

Guidance Note on Post-office Employment for Politically Appointed Officials

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; and
- (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.

2. This note sets out the key principles and criteria to which the Advisory Committee would have regard, when considering requests for advice from former politically appointed officials (“former officials”). The principles and criteria that would apply to former Chief Executives will be covered under separate guidelines.

Post-office employment restrictions

3. The post-office employment restrictions on former officials are designed to ensure that within one year after stepping down from office (“the Relevant Period”), a former official does not take up any employment, directorship, partnership 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”), which will or is likely to constitute a conflict of interest, adversely affect or compromise the Government’s performance, cause negative public perception or enable the prospective employer or business to gain an

unfair advantage over its competitors. The restrictions, however, should not unreasonably restrict a former official's right to take up an employment or appointment.

4. The restrictions in this note apply to –

- (a) Secretaries of Department,
- (b) Directors of Bureau,
- (c) The Director of the Chief Executive's Office,
- (d) Under Secretaries,
- (e) Political Assistants, and
- (f) Head of the Central Policy Unit.

Principles and Criteria for Advice

5. The Advisory Committee shall be guided by the following in considering requests for advice on a former political appointee's post-office employment or appointment –

- (a) whether the proposed employment or appointment and any consequential associations necessarily and directly incidental thereto has adversely affected or compromised, or will adversely affect or compromise the Government's performance of its functions;
- (b) whether the proposed employment or appointment would give rise to any reasonable belief, concern or public perception that the Government's performance of its functions during the former official's term of office and the Relevant Period could have been or could be adversely affected or compromised;
- (c) whether the proposed employment or appointment will or is likely to cause reasonable negative public perception;
- (d) whether the proposed employment or appointment would 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/her technical skills and experience would be unreasonably restricted.

6. 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 the Proposed Employment or Appointment

7. While a former official is required during the Relevant Period to seek the advice of the Advisory Committee before commencing any employment or appointment whether in and outside Hong Kong, the Advisory Committee would **not** normally object to a former official taking up employment or an appointment where the major duties and activities involved are believed to have little or no connection with Hong Kong.

Standard Form of Request

8. 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)

9. On the basis of the information provided by the former

official, the Advisory Committee will seek advice from the concerned Office(s)/Bureau(x), including those in which the former official had 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. Assessment should come from the incumbent Permanent Secretaries of the concerned Office(s)/Bureau(x) at the time when a request is raised. 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 Solicitor-General or other Law Officer in the case of former Secretary for Justice). Assessment should be provided by using **Annex B**.

Notification of Advice

10. The Secretary shall endeavour to convey in writing the Advisory Committee's advice together with the intended date of publication of the advice to the former official within 14 days of receipt of the request^{Note 1}. On receipt of the Advisory Committee's advice, the former official is required to confirm 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 will do so.

11. 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 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.

Publication of Advice

12. While the proceedings of the Advisory Committee shall be kept confidential, the advice of the Advisory Committee on the proposed employment or appointment that the former official will take up within

^{Note 1} In case further information or clarifications are sought from the former politically appointed official, the 14-day period will start to run upon receipt of the additional information or clarifications.

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

- (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 (with reasons).

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

Withdrawal of Request

14. At any time, a former official may give written notice withdrawing the request for advice. Where practicable, details of a withdrawn case will not be made public.

Enquiries

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

Address : Senior Administrative Officer
Chief Executive's Office
Government House
Central

Telephone : 2878 3303

Fax : 2509 9144

Advisory Committee
April 2008

**THE ADVISORY COMMITTEE ON
POST-OFFICE EMPLOYMENT FOR FORMER CHIEF
EXECUTIVES AND POLITICALLY APPOINTED OFFICIALS**

Request Form for Advice
(to be read with GN 01)

PART I : Particulars of the Applicant

1. Name _____
2. Address _____
3. Contact Number _____ (Tel) _____ (Fax)
4. Last day in Government Service _____ (on expiry or termination of contract)
5. History of Service – Post(s) held as a politically appointed official during the last five years

| Title of post held | Dates | |
|--------------------|-------|----|
| | From | To |
| | | |
| | | |
| | | |

PART II : Information on the Proposed Employment or Appointment

6. Regarding the prospective employer or business -

- (a) Company's name _____(English)
_____(Chinese)
- (b) Company's address _____
- (c) Nature and Objective of Company's business

- (d) Company's parent company or group _____

7. Regarding the proposed employment or appointment -

- (a) Job title _____
- (b) Nature and objectives

- (c) Brief description of the specific duties involved

- (d) Proposed commencement date _____
- (e) Is the proposed employment/appointment full time or part time?
- ☐ full time
- ☐ part time (_____ days/hours* per week/month/year*)
- ☐ one-off assignment
(please specify duration : _____)
- (f) Will the proposed employment/appointment be paid?
- ☐ paid (amount of remuneration : _____)
- ☐ unpaid

* delete as appropriate

8. Is your prospective employer or business in any way connected to your previous position, duties or official dealings in the Government as a politically appointed official?
9. What was the nature of your dealings (in your capacity as a politically appointed official) with, or where there were no personal dealings, the nature of your official responsibilities in relation to the proposed employer, company, partnership, business or profession?
10. In the period covered by question 9 above, did you have any contacts with companies which may be considered as competitors of the proposed employer, company, partnership, business or profession? (If the answer is “yes”, please give details below. In particular, did you have access to commercially sensitive information about these competitors?)
11. Would your proposed employment or appointment and any consequential associations necessarily and directly incidental thereto adversely affect or compromise the Government’s performance of its functions?

12. Would your proposed employment or appointment give rise to a reasonable belief, concern or public perception that the Government's performance of its functions during your tenure as a politically appointed official and the year following expiry or termination of the term of office could have been or could be adversely affected or compromised?

13. Would your proposed employment or appointment give rise to reasonable negative public perception?

14. Would your proposed employment or appointment enable your prospective employer or business to gain an unfair advantage over its competitors by making use of privileged information obtained by you while in post as a politically appointed official?

15. Any other relevant information -

PART III : Declaration and Consent to Disclosure Requirement

16. I hereby confirm that the information given above is true and complete.

I understand that -

- (a) the information provided in the form is to enable the Advisory Committee on Post-office Employment for Former Chief Executives and Politically Appointed Officials (“Advisory Committee”) to verify, assess and give advice on my proposed employment or appointment;
- (b) the Advisory Committee may pass the information I provided to the relevant Office(s)/bureau(x) for verification and assessment;
- (c) the Advisory Committee may seek further information and clarification from me. Failure to provide the information requested may lead to termination of processing of my request; and
- (d) information on my personal data and basic facts of the proposed employment/appointment as listed in paragraph 12 of GN 01 may be disclosed to the public together with the advice of the Advisory Committee.

Signature

Date

1. Please assess how the applicant's previous position, duties or official dealings in the Government as a politically appointed official relate to his proposed employment or appointment. Would the proposed employment or appointment constitute conflict of interests?
2. Please assess whether the proposed employment or appointment and any consequential associations necessarily and directly incidental thereto would adversely affect or compromise the Government's performance of its functions?

3. Please assess whether the proposed employment or appointment would give rise to any reasonable belief, concern or public perception that the Government's performance of its functions during the applicant's tenure as a politically appointed official and the year following expiry or termination of the term of office could have been or could be adversely affected or compromised?
4. Please assess whether the proposed employment or appointment would cause reasonable negative public perception?
5. Please assess whether the proposed employment or appointment would enable the prospective employer or business to gain an unfair advantage over its competitors by making use of privileged information obtained by the applicant while in office as a politically appointed official?

6 Any other relevant information -

Name _____

Signature _____

Rank/Post _____

Date _____