

**Legislative Council Panel on Constitutional Affairs**

**Post-office Employment for Former Chief Executives  
and Former Politically Appointed Officials**

This paper briefs Members on the procedures and criteria for advice adopted by the Advisory Committee on Post-office Employment for Former Chief Executives and Politically Appointed Officials (“the Advisory Committee”) in handling post-office employment for former Chief Executives (“CEs”) and former Politically Appointed Officials (“PAOs”).

**Background**

2. The Advisory Committee was set up in April 2005 to advise principal officials under the Political Appointment System on their employment plans within one year after leaving office. Since April 2007, in the light of the recommendations of the Independent Commission on Remuneration Package and Post-office Arrangements for the Chief Executive of the HKSAR (“the Independent Commission”) to the Government in June 2005, the Advisory Committee’s terms of reference have been extended to giving advice on the post-office employment plans of former CEs. The terms of reference of the Advisory Committee<sup>1</sup> and its current membership list are at [Annex A](#).

**Post-office employment for former CEs**

3. On the basis of the recommendations of the Independent Commission, former CEs are subject to post-office employment control within three years after leaving office. Subject to (c) below:

- (a) during the first year, a former CE shall not commence any employment (either on a 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;

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<sup>1</sup> The ambit of the Advisory Committee was expanded in March 2012 to advise the Government on cases regarding officials under special appointment.

- (b) in the following two years, a former CE is required to seek advice from the Advisory Committee before taking up any employment or engaging in any business or professional activities in or outside Hong Kong; and
- (c) 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 -
  - (i) appointments made by the Central Authorities or the HKSAR Government;
  - (ii) appointments to charitable, academic or other non-profit making organisations; and
  - (iii) appointments to non-commercial regional or international organisations.

A former CE should inform the Government of any appointment covered by (c), remunerated or otherwise, accepted and undertaken by him during the three-year control period. A former CE should seek the advice of the Advisory Committee if he has any doubt as to whether any appointment is covered by (c) or if he wishes to accept an appointment which appears to him to be in the public interest, but which is not covered by (c).

4. In considering requests for advice from former CEs, the Advisory Committee shall have regard to two broad principles: to prevent conflict of interest and to avoid negative public reaction. In this respect, the Advisory Committee has promulgated a “Guidance Note on Post-office Employment for Former Chief Executives” (**Annex B**), which sets out the objectives and criteria that guide the Advisory Committee in giving advice as well as the general procedures for processing requests for advice.

5. Following receipt of the Advisory Committee’s advice and upon confirmation by the former CE seeking advice that he/she will take up the proposed employment or appointment, the advice of the Advisory Committee will be published. 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.

## **Post-office employment for former PAOs**

6. Former PAOs are subject to one-year post-office employment restrictions. Within one year after stepping down from office, a former PAO is required to seek the advice of the Advisory Committee before commencing any employment, becoming a director or a partner in any business or profession or starting any business or profession on his/her own account or with others. This requirement is stipulated in the Code for Officials under the Political Appointment System.

7. The post-office employment restrictions are designed to ensure that within the relevant control period after stepping down from office, a former official would not commence any employment or take up any appointment which will or is likely to constitute a conflict of interest with his/her 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.

8. The Advisory Committee has promulgated a "Guidance Note on Post-office Employment for Politically Appointed Officials" (**Annex C**), which sets out the objectives and criteria to which the Advisory Committee will have regard when considering requests for advice from former PAOs on their plans for post-office employment or appointment. It also sets out the general procedures for processing such requests for advice. Following receipt of the Advisory Committee's advice and upon confirmation by the former PAO seeking advice that he/she will take up the proposed employment or appointment, the advice of the Advisory Committee will be published. If the former PAO 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.

## **Cases considered by the Advisory Committee with published advice**

9. As at end September 2017, there were 53 cases in respect of which the Advisory Committee has given advice and the former officials concerned have decided to take up the proposed employment or appointment. None of the cases involves a former CE. The advice tendered by the Advisory Committee on these cases has been uploaded to the website of the Advisory Committee (<http://www.ceo.gov.hk/poo/eng/index.htm>).

**Acceptance of appointments by the Hon C Y LEUNG after leaving office**

10. Former CE the Hon C Y Leung informed the Government in writing on 11 September 2017 that he had accepted appointments as director of two Hong Kong non-profit-making companies, viz. Belt and Road Hong Kong Centre Company Limited and Bay Area Hong Kong Centre Company Limited, on or about 31 August 2017. According to Mr Leung, both are Hong Kong companies limited by guarantee without a share capital, are and will be non-profit-making organisations and will not be involved in any business or profession. Having regard to the objects of those two companies, the Government is satisfied that they are non-profit-making organisations. Accordingly, Mr Leung's two appointments mentioned above fall under paragraph 3(c) above and hence Mr Leung may accept such appointments without seeking the advice of the Advisory Committee.

11. Members are invited to note the content of this paper.

**Chief Executive's Office  
Constitutional and Mainland Affairs Bureau  
October 2017**

**Advisory Committee on Post-office Employment for  
Former Chief Executives and Politically Appointed Officials**  
(Appointed by the Chief Executive)

**Terms of Reference**

The terms of reference of the Advisory Committee are –

- (a) to draw up the principles and criteria to be adopted for the purpose of advising former CEs and politically appointed officials (“PAOs”) on their post-office employment or appointment;
- (b) on the basis of the principles and criteria adopted, to consider and advise former CEs and PAOs 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.

**Membership List**

Professor LIU Pak-wai, SBS, JP (Chairman)

Ms Teresa CHENG Yeuk-wah, GBS, SC, JP

Ms Elaine LO Yuen-man

Ms Susanna CHIU Lai-kuen, MH

Mr Thomas Brian STEVENSON, 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**