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**Panel on Public Service
Meeting on 18 June 2012**

**Updated background brief
on the policy on post-service outside work by
directorates civil servants**

Purpose

This paper sets out the development of the control regime on post-service outside work by directorate civil servants ("the Control Regime") in recent years, and gives a brief account of the major views and concerns on the matter expressed by Legislative Council ("LegCo") Members at previous meetings of the Council and Panel on Public Service ("the Panel").

Background

2. The Government's policy on post-service employment aims to ensure that civil servants on final leave or who have left the Government will not take up any work outside the Government (referred to as "outside work") which may constitute real or potential conflict of interest with their previous government service, or cause negative public perception embarrassing the Government and undermining the image of the civil service, without at the same time unduly restricting the said individuals' right to pursue employment or other work after ceasing government services. However, in recent years, the approval given by the Administration to a number of retired directorate officers to take up employment with private enterprises shortly after ceasing active service or during their final leave has caused concern to Members and the public.

3. In March 2004, the Administration gave approval for Ms Elaine CHUNG Lai-kwok, the former Deputy Director of the Housing, to take up employment with Hong Kong Ferry (Holdings) Co. Ltd. ("HKF"). In November 2004, there was wide media coverage over the possible involvement of Ms CHUNG in the bidding of the West Kowloon Cultural District project by

Henderson Land Development Co. Ltd., which indirectly held shares in HKF. In December 2004, the Panel discussed the application for post-retirement employment submitted by Ms CHUNG and related post-retirement employment policy on civil servants.

4. On 2 February 2005, the Council passed a motion urging the Administration to monitor the post-retirement employment of the Chief Executive, principal officials under the accountability system and civil servants at directorate level with private-sector organizations.

5. The Administration consulted the Panel on the proposed revisions to the arrangements governing post-service outside work by directorate civil servants at its meetings on 21 March and 21 November 2005.

6. The Administration promulgated in December 2005 a revised set of arrangements applicable to directorate officers on pensionable/new permanent terms who cease active service on or after 1 January 2006, and directorate officers on agreement terms who enter into new agreements on or after 1 January 2006. For directorate officers who ceased active service or entered into agreements before 1 January 2006, the pre-1 January 2006 arrangements would continue to apply to them. Key elements of the 2006 arrangements, as compared with the previous arrangements (i.e. before 1 January 2006), are set out in **Appendix I**.

7. On 1 August 2008, New World China Land Limited 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 Hung Hom 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.

8. On 30 September 2008, Chief Executive announced the appointment of the Committee on Review of Post-Service Outside Work for Directorate Civil Servants ("the Review Committee").

9. LegCo also formed the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man ("the Select Committee") by resolution passed on 10 December 2008. The Select Committee

held 23 public hearings between 17 March and 17 November 2009 during which evidence was taken from 24 witnesses attending the hearings. The Select Committee tabled its report at the Council meeting on 8 December 2010. The report contained a number of recommendations on improvements to the Control Regime as set out in **Appendix II**.

Panel's discussions on the Control Regime in 2008 and 2009

10. The Panel held a special meeting on 27 October 2008 to discuss the approval process of Mr LEUNG Chin-man's application and possible enhancements to the control arrangements. The Panel further discussed on 16 February and 16 March 2009 the Review Committee's work progress and its consultation document with the Chairman of the Review Committee.

11. Panel members were of the view that the incident of Mr LEUNG Chin-man had revealed the inadequacy of existing control arrangements in preventing directorate civil servants from taking up any work outside the Government which might constitute a real or potential conflict of interest with their former government duties or cause negative public perception. The wide public concern aroused had clearly demonstrated the need for strengthening the existing control regime. Some members suggested that to ensure impartiality, the approving authority should be an independent body rather than SCS. Some members suggested that the control periods under the existing control regime should be extended to five years, during which a former directorate civil servant could not take up employment with commercial organizations, while some suggested that a former directorate civil servant should not be allowed to take up post-service outside work which was related to his policy responsibilities in his last five years of government service.

12. Members considered that the avoidance of suspicion or perception of "deferred reward" for past favour done by a former directorate civil servant in his official position to benefit a particular entity or individual in return for lucrative post-service employment, as raised in the Review Committee's consultation document, was very important. They considered that it was the public expectation that the Review Committee would come up with improvement measures to specifically address the issue of "deferred reward". Some members were of the view that in considering the necessary enhancements to the existing Control Regime, the Review Committee should take note of the public expectation that the principle of protection of public interest was more important than that of protection of an individual's right to pursue post-service employment.

13. Members also expressed concern that since politically appointed officials had wider powers, it would be unreasonable if the control arrangements applied to directorate civil servants were even more stringent than those applied

to politically appointed officials. The Chairman of the Review Committee undertook that the Review Committee would consider views expressed by the public and LegCo in this regard.

Recommendations of the Review Committee

14. On 10 July 2009, the Review Committee submitted its report to CE, making 23 recommendations covering the following aspects of the control regime –

- (a) underlying principles (Recommendation 1);
- (b) policy objective (Recommendation 2);
- (c) design and operation (Recommendations 3 to 20); and
- (d) public monitoring (Recommendations 21 to 23).

The recommendations are set out in **Appendix III**.

15. On 13 July 2009, the Panel was briefed on the recommendations of the Review Committee in its report. Notwithstanding the proposals to lengthen the control period for Directorate Pay Scale Point 4 ("D4") to D8 (or equivalent) civil servants (recommendation 7) and to tighten disclosure requirements (recommendation 8), some members maintained the view that the public concern about "deferred reward" still could not be effectively addressed by the proposed enhancement measures. A member requested SCS to further explore the possibility of a lifetime "employer-specific" ban on a former directorate civil servant who had had dealings in land, property or award of franchise matters when in government service. Another member proposed that directorate civil servants playing a pivotal role in certain important dealings, such as the approval of building plans, should be restricted from taking up post-service outside work in the relevant field.

16. Some members also considered it unfair that while the control periods of directorate civil servants ranged from two to five years under the Review Committee's proposals, politically appointed officials were only subject to one-year control period. These members were of the view that similarly stringent control arrangements should in parallel be applied to politically appointed officials. They pointed out that the expansion of the Political Appointment System had led to the appointment of politically appointed officials who had different background and might be closely related to various private consortia. They considered that as Under Secretaries and Political Assistants in general were relatively young, it was likely that they would take up post-service outside work.

However, as the subject was outside the terms of reference of the Review Committee, the Panel agreed to refer relevant concerns about the Control Regime applicable to politically appointed officials to the Panel on Constitutional Affairs for follow-up discussion.

17. Following the publication of the Review Committee's report, the Administration conducted a two-month consultation with all serving directorate civil servants, the staff sides of the four central staff consultative councils and the departmental/grade management on the recommendations therein.

18. The Administration reported on the outcome of the above staff consultation exercise at the Panel meeting on 19 October 2009. At the meeting, members noted that some respondents to the above staff consultation exercise had expressed the view that they could hardly see the justifications for imposing further restrictions to limit the freedom of work by directorate civil servants after leaving the service. Panel members therefore urged the Administration to clearly explain the reasons for the proposed tightened control to the civil servants, namely that the relevant recommendations of the Review Committee only sought to enhance vetting procedures during the application stage and lengthen the restriction period, and were not aimed at restricting senior civil servants' right to work after leaving the Government. Some members, however, expressed the view that, to avoid suspicion of "deferred reward" for past favour given by former directorate civil servants in their official positions to an entity or individual in return for lucrative post-service employment, it was reasonable to restrict the right of directorate civil servants to pursue post-service outside work.

19. The Panel noted that the Administration would obtain legal advice on the Review Committee's recommendations before formulating its stance on the recommendations for the consideration and decision of Chief Executive in Council.

Discussion of the Control Regime by the Panel at the meeting on 1 August 2011

20. At the Panel meeting on 1 August 2011, the Administration briefed members on the improvement measures relating to the Control Regime set out in the LegCo Brief of File Reference No. CSBCR/AP/5-090-005/21. Members were pleased to note that in an endeavour to improve the operation and transparency of the Control Regime, the Administration had accepted most of the recommendations of the Review Committee and the Select Committee. Major concerns of members are summarized as follows –

Control period and sanitization period

21. Some members expressed concern about the Administration's failure to formulate effective measures in addressing public concerns over deferred reward. They regretted that the Administration had decided not to extend the control period to three years for D1 to D3 civil servants and to five years for D4 to D8 civil servants, or imposed a lifetime ban on particular types of post-service employment, particularly where former directorate civil servants who had had dealings in land, property or award of franchise matters when in government service were concerned. Some members, on the other hand, held a different view as they were worried that imposition of onerous restrictions on post-service work of directorate civil servants might undermine the attractiveness of the civil service jobs and the ability to retain talents. They also considered it necessary for the Administration to ensure that the proposed improvement measures of the Control Regime could withstand legal challenges at court.

22. The Administration responded that in formulating improvement measures for the Control Regime, due regard had been given to the relevant policy and legal considerations as well as the need to uphold the integrity of the civil service. According to the legal advice sought from private counsels, the Administration acknowledged that the control period had to be reasonable. The lawfulness of any restriction depended on whether it was rationally connected to the pursuit of a legitimate objective, and that it should be no more than necessary to achieve the set policy objective. As for lifetime ban, the Administration admitted that it had received views in support of imposing a lifetime ban on certain types of post service employment during the public consultation. However, there were also views that there might not be a need to impose such a ban since retired directorate civil servants could still make positive contributions to Hong Kong, provided that an effective Control Regime that could address public concerns over conflict of interests and deferred benefits was in place. The Administration further pointed out that neither the Review Committee nor the Select Committee had indicated a support for the proposal to bring in a lifetime ban for certain types of employment. Such a ban, as the outside counsels engaged by the Administration saw it, would be vulnerable to legal challenges if implemented. In this connection, a generalized notion of "public concern" could not be taken as a cogent and specific justification in court.

23. As for the application of the control period and sanitization period to directorate civil servants serving on agreement terms, the Administration clarified that retiring civil servants at D1 to D3 and at D4 to D8 were subject to a 6-month and 12-month minimum sanitization period respectively. Nevertheless, for directorate civil servants leaving the Government on non-retirement grounds (e.g. completion of agreement or resignation), the Administration would consider the imposition of a sanitization period and the length of it on a case-by-case basis.

Those at D1 to D7 and at D8 ranks were subject respectively to a two-year or three-year control period. The length of the period would be halved for those leaving the Government with less than six years of continuous service, and on non-retirement grounds.

The application form

24. Members considered it essential to make it clear to applicants for post-retirement employment that they had to disclose to the best of their knowledge all previous dealings that might constitute conflict of interests. Members believed that more effective measures should be required for ensuring that important issues would not be overlooked. It was necessary to ensure that any failure to provide a full account of the relevant information in the application form would lead to serious consequences.

25. The Administration advised that improvements would be made to the application form to require an applicant to provide an evaluation on whether the application would ever constitute any real or potential conflicts with the applicant's previous government duties against the policy objectives and assessment criteria of the Control Regime. The applicant was also required to provide detailed information disclosing his material past contractual, legal, official and other contacts/dealings with the prospective employer during last three years of government service if he was at D1 to D3, or during his last six years of service if he was a civil servant at D4 or above. Further to the aforesaid, additional safeguards would be brought in place. For instance, to avoid omissions, B/Ds in which an applicant had worked during the last three or six years of his government service would be called upon to assist in vetting the applications. Withdrawal/suspension of post-service work approval for a specific period could be invoked as a sanction for failure to provide adequate and accurate information for the application. Starting from 1 September 2011, HoDs/HoGs would be required to conduct exit interviews for retiring directorate civil servants during which the departing staff would be reminded of the need to comply with the Control Regime, the importance of avoiding conflict of interests, and the requirement to provide sufficient and accurate information when applying for permission to undertake post-service employment.

Sanctions for non-compliance

26. Members generally agreed that effective sanctions should be directed against non-compliant applicants for outside work after retirement. A member expressed the concern that while pension suspension might generate strong deterrent effect, it would become less effective when the existing Pension Scheme was progressively replaced by the Civil Service Provident Fund Scheme. Another member considered that under the principle of fairness, failure to make full and

honest disclosure under the Control Regime should hold the applicant liable to criminal offence, same as in the application for public rental housing or Comprehensive Social Security Assistance.

27. According to the Administration, other forms of sanction would be available for directorate civil servants not appointed on pensionable terms such as notifying the outside employer concerned of the concerned civil servant's failure to make a full and frank disclosure in the application and requesting the employer to terminate the employment, etc. As for the making of the failure to provide full and frank disclosure in the application a criminal offence, the Administration clarified that while neither the Select Committee nor the Review Committee had made such a recommendation, the provision of false information by an applicant in the application form would certainly lead to criminal liabilities.

Advisory Committee on Post-service Employment of Civil Servants

28. Members expressed concern about the need to enhance the transparency and independence of the Advisory Committee on Post-service Employment of Civil Servants¹ ("ACPE"). They found it necessary to ensure a broader representation of the membership of ACPE. The Administration should also enhance the support for ACPE since its members were all serving on voluntary and part-time basis.

29. The Administration advised that the membership size of ACPE would be increased to nine. Instead of conducting business through circulation of paper, ACPE would convene meetings to discuss post-service work applications. To increase transparency of ACPE, under the new Control Regime, the advice of ACPE on applications from retired directorate civil servants would be included in a public register, and the register would be uploaded to the Government website for general reference. In the meantime, measures would be introduced to enhance the independence of ACPE, which included separation of the ACPE secretariat from CSB on 1 September 2011. The Administration would strive to streamline the relevant procedures to expedite the processing of applications.

Political appointed officials and senior staff of public bodies

30. Given that political appointed officials had greater access to sensitive information and wielded greater power, members urged the Administration to tighten up the control over their post-office employment. Some members also considered it necessary to exercise similar control on the senior staff of public

¹ The Advisory Committee, formerly known as the Advisory Committee on Post-retirement Employment, was established in October 1987. It advises the Chief Executive on the principles and the criteria to be adopted in formulating policy and arrangements to control post-service employment, and on all applications for post-service outside work from directorate officers.

bodies such as the Hong Kong Monetary Authority and the Securities and Futures Commission.

31. The Administration responded that the appointment system for political appointed officials was different from that for civil servants. For instance, their terms of appointment would tie in with that of CE, while civil servants were mostly employed on "permanent" basis. Remuneration packages were also different in that political appointed officials could not enjoy the retirement benefits as the civil servants did. At members' request, their views would be channeled to CE and Secretary for Constitutional and Mainland Affairs for consideration. As regards the control of senior staff of public bodies, the Administration advised that every public body had its own control regime, and these bodies were operating under the purview of corresponding policy bureau.

Council questions

32. A number of Council questions on post-service outside work of directorate civil servants have been raised by three LegCo Members on 2 and 9 June 2010 and 4 May 2011 respectively. Hyperlinks to these questions and the Administration's responses to them are shown in **Appendix IV**.

Latest development

33. The Administration will provide an updated overview of the subject for members' information in the Panel meeting on 18 June 2012.

Relevant Papers

34. A list of relevant papers is in **Appendix IV** for members' reference.

Appendix I

Key Elements of the Pre-2006 and 2006 Arrangements Governing the Post-Service Outside Work of Directorate Officers

Pre-2006 Arrangements	2006 Arrangements
<i>1. Coverage</i>	
<p>* Directorate officers who ceased active service before 1 January 2006 and who have retired on pensionable terms</p> <p>* Agreement officers at D3 and above whose last agreement with the Government was entered into before 1 January 2006</p>	<p>* Directorate officers appointed on pensionable or new permanent terms and have ceased or will cease active service on or after 1 January 2006</p> <p>* Directorate officers appointed on agreement terms who have entered or will enter into new/further agreements on or after 1 January 2006</p>
<i>2. Sanitisation period (counting from cessation of active service during which outside work is not permitted)</i>	
<p>* Directorate officers retired on pensionable terms – minimum 6 months, may be shortened if there is no clear conflict of interest or may be lengthened having regard to the circumstances of a case.</p> <p>* Agreement officers at D3 or above – no specified minimum sanitisation period but such requirement may be imposed on a case-by-case basis.</p>	<p>* Minimum sanitisation period for directorate officers retired or retiring on pensionable or new permanent terms – D4 or above (or equivalent) – 12 months Below D4 (or equivalent) – 6 months</p> <p>* The minimum sanitisation period is normally shortened or waived for notionally remunerated work and may be shortened for remunerated work taken up with the following organisations (the specified organisations) – (a) charitable, academic or other non-profit making organisations not primarily engaged in commercial operations; (b) non-commercial regional or international organisations; or (c) the Central Authorities of the People's Republic of China, where the work would not give rise to conflict of interest and is unlikely to cause negative public perception.</p>

Pre-2006 Arrangements	2006 Arrangements
	<ul style="list-style-type: none"> * For all other outside work (in particular work of a commercial nature), the minimum sanitisation period would only be shortened where there are special considerations, and provided that the work would not give rise to conflict of interest or negative public perception. * Having regard to the circumstances of a particular case, a longer sanitisation period may be imposed if so required to more fully forestall conflict of interest or negative public perception. * No minimum sanitisation period is specified for directorate officers not retiring, or not retired, on pensionable or new permanent terms (e.g. agreement officers and resignees). Each case will be considered on its own merits.
<i>3. Final leave period</i>	
<ul style="list-style-type: none"> * The taking up of paid outside work during the final leave period, irrespective of whether such work is undertaken in Hong Kong or elsewhere, is subject to prior permission. 	<ul style="list-style-type: none"> * The taking up of outside work during the final leave period is subject to the rules governing sanitisation. * In addition, directorate officers are not permitted to take up any full-time remunerated work or any work of a commercial nature (including self-employment) during the final leave period, unless there are special considerations. In this regard, directorate officers on final leave may, on application, normally only take up part-time or notionally remunerated work with a specified organisation, subject to the rules on sanitisation and there being no problem of dual identity.

Pre-2006 Arrangements	2006 Arrangements
4. Control period (counting from formal departure from the Government during which prior permission is required for taking up outside work)	
<ul style="list-style-type: none"> * Directorate officers retired on pensionable terms AOSGA1(D8) – 3 years Others – 2 years * Agreement officers at D3 and above – 1 year (in respect of outside work in the same field and where there is a possible conflict of interest) 	<ul style="list-style-type: none"> * Directorate officers retired on pensionable or new permanent terms D8 or equivalent – 3 years Below D8 or equivalent – 2 years * Directorate officers who left the Government other than retirement after six or more years of continuous service D8 or equivalent – 3 years Below D8 or equivalent – 2 years * Directorate officers who left the Government other than retirement after less than six years of continuous service D8 or equivalent – 1½ years Below D8 or equivalent – 1 year
5. Vetting criteria	
<ul style="list-style-type: none"> * The key factors of consideration are conflict of interest (real or potential) and public perception 	<ul style="list-style-type: none"> * The key factors of consideration are conflict of interest (real or potential) and public perception. * The specific considerations include – <ul style="list-style-type: none"> (a) whether the applicant, while in government service, had been involved in the formulation of any policy or decisions, the effects of which directly or specifically benefited or could directly or specifically benefit his/her own business or his/her prospective employer; (b) whether the applicant or his/her prospective employer might gain unfair advantage over competitors because of the applicant's access to sensitive information while in government service; (c) whether the applicant, while in government service, had been involved in any contractual or legal dealings to which the prospective employer was a party;

Pre-2006 Arrangements	2006 Arrangements
	<ul style="list-style-type: none"> (d) whether the proposed work would have any connection with the assignments/projects and/or regulatory/enforcement duties in which the applicant had been involved while in government service; (e) whether the applicant's taking up of the proposed work would give rise to public suspicion of conflict of interest or other impropriety; and (f) whether any aspects of the proposed work would cause embarrassment to the Government or bring disgrace to the civil service.
6. Restrictions on scope of work	
<p>* Work-specific restrictions may be imposed on a case-by case basis.</p>	<ul style="list-style-type: none"> * In all approved cases of outside work, the officer involved should not – <ul style="list-style-type: none"> (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 – <ul style="list-style-type: none"> (i) the formulation of any policy or decision (ii) sensitive information; (iii) contractual or legal dealings; (iv) assignments or projects; and/or (v) enforcement or regulatory duties, in which he/she had been involved or to which he/she had access during his/her last three years of government service; or (c) engage in any activities which would cause embarrassment to the Government or bring disgrace to the civil service * Further specific restrictions on scope of work may be imposed on a case-by-case basis.

Pre-2006 Arrangements	2006 Arrangements
7. Blanket permission	
* No blanket permission (but the blanket permission under the new arrangement has been extended to officers subject to the old arrangements).	* Blanket permission is given for unremunerated work with the specified organizations throughout the entire period from cessation of active service to the expiry of control period.

(Source: Annex B to the Nineteenth Report on the work of the Advisory Committee on Post-service Employment of Civil Servants)

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

(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) Inclusion of public suspicion of deferred reward or benefit in return 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 for 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 the 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) Standardization of the processing and vetting practices

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) Undesirability of relying solely on the honour system

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) Improvement to the application form

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) Improvement to the operation of the Advisory Committee on 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 importance of ACPE, 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 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.

Recommendations made by the Committee on Review of Post-Service Outside Work for Directorate Civil Servants

I. Underlying Principles

Recommendation 1

Protection of the public interest and protection of an individual's right should continue to be the two principles underlying the control regime, with protection of the public interest taking precedence over protection of an individual's right.

II. Policy Objective

Recommendation 2

The policy objective should be expanded to make specific references to –

- (a) avoiding suspicion or perception of 'deferred reward'; and
- (b) making good use of limited human resources.

There is no need to make a specific reference in the policy objective to maintaining the attractiveness of the civil service as a career.

III. Design and Operation

(a) *Periods of Restriction*

Recommendation 3

A *lifetime total ban* on paid post-service outside work should not be imposed. A *lifetime specific ban* on particular types of post-service employment should also not be imposed (with the Honourable Albert Ho registering a different view). The Honourable Albert Ho considers that the possibility of a lifetime 'employer-specific' ban on a former directorate civil servant who has had dealings in land, property or award of franchise matters when in government service should be further explored.

Recommendation 4

No change should be made to the minimum sanitization period.

Recommendation 5

The length of the control period should not be determined by specified fields of work during government service.

Recommendation 6

The length of the control period should not be determined by post-service outside work in the same field as a directorate civil servant's past government duties.

Recommendation 7

The length of the control period should be as follows (with the Honourable Audrey EU and the Honourable Albert HO registering a different view) –

- (a) two years for Directorate Pay Scale (DPS) D1 to D3 (or equivalent) civil servants (i.e. no change to the length of the existing period);
- (b) three years for DPS D4 to D7 (or equivalent) civil servants (i.e. lengthening the existing period by one year); and
- (c) five years for DPS D8 (or equivalent) civil servants (i.e. lengthening the existing period by two years).

The Honourable Audrey Eu and the Honourable Albert Ho recommend that the length of the control period should be –

- (a) three years for DPS D1 to D3 (or equivalent) civil servants (i.e. lengthening the existing period by one year); and
- (b) five years for DPS D4 to D8 (or equivalent) civil servants (i.e. lengthening the existing period by three years for DPS D4 to D7 (or equivalent) civil servants and by two years for DPS D8 (or equivalent) civil servants).

(b) Internal Assessment Process

Recommendation 8

The provision of information by an applicant in the application form should be improved as follows –

- (a) irrespective of whether or not an applicant will be involved in the business of the parent or related companies of the prospective employer, he should be required to disclose his material past contractual, legal, official and other contacts/dealings (if any) with these entities during his last three years of government service if he is at DPS D1 to D3 (or equivalent), and during his last six years of government service if he is a DPS D4 or above (or equivalent) civil servant;
- (b) an applicant should be required to provide any other information which he considers relevant to the assessment of his application; and
- (c) the policy objective and the assessment criteria should be stated upfront on the application form so as to remind an applicant of the factors that would be taken into account in the assessment process. This should help him to decide what other relevant information to provide as required under (b) above.

Recommendation 9

All applications from DPS D4 to D8 (or equivalent) directorate civil servants should be assessed with reference to the applicants' last six years of active government service.

(c) External Assessment Process

Recommendation 10

The Advisory Committee should retain its advisory role (with the Honourable Audrey Eu registering a different view). The Honourable Audrey Eu considers that the control regime, including the power to approve or reject post-service outside work applications, should be placed in a body independent of the Administration.

Recommendation 11

The membership of the Advisory Committee should be expanded to nine

members (including the chairman) with a broadened composition. Possible categories of candidates for appointment on an *ad personam* basis include (but not restricted to) academics, representatives from civil service groups, former directorate civil servants, personalities from professional fields and/or the business sector, as well as former or serving members of the Executive Council, the Legislative Council and the District Councils.

Recommendation 12

The Advisory Committee should be given the power to invite outside expert(s) in the field(s) relevant to a post-service outside work application to give advice if necessary.

Recommendation 13

The Advisory Committee should draw up guidelines on its mode of operation, which should provide for the holding of meetings when appropriate or upon request by its chairman or any of its members. In addition, these guidelines should be made known to the public and applicants.

Recommendation 14

The secretariat of the Advisory Committee should be independent of the Civil Service Bureau. Depending on workload, it may be a dedicated secretariat, or it may be an existing independent secretariat for advisory bodies on civil service-related matters with an expanded ambit.

(d) *Enforcement of Work Restrictions Imposed*

Recommendation 15

The imposition and enforcement of work restrictions should be strengthened as follows –

- (a) the current arrangement of imposing standard work restrictions and, where necessary, additional application-specific work restrictions should continue;
- (b) the decision authority should directly inform the prospective employer of the work restrictions imposed on an applicant and of the requirement for the latter to notify and to seek prior approval from the decision authority if there is any material change to the work;

- (c) if the enforcement of work restrictions imposed on an applicant may involve certain bureaux/departments, the decision authority should also inform them of the imposed work restrictions; and
- (d) an applicant who has taken up an approved post-service outside work should be required, as part of the approval conditions, to provide the decision authority with a copy of the signed employment agreement or appointment letter within 30 days of signature or issue as well as any material changes made later.

(e) *Review/Appeal Channels*

Recommendation 16

The decision authority should set out the review and appeal channels when notifying an applicant of the decision on his application. The decision authority should, as a standard practice, seek the advice of the Advisory Committee again if an applicant seeks a review of the decision.

(f) *Performance Pledge on Processing Time*

Recommendation 17

The Administration should make a practicable performance pledge on the processing time, having regard to the recommended enhancement to the internal and external assessment processes.

(g) *Integrity of the Civil Service*

Recommendation 18

The integrity enhancement initiatives should give greater emphasis on the importance of avoiding possible conflicts of interest by directorate civil servants, in particular the public concern over perception or suspicion of 'deferred reward', both during active government service and in the pursuit of post-service outside work.

(h) *'Exit Interview'*

Recommendation 19

The Administration should conduct an 'exit interview' with every departing directorate civil servant, and devise guidelines on the matters to be covered.

(i) Pension Suspension Arrangement

Recommendation 20

The suspension of monthly pension payments to retired pensionable civil servants (directorate and non-directorate) working on a full-time and paid basis in the 16 specified subvented organizations should be discontinued (with the Honourable Audrey Eu and the Honourable Albert Ho registering a different view). These two members recognize the anomalies under the existing arrangement but consider that such recommendation should not be made in the absence of a general review on the employment of former civil servants in all other quasi-government agencies or publicly funded organizations.

IV. Public Monitoring

(a) Coverage of Public Register

Recommendation 21

The public disclosure arrangement should be extended to cover junior directorate civil servants at DPS D1 to D3 (or equivalent) as well.

(b) Advisory Committee's Advice

Recommendation 22

The Advisory Committee's advice on every approved and taken up post-service outside work should be disclosed on the public register.

(c) Advisory Committee's Annual Report

Recommendation 23

More information should be included in the Advisory Committee's annual report, including but not limited to the categorization of employers of approved and taken up post-service outside work, the cases on the public register on which the Advisory Committee's advice and the final decision of the authority differs, and the guidelines on the mode of operation of the Advisory Committee.

Appendix IV

Policy on post-service outside work by directorate civil servants

List of relevant papers (Position as at August 2011)

Date	Meeting/Event	References
17 May 2004	Panel on Public Service	<p>Administration's paper on policy governing the acceptance of post-retirement employment of civil servants (LC Paper No. CB(1)1786/03-04(03))</p> <p>http://www.legco.gov.hk/yr03-04/english/panels/ps/papers/ps0517cb1-1786-3e.pdf</p> <p>Minutes of meeting (paragraphs 4 to 27) (LC Paper No. CB(1)2119/03-04)</p> <p>http://www.legco.gov.hk/yr03-04/english/panels/ps/minutes/ps040517.pdf</p>
1 December 2004	Council Meeting	<p>Hon KWONG Chi-kin raised a question on retired senior civil servants taking up jobs in the private sector. (Hansard "page 6")</p> <p>http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm1201ti-translate-e.pdf</p>
21 December 2004	Panel on Public Service	<p>The Administration's paper dated 14 December 2004 on policy governing post-retirement employment of civil servants (LC Paper No. CB(1)473/04-05(02))</p> <p>http://www.legco.gov.hk/yr04-05/english/panels/ps/papers/pscb1-473-2e.pdf</p> <p>Minutes of meeting (Paragraphs 3 to 33) (LC Paper No. CB(1)683/04-05)</p> <p>http://www.legco.gov.hk/yr04-05/english/panels/ps/minutes/ps041221.pdf</p>

Date	Meeting/Event	References
21 March 2005	Panel on Public Service	<p>Administration's paper on post-retirement employment of Ms Elaine CHUNG, former Deputy Director of Housing/Deputy Secretary for Housing (LC Paper No. CB(1)1095/04-05(01))</p> <p>http://www.legco.gov.hk/yr04-05/english/panels/ps/papers/ps0321cb1-1095-1e.pdf</p> <p>Administration's paper on review of policy on post-service employment of former directorate civil servants (LC Paper No. CB(1)1112/04-05(05))</p> <p>http://www.legco.gov.hk/yr04-05/english/panels/ps/papers/ps0321cb1-1112-5e.pdf</p> <p>Minutes of meeting (Paragraphs 38 to 84) (LC Paper No. CB(1)1247/04-05)</p> <p>http://www.legco.gov.hk/yr04-05/english/panels/ps/minutes/ps050321.pdf</p>
21 November 2005	Panel on Public Service	<p>Administration's paper on arrangements governing the taking up of outside work by directorate civil servants after ceasing active government service (LC Paper No. CB(1)295/05-06(03))</p> <p>http://www.legco.gov.hk/yr05-06/english/panels/ps/papers/ps1121cb1-295-3e.pdf</p> <p>Background brief prepared by the LegCo Secretariat on the review of the policy on post-service employment of former directorate civil servants (LC Paper No. CB(1)295/05-06(04))</p> <p>http://www.legco.gov.hk/yr05-06/english/panels/ps/papers/ps1121cb1-295-4e.pdf</p> <p>Minutes of meeting (Paragraphs 9 to 40) (LC Paper No. CB(1)674/05-06)</p> <p>http://www.legco.gov.hk/yr05-06/english/panels/ps/minutes/ps051121.pdf</p>

Date	Meeting/Event	References
—	Panel on Public Service	<p>The Seventeenth Report on the Work of the Advisory Committee on Post-service Employment of Civil Servants (1 January 2005 - 31 December 2005) (LC Paper No. CB(1)2150/05-06)</p> <p>http://www.legco.gov.hk/yr05-06/english/panels/ps/papers/pscb1-2150-e.pdf</p>
—	Panel on Public Service	<p>The Eighteenth Report on the Work of the Advisory Committee on Post-service Employment of Civil Servants (1 January 2006 - 31 December 2006) (LC Paper No. CB(1)2452/06-07(01))</p> <p>http://www.legco.gov.hk/yr06-07/english/panels/ps/papers/pscb1-2452-1-e.pdf</p>
—	Panel on Public Service	<p>The Nineteenth Report on the Work of the Advisory Committee on Post-service Employment of Civil Servants (1 January 2007 - 31 December 2007) (LC Paper No. CB(1)2115/07-08(01))</p> <p>http://www.legco.gov.hk/yr07-08/english/panels/ps/papers/pscb1-2115-1-e.pdf</p>
—	Panel on Public Service	<p>Letter from Ms Margaret NG expressing concern about the post-retirement employment of Mr LEUNG Chin-man, the former Permanent Secretary for Housing, Planning and Lands (LC Paper No. CB(1)2259/07-08(01))</p> <p>http://www.legco.gov.hk/yr07-08/english/panels/ps/papers/pscb1-2259-1-e.pdf</p>
—	—	<p>Press release dated 15 August 2008 on SCS submits report to Chief Executive on LEUNG Chin-man's case</p>
—	—	<p>Report on the processing of the application from Mr LEUNG Chin-man to take up post-service outside work with New World China Land Limited</p>
—	—	<p>Press release dated 15 August 2008 on statement of the Chief Executive's Office</p>

Date	Meeting/Event	References
—	—	Press release dated 15 August 2008 on statement by the Housing Branch of the Transport and Housing Bureau
—	—	Press release dated 16 August 2008 on remarks by CE after visiting Hong Kong Olympic Equestrian Venue (Sha Tin)
27 October 2008	Panel on Public Service	<p>Administration's paper on control regime for post-service outside work of directorate civil servants (LC Paper No. CB(1)84/08-09(01))</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/ps1027cb1-84-1-e.pdf</p> <p>Administration's 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 (LC Paper No. CB(1)84/08-09(02))</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/ps1027cb1-84-2-e.pdf</p> <p>Paper on the policy on post-service employment of former directorate civil servants prepared by the Legislative Council Secretariat (Background brief) (LC Paper No. CB(1)86/08-09)</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/ps1027cb1-86-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(1)559/08-09)</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/minutes/ps20081027.pdf</p>

Date	Meeting/Event	References
16 February 2009	Panel on Public Service	<p>Paper on work progress and public consultation plan from Committee on Review of Post-service Outside Work for Directorate Civil Servants (LC Paper No. CB(1)747/08-09(03))</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/ps0216cb1-747-3-e.pdf</p> <p>Administration's paper on number of approved applications from directorate civil servants of major professional grades to take up post-service outside work with organisations related to their professions (from 2006 to 2008) (LC Paper No. CB(1)781/08-09(01))</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/ps0216cb1-781-1-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(1)1647/08-09)</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/minutes/ps20090216.pdf</p>
16 March 2009	Panel on Public Service	<p>Consultation document published by Committee on Review of Post-Service Outside Work for Directorate Civil Servants on 20 February 2009</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/ps0316-cppr090220-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(1)1977/08-09)</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/minutes/ps20090316.pdf</p>
13 July 2009	Panel on Public Service	<p>Administration's paper on Report on Review of Post-Service Outside Work for Directorate Civil Servants (LC Paper No. CB(1)2236/08-09(01))</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/ps0713cb1-2236-1-e.pdf</p>

Date	Meeting/Event	References
—	Panel on Public Service	<p>The 20th Report on the Work of the Advisory Committee on Post-service Employment of Civil Servants (1 January 2008 - 31 December 2008) (LC Paper No. CB(1)2330/08-09(01))</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/pscb1-2330-1-e.pdf</p>
19 Oct 2009	Panel on Public Service	<p>Administration's paper on review of post-service outside work for directorate civil servants (LC Paper No. CB(1)34/09-10(02))</p> <p>http://www.legco.gov.hk/yr09-10/english/panels/ps/papers/ps1019cb1-34-2-e.pdf</p> <p>Paper on the policy on post-service employment of former directorate civil servants prepared by the Legislative Council Secretariat (Updated background brief) (LC Paper No. CB(1)39/09-10)</p> <p>http://www.legco.gov.hk/yr09-10/english/panels/ps/papers/ps1019cb1-39-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(1)870/09-10)</p> <p>http://www.legco.gov.hk/yr09-10/english/panels/ps/minutes/ps20091019.pdf</p>
—	Panel on Public Service	<p>The 21st Report on the Work of the Advisory Committee on Post-service Employment of Civil Servants (1 January 2009 - 31 December 2009) (LC Paper No. CB(1)2755/09-10(01))</p> <p>http://www.legco.gov.hk/yr09-10/english/panels/ps/papers/pscb1-2755-1-e.pdf</p>
2 June 2010	Council meeting	<p>Council question raised by Hon CHEUNG Man-kwong on Control regime for post-service outside work of directorate civil servants</p> <p>http://www.info.gov.hk/gia/general/201006/02/P201006020166.htm</p>

Date	Meeting/Event	References
9 June 2010	Council Meeting	<p>Council question raised by Hon LI Fung-ying on post-service outside work application from former Commissioner for Tourism</p> <p>http://www.info.gov.hk/gia/general/201006/09/P201006090159.htm</p>
4 May 2011	Council Meeting	<p>Council question raised by Hon WONG Sing-chi on the control regime governing the taking up of post-service outside work by directorate civil servants</p> <p>http://www.info.gov.hk/gia/general/201105/04/P201105040158.htm</p>
1 August 2011	Panel on Public Service	<p>LegCo Brief on Review of Post-service Outside Work by Directorate Civil Servant (File ref. CSBCR/Ap/5-090-005/21)</p> <p>http://www.legco.gov.hk/yr10-11/english/panels/ps/papers/ps0801-csbcrap509000521-e.pdf</p> <p>Paper on the policy on post-service employment of former directorate civil servants prepared by the Legislative Council Secretariat (Updated background brief) (LC Paper No. CB(1)2795/10-11)</p> <p>http://www.legco.gov.hk/yr10-11/english/panels/ps/papers/ps0801cb1-2795-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(1)174/11-12)</p> <p>http://www.legco.gov.hk/yr10-11/english/panels/ps/minutes/ps20110801.pdf</p>