

## 立法會政制事務委員會

### 前任行政長官及政治委任官員離職後工作

前任行政長官及政治委任官員離職後工作諮詢委員會（諮詢委員會）處理有關前任行政長官及政治委任官員離職後工作的事宜，本文件向委員簡述諮詢委員會所採用的程序及提供意見的準則。

#### 背景

2. 諮詢委員會在二零零五年四月成立，就政治委任制度下主要官員在離職後一年內的工作安排提供意見。自二零零七年四月起，因應香港特別行政區行政長官報酬及離職後安排獨立委員會（獨立委員會）於二零零五年六月向政府提出的建議，諮詢委員會的職權範圍擴大，涵蓋至就前任行政長官離職後的工作安排提供意見。諮詢委員會的職權範圍<sup>1</sup>及現任成員名單載於 附件 A。

#### 前任行政長官離職後工作

3. 根據獨立委員會的建議，前任行政長官在離職後的三年內，須接受離職後工作規管。除下文(c)段另有規定外：

- (a) 在首年內，前任行政長官不得接受任何聘任工作（不論全職或兼職），在任何商業或專業機構出任董事或合夥人，或獨資或與他人合資經營任何商業或專業服務；
- (b) 在隨後兩年內，前任行政長官在接受香港境內或境外聘任工作或從事商業或專業活動前，應先向諮詢委員會徵詢意見；以及
- (c) 在三年管制期內，前任行政長官可接受以下委任而無須向諮詢委員會徵詢意見，不論有關委任受薪與否、屬全職抑或兼職：

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<sup>1</sup> 二零一二年三月，諮詢委員會考慮的個案範圍擴大至包括就特別委任人員的個案向政府提供意見。

- (i) 中央機構或香港特別行政區政府的委任；
- (ii) 慈善、學術或其他非牟利機構的委任；以及
- (iii) 屬非商業性質的地區或國際組織的委任。

在三年管制期內，前任行政長官如接受(c)段載述的任何委任，不論受薪與否，都必須通知政府。前任行政長官如對某項委任是否屬於(c)段所載述者存有疑問，又或希望接受自覺符合公眾利益但(c)段沒有載述的委任，應向諮詢委員會徵詢意見。

4. 在考慮前任行政長官提出的徵詢意見要求時，諮詢委員會須依循兩項概括原則，即防止出現利益衝突和避免公眾產生負面觀感。就此，諮詢委員會公布了《前任行政長官離職後工作指引》（**附件 B**），當中載述諮詢委員會在提供意見時所依循的目標及準則，以及處理這些徵詢意見要求時的一般程序。

5. 提出徵詢意見要求的前任行政長官在接獲諮詢委員會給予的意見及確認將會接受有關工作或委任後，諮詢委員會的意見將會公布。如前任行政長官在基於諮詢委員會的意見而決定不接受有關的工作或委任，諮詢委員會的意見將不會公布。

#### **前任政治委任官員離職後工作**

6. 前任政治委任官員須接受為期一年的離職後工作規限。在離職後的一年內，前任政治委任官員在接受任何聘任工作、在任何商業或專業機構出任董事或合夥人、或獨資或與他人合資經營任何商業或專業服務前，須先向諮詢委員會徵詢意見。這項規定已在《政治委任官員守則》內訂明。

7. 制訂離職後工作規限，旨在確保前任官員在離職後的相關管制期內，不會接受任何會或可能會與其過往政府職務出現利益衝突，或引起公眾在有充分根據下產生負面觀感而令政府尷尬的聘任工作或委任。然而，有關規限不應過分約束前任官員接受聘任工作或委任的權利。

8. 諮詢委員會公布了《政治委任官員離職後工作指引》（**附件 C**），當中載述諮詢委員會按前任政治委任官員要求就其離職後工作或委任給予意見時，諮詢委員會所依循的目標和準則。有關指引亦載述處理這些徵詢意見要求的一般程序。提出徵詢意

見要求的前任政治委任官員在接獲諮詢委員會給予的意見及確認將會接受有關工作或委任後，諮詢委員會的意見將會公布。如前任政治委任官員基於諮詢委員會的意見而決定不接受有關的工作或委任，相關的意見將不會公布。

### 經諮詢委員會討論和公布的個案

9. 截至二零一七年九月底，有 53 宗個案獲諮詢委員會給予意見而有關前任官員決定接受有關工作或委任。上述個案均不涉及前任行政長官。諮詢委員就這些個案所給予的意見詳情已上載至諮詢委員會的網頁 (<http://www.ceo.gov.hk/poo/chi/index.htm>)。

### 梁振英先生在離職後接受的委任

10. 前任行政長官梁振英先生於二零一七年九月十一日以書面通知政府，他於二零一七年約八月三十一日接受兩家香港非牟利公司（即「一帶一路」國際合作香港中心有限公司及大灣區香港中心有限公司）的委任出任董事。梁先生表示，該兩家香港公司為沒有股本的擔保有限公司，現時和日後均為非牟利機構，不會參與商業或專業服務。政府在考慮該兩家公司的宗旨後，信納該兩家公司為非牟利機構。因此，梁先生上述的委任屬上文第 3(c)段所述的委任，而他可接受有關委任而無須向諮詢委員會徵詢意見。

11. 請委員察悉本文件的內容。

行政長官辦公室  
政制及內地事務局  
二零一七年十月

前任行政長官及政治委任官員離職後工作諮詢委員會  
(由行政長官委任)

職權範圍

諮詢委員會的職權範圍如下：

- (a) 訂立原則和標準，以為前任行政長官和政治委任官員離職後的工作安排提供意見；
- (b) 根據所採納的原則和標準，考慮前任行政長官和政治委任官員離職後的工作安排，並作出研究和提供意見；以及
- (c) 考慮由行政長官辦公室轉介的其他個案，並向政府提供意見。

委員名單

廖柏偉教授，SBS，JP (主席)

鄭若驊女士，GBS，SC，JP

羅婉文女士

趙麗娟女士，MH

施文信先生，SBS，JP

## **Guidance Note on Post-office Employment for Former Chief Executives**

### **Purpose**

The Chief Executive has appointed the Advisory Committee on Post-office Employment for Former Chief Executives and Politically Appointed Officials (“the Advisory Committee”) –

- (a) to draw up the principles and criteria to be adopted for the purpose of advising former Chief Executives and politically appointed officials on their post-office employment or appointment;
- (b) on the basis of the principles and criteria adopted, to consider and advise former Chief Executives and politically appointed officials on post-office employment or appointment; and
- (c) to consider and advise the Government on other cases which may be referred by the Chief Executive’s Office.

2. This note sets out the key principles to which the Advisory Committee will have regard when considering requests for advice from former Chief Executives (“former CEs”) for post-office employment or appointment. It also sets out the general procedure for processing such requests for advice.

3. The Advisory Committee also gives advice on post-office employment or appointment for former politically appointed officials and officials under special appointment. The principles applicable for them are covered under separate guidelines.

## **Post-office employment restrictions**

4. Former CEs are subject to a control period of three years after leaving office. Subject to paragraph 5 below, a former CE, –

- (a) during the first year after leaving office, shall not commence any employment (on either full-time or part-time basis), become a director or a partner in any business or profession, or start any business or profession on his own account or with others (together referred to hereinafter as “employment or appointment”);
- (b) during the second and third years after leaving office (“the Relevant Period”), shall not (1) enter into employment with or become a director of companies with land or property development being part of their business, or companies awarded with franchises approved by the Executive Council during his or her tenure as the CE; (2) represent any person in connection with any claim, proceedings or negotiation against or with the Government; (3) engage in any lobbying activities on matters relating to the Government; (4) enter into employment with or become a director of companies which are involved in on-going litigation with the Government; (5) be involved personally in the bidding for any Government land, property, projects, contracts or franchises; and
- (c) during the Relevant Period, shall seek advice from the Advisory Committee before taking up any employment or appointment in or outside Hong Kong that are not debarred under (b) above.

5. During the three-year control period, a former CE may, without seeking the advice of the Advisory Committee, accept the following appointments, remunerated or otherwise, on a full-time or part-time basis -

- (a) appointments made by the Central Authorities or the HKSAR Government;
- (b) appointments to charitable, academic or other non-profit-making organisations; and
- (c) appointments to non-commercial regional or international organisations.

A former CE should inform the Government of any appointment covered by this paragraph, remunerated or otherwise, accepted and undertaken by him during the three-year control period. Such information will be kept in a register available for public inspection upon request. A former CE should seek the advice of the Advisory Committee if he or she has any doubt as to whether any appointment is covered by this paragraph, or if he or she wishes to accept an appointment which appears to him or her to be in the public interest, but which is not covered by this paragraph.

### **Objectives and Criteria for Advice**

6. The post-office employment restrictions on a former CE are designed to ensure that, within three years after stepping down from office, a former CE does not engage in any employment or appointment which will or is likely to constitute a conflict of interest with his or her former Government work, or cause well-founded negative public perception embarrassing the Government. The restrictions, however, should not unreasonably restrict a former CE's right to take up an employment or appointment. The Advisory Committee shall be guided by the following in considering a request for advice –

- (a) whether the proposed employment or appointment and any consequential associations necessarily and directly incidental thereto will adversely affect or compromise the Government's performance of its functions, or will give rise to any reasonable belief, concern or public perception that the Government's performance of its functions could be adversely affected or compromised;

- (b) whether a fair-minded and informed observer, having considered the relevant facts, will conclude that the proposed employment or appointment might give rise to reasonable apprehension of deferred reward or benefit to the former CE for the performance or non-performance of his or her duties while in office;
- (c) whether any aspect of the proposed employment or appointment will cause other well-founded negative public perception embarrassing the Government;
- (d) whether the proposed employment or appointment will enable the prospective employer or business to gain any unfair advantage over its competitors by making use of privileged information obtained by the former CE while in office; and
- (e) whether the right of the former CE to work will be unreasonably restricted.

### **Request for Advice**

7. A former CE should seek the Advisory Committee's advice in writing. To facilitate the Advisory Committee's consideration, a former CE is requested to provide relevant information of the proposed employment or appointment including, but not limited to, the following –

- (a) particulars of the proposed employment or appointment;
- (b) the nature of his or her responsibilities under the proposed employment or appointment; and
- (c) the nature of the dealings of the former CE in his or her previous official capacity with, or (where there were no previous dealings) the nature of his or her official responsibilities in relation to the proposed employment or appointment.



The Secretary, on behalf of the Advisory Committee, may seek supplementary information and clarification as and when necessary. A former CE should note that some of the information provided may be published. Details are set out in paragraphs 11 and 12 of this note.

8. On the basis of the information provided by a former CE, the Advisory Committee will seek advice from the Chief Executive's Office and, where necessary, other Office(s)/Bureau(x) which have policy responsibilities over the industry, trade or profession in which the former CE will engage upon taking up the proposed employment or appointment.

### **Notification and Publication of Advice**

9. The Secretary shall endeavour to convey in writing the Advisory Committee's advice with reasons to the former CE within 14 days of receipt of the request<sup>1</sup>.

10. While the proceedings of the Advisory Committee shall be kept confidential, the advice of the Advisory Committee on a proposed employment or appointment may be published. On receipt of the Advisory Committee's advice, the former CE should inform the Secretary in writing by a specified date, whether or not he or she will take up the proposed employment or appointment and, if yes, the date on which he or she will do so. Upon receipt of a confirmation that the former CE will take up the proposed employment or appointment, the Secretary will arrange to publish the advice of the Advisory Committee and will keep the former CE informed of the date of publication. If the former CE decides not to take up the proposed employment or appointment in the light of the Advisory Committee's advice, the advice will not be published.

11. When the Advisory Committee's advice is published, it will include the following personal data and brief facts of the proposed employment or appointment –

- (a) the identity of the former CE;
- (b) the identity of the former CE's prospective employer or business;

- (c) the position which the former CE will hold in the proposed employment or appointment and a brief description of the duties involved; and
- (d) the Advisory Committee's advice.

### **Further Advice from Advisory Committee**

12. If within the Relevant Period, there is any material change to the nature, objectives or duties involved in the employment or appointment that the former CE has taken up, he or she should inform the Advisory Committee in writing. On the basis of the updated information, the Advisory Committee will consider whether further advice should be given.

### **Withdrawal of Request**

13. At any time, a former CE may give written notice to the Advisory Committee withdrawing his or her request for advice.

### **Enquiries**

14. Enquiries should be directed to the Secretary to the Advisory Committee –

Address : Assistant Secretary (1)  
Chief Executive's Office  
Tamar  
Hong Kong  
Telephone : 2878 3303  
Fax : 2509 9144

**Advisory Committee**  
**June 2012**

## **Guidance Note on Post-office Employment for Politically Appointed Officials**

### **Purpose**

The Advisory Committee on Post-office Employment for Former Chief Executives and Politically Appointed Officials (“the Advisory Committee”) appointed by the Chief Executive is tasked –

- (a) to draw up the principles and criteria to be adopted for the purpose of advising former Chief Executives and politically appointed officials on their post-office employment or appointment;
- (b) on the basis of the principles and criteria adopted, to consider and advise former Chief Executives and politically appointed officials on post-office employment or appointment; and
- (c) to consider and advise the Government on other cases which may be referred by the Chief Executive’s Office.

2. This note sets out the key principles and criteria to which the Advisory Committee will have regard when considering requests for advice from former politically appointed officials for post-office employment or appointment. It also sets out the general procedure for processing such requests for advice.

3. The Advisory Committee also gives advice on post-office employment or appointment for former Chief Executives and officials under special appointment. The principles and criteria applicable for them are covered under separate guidelines.

## **Post-office employment restrictions**

4. The post-office employment restrictions on politically appointed officials are designed to ensure that within one year after stepping down from office (“the Relevant Period”), a former official does not commence any employment, become a director or a partner in any business or profession or start any business or profession on his or her own account or with others (together referred to hereinafter as “employment or appointment”), which will or is likely to constitute a conflict of interest with their former Government work, or cause well-founded negative public perception embarrassing the Government. The restrictions, however, should not unreasonably restrict a former official’s right to take up an employment or appointment.

5. The restrictions in this note apply to –

- (a) Secretaries of Department,
- (b) Directors of Bureau,
- (c) Director of the Chief Executive’s Office,
- (d) Under Secretaries,
- (e) Political Assistants, and
- (f) Head of the Central Policy Unit<sup>1</sup>.

## **Criteria for Advice**

6. The Advisory Committee shall be guided by the following in considering a request for advice –

- (a) whether the proposed employment or appointment and any consequential associations necessarily and directly incidental thereto will adversely affect or compromise the Government’s performance of its functions, or will give rise to any reasonable belief, concern or public perception that the Government’s performance of its functions could be adversely affected or compromised;

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<sup>1</sup> Head of Central Policy Unit, though not a politically appointed official, is subject to similar controls in respect of post-service work as those applicable to politically appointed officials. Hence, this note applies to the holder of this office.

- (b) whether a fair-minded and informed observer, having considered the relevant facts, will conclude that the proposed employment or appointment might give rise to reasonable apprehension of deferred reward or benefit to the former official for the performance or non-performance of his or her duties while in office;
- (c) whether any aspect of the proposed employment or appointment will cause other well-founded negative public perception embarrassing the Government;
- (d) whether the proposed employment or appointment will enable the prospective employer or business to gain any unfair advantage over its competitors by making use of privileged information obtained by the former official while in office; and
- (e) whether the right of the former official to work and to exploit his or her technical skills and experience will be unreasonably restricted.

7. The Advisory Committee will take into account the nature and objectives of the proposed employment or appointment. Where necessary, the Advisory Committee will consider the specific duties involved in the proposed employment or appointment, and the specific duties and official dealings the former official was engaged in while in office. The Advisory Committee may also take into account the length of the former official's service as a politically appointed official and the rank held during that service.

### **Geographical Location of Proposed Employment or Appointment**

8. A former official is required to seek the advice of the Advisory Committee before taking up any employment or appointment during the Relevant Period whether in or outside Hong Kong.

## **Standard Form of Request**

9. To seek the Advisory Committee's advice, former officials should complete a standard request form at **Annex A**. They are encouraged to provide additional information that may assist the Advisory Committee's consideration. The Secretary, on behalf of the Advisory Committee, may seek supplementary information and clarification as and when necessary.

## **Consultation with Bureau(x)**

10. On the basis of the information provided by the former official, the Advisory Committee will invite the concerned Office(s)/Bureau(x), including those in which the former official previously served and those that have policy responsibilities over the industry, trade or profession in which the former official will engage upon taking up the proposed employment or appointment, to provide an assessment. The assessment should generally come from the incumbent Permanent Secretaries of the concerned Office(s)/Bureau(x) at the time when a request is raised, unless otherwise specified. For requests submitted by a former Secretary of Department or a former Political Assistant to a Secretary of Department, the Permanent Secretary of the Chief Executive's Office will provide the assessment (after consulting the Solicitor-General or another Law Officer in the case of former Secretary for Justice). Assessments should be provided by using **Annex B**.

## **Notification and Publication of Advice**

11. The Secretary shall endeavour to convey in writing the Advisory Committee's advice to the former official within 14 days of receipt of the request<sup>2</sup>.

12. While the proceedings of the Advisory Committee shall be kept confidential, the advice of the Advisory Committee on a proposed employment or appointment may be published. On receipt of the Advisory Committee's advice, the former official should inform the

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<sup>2</sup> In case further information or clarification is sought from the former politically appointed official, the 14-day period will start to run upon receipt of the additional information or clarification.

Secretary in writing by a specified date, whether or not he or she will take up the proposed employment or appointment and, if yes, the date on which he or she will do so. After receipt of a confirmation that the former official will take up the proposed employment or appointment and upon cessation of his or her active Government service, the Secretary will arrange to publish the advice of the Advisory Committee and will keep the former official informed of the date of publication. If the former official decides not to take up the proposed employment or appointment in the light of the Advisory Committee's advice, the advice will not be published.

13. When the Advisory Committee's advice is published, the following personal data and brief facts of the proposed employment or appointment will also be made public –

- (a) the identity, last date of government service and last government post title of the former official;
- (b) the identity of the former official's prospective employer or business;
- (c) the position which the former official will hold in the proposed employment or appointment and a brief description of the duties involved; and
- (d) the Advisory Committee's advice.

14. A former official is required to indicate on the request form consent to the disclosure requirement.

### **Further Advice from Advisory Committee**

15. Within the Relevant Period, if there is any material change to the nature, objectives or duties involved in the employment or appointment that the former official has taken up, he or she should inform the Advisory Committee in writing. On the basis of the updated information, the Advisory Committee will consider whether further advice should be given.

## **Withdrawal of Request**

16. At any time, a former official may give written notice withdrawing the request for advice.

## **Enquiries**

17. Enquiries should be directed to the Secretary to the Advisory Committee –

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**Advisory Committee**  
**June 2012**