

## **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**  
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