

CODE FOR OFFICIALS UNDER THE POLITICAL APPOINTMENT SYSTEM

(With effect from 1 July 2012)

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CHAPTER 1: INTRODUCTION

1.1 In this Code, unless the context otherwise requires,

“politically appointed officials” (“PAOs”) means:

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

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

“under secretaries” means Deputy Directors of Bureau.

“political assistants” means Political Assistants to the POs.

This Code applies to the PAOs.

Where this Code confers powers or imposes duties upon the Chief Executive (CE), he may delegate a PO, the DCEO or Permanent Secretary of the CE’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 CE, the person so delegated shall have and may exercise such powers and perform such duties.

1.2 POs 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 PAOs shall follow in the performance of their duties include the following:

- (1) PAOs shall be dedicated to their duties and be responsible to the Government of the HKSAR.

- (2) PAOs shall uphold the rule of law, abide by the law, and protect the integrity of public office.
- (3) PAOs shall act in the best interests of the HKSAR as a whole.
- (4) PAOs 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) PAOs shall observe the highest standards of personal conduct and integrity at all times.
- (6) PAOs shall ensure that no actual or potential conflict arises between their public duties and their private interests.
- (7) PAOs shall at all times actively uphold and promote a permanent, honest, meritocratic, professional and politically neutral civil service.
- (8) PAOs shall not use any public resources for non-government purposes (including purposes relating to any political party).
- (9) PAOs 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 PAOs. Rather, it provides rules and principles for appropriate conduct under certain circumstances. Where the circumstances are not prescribed, it is the responsibility of PAOs 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 CE.

1.5 This Code shall be read in conjunction with legislation applicable to PAOs. 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 2: RESPONSIBILITIES

- 2.1 PAOs shall devote the whole of their time and attention to the discharge of their duties as PAOs of the Government, and shall use their best endeavours to promote the interests of the Government.
- 2.2 POs are responsible for their respective portfolios designated to them by the CE and lead the executive departments within their respective portfolios. POs are responsible for formulating, explaining and defending government policies as well as canvassing support from the public and the Legislative Council. They are accountable to the CE for the success or failure of their policies.
- 2.3 The DCEO is tasked with the responsibility of working with POs in policy formulation and setting policy priorities to ensure full implementation of the CE's policies and decisions, enhancing communication with the Executive Council and the Legislative Council, and liaising with political parties and groups as well as various sectors of the community and district personalities. He is also responsible for overseeing the operation of the CE's Office.
- 2.4 Under secretaries are responsible principally for assisting Directors of Bureau in undertaking the full range of political work, and are subordinates of the Directors of Bureau and work under the latter's direction. They will deputise for the relevant Directors of Bureau during the latter's temporary absence, attend meetings of the Legislative Council, its committees, subcommittees and panels and speak on behalf of the Government.
- 2.5 Political assistants are responsible for assisting POs in conducting liaison and lobbying, including undertaking public engagement at district level, gauging views from the community on issues of concern, and explaining government policies to the public.

- 2.6 PAOs shall be bound by and collectively responsible for the decisions taken by the CE in Council.
- 2.7 POs shall note that they may be directed as necessary by the CE, during the temporary absence of other POs, to exercise the powers or perform the duties of the absent POs, including the duty to attend meetings of the Legislative Council, its committees, subcommittees and panels and to speak on behalf of the Government.
- 2.8 PAOs shall note that given the special role and responsibility of the positions of the Secretary for Justice and Secretary for the Civil Service, special arrangements are made during their temporary absence. During the temporary absence of the Secretary for Justice, relevant Law Officers will exercise the powers and perform the duties of the Secretary for Justice, including the duty to attend meetings of the Legislative Council, its committees, subcommittees and panels and to speak on behalf of the Government. During the temporary absence of the Secretary for the Civil Service, the Permanent Secretary in the Civil Service Bureau will exercise the powers and perform the duties of the Secretary for the Civil Service, including the duty to attend meetings of the Legislative Council, its committees, subcommittees and panels and to speak on behalf of the Government.
- 2.9 PAOs shall note that they are expected to attend meetings of the Legislative Council, its committees, subcommittees or panels.

Responsibility in relation to the Legislative Council

- 2.10 PAOs shall note that under Article 64 of the Basic Law, the Government must abide by the law and be accountable to the Legislative Council: it shall implement laws passed by the Legislative Council and already in force; it shall present regular policy addresses to the Legislative Council; it shall answer questions raised by members of the Legislative Council; and it shall obtain approval from the Legislative Council for taxation

and public expenditure.

- 2.11 PAOs will be designated under Article 62(6) of the Basic Law to attend meetings of the Legislative Council, its committees, subcommittees and panels, as appropriate, and to speak on behalf of the Government. The immunities and privileges provided for in sections 3, 4, 5 and 6(2) of the Legislative Council (Powers and Privileges) Ordinance (Chapter 382 of the Laws of Hong Kong) are extended to these officials when they attend meetings of the Legislative Council, its committees, subcommittees and panels.
- 2.12 POs and under secretaries have a duty to represent the Government and to transact business at meetings of the Legislative Council, and as necessary its committees, subcommittees and panels, e.g. to introduce bills or motions, address the Legislative Council, present papers, make statements, answer questions and take part in debates in respect of matters relating to their respective portfolios.
- 2.13 POs and under secretaries shall endeavour to ensure that they would be available to attend meetings of the Legislative Council when matters relating to their respective portfolios are discussed.
- 2.14 PAOs shall give accurate and truthful information to the Legislative Council and correct any error at the earliest opportunity.

Responsibility in relation to civil servants

- 2.15 PAOs shall at all times actively uphold and promote a permanent, honest, meritocratic, professional and politically neutral civil service. In particular, PAOs shall actively uphold and promote the core values of the civil service:
- (a) commitment to the rule of law;
 - (b) honesty and integrity;

- (c) accountability for decisions and actions;
- (d) political neutrality;
- (e) impartiality in the execution of public functions; and
- (f) dedication, professionalism and diligence in serving the community.

2.16 PAOs shall note that civil servants shall report direct, and enjoy direct access, to the POs, or DCEO (in the case of civil servants working in the CE's Office), through their Permanent Secretaries, and that under secretaries and political assistants shall have no direct line of command vis-à-vis Permanent Secretaries. PAOs in their dealings with civil servants shall have due regard to the Civil Service Code which sets out the framework within which civil servants are expected to work with PAOs.

2.17 PAOs shall give fair consideration and due weight to honest, informed and impartial advice from civil servants and shall have due regard to Government Regulations which are applicable to civil servants or otherwise regulate the operation of the Government.

2.18 PAOs shall not require or influence civil servants directly or indirectly to act in any way which:

- (a) is illegal, improper or in conflict with the core values of the civil service;
- (b) is in breach of any Government Regulations including Civil Service Regulations;
- (c) may involve possible maladministration;
- (d) would conflict with their role as civil servants; or
- (e) would conflict with the principle of political neutrality.

- 2.19 PAOs shall note that the Secretary for the Civil Service is responsible to the CE for civil service policy and the management of the civil service. PAOs shall also note that one of the major tasks of the Secretary for the Civil Service is to safeguard the core values of the civil service.
- 2.20 PAOs shall note that civil servants are appointed, managed and promoted on the basis of merit and in accordance with the principles of openness and fairness and with the prevailing rules and regulations applicable to the civil service.
- 2.21 PAOs shall note that civil servants are subject to the prevailing civil service disciplinary system, under which allegations of misconduct against individual civil servants are determined through an impartial process based on consideration of factual evidence.
- 2.22 PAOs shall note the independent role of the Public Service Commission in advising the Government on the appointment, promotion and discipline of civil servants.
- 2.23 PAOs shall cooperate fully with the Secretary for the Civil Service to follow up on complaints from civil servants that they have been asked to act in a manner which conflicts with their role as civil servants or with the core values of the civil service.

The role of the Controlling Officer

- 2.24 PAOs shall note that, subject to the regulations made and directions or instructions given by the Financial Secretary, controlling officers designated under the Public Finance Ordinance (Chapter 2 of the Laws of Hong Kong) are responsible and accountable for all expenditure of the bureaux and departments falling within their purview.
- 2.25 PAOs shall note that controlling officers are required to obey all regulations made and directions or instructions given by the

Financial Secretary for the safety, economy and advantage of public moneys and Government property. PAOs have a duty to give fair consideration and due weight to honest, informed and impartial advice from the controlling officers.

CHAPTER 3: OFFICIAL SECRETS AND SECURITY

- 3.1. PAOs 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. PAOs, 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. PAOs 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, PAOs 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. PAOs 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. PAOs 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 CE. The relevant provisions of the Official Secrets Ordinance continue to apply to PAOs after they have stepped down from office.

Evidence in court

- 3.7. PAOs 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 PAO 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 PAO concerned shall seek advice from the Secretary for Justice in all such cases.

CHAPTER 4: INVOLVEMENT IN POLITICAL ACTIVITIES

- 4.1 PAOs shall note that as prescribed public officers defined in the CE Election Ordinance (Chapter 569 of the Laws of Hong Kong), the Legislative Council Ordinance (Chapter 542 of the Laws of Hong Kong) and District Councils Ordinance (Chapter 547 of the Laws of Hong Kong), they are disqualified from being nominated as a candidate at an election of the CE, of the Legislative Council or of a District Council. They are also disqualified from being elected as an elected member of the Legislative Council or a District Council.
- 4.2 PAOs shall declare to the CE whether they are in any way affiliated with any political party, whether they are members of any political party and whether they hold any office in any political party. They shall declare to the CE if there is any change in their status in relation to any political party. The declaration shall be made available on the website of the bureau/office served by the official concerned for public inspection.
- 4.3 For the purposes of this Code, “political party” has the same meaning as that provided for under section 31(2) of the Chief Executive Election Ordinance (Chapter 569 of the Laws of Hong Kong).
- 4.4 PAOs shall note that while their freedom of association is protected by law, they are required to ensure that when taking part in activities organised by political parties, they shall observe the following rules and principles:
- (a) no actual or potential conflict of interest with the business of the Government and/or the official duties of the PAOs shall arise in their participation in such activities;
 - (b) the PAO’s participation in such activities shall not cause any embarrassment to the Government, the CE or other PAOs;

(c) since the Government has a prior call at all times on the abilities, energies and attention of PAOs, any activities which may impair the performance of their official duties as PAOs or distract their attention must be avoided; and

(d) PAOs shall not sign or procure signatures to any public petition against the actions or proposals of the Government.

4.5 POs, when considering to become a member of any political party or taking part in activities organised by political parties, shall ensure that no conflict shall arise with their oaths to uphold the Basic Law and their oaths of allegiance to the HKSAR.

4.6 In case of doubt, PAOs shall seek advice from the CE.

CHAPTER 5: PREVENTION OF CONFLICT OF INTEREST

- 5.1. PAOs shall avoid putting themselves in a position where they might arouse any suspicion of dishonesty, unfairness or conflict of interest.
- 5.2. PAOs 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. PAOs shall refrain from handling cases with actual or potential conflict of interest.
- 5.4. PAOs shall report to the CE 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, PAOs shall not, without the consent in writing of the CE, 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 CE 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 PAO may retain or accept honorary posts in non-profit making organisations or charitable bodies. Such information shall be made available on the website of the bureau/office served by the official concerned for public inspection. 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 CE or other PAOs of the Government.
- 5.6. Where any PAO has withdrawn from the decision-making process in relation to any matter due to conflict of interest, this

fact should be stated as and when the decision concerning that matter is publicly announced by the Government, identifying the PAO in question and the nature of the interest involved.

Declaration and handling of investments/interests

- 5.7. Given that the PAOs may 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 shall be made in the prescribed form and made available on the websites of the respective offices/bureaux for public inspection.
- 5.8. If it appears to the CE at any time that there is or may be a conflict of interest between a PAO's investments or interests and his official duties, the CE 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 further 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 CE.

Acceptance of advantages

- 5.9. PAOs 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) ("POBO") and the Independent Commission Against

Corruption Ordinance (Chapter 204 of the Laws of Hong Kong) (“ICACO”), including in particular:

- (a) section 2(2) of the POBO: A person solicits an advantage¹ if he, or any other person acting on his behalf, directly or indirectly demands, invites, asks for or indicates willingness to receive, any advantage, whether for himself or for any other person; and a person accepts an advantage if he, or any other person acting on his behalf, directly or indirectly takes, receives or obtains, or agrees to take, receive or obtain any advantage, whether for himself or for any other person;
- (b) section 3 of the POBO: it is an offence for a prescribed officer to solicit or accept any advantage without the CE’s general or special permission;
- (c) section 4 of the POBO: it is an offence for a public servant to solicit or accept any advantage in Hong Kong or elsewhere as an inducement to or reward for or otherwise on account of his performing or abstaining from performing any act in his capacity as a public servant; and
- (d) section 10 of the POBO: it is an offence for a prescribed officer to maintain a standard of living not commensurate

¹ Under the POBO, “advantage” means:

- (a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or of other property or interest in property of any description;
- (b) any office, employment or contract;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (d) any other service, or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
- (e) the exercise or forbearance from the exercise of any right or any power or duty; and
- (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of any of the preceding paragraphs (a), (b), (c), (d) and (e), but does not include an election donation within the meaning of the Elections (Corrupt and Illegal Conduct) Ordinance (Chapter 554 of the Laws of Hong Kong), particulars of which are included in an election return in accordance with that Ordinance.

with, or to be in control of pecuniary resources or property disproportionate to, his official emoluments in the absence of a satisfactory explanation being made to the court.

- 5.10. In this Chapter, the meaning of “advantage” is the same as that defined under the POBO.
- 5.11. Sponsored visits in official capacity are separately dealt with in paragraphs 5.18-5.19.
- 5.12. In circumstances other than those for which general permission² has been given, PAOs are required to seek special permission³ from the CE to solicit or accept advantages.
- 5.13. In deciding whether to accept any advantage, apart from observing the relevant legal provisions, the PAO shall consider whether, having regard to matters such as the frequent or excessive nature of the advantage, the relationship between the official and the offeror, and the character or reputation of the offeror, acceptance of the advantage by the PAO is likely:
- (a) to lead to a conflict of interest with the PAO’s official duties;
 - (b) to place the PAO in a position of obligation to the offeror or under any improper obligation;
 - (c) to compromise the judgment of the PAO or to lead to a reasonable perception of such compromise;
 - (d) to lead to embarrassment of the PAO or the Government; or
 - (e) to bring the PAO or the Government into disrepute bearing in

² “general permission” means general permission given by the CE for the purpose of section 3 of the POBO, which includes those given under the Acceptance of Advantages (Chief Executive’s Permission) Notice and others given by the CE for PAOs to solicit or accept advantages under prescribed circumstances.

³ “special permission” means special permission given by the CE for the purpose of section 3 of the POBO for PAOs to solicit or accept any advantages in circumstances other than those covered by general permissions given by the CE.

mind public perception.

- 5.14. When in doubt, the PAO shall seek guidance from the CE on the acceptance of any advantage, irrespective of whether special permission is required.
- 5.15. Any advantage received by a PAO or his spouse from any organization, person or government (other than the HKSAR Government) which in any way relates to his office as PAO, i.e. in his official capacity, belongs to the Government, unless general or special permission is given for the PAO to accept or retain the advantage personally.
- 5.16. PAOs should also note that they may be liable to disciplinary action as set out in paragraph 7.9 below if they solicit or accept any advantage (even one permitted under the Acceptance of Advantages (Chief Executive's Permission) Notice if this has led, or could have led, to an actual or perceived conflict between their private interests and their official duties or position, or if this brings the Government into disrepute.
- 5.17. A PAO shall exercise his best endeavours to ensure that his spouse and/or dependent children do not accept any advantage where it is likely to lead to the PAO being placed in a position referred to in the guidelines set out in this Chapter for the acceptance of advantages.

Sponsored visits

- 5.18. A PAO may receive an invitation from a government outside Hong Kong / an outside organization 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 CE.
- 5.19. The spouse of a PAO may also be invited to join the visit. If the official wishes to accept a sponsored visit for his spouse, he shall seek permission from the CE.

PAO register of advantages

5.20. PAOs are required to keep a register of advantages (in a prescribed form), covering:

(a) all advantages of an estimated value of over \$400 received by a PAO or his spouse in official capacity, indicating:

(i) that they are not accepted or retained personally by the PAO or his spouse and thus belong to and would be dealt with or disposed of by the Government; or

(ii) that they are accepted or retained personally by the PAO or his spouse in accordance with any general or special permission given by the CE, indicating their estimated values.

(b) all advantages received by a PAO in his private capacity and accepted in accordance with any special permission given by the CE indicating their estimated values.

5.21. The register shall be made available on the website of the bureau/office served by the official concerned for public inspection.

Acceptance of entertainment

5.22. In this Chapter, the meaning of “entertainment” is the same as that defined under the POBO⁴. Examples include free food, drink and related show etc.

5.23. In deciding on the acceptance of entertainment, the PAO shall consider whether, having regard to matters such as the lavish or excessive nature of the entertainment, the relationship between the official and his host, and the character or reputation of his host or known attendees, attendance by the PAO is likely:

⁴ Under the POBO, “entertainment” means the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provisions.

- (a) to lead to a conflict of interest with the PAO's official duties;
- (b) to place the PAO in a position of obligation to the host or under any improper obligation;
- (c) to compromise the judgment of the PAO or to lead to a reasonable perception of such compromise;
- (d) to lead to embarrassment of the PAO or the Government; or
- (e) to bring the PAO or the Government into disrepute bearing in mind public perception.

5.24. When in doubt, the PAO shall seek guidance from the CE on the acceptance of any entertainment.

5.25. A PAO shall exercise his best endeavours to ensure that his spouse and/or dependent children do not accept any entertainment where it is likely to lead to the PAO being placed in a position referred to in the guidelines set out in this Chapter for the acceptance of entertainment.

On stepping down from office

5.26. Within one year after stepping down from office, PAOs shall seek the advice of the Advisory Committee on Post-office Employment for Former Chief Executives and Politically Appointed Officials 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.

5.27. Within one year after stepping down from office, PAOs shall not represent any person in connection with any claim, action, demand, proceedings, transaction or negotiation against or with the Government.

5.28. Within one year after stepping down from office, PAOs shall not engage in any lobbying activities on matters relating to the Government.

CHAPTER 6: TRAVEL

Travel in Hong Kong

- 6.1 Each PO and the DCEO shall be provided with the free use at his discretion of a car and driver in Hong Kong.
- 6.2 The use of government car by under secretaries and political assistants shall be governed by rules and regulations applicable to civil servants at comparable levels.

Travel outside Hong Kong

- 6.3 When travelling on duty outside Hong Kong, POs and the DCEO shall be eligible to travel on first class at government expense. Where protocol requires the presence of the spouse, their spouses shall also be eligible to travel on first class at government expense.
- 6.4 POs and the DCEO (and their spouses) who are on duty outside Hong Kong shall be granted a subsistence allowance at the same rate and manner as those applicable to civil servants. They are subject to the same rules and regulations in relation to subsistence allowance applicable to civil servants.
- 6.5 The class of travelling on duty outside Hong Kong and the subsistence allowance for under secretaries (and their spouses) and political assistants are subject to the same rules and regulations as those applicable to civil servants at comparable levels.

Use of flight awards from government passages

- 6.6 There is no obligation on PAOs who travel on duty to claim flight awards from airlines. However, if and when such awards are claimed and credited to a PAO's mileage account, the official shall report the awards to his bureau/department to facilitate planning for possible use of the awards for subsequent duty travel.

- 6.7 For flight awards earned from government passages, the first call on the use of such awards shall be for subsequent duty travel.
- 6.8 If an award is not expected to be used for subsequent duty travel before the expiry date of the award, the PAO may seek approval from the CE to use the award for private purposes.

CHAPTER 7: OTHERS

Reporting of criminal offences and attempted bribes

- 7.1. PAOs shall report to the appropriate authority all instances of crime, alleged crime including attempted bribery which they may come across in either their official or personal capacities. The appropriate authority is the Commissioner Against Corruption in the case of offences or alleged offences under the POBO, the ICACO and the Elections (Corrupt and Illegal Conduct) Ordinance (Chapter 554 of the Laws of Hong Kong), and the Commissioner of Police or the relevant law enforcement authority in the case of other criminal offences.
- 7.2. PAOs shall note that they have no discretion in deciding which cases to report.

Legal proceedings

- 7.3. PAOs may institute legal proceedings for defamation in connection with matters arising out of their official duties. But before doing so, they shall notify the CE and seek prior permission from the CE for the use of any government information and the involvement of other officers to give evidence in the legal proceedings. PAOs instituting legal proceedings for defamation shall observe that the proposed legal action shall not bring the Government into disrepute.
- 7.4. When a PAO is served with a writ, or receives a letter threatening civil proceedings in which he or she may be named as a party in relation to any matters arising out of his employment or official duties, he shall immediately inform the CE, the Secretary for Justice and, if the PAO is an under secretary or political assistant, the relevant PO.
- 7.5. When a PAO is involved in any criminal proceedings (whether arising out of his employment or official duties or otherwise), he shall immediately inform the CE, the Secretary for Justice and, if

the PAO is an under secretary or political assistant, the relevant PO.

- 7.6. It is open to a PAO injured by the wrongful act of a third party to institute proceedings against the third party.
- 7.7. In certain circumstances, the Government may provide legal representation to PAOs. Each case will be considered on its merits by the CE but in general, assistance will be provided only if the matter arises out of or in the course of the performance by the PAO of his official duties.
- 7.8. A PAO who has been granted legal assistance and has subsequently been awarded costs is required to refund to the Government all or part of the costs awarded to offset the legal expenses incurred by the Government.

Sanction

- 7.9. In the event of any allegation of breach of duty or the provisions set out in this Code by PAOs, the CE after due process would decide whether the alleged breach is established and if so, the applicable sanctions, including warning, public reprimand, suspension or dismissal, or in the case of POs, recommendation to the Central People's Government for their suspension or dismissal.