

Subcommittee to Study the Proposed Accountability System for Principal Officials and Related Issues

Preserving the Integrity and Probity of the Civil Service

Purpose

A major pillar contributing to the stability and prosperity of Hong Kong is its efficient, professional, fair, politically neutral, clean and honest civil service. These qualities represent the heart of the core values upheld within the civil service. This paper describes the Administration's commitment to preserve, under the new accountability system for principal officials, the core values that have shaped the present culture of our civil service, values which the principal officials, the top echelon of Government, are expected to share and uphold.

Core values guiding the conduct of civil servants

2. The core values which all civil servants are expected to follow and uphold can be summed up as follows –

- (a) commitment to the rule of law;
- (b) honesty and integrity above private interests;
- (c) accountability in government decisions and actions;
- (d) political neutrality;
- (e) impartiality in the execution of public functions; and
- (f) dedication and diligence in serving the community.

3. At present, these values have been enshrined and elucidated in the regulations and guidelines governing the conduct of civil servants, covering such subjects as conflict of interest; acceptance of advantages and entertainment; declaration of private investments; use of information obtained in one's official capacity; and outside work, etc. To help ensure that the above values (as well as our commitment to uphold them) are well understood within the civil service, we have published a guide-book on good practices for civil servants at all levels, as well as a handbook for senior

managers highlighting the importance of leadership by example in nourishing and sustaining a culture of honesty and integrity in the civil service.

4. Our human resource management efforts are also structured in such a way that links functions including performance management and training to the entrenchment of the above core values.

5. Where a civil servant commits an act of misconduct or malpractice which involves a criminal element, he renders himself liable to prosecution. Where he fails to comply with the rules governing conduct, he renders himself liable to disciplinary action. There are well established disciplinary procedures for handling alleged misconduct including a hearing conducted in compliance with the principles of natural justice where an independent tribunal makes its determination after consideration of factual evidence adduced before it.

6. Where a civil servant comes across a corrupt or other criminal act in the discharge of his duties, he is duty bound to report it to the relevant law enforcement agency. In addition, there may be circumstances where a civil servant believes that he is being required by his superior to act in an improper, though not illegal, manner. There are established procedures^{Note 1} for him to pursue, within the service, a complaint about the way he has been treated under such circumstances. He may make representations to his Head of Department, the Secretary for Civil Service, the Chief Secretary for the Administration or the Chief Executive. In addition, he may also lodge a complaint with statutory watchdog bodies where the subject matter falls within their jurisdiction, for example, the Public Service Commission and The Ombudsman.

Code of Practice for Principal Officials

7. When addressing the Legislative Council on 17 April 2002, the Chief Executive emphasized that in introducing the accountability system, “we must ensure the continuity and stability of the civil service structure. Not only do we achieve this, but through the introduction of the Accountability System, we must preserve and enhance the distinct qualities of the civil

^{Note 1} Under the current central guidelines, whilst each department is given discretion to draw up procedures that best suit its operational requirements, it is expected to observe certain key rules: a civil servant may lodge his complaint orally or in written form to the Head of Department (HoD); the complaint will be dealt with in confidence, the identity of the complainant will not be revealed, without their consent, to anyone other than those involved in investigating the complaint; and an officer will not be penalized for a complaint made in good faith. On receipt of a complaint, the HoD will conduct an investigation which may include interviewing the complainant and other persons. The process must be completed and a reply issued to the complainant normally within three months after receipt of the complaint.

service system i.e. permanence, professionalism, political neutrality, and an uncorrupt administration”. To mark the importance placed on the civil service and the need to maintain its integrity, under the accountability system, the Secretary for the Civil Service will be one of the principal officials and will be selected from among serving civil servants. Apart from being responsible for civil service policy, the Secretary for Civil Service will be tasked to manage the civil service and to uphold the values of the civil service system.

8. In line with these objectives, the principal officials who represent the top echelon of Government, would be expected to take the lead in and contribute towards maintaining and building up a civil service which preserves the qualities described above.

9. The principal officials will be required, as part of their condition of employment, to observe a Code of Practice which will be drawn up on the premise that holders of public office have an obligation to perform their official duties and arrange their private affairs in a manner capable of standing up to the closest public scrutiny, an obligation the fulfillment of which goes beyond acting within the law. The Code of Practice will include provisions setting out their relationship with civil servants and cover –

- (a) the duty of principal officials to uphold and preserve the core values as well as the integrity and impartiality of the civil service, and not to require or influence civil servants to act in an improper manner which may conflict with his role as a civil servant;
- (b) the role of the Secretary for the Civil Service who, as a principal official, will be responsible to the Chief Executive for managing the civil service, including safeguarding the core values of the civil service; and
- (c) provisions which stress that civil servants will continue to be appointed, managed and promoted in accordance with the prevailing rules applicable to the civil service; and that they will continue to be subject to the prevailing civil service disciplinary mechanism, under which allegations of misconduct against individual civil servants are determined through an impartial process based on consideration of factual evidence.

The role and responsibilities of civil servants in relation to the principal officials

10. Under the proposed accountability system, civil servants are expected to continue as before to discharge their duties in accordance with the law. They should continue to offer advice without fear or favour, based on intellectual rigour, objective research and understanding of the nature of the interests of the public at large.

11. Under the present system, civil servants have to comply with Government regulations which include the Civil Service Regulations, which cover conduct and discipline, supplemented by civil service circulars issued from time to time covering specific issues. To ensure that civil servants clearly understand their role and responsibilities in relation to the principal officials, we will issue a composite circular on the subject.

The main provisions of the Civil Service Circular

12. The circular will set out the framework within which civil servants are to work to principal officials, including their obligation to give of their best in serving the principal officials and the Chief Executive of the day. We will enunciate the values and high standards of probity that civil servants are required to uphold in discharging their official duties (please see para. 10 above) including the need to maintain political neutrality and to give detailed and honest advice on policy options in the decision-making process; and that once a decision is made, they will implement the decision faithfully. The circular will also set out the procedures for managing situations where a civil servant believes that he is being asked to act in an improper manner which conflicts with his role as a civil servant (please also see para. 14 to 16 below).

13. Suitable emphasis will be placed, in the circular, on the importance of promoting a culture of open communication within government organizations so that issues and concerns could be readily dealt with in the normal interaction between principal officials and the civil servants working to them.

14. The circular will also make it clear that it is the responsibility of the civil service to support the implementation of the accountability system. At the same time, it is essential to foster a spirit of loyalty and trust between civil servants and the principal officials. To strengthen this corporate spirit, safeguards will be put in place to assure civil servants that they will not be put in an invidious position or one which may compromise their integrity, probity or impartiality.

15. First, where a civil servant believes that he is being asked to act in any way which conflicts with his role as a civil servant or with the civil service core values (see para. 2 above), he should report the matter through the procedures to be laid down in the composite circular, for appropriate follow-up action. These procedures will be similar to the existing arrangements described in paragraph 6 above.

16. Second, where the direction is made by a principal official, the matter will be brought to the personal attention of the Secretary for the Civil Service for appropriate action.

Conclusion

17. We believe that the arrangements outlined above will serve to preserve the integrity and probity of the civil service system. In addition, the Legislative Council, the ICAC, The Ombudsman, the Audit Commission, the Public Service Commission and the presence of our free and inquisitive media will provide additional checks against possible abuses.

18. It has taken many years of hard work to build up a civil service which is highly regarded for its integrity. We are determined to maintain this reputation. The Chief Executive has repeatedly stressed the need to maintain the stability of the civil service structure, preserve the principles of permanence and neutrality of the civil service, and maintain a highly efficient, professional and clean Government. These are the qualities which the Administration and the community would wish to preserve because public confidence in the integrity and probity of our civil service is essential to the good governance of the HKSAR.