

Paper for LegCo Panel on Security
Follow-up to Meeting on 16 October 2012

Purpose

This paper aims to respond to the concern expressed by the Hon Emily LAU at the Panel meeting on 16 October 2012 about the appointment of a retired senior officer of the Independent Commission Against Corruption (ICAC), to succeed as Head of Operations (H/Ops).

Retirement of Former H/Ops

2. The former H/Ops reached his retirement age in December 2011. At the time, the then Chief Executive extended the former H/Ops' service until 17 April 2012 on grounds of operational needs of the ICAC. Also on operational grounds, a further extension of the former H/Ops' service from 18 April to 31 July 2012 was decided by the then Chief Secretary for Administration, acting on the power delegated to him by the then Chief Executive.

3. The two extensions were agreeable to the former H/Ops. Before completing the full extension period, the former H/Ops requested on 18 June 2012 to curtail his service agreement so that he could cease his active service with the Commission effective from 19 July 2012.

Establishment and strength of Ops Senior Management

4. By establishment, the senior management of the Operations Department (Ops) is headed by H/Ops who also assumes the role of Deputy Commissioner of ICAC. H/Ops is underpinned by two Directors, namely Director of Investigation (Government Sector) [D/GS] and Director of Investigation (Private Sector) [D/PS] and they are each assisted by two Assistant Directors (ADs).

5. When the former H/Ops started to extend his service beyond retirement age in December 2011, the D/GS post was held by a senior officer who had been in the post for over six years and standing in as H/Ops from time to time in the absence of the incumbent. At that time, the D/PS post was filled by another senior officer who was newly confirmed to the rank for about six months, with the Department's four AD posts being held by three officers in acting capacity and one in the substantive rank for less than a year. After some 34 years of service in the ICAC, the veteran D/GS also reached his retirement age and proceeded on pre-retirement leave on 23 January 2012. The vacated D/GS post had since been filled by one of the ADs for administrative convenience.

Appointment of Former D/GS to Succeed as H/Ops

6. In view of the former H/Ops curtailing his extension period to proceed on pre-retirement leave (para. 3), D/PS was approved to double-up the position of H/Ops for administrative convenience. In early July 2012, right after assuming office, the incumbent Commissioner recommended to the Chief Executive the appointment of former D/GS who has proceeded on pre-retirement leave but remained in the Ops strength as H/Ops to command the Operations Department.

7. In making the recommendation, the Commissioner has given due consideration to the following factors:-

- (a) The former H/Ops had curtailed his service agreement and proceeded on pre-retirement leave which was a clear signal that he was not interested in any further extension of service;

- (b) The D/PS, with only about one year experience in the substantive rank and with no experience in the role of D/GS, was not yet ready to take up the responsibilities of H/Ops;
- (c) Since the work of the Operations Department is unique and highly sensitive and the incumbent of H/Ops must have ample experience in investigating corruption-related offences in both the public and private sectors. The choice of candidates other than from internal promotion could reasonably be limited to those officers who have retired at the rank above AD in recent years;
- (d) Among these possible retired candidates, the former D/GS who had just proceeded on pre-retirement leave (para. 5) was the youngest in age; possessed the required merits; was not blocking the promotion of any existing staff; and was physically fit. His appointment, when approved, was considered as, in effect, an extension of his service beyond the age of 60, which met the prevailing ICAC policy for extension of service on very exceptional operational grounds; and
- (e) The appointment of the former D/GS will bring immediate relief to the succession pressure in the Operations Department and is in the overall interest of the ICAC where potential officers will be given adequate time to be groomed and tested to meet succession needs.

8. On 18 July 2012, the Chief Secretary, under the delegated authority of the Chief Executive pursuant to the Interpretation and General Clauses Ordinance (Cap. 1), and the ICAC Ordinance (Cap. 204), appointed the former D/GS to succeed as H/Ops with effect from 19 July 2012 for a period of three years.

Independent Commission Against Corruption
5 November 2012