

APPENDIX A CODE FOR OFFICIALS UNDER THE POLITICAL APPOINTMENT SYSTEM (EXCERPTS)

The following is an extract of the Chapters 1, 3 and 5 of the Code for Officials under the Political Appointment System (the PAO Code, attached as the Annex to the Report on Further Development of the Political Appointment System issued by the Government in October 2007), which are relevant to the matters being reviewed in this Report –

- *Chapter 1 contains general provisions governing Officials under the Political Appointment System (politically appointed officials or PAOs).*
- *Chapter 3 contains provisions governing official secrets and security including requirement to maintain confidentiality after leaving government service.*
- *Chapter 5 contains provisions relating to the prevention of conflict of interests concerning PAOs, including declaration of interests and investments, acceptance of advantages, acceptance of entertainment, register of gifts and other advantages, and post-office outside work.*

CHAPTER 1: INTRODUCTION

1.1 In this Code, unless the context otherwise requires,

“politically appointed officials” means –

- (a) principal officials;
- (b) Director of the Chief Executive’s Office;
- (c) under secretaries; and
- (d) political assistants.

“principal officials” means principal officials under the Political Appointment System, i.e. the Secretaries of Department and Directors of Bureau.

“under secretaries” means Deputy Directors of Bureau.

“political assistants” means Political Assistant to the Chief Secretary for Administration, Political Assistant to the Financial Secretary, and Political Assistants to Directors of Bureau.

This Code applies to the politically appointed officials.

Where this Code confers powers or imposes duties upon the Chief Executive, he may delegate a principal official, the Director of the Chief Executive’s Office or Permanent Secretary of the Chief Executive’s Office, designated by name or by office, to exercise such powers or perform such duties on his behalf and thereupon, or from the date specified by the Chief Executive, the person so delegated shall have and may exercise such powers and perform such duties.

- 1.2 Principal officials shall swear to uphold the Basic Law and swear allegiance to the Hong Kong Special Administrative Region (HKSAR) of the People’s Republic of China.
- 1.3 The basic principles which politically appointed officials shall follow in the performance of their duties include the following:

- (1) Politically appointed officials shall be dedicated to their duties and be responsible to the Government of the HKSAR.
 - (2) Politically appointed officials shall uphold the rule of law, abide by the law, and protect the integrity of public office.
 - (3) Politically appointed officials shall act in the best interests of the HKSAR as a whole.
 - (4) Politically appointed officials shall be as open as possible about the decisions that they make and the actions that they take. They shall be accountable for their decisions.
 - (5) Politically appointed officials shall observe the highest standards of personal conduct and integrity at all times.
 - (6) Politically appointed officials shall ensure that no actual or potential conflict arises between their public duties and their private interests.
 - (7) Politically appointed officials shall at all times actively uphold and promote a permanent, honest, meritocratic, professional and politically neutral civil service.
 - (8) Politically appointed officials shall not use any public resources for non-government purposes (including purposes relating to any political party).
 - (9) Politically appointed officials shall promote and support the above principles by leadership and example.
- 1.4 This Code does not specify every type of potential act or behaviour expected of politically appointed officials. Rather, it provides rules and principles for appropriate conduct under certain circumstances. Where the circumstances are not prescribed, it is the responsibility of politically appointed officials to judge in accordance with the principles set out in this Code, how best to act in order to uphold the highest standards. In case of doubt, they shall seek the advice of the Chief Executive.
- 1.5 This Code shall be read in conjunction with legislation applicable to politically appointed officials. These include the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) and the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong).

CHAPTER 3: OFFICIAL SECRETS AND SECURITY

- 3.1. Politically appointed officials shall note that they fall within the definition of “public servant” in the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong) and must therefore abide by the provisions therein applicable to a “public servant”.
- 3.2. Politically appointed officials, irrespective of whether they are members of the Executive Council, shall not reveal the agenda, papers or proceedings of the Executive Council, or any document communicated to them or any matter coming to their knowledge concerning the work of the Executive Council. Discussion and deliberation at the Executive Council shall be kept in strict confidence. The internal process through which a decision has been made shall not be disclosed.
- 3.3. Politically appointed officials are required to take due care in the safe keeping of classified information entrusted to them. They shall bear in mind the general principle that dissemination of classified information shall be no wider than is required for the efficient conduct of the business at hand and shall be restricted to those who are authorised to have access to such information.

On stepping down from office

- 3.4. On stepping down from office, politically appointed officials shall hand over government documents in their possession and ensure that all drafts and personal copies of such documents have been properly disposed of.
- 3.5. Politically appointed officials shall note that all classified information, documents or other articles protected against disclosure by the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong) which has come into their possession as a result of their appointment in the Government, remain covered by the Ordinance after their stepping down from office and may not be disclosed.
- 3.6. Politically appointed officials shall note that they are liable to be prosecuted under the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong) if, either in Hong Kong or abroad, they communicate, either orally or in writing, including publication in a speech, lecture, radio or television broadcast or in the press or in book form or otherwise, to any unauthorised person any information falling within the purview of the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong) unless prior written approval has been obtained from the Chief Executive. The relevant provisions of the Official Secrets Ordinance continue to apply to politically appointed officials after they have stepped down from office.

Evidence in court

- 3.7. Politically appointed officials may be called upon to answer to subpoenas to give oral evidence and/or to produce official documents in Court relating to their official duties. In cases where oral evidence or the production of official documents is involved, the politically appointed official concerned shall assess whether there are any grounds for suggesting that the giving of such evidence or the production of such documents would cause damage to the proper functioning of the public service or would in any way be contrary to the public interest. The politically appointed official concerned shall seek advice from the Secretary for Justice in all such cases.

CHAPTER 5: PREVENTION OF CONFLICT OF INTEREST

- 5.1. Politically appointed officials shall avoid putting themselves in a position where they might arouse any suspicion of dishonesty, unfairness or conflict of interest.
- 5.2. Politically appointed officials shall observe the principles of fairness and impartiality in discharging their duties and in their dealings with members of the public and with their staff.
- 5.3. Politically appointed officials shall refrain from handling cases with actual or potential conflict of interest.
- 5.4. Politically appointed officials shall report to the Chief Executive any private interests that might influence, or appear to influence, their judgement in the performance of their duties.
- 5.5. During the term of office, politically appointed officials shall not, without the consent in writing of the Chief Executive, engage or be concerned either directly or indirectly as principal, agent, director or shadow director, employee or otherwise in any other trade, business, occupation, firm, company (private or public), chamber of commerce or similar bodies, public body or private professional practice. The consent of the Chief Executive is likely to be given where the official is appointed to the relevant board of directors in his

official capacity or in connection with his private family estate. A politically appointed official may retain or accept honorary posts in non-profit making organisations or charitable bodies. In all these cases, the official shall ensure that there is no actual or apparent conflict of interest between his interests in such organisations or bodies and his official duties and that his interests in such organisations or bodies would not cause embarrassment to the Government, the Chief Executive or other politically appointed officials of the Government.

Declaration and handling of investments/interests

- 5.6. Given that the politically appointed officials will have access to highly sensitive information including commercially sensitive information, they shall declare their investments and interests for the purpose of securing public trust and confidence. The declaration will be made available in a place designated by the Chief Executive's Office for public inspection on request.
- 5.7. If it appears to the Chief Executive at any time that there is or may be a conflict of interest between a politically appointed official's investments or interests and his official duties, the Chief Executive may require the official to take any one or more of the following measures:
- (a) to divest himself of all or any of the investments or interests;
 - (b) to refrain from acquiring or disposing of the investments or interests;
 - (c) to freeze any investment transaction for a specified period;
 - (d) to place the investments or interests in a "blind trust";
 - (e) to refrain from handling cases with actual or potential conflict of interest; and
 - (f) to take other actions as directed by the Chief Executive.

Acceptance of advantages

- 5.8. Politically appointed officials shall note that as public servants employed by the Government, they are subject to the relevant provisions in the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) and the Independent Commission Against Corruption Ordinance (Chapter 204 of the Laws of Hong Kong), and shall if necessary seek guidance from the Chief Executive as to the acceptance and retention of gifts, advantages or other benefits.
- 5.9. As a general rule, politically appointed officials shall avoid accepting any gift or hospitality which might or might reasonably appear to compromise their judgement or place them under an improper obligation. Although the acceptance of hospitality or free service is not prohibited, politically appointed officials shall take note of the relevant provisions in law and the following before accepting any such offer:
- (a) whether the acceptance of the hospitality or free service will lead to a conflict of interest with their official duties or place them in a position of obligation to the donor;
 - (b) whether the acceptance of the hospitality or free service will lead to embarrassment in the discharge of their functions; and
 - (c) whether the acceptance of the hospitality or free service will bring them or the public service into disrepute.

- 5.10. A politically appointed official shall not accept entertainment from any person if the entertainment is likely, for example by reason of its excessive nature, or of the relationship between the official and the other person, or of the character of that person:
- (a) to lead to embarrassment of the politically appointed official in the discharge of his functions; or
 - (b) to bring the politically appointed official or the public service into disrepute.

Sponsored visits

- 5.11. A politically appointed official may receive an invitation from a foreign government to make a sponsored visit in his official capacity. If the official wishes to accept the sponsorship in relation to the visit, he shall seek permission from the Chief Executive.
- 5.12. A politically appointed official may receive an invitation from an outside organisation to make a sponsored visit in his official capacity. If the official wishes to accept the sponsorship in relation to the visit, he shall seek permission from the Chief Executive.
- 5.13. If a politically appointed official wishes to accept a sponsored visit for his spouse, he shall seek permission from the Chief Executive.

Register of gifts etc.

- 5.14. Politically appointed officials shall note that they are subject to the provisions of the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) and shall if necessary seek guidance from the Chief Executive as to the acceptance and retention of gifts, advantages or other benefits. In addition, politically appointed officials are required to keep a register of gift, advantage, payment, sponsorship (including financial sponsorships and sponsored visits) or material benefit received by them or their spouses from any organisation, person or government other than the Government which in any way relates to their office as politically appointed officials. The register will be made available in the bureau / office served by the official concerned for public inspection on request.

On stepping down from office

- 5.15. Within one year after stepping down from office, politically appointed officials shall seek the advice of a committee appointed for this purpose by the Chief Executive before commencing any employment, becoming a director or a partner in any business or profession or starting any business or profession on his own account or with others. The proceedings of the committee shall be kept confidential but the advice given shall be made public.
- 5.16. Within one year after stepping down from office, politically appointed officials shall not represent any person in connection with any claim, action, demand, proceedings, transaction or negotiation against or with the Government.
- 5.17. Within one year after stepping down from office, politically appointed officials shall not engage in any lobbying activities on matters relating to the Government.