

# 立法會

## *Legislative Council*

LC Paper No. CB(2) 28/04-05

Ref: CB2/T/1

### **Paper for the House Committee Meeting on 15 October 2004**

### **Nomination and election of Members of the Legislative Council to governing bodies of educational institutions and advisory bodies**

#### **Purpose**

This paper invites Members to consider the nomination and election procedure for Members of the Legislative Council (LegCo) to be nominated to serve on the following governing bodies of educational institutions and advisory bodies -

- (a) Disaster Relief Fund Advisory Committee;
- (b) Po Leung Kuk Advisory Board;
- (c) Tung Wah Group of Hospitals Advisory Board;
- (d) Council of The Chinese University of Hong Kong;
- (e) Court of the University of Hong Kong; and
- (f) The English Schools Foundation.

#### **Functions and composition of the governing or advisory bodies**

##### Disaster Relief Fund Advisory Committee

2. The Disaster Relief Fund was established on 1 December 1993 by resolution under the Public Finance Ordinance (Cap. 2) to provide a mechanism to enable the Government to respond swiftly to international appeals for humanitarian aid. The resolution provides, inter alia, for the appointment of the Disaster Relief Fund Advisory Committee to advise the Financial Secretary on disbursement from the Fund. The terms of reference of the Advisory Committee are detailed in **Appendix I**.

3. The Disaster Relief Fund Advisory Committee is chaired by the Chief Secretary for Administration and comprises, among others, the Secretary for Financial Services and the Treasury, the Secretary for Health, Welfare and Food, two Members of the Executive Council (ExCo) and two LegCo Members. The term of office of the

LegCo Members nominated to serve on the Advisory Committee corresponds with that of the LegCo term. The Advisory Committee meets as and when required. Members are invited to note that one of the two ExCo Members on the Advisory Committee is Hon Jasper TSANG Yok-sing.

Po Leung Kuk Advisory Board

Tung Wah Group of Hospitals Advisory Board

4. The Po Leung Kuk Advisory Board was established under the Po Leung Kuk Ordinance (Cap. 1040) to advise the Po Leung Kuk Board of Directors on matters affecting the Kuk and its administration. The duties and composition of the Advisory Board, as set out in paragraph 18 of the Schedule to the Ordinance, are detailed in **Appendix II**. The Advisory Board consists of not more than 15 persons and the Chairman is the Secretary for Home Affairs. In accordance with paragraph 18(2)(e), one person shall be nominated by LegCo Members from among their own number as an ex officio member of the Advisory Board.

5. As regards the Tung Wah Group of Hospitals Advisory Board, it was established under the Tung Wah Group of Hospitals Ordinance (Cap. 1051) to advise the Tung Wah Group of Hospitals Board of Directors on matters affecting the Group and its administration. The duties and composition of the Advisory Board, as set out in paragraph 19 of the Schedule to the Ordinance, are detailed in **Appendix III**. The Advisory Board consists of not more than 14 persons and the Chairman is also the Secretary for Home Affairs. As provided in paragraph 19(2)(c), one person shall be nominated by LegCo Members from among their own number as an ex officio member of the Advisory Board. Members are invited to note that the ex officio representative of ExCo serving on the Advisory Board is Hon Jasper TSANG Yok-sing.

6. As advised by the Home Affairs Department, the term of office of the LegCo Members nominated to serve on the two Advisory Boards corresponds with that of the LegCo term.

7. The two Advisory Boards hold joint meetings with the Boards of Directors of the Tung Wah Group of Hospitals and the Po Leung Kuk respectively half yearly. Other than the joint meetings, the majority of the business of the two Advisory Boards, including the endorsement of nominations for the annual election of the Board of Directors, is carried out by circulation of papers.

Council of The Chinese University of Hong Kong

8. Under Statute 11 of The Chinese University of Hong Kong Ordinance (Cap. 1109), the University Council shall consist of, among others, three persons elected by LegCo Members from among their own number. The term of office is three years. A Member will cease to hold office if he or she ceases to be a LegCo Member during

the three-year term. The Council meets about three times a year. The composition, power and duties of the University Council, as provided in subparagraphs 1 and 8 of Statute 11, are set out in **Appendix IV**.

#### Court of the University of Hong Kong

9. Under Statute XV of the University of Hong Kong Ordinance (Cap.1053), the University Court shall consist of, among others, five persons elected by LegCo Members from among their own number. The term of office is three years. A Member shall be deemed to have resigned from the Court if he or she ceases to be a LegCo Member during the three-year term. The Court meets once a year in December and most business is conducted by circulation of papers. The composition and powers of the University Court, as provided in Statutes XV and XVII of the Ordinance, are set out in **Appendix V**. Members are invited to note that Dr Hon David LI Kwok-po, who is the Pro-Chancellor of the University of Hong Kong, also sits on the University Court.

#### The English Schools Foundation

10. The English Schools Foundation Regulations made under section 10 of The English Schools Foundation Ordinance (Cap. 1117) provide, inter alia, that two members of the Foundation shall be nominated by LegCo Members among their own number. The composition, powers and duties of the Foundation, as set out in Regulation 3 of the Regulations, are detailed in **Appendix VI**. Regulation 3.3 provides that a nominated member shall hold office for not more than three years at a time. The Foundation meets once a year in December.

11. The nominated Members will serve the English Schools Foundation for a period of three years, regardless of whether they remain LegCo Members during that period. Members nominated to serve on the Foundation in the past were asked by the House Committee to request the Foundation to review its Regulation to specify that the Members concerned should be deemed to have resigned if they ceased to be LegCo Members. As the Foundation has so far not made such specification in its Regulation, the House Committee may wish to ask the nominated Members to follow up the matter with the Foundation.

#### **Reporting of work by Members serving on the governing or advisory bodies**

12. Members may wish to note that pursuant to a decision of the House Committee made in the first LegCo term, Members serving on these governing or advisory bodies were required to brief the relevant Panels before and after attending the meetings of the bodies concerned.

13. The requirement, however, was discontinued in the second LegCo term mainly because Members considered that the reporting requirement was impractical. The relevant paper and extract from the minutes of the House Committee meeting on 20 October 2000 are in **Appendix VII**.

### **Nomination and election procedure**

14. It is recommended that the nomination and election of Members for appointment to the six governing or advisory bodies be conducted at a House Committee meeting. A valid nomination shall be made orally by a Member, seconded by at least one other Member, and accepted by the Member being nominated. A Member who nominates a Member who is absent from the meeting when the nomination is made shall state that the absent Member's acceptance of the nomination has been secured. If the number of nominations exceeds that required for appointment, a vote will be taken by a show of hands. Members may vote as many times as, but not more than, the number required for appointment.

15. Members are invited to note that the President's view has been sought in her capacity as a LegCo Member in relation to the nomination and election method and, subject to the agreement of the members of the House Committee, she has agreed to it.

### **Date of election**

16. Subject to Members' agreement to the nomination and election procedure, it is proposed that Members be invited to make the following nominations at the meeting of the House Committee on 29 October 2004 for the purpose of electing -

- (a) two Members to serve on the Disaster Relief Fund Advisory Committee;
- (b) one Member to serve on the Po Leung Kuk Advisory Board;
- (c) one Member to serve on the Tung Wah Group of Hospitals Advisory Board;
- (d) three Members to serve on the Council of The Chinese University of Hong Kong;
- (e) five Members to serve on the Court of the University of Hong Kong; and
- (f) two Members to serve on the English Schools Foundation.

17. The names of the Members elected in the second LegCo term to these governing or advisory bodies are in **Appendix VIII** for Members' reference.

**Advice sought**

18. Members' endorsement is sought on –
- (a) the nomination and election procedure proposed in paragraph 14 above;
  - (b) the nomination and election detailed in paragraph 16 to take place at the House Committee meeting on 29 October 2004; and
  - (c) the proposal for the Members nominated to serve on the English Schools Foundation to follow up the matter detailed in paragraph 11 above.

Council Business Division 2  
Legislative Council Secretariat  
13 October 2004

**Disaster Relief Fund Advisory Committee**

**Terms of reference**

1. To advise on the policy and practices regarding the disbursements from the Disaster Relief Fund for disaster relief outside the Hong Kong Special Administrative Region.
2. To advise on the awards of grants of specified amounts from the Disaster Relief Fund to specified recipients.
3. To monitor the use of grants by the recipients of the disbursements from the Disaster Relief Fund.

Extract from Po Leung Kuk Ordinance (Cap. 1040)

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**18. Advisory board**

(1) There shall be an advisory board whose duty shall be to advise the directors on any matter affecting the corporation or its administration.

(2) The advisory board shall consist of not more than 15 persons of whom the following shall be ex officio members—

- (a) the Secretary for Home Affairs, who shall be chairman; (*Amended L.N. 67 of 1985; L.N. 262 of 1989*)
- (b) the Secretary for Health, Welfare and Food; (*Amended L.N. 18 of 1983; L.N. 106 of 2002*)
- (c) the Director of Social Welfare;
- (d) 1 person nominated by the Members of the Executive Council, other than Official Members, from among their own number; (*Replaced 67 of 1987 s. 2. Amended 4 of 2000 s. 3*)
- (e) 1 person nominated by the Members of the Legislative Council from among their own number; (*Replaced 67 of 1987 s. 2. Amended 80 of 1997 s. 45*)
- (f) the immediate past chairman of the board.

(3) The following persons shall also be members of the advisory board—

- (a) not more than 8 persons appointed by the Chief Executive, who shall hold office for a period of not more than 3 years and shall be eligible for re-appointment; (*Amended 4 of 2000 s. 3*)
- (b) 1 person elected by the board from the persons who in the year preceding the year in respect of which he is elected were directors, who shall hold office for a period of 1 year.

(4) The advice of the advisory board shall be given at a joint meeting of the board and the advisory board, such joint meetings shall be called by the chairman—

- (a) when the chairman so requires;
- (b) when the board desires the advice of the advisory board;
- (c) whenever the advisory board gives the chairman notice in writing that it desires to discuss with the board any specified matter affecting the corporation or its administration.

(5) The chairman shall give the directors and the members of the advisory board at least 4 clear days' notice in writing of any such joint meeting.

(6) At a joint meeting of the board and the advisory board the quorum shall be—

- (a) the same number of directors as would have been required to form a quorum if it were a meeting of the board; and
- (b) 4 members of the advisory board. (*Replaced L.N. 253 of 1974*)

(7) The Secretary for Home Affairs shall be the chairman of the joint meeting of the board and the advisory board. In his absence the Secretary for Health, Welfare and Food shall be the chairman, and in the absence of both the Secretary for Home Affairs and the Secretary for Health, Welfare and Food members present at the meeting shall elect a chairman from amongst the members of the advisory board present. (*Amended L.N. 18 of 1983; L.N. 67 of 1985; L.N. 262 of 1989; L.N. 106 of 2002*)

(8) The persons who are members of the Board of Direction of the Society at the commencement of this Ordinance shall be members of the advisory board until 1 April 1974.

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**Extract from Tung Wah Group of Hospitals Ordinance (Cap. 1051)**

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**19. Advisory board**

(1) There shall continue to be an advisory board whose duty shall be to advise the directors on any matter affecting the corporation or its administration and to consider appeals which may be brought by any director in accordance with the agreement between the Government and the corporation.

(2) The advisory board shall consist of not more than 14 persons of whom the following shall be ex officio members— (*Amended L.N. 236 of 1974*)

(a) the Secretary for Home Affairs, who shall be chairman; (*Amended L.N. 67 of 1985; L.N. 262 of 1989*)

(aa) the Secretary for Health, Welfare and Food; (*Added L.N. 236 of 1974. Amended L.N. 18 of 1983; L.N. 106 of 2002*)

(b) 1 person nominated by the Members of the Executive Council, other than Official Members, from among their own number; (*Replaced 67 of 1987 s. 2. Amended 4 of 2000 s. 3*)

(c) 1 person nominated by the Members of the Legislative Council from among their own number; (*Replaced 67 of 1987 s. 2. Amended 80 of 1997 s. 46*)

(d) the immediate past chairman of the board.

(3) The following persons shall also be members—

(a) not more than 8 persons appointed by the Chief Executive, who shall hold office for a period of 3 years and shall be eligible for re-appointment; (*Amended 4 of 2000 s. 3*)

(b) 1 person elected by the Board from the persons who in the year preceding the year in respect of which he is elected were directors, who shall hold office for a period of 1 year.

(4) The advice of the advisory board shall be given at a joint meeting of the board and the advisory board. Such joint meetings shall be called by the chairman—

(a) when the chairman so requires;

(b) when the board desires the advice of the advisory board;

(c) whenever the advisory board gives the chairman notice in writing that it desires to discuss with the board any specified matter affecting the corporation or its administration.

(5) The chairman shall give the directors and the members of the advisory board at least 4 clear days' notice in writing of any such joint meeting.

(6) At a joint meeting of the board and the advisory board the quorum shall be—

(a) the same number of directors as would have been required to form a quorum if it were a meeting of the board; and

(b) 4 members of the advisory board. (*Replaced L.N. 236 of 1974*)

(7) The Secretary for Home Affairs shall be the chairman of the joint meeting of the board and the advisory board. In his absence the Secretary for Health, Welfare and Food shall be the chairman, and in the absence of both the Secretary for Home Affairs and the Secretary for Health, Welfare and Food members present at the meeting shall elect a chairman from amongst the members of the advisory board present. (*Replaced L.N. 236 of 1974. Amended L.N. 18 of 1983; L.N. 67 of 1985; L.N. 262 of 1989; L.N. 106 of 2002*)

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Extract from The Chinese University of Hong Kong Ordinance (Cap. 1109)

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STATUTE 11

THE COUNCIL

1. The Council shall consist of—
  - (a) the Chairman, who shall be appointed by the Chancellor on the nomination of the Council from persons under subparagraphs (k), (l), (m) and (n);
  - (b) the Vice-Chancellor;
  - (c) the Pro-Vice-Chancellors;
  - (d) the Treasurer;
  - (da) life members appointed by the Council; (*L.N. 31 of 1981*)
  - (e) 2 members elected by the Board of Trustees of each College from among its own members;
  - (f) the Head of each College;
  - (g) the Dean of each Faculty and of the Graduate School;
  - (h) one Fellow of each College elected by the College's Assembly of Fellows;
  - (i) 3 members elected by the Senate from among the academic members of the Senate;
  - (j) (*Repealed L.N. 481 of 1997*)
  - (k) 6 persons nominated by the Chancellor; (*L.N. 481 of 1997*)
  - (l) 3 persons elected by the Members of the Legislative Council, other than Official Members, from among their own number; (*67 of 1987 s. 2*)
  - (m) not more than 6 other persons, normally resident in Hong Kong; who shall be elected by the Council; (*L.N. 481 of 1997*)
  - (n) after a date to be appointed by the Council, such number of members of the Convocation not exceeding 3 as shall be determined by the Council from time to time, to be elected by the Convocation in the manner determined by the Council.

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4. (1) The nominated and elected members of the Council shall hold office for 3 years from the date of their nomination or election and shall be eligible for re-nomination or re-election:  
Provided that a member elected under subparagraphs (e), (h), (i), (l) or (n) of paragraph 1 shall cease to be a member of the Council if he ceases to be a member of the body from among whose members he was elected. (*L.N. 438 of 1993*)  
(1A) If an elected member of the Council ceases to be a member under the proviso to subparagraph (1), the body which elected him shall duly elect a successor whose membership of the Council shall be for a period not exceeding 3 years. The successor shall be eligible for re-election to which subparagraph (2) shall apply. (*L.N. 438 of 1993*)

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8. Subject to the Ordinance and the Statutes and without derogating from the generality of its power, it is specifically prescribed—
- (1) that the Council shall have the power—
    - (a) to make Statutes, provided that no Statute shall be made until the Senate shall have had an opportunity of reporting thereon to the Council;
    - (b) to make decrees for any purpose for which decrees are or may be authorized to be made, provided that no decree shall be made until the Senate shall have had an opportunity of reporting thereon to the Council;
    - (c) to invest any money belonging to the University;
    - (d) to borrow money on behalf of the University;
    - (e) to sell, buy, exchange, lease or accept leases of any real or personal property on behalf of the University;
    - (f) to enter into, vary, perform and cancel contracts on behalf of the University;
    - (g) to require the Board of Trustees of each College annually to produce its audited accounts in such form and at such time as the Council may determine;
    - (h) to receive from public sources grants for capital and recurrent expenditure;
    - (i) to receive annually and for such longer periods as the Council may determine from time to time from the Vice-Chancellor, after he has consulted the Senate, and to approve, estimates of expenditure;
    - (j) to receive gifts and to approve, subject to such conditions as the Council thinks fit, the receipt of gifts by the Colleges;
    - (k) to provide for the welfare of persons employed by the University and the wives, widows and dependants of such persons, including the payment of money, pensions, or other payments and to subscribe to benevolent and other funds for the benefit of such persons;
    - (l) to provide for the discipline and welfare of students;
    - (m) to recommend the award of degrees honoris causa;
    - (n) after report from the Senate to establish additional Faculties or Departments or to abolish, combine or subdivide any Faculty or Department; (*L.N. 452 of 1994*)
    - (na) on the recommendation of the Senate, to determine the organization or structure of each Faculty and its Departments and to make such alterations to such organization or structure as deemed fit by the Council; (*L.N. 452 of 1994*)
    - (o) to prescribe fees of the University;
  - (2) that it shall be the duty of the Council—
    - (a) to appoint bankers, auditors and any other agents whom it deems expedient to appoint;
    - (b) to appoint an Administrative and Planning Committee;
    - (c) to cause proper books of account to be kept for all sums of money received and expended by the University and for the assets and liabilities of the University so that such books give a true and fair statement of financial transactions and position of the University;
    - (d) to cause the accounts of the University to be audited within 6 months after the termination of each financial year as the Council may determine;
    - (e) to provide the buildings, libraries, laboratories, premises, furniture, apparatus and other equipment needed for the University;
    - (f) in consultation with the Senate to encourage and provide for research by members of the University;
    - (g) to review the instruction and teaching in courses of study leading to degrees, diplomas, certificates and other awards of the University;
    - (h) after consultation with the Senate, to institute all teaching posts;
    - (i) to administer or cause to be administered a Superannuation Fund or Funds for the benefit of persons employed by the University;
    - (j) to establish Boards of Advisers and to appoint external experts thereto on the recommendation of the Senate;
    - (k) to appoint on such terms and conditions as the Council may determine each Professor, Reader and Senior Lecturer and the Secretary, the Registrar, the Librarian and the Bursar on the recommendation of duly constituted Boards of Advisers;
    - (l) to make, on such terms and conditions as the Council may determine, such other University appointments as the Council deems necessary;



**Extract from the University of Hong Kong Ordinance (Cap. 1053)**

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STATUTE XV

THE COURT

1. The Court shall consist of—
  - (a) the Chancellor, the Pro-Chancellor, the Vice-Chancellor, the Deputy Vice-Chancellor, the Pro-Vice-Chancellors and the Treasurer; (*G.N.A. 59 of 1960; L.N. 69 of 1968; L.N. 159 of 1970; L.N. 167 of 1992*)
  - (b) life members;
  - (c) the following members ex officio:  
the members of the Council,  
the members of the Senate,  
the Registrar,  
the Chairman, Deputy Chairman and Clerk of Convocation; (*L.N. 15 of 1973; L.N. 186 of 2003*)
  - (d) the following elected members:
    - (i) 5 persons elected by the Members of the Legislative Council from among their own number, (*67 of 1987 s. 2; L.N. 99 of 1997*)
    - (ii) 12 members elected from among its number by the Standing Committee of Convocation; provided that no member of that committee who is a member of the Court by virtue of any other paragraph of this Statute shall be eligible for election, (*L.N. 44 of 1985*)
    - (iii) 5 members elected by the Court,
    - (iv) 3 members elected by the Grant Schools Council from among its number, (*L.N. 82 of 1979; L.N. 165 of 1999*)
    - (v) 3 members elected by the Hong Kong Subsidized Secondary Schools Council from among its number; and (*L.N. 56 of 1986; L.N. 165 of 1999*)
  - (e) not more than 20 members, not being already included in any of the foregoing classes, appointed by the Chancellor.
2. Vacancies shall be filled as they occur or as soon thereafter as conveniently may be.
3. Any member of the Court except an ex officio member may resign by written notice addressed to the secretary to the Court. (*L.N. 58 of 1976*)
4. The ex officio members shall continue members so long only as they hold the office in virtue of which they became members of the Court.
5. The elected members shall hold office for 3 years at a time and shall be eligible for re-election.
6. The appointed members shall hold office for 3 years at a time and shall be eligible for re-appointment.
7. The Registrar shall be the secretary to the Court. (*L.N. 58 of 1976; L.N. 167 of 1992*)
8. If any appointed or elected member leaves Hong Kong and either remains absent for 3 months or more or gives notice of his intended absence for 3 months or more the appointing or electing person or body may appoint or elect, as the case may require, another person to act as member in his place during his absence. The acting member shall vacate his office either on the return of the absent member to Hong Kong, or on the expiry of the absent member's term of office, whichever first happens. (*L.N. 32 of 1987*)
9. A member elected under paragraph 1(d)(i), (ii), (iv) or (v) of this Statute shall be deemed—
  - (a) to have resigned from the Court if he ceases to be a member of the body which elected him;
  - (b) to have resigned from his membership of the Court in that capacity if he becomes a member of the Court in another capacity. (*L.N. 44 of 1985; L.N. 165 of 1999*)

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STATUTE XVII

POWERS OF THE COURT

Subject to the provisions of the Ordinance and the statutes, the Court shall have power—

- (a) to recommend to the Chancellor additions to, or the amendment or repeal of any of the statutes on the proposal of the Council;
- (b) *(Repealed L.N. 186 of 2003)*
- (ba) to elect, in accordance with regulations, its members to be members of the Council and to, on the recommendation of the Council, give the approval referred to in paragraph 2 of Statute XVIII; *(L.N. 186 of 2003)*
- (c) to consider the annual accounts together with any comments that may have been made by the auditors;
- (d) to consider any reports that may be made by the Council to the Court;
- (e) to discuss any motion on general University policy that may be introduced by a member; and
- (f) to appoint life members and to prescribe the procedure for making such appointments.

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Extract from The English Schools Foundation Regulations

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Regulation 3      The Foundation

3.1 Subject to the provisions of the Ordinance, the Foundation shall be the supreme governing body over the Executive Committee, the Standing Committees, the School Councils, the schools and any other committees established thereunder, and the Executive Committee, the Standing Committees, the School Councils, the schools and any other committee shall comply with any resolutions made by the Foundation.

3.2 **Membership**

The members of the Foundation shall be –

(a) **Government and Community**

- (i) two persons nominated by the Unofficial Members of the Legislative Council from among their own number;
- (ii) the Chief Secretary or his appointed representative;
- (iii) the Director of Education or his appointed representative;
- (iv) two persons nominated by the Director of Education as advisers;
- (v) three persons appointed by the Executive Committee to represent the interests of professional groups;
- (vi) three persons nominated by the Hong Kong General Chamber of Commerce;
- (vii) the Vice Chancellor of the University of Hong Kong or his appointed representative;
- (viii) the Vice Chancellor of the Chinese University of Hong Kong or his appointed representative;
- (ix) the Director of the Hong Kong Polytechnic or his appointed representative;
- (x) the Director of the City Polytechnic or his appointed representative;
- (xi) the Bishop of Victoria, Hong Kong, or his appointed representative;
- (xii) the Roman Catholic Bishop of Hong Kong or his appointed representative;
- (xiii) one person appointed by the Ministers of the Union Church, Hong Kong, the Kowloon Union Church and the English Methodist Church jointly;
- (xiv) one person nominated by the Association of European Civil Servants in Hong Kong;
- (xv) one person nominated by the Senior Non-Expatriate Officers' Association;
- (xvi) such persons, or representatives of organisations, as shall be appointed by the Foundation to be permanent members of the Foundation;
- (xvii) such other persons, not exceeding six in number at any one time, as may be co-opted by the Foundation from time to time. Such persons may be selected to represent national, business or professional groups, or persons with special knowledge of education, not otherwise included among members of the Foundation and shall serve for a period not greater than three years. At the expiry of that period they shall be again eligible for co-option:

(b) **Parents**

- (i) three persons, who shall be parents of pupils at the school, nominated by the Parent Teacher Association of each secondary school of the Foundation;
- (ii) two persons, who shall be parents of pupils at the school, nominated by the Parent Teacher Association of each primary school of the Foundation;
- (iii) two persons, who shall be parents of pupils in any of the special units managed by the Foundation, nominated by the Joint Council of Parent Teacher Associations:

(c) **Teachers**

- (i) three persons, who shall be teachers at the school, nominated by the teaching staff of each secondary school of the Foundation;
- (ii) two persons, who shall be teachers at the school, nominated by the teaching staff of each primary school of the Foundation;
- (iii) two persons, who shall be teachers in special units, nominated by the teaching staff of the special units jointly;
- (iv) the Chairman and the Vice-Chairman of the Association of Professional Teachers in English Schools Foundation Schools:

**(d) School Management**

- (i) the Principal of each of the secondary schools of the Foundation;
  - (ii) the Principal of each of the primary schools of the Foundation;
  - (iii) the head of The Jockey Club Sarah Roe Centre;
  - (iv) the Chairman of the Council of each of the secondary schools of the Foundation;
  - (v) the Chairman of the Council of each of the primary schools of the Foundation;
  - (vi) the Chairman of the Council for The Jockey Club Sarah Roe Centre;
  - (vii) the Chairman and the Vice-Chairman of the Association of the Non-Teaching Staff in English Schools Foundation schools;
  - (viii) the person appointed by the Executive Committee as Secretary of the Foundation;
  - (ix) the person appointed by the Executive Committee as Treasurer of the Foundation.
- 3.3 Nominated, elected and co-opted members shall hold office for not more than three years at a time and shall be eligible for re-appointment on expiry of their term of office.
- 3.4 Any member of the Foundation except an ex-officio member may resign by written notice addressed to the Secretary of the Foundation.
- 3.5 A nominated member of the Foundation shall continue to act at the expiry of his term of office until his successor has been appointed.
- 3.6 Vacancies shall be filled as soon as they occur or as soon after as convenient.
- 3.7 If a member gives notice of his intended absence from Hong Kong for three months or more the nominator or electing body of the Foundation may nominate, elect or co-opt as the case may require another person to act as member in his place during his absence. The acting member shall vacate office on the return of the absent member to Hong Kong, or on the expiry of the absent member's term of office, whichever first happens.
- 3.8 The ex-officio members and their representatives shall continue members so long only as such ex-officio members hold the office by virtue of which they became appointed members of the Foundation.

**Duties and Powers**

- 3.9 Subject to the provisions of the Education Ordinance and Regulations, and of the English Schools Foundation Ordinance and these Regulations, the Foundation shall –
- (a) consider the annual budget estimates and make representations thereon to the Executive Committee;
  - (b) consider the annual accounts together with any comments that may have been made by the auditors;
  - (c) consider any reports that may be made by the Executive Committee to the Foundation;
  - (d) discuss any motion on general policy that may be introduced by a member;
  - (e) decide upon such matters as may be referred to the Foundation by the Executive Committee or the School Councils;
  - (f) receive the advice of the Arbitration Board upon any appeal against a decision of the Executive Committee and note the resolution of the difference;
  - (g) appoint permanent members to the Foundation and prescribe the procedure for making such appointments;
  - (h) elect the Chairman and Vice-Chairman of the Foundation from among their own members;
  - (i) appoint auditors;
  - (j) make such other appointments as may be required by the Ordinance or Regulations;
  - (k) by special resolution, approve additions to, or the amendment or revocation of any of the regulations on the proposal of the Executive Committee.

**Meetings**

- 3.10 The Foundation shall meet at least once in each academic year.
- 3.11 The Chairman may convene a meeting of the Foundation at any time provided always that not less than fourteen days notice shall be given of such meeting.

- 3.12 The Chairman shall call a meeting of the Foundation at the written request of at least twelve members of the Foundation. In this case seven clear days notice of such meeting shall suffice: such notice shall state the nature of the business to be discussed at the meeting, which shall be held within fourteen days of the request.
- 3.13 No meeting of the Foundation shall be valid unless at least two Officers are present in person and a quorum of one quarter of the members of the Foundation for the time being.
- 3.14 The Secretary may require any member of the staff of the Foundation to be present at a meeting to assist him.

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立法會  
*Legislative Council*

LC Paper No. CB(2) 74/00-01

Ref: CB2/T/1

**Paper for House Committee Meeting on 20 October 2000**

**Nomination and Election of Members to the Governing Bodies of Education  
Institutes and Other Advisory Bodies and  
Reporting of Work by the Members Nominated to Serve on these Bodies**

**Purpose**

This paper seeks Members' views on -

- a. the procedure for nominating and electing Members of the Legislative Council (LegCo) to serve on the governing bodies of education institutes and other advisory bodies; and
- b. the continuation of the arrangement for the reporting of work by the Members nominated to serve on these bodies.

**Background**

2. At the last House Committee meeting on 13 October 2000, Members were invited vide LC Paper No. CB(2)3/00-01 to consider the procedure for nominating and electing LegCo Members to serve on the following six bodies -

- a. Disaster Relief Fund Advisory Committee;
- b. Po Leung Kuk Advisory Board;
- c. Tung Wah Group of Hospitals Advisory Board;
- d. Council of the Chinese University of Hong Kong;
- e. Court of the University of Hong Kong; and
- f. The English Schools Foundation (ESF).

3. Members were also informed that pursuant to a decision of the House Committee made in the first term (at the meeting on 24 September 1999), Members serving on these bodies were required to brief the relevant Panels before and after attending the meetings of the organizations concerned. Such an arrangement aims to enable the Members concerned to convey the Panels' views, if any, to the relevant

organizations as well as to brief the Panels on any issue of public interest deliberated at such meetings. It seems clear that the House Committee does not require the Members concerned to report on every detail of any meeting they have attended.

4. At the last meeting, some Members expressed concern about the practical difficulties in complying with the reporting requirement. One Member also questioned the rationale and need for the Members serving on these organizations to report their work as they were not there as representatives of the Council. The House Committee agreed to defer consideration of the nomination and election procedure until the problems and queries relating to the reporting arrangement had been sorted out.

### **Arrangement for Reporting of Work**

#### Capacity of Members elected to the governing bodies of education institutes and other advisory bodies

5. The relevant provisions (except in relation to the Disaster Relief Fund Advisory Committee) which provide for Members of the Council to be nominated and elected to serve on bodies constituted under the law are in Appendix I(a)-(e). They do not provide that the Members elected to these bodies are representatives of the Council. Therefore, it seems clear that, as a matter of law, they are not representing the interests of the Council nor are they subject to orders or instructions of the Council when serving on these bodies.

6. However, given that Members of the Council are conferred the legal authority to elect, from among their own number, a person(s) to serve on these bodies, it would be a matter for the Council to impose reasonable conditions which a Member elected should be prepared to comply with. These conditions are not legally enforceable but they should not be incompatible with the duties which are required of the Member(s) elected under the relevant Ordinance.

7. From a practical point of view, given that Members are elected to serve on these bodies by virtue of their being legislators and that their membership with these bodies ceases (except with ESF under current law) when they cease to be LegCo Members, it would be reasonable to expect that these Members provide a link between the respective bodies and the legislature of the day.

#### Decision of the House Committee on 24 September 1999

8. Prior to the House Committee's decision made at the meeting on 24 September 1999, there was no requirement or arrangement for Members elected to the organizations concerned to report their work. The matter was first raised by Hon Emily LAU at the House Committee meeting on 23 April 1999. Miss LAU requested that the House Committee should, at an appropriate time, discuss how the Members concerned should report their work. A proposal on reporting of work by Members serving on the governing bodies and advisory bodies was subsequently presented to the House Committee on 24 September 1999. The proposal as set out in

LC Paper CB(2)2848/98-99 (Appendix II refers) was that the Members concerned should make at least one report on their work to the House Committee in a session, preferably towards the end, and such reports should contain the following information

- a. important/special areas of work considered by the organization concerned; and
- b. other aspects of work which the Member wished to highlight.

9. The proposal was however not agreed to by the House Committee. Instead, Members decided to adopt an alternative proposal put forward by Hon Eric LI at the meeting. Under the proposal as discussed in paragraph 3 above, Members serving on the governing bodies and advisory bodies are required to brief the relevant Panels before and after attending meetings of the organizations concerned. The aim is to enable the Members concerned to convey the Panels' views, if any, to the relevant organizations as well as to brief the Panels of any issue of public interest deliberated at such meetings (extract of the minutes of meeting in Appendix III).

10. The Members elected to serve on the organizations were reminded in writing of the House Committee's decision on the reporting arrangement. Members may wish to note that since the adoption of the arrangement in the last term, there had been one such report (Appendix IV refers) prepared and submitted to the House Committee on 15 October 1999 by Hon LAU Chin-shek and Hon Mrs Sophie LEUNG LAU Yau-fan. These two Members were elected in the last term to serve on the Disaster Relief Fund Advisory Committee.

#### Views expressed at last House Committee meeting on 13 October 1999

11. At the last House Committee meeting on 13 October 2000, some Members expressed concern that there were practical difficulties in complying with the reporting requirement. They pointed out that items discussed at meetings of the governing bodies and advisory bodies were often not of public interest but matters related to the internal affairs of the organizations concerned. Sometimes the meeting had a very long agenda and there was little deliberation on each individual item.

12. One Member strongly objected to requiring Members serving on these governing bodies or advisory bodies to report their work to the relevant committees of the Council. The Member held the view that it was wrong to require these Members to seek the views of, and also report their work to, the relevant Panels as they were not the Council's representatives on the organizations. He urged that the Members concerned should be trusted and given a free hand to do their work.

#### Proposals

13. Given the views expressed at the last meeting, it is for Members' consideration whether the reporting arrangement agreed to by the House Committee in the last term should be continued and/or changed. There are two possible options. One option is not to require the Members elected to the six governing bodies and advisory bodies to report their work.

14. The other option is to modify the existing reporting requirement and give the Members concerned the discretion to decide when to report and what to report. In this connection, some general guidelines are proposed as follows -

- a. there should be some form of reporting (written or verbal report) to the relevant Panels or other LegCo committees as appropriate (e.g. House Committee) by the Members concerned;
- b. the reporting can be done collectively or individually by the Members concerned;
- c. it would be for the Members concerned to decide as to when to report, and not necessarily before and after attending the meetings of the organizations concerned;
- d. matters of public interest should only include those which are of concern to the relevant Panels or other committees;
- e. matters relating to the internal affairs of the organizations or matters regarded to be confidential by the relevant organizations should not be covered when the Members concerned report their work; and
- f. the Members concerned have full discretion whether or not to convey the views of the relevant Panels/other committees or those of the individual members to the governing bodies or advisory bodies.

15. Should Members decide on the second option discussed in paragraph 14 above, Members may wish to consider reviewing the reporting arrangement in the light of experience, say, in the next session.

### **Nomination and Election Procedure**

16. It is recommended that the nomination and election of Members for appointment to the six governing bodies and advisory bodies be conducted at a House Committee meeting. A valid nomination shall be made orally by a Member, seconded by at least one other Member, and accepted by the Member being nominated. A Member who nominates a Member who is absent from the meeting when the nomination is made shall state that the absent Member's acceptance of the nomination has been secured. If there is objection to a nomination or if the number of nominations exceeds that required for appointment, a vote will be taken by a show of hands.

17. Members are invited to note that the President's view has been sought in her capacity as a Member of the Council in relation to the election method and, subject to the agreement of the members of the House Committee, she has agreed to it.

## **Date of Election**

18. Subject to Members' agreement to the reporting arrangement and nomination and election procedure, Members will be invited to make the following nominations at the House Committee meeting on 27 October 2000 for the purpose of electing -

- a. Two Members to serve on the Disaster Relief Fund Advisory Committee;
- b. One Member to serve on the Po Leung Kuk Advisory Board;
- c. One Member to serve on the Tung Wah Group of Hospitals Advisory Board;
- d. Three Members to serve on the Council of the Chinese University of Hong Kong; and
- e. Five Members to serve on the Court of the University of Hong Kong.

19. The names of the Members elected in the first LegCo term to these bodies are in Appendix V for Members' reference.

20. As Members are aware, election and nomination of Members to The English Schools Foundation will not be held until October 2001 as the expiry date of the current term of the two members, Hon TSANG Yok-shing and Mr Ronald ARCULLI, is 22 October 2001.

## **Advice Sought**

21. Members' views are sought on -

- a. the proposed arrangement for reporting of work by Members elected to serve on the governing bodies and advisory bodies (paragraphs 13 to 15); and
- b. the nomination and election procedure (paragraph 16).

Action

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**XI. Nomination and election of Members to the governing bodies of education institutes and other advisory bodies and reporting of work by the Members nominated to serve on these bodies**

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61. Referring Members to paragraphs 13 to 15 of the paper, the Chairman invited Members' views on the two options on the reporting arrangement. The Chairman said that a modified approach was proposed in paragraph 14 to give the Members concerned the discretion to decide when to report and what to report.

62. Mr CHEUNG Man-kwong said that Members belonging to the Democratic Party were of the view that the reporting requirement was impractical. He said that most issues discussed at meetings of the governing bodies of education institutes were related to their internal affairs which were of no interest to the public or LegCo. He pointed out that even if Members were given the discretion on what to report, the Members concerned would still have difficulties in deciding what should be reported. He suggested that the reporting requirement be dispensed with. He added that if the Member concerned considered that a certain issue would be of interest to LegCo or the public, the Member could raise it with the relevant committee.

63. The Chairman said that the fundamental question was whether the Members elected to the governing bodies or advisory bodies were there as LegCo's representatives. If this was the case, the Members concerned had the responsibility to report their work to the relevant committees of LegCo. However, if this was not the case, the Members should be given a free hand to do their work.

64. Mr CHAN Kam-lam, Mr James TIEN and Prof NG Ching-fai shared Mr CHEUNG's views that there were practical difficulties for Members concerned to report to LegCo Panels or other committees. Mr James TIEN added that it was also difficult for the Members concerned to make reports collectively because they might have different views or political inclinations. Mr James TIEN and Prof NG Ching-fai considered it more important for the Members nominated to serve on the governing bodies or advisory bodies to conscientiously attend meetings of the respective bodies.

65. In view of Members' comments, the Chairman proposed that Members nominated to the governing bodies of education institutes and other advisory bodies would not be required to report their work on these bodies to the Council or its committees. Members agreed.

66. Members endorsed the nomination and election procedure proposed in paragraph 16 of the paper and agreed to hold the election at the House Committee meeting on 27 October 2000.

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## Appendix VIII

### **Members elected in the second Legislative Council term to serve on other governing bodies of educational institutions and advisory bodies**

#### **Governing Bodies of Educational Institutions/Advisory Bodies**

#### **Name of Members**

- |  |   |
|--|---|
| (a) Disaster Relief Fund Advisory Committee        | Hon CHAN Yuen-han, JP<br><br>Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  |
| (b) Po Leung Kuk Advisory Board                    | Hon HUI Cheung-ching, SBS, JP   |
| (c) Tung Wah Group of Hospitals Advisory Board     | Hon YEUNG Yiu-chung, BBS, JP  |
| (d) Council of The Chinese University of Hong Kong | Hon James TIEN Pei-chung, GBS, JP<br><br>Hon CHEUNG Man-kwong<br><br>Hon CHAN Kam-lam, JP   |
| (e) Court of the University of Hong Kong           | Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP<br><br>Hon James TO Kun-sun<br><br>Hon LAU Chin-shek, JP<br><br>Dr Hon TANG Siu-tong, JP<br><br>Hon IP Kwok-him, GBS, JP                           |
| (f) The English Schools Foundation                 | Hon Jasper TSANG Yok-sing, GBS, JP<br>(term of office : 23 October 2001 to<br>22 October 2004)<br><br>Hon Tommy CHEUNG Yu-yan, JP<br>(term of office : 23 October 2001 to<br>22 October 2004) |