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Paper for the House Committee meeting on 9 March 2007

**Report of the Panel on Education on its proposal for
a select committee to be appointed to inquire into matters concerning
infringement with academic freedom and institutional autonomy**

Purpose

This paper seeks the House Committee's support for the proposal of the Panel on Education (the Panel) that a select committee be appointed by the Legislative Council (LegCo) to inquire into allegations concerning the infringement by Government officials with the academic freedom and institutional autonomy of The Hong Kong Institute of Education (HKIEd) and other tertiary institutions.

Background

2. On 3 February 2007, a letter from Professor Bernard LUK Hung-kay, Vice President of HKIEd, was published on the intranet of HKIEd. In the letter, Professor LUK alleged that in January 2004, Professor Paul Morris, President of HKIEd, relayed to him a telephone call from the Secretary for Education and Manpower (SEM). SEM persuaded Professor Morris to take the initiative to propose a merger of HKIEd with the Chinese University of Hong Kong. SEM indicated that otherwise he would allow the then Permanent Secretary for Education and Manpower (PSEM) to have a free hand in reducing the number of students of HKIEd. Professor LUK also alleged that in late June 2004, while he was Acting President of HKIEd, SEM asked him to issue a statement to condemn the Hong Kong Professional Teachers' Union and the teachers concerned for protesting against cutting classes and school closure. Upon his refusal, SEM said "I'll remember this. You will pay." Professor LUK further alleged that in the past few years, senior Government official(s) repeatedly asked Professor Morris to dismiss members of HKIEd who published articles in newspapers to criticize the education reform or the education policy.

3. The Panel decided on 12 February 2007 to schedule a special meeting on 28 February 2007 to follow up on the allegations. The Panel agreed to invite the following persons/parties to the meeting: SEM, the then PSEM, Professor Paul Morris, Professor Bernard LUK, the University Grants Committee (UGC), the Academic Staff Association of HKIEd, HKIEd's Student Union and the University Education Concern Group. Members also agreed to post a notice on the LegCo's website to invite members of the public to provide written submissions relevant to the subject and to provide information at the Panel meeting.

4. On 15 February 2007, the Chief Executive (CE) in Council announced the appointment of a Commission of Inquiry (the Commission) under the Commissions of Inquiry Ordinance (Cap. 86) to ascertain the facts relevant to the allegations and to make recommendations. The Commission will report to CE within four months from the date of appointment. The terms of reference of the Commission are in the **Appendix**.

5. The Panel held the special meeting on 28 February 2007 as scheduled. Professor Morris, Professor LUK, and representatives from the three organizations invited by the Panel attended the meeting. Three other academics associated with HKIEd also attended the meeting. They were: Dr Victor LAI Ming-hoi, Associate Professor, Department of Creative Arts and Physical Education of HKIEd, Dr PANG I-wah, Associate Professor, Department of Educational Policy and Administration of HKIEd, and Mr IP Kin-yuen, former Lecturer, Department of Education Policy and Administration of HKIEd. SEM, the then PSEM and UGC declined the invitation to attend the meeting for the reason that the CE in Council had appointed the Commission to investigate the subject matter.

Deliberations of the Panel

Cases of alleged interference

6. The purpose of the special meeting was to enable the Panel to collect information concerning the alleged Government interference with the academic freedom and institutional autonomy of HKIEd. The academics and representatives of the organizations attending the meeting quoted a number of cases to substantiate their claim that some Government officials from the Education and Manpower Bureau (EMB) had been making attempts over the past few years to suppress dissenting voices of staff of HKIEd and undermine HKIEd's development. They alleged that:

- (a) EMB had exerted pressure on Professor Morris in relation to a proposal to merge HKIEd with the Chinese University of Hong Kong. Professor Morris's refusal had resulted in a reduction of

resources allocated to HKIED by 33% for the 2005-2008 triennium;

- (b) an EMB official told Dr Victor LAI Ming-hoi that his critical comments on arts education under the new senior secondary academic structure would not be conducive to the development of the Creative Arts and Physical Education Department. HKIED was subsequently informed that the quota for students for its Arts, Music and Physical Education programmes for 2008-2009 would be "nil";
- (c) pursuant to a training programme for school council members commissioned by EMB, EMB considered that the session in the programme for which Dr PANG I-wah was responsible did not have sufficient coverage on the advantages of school-based management, and requested the School of Continuing and Professional Education of HKIED to "review" the speaker and content of the programme. Dr PANG was subsequently not assigned the training programme; and
- (d) an EMB official asked Professor Morris to include Mr IP Kin-yuen on the list of Voluntary Departure Scheme because of the latter's comments on education policies published in newspapers and holding of a seminar on small class teaching.

7. Apart from the above cases, the academics of the University Education Concern Group who attended the meeting also alleged that there were cases of Government interference with the academic freedom in other tertiary institutions. These included, for example, the cases of Dr Anita POON Yuk-kang of the Hong Kong Baptist University and Dr FUNG Wai-wah of the City University of Hong Kong. Dr POON wrote articles in newspapers criticising school-based management. Subsequently, an application for Quality Education Fund in which she acted as adviser was rejected. Dr FUNG was requested by EMB to modify the analysis, conclusions and recommendations of his research on Key Learning Areas commissioned by EMB. Both Dr POON and Dr FUNG did not attend the special meeting.

8. The academics stressed that the cases quoted were only examples to illustrate the attempts of EMB officials to interfere with institutional autonomy and suppress the expression of dissenting views by academics on Government policies and initiatives. They claimed that more academics would reveal their personal experiences if given the protection and immunity under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382).

9. As regards the three alleged cases of interference stated in paragraph 2 above and which were the major concern of members, both Professor Morris

and Professor LUK declined to substantiate their allegations or disclose the names of the Government officials involved, for the reason that they were not covered by legal immunity at the special meeting. They told the Panel that they would reserve their evidence for the Commission. Professor LUK quoted several episodes to illustrate the unhappy experiences of HKIED on the allocation of public resources for teacher education, while Professor Morris reiterated that there was a continuing and consistent pattern of systematic activities of EMB exerting pressure on HKIED over the past five or six years.

Views of members

10. Members in general considered that the allegations made by the attending academics were serious and warranted in-depth examination. Members, however, expressed different views on how the matter should be taken forward.

11. Some members shared the view of the attending academics and organizations that the cases revealed were not isolated incidents but only the tip of the iceberg. They were concerned that the problem of interference was not solely with HKIED, and considered a thorough and comprehensive investigation into the allegations necessary to establish the severity and extent of the problem.

12. With more allegations being brought forward, these members were of the view that the terms of reference of the Commission were too narrow and would not make it possible for the whole truth to be revealed. There was a view that if the Commission considered it necessary for its terms of reference to be expanded to cover a broader scope, the Commission could so recommend to CE. However, unless this happened, the only way to ascertain the truth and obtain the full picture was for LegCo to appoint a select committee to inquire into the matter and summons persons to give evidence by invoking Cap. 382. This would also ensure that key persons such as SEM and the then PSEM, who had refused to attend the special meeting, could be summonsed as witnesses to provide relevant information. These members were of the view that an independent and comprehensive inquiry by LegCo would uphold the role of Members in monitoring the work of the Administration and accord with public expectation.

13. Some other members, however, considered it premature to arrive at a conclusive view on how the issue should be taken forward. They pointed out that the Panel had already scheduled a special meeting in April 2007 to enable other persons and organizations to come forth to provide information. The Panel should wait before taking a view. Furthermore, the Panel should request the Administration to respond to the allegations, and members should then consider the Administration's response. As some of the allegations were related to the mechanism for the UGC-funded institutions, these members

considered that the Panel should first gain a better understanding and assess the effectiveness of the funding mechanism.

14. In addition, these members were of the view that with the appointment of the Commission, judicial proceeding on the subject had commenced. Since the Commission had undertaken to conduct its investigation with a high degree of transparency and would provide a report to CE within four months, these members considered it more appropriate to await the completion of inquiry by the Commission. Members should study the Commission's report first before deciding on the further actions to be taken. These members took the view that the setting up of a select committee by LegCo to conduct a parallel investigation was not necessary at the present stage.

Motion moved at the Panel meeting

15. Dr Hon YEUNG Sum proposed the following motion at the special meeting:

"That this Panel proposes that a select committee be set up by LegCo to inquire whether Government officials had infringed the academic freedom and institutional autonomy of HKIEd and other universities."

16. The motion was put to vote. Eight members voted for the motion, three members against the motion and one member abstained.

Recommendation of the Panel

17. The Panel agreed that its proposal for a select committee to be appointed by LegCo should be put to the House Committee to seek its support at its meeting on 9 March 2007.

Advice sought

18. The House Committee is invited to support the recommendation of the Panel in paragraph 17 above.

Terms of Reference of the Commission of Inquiry on Allegations Relating to The Hong Kong Institute of Education

- (a) To ascertain the facts relevant to the following allegations made by Professor Bernard Luk Hung-kay, Vice President (Academic) of the Hong Kong Institute of Education ("the Institute"), in his undated letter to the teaching staff and students of the Institute which was published on the intranet of the Institute on 4 February 2007 and the internet website of Ming Pao News on 5 February 2007 -
- (i) In January 2004, there was a telephone conversation between Professor Paul Morris, the President of the Institute, and Professor Arthur Li, the Secretary for Education and Manpower ("SEM") in which the latter attempted to persuade Professor Paul Morris to take the initiative to propose a merger of the Institute with the Chinese University of Hong Kong. SEM indicated that otherwise he would allow the then Permanent Secretary for Education and Manpower to have a free hand in cutting the number of students of the Institute ("The First Allegation").
 - (ii) In the past few years, whenever some members of the Institute published articles in local newspapers which criticised the education reform or the education policy of the Government and its implementation, shortly afterwards senior Government Official(s) repeatedly called to request Professor Morris to dismiss such members of the Institute ("The Second Allegation").
 - (iii) In late June 2004, in relation to a protest by a group of surplus teachers, SEM requested Professor Bernard Luk Hung-kay to issue a statement to condemn the teachers concerned and the Hong Kong Professional Teachers' Union that assisted those teachers, as such assistance would inhibit the employment of fresh graduates of the Institute. Upon Professor Luk's refusal, SEM said, "你唔肯出咗嗎？好！ I'll remember this. You will pay! (我會記著，慢慢跟你算帳)" ("The Third Allegation").
- (b) To ascertain, on the facts as found, if there has been any improper interference by SEM or other Government Officials with the academic freedom or the institutional autonomy of the Institute.
- (c) On the basis of the findings in (a) and (b) above, to make recommendations, if any, as to the ways and manner in which any advice by the Government to the Institute, with respect to the exercise of the Institute's powers or the achievement of its objects, might be given in future.