

Legislative Council Panel on Education

Regulation of Private Schools Offering Non-formal Curriculum

PURPOSE

This paper briefs Members on the measures which the Education Department proposes to adopt to regulate the operation of private schools offering non-formal curriculum (PSNFCs).

BACKGROUND

2. The Education Department (ED) is responsible for enforcing the Education Ordinance (Cap.279) which regulates the operation of “schools” (see NOTE). Institutions offering a full school curriculum such as kindergartens, primary schools and secondary schools as well as those offering non-formal curriculum that fall within the definition of a “school” under the Ordinance are required to comply with the relevant requirements of the Ordinance.

3. In this context, schools offering educational courses such as tutorial, commercial, computer, language courses and courses for repeaters are all categorised as PSNFCs. At present, the number of these schools is about 1360(730 day schools and 630 evening schools), of which schools providing homework supervision for primary school pupils account for over 60% and 40% for day and evening schools respectively.

SCOPE OF CONTROL

4. One of the primary objectives of ED is to ensure the delivery of quality education for our students. Given limited manpower resources, ED’s priority must be to deploy sufficient manpower to support the mainstream schools. This is all the more important if the current education reform is to succeed. Against this background and having regard to the fact that PSNFCs constitute an optional rather than mandatory private educational service, ED’s main role should be to ensure that

Note: Under Section 3 of the Education Ordinance (Cap. 279), “school “ is defined as an institution, organization or establishment which provides for twenty or more persons during any one day or eight or more persons at any one time, any nursery, kindergarten, primary, secondary or post-secondary education or any other education course by any means, including correspondence delivered by hand or through the postal services.

these institutions comply with the safety, hygiene and accommodation requirements, teachers' qualifications, and collection of fees under the Education Ordinance. In other words, ED should perform a basic regulatory role and must avoid over-regulating. As the private education sector plays a useful role in the provision of education service, over-regulation would only stifle its development. There is therefore a need to keep a proper balance on "regulation" and allow the market mechanism to operate in this sphere.

5. Accordingly, the role and responsibilities of ED in the supervision and regulation of PSNFCs are:

- (a) to scrutinize and approve applications for the registration of the schools, managers and teachers; and
- (b) to handle complaints about the contravention of the Education Ordinance and to take prosecution action, if necessary.

MEASURES TO TIGHTEN CONTROL AND ENHANCE TRANSPARENCY

6. On 18 June 2001, Members were briefed on measures taken by ED to tighten control of PSNFCs. ED now proposes to adopt a package of new measures to deter malpractices of PSNFCs and to reduce the impact of financial loss on students upon the sudden closures and bankruptcies of these institutions. Specifically, ED will step up control through the schools' self-reporting on essential information, increase the transparency on the performance and operating standard of PSNFCs, reinforce consumer education and introduce consumer protection measures.

A. Self-reporting

7. PSNFCs will be required to self-report school information to ED according to regulation 94 of the Education Regulations with effect from April 2002. The self-reporting seeks to regularly remind schools of the need to comply with the safety requirements and to observe the Education Ordinance/Regulations.

(a) Reporting on Safety

Schools are required to comply with the safety requirements before registration is approved. To further safeguard students' interest after school registration, PSNFCs are required to report through a self-reporting system to ED every year updated information related to safety, such as the insurance policies to cover public liability and group/personal accident.

(b) Reporting on registered teachers

To ensure that PSNFCs observe the Education Ordinance in appointing teachers, they will be required to report the names of teachers and their registration status to ED through the self-reporting system twice a year. PSNFCs shall also report any staff changes according to section 39 of the Education Ordinance.

Staff of Regional Education Offices, ED will conduct random checks on schools' submission and take appropriate follow-up action in case of non-compliance and/or false reporting.

B. Increased transparency

8. ED will make known to the public the key data on all PSNFCs, which is crucial for reinforcing consumer education and awareness. At the same time, ED will “name and shame” the repeated offenders in order to deter the unscrupulous operators. This will take effect in July 2002.

(a) Publishing a list of PSNFCs on ED homepage

ED will provide on its homepage a full list of registered PSNFCs with the essential school information, including classroom accommodation, insurance policies, school fees and courses. This will facilitate students and parents in accessing the key information of the registered schools before they decide whether to enroll in these schools.

(b) “Name and Shame” -Publicising malpractices of PSNFCs

ED will publicise on its homepage the malpractices of PSNFCs that may jeopardize the safety of students and are related to the protection of consumers. These malpractices include the operation of unregistered school, over-enrolment, over-charging, and false or misleading advertisement. In collaboration with the Consumer Council, ED will also make known serious malpractices and repeated offences to the public through various channels.

C. Reinforcing consumer education

9. ED will strengthen consumer education on the selection of PSNFCs. The new pamphlet to heighten public awareness of unregistered schools and potential malpractices of tutorial schools has been uploaded to ED's homepage. Copies of the pamphlet have been made available in district offices, public libraries, civic centres, museums and sports centres of the Leisure and Cultural Services Department. The pamphlet will also be distributed to parents of all primary and

secondary schools in March 2002. In addition, publicity through television and radio will be launched before the peak period of enrolment in these schools in the summer to enhance the impact.

D. Providing financial security

10. The Education (Amendment) Ordinance 2001, which came into effect on 1 June 2001, provides that unless with the permission of the Director of Education, school fees have to be collected on an equal monthly basis. The amended legislation has provided a basic safeguard for students and represents a significant improvement in consumer protection. It has proved an effective means in reducing the financial loss of students to the minimum. Nevertheless, some PSNFCs, in particular those which have large capital investment and high operation cost, have expressed grave concern over this stringent requirement on collecting school fees on a monthly basis. They have pointed out that this has caused serious cash flow problems and might put them out of business in the end. (In this context, it is noteworthy that ED has granted exemption to a few bona fide non-profit-making PSNFCS with proper refund procedures and with a good track record.) In considering whether to exempt similarly those profit-making PSNFCs, it is imperative for ED to satisfy itself that these schools could provide proof of financial security to guard against the financial loss of students in case of abrupt school closures. In this respect, ED has liaised with the Consumer Council, some leading banks, the Professional Insurance Brokers Association and some PSNFCs in exploring various options of financial security. It is intended that PSNFCs with satisfactory financial guarantee will be exempted from the present restriction on monthly collection and that this information will be clearly indicated on ED homepage for public reference.

(a) Bank Guarantee/Performance Bond

PSNFC may acquire a bank guarantee/performance bond which is sufficient to cover the financial loss of students. The banks will issue a guarantee to schools with healthy and sound financial status. In the case of school closure, the bank will release money to a beneficiary specified in the guarantee. ED is actively working out a viable solution and detailed arrangements for the bank guarantee.

(b) Insurance Coverage

Obtaining an insurance coverage will be less costly than a bank guarantee but an insurance scheme requires a critical mass of participating schools in order to be cost effective. A number of PSNFCs are contemplating such a move and have approached ED for advice. ED has appointed an

insurance consultant under the Professional Insurance Brokers Association to examine the feasibility of the proposal and the study is expected to be completed in a few weeks' time.

(c) Industry Compensation Fund

A compensation fund comparable to that of the travel industry may be set up to compensate students. However, based on the experience of setting up the Travel Industry Compensation Fund, it will take a long time to establish such a fund and legislation will be required. It will also require the cooperation of all PSNFCs so that the industry can be effectively covered as a whole and thus provide comprehensive protection for the students. As PSNFCs are loosely organised, pooling them together would be difficult. Besides, this would also entail considerable manpower on the part of ED in setting up and administering the fund.

(d) Student Protection Fund

A number of PSNFCs are understood to be interested in taking the initiative to form a federation of PSNFCs with a view to setting up a fund to compensate students in the event of school closures. The proposed federation will appoint its agent to collect contributions from each member of the federation and pay compensation to each student of the defaulting school (provided it is a participating member in the scheme). ED is prepared to encourage the setting up of such a federation and fund, which will facilitate self-regulation in the industry in the long run and provide consumer protection for the students.

WAY FORWARD

11. ED will continue to explore ways to step up monitoring and control of PSNFCs, without over-regulating the sector and without draining the department's limited manpower resources. Consumers such as parents and students are in the best position to decide whether they are getting value for money and to exercise the responsibility of consumers when choosing PSNFCs. ED will strengthen its enforcement, issue warnings to school operators who have breached the Education Ordinance, and institute proceedings against those which warrant prosecutions. ED will consider cancelling the registration of school and managers or withdrawal of the approval of supervisor and principal if the supervisor, manager or principal has been convicted of offences under the Education Ordinance.

12. In the long run, ED will encourage and facilitate all bona fide PSNFC operators to voluntarily unite together to form a federation of their own. It is hoped that such a federation would eventually agree on a code of practice to enable self-regulation of PSNFCs, ensure their quality, enhance consumer protection, and ultimately secure the confidence of the consumers.

Education Department
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