

Laying of the Report The Report of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2004 and his Report No. 43 on the results of value for money audits were laid in the Legislative Council on 24 November 2004. The Committee's subsequent Report (Report No. 43) was tabled on 23 February 2005, thereby meeting the requirement of Rule 72 of the Rules of Procedure of the Legislative Council that the Report be tabled within three months of the Director of Audit's Report being laid.

2. **The Government Minute** The Government Minute in response to the Committee's Report No. 43 was laid in the Legislative Council on 18 May 2005. A progress report on matters outstanding in the Government Minute was issued on 13 October 2005. The latest position and the Committee's further comments on these matters are set out in paragraphs 3 to 54 below.

University Grants Committee funded institutions - Governance, strategic planning and financial and performance reporting

(Paragraphs 3 and 4 of Part IV of P.A.C. Report No. 43)

3. The Committee was informed by the Audit Commission in October 2005 that:

Corporate governance of institutions

Amendment to the University of Hong Kong Ordinance regarding the statutory roles of its Council and Court

- the proposed legislative amendments would be submitted to the Court of The University of Hong Kong (HKU) for consideration by the end of 2005. In response to the Committee's enquiry about the progress of the matter, the **Secretary-General of the University Grants Committee (UGC)** said, in his letter of 20 January 2006, in **Appendix 4**, that the HKU Court had agreed at its meeting in December 2005 that the University of Hong Kong Ordinance should be amended so that the descriptions of the respective role of the Court and the Council therein would be consistent with their powers as set out in the relevant statutes. The HKU intended to initiate the relevant legislative amendment process in 2006;

"Fitness for purpose" reviews on the governance structures of the other seven institutions

- as for the Hong Kong Baptist University (HKBU), The Chinese University of Hong Kong (CUHK), The Hong Kong Institute of Education (HKIEd) and The Hong Kong Polytechnic University (PolyU), their reviews were at various stages as follows:

- (a) *HKBU*. The first set of review recommendations would be submitted to the HKBU Council for consideration in October 2005. In the same letter, the **Secretary-General of the UGC** informed the Committee that the HKBU Review Committee on the Governance Structure had completed the first set of recommendations resulting from the “fitness for purpose” review on governance structure, and the report had been approved by the HKBU Council in October 2005. The HKBU would enhance the Council’s role in strategic planning;
- (b) *CUHK*. The Task Force on University Governance had completed the review and the CUHK had approved its recommendation to downsize the University Council for effective governance. To allow the existing members to serve out their present term of membership, the recommendation would be implemented over a period of two to three years;
- (c) *HKIED*. The legislative amendments regarding the composition of the HKIED Council and Academic Board would be submitted to the HKIED Council for consideration by the end of 2005. In his letter, the **Secretary-General of the UGC** advised that the HKIED Council had decided at its meeting in November 2005 to postpone consideration of the proposed legislative amendments, in view of the need to consider other more pressing issues. The HKIED Council intended to reconsider the issue before mid-2006; and
- (d) *PolyU*. The PolyU Governance and Management Review Committee had completed the review and concluded that the governance structure of the PolyU was fit for purpose and that the University had an effective management structure. Nonetheless, to refine the PolyU’s governance and management structure, the Review Committee proposed a total of 34 recommendations, most of which had been approved by the PolyU Council. These recommendations included an increase in the number of student representatives in the Council; a reduction in the number of seats for Faculty Deans; uploading the major Council decisions (other than confidential items) onto the University’s intranet; and review of the University’s committee structures and its appeals and grievance procedures. The PolyU would implement these recommendations within the 2005-06 academic year;

Membership, attendance and attendance records in relation to Council meetings

- the HKBU Council would consider in October 2005 the membership, attendance and attendance records in relation to its Council meetings. In his letter, the **Secretary-General of the UGC** said that the HKBU Council decided that the attendance records of Council members would be made available to relevant bodies upon request with justified grounds;

Proposal to set up an audit committee

- the HKBU Council would consider in October 2005 the recommendations of its Review Committee on Governance Structure regarding the proposal to establish an audit committee. In the same letter, the **Secretary-General of the UGC** said that the HKBU Council had accepted the recommendations and decided to establish an audit committee and set up a risk management structure. An Audit Committee had been formally set up, with the appointment of members and approval of the terms of reference as well as membership composition endorsed by the HKBU Council in December 2005; and

Proposal to conduct periodic reviews of the effectiveness of governing bodies

- the status of the reviews of the HKBU and the PolyU was as follows:
 - (a) *HKBU*. The HKBU Council would consider, in October 2005, the recommendations of its Review Committee on Governance Structure regarding the proposal to conduct periodic reviews of the effectiveness of the HKBU's governing body. In his letter, the **Secretary-General of the UGC** advised that the second part of the HKBU's review which covered other areas, including periodic review of the effectiveness of the governing body, the functions and membership composition of the HKBU Court, the relationship between the Court and Council, the effectiveness of the Senate, etc., was targeted for completion within 2006; and
 - (b) *PolyU*. The University Council had agreed to conduct self-evaluation once every two years.

4. The Committee wishes to be kept informed of further development on the subject.

University Grants Committee funded institutions – General administrative services
(Paragraphs 5 and 6 of Part IV of P.A.C. Report No. 43)

5. The Committee was informed that:

Provision of senior staff quarters

Action taken by the institutions to address the rent charging practices for staff occupying senior staff quarters while receiving Private Tenancy Allowance or Home Financing Allowance

- The Chinese University of Hong Kong had undertaken to gradually phase out those tenancies of its staff whose Home Financing Allowance were lower than market rents, upon the expiry of their existing rental agreements over the next 20 months as far as practicable. New residents would be charged full market rents for occupancy of senior staff quarters; and

Student hostels

Review of the existing policy on students' grants and loans

- the recommendations of the advisory committee that advised the Administration on the operation of the Local Student Finance Scheme (including the proposed accommodation expenses loan) would be considered after the completion of a number of ongoing reviews on student financial assistance, including another study now being planned on the development of a simpler, more viable and sustainable mechanism for determining and revising the levels of student financial assistance.

6. The Committee wishes to be kept informed of further development on the subject.

University Grants Committee funded institutions - Staff remuneration packages and stipends

(Paragraphs 7 and 8 of Part IV of P.A.C. Report No. 43)

7. The Committee was informed by the Audit Commission in October 2005 that:

Pay structure

The institutions' reviews of their pay structure

- The Hong Kong University of Science and Technology had completed its review on the pay and reward structure of its staff. The status of the reviews for the other two institutions was as follows:
 - (a) *The Hong Kong Institute of Education (HKIEd).* The reviews on titles and salary structure had been completed. The HKIEd Council had approved the new/revised titles and salary structure for academic staff in June 2005 for application to newly-appointed academic staff with effect from 1 September 2005. Regarding the titles and salary structure for non-academic staff, the HKIEd would report staff's feedback collected to the HKIEd Council in November 2005. Moreover, the HKIEd was reviewing the benefits and allowances of both academic and non-academic staff and expected to submit its recommendations to the

HKIED Council for consideration before the end of 2005. In response to the Committee's enquiry about the progress of the matter, the **Secretary-General of the University Grants Committee (UGC)** advised, in his letter of 20 January 2006 in *Appendix 4*, that the HKIED Council had studied the proposal on the titles and salary structure for non-academic staff as well as on the revisions of benefits for both academic and non-academic staff at its meeting in November 2005. A further review was subsequently decided upon and the HKIED Council would consider a revised proposal before mid-2006; and

- (b) *The University of Hong Kong (HKU)*. The HKU expected a salary review report from the consultant by the end of 2005. In the same letter, the **Secretary-General of the UGC** informed the Committee that an external consultancy had been engaged to review the salary structure for non-academic staff. Recommendations were being drawn up, and the review exercise was expected to be completed before mid-2006;

The Hong Kong Polytechnic University (PolyU)'s review on the effect of section 9(3)(c) of The Hong Kong Polytechnic University Ordinance and its proper application

- the PolyU Governance and Management Review Committee had reviewed the role of the PolyU Council and had recommended that appropriate amendments be made to section 9(3)(c) and other relevant sections of The Hong Kong Polytechnic University Ordinance to define more clearly the Council's role to approve the University's policy governing the terms and conditions of service of staff. The Committee's recommendation was approved by the PolyU Council. The PolyU intended to submit its proposal for legislative amendments to the Administration for consideration in the 2005-06 academic year; and

Administration of leave

The institutions to address the problems associated with the excessive leave entitlements and the encashment of leave

- the position of the reviews by the HKIED and the HKU was as follows:
 - (a) *HKIED*. As part of the staff benefits review, the HKIED was reviewing the vacation leave entitlement of staff and expected to submit its recommendations to the HKIED Council for consideration before the end of 2005. In his letter, the **Secretary-General of the UGC** said that the HKIED Council had studied, at its meeting in November 2005, the proposed revisions of benefits for both academic and non-academic staff, which included a review of the vacation leave entitlement for staff. A further review on some parts of the proposed revisions of benefits

was subsequently decided upon and the HKIED Council would be asked to consider a revised proposal before mid-2006; and

- (b) *HKU*. The HKU would complete the review to address the problem of excessive leave entitlement and encashment of leave for non-academic staff by the end of 2005. In the same letter, the **Secretary-General of the UGC** advised that the HKU Council had considered the problem of excessive leave entitlement in December 2005. As leave entitlement was part of the contractual agreement, the HKU considered that encashment of long leave followed by (the much reduced) compulsory annual leave was the most practical and effective way of addressing the problem. The HKU Council had approved the launching of the third round of long leave encashment with a view to encouraging eligible staff members to move from the Long Leave Scheme to the Annual Leave Scheme.

8. The Committee wishes to be kept informed of further development on the subject.

Financial performance of the Post Office

(Paragraphs 3 and 4 of Part V of P.A.C. Report No. 43)

9. The Committee was informed that the Post Office (PO), together with the Economic Development and Labour Bureau and the Financial Services and the Treasury Bureau, continued to examine critically the challenges to the PO's operation as identified by the Committee. Apart from the PO's financial performance and operation as a trading fund, the studies had covered issues relating to the postal services market, including global developments and overseas experience in reforming the postal services. The PO was also examining its network of branch offices' operations. As interrelated complex issues were involved, more detailed studies on these were ongoing. The PO was also examining the impact of new terminal dues adopted by the Universal Postal Union with effect from 1 January 2006.

10. The Committee wishes to be kept informed of the results of the comprehensive review of postal policy and services.

Provision of slaughtering facilities for supplying fresh meat

(Paragraphs 5 and 6 of Part V of P.A.C. Report No. 43)

11. The Committee was informed that:
- the Architectural Services Department (ArchSD) had already completed its review on the adequacy of the holding capacity of lairages and handling

capacity of meat despatch bank and vehicle washing facility of the Sheung Shui Slaughterhouse (SSSH). Since August 2005, in consultation with the Food and Environmental Hygiene Department (FEHD), the Arch SD had started to draw up the scope of technical requirements for a consultancy to examine the feasibility of modifying the SSSH to cater for the increase in the slaughtering throughput of pigs. Information relating to the operation of the SSSH and the associated traffic and environmental impact issues, such as noise, odour and waste disposal, was being collected for drafting the tender requirements; and

- the Arch SD planned to invite bids for the consultancy in October 2005 with a view to awarding the contract in December 2005. The study would be completed in early 2006. The FEHD would consider the findings of the study and other related factors before making recommendations on the feasibility of centralising the slaughtering operation of livestock at the SSSH and the way forward.

12. The Committee wishes to be kept informed of the progress made in ascertaining the feasibility of centralising the slaughtering operation of livestock at the SSSH and the FEHD's recommendations on the way forward.

Services provided by the Official Receiver's Office
(Paragraphs 7 and 8 of Part V of P.A.C. Report No. 43)

13. The Committee was informed that:

Consultancy study and fees of the Official Receiver's Office

- the Bankruptcy (Amendment) Ordinance 2005 was passed by the Legislative Council on 6 July 2005 and gazetted on 15 July 2005. It was expected to come into operation after the corresponding subsidiary legislation and administrative logistics were made ready in 2006. When the Amendment Ordinance became operative, it would facilitate outsourcing of debtor-petition summary bankruptcy cases to the private sector insolvency practitioners (PIPs) by the Official Receiver's Office (ORO). The question of fees and cost recovery rates would be reviewed after the implementation of the outsourcing; and
- as regards other recommendations of the consultancy study, the ORO would consider the proposed "cab-rank" system and some form of authorisation of the PIPs in the context of the evaluation of the implementation of the outsourcing arrangements in the future.

14. The Committee wishes to be kept informed of further development on the subject.

Recoverability of the outstanding advances to the United Nations High Commissioner for Refugees

(Paragraphs 9 and 10 of Part V of P.A.C. Report No. 43)

15. The Committee was informed that:

- the Administration had continued to urge the United Nations High Commissioner for Refugees (UNHCR) to make renewed efforts to look for donations from other countries with a view to settling the outstanding advances, which remained at \$1,162 million. The Security Bureau had written to the Head of Hong Kong Sub-office of the UNHCR in May 2005 for this purpose and made clear the Administration's stance again during meetings with the representatives of the UNHCR in June and July 2005; and
- the UNHCR had reiterated that due to budget constraint and priority to cope with other more pressing refugees and humanitarian issues, it was not optimistic that further donations would be received to repay the outstanding advances. Nevertheless, the Administration would continue to pursue repayment of the outstanding advances.

16. The Committee wishes to be kept informed of the action taken by the Administration in pressing the UNHCR to repay as soon as possible the outstanding advances to the Government of the Hong Kong Special Administrative Region.

Footbridge connections between five commercial buildings in the Central District

(Paragraphs 11 and 12 of Part V of P.A.C. Report No. 43)

17. The Committee was informed that:

- as the column of the proposed footbridge linking Building I (i.e. Aon China Building) and Building II (i.e. Entertainment Building) would affect the station entrances/exits of the proposed Shatin to Central Link (SCL) of the Kowloon-Canton Railway Corporation (KCRC), the KCRC had raised objection to the proposed footbridge during consultation; and
- the Administration was assessing the KCRC's draft Final Proposal on the SCL and the SCL proposal jointly developed by the KCRC and the Mass Transit Railway Corporation Limited under the Merger Study. The Administration would consider the way forward for the footbridge proposal in conjunction with the SCL Scheme.

18. The Committee wishes to be kept informed of the way forward for the footbridge proposal in conjunction with the SCL Scheme.

Water purchased from Guangdong Province

(Paragraphs 17 and 18 of Part V of P.A.C. Report No. 43)

19. The Committee was informed that:

Further efforts to incorporate more favourable terms in future water supply agreements, including more flexibility in the supply arrangements

- the Administration's negotiation with the Guangdong side on the review of the supply quantities and prices for 2005 and onwards was ongoing. To ensure a stable water supply to Hong Kong for 2006, a roll-over arrangement had been put in place; and
- the Administration would continue its utmost effort to negotiate for more favourable terms with the Guangdong side, including more flexibility in the supply quantities to suit Hong Kong's needs in the new water supply arrangement.

20. The Committee wishes to be kept informed of the Administration's further efforts to incorporate more favourable terms in future water supply agreements, including more flexibility in the supply arrangements.

Provision of legal aid services

(Paragraphs 21 and 22 of Part V of P.A.C. Report No. 43)

21. The Committee was informed that, in respect of measures to contain the costs of legal aid, a Steering Committee comprising representatives from the Administration Wing, the Legal Aid Department (LAD), the Judiciary and the Home Affairs Bureau had been monitoring the progress of the Pilot Scheme on mediation of legally aided matrimonial cases. As it would take time for the proceedings involving cases under the Pilot Scheme to conclude, the LAD aimed at completing the evaluation of the outcome of the Pilot Scheme by 2007-08.

22. The Committee wishes to be kept informed of further development on the subject.

Residential services for the elderly

(Paragraphs 23 and 24 of Part V of P.A.C. Report No. 43)

23. The Committee was informed that the Administration had consulted the Elderly Commission and the Legislative Council Panel on Welfare Services in November and December 2004 respectively on its proposal to launch a trial scheme to provide infirmary care places for medically stable elders in a non-hospital setting. In the light of feedback from Panel members and the sector, the Administration was considering the best way to bring forward the proposal. The Administration aimed to come up with a way forward in a few months after October 2005.

24. The Committee wishes to be kept informed of further development on the subject.

The Customs and Excise Department's efforts to protect government revenue from dutiable commodities

(Paragraphs 25 and 26 of Part V of P.A.C. Report No. 43)

25. The Committee was informed that:

Customs audits of oil companies

- the Customs and Excise Department (C&ED) had completed a pilot scheme with an oil company and had successfully developed an audit programme for the oil company using the system-based approach (SBA) model. The pilot scheme had shown that it was both practicable and effective to apply the SBA model in auditing oil companies. The C&ED aimed to apply the SBA model to all oil companies by April 2006; and

Trial Scheme of "Red and Green Channels"

- the facilities for implementing the "Red and Green Channels" at the control points and the airport would be ready in October 2005. The C&ED would launch a series of publicity programmes before the implementation of the trial scheme in November 2005. In response to the Committee's enquiry about the updated progress of the trial scheme, the **Commissioner of Customs and Excise** informed the Committee, in his letter of 20 January 2006 in *Appendix 5*, that:

- (a) *The Red and Green Channels.* With effect from 1 November 2005, the C&ED had implemented a new mode of Customs clearance service for passengers, the Red and Green Channel System (the System), at all entry points. Under the new mode, passengers arriving in Hong Kong would make Customs declarations by choosing to be processed either at

the Red Channel or Green Channel. Passengers having items to be declared were required to choose the Red Channel, otherwise they could proceed to the Green Channel;

- (b) *Publicity.* The C&ED had launched a publicity campaign since October 2005 to publicise the System through announcements of public interest on television and radio, posters, leaflets, and video clips shown in arrival flights. A press conference had been held on 20 October 2005 to announce the implementation of the System. The public could also obtain information from the departmental website and telephone hotline; and
- (c) *Implementation progress.* From the review on the implementation of the System, it was observed that the majority of the passengers could quickly adapt to the new mode of clearance. Moreover, the daily duties and compounding penalties collected, dutiable commodities abandoned, and the number of prosecution cases had increased. This showed that the System had successfully achieved the objectives in facilitating passenger clearance and enhancing revenue protection on dutiable goods.

26. The Committee wishes to be kept informed of the further progress made in adopting the SBA in custom audits of oil companies and in conducting the trial scheme of the “Red and Green Channels” for the prevention and detection of abuses of duty-free concessions by incoming travellers.

Special Finance Scheme for small and medium enterprises

(Paragraphs 27 and 28 of Part V of P.A.C. Report No. 43)

27. The Committee was informed that the Treasury had been processing claims for compensation with the assistance of the Department of Justice and the Hong Kong Monetary Authority as necessary. So far, 1,392 claims involving a total of \$329 million had been settled. Another 33 claims involving a total of \$12 million had been suspended from processing as requested by the participating lending institutions in view of active repayment by the borrowers. The Treasury was processing the remaining 85 cases involving a total of \$25 million.

28. The Committee wishes to be kept informed of further progress on the subject.

Small house grants in the New Territories

(Paragraphs 29 and 30 of Part V of P.A.C. Report No. 43)

29. The Committee was informed by the Audit Commission in October 2005 that:

Implementation of small house policy

- the Housing, Planning and Lands Bureau (HPLB) and the Lands Department (Lands D) had been compiling data and conducting researches with a view to formulating proposals relating to the small house policy. They would consult various stakeholders on the way forward;

Checking of indigenous villager status

- the Lands D had consulted the Heung Yee Kuk (HYK) and obtained its agreement on the revised practice. As a general requirement, a statutory declaration would be made by the Indigenous Inhabitant Representative for the purpose of certifying an applicant's indigenous villager status. As for doubtful cases, the Lands D would carry out detailed investigation, upon presentation of additional information and evidence to establish the applicant's eligibility for small house grant; and

Processing of small house grant applications

- the Lands D had streamlined the processing procedures. As agreed with the HYK, applications would be classified into two categories: straightforward and non-straightforward applications. For the former, the small house grant document would be made available for execution by the applicant within 24 weeks from the date of interview by the Lands D. For the latter, the applicant would be allowed a period of 12 months to resolve all the technical problems/local objections encountered in the process. Now that the revised practice for certifying the indigenous villager status of small house applicants had been formulated and taking into account the progress being made in respect of the discussions to resolve other related issues, a set of streamlined processing procedures for small house applications would be implemented shortly.

Updated position of processing of small house grant applications

30. In the light of the progress made regarding the processing of small house grant applications, the Committee wrote to the Secretary for Housing, Planning and Lands, drawing his attention to the fact that, in December 2002, he undertook to pursue within the tenure of his office the review of small house policy and related issues in a comprehensive manner and he hoped to resolve the problems associated with the policy once and for all within that time scale. The Committee further pointed out that, in June 2005, it had urged

the Administration to expedite actions regarding the implementation of the small house policy and processing of small house grant applications, with a view to concluding them as early as possible. In response, the Administration informed the Committee in July 2005 that:

- work had continued on various issues relating to the policy, including the compilation of data for analysis and researches into ways to address various aspects. The Administration would consult various stakeholders with a view to formulating preliminary proposals on the policy for more in-depth discussion; and
- as the revised practice for certifying the indigenous villager status of small house applicants had been formulated, and together with resolving some other related issues, a set of streamlined processing procedures for small house applications could be put into practice shortly.

31. Noting that the position of the above issues in October 2005 remained substantially the same as that in July 2005, the Committee asked about the progress of work regarding the streamlined procedures. In response, the **Secretary for Housing, Planning and Lands** advised, in the letter of 20 January 2006 in *Appendix 6*, that

- to take forward the review of small house policy, the HPLB had set up an inter-departmental Steering Committee to look into various issues relating to the small house policy. This was a very complex subject which required the HPLB to consider the social, economic and environmental development in the New Territories and the whole of Hong Kong since its introduction in 1972. The HPLB was studying the various issues and had yet to complete them for the formulation of preliminary proposals. The HPLB would continue its efforts and report progress as and when it was ready; and
- cooperation of the HYK was essential to the smooth implementation of the streamlined procedures for processing small house applications. The HPLB had been engaging in active dialogue and negotiation with the HYK in respect of certain aspects under the proposed streamlined procedures, including the requirement for small house applicants to make statutory declarations, and the revised procedures for handling objections to small house applications. Discussion with the HYK was still on-going. The HPLB would put in place the set of streamlined procedures as soon as the above matters were resolved.

32. The Committee wishes to be kept informed of the progress of the various courses of action taken by the Administration.

Public markets managed by the Food and Environmental Hygiene Department
(Paragraphs 37 and 38 of Part V of P.A.C. Report No. 43)

33. The Committee was informed that:

Comprehensive review on the market stall vacancy rate of public markets

- the Food and Environmental Hygiene Department (FEHD) continued to take various initiatives to promote public markets. The FEHD had been proactively approaching potential tenants with a view to introducing new lines of business into three selected markets, namely, the Sai Wan Ho Market, the Yan Oi Market and the Luen Wo Hui Market. Parties approached included commercial companies and non-government organisations;
- as continued efforts to promote public markets and to attract more customers, the FEHD had organised a variety of promotion activities such as competitions, workshops, talks, carnivals and exhibitions in selected markets. Decoration and signage were added and installed to improve the environment in some public markets. The FEHD had also published quarterly newsletters to the tenants, market customers and the public to disseminate information on markets and other relevant topics with a view to enhancing communication;
- as regards the long-standing vacant small stalls which could technically be merged into larger stalls, the Architectural Services Department (ArchSD) had so far put in place 76 merged stalls. The FEHD had been offering these stalls for bidding in public auctions with three stalls successfully let out so far;
- as regards the survey to examine whether there had been changes in public shopping habits, the final report on the survey was being prepared. The FEHD would take the result of this survey into account in deciding whether it was feasible to set a target market stall vacancy rate (MSVR) for individual markets. In any case, the FEHD would continue to explore ways and means to reduce the MSVRs of public markets;

Review of the demand for public market facilities

- the joint comprehensive review by the Health, Welfare and Food Bureau (HWFB) and the FEHD on wet market policy was still ongoing. The current planning standards for the provision of market facilities in the Hong Kong Planning Standards and Guidelines were one of the topics covered by the review. The review would be completed in early 2006;

Study to identify markets that might merit closure and details of the HWFB's rationalisation plan to be drawn up

- the HWFB and FEHD were undertaking a review on wet market policy, and closure of markets with serious and insurmountable viability problems would form part and parcel of the review. The review would be completed in early 2006. Based on the results of the FEHD's study on market viability problems and the policy review, the FEHD would consult the relevant stakeholders including the affected stall tenants and the District Councils and then draw up the rationalisation plans;
- separately, in response to a request from the Food and Environmental Hygiene Committee (FEHC) of the Yau Tsim Mong District Council (YTMDC) and the stallholders, the FEHD was now drawing up proposals to close the Mong Kok Market due to its non-viability. The FEHD would consult the FEHC and the tenants in due course;

Reassessment of the need to retrofit air-conditioning system in public markets, including the Yue Wan Market, the San Hui Market and the Fa Yuen Street Market

- the Legislative Council Panel on Food Safety and Environmental Hygiene considered that the air-conditioning (A/C) retrofitting projects for these three markets should continue to proceed provided that they had the support from the relevant District Councils and met the Government's criteria of receiving support from 85% of the market tenants or more. Works for retrofitting the A/C system in the Yue Wan Market had been completed in March 2005 while works for the San Hui Market commenced in September 2005. Subject to the outcome of further consultation with concerned stall tenants and the YTMDC, the FEHD planned to retrofit the A/C system in the Fa Yuen Street Market and Cooked Food Centre when implementing the general improvement works;

Identification of beneficial permanent use of vacant market floor space in the Fa Yuen Street Market and the To Kwa Wan (TKW) Market

- the YTMDC had no objection to the FEHD's proposal of converting the vacant floor space in the Fa Yuen Street Market into a government office. The conversion project was expected to commence in the third quarter of 2006. The office would be allocated to the FEHD for use; and
- the Government Property Agency (GPA) advised that despite its repeated efforts, no government department indicated interest in using the vacant basement floor in the TKW Market. The FEHD would continue to use the basement floor for storage of cleansing gear until the space was required by other departments.

Updated position regarding the identification of beneficial permanent use of vacant market floor space in the TKW Market

34. In view of the information provided by the GPA, the Committee asked the Administration:

- since the publication of the Committee's Report in February 2004, which government departments had applied for office accommodation, as well as the locations and areas of the relevant accommodation; and
- whether the departments had considered using the vacant floor space in the TKW Market as their office accommodation.

35. The **Government Property Administrator** informed the Committee, in the letter of 20 January 2006 in **Appendix 7**, that:

- on 8 January 2004, a meeting was held among the FEHD, the Financial Services and the Treasury Bureau, the ArchSD and the GPA to discuss, inter alia, how to put the vacant basement at the TKW Market to beneficial use. It was agreed that the vacant basement might not be suitable for office purpose, and that the GPA would liaise with other departments, e.g. the Customs and Excise Department (C&ED) and the Leisure and Cultural Services Department (LCSD), to see whether there would be interests in using the vacant floor for storage purpose;
- after the meeting, the GPA had circulated the space for application by bureaux/departments in its quarterly exercise but no bid was received. In parallel, the GPA had also, in January 2004, invited three departments, namely the C&ED, the LCSD and the Post Office, to consider using the basement of the TKW Market for storage purpose. However, all of them had declined the offer after site inspections. (A summary of the views of the departments concerned and of the ArchSD was provided at Appendix A to the above letter.) It could be seen from the comments, in particular those from the ArchSD, that the basement was not suitable for use as office or for storage of objects which could be damaged by sewage. It was underneath a public market and there was presence of a large number of drainage pipes, and the use of the basement was constrained by the limited headroom, unsatisfactory hygienic environment and the lack of lift service; and
- since the publication of the Committee's Report in February 2004, the GPA had met 127 accommodation requests from government departments. (A summary of the requests with details of the space was provided at Appendix B to the above letter.) The availability of the basement for allocation had been covered by the GPA's regular circulation but no bid had been received. In considering these accommodation requests from

departments, the GPA had also, taking into account the above observations, assessed and considered if the basement could meet their requirements.

36. The Committee wishes to be kept informed of further development on the subject.

Buildings Department's efforts to tackle the unauthorised building works problem
(Paragraphs 41 and 42 of Part V of P.A.C. Report No. 43)

37. The Committee was informed that:

Extent of compliance with section 24 orders and complaint cases

- the Buildings Department (BD) had deployed additional resources and set performance targets to speed up the clearance of long outstanding unauthorised building works removal orders. Progress in clearing these outstanding removal orders was satisfactory. The BD had achieved 99.3% of the target of clearing by March 2005 all outstanding removal orders issued before 1991. The BD was actively pursuing the remaining five outstanding cases. The BD had set new targets to clear 100%, 85%, 80% and 70% of the orders issued between 2000 and 2001, and in 2002, 2003 and 2004 respectively by March 2006. The BD had published these new targets together with the actual performance on its website since May 2005 and would update the actual performance regularly to improve accountability to the public;

The Coordinated Maintenance of Buildings Scheme (CMBS)

- under the new modality of the CMBS adopted in 2005, 150 target buildings had been selected for improvement of safety and outlook. The BD would review in October 2005 the effectiveness of the new modality for implementing the CMBS. In response to the Committee's enquiry about the progress of the review, the **Director of Buildings** responded, in his letter of 24 January 2006 (in *Appendix 8*), that:
 - (a) *The Review.* An interim review had been carried out in November 2005 to evaluate the effectiveness of the new modality of the CMBS. The scope of the interim review was, however, limited by the information available and the tasks that could be completed at such an early stage of implementation of the CMBS 2005;
 - (b) *Findings.* Compared with previous operations, there had been a substantial saving in the BD's resources in the CMBS 2005. Under the new modality, the BD had reduced its staff input to about 50% of that

under the CMBS 2000. Some of the work had been taken up by the Hong Kong Housing Society (HKHS). As incentives to carrying out the improvement works, the HKHS provided interest-free loans and subsidies for procurement of third party insurance to eligible owners. Formation of Owners' Corporations (OCs) was important for better building management and maintenance. The HKHS had made significant contributions in this aspect. Within the first six months of the operation of the CMBS 2005, owners of 10 target buildings had agreed to form OCs and three of these buildings had been issued with the certificate of registration, whereas only one OC was formed during the first six-month period under the CMBS 2000. Owners of another 36 buildings had also shown keen interest in forming OCs. Moreover, owners of some remaining buildings were actively pursuing the improvement works under the joint efforts of the HKHS and their property managers. As compared with previous operations, the number of target buildings in which the first meetings with owners to kick-start the operation could be held within the first six months had increased from 30 (out of 200 target buildings) in the first two CMBSs to 56 (out of 150 buildings) in the 2005 CMBS; and

- (c) *Way forward.* The findings of the interim review indicated that the new modality had been effective in saving the BD's resources in providing technical support to owners. It was also effective in strengthening the support to the owners and the coordination in the arrangement for the improvement works. It was anticipated that this would contribute to achieving the objective of the CMBS in educating and encouraging building owners to take better care of their buildings, as well as the smooth completion of the improvement works within the 18-month programme of the CMBS 2005. The progress of the CMBS 2005 and the effectiveness of the new modality would be closely monitored. Depending on the achievement in the ensuing months, the programme of the CMBS 2005 would be suitably adjusted as necessary; and

Control of signboards

- the Administration intended to introduce the Buildings (Amendment) Bill in the 2005-06 legislative session to take forward the proposed regime. The Director of Buildings would carry out a post-implementation review of the regime to ascertain its effectiveness.

38. The Committee wishes to be kept informed of further development on the BD's modified CMBS and control of signboards.

Planning and provision of public secondary school places

(Paragraphs 43 and 44 of Part V of P.A.C. Report No. 43)

39. The Committee was informed that, in respect of the need for buying school places from caput schools, the Education and Manpower Bureau (EMB) would take follow-up actions as ongoing activities. As regards school places provided by Direct Subsidy Scheme (DSS) schools, the EMB would continue to monitor the development of DSS schools, with particular attention to their trend and pattern of enrolment.

40. The Committee wishes to be kept informed of the development of the DSS schools, with particular attention to the trend and pattern of their enrolment.

The acquisition and clearance of shipyard sites

(Paragraphs 45 and 46 of Part V of P.A.C. Report No. 43)

41. The Committee was informed that:

Resumption and clearance of the North Tsing Yi shipyard site

- the recommendations in paragraph 2.14 of the Director of Audit's Report No. 41 mainly related to the need to hold tenants under short term tenancies (STTs) to their contractual obligation of clearing structures when the STTs were terminated. The Director of Audit had recommended that where a waiver of this obligation was considered necessary, the prior approval of the Secretary for Financial Services and the Treasury had to be sought. Also, the Director of Lands should state clearly in the Lands Administration Office Instructions (LAOI) the specific justifications under which an STT tenant might be exempted from clearing the site upon termination of the tenancy;
- given the fact that some STT tenants of shipyard sites at North Tsing Yi might have genuine financial difficulties in arranging for the demolition of their structures, there might be a need to exempt certain clearerees from complying with the self-demolition requirement on compassionate grounds. The relevant bureaux and departments were examining this matter. At the same time, the Lands Department (Lands D) was also exploring measures to better enforce the self-demolition requirement. Subject to the outcome of the foregoing exercises, the LAOI would be amended as recommended by the Director of Audit. In response to the Committee's enquiry about the progress of the matter, the **Director of Lands** said, in his letter of 23 January 2006 in *Appendix 9*, that:
 - (a) the Lands D remained of the view that there would be practical difficulties in requiring the tenants of all types of STTs to demolish their structures upon termination of the tenancies, and that there might be a need to exempt certain tenants from the self-demolition requirement; and

- (b) the Lands D was still looking into details of the matter with relevant bureaux and departments, and would report the progress as and when it was ready;
- as regards the issue of the recovery of the decontamination costs of the North Tsing Yi shipyard sites, after considering further detailed legal advice from both overseas and local counsel and reports from environmental consultants, the Government had concluded that, based on the actual circumstances and facts of these particular cases including the conditions of the tenancies and leases, the prospect of successfully pursuing the protective writs was not good enough to justify pursuing legal action against the ex-tenants/lessees for recovery of the decontamination costs, bearing in mind the potential costs of legal proceedings. Accordingly, the Government had decided not to take any further action to recover these costs; and

Assessment of contamination at the Penny's Bay shipyard site

- on the recovery of decontamination costs from the ex-lessee of the Penny's Bay shipyard site or the shipyard operator, the Leading Counsel had advised that, in light of the "as is" condition in the deed of surrender, there was no cause of action to recover the decontamination costs except that, subject to expert evidence, the Court could be asked to take into account the decontamination costs in determination of the ex-lessee's claims under the Foreshore and Sea-bed (Reclamations) Ordinance. The Government was acting in accordance with this advice. In response to the Committee's enquiry about the progress of the matter, the **Director of Lands** advised in the same letter that:
 - (a) the ex-lessee of the Penny's Bay shipyard site had made an application to the Lands Tribunal for an order that a hearing be held to determine certain points of law as preliminary issues, which included the issue of whether the costs of decontamination of the site should be taken into account in determining the ex-lessee's claim for compensation under the Foreshore and Sea-bed (Reclamations) Ordinance; and
 - (b) the President of the Lands Tribunal had heard the application on 16 January 2006 with judgment reserved.

42. The Committee wishes to be kept informed of the progress of the various courses of action taken by the Administration.

Funding of tertiary education

(Paragraphs 47 and 48 of Part V of P.A.C. Report No. 43)

43. The Committee was informed that:

University Grants Committee (UGC)'s endeavours in benchmarking the cost of tertiary education

- the UGC was drawing up detailed specifications for the engagement of a consultancy on the costing and funding methodology of the UGC-funded sector for the implementation of a robust and comprehensive activity-based costing system; and

Funding of self-financing activities

- the UGC had updated the relevant parts of the UGC Notes on Procedures to reinforce the policy that public funds should not be used to subsidise self-financing activities. The UGC was studying the overhead cost structure and the amount of overhead charges involved in student hostel operation. Subject to the outcome of the study, the UGC would consider how overhead charges involved in student hostel operation should be dealt with.

44. The Committee wishes to be kept informed of further development on the subject.

Control and monitoring of District Council expenses and related activities

(Chapter 1 of Part VIII of P.A.C. Report No. 43)

45. The Committee was informed that:

Progress of implementing the removal of the administrative measure regarding tax deduction

- the Administration had decided to withdraw the administrative measure of allowing, without query, a tax deduction of 50% of the honorarium of District Council (DC) Members. In order to avoid causing undue inconvenience and confusion to DC Members, the change would take effect as from 2006-07 rather than 2005-06. The Administration had informed all DC Members accordingly;
- in consultation with the Inland Revenue Department (IRD), the Home Affairs Department (HAD) had drawn up a work plan to ensure a smooth implementation of the proposal. The HAD would brief all DC Members in full on detailed arrangements before withdrawing the administrative measure;

Decision and progress made on the Committee's recommendation that 50% of a DC Member's honorarium be converted to the Operating Expenses Allowance (OEA)

- the Committee's recommendation for the Administration to consider converting 50% of the DC Members' honorarium into the OEA so that the DC Members' honorarium, similar to those of the Executive Council and the Legislative Council Members, was all taxable involved a fundamental change to the DC Members' remuneration package. The HAD planned to consult the Independent Commission on Remuneration for DC Members (the Independent Commission) in October 2005. In addition, the HAD intended to ask the Independent Commission to review the lists of reimbursable and non-reimbursable items for the OEA claims. These lists would help provide a clear reference to DC Members as well as the IRD for tax deduction purposes;
- the HAD had consulted DC Members on the Committee's recommendation and was now carefully reviewing its full implications, taking into account DC Members' views;

Progress of reviewing the HAD Guidelines on the reimbursement of the OEA and the Information Technology and Other Support Grant (ITOSG)

- subsequent to the briefing for DC Members in January 2005 to collect their feedback, the HAD had drawn up a list of proposed improvements to the guidelines taking into account the recommendations in the Director of Audit's Report No. 43 and suggestions from DC Members;
- the HAD had reviewed the scope of the OEA and the ITOSG and had prepared two updated lists of reimbursable and non-reimbursable items under them. The lists had been included as part of the proposed revisions to the guidelines, which were being circulated to the relevant bureaux/departments for comments. In parallel, the Independent Commission Against Corruption (ICAC) had also reviewed the principles, procedures and guidelines governing the OEA and the ITOSG and had made preliminary proposals for improvement to the guidelines; and
- the HAD had organised two seminars in conjunction with the ICAC on 25 July and 2 August 2005 respectively to brief and consult DC Members on the proposed revisions to the guidelines. The HAD and the ICAC had further reviewed the proposals taking into account the views of and suggestions made by DC Members before consulting the Independent Commission.

46. The Committee wishes to be kept informed of further progress on the subject.

Government subsidies to the English Schools Foundation

(Chapter 2 of Part VIII of P.A.C. Report No. 43)

47. The Committee was informed that:

- the Education and Manpower Bureau would work closely with the English Schools Foundation (ESF) to complete the subvention review. Since the input of the ESF on matters such as its costing structure and development strategy was crucial for the review, substantive discussions would be possible only after the ESF had implemented its governance reform and put in place a sound governance structure. To this end, the ESF had carried out the review of the governance of the ESF according to its schedule; and
- pending an agreement with the ESF on its long-term subvention arrangement, the Administration would continue to require the ESF to deliver savings and implement the agreed reductions in subvention to the ESF through improvement of efficiency.

48. The Committee wishes to be kept informed of further development on the subject.

Corporate governance and Headquarters administration of the English Schools Foundation

(Chapter 3 of Part VIII of P.A.C. Report No. 43)

49. The Committee was informed that:

Corporate Governance

- the English Schools Foundation (ESF) had approved a new governance framework on 29 June 2005. It had commissioned lawyers to prepare a private member's bill for introduction into the Legislative Council (LegCo) to make necessary amendments to The English Schools Foundation Ordinance. The ESF had also planned to lay revisions to the Regulations under the Ordinance before the LegCo for scrutiny. Under the current proposal of the ESF, the bill would address the key issues of concern raised by the Committee, including the need to contain the size of the Foundation, to separate management functions from the governance body, to increase the proportion of independent members on the Foundation, to improve attendance at Foundation meetings, to review staff voting right on pay and benefits at Foundation meetings, and to establish an internal audit committee. The ESF intended to invite its members to approve the draft bill in due course, with a view to introducing the bill in the LegCo in the 2005-06 legislative session;

- it had been the Administration's practice to avoid micro-managing subvented organisations and to refrain from joining the governing bodies of school sponsors. In line with the existing practice, the Administration had advised the ESF that the Government would no longer be represented on the new Board of Governors or other management committees of the ESF under the new governance structure;
- on the role of the Foundation Office, the ESF had commissioned an independent management consultant to conduct a review. After interviewing members of the Executive Committee of the ESF, principals, school council chairmen, parents and staff, the consultant recommended that the central office should be retained to secure quality, coherence and economies of scale in the management of ESF schools. However, the consultant suggested sweeping changes with regard to the work practices of the Foundation Office. The ESF had published the findings of the review and planned to implement the proposed changes in the early autumn of 2005. In response to the Committee's enquiry about the details of the review and the implementation timetable, the **Chief Executive, ESF**, advised, in her letter of 20 January 2006 in *Appendix 10*, that the implementation of the changes with regard to the work practices of the Foundation Office was in progress and a new management team would be in place in January 2006. Details of the review on the role of the Foundation Office are provided in the progress report attached to her letter;

Others

- the ESF was continuing with its remuneration review and had started staff consultation on the remuneration and benefits for principals and teaching staff. As recommended by the Committee, the ESF would also review the benefits and responsibility allowances of its staff, including housing benefits. In response to the Committee's enquiry about the progress of the reviews, the **Chief Executive, ESF**, informed the Committee in the same letter that:
 - (a) the revised remuneration package had been agreed by the Executive Committee of the ESF on 25 October 2005, which resulted in a reduction of \$68.9 million, or 9.2%, to the teachers' remuneration package; and
 - (b) new contracts offering the revised remuneration package were issued on 30 November 2005 to 335 teachers whose contracts were due to expire on 31 August 2006. As of 20 January 2006, 292 teachers accepted the new contracts and a total of 88 resigned. The turnover rate of 10.86% was only slightly in excess of that recorded at the same time last year, which was 10.18%. Details of the review on the remuneration and benefits for teaching staff are provided in the progress report attached to her letter; and

- as for other recommendations of the Committee, the ESF had updated the position in its latest action plan, which is at Enclosure 1 to the Chief Executive's letter of 20 January 2006. In addition, the ESF was considering disposal plans for its surplus staff quarters and a new system for reimbursement of entertainment expenses.

50. The Committee wishes to be kept informed of further development on the subject.

School administration of the English Schools Foundation

(Chapter 4 of Part VIII of P.A.C. Report No. 43)

51. The Committee was informed that the English Schools Foundation (ESF) had agreed in principle to the recommendations on adopting a bidding system for budget allocation and on establishing formal policies and control procedures, and would in this context produce guidelines on school development planning. It had also agreed in principle to the recommendations on salary increments and would follow up in accordance with the action plan. The ESF had taken further actions to fulfil its agreements. In response to the Committee's request, the **Chief Executive, ESF**, provided, at Enclosure 2 of her letter of 20 January 2006 in *Appendix 10*, the latest action plan in respect of the outstanding matters.

52. The Committee wishes to be kept informed of further development on the subject.

Grant of land at Discovery Bay and Yi Long Wan

(Chapter 5 of Part VIII of P.A.C. Report No. 43)

53. The Committee was informed that:

Site boundaries of Discovery Bay and Yi Long Wan development

- there were about 300 lots whose lot owners had not requested the setting out of lot boundaries prior to development. The Lands Department (Lands D) had carried out setting out work for those lots which had not been developed and had checked the building lines of those which had completed development. All the work had been completed in September 2005 as scheduled;
- the Director of Lands was examining practical measures to deter encroachment on government land, and to monitor and identify for rectification of such encroachments;

- the Director of Lands had completed the necessary survey work in May 2005. Regarding the land encroachment problem of the Yi Long Wan development, as the matter was complicated, the Lands D was still considering various options to resolve the problem; and
- the withholding of the Certificate of Compliance (C of C) was a useful and effective control measure to deter and deal with land encroachment which had occurred prior to completion of a development. Consultation on new procedures for the issue of withholding C of C was ongoing and the procedures would be introduced as soon as practicable.

54. The Committee wishes to be kept informed of the progress of the various courses of action taken by the Administration.