

Dear Mr Arculli,

Public Consultation on Review of Post-service outside Work

For Directorate Civil Servants

I give below our Association's views on the nine salient issues in the consultation document:

Issue 1: Should protecting the public interest and protecting an individual's right continue to be recognized as the two underlying principles of the control regime?

While it is the public concern in protecting the public interest, we cannot deny that the right to work and freedom of choice of occupation is a human right. Ignoring the human right will be subject to legal challenge. We are therefore in favour of continuing to recognize protecting the public interest and protecting an individual's right as the two underlying principles of the control regime.

Issue 2: Is the current policy objective appropriate? What is the view on including the following specific references in the policy objective –

- (a) avoidance of suspicion or perception of 'deferred reward' for past favour done during government service?**
- (b) gainful use of limited human resources and attractiveness of the civil service as a career?**

The current policy objective is appropriate. We view that including “avoidance of suspicion or perception of ‘deferred reward’ for past favour done during government service” would make the policy objective even better. Although it cannot completely eliminate the public’s suspicion or perception of ‘deferred reward’ for past favour done during government service, it can at least mitigate the public concern. We also view that “gainful use of limited human resources and attractiveness of the civil service as a career” should not be included in the current policy objective because the issue carries comparatively less weight. The inclusion of it in the policy objective will make the process of applications more complicated.

Issue 3: Is the current length of ‘periods of restriction’ for post-service outside work appropriate? What is the view on –

- (a) a lifetime ban on any paid employment or paid employment with commercial organizations for retired civil servants in receipt of monthly pension payments?**
- (b) the length of ‘period of restriction’ for former directorate civil servants engaged in specified fields of work while in government service?**
- (c) The length of ‘periods of restrictions’ for post-service outside work in the same field as that pursued by a former directorate civil servant before leaving government service?**

The existing length of ‘periods of restriction’ for post-service outside work is appropriate.

A life ban on any paid employment or paid employment with commercial organizations for retired civil servants in receipt of monthly pension payments will deter professional people from joining the civil service because of the unreasonable restriction and short span of working life. The calculation of monthly pension payment is based on the retired civil servant’s length of civil service so it is very clear that the payment is earned by retired civil servants through his past service. It is unfair to prohibit him from taking up a paid employment because of receiving a pension.

We are not in favour of setting longer ‘period of restrictions’ for specified field of work while in government service. The existing policy is in broad terms. It is difficult to include all fields of work which may arouse public interest in the policy. The specified field of work list is vulnerable from being challenged and it may not be intensive enough.

We are also not in favour of setting longer ‘period of restrictions’ for post-service outside work in the same field as that pursued by a former directorate civil servant before leaving government service as it will bar the professionals like doctors, lawyers, architects and engineers, etc. from making more contribution of their professional knowledge to the community and continuing their

careers.

Issue 4: Should the past contact/dealings of a former directorate civil servant with the prospective employer's parent and/or other related companies during his last few years of government service be disclosed and assessed for the purpose of conflict of interest, irrespective of whether the former directorate civil servant, in his applied-for post-service work, will be involved in the business of these entities?

We are in favour of broadening the disclosure and assessment to cover the past contacts/dealings of a former directorate civil servant during his last few years of government service with the prospective employer's parent and/or subsidiary companies. It will give the application processing officer a better picture on any public interest involved and it will help to avoid suspicion or perception of 'deferred reward'.

Issue 5: Is the current imposition of work restrictions on approved taken-up outside work appropriate? Can the imposition of work restrictions address and mitigate public concern over potential or perceived conflict of interest?

The current imposition of work restrictions on approved taken-up outside work is in our views good enough to minimize the public concern over potential or perceived conflict of interest. With the introduction of "avoidance of suspicion or perception of 'deferred reward' for past favour done during government service" in the policy objective and to broaden the disclosure and assessment to cover the past contacts/dealings of a former directorate civil servant during his last few years of government service with the prospective employer's parent and/or subsidiary companies, the public concern over potential or perceived conflict of interest will be mitigated.

Issue 6: Should there be any change to the composition of and/or institutional support for the Advisory Committee on Post-service Employment of Civil Servants?

To include a retired civil servant in the Advisory Committee will make the composition of the Committee seen more balance and better covering on individual right. To be seen fair and unbiased, an independent secretariat should be established to serve the Advisory Committee or to be shared with other independent advisory committees.

Issue 7: Should there be any change to the pension suspension arrangement for post-service employment in specified subvented organizations by retired civil servants?

As I have mentioned in Issue 3 above, monthly pension payment is calculated according to the retired civil servant's length of civil service. It can be interpreted as part of his salary for the past service. To suspend his pension because of taking up a paid employment with the 16 specified subvented organizations is unfair. The argument of enjoying double benefit from public fund cannot be established since the disparity is existing for those retired civil servants working in other subvented organizations.

Issue8: Are the sanctions provided under the current control regime adequate?

The sanctions provided under the current control regime are adequate as there are provisions in other general laws covering unauthorized disclosure of official information.

Issue 9: Is the current public disclosure arrangement appropriate? What is the view on –

(a) disclosing the post-service outside work taken up by former junior directorate civil servants as well?

(b) disclosing the advice of Advisory Committee on Post-service Employment of Civil Servants on each of the post-service appointments taken up by former directorate civil servants?

The current public disclosure arrangement is appropriate.

Regarding disclosing the post-service outside work taken up by former junior directorate civil servants and the advice of Advisory Committee on Post-service Employment of Civil Servants on each of the post-service appointments taken up by former directorate civil servants, we view that they should not be disclosed as a matter of routine. As long as we have provision to disclose the details in the event of public interest, it should have met the demand of the public. The secretarial work involved in publishing those information will be voluminous and it is not worthwhile to spend so many efforts to satisfy only a minority.

Conclusion

In giving our views, we bear in our minds to strike the right balance between protecting the public interest and protecting the human right to work, to make the application process appears to

be more impartial and to publicize only the public interested information. However, no matter how meticulous the policy is designed, it depends very much on the processing officers to exercise their wits and foresight in making a well balanced decision.