

For discussion on
21 March 2000

LegCo Panel on Administration of Justice and Legal Services

Funding for the PCLL

There have been recent reports suggesting that the University Grants Committee (UGC) is planning to withdraw public funding for the PCLL. The Department of Justice is strongly opposed to any such development.

The UGC

2. The UGC is a non-statutory committee responsible for advising the SARG on the development and funding needs of higher education institutions in the SAR. Its terms of reference and membership are at **annex 1**.

The proposal

3. The Department of Justice has been informed by the Secretary General of the UGC as follows.

“The UGC has for some time been urging the institutions to offer more taught postgraduate programmes / courses on a wholly or largely self-financing basis, except where there is a clear element of public as distinct from private investment. The only more specific advice given by the UGC recently to the Secretary for Education and Manpower is that most, if not all, publicly-funded MBA programmes remaining in the UGC-funded sector should be phased out by the end of the next triennium, thereby freeing up places within otherwise unchanged taught

postgraduate student number targets to support Postgraduate Diploma in Education programmes proposed by the institutions for the next triennium and specifically requested by the Government.

In response to a question on this subject at her recent “Meet-the-Media” session, the Chairman Dr Alice Lam explained this and was then asked how the UGC would determine the distinction between private and public investment in this context. We responded that this would be left largely to the institutions to determine, subject to the UGC’s overall advice referred to above and the general understanding that public funding will only be provided to support each institution’s student number targets, expressed in full-time equivalent terms (i.e. full-time equivalent student load).

The example of the PCLL was raised and as I recall we simply made the point that this was an example of a programme already provided in both fully publicly subsidised and self-financed form. We did not (not) state either that it should be publicly funded or that it should not.”

The risk

4. Although the UGC may not be making any specific proposals in respect of funding for the PCLL, there appears to be a risk that its proposals may lead to the withdrawal of public funds from the PCLL. This is because one or both Universities might apply the UGC guidelines in a way that has this effect.

The Department of Justice’s position

5. The Department of Justice has studied the paper, entitled ‘PCLL Education in Hong Kong and the Question of Public Funding’ prepared by the Faculty of Law of the University of Hong Kong. For

the reasons set out in that paper, the Department of Justice strongly opposes any withdrawal of public funding for the PCLL. In particular, it emphasizes that –

- (1) the department’s commitment to the rule of law and to a strong and independent legal profession would be undermined by such a development; and
- (2) it is undesirable to make any substantial changes to legal education pending the completion of the comprehensive review of legal education that is now being conducted.

6. The latter point has been unanimously endorsed by members of the Steering Committee for the Review of Legal Education.

The way forward

7. The allocation of funds for university courses is determined partly by the UGC and partly by the universities themselves. The risk of a withdrawal of funding for the PCLL would be minimised if the UGC could be persuaded that its general guidelines in respect of taught postgraduate programmes should not apply to the PCLL.

8. There are good reasons for excluding the PCLL. Although, by name, it is a postgraduate course, in substance it is an integral part of a 4-year course of professional training. As is explained on page 2 of the paper prepared by Hong Kong University’s Law Faculty, that course of training is similar to that of doctors, dentists and architects – each of which is a 5-year undergraduate course. It would be irrational to withdraw public funding for part of the training course for lawyers, but not for other professionals, merely because that course has been artificially split into two parts.

9. In addition to seeking to persuade the UGC of this point, it is suggested that the two universities should be reminded that it is vital that

public funding for the PCLL continues. The many reasons for this have been set out in the Law Faculty's paper.

Summary

10. The Department of Justice strongly opposes any withdrawal of public funding for the PCLL and urges the Panel on Administration of Justice and Legal Services to make representations –

- (1) to the UGC, to the effect that the PCLL should be excluded from its guidelines concerning taught postgraduate courses; and
- (2) to the two universities, to the effect that it is vital that public funding for the PCLL should continue.

Department of Justice
March 2000



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- a. To keep under review in the light of the community's needs :
 - i. the facilities in Hong Kong for education in universities and such other institutions as may from time to time be designated by the Chief Executive of the SAR;
 - ii. such plans for development of such institutions as may be required from time to time;
 - iii. the financial needs of education in such institutions; and
- b. To advise government :
 - i. on the application of such funds as may be approved by the Legislature for education in such institutions; and
 - ii. on such aspects of higher education which the Chief Executive of the SAR may from time to time refer to the Committee.

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