

立法會
Legislative Council

LC Paper No. CB(2)1578/11-12
(The minutes have been seen by
the Administration and The Hong
Kong Polytechnic University)

Ref : CB2/BC/11/10

Bills Committee on
The Hong Kong Polytechnic University (Amendment) Bill 2011

Minutes of the second meeting
held on Thursday, 19 January 2012, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex

Members present : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
(Chairman)
Hon CHEUNG Man-kwong
Hon Audrey EU Yuet-mee, SC, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Kin-por, JP
Dr Hon Samson TAM Wai-ho, JP
Hon Tanya CHAN

Member absent : Hon Cyd HO Sau-lan

Public Officers attending : Agenda items I and II

Mr Wallace LAU
Principal Assistant Secretary (Higher Education),
Education Bureau

Mrs Dorothy MA
Deputy Secretary-General (1), University Grants
Committee

Attendance by invitation : Agenda items I and II

The Hong Kong Polytechnic University

Dr NG Tat-lun, SBS, JP
Deputy Council Chairman

Professor Timothy W TONG, JP
President

Professor Philip CHAN
Deputy President & Provost

Ir Professor Johnny FAN
Council Member
President, Federation of The Hong Kong Polytechnic
University Alumni Associations

Mr Louis HEUNG
Director of Finance

Mr Alan LI
Director of Human Resources

Ms Tracy NG
Director of Communications and Public Affairs

Miss Connie CHAN
Acting Secretary to Council

Agenda item II

The Hong Kong Polytechnic University Staff
Association

Dr LEE Heung-wing Joseph
Chairman

Dr CHENG Suk-kuen Virginia
Secretary

The Hong Kong Polytechnic University
Students' Union

Mr CHAN Man-fai
Member

Mr TANG Wing-wai
External Affairs Secretary

Clerk in attendance : Ms Amy YU
Chief Council Secretary (2)6

Staff in attendance : Miss Carrie WONG
Assistant Legal Adviser 4

Ms Judy TING
Council Secretary (2)6

Miss Meisy KWOK
Legislative Assistant (6)

Action

I. Briefing on the Bill by Dr Hon LAM Tai-fai and The Hong Kong Polytechnic University

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. Dr LAM Tai-fai declared interest as an alumnus and a serving Council member of The Hong Kong Polytechnic University ("PolyU").

3. Dr LAM Tai-fai and Prof Timothy TONG, President of PolyU, briefed members on the main objects and contents of the Bill.

II. Meeting with deputations and the Administration

Oral presentation by deputations

The Hong Kong Polytechnic University Staff Association

4. Dr Joseph LEE presented the views of The Hong Kong Polytechnic University Staff Association as detailed in its submission [LC Paper No. CB(2)816/11-12(01)].

The Hong Kong Polytechnic University Students' Union

5. Mr TANG Wing-wai presented the views of The Hong Kong Polytechnic University Students' Union ("PUSU") as detailed in its submission [LC Paper No. CB(2)816/11-12(02)]. In gist, PUSU welcomed the proposed increase in the number of student members on the PolyU Council from one to two, i.e., one from full-time undergraduate and sub-degree students and one from full-time postgraduate students. He added that consideration should be given to granting part-time students the right to vote in the election of student member on the Council.

Participation of part-time students in the election of student Council member

6. Mr CHEUNG Man-kwong sought clarification from representatives of PUSU whether their proposal was to add one more student member on the Council for part-time students or to extend the right to vote in the election of student Council member to part-time students. Mr TANG Wing-wai responded that PUSU was agreeable to the proposal in the Bill of having two student members on the Council, but queried why part-time students were not given the right to vote in the election.

7. Mr CHEUNG Man-kwong said that in considering the proposal, it was necessary to take account of the ratio of part-time students to full-time students and the implications of such a ratio on the voting results. He sought information on the respective number of full-time and part-time students in PolyU.

8. Mr TANG Wing-wai said that PUSU had a current membership of about 14 000 full-time undergraduate and sub-degree students. Given that not all full-time students were members of PUSU, the electorate of the Council seat for undergraduate and sub-degree students would be more than 14 000 students. Mr TANG further said that many part-time students had expressed their wishes to join PUSU. PUSU considered that the views of part-time students should also be respected, hence its query as to why part-time students had no voting right in the election of student Council members.

9. Prof Philip CHAN, Deputy President and Provost of PolyU, said that there were about 5 144 fte (full-time equivalent) students taking part-time studies in PolyU.

10. Prof Timothy TONG said that the proposal of PUSU had not been discussed by the University. He stressed that the current proposal of increasing the number of student representatives on the Council from one to two had already greatly enhanced the representation of students on the Council.

Poly U

11. Mr CHEUNG Man-kwong requested PolyU to provide information on the respective number of its full-time and part-time students. He pointed out that such information was important for the consideration of PUSU's proposal as it would shed light on the change in the size of the electorate should part-time students be included. Another implication of the proposal was that the elected student Council member could be a full-time student or a part-time student. In comparison with full-time students, part-time students spent less time in the University and their sense of belonging to the University might not be as strong as full-time students. He considered it necessary for representatives of PUSU to consult students on the proposal and inform the Bills Committee of the outcome of the consultation.

PUSU

12. The Chairman said that full-time students and part-time students had different expectations for the University and their areas of concerns might not be the same. He requested representatives of PUSU to further consider the basis and implications of the proposal and consult students on it before reverting to the Bills Committee on its consideration.

Definition of full-time students

13. Members noted the definition of "full-time students" in the proposed section 2 of the Bill as "persons who are deemed by the University to be full-time students of the University". Members also noted that in response to the enquiry of Assistant Legal Adviser 4 ("ALA4"), PolyU had advised that according to section 24.4 of the University's Handbook on Academic Regulations and Procedures, full-time students currently meant students with a study load of nine credits or more in a semester.

14. In response to Mr CHEUNG Man-kwong, Principal Assistant Secretary (Higher Education), Education Bureau ("PAS(HE)") said that the relevant Ordinances of other University Grants Committee ("UGC")-funded institutions had similar definitions of "full-time students" as that proposed in the Bill. Mr CHEUNG Man-kwong considered the proposed definition of

"full-time students" appropriate as it would provide flexibility for the University to amend the definition as it deemed necessary.

15. Mr CHEUNG Man-kwong further said that it would be necessary to add the definition of "part-time students" to the Bill should the right to vote in the election of student Council members be extended to part-time students.

Joint venture and partnership

16. Members noted that in the light of ALA4's enquiry as to whether the proposed section 6(b), which sought to merge the existing section 6(b) and (m) of The Hong Kong Polytechnic University Ordinance (Cap. 1075) ("the Ordinance"), would affect the different effects of the original two subsections, PolyU had agreed to move Committee Stage amendments ("CSAs") to the proposed section 6(b) to the effect of retaining the original section 6(b) of the Ordinance and revising section 6(m) to "enter into a partnership or any other form of joint venture with any persons".

17. Mr CHEUNG Man-kwong expressed concern about the impact of financial losses that might be incurred by PolyU's joint ventures with other parties on the University's publicly-funded programmes. He enquired whether the proposed amendments provided sufficient legal safeguards to protect the University's publicly-funded programmes from being affected by financial losses arising from its joint ventures entered into with other parties.

18. Prof Timothy TONG said that PolyU would only use private funds for investing in joint ventures. According to the relevant guidelines of UGC, a UGC-funded institution could not use public funds to subsidize its self-financing activities, including joint ventures entered into with other parties. UGC-funded institutions were required to keep separate financial accounts for their publicly-funded and self-financing operations.

19. Deputy Secretary-General of UGC ("DSG/UGC") said that it was set out clearly in UGC's "Notes on Procedures" that institutions should use UGC funds only for activities eligible for funding. To ensure prudent use of public funds, heads of institutions were requested to provide a Certificate of Accountability to UGC annually to confirm that public funds allocated via UGC had been spent in accordance with UGC's Notes on Procedures, allocation letter and other guidelines and approved Government policies. She stressed that UGC shared members' concern about the importance of ensuring prudent financial management of the institutions and proper use of UGC funds. In this regard, UGC had set up the Financial Affairs Working Group to work with the institutions to ensure their continuing good financial

governance and sound financial planning, by, for instance, drawing up best practices for the institutions' reference. Furthermore, the Councils of individual institutions, which comprised lay members, also played an important role in monitoring the financial situation of the institutions.

20. PAS(HE) said that the Administration attached great importance to the financial stability of the UGC-funded institutions and would continue to closely monitor their self-financing operation to ensure that such operation would not impact on the operation of their publicly-funded programmes. The UGC-funded institutions enjoyed institutional autonomy and it was not appropriate for the Administration to micro-manage the general management affairs of individual institutions.

21. Mr CHEUNG Man-kwong said that in amending the legislation of the UGC-funded institutions, account should be taken of the substantial growth in the institutions' self-financing operation in recent years. With the expansion in the scale of self-financing or joint venture activities undertaken by the institutions which might involve the use of substantial financial resources (such as joint ventures to establish universities on the Mainland), he was concerned that substantial financial losses might arise from such activities which would adversely affect the financial viability of the institution proper and disrupt the operation of its publicly-funded programmes. He considered it important to put in place sufficient legal safeguards in this regard. Making reference to section 6(g) and (h) which related to investments and borrowing of funds, Mr CHEUNG suggested that the phrase "*in such manner and to such extent as it thinks necessary or expedient*" be added to the proposed section 6(m) with a view to alerting the University of the importance of exercising reasonable care when using the powers conferred under section 6(m) to enter into partnerships or joint ventures with other parties, particularly in respect of large-scale collaboration projects involving substantial financial resources. He added that the proposed amendments would not affect the existing powers of the University.

22. Prof Timothy TONG said that all large-scale partnerships or joint ventures with other parties had to be approved by the Council of the University. To improve its financial management, the University had reviewed its investment portfolio and set up a committee to oversee matters relating to knowledge and technology transfer. An investment strategy had also been formulated to cater for the long-term development of the University. With these measures, he believed that the possibility of the University proper being affected by substantial financial losses incurred by its self-financing or joint venture activities was slim.

23. ALA4 said that the leading paragraph of the proposed section 6, which read "*The Council is the governing body of the University with power ... to do all such things as are necessary for, or incidental or conducive to, the better carrying out of the objects and policies of the University ...*" had already imposed a general condition on the use of the Council's powers in respect of the various items set out in paragraphs (a) to (o) of section 6. Should a specific condition be imposed on the use of the power conferred under section 6(m) as suggested by Mr CHEUNG Man-kwong, it might be necessary to examine whether similar specific condition(s) should also be added to other paragraphs of section 6.

24. DSG/UGC echoed ALA4's view. She said that the purpose of section 6 of the Ordinance was to provide the legal basis for the University to engage in various activities in accordance with the objects and policies of the University. She was concerned that placing too many constraints on the exercise of powers by the University might affect its flexibility in managing its affairs.

25. Mr CHEUNG Man-kwong, however, held a different view. He considered that the nature of paragraphs (g) and (h) of section 6 was different from the other paragraphs of the section in that the powers conferred under paragraphs (g) and (h) could involve substantial financial resources. As the nature of paragraph (m) was akin to paragraphs (g) and (h) of section 6, similar specific condition(s) should be added to paragraph (m).

26. Miss Tanya CHAN opined that the powers conferred under section 6(a) to "*acquire, take on lease, purchase, hold and enjoy any property and sell, let or otherwise dispose of the same*" could also involve substantial financial resources, as in the case of joint ventures stipulated under section 6(m). Hence, consideration should also be given on the need to add to section 6(a) the specific condition proposed by Mr CHEUNG Man-kwong. An alternative approach was to provide in the leading paragraph of section 6 general condition(s) which applied to the exercise of the powers under paragraphs (a) to (o) of the section.

27. Mr CHEUNG Man-kwong, however, considered the nature of section 6(a) and (m) to be different. He pointed out that while PolyU could decide on its own whether to exercise the powers conferred on it under section 6(a), it could not decide on its own whether to exercise the powers conferred on it under section 6(m) where a partnership or joint venture was involved.

28. ALA4 and PolyU were requested to look into the drafting of the proposed section 6 in the light of members' views and revert to the Bills Committee.

Proposed section 8(4A) and (4B)

29. Members noted that in response to the enquiry of ALA4, PolyU had agreed to move CSAs to amend the Chinese text of the proposed section 8(4A) and (4B) to "就委任或免除其本人為校長而言，校長不是成員" and "就委任或免除其本人為常務副校長而言，常務副校長不是成員" respectively, to more accurately reflect the meaning of "himself or herself" in the English text.

Date of next meeting

30. Members agreed that the next meeting of the Bills Committee should be held on Thursday, 2 February 2012, at 8:30 am. Members also agreed that further meetings be held, if necessary, on 28 February, 19 March and 30 March 2012 at 10:45 am.

III. Any other business

31. There being no other business, the meeting ended at 6:29 pm.

Council Business Division 2
Legislative Council Secretariat
30 March 2012

**Proceedings of the second meeting of the
Bills Committee on The Hong Kong Polytechnic University (Amendment) Bill 2011
on Thursday, 19 January 2012, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject	Action required
001139-001658	Chairman Dr LAM Tai-fai	Briefing on the Bill by Dr LAM Tai-fai	
001659-002007	Chairman Prof Timothy TONG	Briefing on the Bill by The Hong Kong Polytechnic University ("PolyU")	
002008-002136	Chairman	Welcoming remarks	
002137-002354	Chairman Dr Joseph LEE	Presentation of views by The Polytechnic University Staff Association [LC Paper No. CB(2)816/11-12(01)]	
002355-002600	Chairman Mr TANG Wing-wai	Presentation of views by The Hong Kong Polytechnic University Students' Union ("PUSU") [LC Paper No. CB(2)816/11-12(02)]	
002601-002623	Chairman	Other written submissions [LC Paper Nos. CB(2)816/11-12(04) to (07)]	
002624-004030	Chairman Dr LAM Tai-fai Prof Timothy TONG Mr CHEUNG Man- kwong Mr TANG Wing-wai Prof Philip CHAN	Discussions on PUSU's proposal of allowing part-time students to participate in the election of student members on the Council. The Polytechnic University ("PolyU") was requested to provide information on the respective number of its full-time and part-time students. PUSU was requested to consult students on the proposal and revert to the Bills Committee.	PolyU (para 11 of minutes refers) PUSU to (para 12 of minutes refers)
Clause-by-clause examination of the Bill			

004031-005303	Chairman ALA4 Mr CHEUNG Man-kwong Administration Prof Timothy TONG	Clauses 1 to 3 Discussions on definition of "full-time students" in clause 3.	
005304-005618	Chairman Prof Timothy TONG	Clause 4	
005619-012544	Chairman Prof Timothy TONG Mr CHEUNG Man-kwong Administration University Grants Committee ("UGC")	Clause 5 Mr CHEUNG Man-kwong's concern about the impact of financial losses that might be incurred by PolyU's joint ventures with other parties on the University's publicly-funded programmes. Mr CHEUNG Man-kwong's suggestion that the phrase " <i>in such manner and to such extent as it thinks necessary or expedient</i> " in section 6(g) of the Hong Kong Polytechnic University Ordinance (Cap. 1075) be added to the proposed section 6(m) with a view to alerting the University of the importance of exercising reasonable care when using the powers conferred under section 6(m). Response of PolyU on the measures undertaken by the University to enhance its financial management. Responses of UGC and the Administration on the various measures undertaken by UGC and the Administration to ensure proper use of public funds by the institutions.	
002545-015127	Miss Tanya CHAN Prof Timothy TONG Administration Mr CHEUNG Man-kwong Chairman ALA4 UGC	ALA4's remark that the leading paragraph of the proposed section 6 had already placed a general condition on the use of the Council's powers in respect of the various items set out in section 6(a) to (o). Miss Tanya CHAN's view that an alternative approach was to provide in the leading paragraph of section 6 general condition(s) which applied to paragraphs (a) to (o) of the section.	

		ALA4 and PolyU were requested to look into the drafting of the proposed section 6 in the light of members' views and revert to the Bills Committee.	ALA4 & PolyU (para 28 of minutes refers)
015128-015930	Chairman Prof Timothy TONG ALA4	Clause 6 PolyU's agreement to amend the Chinese text of the proposed section 8(4A) and (4B) to better reflect the meaning of "himself or herself" in the English text.	
015931-020043	Chairman	Date of next meeting	

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Legislative Council Secretariat
30 March 2012