

Chapter 1

Primary education - The administration of primary schools

Audit conducted a review to ascertain whether the major areas of administration in aided and government primary schools functioned properly to support the provision of quality primary education. In conducting the review, Audit selected on a random basis 18 primary schools for examination, covering one school in each of the 18 districts in Hong Kong. Audit identified room for improvement in the following areas:

- strategic planning and financial management;
- human resource management;
- procurement procedures and asset management;
- management of student matters; and
- support from the Education Department¹ (ED) to schools.

2. At the public hearing, **Prof Hon Arthur LI Kwok-cheung, Secretary for Education and Manpower**, made an opening statement. He said that:

- the Administration would seriously consider Audit's recommendations and take appropriate follow-up actions. Many of the recommendations were relevant to the issues that the Administration intended to address. For instance, the Administration was conducting a review of the funding arrangement of the Capacity Enhancement Grant (CEG) with a view to introducing more levels of provision for the CEG for different numbers of operating classes in schools;
- regarding the arrangement for excess senior teachers in a school with a reduced number of operating classes, the Administration would continue to request that excess senior teachers in an aided primary school be transferred to another aided primary school with senior teacher vacancies under the same sponsoring body. At the same time, the Administration would conduct a review of the remuneration of excess senior teachers who remained in the same school, which included withholding the annual increment of such teachers from the 2003-04 school year;

¹ The Education and Manpower Bureau (EMB) and the ED have been merged from 1 January 2003. Since then, the EMB (the new organisation after the merger) takes charge of both the formulation and implementation of education policies.

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- to improve the management and performance of schools, the Administration had introduced into the Legislative Council (LegCo) the Education (Amendment) Bill 2002 which contained provisions on the establishment of a multi-party and accountable school management governance framework whereby School Management Committees (SMCs) would be registered under the Education Ordinance as incorporated bodies and actively implement school-based management (SBM). SBM sought to enable schools to manage their resources more effectively with a view to improving teaching and learning standards, thereby enhancing the effectiveness of learning. Under SBM, schools would be provided with the requisite resources, autonomy and flexibility to proactively respond to the needs of students and society, thereby delivering quality education. To ensure enhanced flexibility in schools' deployment of resources to cater for the needs of students and further streamline funding procedures, the ED was conducting a comprehensive review of the various grants;
- in giving schools more autonomy in managing their own operations and resources, the Administration would, on the one hand, formulate clear and adequate regulatory requirements in respect of the administration of schools and, on the other hand, request schools to put in place a mechanism for self-monitoring. With regard to donations received by schools and sale of school items, the Administration would exercise regulatory control in the two directions in response to Audit's recommendations; and
- the ED would continue to provide professional advice and support to schools to facilitate their smooth operation and ensure that schools would expeditiously establish a proper mechanism for internal quality assurance to enable students to receive quality education.

Strategic planning and financial management

3. Regarding the disbursement of the CEG to all aided and government schools since the 2000-01 school year, paragraph 2.17 of the Audit Report revealed that in one of the 18 schools visited by Audit, the principal had only asked for some \$180,000 for employing two temporary teachers, but the school was still granted the full amount of \$450,000. The Committee queried why the mechanism was so rigid.

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4. **Mr CHENG Man-yiu, Deputy Director of Education**², explained that, in the past, the level of provision for many grants was linked to the number of operating classes in a school. As a result, some schools of smaller size were not allocated adequate resources. To tackle the problem, the Administration provided small-size schools with more resources through the CEG.

5. The Committee further asked:

- about the details of the mechanism for granting the CEG to primary schools;
- whether the ED had clawed back the unspent balance of the CEG from the school which only asked for some \$180,000 but was granted \$450,000; and
- about the number of applications received from primary schools since the introduction of the CEG, the total amount of the grant applied in each of the school years 2000-01 and 2001-02, and the number of primary schools which applied for amounts less than the standard rates in the same period.

6. **Mr LEE Hing-fai, Director of Education**³, stated in his letter of 27 December 2002, in *Appendix 5*, that the CEG was provided to schools for the purpose of enhancing teachers' capacity to implement the education reform. To give schools flexibility in planning the use of funds, the CEG was placed under the Operating Expenses Block Grant (OEBG) and schools might use the CEG carried forward from the previous year(s) or deploy surplus from the General Domain of the OEBG to make up the funding requirement according to their own circumstances and priorities. As schools' decision on the use of the CEG should be part of the school development planning process since the introduction of the CEG in the 2000-01 school year, schools had been required to submit to the ED a separate plan on how to make use of the CEG. The plan served as an indicative deployment of funds, which might vary in the light of the actual implementation and schools' changing needs. Hence, payment of the CEG would be disbursed to the school in full rates upon receipt of a school's CEG plan which showed that funding was to be spent in accordance with the conditions as set out in the relevant school circular. Under the 12-month rule, clawing back of funds would be effected if the surplus under the OEBG exceeded the provision of 12 months.

² Following the merger of the EMB and the ED, the post of Deputy Director of Education was deleted on 1 January 2003.

³ Following the merger of the EMB and the ED, the post of Director of Education was deleted on 1 January 2003.

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7. In the same letter, the **Director of Education** provided the following information:

School year	Number of eligible primary schools	Amount of CEG indicated in CEG plans (% against the full CEG rates)				
		100% or above	90% or above	80 % or above	50% or above	Less than 50%
2000-01	686	466 (68%)	622 (90.7%)	649 (94.6%)	673 (98.1%)	13 (1.9%)
2001-02	680	582 (85.6%)	660 (97.1%)	667 (98.1%)	678 (99.7%)	2 (0.3%)

He advised that the figures clearly indicated that the overwhelming majority of schools, over 97% in the 2001-02 school year, had made initial proposals to use 90% or more of the full amount of the CEG. A great majority of them had also proposed to use the surplus funding carried forward from the 2000-01 school year to make up the funding requirement of the 2001-02 school year.

8. The Committee noted Audit's recommendation in paragraph 2.19 of the Audit Report that the Director of Education should, in the review of the funding arrangement of the CEG, consider introducing more levels of provision for the CEG for different numbers of operating classes in schools. According to paragraph 2.20, the Director of Education said that the ED was conducting a review of the CEG, which was scheduled to be completed by December 2003. The Committee enquired about the scope and progress of the review.

9. **Mrs Fanny LAW, Permanent Secretary for Education and Manpower**, informed the Committee in her letter of 6 January 2003, in *Appendix 6*, and the **Deputy Director of Education** said at the public hearing that:

- the Administration agreed with Audit that it was not desirable to fix the rates of the CEG at only two levels, i.e. one rate for schools with less than 19 classes and another rate for schools with 19 classes or more, and that it would be reasonable to introduce more levels of provision for the CEG for different numbers of operating classes in schools; and

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- in view of Audit's recommendation that more levels of funding should be introduced, the Administration was examining the various options of introducing more levels of provision to schools and would consult the school sector of its final proposal for implementation in September 2003. The approval of the Finance Committee of the LegCo would be sought before implementation.

10. In her letter of 5 June 2003, in *Appendix 7*, the **Permanent Secretary for Education and Manpower** informed the Committee that the EMB had obtained the approval of the Finance Committee to revise the schedule of rates and introduce more funding levels for the CEG with effect from the 2003-04 school year.

11. On the question of surplus funds retained by schools, the Committee noted Audit's observation in paragraph 2.26 of the Audit Report that the current level of surplus, i.e. equivalent to 12 months' cover, that primary schools were allowed to retain appeared to exceed the actual needs of the schools. However, the Director of Education said in paragraph 2.29 of the Audit Report that while there were schools with significant surplus, there were also schools with overall deficit or a rather low surplus. The Committee asked the Administration to elaborate on this point.

12. **Mrs Betty IP, Assistant Director of Education (School Administration & Support)**⁴, responded that a primary school generally received an annual block grant of \$7 million. The analysis of the audited accounts of schools for the 2000-01 financial year showed that more than 60% of schools retained surplus funds of less than \$1 million, whereas more than 30% retained surplus funds between \$1 million and \$2 million. Less than 7% of schools retained surplus funds of more than \$2 million. Based on these figures, schools did not retain excessively high level of surplus funds.

13. The Committee asked whether the ED had discussed with schools Audit's recommendations on surplus funds retained by schools as referred to in paragraph 2.28 of the Audit Report. The **Director of Education** replied in his letter of 30 December 2002, in *Appendix 8*, that the ED had not yet discussed the recommendations with schools. To work out a suitable arrangement on surplus funds of the OEBG, the ED needed to examine in detail the utilisation rate and spending pattern of the OEBG for more than one year. Since the OEBG was introduced in September 2000, only data on the first year of

⁴ Following the merger of the EMB and the ED, the post of Assistant Director of Education (School Administration & Support) was deleted on 1 January 2003.

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implementation was available while comprehensive data for the second year, i.e. the 2001-02 school year, would not be available until 2003. The ED would seek the views of the school sector at a later stage when more data on the utilisation of the OEBG was available for analysis.

14. In response to the Committee's enquiry about the rationale behind the current practice of allowing schools to retain as much as 12 months' provision of the OEBG/ Subject and Curriculum Block Grant, the **Director of Education** explained that in 1991, the Administration launched a scheme called School Management Initiative (SMI). Under the new system, schools received a block grant which was made up of a General Domain and a Special Domain. No transfer between grants was allowed within the Special Domain. However, schools were free to decide on the amount to be spent on individual constituent grants within the General Domain and use the surplus funds for other purposes. When determining the level of surplus funds to be retained by schools, the Administration had held discussions with schools councils and schools over a long period of time. After discussions, the parties concerned considered 12 months a reasonable level. The Administration would review the level of surplus funds to be retained by schools after the OEBG had been implemented for two years.

15. Referring to paragraphs 2.30 to 2.35 of the Audit Report concerning the case of over-provision of electricity charges to School C, a government school, the Committee queried whether the Administration:

- had monitored the estimation of the annual electricity cost by the school; and
- had clawed back the surplus funds from the school.

16. In his letter of 27 December 2002, the **Director of Education** stated that:

- School C commenced operation in the 2000-01 school year. It was a new whole-day school combining two bi-sessional government schools. Since it was the first of its kind in government primary schools with the Year 2000 Design, no reference could be drawn from other government primary schools on the consumption of electricity when preparing the 2001-02 estimates in September 2000. Therefore, the school could only provide rough estimation of electricity charges in its draft estimates;

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- in September 2001 when the draft estimates for the 2002-03 financial year was prepared, the actual expenditure for the 2001-02 financial year of the school, which could better reflect the spending pattern on electricity consumption, was not yet available for reference. As a developing school, School C had the capacity of operating additional classes and further opening up its premises to support community services. All such factors that would lead to higher electricity consumption had been taken into account when preparing the 2002-03 estimates. Before the commencement of the 2002-03 school year, the ED noted from the actual expenditure for the 2001-02 financial year that there was room for adjusting downwards the amount of funding allocated to School C for payment of electricity charges. As such, \$280,000 was clawed back in October 2002. The provisional allocation for electricity charges for the 2003-04 financial year was made with reference to its spending pattern for the 2001-02 financial year; and
- upon giving schools greater flexibility in the use of funds under the spirit of SBM, the Administration had also delegated to schools the responsibility to exercise good financial management and make effective use of the funds allocated. In November 2002, school heads and SMCs of government schools had been reminded to exercise good budgetary control and ensure that the funds were managed in line with the departmental circulars and guidelines on accounting and financial control.

17. Paragraph 2.38 of the Audit Report stated that in 2000, to support the implementation of information technology (IT) in schools, the ED provided schools with projectors to meet the basic IT needs in education. Three projectors were provided to each school. Paragraph 2.39 revealed that in 2000, School Q had an enrolment of only ten students, but the ED still gave it three projectors. When Audit visited the school in February 2002, Audit observed that only one projector was installed in the computer room for teaching purposes. The other two projectors were still left unpacked. The Committee questioned whether the ED had managed to detect, before the commencement of the audit review, the under-utilisation of the projectors by School Q.

18. The **Director of Education** explained in his letter of 27 December 2002 that:

- since the provision of IT equipment, including projectors, to schools in 2000, the ED had been conducting visits to schools on a random basis to observe the utilisation of the equipment and implementation of IT in education projects at schools. At the time when the audit review commenced, the ED's visits had not yet covered School Q. Its visit to School Q was conducted in October

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2002. The school was situated in a very remote rural area. It had three classrooms with one being converted to a computer room fitted with a burglar alarm system, whereas the other two classrooms were located a distance away without strengthened security measures. The visit revealed that the school had been fully utilising the three projectors provided by the ED. For security reasons, two of the projectors were packed and stored in the school's computer room, as observed by Audit, when they were not in use. The ED considered this practice acceptable; and

- the ED would continue to monitor the use of projectors and other IT equipment in schools and would request the return of any surplus equipment. The ED would also continue to advise schools on the ways to put the equipment into better use for teaching and learning purposes.

19. The **Director of Education** also provided, in the same letter, copies of two circulars issued by the ED on the provision of projectors to schools. He said that:

- the arrangement for accommodating three projection systems had been set out in the suggested accommodation plan in Appendix 3 to Circular Memorandum No. 16/98 on "IT in Education";
- in Circular Memorandum No. 316/99, the ED had provided flexibility to schools in acquiring IT-related equipment in accordance with schools' own needs. Schools had been encouraged to make their own plan for the progressive implementation of IT initiatives which fitted in with their respective teaching and learning environment; and
- in the seminars organised in April 1999 on the "IT in Education" Project, schools were reminded to exercise flexibility in fully utilising the IT-related equipment made available to them, taking into account the IT readiness of both their teachers and students.

20. In the light of the above, the Committee requested the Administration to provide copies of specific circulars/notices on the provision of three projectors to all primary schools. The Committee also enquired whether:

- the ED had conducted any survey to determine the number of projectors provided to each primary school; and

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- any test had been conducted to ascertain the utilisation of the three projectors by School Q.

21. In her letter of 13 January 2003, in *Appendix 9*, the **Permanent Secretary for Education and Manpower** informed the Committee that:

- no survey had been conducted to determine the number of projection systems to be provided to each primary school. Professionally, the Administration considered that three projection systems were the basic provision to each primary school with six levels of classes; and
- the Administration considered that effective utilisation was achieved when teachers used the projection systems whenever the learning and teaching process required. It had to rely on schools to make the best use of resources and facilities provided. It would continue to advise schools on the ways to put the equipment into better use for learning and teaching purposes.

22. The **Permanent Secretary for Education and Manpower** also provided, in the same letter, a copy of an information note of April 1999. She advised that schools had been invited in the information note to indicate whether they would like to procure the equipment through the ED's central tender or self-arranged tendering; and if the former was chosen, the required quantity of the equipment.

23. In view of the information provided by the Director of Education in his letter of 27 December 2002 on the utilisation of the projectors by School Q, the Committee invited the Director of Audit to comment on the issue.

24. The **Director of Audit** offered his comments in his letter of 15 January 2003 in *Appendix 10*. He advised that on 7 January 2003, Audit staff asked the head of School Q to clarify the position regarding the use of the three projectors allocated to his school. He informed Audit staff that prior to September 2000, when the computer room had not yet been set up, two projectors were used once in the classrooms. After September 2000, one projector was installed in the computer room and had been in use since then, while the other two projectors had not been used and were stored in the computer room for security reasons. The head of School Q also said that there was no need for his school to have three projectors, and that he would have no objection if the ED decided to withdraw two projectors from his school. It was evident that the two projectors at School Q, which had a student population of only ten in 2000 (eight in January 2003), had been under-utilised.

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25. The Committee noted from paragraph 2.45 of the Audit Report that of the 18 schools visited by Audit, there were 16 aided schools. Audit examined the external audit arrangements of these 16 schools in the school year 2000-01. As revealed in paragraph 2.46, most of the schools had appointed their existing external auditors for many years without going through a competitive selection process. Moreover, according to paragraph 2.48, most of the schools had not agreed with their appointed external auditors on the terms of engagement by means of audit engagement letters. The Committee further noted from paragraph 2.44 that the ED had provided guidelines for the external auditors to follow when auditing the school accounts. Paragraphs 2.50 and 2.51, however, revealed that not all the 16 schools had fully met the relevant requirements.

26. Against this background, the Committee asked the Director of Education to comment on the irregularities detected by Audit. The **Director of Education** and the **Assistant Director of Education (School Administration & Support)** explained that:

- the School Administration Guide (SAG) had clearly laid down guidelines on tendering and procurement for schools. Single purchase above \$50,000 had to be arranged by tender. Purchases in the range of \$30,000 to \$50,000 should be arranged through written quotations and those below \$30,000 through oral quotations. In other words, schools were required to adopt a competitive process of tendering or obtaining quotations in the procurement of goods and services. Nevertheless, the SAG did not specify that the engagement of external audit services had to be arranged by tender or through quotations;
- there was a School Audit Section (SA Section) under the Finance Services Sub-Division of the ED. The staff of the SA Section conducted inspections of schools' auditing procedures. In some cases, the ED had issued letters, including warning letters, to schools requiring them to follow financial procedures properly. As there were more than 1,000 public-sector schools, the SA Section could only select schools for inspection on a random basis. Nevertheless, the SA Section would conduct more frequent inspections of schools with irregularities in financial management; and
- schools in general were weak in financial management. Hence, in the past year or so, the ED had held some experience-sharing sessions for schools to remind them of the common irregularities and introduce good practices.

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27. The **Director of Education** further stated in his letter of 27 December 2002 that:

- in 2000 and 2001, the ED had conducted audit inspections of 12 of the 18 schools examined by Audit. The remaining six schools were inspected in 2002. At the end of each audit inspection, the school principal and the staff engaged in financial and accounting duties were briefed on inspection findings and recommendations, and a management letter would be issued to the school supervisor;
- apart from the different samples of schools which the ED had inspected during the period concerned, owing to the different samples of transactions and records selected for test checks, it was not possible to have the same set of findings and irregularities as pointed out by Audit. Similarly, Audit might not come to the same findings and irregularities as the ED. For example, in respect of errors in charging accounts, the ED found that School H had wrongly charged the cost of a multimedia projector of \$44,200 to the Newly Arrived Children Grant Account but there was no mention of the same error in the Audit Report;
- regarding the absence of audit engagement letters, the ED had relied on the information submitted by the schools through the Internal Control Questionnaires before the commencement of the audit review. The ED agreed that this was an area where further improvement could be made; and
- as regards whether the ED was able to detect before the commencement of the audit review the errors in respect of the surplus balances in the audited accounts of School L and School N, the ED pointed out that the audited accounts mainly served the purpose of clawing back surplus beyond the approved limit. The ED did not check the audited accounts submitted by schools as these accounts had already been certified by the schools' auditors. Nonetheless, the kind of errors detected by Audit might surface when the books of account were examined by the ED's audit teams during their inspections to schools.

28. Noting that schools were required to obtain oral quotations even for procurement of goods and services below \$30,000, the Committee enquired about:

- the number of primary schools that were required to go through such a selection process for obtaining external audit services; and

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- the range of audit fees of aided primary schools that had engaged external audit services.

29. In her letters of 13 January 2003 and 23 January 2003, in *Appendices 9 and 11*, the **Permanent Secretary for Education and Manpower** informed the Committee that:

- all aided primary schools were required to obtain oral quotations for procurement of services below \$30,000, including external audit services. There was no need for government primary schools to engage external audit services as their accounts were subject to audit by the Audit Commission; and
- the ED had received 489 audited accounts from aided primary schools for the 2000-01 school year. Aided bi-sessional primary schools were only required to provide one set of audited accounts covering both the AM and PM sessions. The range of audit fees of these schools was as follows:

<u>Amount of fees</u>	<u>Number of schools</u>
Free of charge	3
Below \$5,000	8
\$5,000 to \$10,000	174
\$10,001 to \$15,000	181
\$15,001 to \$20,000	97
\$20,001 to \$25,000	11
\$25,001 to \$30,000	10
\$30,001 to \$50,000	5
Above \$50,000	0
	<u>489</u>
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Human Resource Management

30. The Committee noted from paragraph 3.3 of the Audit Report that Audit had reviewed the recruitment procedures for teaching staff of the 18 schools in the 2000-01 and 2001-02 school years. Paragraphs 3.3, 3.4, 3.6 and 3.9 revealed cases of non-compliance with proper recruitment and appointment procedures, as follows:

- School Q's non-compliance with recruitment requirements in respect of two part-time teachers;

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- School R's failure to document the assessment of applicants;
- SMC members in seven schools not participating in recruitment interviews; and
- ten schools' offering of appointment to teachers without prior approval from the SMCs.

31. Against this background, the Committee asked whether:

- the practices of School Q and School R were in breach of any legislation or guidelines; and
- the ED had managed to detect, before the commencement of the Audit review, the above cases of non-compliance.

32. In his letter of 27 December 2002, the **Director of Education** stated that:

- the relevant documents governing the appointment of teaching staff in aided schools are Administration Circular No. 32/2000 on "Appointment of Staff in Aided Schools" issued on 26 June 2000, and Section 7.1 to 7.4 of SAG, October 2001;

School Q

- it was suggested in Administration Circular No. 32/2000 and Section 7.3.2 of the SAG that schools should have a selection panel to conduct recruitment interviews. The selection panel might comprise a member of the SMC, the school head, a senior teacher or a senior member of the administrative staff, depending on the job requirements of the vacant post. The appointment of two part-time teachers by School Q for the 2001-02 school year, however, was determined by the school head alone without going through a selection procedure as set out in the circular and the SAG;
- furthermore, School Q had not advertised vacancies of the teaching posts in the press as required in Section 7.3 of the SAG which stated that all vacancies should either be advertised in the press or circulated by internal circulars as appropriate. However, according to the school head, he had screened more than 40 self-recommended application letters from suitable candidates and contacted them for interviews; and

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School R

- Administration Circular No. 32/2000 and Section 7.3 of the SAG stipulated that shortlisting criteria should be pre-determined and documented after endorsement by the SMC. In addition, assessment of candidates should be properly documented and such records should be kept for a specified period. School R did not keep any record of the selection criteria, the interviews and the assessment on applicants. Such practice was not in line with the principles on staff selection as laid down in the said circular and the SAG. The school had developed document for selection criteria and had kept written records of all the interviews conducted, including the assessment on applicants, starting from the 2002-03 school year.

33. In his letter of 27 December 2002, the **Director of Education** also stated that the ED had not conducted management audit to vet the recruitment documents and minutes of the SMC meetings of School Q and School R. Likewise, no checking of records had been carried out in relation to the appointments of teachers by the ten schools mentioned in paragraph 3.9 of the Audit Report. The appointments were reported to the ED in the prescribed forms duly endorsed by the school supervisor on behalf of the SMC in accordance with section 39 of the Education Ordinance. They were accepted as proper documents for that specific purpose.

34. Noting that the appointments of new teachers were reported to the ED in the prescribed forms duly endorsed by the school supervisor on behalf of the SMC, the Committee asked the Administration to provide a copy of the specimen form and enquired:

- whether the school supervisors and the school principals concerned knew, when signing the forms, if prior approval of the SMCs had been sought regarding the appointments; and
- about the penalty for their failure to comply with the requirement of seeking prior approval of the SMCs.

35. The **Permanent Secretary for Education and Manpower** provided in her letter of 13 January 2003 a copy of the prescribed form for appointment of teaching staff in aided schools. She advised that:

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- the form had been so devised as to require the school principal to indicate on the form that the SMC had approved the appointment before the form was endorsed and signed by the school supervisor, confirming that the appointment was made in accordance with the provisions in the Education Ordinance, Education Regulations, the Code of Aid and the relevant circulars; and
- the Education Ordinance included a penalty on any person who contravened section 39(2)(d) or (3), which stipulated that the school supervisor should within one month after the happening of such event give notice in writing to the Director of Education if, amongst others, any teacher commenced to teach or was employed to teach at the school. The person that contravened the section(s) concerned should be liable on conviction to a fine at level 5 and to imprisonment for two years.

36. The Committee invited Audit's comments on the Permanent Secretary for Education and Manpower's above response. In his letter of 15 January 2003, the **Director of Audit** stated that the SAG required schools to observe Regulation 76 of the Education Regulations, which stipulated that the appointment and dismissal of any member of the teaching staff of any school should be determined by a majority vote of all the members of that school's SMC. While the appointment form required the confirmation of SMC's approval to fill the post, Audit could not find evidence that the ten schools in question had sought approval from their SMCs regarding the appointment of applicants. In some instances, the selection panels or the school principals informed the members of the SMC at meetings that new teachers had been appointed, but formal approval from the SMC regarding the appointment of new teachers had not been sought in the recruitment process.

37. In view of the Director of Audit's comments, it appeared to the Committee that the ten schools in question had not sought formal approval from their SMCs regarding the appointment of new teachers before requesting the school supervisors to sign the forms. The Committee asked the Administration whether that was indeed the case; and if so, whether penalty had been imposed on the schools.

38. In her letter of 23 January 2003, the **Permanent Secretary for Education and Manpower** provided the details of the Administration's findings. She stated that:

- the Administration had looked into each of the cases relating to the ten schools, and noted that some of them had obtained from their SMCs beforehand informal agreement for the appointment of new teachers and some

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had obtained covering approval/endorsement to such appointments at subsequent SMC meetings. However, there was no documentary proof from these schools regarding the grant of prior approval by their SMCs before the school supervisors signed on the prescribed appointment forms. Irrespective of all these, the Administration had given due advice to these schools that they should follow all the appropriate procedures for the appointment of new teachers;

- Regulation 76 of the Education Regulations stipulated that the appointment and dismissal of any member of the teaching staff of any school should be determined by a majority vote of all the members of the management committee of that school. Section 32 of the Education Ordinance also provided that every school should be managed by its management committee. Notwithstanding Regulation 76, Regulation 75 stipulated that the powers and duties of the managers should be defined in the constitution of the SMC and that every such constitution as approved by the Director of Education should be binding upon the school and the managers and teachers thereof and should not be altered or amended without the prior approval in writing of the Director. The requirement for the SMC to approve teacher appointments might therefore be subject to the powers and duties of managers as defined in the constitution of the SMC as approved by the Director of Education;
- there was no penalty clause in the Education Regulations on the violation of Regulation 76. However, section 82(1)(a) of the Education Ordinance stipulated that the Director of Education might, if it appeared to him that a school was not managed satisfactorily, by notice in writing give such directions as he thought necessary in order that the school would be operated satisfactorily. Section 82(2) further provided that the notice under subsection (1) might be served on the supervisor and every other manager of the school concerned; and might specify a period of time within which the directions should be complied with. Section 87(1)(i) provided that any person who, being a supervisor or any other manager of a school, failed to comply with any notice served on him under section 82 should be guilty of an offence and should be liable on conviction to a fine of \$250,000 and to imprisonment for two years;
- under SBM, schools, in return for the greater authority delegated to them by the Administration, were subject to greater accountability under a more open, accountable and participatory school management structure. The Education (Amendment) Bill 2002 aiming at providing tighter legislation, stronger enforcement action and more accountability on the part of schools, if passed, would provide the Administration with the necessary legislative backing; and

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- whilst it was not the Administration's priority area to conduct management audit to schools, the Administration would continue to conduct investigation into reported cases of irregularity. If found substantiated, the schools concerned would be given appropriate advice, and the Administration would follow up to ensure that remedial action was taken. For repeated cases of irregularity, the Administration would serve written warning on schools and would closely monitor all reported cases of irregularity to ensure early rectification by the schools concerned.

39. Based on the information provided by the EMB, the Committee noted that the following 13 schools were found by Audit to have irregularities in their procedures for recruiting teaching staff:

- S.K.H. Kei Yan Primary School;
- St. Paul's Primary Catholic School;
- Hok Shan School;
- Kowloon City District Kaifong Welfare Association School;
- Po Leung Kuk Stanley Ho Sau Nan Primary School;
- Sau Mau Ping Catholic Primary School;
- The Hong Kong S.Y.C. & I.A. Chan Lai So Chun Memorial School;
- Lei Muk Shue Catholic Primary School (AM);
- Lam Tei Gospel School;
- Shek Wu Hui Public School (AM);
- Confucian Sam Lok Chow Mud Wai School;
- Leung Shuen Bay School; and
- Cheung Chau Fisheries Joint Association Public School.

The Committee directly enquired with the principal and supervisor of each of the above schools on the circumstances relating to their cases of non-compliance.

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40. The Committee noted from the responses of the above 13 schools that:
- some schools were not allowed to recruit teachers until the “de-freezing” notification from the Administration was received in mid-August. By then, they might not have enough time to recruit teachers before September and might have practical difficulties in calling an SMC meeting;
 - some school heads did have covering approval from their SMCs for the appointment of teaching staff;
 - some schools were not aware of the requirements under Regulation 76 of the Education Regulations; and
 - one school was not aware that the required appointment procedures also applied to temporary part-time substitute teachers.

The Committee sought the Administration’s comments on the schools’ above responses and requested it to provide a copy each of all the prescribed forms signed by the principals and supervisors of these 13 schools for the appointment of teaching staff in the 2000-01 and 2001-02 school years.

41. In her letter of 9 April 2003, in *Appendix 12*, the **Permanent Secretary for Education and Manpower** explained that:

- to facilitate redundant teachers in aided primary schools to seek teaching posts, all teaching vacancies in aided primary schools had been “frozen” around April in the past years until all redundant teachers were placed. The dates of “defreezing” were 16 August and 8 August in 2000 and 2001 respectively. During the “frozen” period, schools were not allowed to enter into formal appointment contracts with non-redundant teachers in respect of their vacant posts though they might interview prospective candidates. In spite of the “freezing” arrangement, schools should ensure that the recruitment procedures were in compliance with the relevant regulations and requirements. For 2003, the Administration had revised the placement arrangements for redundant teachers with a view to completing the exercise in early July;
- the Administration noted that some schools had obtained covering approval/endorsement to new teacher appointments at subsequent SMC meetings. As prior approval by the SMCs was required, the Administration had advised these schools to follow the appropriate procedures for appointment of new teachers;

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- school authorities had the responsibility to ensure that all the regulations currently in force were complied with. Training courses for school managers and new school heads were organised regularly, which covered, among others, appointment and personnel matters; and
- appointment of new teachers reported in the prescribed appointment form, irrespective of whether the teachers were temporary or regular, was subject to the same appointment procedures.

42. Having perused the 79 prescribed forms in respect of appointment of teaching staff in the aided schools concerned provided in the Permanent Secretary for Education and Manpower's letter of 5 March 2003, in *Appendix 13*, the Committee noted that the requirements under Regulation 76 of the Education Regulations were not brought to the attention of the school heads on the prescribed appointment form. The Committee asked the Administration about the reasons for this. In addition, the Committee noted that:

- in five of the eight appointment forms submitted by one school, the school head did not state the date on which the SMC had approved the filling of the teaching post. In one of the appointment forms, the school head completed the form one day before the SMC gave approval of the appointment;
- in two of the 17 appointment forms submitted by another school, the school head did not state the date on which the SMC had approved the filling of the teaching post; and
- in eight of the 12 appointment forms submitted by a further school, the school head did not state the date on which the SMC had approved the filling of the teaching post.

The Committee questioned whether the above practices were accepted by the then ED.

43. The **Permanent Secretary for Education and Manpower** responded in her letter of 9 April 2003 that:

- under Section III of the prescribed appointment form, the school supervisor was required to declare that the appointment of the teacher concerned was conducted in accordance with the provisions in the Education Ordinance, Education Regulations, Code of Aid and standing circulars. Regulation 76 of the Education Regulations was therefore included under this statement. To ensure compliance with this requirement by schools, the Administration

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would revise the prescribed appointment form to ensure that schools would observe all the regulations and requirements for staff appointment; and

- schools were required to report to the Administration via the prescribed appointment form the particulars of the SMC's approval, including the approval date, in respect of the appointment of teaching staff starting from the 2000-01 school year. For the initial year or so when the arrangement was new, the Administration had adopted a flexible approach, under which an appointment form without the date of the SMC's approval was also accepted if it was endorsed by the school supervisor so as not to delay the payment of salaries to teachers. The Administration had subsequently tightened up the processing of such forms. At present, appointment forms that had not included the SMC's approval date were returned to schools and the outstanding particulars need be filled in before the forms were further processed.

44. Noting the Administration's undertaking to revise the prescribed appointment form, the Committee enquired:

- when the appointment form would be revised; how the wording of the form would be revised; how the revised declaration requirement could ensure full compliance of the proper procedures for recruitment and appointment of teaching staff; and
- whether, under the current procedures, there was any requirement that the school principal and the school supervisor had to make a declaration of interest in the recruitment and appointment process, e.g. in cases where the appointee was a family member or relative of the principal or an SMC member.

45. In her letter of 10 February 2003, in *Appendix 14*, the **Permanent Secretary for Education and Manpower** informed the Committee that:

- the Administration would revise the form to include a clause that required the school supervisor to declare that the appointment had been approved by the majority of the members of the SMC, and that the school had followed all the guidelines laid down by the EMB. A warning clause would also be included to alert supervisors that making false declaration would constitute maladministration. The proposed clauses served to forewarn schools that they should ensure strict observance of the relevant provisions and requirements before making any offer of appointment to new teachers; and

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- it was laid down in Administration Circular No. 2/98 that SMCs should require their members and school staff to report any situations where they or their immediate family members had an interest in any matter under consideration by the school (including staff appointment), and should, on receipt of any disclosure of interest, consider whether or not the member or the school staff concerned should be directed to withdraw from participating in the further consideration of the matter in respect of which the conflict arose. The “Points to Note in Handling Appointment Matters” attached to Administration Circular No. 32/2000 repeated the need for the selection panel members to declare any conflict of interest that might arise in the staff appointment process. It further stated that any person who and whose family member had an interest in the appointment must be excluded from the selection panel. It also included other specific circumstances that might constitute a conflict of interest.

46. In her letter of 5 June 2003, the **Permanent Secretary for Education and Manpower** informed the Committee that the EMB would issue a revised appointment form to aided schools in June 2003.

47. Referring to Regulations 75 and 76 of the Education Regulations, the Committee asked the Administration to provide a copy of the constitution of the SMC of each of the 13 schools as approved by the ED. It also enquired:

- whether there was any ordinance that provided for the incorporation of any of the 13 schools or their SMCs;
- about the legislative intent of Regulation 76;
- whether the vote of all the members of the SMC could be taken by means other than at a meeting, e.g. by circulation of paper or by telephone confirmation; and
- whether the SMCs of the 13 schools were allowed to delegate, under its constitution or by resolution, to their principals or supervisors the authority to appoint and dismiss teaching staff.

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48. The **Permanent Secretary for Education and Manpower** informed the Committee in her letters of 5 March 2003 and 11 March 2003, in *Appendices 13 and 15*, that:

- of the 13 schools in question, only two had an approved constitution. All the 13 schools did not have their own ordinances;
- the legislative intent of Regulation 76 was to hold the SMC accountable for the appointment and dismissal of teachers and to safeguard that appointment and dismissal of teachers was fair;
- there was no express provision in the Education Ordinance and the Education Regulations that members of an SMC had to give their votes at a meeting. Whether the votes could be taken by circulation of paper or by telephone confirmation depended on the terms of the constitution or the articles of association of the SMC of individual schools; and
- in accordance with Regulation 76, the SMCs of the 13 schools were not allowed to delegate, under their constitutions or by resolution, to their principals or supervisors the authority to appoint and dismiss teaching staff.

49. Noting that only the SMCs of two of the 13 schools had their constitutions approved by the Director of Education, the Committee asked whether the Director of Education had exercised his power under Regulation 75(1) to require the other schools to submit a written constitution for his approval. Furthermore, the Committee understood from the response of one school that its SMC had authorised the school supervisor, under its constitution, to appoint and dismiss teaching staff. As such delegation was not allowed under Regulation 76, and the school's constitution had not been approved by the Director of Education, the Committee enquired about the follow-up actions that the Administration would take.

50. In her letters of 11 March 2003 and 9 April 2003, the **Permanent Secretary for Education and Manpower** stated that:

- Regulation 75(1) of the Education Regulations provided that the Permanent Secretary for Education and Manpower might, by notice in writing to the supervisor, require the managers of any school to prepare, execute and submit to her for her approval a written constitution in accordance with which the school should be managed, and within a time to be specified in such notice the supervisor should comply therewith. The Permanent Secretary for

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Education and Manpower therefore had the power to make such a request if she considered appropriate but was not obliged to exercise the power in every case; and

- the Administration would withhold the processing of any draft SMC constitutions submitted by schools in view of the introduction of the Education (Amendment) Bill 2002. Upon the enactment of the Bill, the Administration would advise these schools to make amendments to their constitutions, where appropriate, having regard to the requirements of the incorporated management committee (IMC) constitution.

51. It appeared to the Committee that as there was no provision in the Education Regulations explicitly stating how and when the vote of the SMC in respect of the appointment and dismissal of a teacher was to be taken, it became essential that such procedures should be provided in the constitutions of individual schools. However, the Director of Education had not exercised his power to require a written constitution from schools for his approval. The Committee considered that although Regulation 75 did not impose an obligation on the Director of Education to require all schools to submit their constitutions for his approval, it was not contemplated that the Director would only exercise that power in exceptional circumstances. If the Director had exercised his power to require all schools to submit their constitutions for his approval, any doubt on the form or timing of the SMC's approval could have been removed. The Committee sought the Administration's views on its observations and enquired whether it would take any measures to ensure that schools would comply with Regulation 76 in a manner consistent with its legislative intent, including directing schools to submit their constitutions for the Director of Education's approval.

52. The **Permanent Secretary for Education and Manpower** responded in her letter of 9 April 2003 that:

- from 1991 to 1997, public sector schools were invited to join the SMI on a voluntary basis. Participating schools had to fulfill certain requirements within the first two years after joining, including starting the drafting of a formal constitution for the SMC in Year 1. For non-SMI schools, the former Director of Education did not require them to submit a written constitution for his approval. However, any such draft constitution submitted by non-SMI schools of their own accord would also be processed; and

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- the SMC of an aided school would be required to incorporate under the Education Ordinance within five years after the enactment of the Education (Amendment) Bill 2002, if passed, and an IMC should have a written constitution approved by the Permanent Secretary for Education and Manpower. Upon the enactment of the Bill, the EMB would issue to schools a sample constitution for the IMC, and would draw the attention of schools to the requirement that their draft IMC constitution should not contain any provisions in contravention of the Education Ordinance or the Education Regulations.

53. Turning to the question of scheduling of school holidays, the Committee noted from paragraph 3.14 of the Audit Report that some of the principals of the 18 schools had informed Audit that it would be desirable to distribute school holidays more evenly throughout the school year by shortening the summer holiday and lengthening the duration of other school term breaks. However, the school principals felt that the ED would normally not allow significant rescheduling of school holidays. The Committee therefore asked whether the ED had communicated with school principals about the flexibility in rescheduling school holidays.

54. The **Permanent Secretary for Education and Manpower** provided in her letter of 13 January 2003 a copy of the circular memorandum to non-government schools on the 2002-03 school holiday list. She stated that currently, variations to the school holiday list were allowed. Government schools were given full discretion to grant three discretionary holidays on top of the approved school holiday list. The Administration would seek the views of the school sector in due course and review the distribution of school holidays accordingly.

55. Regarding the issue of outsourcing janitor services in schools, the Committee pointed out that a balance should be struck between achieving greater efficiency and savings and safeguarding the interests of existing janitors. The Committee asked whether the exercise would cause redundancies.

56. The **Director of Education** responded that:

- government schools had outsourced their janitor services. While the ED had seen the benefits of outsourcing, outsourcing only applied to services which could be provided on a contract basis. Generally speaking, government schools could outsource only about 50% or less than 50% of their janitor

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services. They would only outsource their janitor services upon natural wastage of their janitors;

- the ED would encourage other schools to draw reference from the experience of government schools and assess the costs and benefits of outsourcing their janitor services; and
- the ED agreed with Audit's view on the need for janitors to acquire additional job skills.

Procurement procedures and asset management

57. Paragraph 4.5 of the Audit Report revealed that three of the 18 schools often procured goods and services without obtaining quotations. Paragraph 4.6 further revealed that six schools had set their own financial limits for oral quotations rather than following the guidelines set by the ED in this regard. The Committee wondered whether the ED had detected these irregularities in its past inspections.

58. The **Assistant Director of Education (School Administration & Support)** said that the staff of the ED's SA Section inspected the accounts of schools annually on a random basis. If schools were found to have breached the ED's guidelines or the SAG, the SA Section would prepare a detailed report and inform the schools concerned of the irregularities and follow-up actions required. Staff of the ED's regional education offices would monitor the follow-up actions taken by the schools concerned.

59. The Committee questioned why the ED was not able to detect, before the commencement of the audit review, the irregularities mentioned in the Audit Report. In his letter of 27 December 2002, the **Director of Education** responded that:

- public-sector schools were required to administer SBM. SBM aimed to enable schools to deploy their resources in an effective and accountable manner so that they could respond proactively to the needs of their students in the delivery of education services, thereby improving the learning outcomes. Hence, the SMCs of aided schools had been devolved with more authorities as well as responsibilities. While enjoying greater management autonomy and flexibility in the use of funds, schools should be accountable for their performance and day-to-day operation, including matters on staff appointment and proper use of public funds. Within the self-managing framework, schools were required to increase their transparency through participatory

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management involving key stakeholders, such as representatives of parents, alumni and teachers;

- guidelines, seminar and workshops had been organised to familiarise school managers and school heads with the underlying principles of SBM and to help them put in place explicit policies as well as a fair, open and transparent system governing financial and personnel matters of their schools. Performance indicators had also been developed for reference by schools in conducting their self-evaluation;
- the ED also undertook inspections and visits to help schools improve their performance. To be in line with the education reform, the school development teams of the ED's regional education offices focused their effort of school visits on school development and improvement. In conducting regularity audit of schools, the ED inspected the accounts of aided and government schools on a sampling and test check basis. Quality assurance inspections were also conducted to give schools an external perspective on their performance in different domains, in particular the domain of learning and teaching. From 2000 to 2002, audit inspections had been carried out to all the 18 schools examined by Audit. Quality assurance inspections had also been conducted to Schools B, D, F, J and K; and
- with increasing transparency in the governance structure of schools and to be in line with the spirit of SBM, management audit involving extensive checking of schools' internal recruitment records was not the ED's priority areas of work. However, investigations would be conducted when the ED received complaints or reports of irregularities. Therefore, the ED had not been able to detect most of the irregularities mentioned in the Audit Report, which would require detailed vetting of schools' internal documents.

60. On the question of letting out of school premises, the Committee noted from paragraph 4.20 of the Audit Report that of the 18 schools visited by Audit, many schools had not let out their school premises. In some cases, the applications for hiring of accommodation from charitable and community service organisations were rejected without proper justifications. However, paragraph 4.19 revealed that School R had allowed a private organisation to use its school premises free of charge. The Committee asked the Director of Education to comment on the phenomenon.

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61. The **Director of Education** stated in his letter of 27 December 2002 that requirements and guidelines on the hire of accommodation in aided schools, including the recommended charges, were stipulated in Finance and Accounts Circular No. 4/2000 on “Hire of Accommodation in Aided Schools”. All along, the ED had been encouraging schools to open up their school premises for community use. Along the line of SBM, the decision on letting out school premises and the levels of hiring charges, i.e. whether charging full rate or concessionary rates or waiving the charge, rested with school supervisors or school heads. Schools were required to keep records of the hiring, whether free or with charge, for inspection by the ED’s school inspection team. Under the existing arrangement of random inspection, School R’s practice of allowing a private organisation to use its school premises free of charge would not be possibly detected immediately.

Management of student matters

62. The Committee noted from paragraph 5.14 of the Audit Report that of the 18 schools visited by Audit, 16 had received donations during the three school years from 1998-99 to 2000-01. Audit’s examination of the schools’ records revealed that there were cases where some schools had accepted donations from their suppliers of goods or services. In the cases concerning Schools D, K and L cited in Table 5 of paragraph 5.14, Audit could not find documentary evidence to show that these three schools had invited tenders or obtained quotations from other suppliers when procuring the goods or services from the suppliers who had made the donations.

63. Against the above background, the Committee was very concerned that there might be a potential conflict of interest in the acceptance of donations by Schools D, K and L. It asked the Administration whether the practices of the three schools were in contravention of any legislation or guidelines.

64. The **Director of Education** said at the public hearing and in his letter of 27 December 2002 that:

- the ED did not accept, encourage and allow schools to accept donations from textbook publishers and other suppliers;
- requirements and guidelines regarding the acceptance of donations by schools were stipulated in Section 15 of the Code of Aid for Primary Schools, Administration Circular No. 2/98 on “The Prevention of Bribery Ordinance, Cap 201” and Section 6.2.2 of the SAG in force at that time. Under the standing practice, schools should seek prior approval before accepting

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donations which might involve annual recurrent expenditure, and all donations accepted should be reported quarterly to the ED in the prescribed form;

- except for the acceptance of an air-conditioner which incurred recurrent expenditure by School K without the ED's prior approval, no irregularities were involved in all other cases of acceptance of donation because all donations were reported to the ED by the schools concerned. As for the acceptance of the air-conditioner by School K, the ED had not received the school's quarterly report on this donation item although the school head claimed that the school had sent in the quarterly return. While School K had not contravened the provision in the Education Ordinance, it had not observed the requirement of seeking the ED's prior approval for acceptance of donation with recurrent implication as laid down in the Code of Aid for Primary Schools, the Administration Circular No. 2/98 and the SAG. The school had been verbally advised to observe the requirement and rectify the irregularity as soon as possible; and
- in its forthcoming revised version of the circular on acceptance of donations, the ED would further strengthen the message that schools should not receive any donations from suppliers of goods or services unless there were compelling reasons for doing so and with the approval of the SMC. Schools should also record clearly such compelling reasons in their returns of donation records to the ED.

65. In view of the Director of Education's response, the Committee invited the Director of Audit to further comment on the cases of acceptance of donations by schools from their suppliers of goods or services.

66. The **Director of Audit** advised in his letter of 15 January 2003 that:

- he agreed that, strictly speaking, no irregularities were involved in the cases of acceptance of donations by the schools visited by Audit, as schools were in general in compliance with the ED's guidelines on donation, including the "General Guidelines on the Acceptance of Advantages and Related Matters" and the "Guidelines concerning Textbook Selection Procedures and Acceptance of Publishers' Donations by Schools", which were noted by the LegCo Panel on Education at its meeting in July 1998. Audit's examination of School K's records also showed that the school had prepared a quarterly report on the donation of the air-conditioner; and

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- however, he considered that there was a need to tighten up the control on allowing schools to accept donations from suppliers. This was because, to avoid schools placing themselves in an obligatory position to textbook publishers, the ED had required schools not to accept any donations from textbook publishers unless there were compelling reasons to do so. For donations from other suppliers of goods or services, e.g. uniform suppliers and school bus operators, the ED, however, had not specifically required schools to follow the same principle. Furthermore, the reason “sponsoring students’ activities” was often used by the 16 schools in accepting donations from textbook publishers and other suppliers. Audit had therefore recommended that the ED’s requirement that schools should not accept donations from textbook publishers unless there were compelling reason to do so, should be extended to all other suppliers.

67. In response to the Committee’s query as to whether the relevant requirements and guidelines regarding the acceptance of donations were stringent enough, the **Permanent Secretary for Education and Manpower** advised in her letter of 15 January 2003, in *Appendix 16*, that:

- the acceptance of donations from textbook publishers and other suppliers by schools was governed, where appropriate, by the Codes of Aid and standing circulars on the subject, e.g. Administration Circular No. 2/98 and Schools Curriculum Circular No. 1/2002 on “Notes on Selection of Textbooks and Learning Materials for Use in Schools”. In short, donations from textbook publishers and other suppliers of goods or services were accepted only under exceptional circumstances. This should be fully justified, approved by the SMC and properly documented. SMCs of aided schools must also seek approval from the EMB for accepting donations which would result in additional expenditure either from government or school funds. In addition, they were required to report on a quarterly basis details of donations accepted and to fully record the donations in the schools’ subscription or general funds account for audit purposes;
- to step up current actions and measures, the Administration was revising Administration Circular No. 2/98 with emphasis on the following requirements:
 - (a) SMCs should include in the relevant documents, such as invitations to tenders/quotations and contracts of goods/services, the warning of “not to offer advantages to school staff in their official dealings”;

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- (b) schools had to include the amount and purpose of the donations in their School Annual Report and record them in an open register accessible by members of the public; and
 - (c) SMCs would not be required to report acceptance of donations to the EMB so as to reduce workload on the part of schools, but would be subject to periodic audits to ensure compliance with stipulated accountability requirements; and
- on textbooks selection and publishers' donations, the Administration had incorporated the suggestions of the Independent Commission Against Corruption and the Consumer Council in existing circulars to safeguard consumer rights of parents and students. The Textbook Publishers Organisations had laid down a Code of Practice Regarding Donations to Schools for their members. The EMB had also reminded publishers during regular joint meetings not to offer donations to schools.

68. Regarding tuckshop operations, paragraph 5.20 of the Audit Report stated that according to the ED's guidelines, schools should ensure that tuckshops were operated in the interests of students, and that the prices of items sold in the tuckshops did not exceed the market prices. However, paragraphs 5.24 to 5.29 revealed that school items sold by the tuckshop operator in School N were more expensive than those in other schools. Moreover, although the tuckshop operator had been operating there for more than ten years, School N had not attempted to re-tender the tuckshop operations. The Committee wondered whether School N had ensured that its tuckshop was operated in the interests of students and parents.

69. In his letter of 27 December 2002, the **Director of Education** explained that:

- requirements and guidelines regarding tuckshop operations were stipulated in Administration Circular No. 3/2001 on "Trading Operation in Aided Schools" in force at that time and Section 6.2.2 of the SAG. As a general principle, schools should set up a School Tuckshop Committee, composed of teachers and a representative from the Parent-Teacher Association, to supervise and monitor the operation of the tuckshop to ensure that it was efficiently operated in the interests of students. Matters relating to the renewal of contract for tuckshop operations and monitoring of trading activities, including the items to be sold and control of prices, should be part of the duties of the School Tuckshop Committee. Schools should also ensure that trading activities

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were conducted in a fair, open and transparent manner. In this connection, the practice of offering tuckshop operations to the same operator for more than ten years without going through tendering procedure was not in the best interests of students and parents. To better safeguard the interests of students and parents, the Administration would explicitly spell out the requirement of inviting quotations every three years in the forthcoming revised circular on trading operations; and

- as for the sale of textbooks in School N, the tuckshop operator was approved to provide the service of sale of textbooks on the condition that the service was carried out in accordance with the governing principles of sale of textbooks. According to the school head, the sale of textbooks had been conducted on a voluntary basis in accordance with the guidelines, and about 60% of their students purchased their textbooks from the tuckshop operator. Similar to other trading activities, the school should follow the guidelines in force and review the prices of textbooks regularly to ensure that the prices were reasonable.

70. The **Permanent Secretary for Education and Manpower** informed the Committee in her letter of 5 June 2003 that the EMB had issued a revised circular, i.e. the EMB Circular No. 13/2003 dated 28 March 2003 which superseded Administration Circular No. 3/2001 dated 29 January 2001 on “Trading Operation in Aided Schools”, to draw the attention of schools in receipt of public funds to the fundamental principles for conducting trading operations in schools, which included tuckshop operations, and business or trading undertakings operated by schools’ sponsoring or associated bodies on school premises. In the circular, schools were reminded of the importance of obtaining competitive tenders or quotations in providing procurement services for students and parents.

Support from the ED to schools

71. Referring to the views of school principals on the support provided by the ED as set out in paragraph 6.3 of the Audit Report, the Committee was very concerned that some school principals considered that they were overwhelmed by a large number of circulars and guidelines issued by the ED from time to time. The Committee therefore enquired about:

- the number of circulars and guidelines issued as at 31 December 2002 in respect of the administration of primary schools; and
- the actions that had been and/or would be taken to improve the situation.

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72. In her letter of 10 January 2003, in *Appendix 17*, the **Permanent Secretary for Education and Manpower** informed the Committee that:

- as at 31 December 2002, a total of 190 circulars and guidelines in respect of the administration of primary schools were in force. They covered a wide range of issues, including financial, staffing, personnel, curriculum, maintenance and safety matters. Some of these circulars and guidelines had been issued in response to an incident, e.g. the death of a student from height leading to the issue of a circular on installation of safety nets at stairwells in school premises. Many of the circulars and guidelines were advisory in nature. Some had been issued in response to demands for guidance or standardised practice following major complaints, e.g. the circular on selection of textbooks and learning materials for use in schools covering donations by publishers; or public outcry, e.g. the circulars and guidelines on reducing the weight of school bags, and tropical cyclones and heavy persistent rain arrangements for kindergartens and day schools. These circulars and guidelines were regularly reviewed to address the concerns of the public;
- circulars and guidelines would only be issued to schools where absolutely necessary. The EMB was reviewing the situation with a view to further reducing the number of circulars by consolidating similar or related subjects into one circular. Occasional announcements with short-term validity were promulgated in the form of circular memorandum, which was normally deleted within 12 months from the date of issue; and
- the SAG made reference to relevant circulars and guidelines in force for easy reference by schools and was regularly updated to reflect the latest situation.

73. The Committee further asked whether an on-line version of the circulars and guidelines was available to schools. The **Director of Education** answered in the affirmative. He said that the ED had been encouraging schools to access all circulars and related documents through the ED's webpage.

74. The Committee considered that schools might encounter difficulties in following the numerous requirements stated in the various circulars and guidelines, specifically those relating to financial management. The Committee asked whether the EMB would provide better support to schools.

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75. The **Director of Education** said that the EMB hoped to solicit more views from all stakeholders. As far as training was concerned, the EMB had organised many experience-sharing workshops and training courses for SMC members since 2001 to enhance their understanding of matters such as financial management, personnel management and curriculum development with a view to enabling them to administer their schools more effectively.

76. The Committee was concerned that despite the large number of circulars and guidelines, cases of non-compliance appeared to be commonplace among the 18 primary schools selected by Audit for examination. Due to the lack of enforcement action by the Administration, schools did not take the initiative to manage their operations and resources properly. The Committee asked how such mode of management could be changed.

77. The **Permanent Secretary for Education and Manpower** responded that:

- it was now time to change the culture whereby schools relied on the circulars and guidelines issued by the Administration in managing their schools. Hence, there was a need to implement SBM so as to enhance the role of the SMC. The Education (Amendment) Bill 2002 sought to provide a statutory backing for full implementation of SBM in 2003; and
- she believed that with full implementation of SBM, the ED would no longer monitor schools directly. Instead of penalising schools for cases of non-compliance, the ED would disseminate information on good practices of schools in the hope that other schools would draw reference from such practices.

78. According to paragraph 6.3(a) of the Audit Report, some school principals opined that it took time and energy to manage effectively the use of grants provided by the ED as there were too many types of grants. The Permanent Secretary for Education and Manpower said at the public hearing on “Primary education - Delivery of effective primary education” (Chapter 11 of the Director of Audit’s Report No. 39) on 5 December 2002 that the Administration hoped to allocate funds to primary schools through more lump sum grants and allow them to transfer funds between grants. In this connection, the Committee enquired about the actions that had been and/or would be taken by the Administration in this regard.

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79. In her letters of 6 January 2003 and 5 June 2003, the **Permanent Secretary for Education and Manpower** informed the Committee that the Administration was conducting a fundamental review of grants with a view to consolidating various grants into lump sum grants. It aimed to complete the review in 2003. The EMB would consult the school sector on the outcome of the review, and planned to implement the new arrangements with effect from the 2004-05 school year if the proposal was supported by the parties concerned.

80. **Conclusions and recommendations** The Committee:

- expresses serious concern that:
 - (a) although the Education Department (ED) had issued a total of 190 circulars and guidelines as at 31 December 2002, neither the school inspections nor the external audits and the School Management Committees (SMCs) have effectively ensured full compliance of the numerous detailed requirements stated therein; and
 - (b) cases of non-compliance appear to be commonplace among the 18 primary schools selected by Audit for examination;
- acknowledges:
 - (a) the Permanent Secretary for Education and Manpower's statement that:
 - (i) circulars and guidelines will only be issued to schools where absolutely necessary; and
 - (ii) the School Administration Guide makes reference to relevant circulars and guidelines in force for easy reference by schools and is regularly updated to reflect the latest situation; and
 - (b) the Secretary for Education and Manpower's statement that in giving schools more autonomy in managing their own operations and resources, the Administration will, on the one hand, formulate clear and adequate regulatory requirements in respect of the administration of schools and, on the other hand, request schools to put in place a mechanism for self-monitoring;

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Strategic planning and financial management

- expresses concern that:
 - (a) many schools failed to produce longer-term plans and evaluate school programmes;
 - (b) schools with a small number of classes had been given the fixed rate of the Capacity Enhancement Grant (CEG) at \$450,000 per annum, which exceeded the actual needs of the schools;
 - (c) many schools did not have specific plans on how to use the unspent surplus funds and some schools retained very high proportions of surplus funds;
 - (d) the ED had provided schools with information technology (IT) equipment regardless of their actual needs;
 - (e) most of the schools had appointed their existing external auditors for many years without going through a competitive selection process;
 - (f) most of the schools had not agreed with their appointed external auditors on the terms of engagement; and
 - (g) a number of external auditors had not fully complied with all the ED's requirements on external audit arrangements;
- acknowledges that the Education and Manpower Bureau (EMB):
 - (a) has issued a revised Guideline on Annual School Plan and Annual Report early in the 2002-03 school year to assist schools in formulating longer-term plans;
 - (b) will continue to render appropriate assistance to schools, e.g. through Quality Assurance Inspection, regular visits of School Development Officers, seminars and workshops, and issue of resource materials, to help them draw up good school plans and conduct self-evaluation;
 - (c) has obtained the approval of the Finance Committee of the Legislative Council to revise the schedule of rates and introduce more funding levels for the CEG with effect from the 2003-04 school year;

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- (d) will step up measures to help schools make longer-term plans so that students can benefit from the Operating Expenses Block Grant (OEBG) or Subject and Curriculum Block Grant (SCBG), and will also review the need for allowing schools to keep a reserve of 12 months' provision;
 - (e) has agreed that the quantity of IT equipment issued to schools in future should be based on each school's actual need, and will follow up with schools to see how the IT equipment could be put to better use;
 - (f) will ask all schools to report in the summer of 2003 the usage of the IT facilities purchased, and will claw back from them any unexpended balance of the IT grant;
 - (g) will require aided schools to invite audit firms to submit tenders or quotations for appointment of external auditors, and to select them according to the pre-determined criteria, including those mentioned in paragraph 2.46 of the Audit Report; and
 - (h) will enhance the awareness of aided schools of the importance of obtaining an audit engagement letter from external auditors and of the matters to be included in the audit engagement letter, and will conduct independent test checks of the certified accounts of schools to ensure that the external auditors have complied with all the ED's requirements;
- acknowledges the Permanent Secretary for Education and Manpower's statement that the Administration hopes to allocate funds to schools through more lump sum grants and allow them to transfer funds between grants;
 - urges the EMB to consult the Legislative Council and other relevant parties in the course of the review of the need for schools to keep a reserve of 12 months of the OEBG or the SCBG;

Human resource management

- expresses dismay that:
 - (a) some schools had not set up a proper system for recruiting teaching staff and some schools had not conducted the recruitment procedures properly. As a result, there was no assurance that the most suitable candidates had been selected to fill the posts;

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- (b) there is no provision in the Education Regulations explicitly stating how and when the vote of the SMC in respect of the appointment and dismissal of a teacher is to be taken, as a result of which it became essential that such procedures should be provided in the constitutions of individual schools;
 - (c) the Director of Education had not exercised his power under Regulation 75(1) of the Education Regulations to require a written constitution from schools for his approval;
 - (d) the supervisors of the ten schools mentioned in paragraph 3.9 of the Audit Report had signed on the prescribed appointment forms confirming that prior approval of their SMCs had been sought regarding the appointment of teaching staff without there being any documentary proof relating to the SMC's prior approval; and
 - (e) the ED had routinely accepted appointment forms without the date of the SMC's approval;
- considers that if the Director of Education had exercised his power to require all schools to submit their constitutions for his approval, any doubt on the form or timing of the SMC's approval could have been removed;
 - acknowledges that:
 - (a) the EMB has scheduled to issue a revised appointment form in June 2003 to clarify the requirements in respect of the appointment of a teacher;
 - (b) in future, the EMB will return to schools appointment forms which had not been completed in compliance with all its requirements; and
 - (c) the Education (Amendment) Bill 2002 is being considered by a Bills Committee of the Legislative Council;
 - urges the EMB, after the Education (Amendment) Bill 2002 has passed into law, to carry out an exercise to review the various circulars and guidelines, with a view to further reducing their number within a reasonable time frame and providing schools with easy reference;

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- expresses concern that:
 - (a) senior teachers, after stepping down to the junior post of a class teacher, were still given the salary increments of the senior teacher salary scale; and
 - (b) although there would be substantial savings from outsourcing the janitor services in schools, only one out of the 18 schools visited by Audit had outsourced such services;
- acknowledges that:
 - (a) the EMB will review the distribution of school holidays throughout the school year and seek the views of the school sector in due course;
 - (b) the EMB will withhold the annual increment of stepped-down senior teachers starting from the 2003-04 school year;
 - (c) government schools will only outsource their janitor services upon natural wastage of their janitors, and the EMB will encourage other schools to draw upon the experience of government schools and assess the costs and benefits of outsourcing their janitor services; and
 - (d) the EMB will suggest to schools that they review the duties of janitors to identify areas where the janitors can be of further assistance so as to achieve better utilisation of resources;

Procurement procedures and asset management

- expresses serious concern that:
 - (a) some schools often procured goods and services without obtaining quotations or documenting the details of the quotations. As a result, there was no assurance of securing the best available price for the procurement of goods and services with public funds;
 - (b) most schools, when providing procurement services for students and parents, did not adopt the competitive tendering process to safeguard the interests of students and parents; and

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- (c) some schools had not let out their school premises as a community service to foster better cooperation between schools and the community, and a school had allowed a private organisation to use its school premises free of charge;
- acknowledges that:
 - (a) the EMB will conduct briefing sessions for schools on the procurement of goods and services;
 - (b) the EMB has issued a revised circular to remind schools of the importance of obtaining competitive tenders or quotations in providing procurement services for students and parents; and
 - (c) the government schools take the lead in letting out school accommodation as a service to the community, and the EMB will request aided schools to take similar action in its next revision of the relevant school circular;
- urges the Secretary for Education and Manpower to remind schools that profit-making organisations are not entitled to use the school premises free of charge;

Management of student matters

- expresses concern that:
 - (a) a school's associated body had made considerable profits from the sale of school items to students;
 - (b) some schools had accepted donations from their suppliers of goods or services, which could place themselves in an obligatory position to the suppliers;
 - (c) a school had charged its tuckshop operator a high tuckshop rental, and students had to pay more for the items sold by the tuckshop operator. The school had not re-tendered the tuckshop operations for over 10 years; and
 - (d) one third of the students carried school bags exceeding 15% of their body weights, which was not beneficial to their health;

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- acknowledges that:
 - (a) the EMB has issued a revised circular to draw the attention of schools in receipt of public funds to the fundamental principles for conducting trading operations in schools, which include tuckshop operations, and business or trading undertakings operated by schools' sponsoring or associated bodies on school premises;
 - (b) the EMB has accepted Audit's observations on allowing schools to accept donations from suppliers and will continue to remind schools to observe relevant guidelines, and further strengthen the message that schools should not receive any donations from suppliers of goods or services unless there are compelling reasons for doing so and with the approval of the SMC; and
 - (c) the EMB will include a benchmark on the weight of school bags in future school circulars and/or publicity materials, and alert schools and parents to the need to take more action in reducing the weight of school bags;
- urges the Secretary for Education and Manpower to take action, e.g. through school inspections, to ensure that no excessive profits are made from the sale of school items by schools' sponsoring and associated bodies;

Support from the ED to schools

- acknowledges that the EMB:
 - (a) has taken and will take a series of measures to enhance its support to schools, and is conducting a fundamental review of grants with a view to consolidating various grants into lump sum grants; and
 - (b) will focus inspections on the financial management and procurement of goods and services by schools, and to organise seminar and briefing sessions for school managers, principals and other school personnel to promote awareness of financial management of the school sector; and

Follow-up actions

- wishes to be kept informed of:
 - (a) the actions taken to improve the strategic planning and self-evaluation of schools;

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- (b) the results of the review of the level of surplus funds of the OEBG or the SCBG allowed to be retained by schools, and the measures taken to help schools plan the optimum use of the surplus funds;
- (c) the actions taken to improve the use of IT equipment in schools;
- (d) the actions taken to improve the external audit arrangements of aided schools;
- (e) the actions taken to ensure that schools set up a proper recruitment system for teaching staff in schools, and to ensure that the recruitment procedures of schools are conducted properly;
- (f) the results of the review of the distribution of school holidays throughout the school year;
- (g) the actions taken to improve the arrangements for the stepping down of senior teachers;
- (h) the progress made by schools in outsourcing their janitor services;
- (i) the actions taken to improve the following:
 - (i) the cost-effectiveness of janitor services in schools;
 - (ii) schools' procedures in procuring goods and services, and in providing procurement services for students and parents;
 - (iii) the schools' arrangements for letting out their school premises; and
 - (iv) the control over the sale of school items by schools' sponsoring and associated bodies;
- (j) the progress of the various actions that the Director of Education has undertaken to take as mentioned in paragraph 5.19 of the Audit Report;
- (k) the actions taken to improve tuckshop operations in schools and reduce the weight of school bags; and
- (l) the results of the fundamental review of grants and all other actions taken by the EMB to enhance its support to schools.