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Panel on Education

Academic freedom and institutional autonomy of higher education

**Major issues of concern raised by individuals and organizations
at the meetings on 28 February and 13 April 2007**

(1) Role, functions and composition of University Grants Committee

- a. The University Grants Committee (UGC) should act as a "buffer" between the tertiary institutions and the Government, safeguarding the academic freedom and autonomy of the institutions on the one hand, and ensuring value for money for the taxpayers on the other.
- b. Previously, there were separate budgets for UGC and the Education Department. However, in mid-90's, the two budgets were combined into one and the Secretary for Education and Manpower (SEM) has since then become the controlling officer. UGC has lost its autonomy in allocation of resources to higher education and become a subordinate body of the Education and Manpower Bureau (EMB). The independence of UGC has greatly been eroded. The role of UGC has changed from a middleman to an interfering regulator under the influence of EMB.
- c. The Higher Education Review in 2002 set out the blueprint for the future development of the higher education sector, which included the recommendation to strengthen role differentiation and encourage collaboration among the UGC-funded institutions to promote diversity and excellence. Accordingly, UGC plays a more proactive role to steer institutions towards clear role differentiation and facilitate deep collaboration among institutions in advancement of their respective roles.

- d. All members of UGC are appointed by the Chief Executive (CE). They normally share the beliefs and ideals of the Administration and have a tendency to support the Administration's education policies and practices. To enhance its independence, UGC members, including ex-officio members, to be appointed by CE, should be not more than 50% of its total membership. To enhance the accountability of UGC and the transparency of its operation, its members should include staff members of the UGC-funded institutions.
- e. The Secretary General of UGC reports to the Permanent Secretary for Education and Manpower. Such superior-and-subordinate relationship is not conducive to the independence of UGC. The Secretary General of UGC should not be a civil servant.
- f. EMB, as a policy bureau, should not have direct contact with individual institutions to avoid the possibility of interference. UGC should be the channel of communication between the Government and the institutions.
- g. The establishment of the Quality Assurance Council (QAC) of UGC on 1 April 2007 provides another instrument for the Administration and UGC to interfere with academic freedom and institutional autonomy through quality audits conducted by audit panels established under QAC at the institutional level.

(2) Funding and research grants for UGC-funded institutions

- a. There has been a general perception in the educator sector that to express criticism or concern about government policies would result in consequences for the individual or the institution they represent, in terms of resource allocation.
- b. Government could interfere with academic freedom and institutional autonomy through recurrent funding allocation by UGC. By way of resource allocation, EMB officials attempt to suppress dissenting voices. Examples include:
 - (i) The resources allocated to the Hong Kong Institute of Education (HKIED) were reduced by 33% for the 2005-2008 triennium because of the refusal of its President, Professor Paul Morris to accede to EMB's proposal to merge HKIED with the Chinese University of Hong Kong.

- (ii) SEM had asked Professor Bernard LUK when acting as the President of HKIEd 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 Professor LUK's refusal, SEM allegedly said "I'll remember this. You'll pay."
 - (iii) The quota for students for Arts, Music and Physical Education Programmes in HKIEd for the 2008-2009 would be "nil" allegedly because of the critical comments made by Dr Victor LAI Ming-hoi, Associate Professor, Department of Creative Arts and Physical Education of HKIEd, on arts education under the new senior secondary academic structure.
 - (iv) EMB official asked Professor Paul Morris to include Mr IP Kin-yuen, former Lecturer, Department of Education Policy and Administration of HKIEd, on the list of Voluntary Departure Scheme because of the latter's comments on education policies in newspaper.
 - (v) An application for Quality Education Fund in which Dr Anita POON Yuk-kang of the Hong Kong Baptist University acted as adviser was rejected because of her critical comments on school-based management in newspapers.
- c. The recurrent grants to each UGC-funded institution include a performance and role related element. This element is closely related to the performance of the role of the institution delineated by UGC. This element has increased from 2% of the grants in 2000 to 10% in the 2005-2006 to the 2007-2008 triennium. Such a funding arrangement is a penalty measure and enables UGC to steer the development of universities.
- d. Under the Research Assessment Exercise conducted by UGC, research projects undertaken by institutions are assessed on the basis of commercial, economic and social science criteria. The mission of some institutions such as HKIEd is at variance with such criteria. This had made it difficult for HKIEd to bid for research grants.
- e. For the purpose of enhancing the chance of publication of research in international journal and of applications for grants, the subject of research often focuses on international issues rather than local issues. This has affected academic freedom and is detrimental to the research development of universities.

- f. Quantity rather than quality of research work is emphasized within institutions.
- g. There is no appeal mechanism concerning grants and funding to the UGC-funded institutions and individual projects.
- h. With reduced funding to the tertiary institutions, institutions turn to seek private donations. Such a development trend is worrying as plutocracy and influence from the commercial sector will have impact on institutional autonomy.

(3) Governance of UGC-funded institutions

- a. Universities are managed by executives and not academics. Management of universities is becoming market driven and politicized.
- b. More than half of the Council members of some UGC-funded institutions, including HKIEd, the Hong Kong Polytechnic University and the Lingnan University are appointed by CE. Such an arrangement, together with the provision in the relevant ordinances for CE to be the Chancellor of universities, provides a ready opportunity for the Administration to interfere with the internal affairs of the institutions.
- c. There are no representatives from students in the existing councils of the Chinese University of Hong Kong, the University of Science and Technology and Shue Yan University. To enhance transparency, independence and accountability of the institutions, students and staff members should be adequately represented in their Councils. Student representatives in university councils should enjoy the same rights as other Council members, including the right to participate in any deliberation or vote on the appointment or dismissal of university presidents and senior staff members.
- d. The members of university councils should be drawn from a wide sector of the community including the Legislative Council (LegCo), alumni and school sponsoring bodies, etc. The relevant provisions in the existing ordinances concerning Chancellor, composition of university councils and the appointment of council chairman should be reviewed.

(4) Employment of staff of UGC-funded institutions

- a. Employment of university staff on tenure or substantiated terms is vital for academic freedom. This will allay the concern of academics about possible jeopardy to their job for expression of dissenting voices. However, employment on contract terms has become the norm after deregulation of university salaries and a series of funding cuts in recent years. As a result, academics hesitate to express ideas and thoughts.
- b. Deregulation of university salaries in July 2004 has opened the flood gate for the implementation of new remuneration policies in the UGC-funded institutions. Employment of staff on contract terms and award of salary increments on the basis of performance assessment create uncertainty and anxiety among staff and have adverse impact on academic freedom.

(5) Redress mechanism of UGC-funded institutions

- a. The existing mechanisms for handling complaints lodged by staff against individual UGC-funded institutions are not effective. These complaints often lead to legal proceedings or have widely been reported in the media. Neither the Court nor LegCo is the appropriate forum to handle complaints against institutions. Resorting to the Court will involve huge legal cost, whereas resorting to the media or LegCo will politicize the matter.
- b. The establishment of an independent inter-institutional redress mechanism should be the way forward. This mechanism works like an arbitration system under which respectable persons from individual institutions such as professors and eminent members of the community should be appointed as arbitrators to resolve complaints concerning tertiary institutions. Such a mechanism will save resources and ensure effectiveness as persons with good understanding of the operation of tertiary institutions will assume the role of arbitrators.

(6) Commissioning of consultancy studies, projects and programmes

- a. Unreasonable provisions are included in the contracts for teaching and research programmes commissioned by EMB. For example, EMB owns the exclusive property right of materials developed by the academics; the teaching materials must be submitted to EMB beforehand; EMB video-tapes all the teaching

sessions of programmes; EMB conducts on-site observations of courses; EMB monitors the contents of programmes and could request change of speakers; and EMB requests the academics to modify the conclusions and recommendations of research/studies.

- b. EMB had requested the School of Continuing and Professional Education of HKIEd to review the speaker and content of a training programme for school council members commissioned by it. EMB considered that the session in the programme for which Dr PANG I-wah, Associate Professor, Department of Educational Policy and Administration of HKIEd, was responsible did not have sufficient coverage on the advantages of school-based management. Dr PANG was subsequently not assigned the training programme.
- c. Dr FUNG Wai-wah of the City University of Hong Kong had been requested to modify the analysis, conclusions and recommendations of his research on Key Learning Areas commissioned by EMB.
- d. EMB intends to make use of and manipulate the findings of its commissioned studies and programmes to justify the implementation of its education policies.

(7) Institutionalized protection of academic freedom and institutional autonomy

Government

- a. Government should legislate to implement Articles 34, 39 and 137 of the Basic Law to protect academic freedom and institutional autonomy. Reference should be made to "The Lima Declaration on Academic Freedom and Autonomy of Higher Education" in making legislation.
- b. Government should set up a specific fund for research; a task force to conduct a review on ways to protect and enhance academic freedom and institutional autonomy; and a Human Rights Commission with powers to investigate infringement of academic freedom and institutional autonomy.

Legislative Council

- c. LegCo should set up a select committee to investigate into the allegations on interference with the academic freedom and institutional autonomy of the UGC-funded institutions.

- d. LegCo should consider the impact on academic freedom in scrutiny of legislative proposals.

UGC-funded institutions

- e. Institutions should review their governance structure to ensure that all institutional arrangements are fair, just and equitable; and as transparent and participatory as possible.
- f. Institutions should adopt Lima Declaration and formulate policy statements and set up appropriate mechanisms to monitor and enhance academic freedom and institutional autonomy.

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