

Legislative Council 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

Purpose

At the request of the Panel, the Administration submitted on 14 May 2007 a paper setting out its response to the allegations and views made by individuals/organizations at the meetings held on 28 February and 13 April 2007 concerning academic freedom and institutional autonomy. This note, prepared in response to the Clerk to Panel's letter of 1 June 2007 to the then Secretary for Education and Manpower, aims to recapitulate our response to the major issues raised at the two meetings and provide supplementary information where necessary.

The Administration's Response

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

The UGC's main function is to offer impartial and expert advice to the Government on the funding and development of higher education in Hong Kong, and to provide assurance to the Government and the community on the standards and cost-effectiveness of the operations and activities of the UGC-funded institutions. Specifically, the UGC makes precise grant recommendations having regard to the overall student number targets and the Academic Development Proposals submitted by the institutions. In conducting the above activities, the UGC seeks to preserve institutional autonomy and academic freedom taking into account appropriate financial and public accountability.

All members of the UGC are appointed by the Chief Executive in their personal capacity and based on the individuals' merits, taking into account their expertise and experience, and their likely contribution to the higher education sector in Hong Kong in terms of local and international networking and professional input. The size of the UGC is flexible, but traditionally has been kept to around 20-25 members, with about half of the membership from outside Hong Kong to ensure that there is a right mix of local and overseas expertise on the Committee.

The UGC (and the UGC Secretariat) has all along been the principal channel of communication between the Government and the UGC-funded institutions. Direct formal contacts between the institutions and the Government include such areas as legislative matters regarding the institutions' ordinances, appointments to Councils, and contracts for services rendered.

All UGC-funded institutions have self-accrediting status and are primarily and ultimately responsible for the quality of their own programmes. The Quality Assurance Council (QAC) only aims at assisting the UGC in discharging its quality assurance responsibilities. There is no question of UGC interfering with academic freedom and institutional autonomy through quality audits to be conducted by the QAC.

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

The level of recurrent grants for the UGC sector is primarily based on student number targets as submitted to the UGC by individual institutions via Academic Development Proposals, and discussed and agreed with the UGC. The UGC then assess the funds required, using its funding methodology, and submits its recurrent grant recommendations to the government. Once the level of recurrent grants has been approved by the Chief Executive in Council and endorsed by the Finance Committee of the Legislative Council, the UGC will allocate the recurrent grants amongst its funded institutions. The UGC's funding methodology gives a reasonably rigorous and precise assessment of the resources required to meet the teaching and research targets of each institution, and includes an element of funding specifically related to the institutions' performance in research. Once allocations are approved, institutions have the freedom and responsibility to determine the best use of their resources.

(3) Governance of UGC-funded Institutions

The UGC-funded institutions are autonomous bodies governed by their own ordinances. These governing ordinances specify the composition of the Councils. Due to historical and other reasons such as the different philosophy, religion, culture and circumstances of individual institutions, the ordinances for the eight UGC-funded institutions, including the provisions setting out the composition of the Councils, do vary. Moreover, as the duties and responsibilities of the Council of an institution are primarily concerned with the operations of the institution itself, the institution should be in the best position to decide on the most appropriate

composition of its Council. The Administration will only offer advice and observations for consideration by the institutions for more effective governance.

Bearing in mind that composition of the Councils of UGC-funded institutions do vary, council membership may consist of senior staff of the institutions, deans, student and staff representatives, alumni, members appointed by the Council, and members appointed by the Chief Executive etc. In practice, members appointed by the Chief Executive are usually lay members who come from a wide spectrum of the community, including but not limited to Legislative Council members, the business and industry community, the school sector, professional bodies, community leaders, etc. As at June 2007, eight Legislative Council Members sit on various Councils of the UGC-funded institutions.

Traditionally, the Chief Executive (and former Governors) is the titular head of the institutions with a view to maintaining the linkages between the Administration and the institutions, and to demonstrate the Administration's support for the higher education sector. The powers and duties of the Chancellor are specified under the governing ordinances of the institutions, which primarily concerns conferment of degrees and other honorary awards.

As regards appointment of Presidents / Vice-Presidents, institutions may draw up their own procedures in accordance with the relevant ordinances. Specifically on involvement of student(s) (and staff) who serve on the Councils, the provisions in respective ordinances differ. In view of the transient nature of the student body and the need to prevent conflict and partisanship among students of the institutions, and in order to ensure that decisions in relation to the choice of the heads and senior staff of the institutions are made on the basis of the long-term needs and interests of the institutions, the provisions which treat student Council members differently from other Council members and which exclude student representatives from direct participation in the appointment/removal of the President and Vice-Presidents are justified. Nevertheless, all UGC-funded institutions have engaged students in the process for selecting heads of institutions to ensure that they have ample opportunities to express their views on such matters. Such measures include informal consultations during the selection processes, opportunities for candidates to meet with student representatives, and presenting of views to the Council for consideration.

(4) Employment of staff of UGC-funded Institutions

To provide the UGC-funded institutions with maximum flexibility in determining the remuneration packages for their staff to suit individual circumstances, the linkage between various salary scales of the staff of the UGC-funded institutions and civil service pay has been removed with effect from 1 July 2003. Since then, institutions are free to determine the appropriate remuneration packages for their own staff. As staff recruitment and remuneration matters fall squarely within the autonomy of the UGC-funded institutions, the Government will not interfere with the internal affairs of individual institutions.

(5) Redress mechanism of UGC-funded institutions

All UGC-funded institutions have established appeal and grievances mechanism which are unique to the particular circumstances of each institution. Some had also reviewed their grievances mechanism in the context of their “fitness for purpose” review.

With regard to the suggestion to establish an independent inter-institutional redress mechanism to deal with complaints from staff of all the UGC-funded institutions, our view is that such a proposal will undermine the institutions’ autonomy in handling staff matters and complaints having regard to their own policies, practices, and individual circumstances.

(6) Commissioning of consultancy studies, projects and programmes

As explained in the Information Note issued in May 2007, provisions on “Intellectual Property Rights” (IPR) in the contract terms of the consultancy studies/projects commissioned by the former Education and Manpower Bureau (EMB) are in line with similar clauses in other relevant EMB/Government contracts, which generally stipulate that the IPR of the materials/deliverables developed by the contractor under the contract shall be the exclusive property of the Government and shall vest in the Government at the time they are created.

On the allegation that EMB had requested the Hong Kong Institute of Education (HKIED) to review the speaker and content of a school manager training programme commissioned by the Bureau and had asked HKIED to replace one of the lecturers Dr Pang I-wah in 2006, we have all along been giving comments and feedback to tertiary institutions which are commissioned to provide school manager training programmes as a

quality assurance mechanism. Such comments and feedback, which aim at improving the quality of subsequent courses to be provided, should not be interpreted as interference with academic freedom. In fact, Dr Pang I-wah remained as the speaker of the last course on the same topic in the 2005/06 school year.

Regarding the specific allegation by Dr FUNG Wai-wah of the City University of Hong Kong that EMB had interfered with academic freedom during the course of a commissioned research in 2003, the principal researcher of the project had confirmed that he did not see any such interference throughout the course of the research. While it was true that staff of EMB did collaborate closely with the research team in the form of written communications and liaison meetings during the course of data collection and analysis, any differences in interpretations and presentations were resolved through mutual agreement. Under no circumstances had any opinion been “imposed” by EMB on the research team.

Education Bureau
July 2007