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(ACE 57/94)
for decision

Declaration of Direct Personal Interest

Purpose

To provide a formalised set of guidelines on declaration of direct personal interests for adoption by this Council and its Sub-committee.

Background

2. It is an established practice for Government to appoint people who have knowledge and interest in environmental issues in Hong Kong to advise on matters relating to the protection of the environment. Naturally most Members of this council are involved in related trades and professions, and it is therefore inevitable that Members may sometimes have conflicts of interest during the normal conduct of business.

3. There have recently been public concern that government advisory boards and committees should have a more formalised system for declaration of interests. The Independent Commission Against Corruption has thus provided guidelines regarding declaration of direct personal interests by boards and committees.

4. As for this Council, it has been a practice for Members to declare direct personal interests as and when they arise, usually by declaration before or during a meeting when the items discussed are of direct personal interest to Members. Clause 8 of the Rules of Operation adopted by the Subcommittee stipulates that Members should declare their direct personal interest to the Chairman or the Secretary. These declarations will be recorded in the minutes of the meeting.

The Proposal

5. In view of the non-executive nature of this Council and its subcommittee, it is considered that the existing declaration system is adequate, but it would be good practices for the Council to adopt the more detailed guideline as recommended by ICAC. A copy of the recommended set of guidelines is attached (Annex A). It is an honour system for Members to declare any direct personal interests. There will not be any checking on the part of the Administration on the adequacy or completeness of the interests declared.

Consideration

6. The adoption of the recommended guidelines will assist Members to identify potential conflicts of interests that should be declared. Members can express their views more freely after declaration of direct personal interest. Members of the public can be given assurance that the business of the Council is conducted in a fair and impartial manner.

7. It is expected that the adoption of the guidelines would not create any additional burden on Members or the Secretariat, as Members are only required to declare personal interests as and when the need arises. The declaration will be recorded in minutes. The Chairman will decide whether the concerned Members should be allowed to attend the discussion of the item and to vote.

Advice Sought

8. Members are requested to decide:

- (a) whether they agree to adopt the recommended guidelines in Annex A; and
- (b) whether there should be any amendments to the recommended guidelines to suit the nature of this Council.

**Planning, Environment and Lands Branch
October 1994**

Declaration of Interests by Members of Advisory Committees

When a Member of this Committee has a potential conflict of interests in a matter placed before the Committee, he should make full disclosure of his interest. The basic principle to be observed is that Members' advice should be disinterested and impartial and it is the responsibility of each Member to judge and decide if the situation warrants a declaration, and to seek a ruling from the Chairman in case of doubt.

It is impossible to define or describe all the situations that would call for such a declaration, because each individual case differs, and because of the difficulty of catering for unusual and unforeseen circumstances. On the other hand, it is not intended that a member should make a declaration of interest simply because the Committee is considering a matter in which he has knowledge or experience. The following may assist Members to identify potential conflicts of interest :

- Pecuniary interests in a matter under consideration by the Committee, held either by the Member or by any close relative of his, should be declared. Members are themselves the best judge to who, in the particular circumstances, is a "close relative".
- A directorship, partnership, advisory or client relationship, employment or other significant connection with a company, firm, club, association, union or other organisation which is connected with, or the subject of, a matter under consideration by the Committee, should be declared.
- Similarly, some friendships might be so close as to warrant declaration in order to avoid situations where an objective observer might believe a Member's advice to have been influenced by the closeness of the association.
- A Member who, as a barrister, solicitor, accountant or other professional adviser, has personally or as a member of a company, advised or represented or had frequent dealings with any person or body connected with a matter under consideration by the Committee, should make a declaration.
- Any interest likely to lead an objective observer to believe that the Member's advice might have been motivated by personal interest rather than a duty to give impartial advice, should be declared.

Declarations of interest may be made verbally during a Committee meeting or in writing to the Chairman or Secretary before the meeting. However, should a Member form the view that a conflict of interest renders it impossible for him to proffer impartial advice, or that he has been given access to information which he ought not to have, he should notify the Secretary or Chairman immediately and/or return any Committee paper concerned. The Chairman will then decide on the matter.