

INFORMATION NOTE

Mechanism in handling disclosure of medical information of senior government officials in selected places

1. Introduction

1.1 After several Principal Officials of the Hong Kong Special Administrative Region Government were recently reported to be hospitalized or undergone operation/medical treatment, the health condition of senior government officials has aroused public attention. Both the media and the public have demanded increasing transparency and disclosure of medical information on senior government officials from the Government.

1.2 At the meeting on 18 April 2011, members of the Panel on Constitutional Affairs requested the Research Division of the Legislative Council Secretariat to conduct a study about the mechanism in handling disclosure of medical information of senior government officials.

1.3 This information note provides information on the government practices of such disclosures in the United Kingdom ("UK"), Australia and Canada with regard to:

- (a) rules or mechanisms governing the disclosure of medical information of senior government officials who suffer from serious illness;
- (b) arrangements and procedures in the event of senior government officials being unable to fulfill the work duties due to serious illness; and
- (c) relevant cases and public views.

1.4 This note also covers some findings relating to the United States ("US"), Taiwan and the Republic of Ireland in disclosing the health records of senior government officials.

2. Approaches adopted and findings in the UK, Australia and Canada

2.1 The governments of the UK, Australia and Canada do not have any set rules or established mechanism for a senior government official to disclose medical information in case he or she suffers from serious illness. In these jurisdictions, if a government official is unable to fulfill his or her work duties due to serious sickness, they only have adopted certain internal procedures in terms of leave application and acting arrangements.

The United Kingdom

2.2 In the UK, the *Ministerial Code* sets out the standards of Ministerial conduct and guidelines for Ministers to adopt in discharging their duties. According to the Cabinet Office of the UK government, "there are no specific guidelines on what happens in the event of serious illness of a Minister". However, if such situation arises, "appropriate arrangements would be made which may include the appointment of another Minister to take over on an interim basis."

2.3 While there is no established mechanism to disclose the medical records of senior government officials in ill health, the Cabinet Office points out that "[a] decision on whether or how to inform the public would be taken at the time and in full consultation with the individual concerned." The following cases help illustrate the different approaches adopted by senior government officials.

2.4 In 2010, the former Secretary of State for Northern Ireland, Mo Mowlam, was reported to have deliberately concealed the full details of her illness, i.e. a malignant brain cancer, during her service with the Tony Blair government from 1997 to 2001. This fact was revealed only after her death.¹ Her doctor pointed out that Mo Mowlam should have disclosed the truth of her illness as she was holding an important government office, and her health might have been affected as she did not choose the most appropriate treatment as necessary in order to function normally in her position. In contrast, some of the public believed that if the truth of her illness were made known in the first place, she would have probably been removed from the position and would not have had the chance to make her contribution as she had done.²

2.5 In another incident happening in 2009, the government disclosed the result of the then Prime Minister Gordon Brown's medical check-up of his eyes, which found two tears in his right eye's retina but concluded that his vision was not affected. Such disclosure came amid intense speculation of his health condition and was described as an unusual and brave move.³

2.6 In 2003, the former Prime Minister Tony Blair was rushed to hospital for emergency treatment after he complained of chest pains and an irregular heart beat. The government subsequently explained that the condition was "easily treated". However, Dr Lewis Moonie, a former Minister who had suffered from a similar illness before, accused the government of trying to play down the seriousness of the situation, and claimed such treatment was actually serious in nature.⁴

¹ Guardian.co.uk. (2010) *How Mo Mowlam misled Tony Blair for nine years about her killer cancer*. Available from: <http://www.guardian.co.uk/politics/2010/jan/17/mowlam-tumour-blair-labour> (Accessed May 2011).

² The Telegraph. (2010) *Was Mo Mowlam right to have lied about her cancer?* Available from: <http://www.telegraph.co.uk/health/7020424/Was-Mo-Mowlam-right-to-have-lied-about-her-cancer.html> (Accessed May 2011).

³ Guardian.co.uk. (2009) *Cabinet defends Brown as eye problem is disclosed*. Available from: <http://www.guardian.co.uk/politics/2009/oct/11/cabinet-back-brown-eye-disclosure> (Accessed May 2011).

⁴ The Telegraph. (2004) *Is the Downing Street patient fit for office?* Available from: <http://www.telegraph.co.uk/health/3305273/Is-the-Downing-Street-patient-fit-for-office.html> (Accessed May 2011).

Australia

2.7 In Australia, the *Cabinet Handbook* provides general guidelines on arrangements when a Minister⁵ is absent. For example, when the Minister for Industry, Tourism and Resources was absent in August 2003, the Minister for Small Business and Tourism was arranged to answer the parliamentary questions for him.⁶ Nevertheless, the *Handbook* does not provide any guidelines on other arrangements in the event that a Minister suffers from serious illness.

2.8 According to the Parliamentary Library of the Australian Parliament, Standing Order 26 of the House of Representatives sets out the process for leave of a Member of the House, which also covers Ministers, and the related motion for leave of absence does not require an indication of the type or detail of the ill health.⁷ Such leave of absence is usually granted for reasons including parliamentary or public business overseas, maternity or ill health. For instance, the Minister for Children and Youth Affairs moved a motion for the leave of absence to be given to the Minister for Industry, Tourism and Resources, on the ground of ill health without providing details in 2003.⁸

⁵ There are currently 30 Ministers in Australia who are selected by the Prime Minister from Members of both Houses of the Parliament, with about two-thirds from the House of Representatives. See House of Representatives. (2010) *The Australian System of Government*. Available from: <http://www.aph.gov.au/house/info/infosheets/is20.pdf> (Accessed May 2011).

⁶ Parliament of Australia. (2003) *House of Representatives, Ministerial Arrangement. Monday, 11 August 2003*. Available from: http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansardr/2003-08-11/0041/hansard_frag.pdf;fileType=application%2Fpdf (Accessed May 2011).

⁷ Standing Order 26
Leave of absence

- (a) A Member may be granted leave of absence from the House, on motion moved without notice, stating the reason for leave and the period of absence. The motion shall have priority over all other business; and
- (b) A Member with leave of absence is excused from the service of the House or on any committee. The leave is forfeited if the Member attends in the Chamber of the House before the end of the period of leave.

⁸ Parliament of Australia. (2003) *House of Representatives, Leave of Absence, Procedural Text. Monday, 11 August 2003*. Available from: http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansardr/2003-08-11/0079/hansard_frag.pdf;fileType=application%2Fpdf (Accessed May 2011).

2.9 The Parliamentary Library further advised that "it appears to be a decision of the individual whether to making public the details of the illness." This can be evidenced by the case in 2005, when the Deputy Prime Minister John Anderson resigned from office due to a worsening prostate condition, which was not life threatening. Mr Anderson admitted that he had such health problem for years without disclosing to the public. At the time of his resignation, Mr Anderson made a statement to the House of Representatives and issued a press release stating his health problem.⁹

Canada

2.10 In Canada, the *Accountable Government: A Guide for Ministers and Ministers of State 2008* contains provisions specifying the general acting arrangement when a Cabinet Minister is unable to perform his or her duties, but it is silent with regard to the disclosure of Ministers' health conditions.

2.11 According to the Library of Parliament of Canada, should a Cabinet Minister no longer feel able or well enough to discharge his or her duties, he or she would likely resign and be replaced. If a Cabinet Minister encounters a sudden health problem or accident which leaves him or her unable to resign, the Prime Minister and his or her fellow Cabinet Ministers would likely proceed cautiously in respect of replacing the injured Cabinet Minister. The most recent case occurred in 1972, when the Minister of Energy, Mines and Resources, John Greene, resigned due to health reasons.¹⁰

⁹ House of Representatives. *Official Hansard, No. 12, 2005*. Available from: <http://www.aph.gov.au/hansard/reps/dailys/dr230605.pdf> (Accessed May 2011).

¹⁰ Parliament of Canada. (2011) Ministerial Resignations. Available from: <http://www.parl.gc.ca/parlinfo/compilations/federalgovernment/MinisterialResignations.aspx> (Accessed May 2011).

2.12 Although there is no established mechanism for senior government officials to disclose their health matters, there have been precedents of such disclosure by the senior officials themselves or the government on their behalf in both the federal and provincial governments. For example, in 2010, the government issued a press release stating that Minister John Duncan underwent a heart valve replacement surgery. The Minister was said to be in good health and recuperated at home during the ensuing weeks.¹¹

2.13 In 2008, the Office of Claude Béchar, the Minister of Natural Resources and Wildlife, Quebec, informed the public that he was diagnosed with cancer and was going to receive surgery.¹² Claude Béchar was reported to have recovered from the surgery, but later died of cancer in 2010.¹³

2.14 Michael Baker, the Minister of Finance, the Province of Nova Scotia, was diagnosed with a form of skin cancer and underwent surgery in 2006. While the disease returned in the following year, his Office issued a press release in March 2007 informing the public about his health condition, and that he would take intermittent time-off from the office for additional treatments.¹⁴ Michael Baker continued to serve in the Ministry and was preparing the budget just weeks before his death in 2009.¹⁵

¹¹ John Duncan, the Minister of Indian Affairs and Northern Development, Federal Interlocutor for Métis and Non-Status Indians, and Minister of the Canadian Northern Economic Development Agency, was said to have undergone a heart valve replacement surgery on 14 December 2010 and Minister James Moore was responsible for his portfolio during the interim. See Indian and Northern Affairs, Canada. *Message from Minister Duncan*. Available from: <http://www.ainc-inac.gc.ca/ai/min/minmsg-eng.asp> (Accessed May 2011).

¹² CBC News. Quebec minister diagnosed with intestinal cancer. Available from: <http://www.cbc.ca/news/canada/montreal/story/2008/06/09/qc-bechardillness0609.html> (Accessed May 2011).

¹³ Claude Bechar suffered from cancer again in 2010, and he resigned from the Ministry just hours before his death. See the Star.com. Quebec cabinet minister Claude Bechar dies. Available from: <http://www.thestar.com/news/canada/article/857880--quebec-cabinet-minister-claude-bechar-d-dies?bn=1> (Accessed May 2011).

¹⁴ Government of Nova Scotia. *Michael Baker to Continue Treatment for Cancer*. Available from: <http://www.gov.ns.ca/news/details.asp?id=20070321008> (Accessed May 2011).

¹⁵ CBC News. *Nova Scotia's finance minister dies of cancer*. <http://www.cbc.ca/news/canada/nova-scotia/story/2009/03/02/ns-financeministerdies.html> (Accessed May 2011).

3. Additional findings in the United States, Taiwan and the Republic of Ireland

3.1 Limited information has been found in respect of the mechanism to disclose the health records of senior government officials in the US, Taiwan and the Republic of Ireland. Nevertheless, below are a few cases which may provide some insights into the practices adopted by these three places.

The United States

3.2 In the US, it has been the adopted practice for the results of the President's annual medical examinations to be disclosed to the public. The latest report regarding the physical examination of President Barak Obama was published by the Office of the Press Secretary of the White House on their official website on 28 February 2010.¹⁶

3.3 In addition, the health records of the US presidential candidates have always been of public concern. For example, in the 2008 US presidential election, the candidates running for the seats of President and Vice President were all asked to disclose their health records.¹⁷

¹⁶ White House. (2010) *Release of the President's Medical Exam*. Available from: <http://www.whitehouse.gov/the-press-office/release-presidents-medical-exam> (Accessed May 2011).

¹⁷ When running for the Presidency, the Republican nominee John McCain allowed a selected few journalists to read his health records, comprising 1 200 pages, in a room for three hours. However, an experienced journalist with medical background covering relevant news was not invited. Later, more than 2 700 physicians signed a petition demanding John McCain to fully release his health records. At the same time, the Office of the Democratic nominee Barack Obama released a one-page brief statement issued by his doctor stating that he was in excellent health. Both Joe Biden and Sarah Palin, the candidates for the seat of Vice President, released their health records but Sarah Palin did it just the day before the election.

3.4 The US public is mostly in favour of publicizing the health of the President as well as the presidential candidates. For instance, in a 2008 press story, former White House Press Secretary Jody Powell opined that the public had a right to know the health matter of the President. Another former White House Press Secretary Joe Lockhart added that the health conditions of the presidential candidates should be disclosed as well, because one's health impacts his or her ability to do the job.¹⁸

Taiwan

3.5 Similar to the US, the Taiwan government always discloses the results of the President's medical check-up to the public. For instance, some testing procedures, including height and blood pressure measures, of President Ma Ying-jeou's check-up carried out in June 2010 were broadcast by the media.¹⁹

3.6 In another incident, the Taiwan government issued a press release on 20 May 2009, stating that Vice President Vincent Siew Wan-chang underwent surgery of removing lung tumours which were later confirmed to be cancerous.²⁰ However, the Vice President was alleged of being known about his illness for some time and had deliberately concealed the fact. The Vice President later denied the allegation.^{21, 22}

¹⁸ CNN.com. (2008) *Transcripts. Fit To Lead: An Historical Overview Of The Health Concerns, And Medical Care Of The U.S. Presidency*. Available from: <http://transcripts.cnn.com/TRANSCRIPTS/0810/12/cp.01.html> (Accessed May 2011).

¹⁹ 鳳凰網頁：馬英九健康檢查：身高縮水體質勉強過關，2010年，網址：<http://v.ifeng.com/news/taiwan/201006/34411d93-f081-4ddc-8d48-c960f6b8327b.shtml> [於2011年5月登入]。

²⁰ 中華民國總統府：副總統健康事宜說明，2009年，網址：<http://www.president.gov.tw/Default.aspx?tabid=131&itemid=15067&rmid=514> [於2011年5月登入]。

²¹ 大紀元：早知罹癌？蕭萬長：我會拿自己生命開玩笑嗎，2009年，網址：<http://www.epochtimes.com/b5/9/6/6/n2550163.htm> [於2011年5月登入]。

²² 中時電子報：早知蕭萬長罹患肺腺癌？詹啟賢出面否認，2009年，網址：<http://video.chinatimes.com/video-cate-cnt.aspx?cid=1&nid=8897> [於2011年5月登入]。

The Republic of Ireland

3.7 In the Republic of Ireland, the Irish Minister for Finance, Brian Lenihan, was revealed by a news agency to be diagnosed with pancreatic cancer in 2009. There were views that privacy including the health information of all citizens should be respected as it was a basic right of citizens, and some members of the public criticized the news agency for reporting the Minister's health incident. In response, the news agency claimed that the news report was of national importance as the Minister of Finance was an important figure in the government.

3.8 According to Brian Lenihan, he himself would not doubt that the medical condition of the Minister of Finance was of public interest, but he questioned the reason of broadcasting his health condition on an Irish public holiday instead of releasing the news thereafter, so that he could have more time to explain his health condition to his family and friends.^{23, 24}

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²³ In a personal statement released to the public on 4 January 2010, Brian Lenihan provided details of his illness and the treatments he was going to receive, and confirmed to remain in the position.

²⁴ Globalpost. (2010) *The public disclosure of Brian Lenihan's cancer diagnosis caused outrage in Ireland.* Available from:
<http://www.globalpost.com/dispatch/ireland/100104/irish-debate-disclosure-ministers-cancer?page=0,0> (Accessed May 2011).

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