

## **System of Declaration of Interests by Members of the Executive Council**

### **Purpose**

This note outlines the system of declaration of interests by Members of the Executive Council (ExCo).

### **Declaration Requirements**

2. To ensure that ExCo Members offer unbiased and impartial advice to the Chief Executive (CE), ExCo has adopted a rigorous system of declaration of interests. The system mainly comprises two parts.

#### **(A) Regular Declarations**

3. On first appointment and annually thereafter, each ExCo Member should declare their personal interests by completing the “Annual Declaration of Registrable Interests of Members of the Executive Council” (“the Register”) (at Annex A). Registrable interests include the following -

- (a) remunerated directorships in any public or private company;
- (b) remunerated employments, offices, trades, profession, etc;
- (c) if the interests at (a) or (b) above include provision to clients of personal services which arise out of or relate in any manner to Members’ position as ExCo Members, the names of clients;
- (d) land and property owned by Members in or outside Hong Kong, including those which are held in the name of Members’ spouses, children or other persons or companies but are actually owned by Members; or those which are not owned by Members but in which Members have a beneficial interest;

- (e) names of companies or bodies in which Members have, either themselves or with or on behalf of their spouses or children, a beneficial interest in shareholdings of a nominal value greater than 1% of the issued share capital; and
- (f) membership of boards, committees or other organizations.

4. Declared interests of each ExCo Member will be uploaded to the ExCo website for public inspection. ExCo Members should notify the Clerk to ExCo of changes to any items of registrable interest within 14 days of their occurrence. For changes to interests in land and property outside Hong Kong, the Clerk to ExCo should be notified within 28 days of their occurrence.

5. In addition, on first appointment and annually thereafter, ExCo Members should declare to CE on a confidential basis and in greater detail their financial interests, including shareholdings (irrespective of the amount) in companies as well as futures and options contracts, held by themselves or jointly with their spouses, children or other close relatives. Any changes to the interests declared as well as any currency transactions involving the Hong Kong Dollar amounting to more than HK\$200,000 should be notified to the Clerk to ExCo within two trading days after their occurrence.

6. ExCo Members should declare within 14 days the acceptance by them (or their spouses) of any financial sponsorship, sponsored overseas visits, or gifts worth HK\$2,000 or more in relation to their ExCo membership, by completing the “Declaration of Acceptance of Sponsorships and Gifts” (at Annex B). The declarations are also uploaded to the ExCo website for public inspection.

(B) Declarations in respect of Individual Items Discussed by ExCo

7. It is the personal responsibility of ExCo Members to examine whether they have an interest in any item discussed by ExCo, and declare it before the ExCo discussion. Based on the interest declared, CE will assess whether ExCo Members may have a potential or real conflict of interests in the item considered by ExCo. CE will decide whether Members should participate in or withdraw from the discussion of that item.

## **Nature of Interests Declared**

8. Given the wide range of matters submitted to ExCo, ExCo Members may encounter subjects in which they could reasonably be construed to have an interest. What is important is that the interest be recognized, its significance weighed and due account taken of it.

### **(A) Exclusionary Interests**

9. Interests can be divided broadly into two categories - those which are so direct and significant that they require exclusion of an ExCo Member from the deliberations of ExCo, and those which are not.

10. The following, though not exhaustive, illustrate direct and significant interests –

- (a) significant personal pecuniary interests which may be materially affected by the decision of ExCo;
- (b) ExCo Members' directorships, partnerships or advisory positions in companies which may be materially affected by the decision of ExCo;
- (c) that an ExCo Member, in his professional capacity, has advised or represented any person or body in connection with the item to be discussed; and
- (d) other close or substantial interests, which if known publicly will lead reasonable members of the public to think that an ExCo Member's advice may have been motivated by personal interests or involvement rather than by the duty to give impartial advice.

The above are regarded as exclusionary interests and CE will normally ask the ExCo Member concerned to withdraw from discussion of an item in which the Member has such an interest. The relevant ExCo memorandum and the minutes will be withheld from the Member. The Member's declaration and withdrawal from the discussion of the item at ExCo are recorded in the minutes.

(B) Declaratory Interests

11. Interests other than exclusionary interests described above should be declared where they might be thought likely to incline an ExCo Member towards a particular stance on the item under discussion. In these cases, however, the Member concerned will normally still receive the ExCo memorandum and be allowed to take part in the discussion.

(C) Interests to be Noted

12. Membership of boards and committees such as the University Grants Committee, University Councils, or other statutory and non-statutory advisory boards, committees, and tribunals is not strictly speaking a declaratory interest. However, such positions are normally made known and noted.

**Procedures for Ascertaining and Handling Interests**

13. As mentioned in paragraph 7 above, it is the personal responsibility of ExCo Members to identify and declare any interest in the context of a particular item discussed at ExCo. Meanwhile, the Administration has put in place a system to check potential conflict of interests, on the basis of ExCo Members' declared interests and other known information, as below -

- (a) The responsible bureau or department submitting an item to ExCo (which has access to the open declarations) and the Clerk to ExCo (who has access to both the open and confidential declarations) would, in exercising due diligence, examine whether any ExCo Member may have an interest in the subject matter (this is done by reference to the declarations of ExCo Members and any relevant information known to them);
- (b) Where available information shows that any ExCo Member may have an **exclusionary interest** in the matter, the Clerk to ExCo will, prior to the relevant ExCo meeting, seek CE's decision on whether the ExCo Member should be asked to withdraw from the ExCo discussion and whether the ExCo memorandum should be withheld from the ExCo Member. Upon CE's decision that the ExCo Member should so withdraw and the ExCo

memorandum should be so withheld, the Clerk to ExCo will convey to the ExCo Member CE's decision before the relevant ExCo meeting, and will withhold the issue of the ExCo memorandum to the ExCo Member. At the relevant ExCo meeting, the ExCo Member should withdraw from the discussion of the matter after declaring the exclusionary interest; and

- (c) Where available information shows that any ExCo Member may have a **declaratory interest** in the matter, the Clerk to ExCo will draw the ExCo Member's attention to the interest before the relevant ExCo meeting and invite him to consider declaring the interest at the meeting.

### **Breach of Declaration Requirements and Sanctions**

14. ExCo Members are appointed by CE. If any Member contravenes the declaration system, CE will decide how the case should be handled. CE may, depending on the circumstances, take appropriate actions including issuing an advice, a warning, public reprimand, removing the Member from office, or taking legal actions.

15. Where there is an alleged breach of the declaration requirements, the ExCo Secretariat will conduct an initial enquiry to ascertain the facts. Where necessary, CE may direct the Chief Executive's Office and the ExCo Secretariat to conduct a full investigation.

### **The Chief Executive**

16. CE is the President of ExCo. He observes the ExCo declaration system in respect of regular declarations of registrable and confidential interests as well as ad hoc declarations of interests in individual items discussed by ExCo.

17. The Administration has put in place a system to check potential conflict of interests on the part of CE, on the basis of his declared interests and other known information, as below -

- (a) The responsible bureau or department submitting an item to ExCo (which has access to the open declarations) and the Clerk

to ExCo (who has access to both the open and confidential declarations) would, in exercising due diligence, examine whether CE may have an interest in the subject matter to be submitted to ExCo (this is done by reference to CE's declarations and any information known to them); and

- (b) Where available information shows that CE may have an **exclusionary or declaratory interest** in the matter, the Clerk to ExCo will, prior to the relevant ExCo meeting, draw CE's attention to that interest for CE to consider whether the interest should be declared at the meeting and how the ExCo discussion should be handled.

The Chief Executive's Office  
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