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Panel on Education

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 8 June 2009**

The University of Hong Kong (Amendment) Bill 2008

Purpose

This paper summarizes the deliberations of the Panel on Education (the Panel) on the University of Hong Kong (Amendment) Bill 2008 (the Bill).

Background

2. In May 2001, the then Secretary for Education and Manpower commissioned the University Grants Committee (UGC) to launch a comprehensive review of higher education in Hong Kong. The review covered all aspects of higher education provision, including the governance of the UGC-funded universities. In March 2002, the UGC published the review report entitled "*Higher Education in Hong Kong*" (the Report). After consultation with the Panel and the stakeholders on the Report, the UGC submitted its final recommendations to the Secretary for Education and Manpower in September 2002. The Government accepted most of the UGC's final recommendations, and announced in November 2002 the blueprint for the further development of higher education in Hong Kong. Under the blueprint, the UGC-funded universities were required to review their governance and management structures including the grievances and complaints mechanisms to ensure that they were "fit for the purpose". The governing bodies of the UGC-funded institutions started their reviews of the fitness for purpose of their governance and management structures in 2003.

3. The Council of the University of Hong Kong (the Council) set up an independent review panel (the Review Panel) comprising Professor John Niland, Professor Neil Rudenstine and the Chief Justice to conduct a review of the governance and management structure of the University of Hong Kong

(HKU). In its report entitled "Fit for Purpose", the Review Panel recommended to rectify the existing inconsistency in the role of the Court of HKU (the Court) and the Council as described in section 7 of the University of Hong Kong Ordinance (the Ordinance) and the University of Hong Kong Statutes (the Statutes).

4. Hon David LI intended to introduce a private Member's Bill in the 2007-2008 session to rectify the inconsistency by defining the Court and the Council as the "supreme advisory body" and the "supreme governing body" respectively. The Bill also provided for the amendments to the existing academic titles of "Teachers".

Deliberations of the Panel

5. The Panel discussed the Bill at its meeting on 12 June 2008. The major issues raised by members are summarized in the paragraphs below.

Chinese names of the Court and the Council

6. Members in general supported the proposal in the Bill to rectify the inconsistency in the role of the Court and the Council as described in section 7 of the Ordinance and the Statutes and to define the Court and the Council as the "supreme advisory body" and the "supreme governing body" respectively. However, members were concerned that the Chinese names of the Court and the Council were inconsistent with those adopted by other UGC-funded institutions. Members were given to understand that for other UGC-funded institutions, the Chinese name of their Councils was "校董會". For HKU, its Court was called "校董會" and its Council "校務委員會". To avoid confusion about their roles, members considered it necessary to amend their Chinese names to bring them in line with those adopted by other UGC-funded institutions.

7. According to HKU, the Chinese names of the Court and the Council had been in use since the establishment of HKU in 1911, and there was no intention of confusing their roles. The Council had considered amending the Chinese names to reflect the advisory role of the Court and the governing role of the Council. However, many stakeholders preferred to retain the existing Chinese names. HKU considered that their views should be respected. As the two Chinese names had been used for about a century and carried significant sentimental value to some stakeholders, any proposal to change these names would require extensive consultation.

Amendment to the academic titles

8. Members noted that under the current arrangement, the academic titles of Teachers comprised Readers, Senior Lecturers, Lecturers and Assistant

Lecturers. The Bill proposed to streamline the academic titles of Teachers to comprise Assistant Professors, Associate Professors, Professors and Chairs. Members were concerned about the impact of the proposed amendments on the employment terms and conditions of serving staff. They also sought information on the policy for the conversion of academic and non-academic staff on probationary terms into substantiated terms.

9. HKU explained that the proposed amendments would not affect the employment terms and conditions of serving staff. For teachers not yet employed on substantiated terms with "good cause" protection, they were employed on "probationary" terms. The proposed amendments made it clear that the "probationary" employment status meant contracts for a fixed term. Under the existing policy, all academic staff in HKU were employed on contract terms initially, and would normally be considered for substantiated employment after satisfactory completion of two three-year contracts. As regards non-academic staff, the maximum number for substantiated employment had been adjusted from 75% to 80% of the establishment.

10. HKU stressed that the proposed amendments to the academic titles were made after extensive consultation, and some 98% of teachers had expressed support for the new titles. The Council had assured teachers that their entitlement to "good cause" protection in employment would not be affected by the adoption or otherwise of the new academic titles. Currently, about 98% of teachers had used the new academic titles, and only 2% of teachers had retained the old titles for personal reasons. The new academic titles were in line with those adopted by local and overseas institutions.

Composition of the Council

11. Members were all along concerned about the governance and management structure of the UGC-funded institutions. Members pointed out that representatives of the Legislative Council (LegCo) only sat on the advisory body of HKU (the Court) and not its governing body (the Council). Some members considered that HKU should make use of the Bill to include LegCo representation in its Council to enhance public participation in its governance.

12. HKU explained that the Review Panel recommended that the size of the Council should be in the range of 18 to 24, with each member appointed or elected in his personal capacity and serving as a trustee instead of delegate or representative of a particular constituency. Currently, the Council comprised the Vice-Chancellor as an ex-officio member, four teachers, two students, one staff member, two members elected by the Court, and other members who were nominated and/or appointed by the Council and/or the Chancellor.

Transparency and accountability

13. Members considered that as publicly-funded bodies, the UGC-funded institutions should enhance transparency and accountability by making available the agendas for and minutes of meetings of their governing bodies for public information, except for items which involved confidential or commercially sensitive information. There was a view that matters relating to staff appointment and terms of employment were rarely discussed at these meetings, and there was no reason to keep confidential the discussions and the papers relating to institutional management and development.

14. HKU explained that the Heads of Universities Committee and the governing bodies of the UGC-funded institutions had discussed the matter thoroughly in response to the request of the Panel in 2005. They shared the view that it was inappropriate to make available the agendas for and minutes of Council meetings for public access, as personnel as well as strategically or commercially sensitive matters were often discussed at these meetings. Nevertheless, the institutions would make public announcement on decisions and policies which were of public interest through press conferences or press releases as appropriate. HKU also advised that it was the first UGC-funded institution to conduct a review on its governance and management structure, and had adopted the recommendations of the Review Panel to restructure its Council comprising eight internal members and a majority of external members.

15. In the latest response of HKU to the Panel on 19 December 2008, HKU advised that the Council was of the opinion that the best way of achieving the objective of enhancing public transparency was to reinforce the existing communication channels. The Council had agreed to release in future, through internet and after each meeting, a report summarizing all its decisions, except those on personal matters relating to individuals and plans and proposals not yet finalized, on the understanding that for the latter, the disclosure would be made at a later stage after the proposals had been finalized.

Attendance at meetings

16. Members were concerned about the non-attendance of some external members at the Council meetings. They noted that of the 11 Council meetings held during February 2007 to May 2008, some members had been absent from five meetings or more. In their view, external members with low attendance rate at Council meetings should not be considered for reappointment.

17. HKU pointed out that the Council had set up a nominations committee to identify suitable candidates for appointment as lay members. In nominating candidates for reappointment, the committee would consider the

expertise needed in the different areas to enable the Council to discharge its responsibilities effectively as well as the candidate's past performance and attendance at Council meetings. There were lay members who had not been reappointed in the past.

Need for appointment of a bills committee

18. Members had expressed diverse views on the need for the setting up of a bills committee to study the Bill. Some members considered it necessary to set up a bills committee while others were of the view that as the Bill did not involve controversial issues, a bills committee was not necessary.

19. The Bill was not presented to the Council in the 2007-2008 session.

Relevant papers

20. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
3 June 2009

**Relevant papers on
The University of Hong Kong (Amendment) Bill 2008**

Meeting	Date of meeting	Paper
Public Accounts Committee	--	Chapter 8 of the Report No. 40 of the Director of Audit Chapter 1 of the Supplemental Report of the Public Accounts Committee No. 40A Chapter IV of the Report of the Public Accounts Committee No. 43
Panel on Education	12.6.2008 (Item III)	Minutes Agenda CB(2)2281/07-08(01)
Panel on Education	9.2.2009 (Item VI)	Minutes Agenda

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