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Panel on Education

Background brief prepared by the Legislative Council Secretariat for the meeting on 11 July 2011

Direct Subsidy Scheme Schools

Purpose

This paper summarizes the concerns of Members of the Legislative Council about the administration, governance and monitoring of Direct Subsidy Scheme ("DSS") schools.

Background

2. Introduced in September 1991, DSS was set up in response to the recommendations of the Education Commission in its Report No. 3 and approved by the Executive Council. The Government encourages non-Government secondary schools which have attained a sufficiently high educational standard to join DSS by providing subsidies in order to enhance the quality of private school education. Under DSS, schools are free to decide on their curriculum, fees and entrance requirements. In March 1999, the Executive Council accepted the recommendations of a review of private school policy to allow aided primary schools to join DSS from the 2000-2001 school year onwards. In 2009-2010, there were 72 DSS schools, comprising 11 primary, 52 secondary and 9 primary-cum-secondary schools. The enrolments of DSS secondary and primary schools were 51 123 (11% of the total secondary students) and 12 589 (4 % of the total primary students) respectively.

3. The objective of DSS is to inject diversity to Hong Kong's school system through the growth of a strong subsidised private school sector so that parents would have more choices in finding suitable schools for their children. To ensure their quality, DSS schools are required to sign a Service Agreement with the Government comprising a proposed school plan and indicators for evaluation. Mechanisms are also put in place by the Education Bureau ("EDB") to control and monitor the quality of DSS schools.

Deliberations of the Panel on Education

4. In May 2009, the school sponsoring body of the Pegasus Philip Wong Kin Hang Christian Primary School cum Junior Secondary School ("the School") announced its intention of giving up its sponsorship. Arising from the alleged managerial and financial problems of the School, the Panel on Education ("the Panel") discussed the monitoring of DSS schools at its meeting on 6 July 2009. Major concerns of members are summarized in the following paragraphs.

School administration

5. Members considered that the malpractices in the School had revealed the various problems in the monitoring of DSS schools by the Administration. The malpractices of the School involved non-compliance of both statutory and administrative requirements such as school registration, appointment of principal and submission of audited accounts. Members noted the lack of any requirement for the management of DSS schools to declare interests. Members were concerned whether there were systemic loopholes with the registration, financial management and monitoring of DSS schools or whether the Administration had not enforced the statutory requirements. They called on the Administration to critically review DSS in the light of the malpractices identified in the School.

6. According to the Administration, DSS schools should adhere to the relevant statutory requirements applicable to DSS schools. For cases of non-compliance with statutory requirements, the Administration would issue warning letters to the school or the sponsoring body concerned. The Administration would step up the level of intervention such as conducting investigation visits and appointing managers to the School Management Committee of the relevant school where necessary. To ensure the quality of education provided by DSS schools, DSS schools were subject to Comprehensive Review, External School Review and Focused Inspection conducted by EDB under the existing quality assurance framework. In conjunction with the Hong Kong DSS Schools Council, the Administration had issued a "Reference Document on Management and Administration of DSS Schools" in 2008 with a view to facilitating DSS schools to operate their schools more effectively. The Administration would collaborate with the Hong Kong DSS Schools Council to enhance transparency and accountability in the management of DSS schools, in particular about declaration of interests by stakeholders. As regards submission of accounts, all DSS schools were required to submit audited accounts on an annual basis. The Administration would conduct compliance vetting and audit inspections in schools on regular or need basis to ensure proper use of both government and non-government funds. Given the short history of the DSS, the Administration would aim to strike a

right balance between control of and flexibility for DSS schools based on operational experience. The Administration would review the monitoring of DSS schools in the light of the malpractices identified in the School.

Monitoring of school performance

7. Members enquired about the difference in the monitoring of DSS schools and aided schools. The Administration advised 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.

8. Some members were concerned 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. The Administration advised that a few DSS schools had yet to comply with the requirements to submit the necessary documents for school registration or their financial reports. The Administration had not identified any DSS schools which had failed in the Comprehensive Review.

School fees

9. Noting that tuition fees charged by DSS schools varied greatly, some members expressed concern about the variation in the quality and standard of education in DSS schools. In the Administration's view, the different levels of school fees had catered for the needs of families of different means. While the tuition fees might vary substantially, DSS schools were required to administer scholarship and fee remission schemes for needy students.

Concerns of the Public Accounts Committee ("PAC")

10. In March 2010, PAC issued its Report No. 55 which covered, inter alia, the administration of DSS and the governance and administration of DSS schools. Amongst others, PAC expressed the following areas of concern -

School fee remission/scholarship schemes

- (a) Some DSS schools had not set aside the required amounts of school fee income for the purpose of their school fee remission/scholarship schemes; and

- (b) some DSS schools had not clearly set out the eligibility criteria or adequately publicised the schemes, which might have discouraged needy parents from applying for their children's admission to DSS schools due to lack of information;

Monitoring of DSS schools

- (c) EDB had failed to discharge its monitoring role over DSS schools effectively, as reflected by some serious cases of non-compliance with the EDB's guiding principles or requirements and its failure to take effective actions to ensure timely rectification of those problems;
- (d) the paucity of audits carried out on DSS schools each year, which ranged from two to eight during 2005 to 2009, and of the School Audit Section's staff deployed for undertaking duties relating to audits of DSS schools and follow-up work, which ranged from 0.4 to 1.7 in the same period; and
- (e) EDB's selection of schools for audit had not been based on a systematic risk analysis mechanism;

Revision of school fees

- (f) of the 30 approved applications for fee increases in 2008-2009, 26 DSS schools had underestimated their projected accumulated operating reserves by the end of 2008-2009; and
- (g) DSS schools were given flexibility in using their operating reserves of non-government funds to finance large-scale capital works and maintenance works of above-standard facilities. The charging of such expenditure to the schools' operating reserves might be a justification for applying for substantial school fee increase, which in turn might create additional financial burden on parents;

Financial management

- (h) EDB had failed to detect cases of non-compliance with its rules on the financial management of DSS schools (such as the requirement on maintaining accumulated operating reserves sufficient to meet at least two months' operating expenses) and, in some cases, to take effective actions to ensure rectification of the non-compliance; and

- (i) EDB had not set a reserve ceiling for DSS schools, contrary to the requirement stipulated in Financial Circular No. 9/2004;

Service agreement with school sponsoring body ("SSB")

- (j) some DSS schools had failed to comply with the terms of the SSB Service Agreements, such as the requirements to form a School Management Committee before commencing operation, acquire tax exemption status under the Inland Revenue Ordinance (Cap. 112) and submit school development plans to EDB;

General administration

- (k) some DSS schools had not sought prior approval from the EDB for some trading operations carried out by them and had accepted donations from trading operators without any documented compelling reasons, and made no disclosure in the school reports; and
- (l) no tender/quotation exercise had been carried out by some DSS schools for the selection of tuckshop operator, provision of school bus service and the supply of lunch boxes;

Other governance issues

- (m) the composition of the school governing bodies of some DSS schools did not include representatives of parents and teachers as school managers;
- (n) low attendance rates of some school managers at the school governing body meetings of schools; and
- (o) failure of some DSS schools in complying fully with the requirements stipulated in the EDB's guidelines and the Education Ordinance on managing conflict of interests.

11. The conclusions and recommendations of PAC concerning the administration of DSS and governance and administration of DSS schools are in **Appendix I**.

12. To address the concerns raised by PAC, EDB has set up a Working Group on DSS ("the Working Group") chaired by the Permanent Secretary for Education. The Working Group is responsible for reviewing the administration of DSS as well as the governance and administration system of DSS schools and putting forward recommendations on measures for continuous improvement. The review will cover, inter alia, how DSS schools should strengthen their governance structure and internal control mechanism, including increasing the transparency in school management, improving the implementation of their fee remission schemes and enhancing their financial management. The Working Group has been in operation since March 2011 and will submit its report to the Secretary for Education by the end of 2011.

Latest developments

13. The Chairman of PAC moved a motion for debate on the PAC's Report at the Council meeting of 2 March 2011. Having regard to the views expressed by Members at the motion debate on the PAC Report, the Panel agreed at its meeting on 14 March 2011 that its discussion on the subject would focus on four main areas, namely, (a) school fee remission/scholarship schemes; (b) student admission; (c) revision of school fee; and (d) governance, administration and financial management of DSS schools. To facilitate the Panel's discussion, the Administration was requested to provide a written response to the major recommendations made by Members at the motion debate.

14. The Administration will report to the Panel on the progress of work of the Working Group at the forthcoming meeting on 11 July 2011.

Relevant papers

15. A list of the relevant papers on the LegCo website is in **Appendix II**.

Extract from

P.A.C. Report No. 55 – Chapter 1 of Part 8

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M. Conclusions and recommendations

160. The Committee:

- notes that:
 - (a) the Audit Commission ("Audit")'s value for money audit is on the Direct Subsidy Scheme ("DSS") administered by the Education Bureau ("EDB") and not on individual DSS schools *per se*;
 - (b) the audit is confined to the EDB's administration and supervision of the DSS and the governance and administrative matters of DSS schools, which do not include the quality of education provided by DSS schools; and
 - (c) in the early stage of the DSS, in order to encourage more schools to join the scheme, the Administration allowed some schools to join the DSS before they had been able to complete all the admission requirements, making it difficult for the EDB to deal with the

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problems that surfaced subsequently in requiring the schools to comply with certain admission conditions;

- considers that although the objective of the DSS is to inject diversity to Hong Kong's school system through the growth of a strong subsidised private school sector so that parents would have more choices, and DSS schools are allowed to have greater flexibility in various areas, the EDB has to perform a monitoring role to ensure that the schools comply with its requirements, and that their governance, accountability and transparency are up to the required standard and public expectation;
- expresses grave dismay and finds it unacceptable that the Secretary for Education has not been made aware of the widespread compliance problems in DSS schools and there is no dedicated high-level body in the EDB to oversee the administration of the DSS and the schools' compliance with the DSS requirements;
- expresses disappointment that:
 - (a) the EDB has failed to discharge its monitoring role over DSS schools effectively, as reflected by some serious cases of non-compliance with the EDB's guiding principles or requirements and its failure to take effective actions to ensure timely rectification of those problems. Details of the non-compliance are set out in the ensuing parts;
 - (b) the EDB has failed to attach sufficient importance to the gravity of the problems in the administration of DSS schools in that they were simply dealt with as operational issues without adequate appreciation of the need to bring them to the attention of the Secretary for Education for policy review; and
 - (c) before allowing some schools to join the DSS prior to completing all the admission requirements, the Administration had failed to consider the circumstances of individual schools which would make compliance with all the admission conditions difficult to achieve within a reasonable time;
- is surprised at and does not accept the Secretary for Education's statement that the EDB was toothless towards non-compliant DSS

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schools, given the administrative and punitive measures that EDB may take against them;

- expresses dismay that some DSS schools have not:
 - (a) set aside the required amounts of school fee income for the purpose of their fee remission/scholarship schemes; and
 - (b) clearly set out the eligibility criteria or adequately publicised the schemes, which might have discouraged needy parents from applying for their children's admission to DSS schools due to lack of information;
- acknowledges that for the purpose of enhancing and stepping up efforts to improve the governance of DSS schools, the Secretary for Education has tasked the Permanent Secretary for Education to consider a review of the governance framework, internal control and enforcement mechanism and financial management of DSS schools. A Working Group has been set up under the EDB with inputs from DSS schools and the academic sector as well as from relevant professionals experienced in governance, financial management and related areas to take forward the review and address the issues raised by the Committee and the Director of Audit;
- strongly urges the Secretary for Education to:
 - (a) enhance his supervision of the DSS and ensure that the EDB will perform its monitoring role over DSS schools more effectively;
 - (b) establish a dedicated high-level body in the EDB to oversee the administration of the DSS as well as its control and monitoring of DSS schools. Its duties should include conducting regular reviews of the EDB's control and monitoring mechanism, so as to enhance the governance and administration of DSS schools;
 - (c) put in place a system that requires the EDB staff to report, in appropriate cases, DSS schools' non-compliance and malpractices to sufficiently high-level staff, including the Permanent Secretary for Education and the Secretary for Education, for follow-up actions;

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- (d) require the Working Group to accord top priority to reviewing the EDB's control and monitoring mechanism instituted for DSS schools to ensure that it is sound and effective, so that non-compliance with the EDB's requirements and malpractices will be detected in a timely manner, rigorous actions will be taken to enforce compliance and rectification, and appropriate punitive measures commensurate with the gravity of the problems will be taken against the schools concerned. The Working Group should consult various stakeholders and the Panel on Education in the review; and
- (e) apart from requiring DSS schools to improve their fee remission/scholarship schemes, conduct a comprehensive review to explore effective measures to ensure that students from grassroots families will have a fair chance of studying in DSS schools, such as providing sufficient financial subsidy to needy students for meeting the necessary expenses of studying in such schools other than school fees, and consult the Panel on Education in the review;

Service agreement with school sponsoring body ("SSB")

- notes that up to mid-December 2010, the SSBs of Schools C, D and E that were required to enter into SSB Service Agreements with the EDB have still not entered into such agreements because they consider the school governance structure required under the draft SSB Service Agreement not consistent with that in their incorporation ordinances, and Schools C and E are also concerned about the clause in the School Management Committee ("SMC") Service Agreement that requires the transfer of government-funded assets to the Government upon termination of the SMC Service Agreement;
- expresses concern that some DSS schools which have entered into SSB Service Agreements have not complied with the terms of the agreements, as follows:
 - (a) although a DSS school should form an SMC before it commences operation, 18 DSS schools formed their SMCs after commencing operation. The delays ranged from two days to about nine years, with an average of three years;

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- (b) up to early June 2010, three DSS schools, which commenced operation in 2004-2005 to 2008-2009, had not incorporated their school governing bodies, and the requirement to acquire tax exemption status under the Inland Revenue Ordinance (Cap. 112) had also not been complied with;
 - (c) in three of the four DSS schools visited by Audit, no service agreement between the SSBs and the SMCs/Incorporated Management Committees ("IMCs") was signed, contrary to the requirement of the SSB Service Agreements;
 - (d) up to June 2010, one of the 15 schools examined by Audit, which commenced operation under the DSS in 2003-2004, had not submitted its school development plan to the EDB as required under the SSB Service Agreement signed;
 - (e) school development plans submitted by some DSS schools did not contain all the required information (e.g. school budget, academic goals for students, and criteria for student admission);
 - (f) two DSS schools had not obtained the EDB's prior approval for the improvement works carried out at their school premises, as required by the SSB Service Agreements; and
 - (g) of the 52 SSB Service Agreements signed, only 34 included a clause to provide the Director of Audit with the right of access to the records and accounts of the DSS schools;
- expresses concern that no record was kept by the EDB on the signing of service agreements between the SSBs and the SMCs/IMCs. Hence, the EDB was not able to ascertain if this requirement has been complied with;
 - acknowledges that:
 - (a) the Secretary for Education has agreed with the audit recommendations in paragraphs 3.13, 3.29 and 3.33 of Chapter 1 of the Director of Audit's Report ("Audit Report");

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- (b) the EDB has agreed to revise the draft SSB Service Agreement for Schools C, D and E to allow them to be managed and operated under their original governing framework. The EDB also intends to refine the clause in the SMC Service Agreement for Schools C and E on the transfer of assets to the Government upon the termination of the SMC Service Agreement;
 - (c) as at the end of November 2010, of the three school governing bodies that had not yet acquired tax exemption status, two had acquired the status with effect from 7 June 2010 and 9 November 2010 respectively, and the remaining one was in the process of acquiring the status; and
 - (d) in the EDB Circular No. 12/2010 issued in November 2010, the EDB has required all DSS schools to keep proper administrative and financial records and provide them for examination by the Director of Audit when required;
- urges the Secretary for Education to:
- (a) resolve the conflicts with Schools C, D and E over the terms and conditions of the draft SSB Service Agreement and the SMC Service Agreement as soon as possible to ensure that they will duly enter into the SSB Service Agreements; and
 - (b) take effective measures to ensure early rectification of the non-compliance with the terms of the SSB Service Agreements identified by Audit;

Service agreement with incorporated school governing body

- expresses concern that:
- (a) although 53 DSS schools were required to enter into SMC/IMC Service Agreements with the EDB by June 2010, as at 30 June 2010, 13 of them had not signed the agreements (with three signed in July and August 2010);
 - (b) the composition of some IMCs and SMCs do not comply with the requirements stipulated in the Education Ordinance (Cap. 279) and the SMC Service Agreements respectively; and

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- (c) as at 30 June 2010, eight DSS schools had not signed tenancy agreements with the EDB, although they had been outstanding for about four to 10 years (with one signed in July 2010);
- notes that for the 14 IMCs that do not have an alumni manager (referred to in paragraph 4.13(a)(v) of Chapter 1 of the Audit Report), the history of the schools is relatively short and hence either their alumni associations have not been formed or their graduates are too young to serve as managers;
 - acknowledges that the Secretary for Education has agreed with the audit recommendations in paragraphs 4.7, 4.15 and 4.22 of Chapter 1 of the Audit Report;
 - urges the Secretary for Education to accord a high priority to implementing the above audit recommendations, taking into consideration the special circumstances of the schools concerned;

School fee remission/scholarship schemes

- notes that DSS schools are required to adopt a fee remission/scholarship scheme in order that students will not be deprived of the chance to study at DSS schools solely because of their inability to pay school fees;
- finds it totally unacceptable that the EDB has failed to discharge its duty to monitor DSS schools' compliance with its requirements on the amounts of school fee income that should be set aside for the purpose of their fee remission/scholarship schemes, as well as those on the publicity, implementation and eligibility criteria of the schemes, and that the Secretary for Education and the Permanent Secretary for Education are not aware of the non-compliance, as set out below:
 - (a) contrary to the EDB's requirement, the fee remission/scholarship schemes of five DSS schools were not funded from school fee income. According to Audit's assessment, the amounts of school fees set aside by 22 DSS schools for the purpose of their fee remission/scholarship schemes were less than the levels required;
 - (b) even by applying the EDB's practical approach, six schools are still found to have under-provision under the fee remission/scholarship schemes. Of these six schools, three did not set aside the required

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amounts for three consecutive years in 2006-2007, 2007-2008 and 2008-2009, and one of them has not heeded the EDB's repeated advice since September 2005 for rectification;

- (c) according to the EDB's practice, the above cases of non-compliance, which were discovered by the EDB's Finance Division through checking of the schools' audited accounts, were only referred to the EDB's regional education offices for follow-up without bringing up to attention of the Permanent Secretary for Education and the Secretary for Education;
 - (d) contrary to the EDB's requirement, two of the four DSS schools visited by Audit have not mentioned their fee remission/scholarship schemes in their prospectuses. Two other DSS schools have not provided full details of their schemes (e.g. the eligibility criteria and the maximum percentage of fee remission) in their prospectuses. As such, some parents may be unaware of the schools' fee remission/scholarship schemes; and
 - (e) only 23 DSS schools have provided details of their fee remission schemes on their school websites. The eligibility criteria adopted by two of these 23 DSS schools for their fee remission schemes are less favourable than the government financial assistance schemes to students;
- expresses dismay that in 14 DSS schools, the utilisation of their fee remission/scholarship schemes was 50% or less;
 - expresses dismay that under the existing policy of the Comprehensive Social Security Assistance ("CSSA") Scheme, no special grant for school fees would normally be given under the CSSA Scheme to students who choose to attend DSS schools, and this may deprive students from families in receipt of CSSA ("CSSA students") of the chance to study at DSS schools;
 - acknowledges that:
 - (a) the Secretary for Education has agreed with the audit recommendations in paragraphs 3.9 and 3.17 of Chapter 2 of the Audit Report;

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- (b) to avoid misunderstanding arising from different interpretations of the requirements for fee remission/scholarship scheme, the EDB has undertaken to refine the guidelines with a view to clarifying and standardising the practice;
 - (c) the Working Group set up by the EDB will also study possible measures to enhance the transparency and efficacy of the fee remission/scholarship schemes in DSS schools in order to help ensure that students from low-income families will not be deprived of access to DSS schools due to inadequate means; and
 - (d) in all DSS schools, CSSA students are eligible for the schools' fee remission/scholarship schemes, and all the schools adopt the same admission policy in respect of CSSA students and non-CSSA students;
- strongly urges the Secretary for Education to:
 - (a) step up the EDB's monitoring of DSS schools' compliance with its requirements on fee remission/scholarship schemes and to enhance public awareness of the schemes, so that parents can take them into account when considering whether to apply for their children's admission to DSS schools; and
 - (b) take measures to ensure that DSS schools will not discriminate against CSSA students in administering their fee remission/scholarship schemes;
 - strongly urges the Secretary for Labour and Welfare to revise the existing CSSA policy so that special grant for school fees will be given under the CSSA Scheme to students who choose to attend DSS schools;

Revision of school fees

- is surprised and expresses serious concern that:
 - (a) in one of the six approved applications for school fee increase in 2009-2010, supporting documents were not provided by the school to show that it had obtained the required consent from the majority of the parents;

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- (b) of the 30 approved applications for fee increases in 2008-2009, 26 DSS schools had underestimated their projected accumulated operating reserves by the end of 2008-2009; and
 - (c) DSS schools are given flexibility in using their operating reserves of non-government funds to finance large-scale capital works and maintenance works of above-standard facilities, such as construction of additional floors and swimming pools. The charging of such expenditure to the schools' operating reserves may be a justification for applying for substantial school fee increase, which in turn may create additional financial burden on parents;
- acknowledges that:
- (a) the Secretary for Education has agreed with the audit recommendations in paragraphs 4.7 and 4.14 of Chapter 2 of the Audit Report; and
 - (b) the EDB will discuss with DSS schools the need for setting aside separate reserves with designated account for large-scale capital works and their related maintenance, and set out the factors that the schools should consider when planning large-scale capital works, including parents' affordability;
- urges the Secretary for Education to:
- (a) require DSS schools to provide all parents with information on the schools' financial status when they consult parents on their proposal to apply for school fee increase;
 - (b) take effective measures to ensure that the financial projections made by DSS schools in their applications for increasing school fees are fair and reasonable; and
 - (c) accord a high priority to exploring measures to ensure that the planning and undertaking of large-scale capital works by DSS schools will not cause undue impact on their level of school fee and parents' affordability;

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Financial management

- expresses astonishment that, of the four DSS schools visited by Audit:
 - (a) one school used non-government funds to purchase three properties. The properties were held under a purported trust arrangement which was considered improper by the EDB; and
 - (b) contrary to the EDB's guidelines, another school invested part of its surplus funds in financial instruments (e.g. local equities and investment funds) instead of placing them in time deposits and savings accounts;
- expresses serious concern over the following cases of non-compliance with the EDB's rules on the financial management of DSS schools, and that the EDB has failed to detect the non-compliance and, in some cases, to take effective actions to ensure rectification of the non-compliance:
 - (a) the EDB has not set a reserve ceiling for DSS schools, contrary to the requirement stipulated in Financial Circular No. 9/2004;
 - (b) as at 31 August 2008, the accumulated operating reserves of 13 DSS schools exceeded the level equivalent to a full year's operating expenses. However, one of them has refused to submit a development plan, setting out how its accumulated operating reserve would be used for school development, to the EDB as required;
 - (c) the 2007-2008 audited accounts of DSS schools indicated that six schools had not followed the EDB's requirement on maintaining accumulated operating reserves sufficient to meet at least two months' operating expenses. As at 31 August 2009, the accumulated operating reserves of two of the schools were still below the required level;
 - (d) as at 30 September 2008, 162 non-local students were admitted by 17 DSS schools. Given that local and non-local students at these schools paid the same level of school fees, and the schools maintained no separate accounts for the non-local students, it is possible that their non-local students had been cross-subsidised by the DSS subsidy for the local students; and

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- (e) the external auditors of 18 DSS schools did not state in their reports on the schools' accounts that the schools had used government subsidies in accordance with the rules promulgated by the EDB for the DSS;
- acknowledges that:
 - (a) the Secretary for Education has agreed with the audit recommendations in paragraphs 5.8, 5.13, 5.17, 5.22, 5.28, 5.32, 5.36, 5.44, 5.48, 5.52 and 5.60 of Chapter 2 of the Audit Report;
 - (b) the Secretary for Financial Services and the Treasury has agreed with the audit recommendations in paragraphs 5.8, 5.17 and 5.22 of Chapter 2 of the Audit Report;
 - (c) the Supervisor of the school which had used non-government funds to purchase three properties has informed the EDB that the SMC had accepted the legal advice to apply to court for a vesting order to transfer the three properties to the SMC;
 - (d) the EDB will request DSS schools to make detailed disclosure on purchase of properties in their accounts from 2009-2010 onwards; and
 - (e) in the EDB Circular No. 12/2010 issued in November 2010, the EDB has provided guidelines to DSS schools on devising a school-based mechanism on investment by using non-government funds;
- urges the Secretary for Education to:
 - (a) closely monitor the progress made by the school concerned in transferring the three properties to the SMC to ensure that the transfer would be completed without delay;
 - (b) put in place measures to enhance the internal control of DSS schools and take effective intervention measures to ensure timely rectification of identified cases of non-compliance;
 - (c) consider devising a self-assessment system for DSS schools to declare if they have complied with the various financial

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management requirements of the EDB and request the schools to document the justifications for not complying with the requirements; and

- (d) provide more training for staff of DSS schools to familiarise them with the EDB's various requirements in financial management to help ensure compliance;

Admission process

- expresses serious concern that:
 - (a) in five admission cases, the assessment on the applicant schools' track records of performance was not based on up-to-date and relevant information;
 - (b) as at June 2010, the profit-making status of five DSS schools (four admitted to the DSS in 1999-2000 and one in 2000-2001) still remained unchanged, although they were required to complete the procedures in acquiring a non-profit-making status within one year after admission; and
 - (c) as at June 2010, two schools (conditionally admitted to the DSS in 1999-2000) that were required to secure their own school premises by the end of 2004-2005 were still operating in leased premises;
- acknowledges that:
 - (a) the Secretary for Education has agreed with the audit recommendations in paragraphs 2.6 and 2.15 of Chapter 1 of the Audit Report; and
 - (b) all schools joining the DSS from 2007 onwards are required to meet all the DSS admission conditions upon admission to the DSS;
- urges the Secretary for Education to:
 - (a) sort out immediately the remaining issues concerning the Deed of Novation and Assignment with the five DSS schools to facilitate their completion of the procedures for acquiring non-profit-making status; and

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- (b) strictly enforce the rule to require all schools joining the DSS to meet all the relevant requirements immediately upon their admission to the DSS;

Monitoring school performance

- expresses concern at the following:
 - (a) the paucity of audits carried out on DSS schools each year, which ranged from two to eight during 2005 to 2009, and of the School Audit Section's staff deployed for undertaking duties relating to audits of DSS schools and follow-up work, which ranged from 0.4 to 1.7 in the same period;
 - (b) the EDB's selection of schools for audit has not been based on a systematic risk analysis mechanism;
 - (c) there has been delay in issuing school audit reports to 11 schools, with two schools over 200 days;
 - (d) no follow-up school audit has been carried out even though glaring malpractices have been identified during school audits;
 - (e) only five (25%) of the 20 DSS schools examined by Audit have uploaded their school plans and reports to their websites as required by the EDB;
 - (f) some school reports uploaded by DSS schools to their websites do not provide the required information (such as financial summary, student performance and feedback on future planning); and
 - (g) two DSS schools have been excluded from the External School Review simply because they were either offering a non-local curriculum or only sixth form classes;
- acknowledges that:
 - (a) the Secretary for Education has agreed with the audit recommendations in paragraphs 5.13, 5.23 and 5.29 of Chapter 1 of the Audit Report; and

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- (b) the EDB plans to increase the number of school audits to 12 in 2010-2011;
- urges the Secretary for Education to deploy sufficient manpower resources to carry out more audits on DSS schools, so as to ensure that the schools use government and school funds properly;

Direct Subsidy Scheme subsidy

- expresses dissatisfaction and finds it unacceptable that:
 - (a) the then Education and Manpower Bureau did not always provide the Legislative Council ("LegCo") with full and accurate information about the changes in measures introduced to the DSS;
 - (b) the then Education and Manpower Bureau did not seek approval from the LegCo's Finance Committee ("FC") for the introduction of the two-tier system, although it had financial implication to the Government; and
 - (c) the then Education and Manpower Bureau did not inform the FC that exception had been given to a school to ensure that it would continue to receive the old DSS subsidy rate after the two-tier system was introduced;
- acknowledges that the Secretary for Financial Services and the Treasury has agreed with the general principles in the audit recommendations in paragraph 6.15 of Chapter 1 of the Audit Report;
- urges the Secretary for Education to ensure that accurate and complete information is always provided to the LegCo;

International schools in the Direct Subsidy Scheme

- expresses dissatisfaction and finds it unacceptable that:
 - (a) the then Education and Manpower Branch did not inform the FC that School I, which had agreed in 1991 to meet its full operating cost, would be given recurrent subsidy upon its admission to the DSS in 1994; and

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- (b) despite the decision of the Executive Council ("ExCo") that international schools should no longer be eligible for admission to the DSS and those already in the scheme should be phased out gradually, in the Memorandum submitted by the Administration to the ExCo, the then Education and Manpower Branch did not include School I in the list of international schools to be phased out and the records of the then Education Department could not explain why School I should not be phased out;
- acknowledges that the Working Group set up by the EDB will critically review the justifications for continuing to allow School I to remain in the DSS;
- urges the Secretary for Education to:
 - (a) proactively keep the LegCo informed when there are major changes to the information previously provided to the LegCo;
 - (b) ensure that complete information is always provided to the ExCo; and
 - (c) having regard to the results of the Working Group's review on the justifications for continuing to allow School I to remain in the DSS, take appropriate measures to address the matter as necessary;

Human resource management

- expresses serious concern that, of the four DSS schools visited by Audit:
 - (a) three schools did not carry out open recruitment for some staff recruited in 2007-2008 to 2009-2010;
 - (b) two schools did not follow the EDB's requirements of reporting the results of their staff recruitments to their governing bodies in 2008-2009 and 2009-2010;
 - (c) one school has not set up a mechanism for determining the remuneration packages for its non-teaching staff as required by the EDB;

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- (d) one school did not have a formal staff performance management system in place. In another school, performance appraisal was carried out only for some staff. In the third school, six staff appraisal reports were not available for examination by Audit. In the remaining school, the appraisers were not required to record the justifications of their assessments; and
- (e) in one school, the decisions of the SMC on contract renewal of staff members were not based on performance appraisals;
- acknowledges that the Secretary for Education has agreed with the audit recommendations in paragraphs 6.12, 6.17, 6.21 and 6.25 of Chapter 2 of the Audit Report;
- urges the Secretary for Education to:
 - (a) provide more training for staff of DSS schools to familiarise them with the EDB's various requirements in human resource management to help strengthen the schools' internal control mechanism; and
 - (b) consider requiring DSS schools to declare if they have complied with the EDB's requirements in human resource management matters and document the justifications for not following the requirements;

General administration

- expresses serious concern that, of the four DSS schools visited by Audit:
 - (a) three schools have not sought prior approval from the EDB for some trading operations carried out by them; and
 - (b) two schools have accepted donations from trading operators without any documented compelling reasons, and made no disclosure in the school reports;
- expresses concern that, of the four DSS schools visited by Audit:
 - (a) one school has not laid down any formal procurement policy and procedure. In another school, the procurement procedures for

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making procurement with non-government funds are less stringent than those of the EDB's guidelines for aided school. No record is available showing that the adoption of the less stringent procedures has been approved by the SMC and made known to the stakeholders of the school;

- (b) in three schools, no record is available showing that the staff involved in purchasing and supplies duties has signed the required undertaking that they would declare to the school governing body any current or future connections they or their immediate families have/will have with the suppliers;
 - (c) the profit of some of the items sold by three schools has exceeded the 15% profit ceiling set by the EDB; and
 - (d) no tender/quotation exercise has been carried out by one school for the selection of the tuckshop operator, and by another school for the selection of operators/suppliers for operating the school tuckshop, the provision of school bus service and the supply of lunch boxes;
- acknowledges that the Secretary for Education has agreed with the audit recommendations in paragraphs 7.12 and 7.23 of Chapter 2 of the Audit Report;
 - urges the Secretary for Education to expeditiously implement the above audit recommendations;

Other governance issues

- expresses concern that:
 - (a) the composition of the school governing bodies of six DSS schools (incorporated under their respective incorporation ordinances) does not include representatives of parents and teachers as school managers, which is not in line with modern corporate governance practices;
 - (b) there is no requirement to disclose to the public the particulars of school managers (name, tenure of office and category of each manager) of SSBs other than the IMCs; and

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- (c) of the four DSS schools visited by Audit:
 - (i) the attendance rates of some school managers at the school governing body meetings held by two schools were low;
 - (ii) a quorum was not present at some school governing body meetings held by two schools; and
 - (iii) all the four schools did not comply fully with the requirements stipulated in the EDB's guidelines and the Education Ordinance on managing conflict of interests;
- acknowledges that the Secretary for Education has agreed with the audit recommendations in paragraphs 2.8, 2.15, 2.23 and 2.28 of Chapter 2 of the Audit Report;
- urges the Secretary for Education to expeditiously implement the above audit recommendations; and

Follow-up actions

- wishes to be kept informed of:
 - (a) the progress made by the Working Group in reviewing the governance framework, internal control and enforcement mechanism and financial management of DSS schools; and
 - (b) the progress made in implementing the various recommendations made by the Committee and Audit.

Relevant papers on Direct Subsidy Scheme Schools

Committee	Date of meeting	Paper
Panel on Education	6.7.2009 (Item II)	Agenda Minutes IN20/08-09
Legislative Council	5.3.2011	Official Record of Proceedings Pages 117 - 171 (Motion)
		Chapter 1 of Part 8 of Public Accounts Committee Report No. 55 - Administration of the Direct Subsidy Scheme and Governance and Administration of Direct Subsidy Scheme Schools

Council Business Division 2
 Legislative Council Secretariat
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