

APPENDIX E PUBLIC SUBMISSIONS

Purpose

E.1 This appendix summarizes the views expressed in public submissions received during the public consultation conducted by the IRC on the review of the system for prevention and handling of potential conflict of interest applicable to the CE, Members of the ExCo and PAOs. It also covers views expressed at the public forum held on 12 April 2012.

General

E.2 A total of 33 written submissions from 25 individuals and 8 organizations have been received. The submissions are available on the IRC website⁹⁷. A total of 9 participants expressed their views verbally at the public forum held on 12 April 2012. The video recording of the forum is available on the IRC website⁹⁸. Views were focused mostly on the CE, though some of the suggestions covered ExCo Members and PAOs as well, and some specific suggestions were made in respect of the latter two categories.

E.3 The views expressed reflected a general consensus that a clean government is a core value of Hong Kong. Many respondents expressed sentiments that the media coverage on CE's alleged acceptance of advantages and hospitality earlier in February 2012 has eroded public confidence in the government, the rule of law and civil service morale. Respondents generally expected holders of the top public offices to display high ethical standards.

E.4 Some respondents considered that all the public office holders concerned should be governed by the same set of standards as rigorous as those applied under the relevant civil service conduct rules. A group of respondents opined that rules for the acceptance of advantages for the relevant public offices should have a statutory status. Some other respondents expressed the view that education about probity and integrity in the public office should be enhanced. A group of respondents suggested that the IRC, in conducting the review, should draw reference from morally upright persons, guidelines of professional bodies, or international conventions.

E.5 A number of respondents were supportive of setting up an independent institution (an independent adviser or a committee) to formulate rules for the prevention and handling of potential conflicts of interests concerning the relevant public offices. Such an institution may also take up the responsibilities of monitoring and advising the public office holders, in particular the CE, on their handling of private interests, and/or investigating into alleged breach of rules on conflicts of interests or acceptance of advantages or entertainment. Suggestions for composition of the institution include: members of the public, ex-CEs, the CJ, or representatives from the Administration, the LegCo and the Judiciary respectively.

Acceptance of Advantages and Entertainment

E.6 Some respondents expressed the view that holders of the public offices should generally be prohibited from accepting any gift. One respondent considered that costs of official overseas visits should in most cases be covered by public funds.

E.7 A group of respondents suggested that acceptance of advantage by family members and relatives of the public office holders should be regulated while another respondent had reservation.

⁹⁷ <http://www.irc.gov.hk/eng/report/report.htm>

⁹⁸ <http://www.irc.gov.hk/eng/report/report.htm>

One respondent raised that officials temporarily acting in the public offices concerned, and by extension their family members, should also be subject to regulation.

E.8 A group of respondents expressed the view that rules should be in place to identify and regulate acceptance of deferred rewards by the public office holders after they have left the Government in connection with benefits that they might have conferred on outside parties during their terms of office.

E.9 One respondent considered that acceptance of entertainment by public office holders should generally be permitted but it should be recorded and reciprocated.

Declarations of Interests and Investments

E.10 One respondent expressed the view that the public's right to know about the private interests held by public office holders should prevail over their privacy; and the financial positions of the public office holders, their spouses and immediate family members should be readily disclosed to facilitate public scrutiny. Another respondent suggested that personal debts, obligations or other liabilities of the public office holders, as well as relief thereof, should also be disclosed for public scrutiny.

The Chief Executive

E.11 A majority of the public views focused on the system applicable to the office of the CE. The respondents generally recognized the need to strengthen or enhance the current regulatory system for the CE. One respondent remarked that self-discipline of the CE is an indispensable element to an effective system while some suggested explicit rules to be made for the CE. Many respondents agreed that the CE should be subject to higher or no less rigorous standards as the persons he leads, such as PAOs or the Civil Service.

E.12 One respondent suggested imposing a ceiling (to be determined with regard to the CE's remuneration) on the CE's assets during and after a certain period of his term of office, and forfeiting the excess to the Treasury.

Acceptance of Advantages and Entertainment

E.13 A number of respondents proposed that relevant provisions applicable to public servants, especially section 3 and section 8 under the POBO, should be extended to cover the office of the CE. Regarding the *modus operandi* for the CE to accept advantages, views were divergent and can be categorized into three main types –

- (a) permissions to accept advantages by the CE should be considered by a retired judge of the Court of Final Appeal (CFA), the ExCo Convener, or the Secretary for Justice;
- (b) in case of doubt, the CE should consult the CJ, ExCo and/or the ICAC before accepting the advantages; or
- (c) acceptance of advantages by the CE should be reported to the CJ for record.

E.14 One respondent suggested that all gifts accepted by the CE in his official capacity should be deposited with and disposed of by the Government. One respondent considered that the CE should not act as patron of any social club, as this would create a convenient avenue for the acceptance of advantages.

E.15 On overseas visits, one respondent expressed the view that overseas visits (including

transportation and entertainment costs) by the CE should be declared to and approved by ExCo, while another respondent held the view that detailed information about the CE's official overseas visits should be publicly declared. One respondent suggested that the CE should not be allowed to extend official overseas visits for personal purposes.

E.16 On entertainment, one respondent proposed that a committee formed by a High Court judge, a retired senior official, and an independent community member should devise rules to regulate acceptance of entertainment by the CE. One respondent expressed the view that the CE should avoid accepting excessive entertainment which may bring the Government into disrepute or give rise to actual or potential conflicts of interests. The CE should also avoid involvement in inappropriate social occasions. Another respondent suggested that acceptance of entertainment by the CE should be published for public scrutiny.

Declaration of Interests and Investments

E.17 One respondent considered that the current register of gifts by the CE should be beefed up with more details of each gift. Another group of respondents went further in proposing that all advantages accepted by the CE should be declared, including identities of the donor, descriptions of the advantages and the estimated values. One respondent specifically proposed that gifts received in personal capacity by the CE should also be declared.

E.18 One respondent suggested that the CE should report any case of potential conflicts of interests to the CJ and such information may be made available for further examination when necessary. Another respondent requested that the CE's declaration of assets to CJ on assuming office should be made public.

Executive Council Members

E.19 One respondent proposed that Non-Official ExCo Members should also be subject to the PAO Code in respect of prevention of conflict of interest, given the level of their unfettered access to sensitive information being similar to PAOs. Another respondent pointed out that for declaration of shareholding in companies, the threshold for declaration should not be a proportion of the issued share capital held (currently shareholdings of a nominal value more than 1% of the issued share capital), but should instead be a proportion of the Member's personal assets, on the basis of the argument that the higher the shareholding as a proportion of the Member's assets, the greater the likelihood for a conflict of interests to arise.

Politically Appointed Officials

E.20 One respondent remarked that while PAOs are subject to the POBO and the AAN, the relevant provisions under the AAN should be incorporated into the PAO Code for consistency.

Other Views

E.21 There were certain views expressed that do not fall within the terms of references of the IRC. A number of respondents requested the IRC to investigate into the allegations about the incumbent CE's acceptance of advantages.

E.22 One respondent requested that the IRC should also look into the regulatory systems for the LegCo Members and the officials of the Central People's Government in Hong Kong. Another respondent opined that the rules applicable in the Civil Service should not be further tightened.

E.23 A group of respondents expressed view in relation to the LegCo procedures to impeach the CE, some of which stressed that caution should be exercised while other urged impeachment procedure should be initiated against the CE.

E.24 One respondent proposed that the ICAC should be accountable to the LegCo instead of the CE to ensure its independence; while another respondent suggested that the Commissioner of ICAC should be barred from returning to public office after end of his term.

E.25 A respondent raised that the CE's acceptance of private passage and subsequent reimbursement may constitute illicit transport services.

E.26 A group of respondents considered that public office holders should avoid accepting advantages from the tobacco industry and they should disclose and divest any commercial interest with the tobacco industry. A respondent raised concern about the Mandatory Provident Fund Scheme Trustees' investments in certain business they considered unethical, including the tobacco industry.

List of Public Submissions

E.27 The written submissions received by the IRC are listed as follows. Respondents who requested to remain anonymous are also not identified. (Listed according to alphabetical order and the number of strokes of Chinese character.)

Organizations

Serial no.	Submitted by
O001	Clear the Air
O002	LegCo Panel on Constitutional Affairs ⁹⁹
O003	School of Nursing, Li Ka Shing Faculty of Medicine, the University of Hong Kong The Jockey Club School of Public Health and Primary Care, Faculty of Medicine, the Chinese University of Hong Kong School of Public Health, Li Ka Shing Faculty of Medicine, the University of Hong Kong Hong Kong Council on Smoking and Health Asian Consultancy on Tobacco Control Dr Homer W.K. Tso, SBS, BBS, JP, DDS, Honorary Consultant, Department of Health, HKSAR
O004	Democratic Party
O005	南方民主同盟
O006	Hong Kong Chinese Civil Servants' Association
O007	Hong Kong Food and Environmental Hygiene Supervisory Staffs Union
O008	New People's Party

⁹⁹ At the meeting of the LegCo Panel on Constitutional Affairs on 16 April 2012, Members expressed various views and suggestions on the subject under review by the IRC. On the instruction of the Chairman of the Panel, the LegCo Secretariat referred the verbatim transcript of the relevant item at the meeting to the IRC for its consideration.

Individuals

Serial no.	Submitted by
I001	Loretta CHAN
I002	Norman CHEUNG
I003	Dennis FREWIN
I004	Gregory KO
I005	Jennifer LIU
I006	LOK Kung-Nam, Peter
I007	Elvis W.K. LUK
I008	SC MAK
I009	NG CW
I010	Mike ROWSE
I011	何宗盛
I012	林超英
I013	胡進翔
I014	曾一喬
I015	馮思明、曲波際、劉建成
I016	溫醒堂
I017	蕭勵川
I018	<i>Anonymous</i> ¹⁰⁰
I019	[Respondent requested to remain anonymous]
I020	[Respondent requested to remain anonymous]
I021	[Respondent requested to remain anonymous]
I022	[Respondent requested to remain anonymous]
I023	[Respondent requested to remain anonymous]
I024	[Respondent requested to remain anonymous]
I025	[Respondent requested to remain anonymous]

¹⁰⁰ This submission was made by a member of the public to the President of LegCo and referred to the IRC by the LegCo Secretariat with the writer's identity concealed.