

立法會
Legislative Council

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(These minutes have been seen by
The English Schools Foundation)

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**Bills Committee on
The English Schools Foundation (Amendment) Bill 2007**

**Minutes of the first meeting
held on Friday, 29 June 2007, at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** : Dr Hon YEUNG Sum (Chairman)
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Audrey EU Yuet-mee, SC, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon Albert Jinghan CHENG
Hon TAM Heung-man
- Member absent** : Hon Emily LAU Wai-hing, JP
- Attendance by invitation** : Item II
The English Schools Foundation

Mrs Heather Du Quesnay
Chief Executive

Mr Jonothan ABBOTT
Barrister and Legislative Drafting Consultant
- Clerk in attendance** : Miss Odelia LEUNG
Chief Council Secretary (2)6

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mr Stanley MA
Senior Council Secretary (2)6

Miss Carmen HO
Legislative Assistant (2)6

Action

I. Election of Chairman

Ms Audrey EU nominated Dr YEUNG Sum as Chairman of the Bills Committee. Mr Abraham SHEK seconded the nomination. Dr YEUNG Sum accepted the nomination. There being no other nomination, Dr YEUNG Sum was elected Chairman of the Bills Committee.

2. Mr Abraham SHEK declared interest as a member of a school council of the English Schools Foundation (the Foundation). Mr Tommy CHEUNG and Mr Albert CHENG declared interest as members of the Foundation elected from among the Legislative Council (LegCo) members. Dr Fernando CHEUNG and Mr Albert CHENG declared interest as parents of students of the Foundation schools.

II. Meeting with The English Schools Foundation

[LC Paper Nos. CB(3)583/06-07, LS75/06-07, CB(2)2324/06-07(01)-(03) and CB(2)1812/06-07(01)]

3. The Bills Committee deliberated (index of proceedings at **Annex**).

Committee Stage amendments (CSAs)

Objects of the Foundation

4. Dr Fernando CHEUNG pointed out that under clause 7 (new section 4(1)) of the Bill, the objects of the Foundation were, inter alia, to operate schools in Hong Kong or elsewhere offering, without regard to race or religion, a modern liberal education through the English language to boys and girls who were able to benefit from such an education. Since the Foundation had been providing quality education for students with special educational needs (SEN), he considered it appropriate and necessary to expressly state in the clause that the schools of the Foundation should offer education without regard to disability or SEN of students. Dr CHEUNG said that he would move a CSA to clause 7 to that effect.

Action

5. Mrs Heather Du Quesnay responded that the Foundation was fully committed to achieving its objects as set out in the English Schools Foundation Ordinance (the Ordinance) since its establishment in 1967. These objects were the same under the Ordinance and the Bill. While the Foundation had built up a reputation for providing quality education for students with SEN and had made available more places in its schools for such students, she was concerned about the financial implications of stipulating in the Ordinance a legal requirement for the Foundation to provide the same level of education for students with SEN as other students. Such a requirement would be bigger than the commitment undertaken by the Government. Should such a legal requirement be enacted, buildings of the Foundation schools would need to be adapted, teachers trained and therapists provided. It would be extremely difficult for the Foundation to fulfil the requirement. Mrs Du Quesnay pointed out that the Foundation's funding came from a mixture of tuition fees and Government subvention in support of its school operations. The subvention for providing education for students with SEN in supporting classes were respectively about 4.6 and 5.4 times as much as those for students in ordinary primary and secondary classes. The proposed CSA would have massive resource implications for both the Government and the Foundation, with implications for tuition fees to be paid by parents.

6. Mr Tommy CHEUNG and Mr Abraham SHEK expressed reservations about Dr Fernando CHEUNG's proposal. Mr Tommy CHEUNG was concerned that the schools of the Foundation might not be able to support students with SEN in their hardware and software. Mr Abraham SHEK said that the provision of education for students with SEN should be the responsibility of all schools and not solely the Foundation schools. He considered that the matter should be tackled from a wider perspective and should not be in the context of the Bill. Mr SHEK considered it more appropriate to refer the issue to the Panel on Education for follow-up.

7. Ms Audrey EU concurred with Dr Fernando CHEUNG and said that the phrase "without regard to race or religion" in new section 4(1)(a) should refer to the provision of education for students regardless of their ethnic origins or religious beliefs, rather than the provision of education to students of various races or religions. She pointed out that the spirit of non-discrimination was enshrined in the Basic Law, the relevant international conventions applied to Hong Kong and domestic anti-discrimination ordinances such as the Disability Discrimination Ordinance. She considered it appropriate for the Foundation to aim high in its objects. She also considered that the resource implication for Dr Fernando CHEUNG's proposed CSA would not be unlimited. Given these considerations, Ms EU requested the Legal Adviser to the Bills Committee to advise on the legal implications including any which might arise from the financial aspect of expanding the objects of the Foundation in section 4(1)(a) to provide that the schools of the Foundation should offer education without regard to the disability or SEN of students.

Action

Composition of the Board of Governors and school councils

8. Mr Tommy CHEUNG considered it unnecessary to have LegCo representation on the Board of Governors (the Board) of the Foundation as no other governing bodies of school sponsors in Hong Kong had such representation. He indicated that he would move CSAs to remove LegCo representation from the Board, and to add a representative of parents of students with SEN elected from among themselves to the Board.

9. Mr Abraham SHEK and Dr Fernando CHEUNG expressed support for Mr Tommy CHEUNG's proposed CSAs. Dr Fernando CHEUNG also said that he would consider moving a CSA to the effect that each school council should have a parent member who should be elected from among parents of students with SEN.

10. Mrs Du Quesney said that the Foundation had no strong views on LegCo representation on the Board. However, the parents had been keen to have public representation by the Education and Manpower Bureau (EMB) and LegCo on the Board. EMB had turned down its representation on the Board. Under the Bill, the Board would comprise of 26 voting members, namely, 10 independent members, two members from LegCo, seven parent members, three school council chairmen and four staff members. Any proposed change to the composition of the Board would need to have regard to balanced representation.

11. Mrs Du Quesney further said that the Foundation had consulted parents on the inclusion of a representative of parents of students with SEN on the Board and individual school councils. It was the view of parents that no single group should have privileged representation on the Board or the school councils.

12. Mr Albert CHENG said that he had no strong view on the removal of LegCo representation from the Board. However, he considered it essential to ensure that the Board should have more elected members than appointed members. He called on members to take this into account in proposing any change to the composition of the Board. Mr CHENG requested the Legal Adviser to the Bills Committee to examine whether the addition of a parent member to the Board and to the school councils would incur any public expenditure.

13. Mr Tommy CHEUNG expressed reservations about Dr Fernando CHEUNG's proposal, and opined that not all schools of the Foundation had enrolled students with SEN.

14. Dr Fernando CHEUNG noted Mr Tommy CHEUNG's view and said that where the school had no or a limited number of students with SEN, its school council should not have a parent member elected from among parents of students with SEN.

Action

Follow-up

15. Members agreed that -
- (a) the Foundation to provide a written response to the CSAs proposed by Mr Tommy CHEUNG and Dr Fernando CHEUNG; and
 - (b) the Legal Adviser to advise on the implications of -
 - (i) providing for the representation of parents of students with SEN on the Board and on the school councils; and
 - (ii) stipulating in the proposed section 4(1)(a) that the objects of the Foundation were to, inter alia, offer education without regard to disability and SEN of students.

III. Date of next meeting

16. Members agreed to receive deputations at the next meeting to be held in September or October 2007.

[Post-meeting note : On the advice of Chairman, the next meeting of the Bills Committee was scheduled for 8 October 2007 at 2:30 pm.]

IV. Any other business

17. There being no other business, the meeting ended at 9:30 am.

Council Business Division 2
Legislative Council Secretariat
24 July 2007

**Proceedings of the first meeting of Bills Committee on
The English Schools Foundation (Amendment) Bill 2007
on Friday, 29 June 2007, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subjects	Action required
000000 - 000701	Dr YEUNG Sum Ms Audrey EU Mr Abraham SHEK	Election of Chairman	
000702 - 000913	Mr Abraham SHEK Dr Fernando CHEUNG Mr Tommy CHEUNG	Declaration of interests (see paragraph 2 of the minutes).	
000914 - 001056	Mr Abraham SHEK Chief Executive of The English Schools Foundation (CE/ESF) Chairman	Introduction of the Bill with the aim to improve the governance of the English Schools Foundation (the Foundation) and the administration of its schools in response to the concerns of the Public Accounts Committee (PAC).	
001057 001436	CE/ESF Chairman	Briefing on the main proposals of the Bill with reference to the recommendations of PAC and the Director of Audit's report.	
001437 - 002122	Mr Tommy CHEUNG Chairman Clerk Mr Abraham SHEK CE/ESF Dr Fernando CHEUNG Mr Albert CHENG	Discussion on the legislative timetable for the Bill. CE/ESF's hope that the Bill could be enacted in 2007. Members' agreement to receive deputations at the next meeting to be held in September/October 2007.	
002123 - 002144	Mr Albert CHENG	Declaration of interest (see paragraph 2 of the minutes).	
002145 - 002605	Chairman Mr Tommy CHEUNG	Mr Tommy CHEUNG's indication of proposing CSAs to remove the two members elected from among LegCo Members from the Board and to add a parent representative who should be elected from among parents of students with SEN.	
002606 - 002915	Dr Fernando CHEUNG Chairman	Dr Fernando CHEUNG's support for Mr Tommy CHEUNG's proposed CSAs. Dr CHEUNG's indication of proposing a CSA to add a parent representative in each school council of the Foundation who should be elected from among parents of students with SEN. His proposal of moving another CSA to	

Time marker	Speaker	Subjects	Action required
		specify that the objects of the Foundation were to operate schools offering a modern liberal education without regard to disability or SEN of students.	
002916 - 003052	Mr Abraham SHEK Chairman	Mr Abraham SHEK's view that members should discuss with the Foundation on their proposed CSAs.	
003053 - 003903	Chairman CE/ESF	<p>CE/ESF's response that parents were keen to have public representation on the Board and their view that no single group should have privileged representation on the Board or the school councils.</p> <p>CE/ESF's views on the financial implications of making it a legal requirement that the Foundation should offer education without regard to the disability or SEN of students. Her emphasis on the additional Government expenditure incurred in terms of subvention for the Foundation schools for supporting students with SEN.</p>	
003904 - 004404	Mr Albert CHENG Chairman Mr Tommy CHEUNG	<p>Mr Albert CHENG's view that the Board should comprise of more elected members than appointed members. Any proposed amendment to the composition of the Board should take this into account.</p> <p>Mr Tommy CHEUNG's expression of reservations about Dr Fernando CHEUNG's proposed CSAs.</p>	
004405 - 004744	Mr Abraham SHEK	Mr Abraham SHEK's view that parents of SEN should have representation on the Board, and the Foundation had a good track record in the provision of education for students with SEN. His reservation about Dr Fernando CHEUNG's proposed CSA about the objects of the Foundation.	
004745 - 005050	Dr Fernando CHEUNG Chairman Mr Abraham SHEK	<p>Dr Fernando CHEUNG's clarification of his intention that only schools of the Foundation with a certain number of students with SEN should have a representative of parents of students with SEN in their school councils.</p> <p>Dr CHEUNG's view that clause 7 of the Bill set out the spirit of the Foundation in the provision of education without regard to students' race or religion. His view that the same principle should apply to students with SEN.</p>	

Time marker	Speaker	Subjects	Action required
005051 - 005444	Ms Audrey EU Chairman	<p>Ms EU's view that clause 7 set out the commitment of the Foundation to provide education without regard to race or religion, and expansion of such commitment to include students' abilities was in line with the spirit of existing anti-discrimination laws and Article 39 of the Basic Law which provided for the continued implementation of certain international conventions on human rights and discrimination issues.</p> <p>Ms EU's request for SALA to advise on the implications of Dr Fernando CHEUNG's proposed CSA to new section 4(1)(a) concerning the objects of the Foundation.</p>	See para 15 of the minutes
005445 - 005750	Chairman CE/ESF	<p>Chairman's request for the Foundation to provide a written response to the CSAs proposed by members. His appreciation of the reputation of and the contributions made by the Foundation in the provision of education for students of various races, religions, abilities, etc.</p> <p>CE/ESF's response that she would convey members' views and proposed CSAs to the Foundation for consideration.</p>	See para 15 of the minutes
005751 - 005911	Mr Albert CHENG	Mr Albert CHENG's request for SALA to examine the implications of the CSAs proposed respectively by Mr Tommy CHEUNG and Dr Fernando CHEUNG concerning the composition of the Board and school councils.	See para 15 of the minutes
005912 - 005900	Chairman CE/ESF	Date of next meeting and CE/ESF's agreement to provide a written response.	See para 15 of the minutes