

For information
on 17 July 2018

**LEGISLATIVE COUNCIL
PANEL ON PUBLIC SERVICE**

**Updated Overview of Post-service Outside Work
by Directorate Civil Servants**

PURPOSE

This paper provides Members with an updated overview of post-service outside work by directorate civil servants.

CONTROL OVER TAKING UP OF POST-SERVICE OUTSIDE WORK

2. Directorate civil servants leaving the Civil Service are subject to post-service outside work control. The control regime is underpinned by two principles, namely protection of the public interest and protection of an individual's right to work. The particular public interest to be protected under the control regime is public trust in the Government, good governance, and integrity and impartiality of the Civil Service.

3. The policy objective of the control regime is to ensure that –

- (a) directorate civil servants will not take up any work during the prescribed restriction periods which may –
 - (i) constitute real or potential conflict of interest with their former government duties, or
 - (ii) cause well-founded negative public perception embarrassing the Government and undermining the image of the Civil Service, or give rise to reasonable apprehension of deferred reward or benefit by a fair-minded and informed observer after having considered the relevant facts;

- (b) the said individuals' right to work after ceasing government service will not be unduly restricted; and
 - (c) the attractiveness of the Civil Service as a career will not be adversely affected and that limited human resources will be put to good use.
4. The gist of the control regime is described below –
- (a) the prescribed restriction periods take the forms of a final leave period, a sanitisation period and a control period. During these periods, directorate civil servants must obtain permission from the decision authority, namely Secretary for the Civil Service (SCS), before they can take up any work, save for unpaid work with specified non-commercial organisations (e.g. charitable, academic or other non-commercial organisations not primarily engaged in commercial operations);
 - (b) the final leave period refers to the period of leave directorate civil servants take after they cease active duty and before they leave the Civil Service. During this period, directorate civil servants are normally not permitted to take up outside work of a commercial nature or full-time remunerated work, other than part-time or notionally remunerated work with specified non-commercial organisations;
 - (c) the sanitisation period is set at six or 12 months from cessation of active duty, depending on the rank of the retiring directorate civil servants. General speaking, applications from directorate civil servants for outside work of a commercial nature will not be approved during the sanitisation period;
 - (d) the control period is set in general at two to three years from the date of departure from the Civil Service, depending on the rank, years of service and terms of appointment of the directorate civil servants. During the control period, applications for post-service outside work will be assessed by the relevant parties within the Government against the considerations in paragraph 5 below;

- (e) an independent Advisory Committee on Post-service Employment of Civil Servants (the “ACPE”) tenders advice to SCS on every application;
- (f) SCS may reject, or approve with conditions, an application. All approved post-service outside work applications will be subject to a set of work restrictions¹, unless SCS, having regard to the recommendations of the ACPE and other relevant considerations, decides otherwise; and
- (g) every approved and taken-up outside appointment is put on a register which is posted on the website of the Civil Service Bureau (CSB) for public inspection.

5. Having regard to the policy objective of the post-service outside work control regime, the basic principle for consideration of a post-service outside work application is that there should be no impropriety involved. An application will be assessed against considerations such as whether the duties and responsibilities of the applicant, during a specified period of time (three years or more) immediately before cessation of active duty in the Civil Service, involved the prospective employer or the applied-for outside work; whether the applicant, in the above-mentioned specified period of time, had been involved in the formulation of any policies or decisions, the effects of which could directly or indirectly benefit/have benefitted the prospective employer; whether the prospective employer might gain an unfair advantage over competitors concerned because of the applicant’s access to sensitive information during the above-mentioned specified period of time; and whether the applicant’s taking up of the applied-for work would give rise to conflict of interest, deferred reward or other impropriety, or relevant public suspicion.

¹ Under the work restrictions, directorate civil servants will not –

- (a) directly or indirectly be involved in the bidding for any government land, property, projects, contracts or franchises;
- (b) directly or indirectly undertake or represent any person in any work including any litigation or lobbying activities that are connected in any way with formulation of any policy or decisions, sensitive information, contractual or legal dealings, assignments or projects, and enforcement or regulatory duties in which they had been involved or to which they had access during their last three years of services; and
- (c) directly or indirectly engage in any activities which will cause embarrassment to the Government or bring disgrace to the Civil Service.

6. The existing control regime was formulated by the Government in 2011, after detailed review and extensive consultation with stakeholders and taking into account legal advice. To enhance transparency, the Government has extended the coverage of the public register from directorate officers at Directorate Pay Scale Point D4 and above only to all directorate officers. In addition, the advice tendered by the ACPE on all approved and taken up work is also included in the public register². At present, the public register provides detailed information on the post-service outside work approved and taken up, including the applicant's name, his/her last civil service post, date of cessation of active duty, name of the employer, job position, main duties, work restrictions, commencement date of work, advice of the ACPE and decision of the authority. The aforesaid measures have enhanced the transparency of the process in handling the applications. Relevant implementation details are also set out in the Annual Report on the Work of the ACPE, which is submitted to the Legislative Council annually for information. The Annual Report for 2017 was tabled at the Legislative Council on 6 June 2018.

POST-SERVICE OUTSIDE WORK APPLICATIONS PROCESSED IN 2017

7. In 2017, CSB considered a total of 74 post-service outside work applications from 51 directorate civil servants. Of these 51 applicants, 43 (about 84%) were at the ranks of D1 to D3 while the remaining 8 (about 16%) were at the ranks of D4 to D8. After taking into account the assessment of the relevant parties within the Government and the advice of the ACPE, SCS approved 69 applications with work restrictions and rejected 5 applications. Among the 69 approved applications, 42 (about 61%) were related to work with non-commercial organisations and the remaining 27 (about 39%) were related to work with commercial organisations.

² Before the implementation of the new measures in 2011, post-service employment information of D1 to D3 officers and the relevant advice of the ACPE were not included in the public register.

ADVICE SOUGHT

8. Members are invited to note the updated overview of post-service outside work by directorate civil servants.

Civil Service Bureau
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