

立法會
Legislative Council

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the Administration)

Ref : CB2/PL/ED

Panel on Education

**Minutes of special meeting
held on Monday, 6 July 2009, at 4:30 pm
in the Chamber of the Legislative Council Building**

Members present : Hon Cyd HO Sau-lan (Chairman)
Dr Hon Priscilla LEUNG Mei-fun (Deputy Chairman)
Hon LEE Cheuk-yan
Hon CHEUNG Man-kwong
Hon LEUNG Yiu-chung
Hon TAM Yiu-chung, GBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Starry LEE Wai-king
Hon Tanya CHAN
Hon WONG Sing-chi
Hon WONG Yuk-man
Dr Hon Samson TAM Wai-ho, JP

Members absent : Hon Abraham SHEK Lai-him, SBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP

Public Officers attending : Agenda item I

Mr Kenneth CHEN, JP
Under Secretary for Education

Mr Michael WONG, JP
Deputy Secretary for Education (1)

Mr Michael V Stone
Secretary-General, University Grants Committee

Mr Eric CHENG
Acting Principal Assistant Secretary (Higher Education)

Agenda item II

Mr Kenneth CHEN, JP
Under Secretary for Education

Mrs Michelle WONG
Deputy Secretary for Education (4)

Miss WU Po-ling
Principal Assistant Secretary (School Administration & Support)

Attendance by invitation : Agenda item I

The Hong Kong Institute of Education

Mr Chris MONG Chan
Vice President (Administration)

Mrs Amy LAI LAM Lai-kuen
Acting Director of Human Resources

The Hong Kong University of Science & Technology

Ms Yvonne HO
Director of Human Resources

Mrs Catherine LAI
Director, Court, Council & Senate Secretariat

Lingnan University

Mrs TSANG TAI Mo-oi
Director of Administration and Registry Services

Ms Wendy LAI Sau-wai
Director of Human Resources

The Chinese University of Hong Kong

Mr Jacob LEUNG
Secretary of the University

Mrs Sophie LAU
Director of Personnel

Hong Kong Baptist University

Mr Andy LEE
Vice-President (Administration and Secretary)

Dr Karen CHAN
Director of Personnel

The Hong Kong Polytechnic University

Mr Alexander TZANG
Deputy President & Secretary to Council

Mr David NG
Acting Director of Human Resources

City University of Hong Kong

Prof Julia TAO LAI Po-wah
Acting Vice-President (Development & External
Relations) and Chief-of-Staff

Mrs Eva NG LI Yee-wah
Acting Director of Human Resources

The University of Hong Kong

Ms Yvonne Y. F. KOO LAM
Acting Registrar and Head of Human Resources Section

Miss Dora K M YUE
Assistant Registrar

Clerk in attendance : Miss Odelia LEUNG
Chief Council Secretary (2)6

Staff in attendance	:	Mr Waston CHAN	}
		Head (Research and Library Services)	}
		Mr Kelvin LEE	}
		Assistant Legal Adviser 1	}
		Ms Vicky LEE	}
		Research Officer 3	}
		Miss Lettice AU YEUNG	}
		Research Officer 5	}
		Mr Stanley MA	
		Senior Council Secretary (2)8	
	Ms Judy TING		
	Council Secretary (2)3		
	Miss Jenny LEE		
	Legislative Assistant (2)6 (Acting)		

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The Chairman invited members' views on the need to hold a special meeting in early October 2009 to discuss the subject of Liberal Studies under the new senior secondary (NSS) academic structure and the educational services proposed by the Task Force on Economic Challenges, before the 2009 Policy Address scheduled to be held on 14 October 2009.

2. Mr CHEUNG Man-kwong said that the subject of Liberal Studies under the NSS academic structure had been scheduled for discussion at the special meeting on 11 July 2009. As the NSS curriculum would be implemented from September 2009, he considered it more appropriate and fruitful to revisit the matter after the subject had been taught in schools for at least two months.

3. Miss Tanya CHAN said that the Subcommittee on Harbourfront Planning was planning to conduct an overseas duty visit in September 2009. According to the current plan, members participating in the visit would return to Hong Kong on 3 October 2009.

4. Dr Priscilla LEUNG expressed concern about clash of committee meetings recently. She said that she had to attend another committee meeting scheduled to start at 4:30 pm. Nevertheless, she would make herself available to chair the meeting for the agenda item on "Monitoring of Direct Subsidy Scheme Schools" as requested by the Chairman. She hoped that in arranging future Panel meetings, efforts should be made to avoid clash with other committee meetings as far as practicable.

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5. Mr LEUNG Kwan-yuen shared the view of Mr CHEUNG Man-kwong that the Panel should better revisit the subject of Liberal Studies after it had been taught in schools for two to three months. He also opined that the Panel should liaise with the Education Bureau (EDB) on the appropriate timing for discussing the subject of educational services proposed by the Task Force on Economic Challenges. He did not consider it necessary to hold a special meeting to discuss the matter before the Policy Address.

6. Mr Tommy CHEUNG said that Panels should hold special meetings on a need basis. He was concerned about the series of special meetings of the Panel held recently. In his view, there was no urgency to discuss certain matters such as the issue of "Inter-institutional redress mechanism for the higher education sector" which had been repeatedly discussed at a number of meetings. Should the trend of holding frequent special meetings to discuss a specific subject continue, he would prefer the appointment of a dedicated subcommittee under the Panel, for example on the subject of Liberal Studies under the NSS curriculum.

7. Mr WONG Yuk-man said that the Panel had held too many special meetings in recent months but the discussions did not bear fruit. Like Dr Priscilla LEUNG and Mr Tommy CHEUNG who were members of the Committee on Rules of Procedure, he had to attend the meeting of that Committee immediately as it did not have a quorum at the moment. He stressed the need for the Panel to avoid scheduling its meetings in clash with other committee meetings as far as practicable.

8. The Chairman pointed out that clash of meetings was unavoidable given the large number of committees in operation, and the Panel could only hold special meetings when sufficient members indicated availability. The Panel had agreed to follow up items that remained resolved before the end of the current session, and subjects such as the Pre-primary Education Voucher Scheme, drug abuse in schools and leaving school arrangements for students studying in schools for children with intellectual disability had achieved significant progress as a result of the Panel's discussions.

9. Mr LEE Cheuk-yan said that the Chairman had consulted members on the need to hold special meetings. He shared the view that the arrangements for holding special meetings, in particular the date and time, could be improved.

10. Ms Audrey EU pointed out that clash of committee meetings was inevitable, in particular towards the end of a Legislative Council (LegCo) session. She was concerned that members of the public were only aware of Council meetings and did not know that other LegCo committees were in operation as well. She considered that more information should be provided to the public concerning members' work including their participation in committees

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and attendance at committee meetings. The Chairman shared the view that such information should be provided to organizations with the task of monitoring members' work and they should be apprised of the reasons for the non-attendance of members at committee meetings.

I Inter-institutional redress mechanism for the higher education sector

[LC Paper Nos. CB(2)2073/08-09(02)-(04), LS88/08-09 and IN21/08-09]

11. Members noted the comments of the Legal Service Division of the LegCo Secretariat on the views of the Heads of Universities Committee (HUCOM) on the establishment of an inter-institutional complaints committee; the Information Note entitled "Introduction to the complaint handling mechanism for the higher education sector in overseas places" and the background brief entitled "Grievances and complaints mechanisms of the University Grants Committee-funded institutions" prepared by the LegCo Secretariat.

12. The Chairman pointed out that the inter-institutional redress mechanism for the higher education sector under discussion should refer to a redress mechanism independent of the eight University Grants Committee (UGC)-funded institutions for handling staff grievances and complaints in the higher education sector.

Oral presentation by deputations

The Hong Kong Institute of Education (HKIED)
[LC Paper No. CB(2)2166/08-09(03)]

13. Mr Chris MONG Chan, Vice President (Administration), presented the views of HKIED as detailed in its submission.

The Hong Kong University of Science and Technology (HKUST)
[LC Paper No. CB(2)2234/08-09(01)]

14. Ms Yvonne HO, Director of Human Resources, presented the views of HKUST as detailed in its submission.

Lingnan University (LU)
[LC Paper No. CB(2)2138/08-09(01)]

15. Mrs TSANG TAI Mo-oi, Director of Administration and Registry Services, presented the views of LU as detailed in its submission.

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The Chinese University of Hong Kong (CUHK)
[LC Paper No. CB(2)2166/08-09(01)]

16. Mr Jacob LEUNG, Secretary of the University, presented the views of CUHK as detailed in its submission.

Hong Kong Baptist University (HKBU)
[LC Paper No. CB(2)2234/08-09(02)]

17. Mr Andy LEE, Vice-President (Administration and Secretary), presented the views of HKBU as detailed in its submission.

The Hong Kong Polytechnic University (PolyU)
[LC Paper No. CB(2)2204/08-09(01)]

18. Mr Alexander TZANG, Deputy President & Secretary to Council, presented the views of PolyU as detailed in its submission.

City University of Hong Kong (CityU)
[LC Paper No. CB(2)2166/08-09(02)]

19. Professor Julia TAO LAI Po-wah, Acting Vice-President (Development & External Relations) and Chief-of-Staff, presented the views of CityU as detailed in its submission.

The University of Hong Kong (HKU)
[LC Paper No. CB(2)2234/08-09(03)]

20. Ms Yvonne Y. F. KOO LAM, Acting Registrar and Head of Human Resources Section, presented the views of HKU as detailed in its submission.

The Administration's response

21. Under Secretary for Education (US(Ed)) briefed members on the main points in the Administration's paper entitled "Redress mechanism for the University Grants Committee-funded Sector". He highlighted that the Administration respected institutional autonomy and academic freedom in the UGC-funded institutions. Instead of establishing an inter-institutional redress mechanism, the Administration considered it more efficient and practical to improve the redress systems of the institutions with reference to the best practices of local and overseas institutions. The Administration was confident that institutions would continue to improve their redress mechanisms in the light of changing environment and changing expectations of staff and students through enhanced communication and improved transparency.

22. Secretary-General, University Grants Committee (SG(UGC)) said that

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the views of UGC on the establishment of an inter-institutional redress mechanism were accurately reflected in the background brief prepared by the LegCo Secretariat. He highlighted UGC's concern that institutional autonomy might be compromised by the operation of an inter-institutional redress mechanism which might not be effective. UGC considered it important that the established grievances and complaints handling mechanisms in the institutions should be transparent and fully made known to staff, and greater participation of persons not directly connected with the institutions at the final level of individual appeals would be helpful. UGC was studying the redress mechanisms adopted by universities/institutions in other jurisdictions and would explore with the institutions on ways to improve their redress mechanisms on the basis of the findings, including coming up with best practices of local and overseas institutions.

Members' views and concerns

23. Dr Priscilla LEUNG declared interest as a teaching staff member of CityU. She expressed disappointment that the Administration and UGC had all along adopted a negative attitude to the establishment of an inter-institutional redress mechanism for the higher education sector, which had been proposed since 1998. In her view, such a mechanism would facilitate the resolving of staff complaints through arbitration without infringing institutional autonomy. She pointed out the current unsatisfactory cycle in handling complaints in the UGC sector. These complaints, unresolved at the institutional level, often led to legal proceedings or were widely reported in the media. Neither the Court nor LegCo was the appropriate forum for resolving these complaints as the former would involve huge legal cost and the latter would politicize the matter. She asked about the best practices in local and overseas institutions that would help improve the established redress mechanisms in individual institutions.

24. SG(UGC) replied that UGC had just started the study on the redress mechanisms adopted by universities/institutions in other jurisdictions. He pointed out that representatives of CityU had said that CityU had reviewed its staff grievances and complaints procedures and would continue to do so. Responding to Mr LEE Cheuk-yan, SG(UGC) said that the study would be completed in 2010.

25. Mr LEE Cheuk-yan said that according the UGC-funded institutions, they had independent effective redress mechanisms in place and external Council members participated at the final level of appeal. In his view, were the mechanisms effective, there should not have been appeal from Dr CHAN Che-wai of HKU for unsuccessful application for extension of service which remained unresolved, legal proceedings instituted by Mrs Tammy LAI of HKBU for unfair dismissal and complaints from the Hong Kong Baptist University Faculty and Staff Union (the Union) about the introduction of a new staff appraisal system in the School of Communication of HKBU. He

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questioned the effectiveness of the existing redress mechanisms in individual institutions, and could not see why the institutions rejected the proposal for establishing an independent redress mechanism. He requested HKBU to explain the disputes between the staff and the management.

26. Mr Andy LEE of HKBU said that the allegations made by the Union were unfounded. He clarified that there were no pending legal proceedings concerning Mrs Tammy LAI's case. The School of Communication of HKBU had not introduced a new staff appraisal system. To enhance its staff appraisal system, the School of Communication had set up an Assessment Committee and designed e-questionnaire to allow students and colleagues who were acquainted with the appraisees concerned to give feedback. Staff who felt aggrieved by this arrangement could lodge their complaints through the established mechanism.

27. Mr CHEUNG Man-kwong said that according to the results of the survey conducted by the Union, 97% of the HKBU's staff had indicated objection to the enhanced appraisal system. With such an exceedingly high proportion of staff indicating objection, HKBU should examine the merits of the system. Ms Audrey EU added that she noted from e-mails to LegCo Members that the new staff appraisal system was opposed to by an absolute majority of staff.

28. Mr Andy LEE of HKBU clarified that it was factually incorrect to say that 97% of the staff of HKBU raised objection to the enhanced appraisal system. The respondents to the questionnaire survey conducted by the Union did raise objection to the questions posed because the questions were misleading. He quoted two examples in the questionnaire concerning job specifications and staff appraisal to substantiate his view, the details of which were in HKBU's submission [LC Paper No. CB(2)2234/08-09(02)].

29. Mr CHEUNG Man-kwong said that there were opposite views between the staff and the management on the effectiveness of the existing redress mechanisms in the UGC-funded institutions, and each side had stated its justifications in support of their views. While the management side was concerned about protecting its autonomy in handling staff grievances and complaints, the staff side considered it essential to involve independent and reputable community leaders in handling these cases. He pointed out that two controversial cases in the UGC sector had been resolved effectively through the establishment of an independent committee chaired by respectable members of the community in recent years, i.e., the Independent Committee on Review of Recent Events in the School of Law chaired by Ms Audrey EU to look into the non-renewal of contract for six staff in the School of Law of CityU and the Independent Investigation Panel chaired by Sir Noel Power to hear the "opinion poll incident" in respect of Dr CHUNG Ting-Yiu of HKU. He asked whether the Administration and UGC would request the UGC-funded institutions to set up similar committees chaired by reputable community leaders to handle disputes that could not be resolved by the established mechanisms in the institutions.

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30. SG(UGC) replied that UGC valued the principle of institutional autonomy and considered that the participation of reputable and independent external members at the final level of individual appeals would be helpful. The decision should rest with the Councils of individual institutions to determine the appointment of such committees and of appropriate persons sitting on these committees to hear the final level of appeals having regard to the circumstances.

31. Ms Audrey EU considered that the establishment of an inter-institutional redress mechanism would not jeopardize institutional autonomy, as proven by the appointment of the independent committees to hear the controversial cases arising from the disputes in the School of Law of CityU and the "opinion poll incident" in HKU. While not objecting to the redress mechanisms in individual institutions, she considered it necessary to establish an independent redress mechanism to handle staff appeals that could not be settled by the internal mechanisms of individual institutions.

32. SG(UGC) responded that the independent committees to hear the disputes in the School of Law of CityU and the "opinion poll incident" in HKU were set up by the respective university Councils. He saw no problem with such a mechanism to handle staff complaints, and considered that this was different from the establishment of an inter-institutional redress mechanism comprising independent parties which were not appointed by the institutions concerned.

33. Ms Audrey EU asked whether the UGC-funded institutions would accept the arrangement of having independent third parties with credibility to handle staff appeals that could not be settled through their internal redress mechanisms.

34. In response, Professor Julia TAO LAI Po-wah of CityU said that she objected to the appointment of independent third parties by other authorities to handle staff disputes in the higher education sector. The successful settlement of the staff dispute in the School of Law of CityU was attributed to the autonomous decision made by the CityU Council to establish the Independent Committee on Review of Recent Events in the School of Law and to appoint Ms Audrey EU as its Chairman. She expressed appreciation of Ms Audrey EU's acceptance of the appointment and her efforts in compiling the Committee's report. She pointed out that the whole review process in relation to the dispute had taken about a year to complete and the legal costs incurred were substantial. Ms Audrey EU clarified that the Committee chaired by her completed its work in a few months and she had not received any remunerations.

35. Dr Priscilla LEUNG declared that she was involved in the incident in the School of Law of CityU. She considered that in the absence of an effective mechanism, the dispute between the affected staff and the management had been handled in an inefficient manner, hence entailing the high legal costs. She called on the Administration and UGC to continue to discuss with the UGC-funded

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institutions the establishment of an independent redress mechanism for the higher education sector.

36. Mr Tommy CHEUNG said that the Liberal Party considered that the establishment of an appeal mechanism without jeopardizing institutional autonomy should be the way forward. In his view, sufficient time should be allowed for the eight UGC-funded institutions to discuss among themselves how such an appeal mechanism which straddled different institutions could be established.

37. Mr LEUNG Yiu-chung opined that the establishment of an independent redress mechanism for the higher education sector would not affect institutional autonomy as it would handle only staff complaints which had remained unresolved after going through the internal mechanisms in individual institutions. He invited the Administration and the UGC-funded institutions to explain how the operation of an independent redress mechanism for the higher education sector would affect or infringe institutional autonomy and academic freedom in the institutions.

38. US(Ed) responded that as explained by the representatives of individual institutions, the UGC-funded institutions had established their grievances and complaints handling procedures and mechanisms which involved independent and external members. In the Administration's view, the institutions should have the autonomy to decide the establishment of specific mechanisms or appointment of committees to handle staff appeals and complaints at different levels.

39. Miss Tanya CHAN considered it more practical and cost-effective to have an independent redress mechanism which should apply consistently to different institutions and operate in a fair, open and transparent manner. Independent community leaders such as retired judges could be appointed to handle staff complaints at the final level. She sought comments of the institutions on her views.

40. Mr Andy LEE of HKBU said that the UGC-funded institutions considered institutional autonomy and academic freedom their invaluable assets and had established their redress mechanisms in the light of individual traditions and circumstances. While there was room for improvement in the operation of the existing redress mechanisms, the proposal for establishing an independent inter-institutional redress mechanism was premature at this stage. Such a mechanism would take over some of the institutions' powers to handle and decide on staff administration matters.

41. Professor Julia TAO LAI Po-wah of CityU said that the internal grievances and complaints handling mechanisms in the UGC-funded institutions were formal and properly authorized. She agreed with the view that there was

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room for improvement such as enhancing staff awareness of the procedures for lodging complaints. However, she did not see the need to establish an independent inter-institutional redress mechanism for the higher education sector or how such a mechanism could be more effective than the existing redress mechanisms.

42. Professor Patrick LAU opined that institutional autonomy was essential. As a retired professor who had worked in HKU for 31 years, he considered it inappropriate for changing the system for the appointment of heads of faculties and departments. In the past, they were elected but had now become appointed. While upholding the principle of institutional autonomy, he considered it necessary to have proper checks and balances. He suggested that the UGC-funded institutions should review their redress mechanisms which should be conducted in an open and transparent manner.

43. Ms Starry LEE said that the Panel had discussed the establishment of an independent inter-institutional redress mechanism at a number of meetings and noted the opposing views of the staff and the management of the institutions. To break the deadlock, she considered that the Administration and UGC should act as mediators and work out feasible alternatives that would be accepted by both parties.

44. US(Ed) reiterated that UGC had started the study on the redress mechanisms adopted by universities/institutions in other jurisdictions and would explore with the institutions on ways to improve their established mechanisms on the basis of the findings, including coming up with best practices of local and overseas institutions. The Administration would continue to encourage the institutions to enhance communication with their staff with a view to improving their redress mechanisms.

45. Deputy Secretary for Education (1) supplemented that the UGC-funded institutions were ready to make reference to the best practices of local and overseas institutions. Best practices would be very useful as institutions would need to explain gross deviations. He pointed out that the institutions had been making continuous improvements to their redress mechanisms as evident by the review conducted.

Follow-up

46. The Chairman said that all publicly-funded institutions should be held accountable to the public. As the complaints received by LegCo Members were all related to the management of the institutions and not academic issues, she considered it justified to establish an independent redress mechanism to handle staff complaints in the higher education sector. She pointed out that many staff disputes that could not be resolved through the internal redress mechanisms were widely reported by the media, to the detriment of the institutions' reputation and

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the career prospect of their staff and graduates. The establishment of an independent redress mechanism for the higher education sector should be the way forward. She added that the Panel would follow up the matter after the completion of the study by UGC.

II Monitoring of Direct Subsidy Scheme schools

[LC Paper Nos. CB(2)2073/08-09(01) and IN20/08-09]

47. The Chairman declared that one of former Supervisors of the Pegasus Philip Wong Kin Hang Christian Primary School cum Junior Secondary School (the School) had financially supported her in the 2008 LegCo election and they belonged to the same political group. She considered it more appropriate for the Deputy Chairman to chair the meeting. The Deputy Chairman took the chair.

Briefing by the Administration

48. US(Ed) briefed members on the main points of the Administration's paper entitled "Monitoring of Direct Subsidy Scheme Schools".

Members' concerns

49. Mr CHEUNG Man-kwong said that the series of malpractices in the School had revealed the various problems in monitoring of Direct Subsidy Scheme (DSS) schools. He pointed out that normally, the provisional registration of a DSS school was valid for one year but that of the School had been extended to eight years; a DSS school should submit its audited account seven months after the end of a school year but the School had not submitted its annual audited accounts for the 2006-2007 and 2007-2008 school years; the former principal of the School was not registered but had served the post for five years and had even been appointed as the Supervisor after resigning as the principal. He was concerned whether there were systemic loopholes with the registration, financial management and monitoring of DSS schools or whether EDB had not enforced the statutory requirements with respect to the School. He noted that the management of DSS schools were not required to declare interests on matters relating to the operation of the schools. As there were three other DSS schools with provisional registration, Mr CHEUNG asked about the lessons learnt by the Administration in the incident.

50. In response, US(Ed) said that the provisional registration for another three DSS schools had been extended for less than three years on justifiable grounds, in order to allow time for them to complete the necessary procedures and meet the requirements under the various ordinances for school registration. Under the existing quality assurance framework, DSS schools were subject to Comprehensive Review, External School Review (ESR) and Focused Inspection conducted by EDB. The Administration would continue to strike a balance

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between control of and flexibility to DSS schools in providing diversity in education. In the case of the School, EDB had repeatedly reminded and warned the sponsoring body to submit the relevant documents for registration of the School and confirmation of the principalship. Bearing in mind the interest of students, EDB had not exercised the power to withdraw the subsidy payable to the School with a resultant loss of its DSS status.

51. Deputy Secretary for Education (4) (DS(Ed)4) explained that the appointment of principal should be approved by EDB under the Education Ordinance, including those on acting basis. EDB noted the anomaly of the former principal of the School and had been following up the issue. As the situation had not been rectified, EDB had ceased to approve the acting appointment of the former principal of the School in 2006. EDB was aware of the problems in the registration and management of the School and had taken the necessary actions including the issuance of warning letters to the sponsoring body demanding rectification within a specified time, and reinforced intervention such as conducting investigation visits and appointing school managers to the school management committee (SMC).

52. Mr Tommy CHEUNG declared interest as a manager of a DSS school. He was astonished by the continued operation of the School when it had appointed an unqualified principal for five years and had failed to submit the annual audited accounts for a few school years. According to his personal experience, EDB had all along monitored DSS schools closely. The Administration owed the public an explanation as why it had treated the School exceptionally. He shared the concern of Mr CHEUNG Man-kwong that a review of the incident was necessary to ascertain whether there were systemic loopholes or human errors. He requested the Administration to report the outcome of its review to the Panel for follow-up discussion.

53. US(Ed) responded that in conjunction with the Hong Kong DSS Schools Council (the DSS Schools Council) in 2008, EDB had issued a "Reference Document on Management and Administration of DSS Schools" with a view to facilitating DSS schools to operate their schools more effectively. EDB would collaborate with the DSS Schools Council to enhance transparency and accountability in management of DSS schools, in particular about declaration of interests by stakeholders. Given the relatively short history of the DSS, EDB would aim to strike a right balance between control of and flexibility for DSS schools based on operational experience. As regards non-compliance with statutory requirements such as submission of audited accounts, EDB would issue warning letters and appoint managers to the SMC of the relevant school where necessary. EDB would scale up the level of intervention depending on the gravity of the problems. He acknowledged that EDB had learnt a lesson from the incident and would intervene at an earlier opportunity should similar incidents occur in future.

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54. Mr TAM Yiu-chung enquired about whether any non-compliance and malpractices in other DSS schools had been identified, and whether any DSS schools had failed to pass the Comprehensive Review on school performance.

55. US(Ed) replied that apart from the School, a few DSS schools for various reasons had yet to comply with the requirements to submit the necessary documents for school registration or their financial reports. These cases required follow-up but were not serious. EDB had not identified any DSS schools which had failed in the Comprehensive Review. The administrative and management problems identified in the School were exceptionally rare.

56. In response to Mr TAM Yiu-chung's enquiry about the difference in the monitoring of DSS schools and aided schools, DS(Ed)4 explained that aided schools were subject to the Code of Aid, whereas DSS schools were private schools in receipt of subsidy. DSS schools were given greater flexibility in various areas of operation and were required to operate with transparency and accountability in management, subject to the performance evaluations under the quality assurance framework. She pointed out that the overall performance of DSS schools was satisfactory. Of the 71 DSS schools in operation, only 60 complaints had been received in the past three years and only four were found substantiated. The results of the Comprehensive Review conducted on 27 DSS schools so far had been generally satisfactory.

57. Mr WONG Sing-chi declared that he was acquainted with two Supervisors of the School. Referring to the submission from the School sponsoring body tabled at the meeting, he noted that the School was ranked high in the quality assurance reviews in 2004 and 2005. He queried whether EDB had noticed the non-registration of the then principal of the School and other irregularities. He also noted that EDB had appointed two managers to the SMC of the School in April 2007, but the School had still failed to submit their audited accounts in the ensuing school years. He queried whether and how these two managers had performed their roles.

58. US(Ed) acknowledged that despite the appointment of the two managers to the School in April 2007, the School had not made improvement to its management. As explained before, bearing in mind the interest of students, EDB had not exercised the power to withdraw the subsidy payable to the School with a resultant loss of its DSS status. EDB would follow up with the DSS Schools Council on improvement measures to prevent recurrence of similar incidents in future. On academic performance, EDB had conducted the necessary quality assurance reviews and found the quality of teaching and learning in the School satisfactory.

59. Principal Assistant Secretary (School Administration & Support) supplemented that EDB officers conducted compliance vetting and audit inspections in schools on a regular or need basis to ensure proper use of

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government and non-government funds. In the Comprehensive Review and ESR conducted in 2004 and 2005, the School was assessed in four major domains including management and organization, learning and teaching, student support and school ethos, and student performance. The objectives of these quality assurance reviews were to ascertain that the quality of education provided by the School had met the required standard, and to identify its strengths and areas for sustained development.

60. Mr WONG Sing-chi expressed disappointment that the two managers appointed by EDB in April 2007 had done nothing to improve the management of the School in subsequent years. US(Ed) explained that EDB had tried to assist in improving the management of the School but it rested with the management of the School to make improvement. As the quality of teaching and learning in the School was found satisfactory and bearing in mind the interest of students, EDB had not taken the action to withdraw the subsidy payable to the School.

61. Professor Patrick LAU declared interest as a manager of a DSS school. In his view, the DSS aimed to enrich the diversity and quality of local education. Noting that the 71 DSS schools comprising 11 primary, 51 secondary and 9 primary cum secondary schools charged at substantially different levels of tuition fees, he expressed concern about the variation in the quality and standard of education in DSS schools. He enquired about the performance of the 71 DSS schools. He pointed out that many aided schools for various reasons did not join the DSS. He considered that the Administration should critically review the DSS in the light of the malpractices identified in the School.

62. US(Ed) responded that overall, the DSS was successful in terms of its contribution in enhancing parental choice and diversity and quality in education. He pointed out that DSS schools were allowed to have greater flexibility in various areas including tuition fees. The different fee levels cater for the needs of families of different means. While their tuition fees might vary substantially, DSS schools were required to administer scholarship and fee remission schemes for needy students. As reflected in their student enrolment, DSS schools were well accepted by parents. In the light of the administrative malpractices identified in the School, EDB would review the monitoring of DSS schools.

63. Miss Tanya CHAN shared the view that the Administration should review the DSS. She noted that there was concern about the lack of job security for teachers in DSS schools and their terms and conditions of employment were not protected. Referring to the Information Note prepared by the LegCo Secretariat, she enquired about the timing for registration of a SMC/IMC as a charitable organization under section 88 of the Inland Revenue Ordinance; the frequency of compliance vetting conducted by EDB; and the circumstances under which the Director of Audit would be allowed access to the records and accounts of a DSS school. She was concerned that the malpractices in the School, such as the non-submission of audited accounts, had lasted for so many

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years without any intervention from the Director of Audit.

64. US(Ed) responded that unlike aided schools, DSS schools were allowed greater flexibility in various areas including the appointment of teaching staff. He did not agree with the view that the remuneration packages for teachers in DSS schools were less attractive than those for aided schools. As regards the registration of a SMC/IMC as a charitable organization, US(Ed) pointed out that the time required for completing the registration might vary given the diverse background and experience of the school sponsoring bodies. EDB would provide assistance to the sponsoring bodies as and when appropriate.

65. DS(Ed)4 supplemented that all DSS schools were required to submit audited accounts on an annual basis. Apart from the School, there was another DSS school which had not submitted the audited accounts but the delay was considered justified. Should the Director of Audit request, EDB would provide the records and accounts of any DSS school for the purpose of conducting the value for money audits.

66. The Deputy Chairman asked whether the malpractices identified in the School were attributed to human errors or systemic problems.

67. US(Ed) responded that the incident could be attributed to both human and systemic factors. EDB would work with the DSS Schools Council to review the DSS and update the guidelines on financial reporting and administration of DSS schools. He stressed that the flexibility provided for DSS schools should not be removed altogether because of an isolated incident. In response to the Deputy Chairman's enquiry on the mechanism for handling withdrawal of school sponsorship, US(Ed) said that EDB would follow the provisions stipulated in the SMC Service Agreement.

68. Mr CHEUNG Man-kwong said that EDB had tolerated the School's non-compliance with the statutory requirements on school registration, principal registration and annual financial reporting, etc. The malpractices of the School were unveiled by a complaint lodged by parents and not the school managers appointed by EDB. He considered it reasonable to believe that EDB had not enforced the statutory requirements for DSS schools in the incident. The incident was attributed to human errors which exposed systemic problems in the lack of any requirement for the management of DSS schools to declare interests. He requested EDB to review the incident and provide a paper on the lessons to learn in the monitoring of DSS schools.

69. Mr WONG Sing-chi shared the view that EDB had failed to enforce the statutory requirements for DSS schools. He asked whether EDB would investigate into the matter and provide a written response to the allegations made in the submission of the School sponsoring body.

Action

70. US(Ed) responded that the allegations in the submission of the School sponsoring body were not new and had been responded on other occasions. As the discussions on the arrangements for transfer of sponsorship of the School were in progress, he considered it inappropriate to provide a response to the allegations in the submission at this stage. He stressed that while EDB would review the incident, it had all along followed the established procedures in monitoring the School, including the appointment of managers to its SMC. EDB had not and would not tolerate any practices in DSS schools which might jeopardize the interests and safety of students. On administrative matters, EDB would work in partnership with the school sponsoring body to rectify any malpractices identified.

71. DS(Ed)4 supplemented that EDB had not tolerated the School's non-compliance with statutory requirements. In the past few years, EDB had been taking actions to assist the School to rectify problems. The level of intervention scaled up according to the gravity of the problems identified. EDB had issued warning letters to the School in 2007 and appointed two school managers to assist in the management of the School in 2008. The number of managers appointed by EDB had increased to seven to reinforce intervention with the School. Mr CHEUNG Man-kwong pointed out that EDB only took actions in 2007 but the School started operating since 2001 and many malpractices had lasted well before 2007.

72. Mr WONG Sing-chi said that the unsuccessful application of the School for operating senior secondary classes under the NSS academic structure had been handled by the Complaints Division of the LegCo Secretariat. However, EDB had never informed members of the malpractices identified in the School. US(Ed) clarified that EDB had apprised members of the malpractices identified in the School in a written response.

73. Ms Audrey EU requested the Administration to provide a written response to the submission of the School sponsoring body and to Mr CHEUNG Man-kwong's allegation that EDB had tolerated the School's non-compliance with the statutory requirements for many years, with a chronology of the incident. The Administration agreed.

74. In concluding the discussions, the Deputy Chairman said that the incident had impacted on the DSS school sector. The Administration should provide a written response to explain the incident and elaborate on its measures to monitor the School.

75. The meeting ended at 7:01 pm.