

Declaration of Interests and Avoidance of Potential Conflict of Interest by the Chief Executive

Purpose

This paper explains the current arrangements in respect of the declaration of interests and avoidance of potential conflict of interest by the Chief Executive.

Basic Law

2. According to Article 47 of the Basic Law, the Chief Executive must be a person of integrity and dedicated to his/her duties. The Chief Executive, on assuming office, shall declare his/her assets to the Chief Justice of the Court of Final Appeal. The declaration shall be put on record. Article 104 of the Basic Law prescribes that when assuming office, the Chief Executive must, in accordance with law, swear to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China. Please refer to **Annex I** for the relevant Basic Law provisions.

Local Legislation

3. Section 16A of the Oaths and Declarations Ordinance (Cap 11) (**Annex II**) states that a person elected as the Chief Executive shall take the Oath of the Chief Executive before entering upon any of the duties of his/her office. Under this Oath, the Chief Executive pledges, *inter alia*, that he/she shall serve the Hong Kong Special Administrative Region in full accordance with the law, honestly and with integrity.

4. The Chief Executive is also regulated under Common Law in respect of his/her conduct in public office, including but not limited to offering or accepting a bribe.

5. The Prevention of Bribery Ordinance (Cap 201) was amended in 2008. The amended section 4 states that if the Chief Executive solicits or accepts any advantage as an inducement to or reward for his/her performing any act in his/her capacity as the Chief Executive, he/she shall be guilty of an offence. Any person who offers any advantage to the Chief Executive as an inducement to or reward for the Chief Executive's performing any act in his/her capacity as the Chief Executive shall be

guilty of an offence. Section 5 makes it clear that any person who offers any advantage to the Chief Executive as an inducement to or reward for giving assistance in any matters relating to any contract shall be guilty of an offence. If the Chief Executive solicits or accepts any advantage as an inducement to or reward in any matters relating to any contract, he/she shall be guilty of an offence. Section 10 states that any person who, being or having been the Chief Executive, maintains a standard of living or is in control of property which is not commensurate with his/her present or past official emoluments shall be guilty of an offence, unless he/she gives a satisfactory explanation to the court.

6. Section 3 of the Prevention of Bribery Ordinance states that any prescribed officer who, without the general or special permission of the Chief Executive, solicits or accepts any advantage shall be guilty of an offence. In proposing amendments to the Prevention of Bribery Ordinance in 2008, the Administration did not propose to apply section 3 to the Chief Executive because section 3 only applies to officers over whom the Chief Executive has authority, and the Chief Executive cannot grant permission to himself/herself for accepting advantages. There are structural difficulties in fitting the Chief Executive within the framework of section 3. In addition, section 3 is premised upon the existence of a principal-agent relationship. The Chief Executive is not an agent of the HKSAR Government and has no equivalent principal within the Government. In view of this, section 3 cannot apply to the Chief Executive. Please refer to **Annex III** for the relevant provisions in the Prevention of Bribery Ordinance.

Declaration of Interests as President of Executive Council

7. In accordance with the terms of his appointment as the second term Chief Executive and third term Chief Executive respectively, which were accepted by him, and in his capacity as the President of the Executive Council (ExCo), the incumbent Chief Executive has declared, on first appointment and annually thereafter, his registrable interests, based on the same arrangement as that adopted by ExCo Members in declaring their registrable interests. His declarations are uploaded to the website¹ of ExCo for public inspection. As with ExCo Members, the incumbent Chief Executive has also deposited, on a confidential basis, with the Clerk to ExCo his declarations of financial interests annually.

¹ <http://www.ceo.gov.hk/exco/eng/interests.html>

8. Registrable interests to be declared by an ExCo Member include the following :

- (a) remunerated directorships in any public or private company;
- (b) remunerated employments, offices, trades, profession, etc;
- (c) names of clients (if any of the above registrable interests includes provision to clients of personal services which arise out of or relate in any manner to the position as an ExCo Member);
- (d) land and property owned in Hong Kong or outside Hong Kong, including those which are held in the name of the ExCo Member's spouses, children or other persons or companies but are actually owned by the Member; or those which are not owned by the Member but in which he/she has a beneficial interest;
- (e) names of companies or other bodies in which the ExCo Member has either himself/herself or with or on behalf of his/her spouse or children, a beneficial interest in shareholdings of a nominal value greater than 1% of the issued share capital; and
- (f) membership of boards, committees and other organisations² which might be construed by members of the public as a declaratory interest.

A copy of the ExCo Declaration form is at **Annex IV**.

9. Apart from the annual declaration of interests, the Chief Executive voluntarily observes the ExCo arrangements for ad hoc declaration of interests in relation to items considered at ExCo meetings.

Code for Officials under the Political Appointment System

10. Although the Chief Executive is not a politically appointed official (PAO) and therefore not subject to the regulation of the Code for Officials under the Political Appointment System (the Code) (**Annex V**), the Chief Executive has voluntarily observed the principles and spirit of the Code. The Code provides, *inter alia*, that,

² In practice, the incumbent Chief Executive has declared all of his patronage and membership of clubs and organisations in Hong Kong.

- (a) PAOs shall observe the highest standards of personal conduct and integrity at all times. They shall ensure no actual or potential conflict arises between their public duties and their private interests and shall avoid putting themselves in a position where they might arouse any suspicion of dishonesty, unfairness or conflict of interest (paragraphs 1.3 (5), 1.3(6) and 5.1 of the Code);
- (b) PAOs shall refrain from handling cases with actual or potential conflict of interest. They shall report to the Chief Executive any private interests that might influence, or appear to influence, their judgement in the performance of their duties (paragraphs 5.3 and 5.4 of the Code);
- (c) PAOs shall avoid accepting any gift or hospitality which might or might reasonably appear to compromise their judgement or place them under an improper obligation. Although the acceptance of hospitality or free service is not prohibited, PAOs shall take note of the relevant provisions in law and the following before accepting any such offer (paragraph 5.9 of the Code):
 - (a) whether the acceptance of the hospitality or free service will lead to a conflict of interest with their official duties or place them in a position of obligation to the donor;
 - (b) whether the acceptance of the hospitality or free service will lead to embarrassment in the discharge of their functions; and
 - (c) whether the acceptance of the hospitality or free service will bring them or the public service into disrepute;
- (d) PAOs shall not accept entertainment from any person if the entertainment is likely by reason of its excessive nature or if the relationship between the official and the other person or of the character of that person (paragraph 5.10 of the Code):
 - (a) to lead to embarrassment of the PAO in the discharge of his functions; or
 - (b) to bring the PAO or the public service into disrepute.

11. Separately, the incumbent Chief Executive has voluntarily made available for public inspection on the website of the Chief Executive's Office³ a register of gifts of an estimated value exceeding HK\$400 received by him in his official capacity.

The Way Forward

12. In February 2012, the Chief Executive appointed an independent committee to review the existing regulatory frameworks and procedures on preventing and handling potential conflicts of interests concerning the Chief Executive, non-official ExCo Members and officials under the Political Appointment System, including the arrangements for declaration of investments and interests and acceptance of advantages, entertainment and hospitality. The committee will make recommendations on the existing frameworks and procedures and will submit a report to the Chief Executive in about three months.

Constitutional and Mainland Affairs Bureau
April 2012

Article 47 of the Basic Law

The Chief Executive of the Hong Kong Special Administrative Region must be a person of integrity, dedicated to his or her duties.

The Chief Executive, on assuming office, shall declare his or her assets to the Chief Justice of the Court of Final Appeal of the Hong Kong Special Administrative Region. This declaration shall be put on record.

Article 104 of the Basic Law

When assuming office, the Chief Executive, principal officials, members of the Executive Council and of the Legislative Council, judges of the courts at all levels and other members of the judiciary in the Hong Kong Special Administrative Region must, in accordance with law, swear to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China.

Section 16A of the Oaths and Declarations Ordinance (Chapter 11)

- (1) A person appointed or elected as the Chief Executive shall take the Oath of the Chief Executive before entering upon any of the duties of his office;
- (2) The Chief Executive shall take his oath before a representative of the Central People's Government or a person authorized by the Central People's Government to administer the oath.

Prevention of Bribery Ordinance (Chapter 201) (extract)

Section 3 (Soliciting or accepting an advantage)

Any prescribed officer who, without the general or special permission of the Chief Executive, solicits or accepts any advantage shall be guilty of an offence.

Section 4 (Bribery)

(1) Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to a public servant as an inducement to or reward for or otherwise on account of that public servant's-(Amended 28 of 1980 s. 3)

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or
- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

(2) Any public servant who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his- (Amended 28 of 1980 s. 3)

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;

- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by himself or by any other public servant in his or that other public servant's capacity as a public servant; or
- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

(2A) Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to the Chief Executive as an inducement to or reward for or otherwise on account of the Chief Executive's-

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as the Chief Executive;
- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by the Chief Executive in his capacity as the Chief Executive or by any public servant in his capacity as a public servant; or
- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence. (Added 22 of 2008 s. 2)

(2B) If the Chief Executive, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his-

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as the Chief Executive;

- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by the Chief Executive in his capacity as the Chief Executive or by any public servant in his capacity as a public servant; or
- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

he shall be guilty of an offence. (Added 22 of 2008 s. 2)

- (3) If a public servant other than a prescribed officer solicits or accepts an advantage with the permission of the public body of which he is an employee being permission which complies with subsection (4), neither he nor the person who offered the advantage shall be guilty of an offence under this section. (Added 28 of 1980 s. 3. Amended 14 of 2003 s. 15)
- (4) For the purposes of subsection (3) permission shall be in writing and-
 - (a) be given before the advantage is offered, solicited or accepted; or
 - (b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance, and for such permission to be effective for the purposes of subsection (3), the public body shall, before giving such permission, have regard to the circumstances in which it is sought. (Added 28 of 1980 s. 3)

Section 5 (Bribery for giving assistance, etc. in regard to contracts)

- (1) Any person who, without lawful authority or reasonable excuse, offers an advantage to a public servant as an inducement to or reward for or otherwise on account of such public servant's giving assistance or using influence in, or having given assistance or used influence in-
 - (a) the promotion, execution, or procuring of-

- (i) any contract with a public body for the performance of any work, the providing of any service, the doing of any thing or the supplying of any article, material or substance, or
 - (ii) any subcontract to perform any work, provide any service, do any thing or supply any article, material or substance required to be performed, provided, done or supplied under any contract with a public body; or
- (b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in any such contract or subcontract as aforesaid,

shall be guilty of an offence.

- (2) Any public servant who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his giving assistance or using influence in, or having given assistance or used influence in-
 - (a) the promotion, execution or procuring of, or
 - (b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in, any such contract or subcontract as is referred to in subsection (1) shall be guilty of an offence.
- (3) Any person who, without lawful authority or reasonable excuse, offers any advantage to the Chief Executive as an inducement to or reward for or otherwise on account of the Chief Executive's giving assistance or using influence in, or having given assistance or used influence in-
 - (a) the promotion, execution or procuring of-
 - (i) any contract with a public body for the performance of any work, the providing of any service, the doing of any thing or the supplying of any article, material or substance; or
 - (ii) any subcontract to perform any work, provide any service, do any thing or supply any article, material or

substance required to be performed, provided, done or supplied under any contract with a public body; or

- (b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in any such contract or subcontract as is referred to in paragraph (a), shall be guilty of an offence. (Added 22 of 2008 s. 3)
- (4) If the Chief Executive, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his giving assistance or using influence in, or having given assistance or used influence in-
- (a) the promotion, execution or procuring of; or
 - (b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in, any such contract or subcontract as is referred to in subsection (3)(a), he shall be guilty of an offence. (Added 22 of 2008 s. 3)

Section 10 (Possession of unexplained property)

- (1) Any person who, being or having been the Chief Executive or a prescribed officer- (Amended 14 of 2003 s. 17; 22 of 2008 s. 4)
- (a) maintains a standard of living above that which is commensurate with his present or past official emoluments; or
 - (b) is in control of pecuniary resources or property disproportionate to his present or past official emoluments, shall, unless he gives a satisfactory explanation to the court as to how he was able to maintain such a standard of living or how such pecuniary resources or property came under his control, be guilty of an offence.
- (1A) If the accused in any proceedings for an offence under subsection (1) is or has been the Chief Executive, the court, in determining whether the accused has given a satisfactory explanation as provided in that subsection, shall take into account assets that he declared to the Chief Justice pursuant to Paragraph 2, Article 47 of the Basic Law. (Added 22 of 2008 s. 4)

- (1B) The Chief Justice shall disclose to a court information about assets declared to him pursuant to Paragraph 2, Article 47 of the Basic Law if the disclosure is required by an order made by the court for the purposes of subsection (1A). (Added 22 of 2008 s. 4)
- (2) Where a court is satisfied in proceedings for an offence under subsection (1)(b) that, having regard to the closeness of his relationship to the accused and to other circumstances, there is reason to believe that any person was holding pecuniary resources or property in trust for or otherwise on behalf of the accused or acquired such resources or property as a gift from the accused, such resources or property shall, in the absence of evidence to the contrary, be presumed to have been in the control of the accused. (Added 9 of 1974 s. 3. Amended 48 of 1996 s. 3)
- (3)-(4) (Repealed 56 of 1973 s. 2)
- (5) In this section, "official emoluments" (公職薪俸) includes a pension or gratuity payable under the Pensions Ordinance (Cap 89), the Pension Benefits Ordinance (Cap 99) or the Pension Benefits (Judicial Officers) Ordinance (Cap 401). (Amended 36 of 1987 s. 44; 85 of 1988 s. 51)

**Annual Declaration of Registrable Interests of
Members of the Executive Council**

Name of Member : _____

Registrable Interests

Contents

1. Remunerated directorships in any public or private company

[Notes:

- (a) “Remunerated directorships” include all directorships for which a fee, honorarium, allowance or other material benefit is payable.
- (b) Please give the name of the company, briefly stating the nature of the business of the company in each case.
- (c) Remunerated directorships of both Hong Kong companies and those outside Hong Kong are registrable.
- (d) Remunerated directorships through corporate directors are also registrable.
- (e) Where you are a remunerated director of a company, all subsidiary or associated directorships which you hold within the same group, whether remunerated or not, should also be registered.]

* Please provide information on separate sheets if necessary. Please sign on every such separate sheet.

Registrable Interests

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2. Remunerated Employments, Offices, Trades, Profession, etc.

[Notes:

- (a) Indicate the name of the employment, office, trade, or profession.
 - (b) An employment, office, trade or profession is “remunerated” where a salary, honorarium, allowance or other material benefit is payable.
 - (c) “Remunerated offices” should include all “remunerated” public offices.
 - (d) Members who have paid posts as consultants or advisers should indicate the nature of the consultancy in the register; for example, “management consultant”, “legal adviser”, etc.
 - (e) All remunerated employments in Hong Kong and outside Hong Kong are registrable.]
- ### 3. Please indicate the names of clients if any of the above registrable interests includes provision to clients of personal services which arise out of or relate in any manner to your position as a Member of the Executive Council.

Registrable Interests

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4. Land and property owned in Hong Kong or outside Hong Kong, including those for self-occupation. Land or property which are held in the name of Members' spouses, children or other persons or companies, but are actually owned by Members; or land or property which are not owned by Members, but in which Members have a beneficial interest (e.g. rental income), are all registrable. It is not necessary to provide detailed addresses of the land or property.

5. Names of companies (both listed and unlisted ones) or other bodies in which the Member has, to his knowledge, either himself or with or on behalf of his spouse or children, a beneficial interest in shareholdings of a nominal value greater than 1% of the issued share capital.

6. Membership of Boards, Committees and other organisations which might be construed by members of the public as a declaratory interest - e.g. Hong Kong General Chamber of Commerce, Real Estate Developers Association, etc.

Date : _____

Signature : _____

**CODE FOR OFFICIALS UNDER THE POLITICAL
APPOINTMENT SYSTEM**

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CHAPTER 1: INTRODUCTION

1.1 In this Code, unless the context otherwise requires,

“politically appointed officials” means -

- (a) principal officials;
- (b) Director of the Chief Executive’s Office;
- (c) under secretaries; and
- (d) political assistants.

“principal officials” means principal officials under the Political Appointment System, i.e. the Secretaries of Department and Directors of Bureau.

“under secretaries” means Deputy Directors of Bureau.

“political assistants” means Political Assistant to the Chief Secretary for Administration, Political Assistant to the Financial Secretary, and Political Assistants to Directors of Bureau.

This Code applies to the politically appointed officials.

Where this Code confers powers or imposes duties upon the Chief Executive, he may delegate a principal official, the Director of the Chief Executive’s Office or Permanent Secretary of the Chief Executive’s Office, designated by name or by office, to exercise such powers or perform such duties on his behalf and thereupon, or from the date specified by the Chief Executive, the person so delegated shall have and may exercise such powers and perform such duties.

1.2 Principal officials shall swear to uphold the Basic Law and swear allegiance to the Hong Kong Special Administrative Region (HKSAR) of the People’s Republic of China.

1.3 The basic principles which politically appointed officials shall follow in the performance of their duties include the following:

- (1) Politically appointed officials shall be dedicated to their duties and be responsible to the Government of the HKSAR.
- (2) Politically appointed officials shall uphold the rule of law, abide by the law, and protect the integrity of public office.
- (3) Politically appointed officials shall act in the best interests of the HKSAR as a whole.
- (4) Politically appointed officials shall be as open as possible about the decisions that they make and the actions that they take. They shall be accountable for their decisions.
- (5) Politically appointed officials shall observe the highest standards of personal conduct and integrity at all times.
- (6) Politically appointed officials shall ensure that no actual or potential conflict arises between their public duties and their private interests.
- (7) Politically appointed officials shall at all times actively uphold and promote a permanent, honest, meritocratic, professional and politically neutral civil service.
- (8) Politically appointed officials shall not use any public resources for non-government purposes (including purposes relating to any political party).
- (9) Politically appointed officials shall promote and support the above principles by leadership and example.

1.4 This Code does not specify every type of potential act or behaviour expected of politically appointed officials. Rather, it provides rules and principles for appropriate conduct under certain circumstances. Where the circumstances are not prescribed, it is the responsibility of politically appointed officials to judge in accordance with the principles set out in this Code, how best to

act in order to uphold the highest standards. In case of doubt, they shall seek the advice of the Chief Executive.

- 1.5 This Code shall be read in conjunction with legislation applicable to politically appointed officials. These include the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) and the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong).

CHAPTER 2: RESPONSIBILITIES

- 2.1 Politically appointed officials shall devote the whole of their time and attention to the discharge of their duties as politically appointed officials of the Government, and shall use their best endeavours to promote the interests of the Government.
- 2.2 Principal officials are responsible for their respective portfolios designated to them by the Chief Executive and lead the executive departments within their respective portfolios. Principal officials are responsible for formulating, explaining and defending government policies as well as canvassing support from the public and the Legislative Council. They are accountable to the Chief Executive for the success or failure of their policies.
- 2.3 The Director of the Chief Executive's Office is tasked with the responsibility of working with principal officials in policy formulation and setting policy priorities to ensure full implementation of the Chief Executive's policies and decisions, enhancing communication with the Executive Council and the Legislative Council, and liaising with political parties and groups as well as various sectors of the community and district personalities. He is also responsible for overseeing the operation of the Chief Executive's Office.
- 2.4 Under secretaries are responsible principally for assisting Directors of Bureau in undertaking the full range of political work, and are subordinates of the Directors of Bureau and work under the latter's direction. They will deputise for the relevant Directors of Bureau during the latter's temporary absence, attend meetings of the Legislative Council, its committees, subcommittees and panels and speak on behalf of the Government.
- 2.5 Political assistants are mainly responsible for providing political support and inputs to principal officials and under secretaries, and to conduct the necessary political liaison as instructed.

- 2.6 Politically appointed officials shall be bound by and collectively responsible for the decisions taken by the Chief Executive in Council.
- 2.7 Principal officials shall note that they may be directed as necessary by the Chief Executive, during the temporary absence of other principal officials, to exercise the powers or perform the duties of the absent principal officials, including the duty to attend meetings of the Legislative Council, its committees, subcommittees and panels and to speak on behalf of the Government.
- 2.8 Politically appointed officials shall note that given the special role and responsibility of the positions of the Secretary for Justice and Secretary for the Civil Service, special arrangements are made during their temporary absence. During the temporary absence of the Secretary for Justice, relevant Law Officers will exercise the powers and perform the duties of the Secretary for Justice, including the duty to attend meetings of the Legislative Council, its committees, subcommittees and panels and to speak on behalf of the Government. During the temporary absence of the Secretary for the Civil Service, the Permanent Secretary in the Civil Service Bureau will exercise the powers and perform the duties of the Secretary for the Civil Service, including the duty to attend meetings of the Legislative Council, its committees, subcommittees and panels and to speak on behalf of the Government.
- 2.9 Politically appointed officials shall note that the civil servants designated to attend meetings of the Legislative Council, its committees, subcommittees or panels and speak on behalf of the Government are required to limit themselves to established policy.

Responsibility in relation to the Legislative Council

- 2.10 Politically appointed officials shall note that under Article 64 of the Basic Law, the Government must abide by the law and be accountable to the Legislative Council: it shall implement laws

passed by the Legislative Council and already in force; it shall present regular policy addresses to the Legislative Council; it shall answer questions raised by members of the Legislative Council; and it shall obtain approval from the Legislative Council for taxation and public expenditure.

- 2.11 Politically appointed officials will be designated under Article 62(6) of the Basic Law to attend meetings of the Legislative Council, its committees, subcommittees and panels, as appropriate, and to speak on behalf of the Government. The immunities and privileges provided for in sections 3, 4, 5 and 6(2) of the Legislative Council (Powers and Privileges) Ordinance (Chapter 382 of the Laws of Hong Kong) are extended to these officials when they attend meetings of the Legislative Council, its committees, subcommittees and panels.
- 2.12 Principal officials and under secretaries have a duty to represent the Government and to transact business at meetings of the Legislative Council, and as necessary its committees, subcommittees and panels, e.g. to introduce bills or motions, address the Legislative Council, present papers, make statements, answer questions and take part in debates in respect of matters relating to their respective portfolios.
- 2.13 Principal officials and under secretaries shall endeavour to ensure that they would be available to attend meetings of the Legislative Council when matters relating to their respective portfolios are discussed.
- 2.14 Politically appointed officials shall give accurate and truthful information to the Legislative Council and correct any error at the earliest opportunity.

Responsibility in relation to civil servants

- 2.15 Politically appointed officials shall at all times actively uphold and promote a permanent, honest, meritocratic, professional and politically neutral civil service. In particular, politically

appointed officials shall actively uphold and promote the core values of the civil service:

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

2.16 Politically appointed officials shall note that civil servants shall report direct, and enjoy direct access, to the principal officials, or Director of the Chief Executive's Office (in the case of civil servants working in the Chief Executive's Office), through their Permanent Secretaries, and that under secretaries and political assistants shall have no direct line of command vis-à-vis Permanent Secretaries. Politically appointed officials in their dealings with civil servants shall have due regard to the Civil Service Code which sets out the framework within which civil servants are expected to work with politically appointed officials.

2.17 Politically appointed officials shall give fair consideration and due weight to honest, informed and impartial advice from civil servants and shall have due regard to Government Regulations which are applicable to civil servants or otherwise regulate the operation of the Government.

2.18 Politically appointed officials shall not require or influence civil servants directly or indirectly to act in any way which:

- (a) is illegal, improper or in conflict with the core values of the civil service;
- (b) is in breach of any Government Regulations including Civil Service Regulations;
- (c) may involve possible maladministration;
- (d) would conflict with their role as civil servants; or
- (e) would conflict with the principle of political neutrality.

- 2.19 Politically appointed officials shall note that the Secretary for the Civil Service is responsible to the Chief Executive for civil service policy and the management of the civil service. Politically appointed officials shall also note that one of the major tasks of the Secretary for the Civil Service is to safeguard the core values of the civil service.
- 2.20 Politically appointed officials shall note that civil servants are appointed, managed and promoted on the basis of merit and in accordance with the principles of openness and fairness and with the prevailing rules and regulations applicable to the civil service.
- 2.21 Politically appointed officials shall note that civil servants are subject to the prevailing civil service disciplinary system, under which allegations of misconduct against individual civil servants are determined through an impartial process based on consideration of factual evidence.
- 2.22 Politically appointed officials shall note the independent role of the Public Service Commission in advising the Government on the appointment, promotion and discipline of civil servants.
- 2.23 Politically appointed officials shall cooperate fully with the Secretary for the Civil Service to follow up on complaints from civil servants that they have been asked to act in a manner which conflicts with their role as civil servants or with the core values of the civil service.

The role of the Controlling Officer

- 2.24 Politically appointed officials shall note that, subject to the regulations made and directions or instructions given by the Financial Secretary, controlling officers designated under the Public Finance Ordinance (Chapter 2 of the Laws of Hong Kong) are responsible and accountable for all expenditure of the bureaux and departments falling within their purview.

2.25 Politically appointed officials shall note that controlling officers are required to obey all regulations made and directions or instructions given by the Financial Secretary for the safety, economy and advantage of public moneys and Government property. Politically appointed officials have a duty to give fair consideration and due weight to honest, informed and impartial advice from the controlling officers.

CHAPTER 3: OFFICIAL SECRETS AND SECURITY

- 3.1. Politically appointed officials shall note that they fall within the definition of “public servant” in the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong) and must therefore abide by the provisions therein applicable to a “public servant”.
- 3.2. Politically appointed officials, irrespective of whether they are members of the Executive Council, shall not reveal the agenda, papers or proceedings of the Executive Council, or any document communicated to them or any matter coming to their knowledge concerning the work of the Executive Council. Discussion and deliberation at the Executive Council shall be kept in strict confidence. The internal process through which a decision has been made shall not be disclosed.
- 3.3. Politically appointed officials are required to take due care in the safe keeping of classified information entrusted to them. They shall bear in mind the general principle that dissemination of classified information shall be no wider than is required for the efficient conduct of the business at hand and shall be restricted to those who are authorised to have access to such information.

On stepping down from office

- 3.4. On stepping down from office, politically appointed officials shall hand over government documents in their possession and ensure that all drafts and personal copies of such documents have been properly disposed of.
- 3.5. Politically appointed officials shall note that all classified information, documents or other articles protected against disclosure by the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong) which has come into their possession as a result of their appointment in the Government, remain covered by the Ordinance after their stepping down from office and may not be disclosed.

- 3.6. Politically appointed officials shall note that they are liable to be prosecuted under the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong) if, either in Hong Kong or abroad, they communicate, either orally or in writing, including publication in a speech, lecture, radio or television broadcast or in the press or in book form or otherwise, to any unauthorised person any information falling within the purview of the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong) unless prior written approval has been obtained from the Chief Executive. The relevant provisions of the Official Secrets Ordinance continue to apply to politically appointed officials after they have stepped down from office.

Evidence in court

- 3.7. Politically appointed officials may be called upon to answer to subpoenas to give oral evidence and/or to produce official documents in Court relating to their official duties. In cases where oral evidence or the production of official documents is involved, the politically appointed official concerned shall assess whether there are any grounds for suggesting that the giving of such evidence or the production of such documents would cause damage to the proper functioning of the public service or would in any way be contrary to the public interest. The politically appointed official concerned shall seek advice from the Secretary for Justice in all such cases.

CHAPTER 4: INVOLVEMENT IN POLITICAL ACTIVITIES

- 4.1 Politically appointed officials shall note that as prescribed public officers defined in the Chief Executive Election Ordinance (Chapter 569 of the Laws of Hong Kong), the Legislative Council Ordinance (Chapter 542 of the Laws of Hong Kong) and District Councils Ordinance (Chapter 547 of the Laws of Hong Kong), they are disqualified from being nominated as a candidate at an election of the Chief Executive, of the Legislative Council or of a District Council. They are also disqualified from being elected as an elected member of the Legislative Council or a District Council.
- 4.2 Politically appointed officials shall declare to the Chief Executive whether they are in any way affiliated with any political party, whether they are members of any political party and whether they hold any office in any political party. They shall declare to the Chief Executive if there is any change in their status in relation to any political party. The declaration will be made available in a place designated by the Chief Executive's Office for public inspection on request.
- 4.3 For the purposes of this Code, "political party" has the same meaning as that provided for under section 31(2) of the Chief Executive Election Ordinance (Chapter 569 of the Laws of Hong Kong).
- 4.4 Politically appointed officials shall note that while their freedom of association is protected by law, they are required to ensure that when taking part in activities organised by political parties, they shall observe the following rules and principles:
- (a) no actual or potential conflict of interest with the business of the Government and/or the official duties of the politically appointed officials shall arise in their participation in such activities;
 - (b) the politically appointed official's participation in such

activities shall not cause any embarrassment to the Government, the Chief Executive or other politically appointed officials;

(c) since the Government has a prior call at all times on the abilities, energies and attention of politically appointed officials, any activities which may impair the performance of their official duties as politically appointed officials or distract their attention must be avoided; and

(d) politically appointed officials shall not sign or procure signatures to any public petition against the actions or proposals of the Government.

4.5 Principal officials, when considering to become a member of any political party or taking part in activities organised by political parties, shall ensure that no conflict shall arise with their oaths to uphold the Basic Law and their oaths of allegiance to the HKSAR.

4.6 In case of doubt, politically appointed officials shall seek advice from the Chief Executive.

CHAPTER 5: PREVENTION OF CONFLICT OF INTEREST

- 5.1. Politically appointed officials shall avoid putting themselves in a position where they might arouse any suspicion of dishonesty, unfairness or conflict of interest.
- 5.2. Politically appointed officials shall observe the principles of fairness and impartiality in discharging their duties and in their dealings with members of the public and with their staff.
- 5.3. Politically appointed officials shall refrain from handling cases with actual or potential conflict of interest.
- 5.4. Politically appointed officials shall report to the Chief Executive any private interests that might influence, or appear to influence, their judgement in the performance of their duties.
- 5.5. During the term of office, politically appointed officials shall not, without the consent in writing of the Chief Executive, engage or be concerned either directly or indirectly as principal, agent, director or shadow director, employee or otherwise in any other trade, business, occupation, firm, company (private or public), chamber of commerce or similar bodies, public body or private professional practice. The consent of the Chief Executive is likely to be given where the official is appointed to the relevant board of directors in his official capacity or in connection with his private family estate. A politically appointed official may retain or accept honorary posts in non-profit making organisations or charitable bodies. In all these cases, the official shall ensure that there is no actual or apparent conflict of interest between his interests in such organisations or bodies and his official duties and that his interests in such organisations or bodies would not cause embarrassment to the Government, the Chief Executive or other politically appointed officials of the Government.

Declaration and handling of investments/interests

- 5.6. Given that the politically appointed officials will have access to highly sensitive information including commercially sensitive information, they shall declare their investments and interests for the purpose of securing public trust and confidence. The declaration will be made available in a place designated by the Chief Executive's Office for public inspection on request.
- 5.7. If it appears to the Chief Executive at any time that there is or may be a conflict of interest between a politically appointed official's investments or interests and his official duties, the Chief Executive may require the official to take any one or more of the following measures:
- (a) to divest himself of all or any of the investments or interests;
 - (b) to refrain from acquiring or disposing of the investments or interests;
 - (c) to freeze any investment transaction for a specified period;
 - (d) to place the investments or interests in a "blind trust";
 - (e) to refrain from handling cases with actual or potential conflict of interest; and
 - (f) to take other actions as directed by the Chief Executive.

Acceptance of advantages

- 5.8. Politically appointed officials shall note that as public servants employed by the Government, they are subject to the relevant provisions in the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) and the Independent Commission Against Corruption Ordinance (Chapter 204 of the Laws of Hong Kong), and shall if necessary seek guidance from the Chief Executive as to the acceptance and retention of gifts, advantages or other benefits.
- 5.9. As a general rule, politically appointed officials shall avoid accepting any gift or hospitality which might or might reasonably appear to compromise their judgement or place them under an

improper obligation. Although the acceptance of hospitality or free service is not prohibited, politically appointed officials shall take note of the relevant provisions in law and the following before accepting any such offer:

- (a) whether the acceptance of the hospitality or free service will lead to a conflict of interest with their official duties or place them in a position of obligation to the donor;
- (b) whether the acceptance of the hospitality or free service will lead to embarrassment in the discharge of their functions;
and
- (c) whether the acceptance of the hospitality or free service will bring them or the public service into disrepute.

5.10. A politically appointed official shall not accept entertainment from any person if the entertainment is likely, for example by reason of its excessive nature, or of the relationship between the official and the other person, or of the character of that person:

- (a) to lead to embarrassment of the politically appointed official in the discharge of his functions; or
- (b) to bring the politically appointed official or the public service into disrepute.

Sponsored visits

5.11. A politically appointed official may receive an invitation from a foreign government to make a sponsored visit in his official capacity. If the official wishes to accept the sponsorship in relation to the visit, he shall seek permission from the Chief Executive.

5.12. A politically appointed official may receive an invitation from an outside organisation to make a sponsored visit in his official capacity. If the official wishes to accept the sponsorship in

relation to the visit, he shall seek permission from the Chief Executive.

- 5.13. If a politically appointed official wishes to accept a sponsored visit for his spouse, he shall seek permission from the Chief Executive.

Register of gifts etc.

- 5.14. Politically appointed officials shall note that they are subject to the provisions of the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) and shall if necessary seek guidance from the Chief Executive as to the acceptance and retention of gifts, advantages or other benefits. In addition, politically appointed officials are required to keep a register of gift, advantage, payment, sponsorship (including financial sponsorships and sponsored visits) or material benefit received by them or their spouses from any organisation, person or government other than the Government which in any way relates to their office as politically appointed officials. The register will be made available in the bureau / office served by the official concerned for public inspection on request.

On stepping down from office

- 5.15. Within one year after stepping down from office, politically appointed officials shall seek the advice of a committee appointed for this purpose by the Chief Executive before commencing any employment, becoming a director or a partner in any business or profession or starting any business or profession on his own account or with others. The proceedings of the committee shall be kept confidential but the advice given shall be made public.
- 5.16. Within one year after stepping down from office, politically appointed officials shall not represent any person in connection with any claim, action, demand, proceedings, transaction or negotiation against or with the Government.

- 5.17. Within one year after stepping down from office, politically appointed officials shall not engage in any lobbying activities on matters relating to the Government.

CHAPTER 6: TRAVEL

Travel in Hong Kong

- 6.1 Each principal official and the Director of the Chief Executive's Office shall be provided with the free use at his discretion of a car and driver in Hong Kong.
- 6.2 The use of government car by under secretaries and political assistants shall be governed by rules and regulations applicable to civil servants at comparable levels.

Travel outside Hong Kong

- 6.3 When travelling on duty outside Hong Kong, principal officials and the Director of the Chief Executive's Office shall travel on first class at government expense. Where protocol requires the presence of the spouse, their spouses shall also travel on first class at government expense.
- 6.4 Principal officials and the Director of the Chief Executive's Office (and their spouses) who are on duty outside Hong Kong shall be granted a subsistence allowance at the same rate and manner as those applicable to the highest-ranking civil servants. They are subject to the same rules and regulations in relation to subsistence allowance applicable to the highest-ranking civil servants.
- 6.5 The class of travelling on duty outside Hong Kong and the subsistence allowance for under secretaries and political assistants (and their spouses) are subject to the same rules and regulations as those applicable to civil servants at comparable levels.

Use of flight awards from government passages

- 6.6 There is no obligation on politically appointed officials who travel on duty to claim flight awards from airlines. However, if and when such awards are claimed and credited to a politically appointed official's mileage account, the official should report the awards to his bureau/department to facilitate planning for possible

use of the awards for subsequent duty travel.

- 6.7 For flight awards earned from government passages, the first call on the use of such awards shall be for subsequent duty travel.
- 6.8 If an award is not expected to be used for subsequent duty travel before the expiry date of the award, the politically appointed official may seek approval from the Chief Executive to use the award for private purposes.

CHAPTER 7: OTHERS

Reporting of criminal offences and attempted bribes

- 7.1. Politically appointed officials shall report to the appropriate authority all instances of crime, alleged crime including attempted bribery which they may come across in either their official or personal capacities. The appropriate authority is the Commissioner Against Corruption in the case of offences or alleged offences under the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong), the Independent Commission Against Corruption Ordinance (Chapter 204 of the Laws of Hong Kong) and the Elections (Corrupt and Illegal Conduct) Ordinance (Chapter 554 of the Laws of Hong Kong), and the Commissioner of Police in the case of other criminal offences.
- 7.2. Politically appointed officials shall note that they have no discretion in deciding which cases to report.

Legal proceedings

- 7.3. Politically appointed officials may institute legal proceedings for defamation in connection with matters arising out of their official duties. But before doing so, they shall notify the Chief Executive and seek prior permission from the Chief Executive for the use of any government information and the involvement of other officers to give evidence in the legal proceedings. Politically appointed officials instituting legal proceedings for defamation shall observe that the proposed legal action shall not bring the Government into disrepute.
- 7.4. When a politically appointed official is served with a writ, or receives a letter threatening civil proceedings in which he or she may be named as a party in relation to any matters arising out of his employment or official duties, he shall immediately inform the Chief Executive, the Secretary for Justice and the relevant principal official.

- 7.5. When a politically appointed official is involved in any criminal proceedings (whether arising out of his employment or official duties or otherwise), he shall immediately inform the Chief Executive, the Secretary for Justice and the relevant principal official.
- 7.6. It is open to a politically appointed official injured by the wrongful act of a third party to institute proceedings against the third party.
- 7.7. In certain circumstances, the Government may provide legal representation to politically appointed officials. Each case will be considered on its merits by the Chief Executive but in general, assistance will be provided only if the matter arises out of or in the course of the performance by the politically appointed official of his official duties.
- 7.8. A politically appointed official who has been granted legal assistance and has subsequently been awarded costs is required to refund to the Government all or part of the costs awarded to offset the legal expenses incurred by the Government.