
- 118. Paragraphs 8.6 and 8.7 read and agreed to.
- 119. Paragraphs 8.8 and 8.9 read and agreed to.

- 120. Paragraphs 8.10 to 8.15 read and agreed to.
- 121. Paragraphs 8.16 to 8.21 read and agreed to.
- 122. Paragraphs 8.22 to 8.24 read and agreed to.
- 123. Heading of paragraph 8.25 read, amended and agreed to.
- 124. Paragraphs 8.25 to 8.30 read and agreed to.
- 125. Paragraphs 8.31 to 8.35 read and agreed to.
- 126. Paragraphs 8.36 to 8.50 read and agreed to.
- 127. Paragraphs 8.51 and 8.52 read and agreed to.
- 128. Paragraph 8.53 read, amended and agreed to.
- 129. Paragraphs 8.54 to 8.58 read and agreed to.
- 130. Paragraphs 8.59 and 8.60 read and agreed to.
- 131. Paragraphs 8.61 to 8.67 read and agreed to.
- 132. Paragraph 8.68 read and agreed to.
- 133. Paragraphs 8.69 to 8.73 read and agreed to.
- 134. Paragraphs 8.74 to 8.78 read and agreed to.
- 135. Heading of paragraph 8.79 read, amended and agreed to.
- 136. Paragraphs 8.79 and 8.80 read and agreed to.
- 137. Paragraphs 8.81 and 8.82 read, amended and agreed to.
- 138. Paragraphs 8.83 to 8.87 read and agreed to.
- 139. Paragraph 8.88 read, amended and agreed to.

- 140. Paragraphs 9.1 and 9.2 read and agreed to.
- 141. Paragraph 9.3 read, amended and agreed to.

- 142. Paragraph 9.4 read and agreed to.
- 143. Paragraphs 9.5 and 9.6 read and agreed to.
- 144. Paragraph 9.7 read and agreed to.
- 145. Paragraph 9.8 read, amended and agreed to.
- 146. Paragraph 9.9 read and agreed to.
- 147. Paragraph 9.10 read and agreed to.
- 148. Paragraph 9.11 read and agreed to.
- 149. Paragraphs 9.12 and 9.13 read and agreed to.
- 150. Paragraph 9.14 read and agreed to.
- 151. Paragraphs 9.15 and 9.16 read and agreed to.
- 152. Paragraph 9.17 read, amended and agreed to.
- 153. Paragraph 9.18 read and agreed to.
- 154. Paragraphs 9.19 to 9.32 read and agreed to.
- 155. Paragraphs 9.33 and 9.34 read and agreed to.
- 156. Paragraphs 9.35 to 9.39 read and agreed to.
- 157. Paragraphs 9.40 to 9.42 read and agreed to.
- 158. Paragraphs 9.43 and 9.44 read and agreed to.
- 159. Paragraph 9.45 read and agreed to.
- 160. Paragraphs 9.46 and 9.47 read and agreed to.
- 161. Paragraphs 9.48 to 9.53 read and agreed to.
- 162. Paragraphs 9.54 to 9.56 read and agreed to.
- 163. Paragraphs 9.57 to 9.61 read and agreed to.

Executive Summary

- 164. Paragraph 1 read, amended and agreed to.
- 165. Paragraphs 2 and 3 read and agreed to.
- 166. Paragraph 4 read and agreed to.
- 167. Paragraph 5(1) read, amended and agreed to. Corresponding amendment to paragraph 9.21 of the report proposed, put and agreed to.
- 168. Paragraph 5(2) read and agreed to.
- 169. Paragraph 5(3) read, amended and agreed to.
- 170. Paragraph 5(4) read, amended and agreed to. Corresponding amendment to paragraph 9.42 of the report proposed, put and agreed to.
- 171. Paragraph 5(5) read and agreed to.
- 172. Paragraph 5(6) read and agreed to.
- 173. Paragraph 5(7) read and agreed to.
- 174. Paragraph 5(8) read and agreed to.

Appendices

- 175. Appendix 1 to the report read and agreed to.
- 176. Appendix 2 to the report read and agreed to.
- 177. Appendix 3 to the report read and agreed to.
- 178. Appendix 4 to the report read and agreed to.
- 179. Appendix 5 to the report read, amended and agreed to.
- 180. Appendix 6 to the report read and agreed to.
- 181. Appendix 7 to the report read, amended and agreed to.
- 182. Appendix 8 to the report read and agreed to.
- 183. Appendix 9 to the report read and agreed to.

- 184. Appendix 10 to the report read and agreed to.
- 185. Appendix 11 to the report read and agreed to.
- 186. Appendix 12 to the report read and agreed to.
- 187. Appendix 13 to the report read and agreed to.

Acknowledgement

188. The acknowledgement read, amended and agreed to.

Abbreviations

- 189. The list of abbreviations read and agreed to.
- 190. The question that the Chinese text of the report, as amended, be adopted as the report of the Select Committee was proposed, put and agreed to. The Select Committee authorized the Chairman and the Deputy Chairman to make textual amendments to the Chinese text of the report and the Secretariat to make necessary editorial amendments.

II. Any other business

Tabling of the Report

191. <u>Members</u> agreed that the report should be presented to the Council on 8 December 2010.

Moving of a motion debate on the report

192. <u>Members</u> decided that to enable Members and the public officers to express views on the findings and observations of the Select Committee, the Chairman should on behalf of the Select Committee move a motion on the report for debate at the Council meeting of 15 December 2010. <u>Members</u> agreed to put up a request to the House Committee on 26 November 2010 for priority allocation of a debate slot under House Rule 14A(h). The Select Committee would suggest to the House Committee that there should only be one other motion debate without legislative effect at the Council meeting of 15 December 2010 and that the speaking time limit for the debate on its report should be 15 minutes for each Member.

193. The wording of the motion as agreed by members was as follows:

"That this Council endorses the Report of the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man."

Date of next meeting

194. <u>Members</u> agreed that the next meeting would be held on Thursday, 18 November 2010, at 4:30 pm to consider and endorse the English text of the report of the Select Committee paragraph by paragraph.

195. The meeting ended at 6:40 pm.

Council Business Division 2
<u>Legislative Council Secretariat</u>
25 November 2010

Ref: CB2/SC/08

absent

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

Extract from the minutes of the ninetieth meeting (closed) which contains the proceedings on consideration of the report of the Select Committee held on Thursday, 18 November 2010, at 4:30 pm in Conference Room C of the Legislative Council Building

Members : Hon LI Fung-ying, SBS, JP (Chairman)
present Hon LEE Wing-tat (Deputy Chairman)

Dr Hon Margaret NG Hon LAU Kong-wah, JP

Dr Hon Samson TAM Wai-ho, JP

Members: Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP

Dr Hon Philip WONG Yu-hong, GBS

Hon Ronny TONG Ka-wah, SC

Hon Cyd HO Sau-lan

Dr Hon LAM Tai-fai, BBS, JP

Dr Hon PAN Pey-chyou Hon LEUNG Kwok-hung

Clerk in : Ms Connie SZETO

attendance Principal Council Secretary (Select Committee)2

Staff in : Mrs Vivian KAM

attendance Assistant Secretary General 2

Ms Connie FUNG

Senior Assistant Legal Adviser 1

Mr YICK Wing-kin

Assistant Legal Adviser 8

Mr Lemuel WOO

Senior Council Secretary (2)9

Ms Alice LEUNG Senior Council Secretary (2)10

Miss Ivy LEONG Council Secretary (2)7

Ms Carmen HO Legislative Assistant (2)7

I. Consideration and endorsement of the report of the Select Committee paragraph by paragraph

(LC Paper No. CB(2)299/10-11(01))

Following the endorsement of the Chinese text of the report of the Select Committee at the meeting on 13 November 2010, the Select Committee proceeded to examine the English text of the draft report. The Chairman advised members that the draft English text had been updated by incorporating the amendments made to the Chinese text agreed to by members at the meeting held on 13 November 2010 and comments from members.

2. In accordance with Rule 79(7) of the Rules of Procedure, the English text of the draft report was accepted as a basis for discussion. The question that the English version of the draft report be adopted as the Chairman's report and be read a second time paragraph by paragraph, was proposed, put and agreed to.

Members agreed to consider the Executive Summary after considering Chapters 1 to 9 of the report.

- 3. Paragraphs 1.1 and 1.2 read and agreed to.
- 4. Paragraph 1.3 read and agreed to.
- 5. Paragraphs 1.4 and 1.5 read and agreed to.
- 6. Paragraphs 1.6 to 1.9 read and agreed to.
- 7. Paragraphs 1.10 to 1.12 read and agreed to.
- 8. Paragraphs 1.13 to 1.16 read and agreed to.
- 9. Paragraph 1.17 read and agreed to.
- 10. Paragraphs 1.18 to 1.20 read and agreed to.

- 11. Paragraph 1.21 read and agreed to.
- 12. Paragraphs 1.22 and 1.23 read and agreed to.
- 13. Paragraphs 1.24 and 1.25 read and agreed to.
- 14. Paragraph 1.26 read and agreed to.
- 15. Paragraphs 1.27 to 1.29 read and agreed to.
- 16. Paragraphs 1.30 to 1.39 read and agreed to.

- 17. Paragraphs 2.1 and 2.2 read and agreed to.
- 18. Paragraph 2.3 read and agreed to.
- 19. Paragraphs 2.4 to 2.7 read and agreed to.
- 20. Paragraphs 2.8 and 2.9 read and agreed to.
- 21. Paragraphs 2.10 and 2.11 read and agreed to.
- 22. Paragraphs 2.12 to 2.16 read and agreed to.
- 23. Paragraphs 2.17 to 2.22 read and agreed to.
- 24. Paragraph 2.23 read and agreed to.
- 25. Paragraphs 2.24 and 2.25 read and agreed to.
- 26. Paragraph 2.26 read and agreed to.
- 27. Paragraph 2.27 read and agreed to.
- 28. Paragraphs 2.28 to 2.30 read and agreed to.

- 29. Paragraphs 3.1 and 3.2 read and agreed to.
- 30. Paragraphs 3.3 to 3.6 read and agreed to.
- 31. Paragraphs 3.7 to 3.15 read and agreed to.

- 32. Paragraph 3.16 read and agreed to.
- 33. Paragraphs 3.17 to 3.21 read and agreed to.
- 34. Paragraphs 3.22 to 3.26 read and agreed to.

- 35. Paragraph 4.1 read and agreed to.
- 36. Paragraphs 4.2 to 4.13 read and agreed to.
- 37. Paragraphs 4.14 and 4.15 read and agreed to.
- 38. Paragraphs 4.16 to 4.19 read and agreed to.
- 39. Paragraph 4.20 read and agreed to.
- 40. Paragraphs 4.21 and 4.22 read and agreed to.
- 41. Paragraphs 4.23 to 4.26 read and agreed to.
- 42. Paragraphs 4.27 to 4.31 read and agreed to.
- 43. Paragraph 4.32 read and agreed to.
- 44. Paragraphs 4.33 to 4.35 read and agreed to.
- 45. Paragraphs 4.36 and 4.37 read and agreed to.
- 46. Paragraphs 4.38 and 4.39 read and agreed to.
- 47. Paragraph 4.40 read and agreed to.
- 48. Paragraph 4.41 read and agreed to.
- 49. Paragraph 4.42 read and agreed to.
- 50. Paragraph 4.43 read and agreed to.
- 51. Paragraph 4.44 read and agreed to.
- 52. Paragraphs 4.45 to 4.48 read and agreed to.

- 53. Paragraphs 5.1 to 5.3 read and agreed to.
- 54. Paragraph 5.4 read and agreed to.
- 55. Paragraphs 5.5 to 5.16 read and agreed to.
- 56. Paragraphs 5.17 to 5.21 read and agreed to.
- 57. Paragraph 5.22 read and agreed to.
- 58. Paragraphs 5.23 to 5.33 read and agreed to.
- 59. Paragraphs 5.34 to 5.36 read and agreed to.
- 60. Paragraph 5.37 read and agreed to.
- 61. Paragraphs 5.38 to 5.46 read and agreed to.
- 62. Paragraphs 5.47 and 5.48 read and agreed to.
- 63. Paragraphs 5.49 to 5.51 read and agreed to.
- 64. Paragraphs 5.52 to 5.71 read and agreed to.
- 65. Paragraphs 5.72 to 5.76 read and agreed to.
- 66. Paragraph 5.77 read and agreed to.
- 67. Paragraphs 5.78 to 5.104 read and agreed to.
- 68. Paragraphs 5.105 to 5.112 read and agreed to.
- 69. Paragraph 5.113 read and agreed to.
- 70. Paragraphs 5.114 to 5.116 read and agreed to.
- 71. Paragraph 5.117 read and agreed to.
- 72. Paragraph 5.118 read and agreed to.

- 73. Paragraphs 6.1 and 6.2 read and agreed to.
- 74. Paragraphs 6.3 to 6.5 read and agreed to.
- 75. Paragraphs 6.6 to 6.9 read and agreed to.
- 76. Paragraph 6.10 read and agreed to.
- 77. Paragraphs 6.11 to 6.16 read and agreed to.
- 78. Paragraphs 6.17 to 6.19 read and agreed to.
- 79. Paragraphs 6.20 to 6.28 read and agreed to.
- 80. Paragraphs 6.29 and 6.30 read and agreed to.

- 81. Paragraph 7.1 read and agreed to.
- 82. Paragraphs 7.2 and 7.3 read and agreed to.
- 83. Paragraphs 7.4 and 7.5 read and agreed to.
- 84. Paragraphs 7.6 to 7.8 read and agreed to.
- 85. Paragraphs 7.9 to 7.14 read and agreed to.
- 86. Paragraphs 7.15 to 7.18 read and agreed to.
- 87. Paragraph 7.19 read and agreed to.
- 88. Paragraphs 7.20 to 7.24 read and agreed to.
- 89. Paragraphs 7.25 to 7.34 read and agreed to.
- 90. Paragraphs 7.35 to 7.57 read and agreed to.
- 91. Paragraphs 7.58 to 7.74 read and agreed to.
- 92. Paragraphs 7.75 to 7.82 read and agreed to.

- 93. Paragraph 8.1 read and agreed to.
- 94. Paragraph 8.2 read and agreed to.
- 95. Paragraphs 8.3 to 8.5 read and agreed to.
- 96. Paragraphs 8.6 and 8.7 read and agreed to.
- 97. Paragraphs 8.8 and 8.9 read and agreed to.
- 98. Paragraphs 8.10 to 8.15 read and agreed to.
- 99. Paragraphs 8.16 to 8.21 read and agreed to.
- 100. Paragraphs 8.22 to 8.24 read and agreed to.
- 101. Paragraphs 8.25 to 8.30 read and agreed to.
- 102. Paragraphs 8.31 to 8.35 read and agreed to.
- 103. Paragraphs 8.36 to 8.50 read and agreed to.
- 104. Paragraphs 8.51 and 8.52 read and agreed to.
- 105. Paragraphs 8.53 to 8.58 read and agreed to.
- 106. Paragraphs 8.59 and 8.60 read and agreed to.
- 107. Paragraphs 8.61 to 8.67 read and agreed to.
- 108. Paragraph 8.68 read and agreed to.
- 109. Paragraphs 8.69 to 8.73 read and agreed to.
- 110. Paragraphs 8.74 to 8.88 read and agreed to.

- 111. Paragraphs 9.1 to 9.4 read and agreed to.
- 112. Paragraphs 9.5 and 9.6 read and agreed to.
- 113. Paragraph 9.7 read and agreed to.

- 114. Paragraph 9.8 read, amended and agreed to.
- 115. Paragraph 9.9 read and agreed to.
- 116. Paragraphs 9.10 to 9.17 read and agreed to.
- 117. Paragraph 9.18 read and agreed to.
- 118. Paragraphs 9.19 to 9.32 read and agreed to.
- 119. Paragraphs 9.33 and 9.34 read and agreed to.
- 120. Paragraphs 9.35 to 9.39 read and agreed to.
- 121. Paragraphs 9.40 to 9.42 read and agreed to.
- 122. Paragraphs 9.43 and 9.44 read and agreed to.
- 123. Paragraph 9.45 read and agreed to.
- 124. Paragraphs 9.46 and 9.47 read and agreed to.
- 125. Paragraphs 9.48 to 9.53 read and agreed to.
- 126. Paragraphs 9.54 to 9.56 read and agreed to.
- 127. Paragraphs 9.57 to 9.61 read and agreed to.

Executive Summary

- 128. Paragraphs 1 to 4 read and agreed to.
- 129. Paragraph 5(1) read and agreed to.
- 130. Paragraph 5(2) read and agreed to.
- 131. Paragraph 5(3) read and agreed to.
- 132. Paragraph 5(4) read and agreed to.
- 133. Paragraph 5(5) read and agreed to.
- 134. Paragraph 5(6) read and agreed to.
- 135. Paragraph 5(7) read and agreed to.

136. Paragraph 5(8) read and agreed to.

Appendices

- 137. Appendix 1 to the report read and agreed to.
- 138. Appendix 2 to the report read and agreed to.
- 139. Appendix 3 to the report read and agreed to.
- 140. Appendix 4 to the report read and agreed to.
- 141. Appendix 5 to the report read and agreed to.
- 142. Appendix 6 to the report read and agreed to.
- 143. Appendix 7 to the report read and agreed to.
- 144. Appendix 8 to the report read and agreed to.
- 145. Appendix 9 to the report read and agreed to.
- 146. Appendix 10 to the report read and agreed to.
- 147. Appendix 11 to the report read and agreed to.
- 148. Appendix 12 to the report read and agreed to.
- 149. Appendix 13 to the report read and agreed to.

<u>Acknowledgement</u>

150. The acknowledgement read and agreed to.

Abbreviations

- 151. The list of abbreviations read and agreed to.
- 152. The question that the English text of the report, as amended, be adopted as the report of the Select Committee was proposed, put and agreed to. The Select Committee authorized the Chairman and the Deputy Chairman to make textual amendments to the English text of the report and consequential amendments to the Chinese text if necessary, and the Secretariat to make necessary editorial amendments.

153. <u>Members</u> agreed that the report of the Select Committee should be presented to the Council on 8 December 2010.

 \mathbf{X} \mathbf{X} \mathbf{X} \mathbf{X} \mathbf{X} \mathbf{X} \mathbf{X} \mathbf{X}

Council Business Division 2 <u>Legislative Council Secretariat</u> 25 November 2010