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來函檔號 Your Ref.: CB(3)/PAC/R40

31 July 2003

Ms Miranda HON
Clerk
Public Accounts Committee
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central, Hong Kong

[Fax No. 2537 1204]

Dear Ms Hon,

**The Director of Audit's Report on the
results of value for money audits (Report No. 40)**

**Chapter 10: University Grants Committee funded institutions —
Staff remuneration packages and stipends**

Thank you for your letter of 22 July 2003, in which you expressed the concern of the Public Accounts Committee (PAC) that the decision of the President's Personal Affairs Committee of the PolyU to pay the President a monthly cash allowance in lieu of housing benefits and leave passage had not been submitted to the PolyU Council for approval. You have asked me to comment on this arrangement, having regard to section 9(3)(c) of The Hong Kong Polytechnic University Ordinance (Cap 1075), which specifies that the PolyU Council shall not delegate to any committee the power to approve terms and conditions of service of persons in the employment of the University, other than persons in the part time or temporary employment thereof. My comments are as follows.

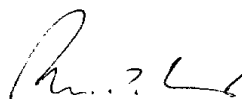
It is clearly stated in section 9(3)(c) that the Council shall not delegate to any committee or person the power to approve the terms and conditions of service of employees of the University, other than part time or temporary staff. Whether the views of the Council Chairman in the first sub-paragraph of paragraph 2.4 of his letter dated 24 May 2003 are acceptable is subject to legal interpretation and I am not in a position to offer a definitive view on this issue.

Furthermore, I consider that the payment of some \$177,000 monthly cash allowance to the President in lieu of housing benefits and leave passage is a significant variation in the standard terms and conditions of service as approved by the Council. Even putting the legal considerations aside, it would have been prudent to seek the Council's approval. In this connection, I note that the Council subsequently affirmed at its 34th meeting the University's position and practice regarding the matter (para. (2)(B) of Council Chairman's letter dated 4 July 2003 to the PAC refers). Lay members of the Council were also informed about the details of the President's remuneration package at that meeting. To enhance governance and accountability, I consider that in future the prior approval of the Council should be sought before offering any remuneration packages involving significant variations in the standard terms and conditions of service. The Council Chairman has said that the Council, at its 34th meeting on 24 June 2003, had unanimously affirmed that the University's position and practice did not breach the provision of section 9(3)(c). It seems that this case is similar to that recently dealt with by the PAC regarding the interpretation of Regulation 76 of the Education Regulations, Cap 279A for primary education (see my letter to you dated 23 April 2003 ref. UB/PAC/ENG/39-4, copy attached).

I have reservations about the Council Chairman's view that the provision of section 9(3)(c) was not breached. In order to put the above issues to rest (i.e. whether the practice of appointing permanent staff, including the President, is in order and not in contravention of section 9(3)(c), and whether the President's remuneration package was a significant variation in the terms and conditions of service requiring the approval of the full Council), the PAC may wish to seek an independent legal interpretation of section 9(3)(c).

I note that the PolyU intends to seek further clarification from the Government/UGC and amendment/revision of the Ordinance in the near future, in order to address the possibility of different interpretations of section 9(3)(c) of the Ordinance (para. 2.4 of Council Chairman's letter dated 24 May 2003 to the PAC refers). For the avoidance of doubt and for better governance and public accountability, I would suggest that the need to seek the prior approval of the Council for significant variations in the terms and conditions of service should be clearly stated in the Ordinance. The PAC may wish to be kept informed of the development of this matter.

Yours sincerely,



(David M T LEUNG)
for Director of Audit

Encl.

**Note by Clerk, PAC: The letter of 23 April 2003 not attached.*