

20090409 Comment on “ Review of Post Service Outside Work for Directorate Civil Servants”

1. Optimum use of societal resources should be set as the objective of management of post service outside work for all civil servants including those at the directorate ranks. Minimum standards should be set on the remaining aspects of public interests such as those elaborately discussed in the consultation document. Subject to these constraints and the above optimizing objective, the civil service employment contract and the individual's rights and interests are the additional constraints to be observed in management action. This systematic formulation of the issue provides the rational basis to obtain a unique solution in all circumstances. Only such a management system with the objective and constraints clearly stated as above can avoid ambiguity and inconsistency. Societal resources include not only human resources but also all other resources.
2. The management system has to be implemented with both control and facilitation. This 2-prong approach is the only way to satisfy all stakeholders. Many former civil servants are keen to continue contributing to the society. As the mandatory retirement age of 60 is far lower than the normal life expectancy, it is a waste of resources not to utilize their experience and expertise from the societal viewpoint. Yet, from the experience of the HKFSCA of organizing community projects, the most difficulty part is to find the suitable theme and topical area. We advocate the Government to identify and promulgate from time to time certain specific working areas in which the experience of former civil servants are most needed from the government's policy planning and implementation. This information will help achieve the most fruitful engagement of retirees from the societal viewpoint as well meeting the aspirations of retired civil servants. Government can further promote this cause by promulgating guidelines to encourage and facilitate former civil servants to participate in these works. The works may be voluntary or at partial market pay, depending on the individual's needs. The important point is that the proposed arrangement of assisting the continued engagement of retirees should help achieve positive contribution to the continual social and economic development of Hong Kong.
3. While facilitation obviously cannot replace control, the use of control alone is unsatisfactory. Control alone inevitably leads to adversity among the stakeholders. Conflict can be avoided by the proposed dual-prong system. We do not subscribe to the common statement that a “balance” has to be found between public interest and private interest or the individual's right to employment. Public interests must not be compromised.

4. The 2-prong approach is also the only practical way to avoid excessive regulations. Control rules can never be perfect. As new regulations are added to address newly experienced problems, the ever increasing volume of regulations will become unwieldy and eventually become effectively incomprehensible to civil servants. Facilitating retired civil servants to move into the desired areas of employment whether with full or partial market pay or as voluntary work will minimize unnecessary control measures.

5. Before the proposed 2-prong system is installed, current rules need to be revamped to remove inconsistency and imprecision. All known problems of post service employment of certain directorate civil servants are caused by the lack of consistency and lack of precision in the control rules. The principles of control as elaborately explained in the consultation document are obviously sensible and are not known to be disputed by the public or the current or former civil servants. Nor are the 3P's of the control mechanisms the critical issues. The current control rules must be refined to remove internal inconsistency and to clarify the precedence of different aspects of public and individual interests in case of conflict. This is the critical issue. Applying different rules that are not supportive of the same objective or allowing different emphasis in the exercising of discretion in interpreting imprecise rules has resulted in problems that undermine the credibility of the rules and the credibility of the government's control. HKFSCA has mentioned examples of specific problem cases. Para 5.63(b) of the consultation document provides an example of internal inconsistency and imprecision of the current rules. Appendix E lists 16 public institutions with which full time employment may entail suspension of pension payment. However, this condition does not apply if a former civil servant is employed full time by other effectively similar public institutions e.g. MTRC or KCRC. Further, there are known cases where different former civil servants employed by the listed institutions are given different treatments on payment of pension. Government should thoroughly review the current control rules. Only the government has access to the wealth of past cases of inconsistency and has the resources to investigate the ways and means to refine these rules.

6. Finally, the ultimate solution to the controversy over post service employment of former civil servants must lie in education with a view to changing the social system. We not only need to strengthen ethical education, but also more importantly to change the values to reduce the undue emphasis on wealth.

Dr. Choi Yu-leuk