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**Bills Committee on City University of Hong Kong
(Amendment) Bill 2006**

**Background brief
prepared by the Legislative Council Secretariat for the meeting on
1 November 2006**

City University of Hong Kong (Amendment) Bill 2006

Purpose

This paper summarises the deliberations of the Panel on Education (the Panel) and the conclusions and recommendations of the Public Accounts Committee (PAC) on the governance of University Grants Committee (UGC)-funded institutions relevant to the City University of Hong Kong (CityU).

Background

2. In May 2001, the Secretary for Education and Manpower (SEM) commissioned the UGC to launch a comprehensive review of higher education. The review covered all aspects of higher education provision, including the governance of UGC-funded universities. In March 2002, the UGC published the review report entitled "*Higher Education in Hong Kong*" (the Sutherland Report). Following public consultation on the Sutherland Report, the UGC submitted its final recommendations to SEM in September 2002. The Government accepted most of the UGC's final recommendations and announced in November 2002 the blueprint for the further development of higher education in Hong Kong. Amongst others, the UGC recommended that the UGC-funded universities should review their governance and management structures to ensure that they were "fit for the purpose".

3. Against the above background, the Audit Commission (Audit) conducted a value for money audit on UGC-funded institutions including their governance. The findings were contained in Report No. 40 of the Director of

Audit which was released in March 2003. As far as CityU was concerned, Audit observed that the City University of Hong Kong Ordinance (the Ordinance) was enacted in 1994 and section 8A therein specified the provision of a Court. However, up to the time of completion of audit in December 2002, CityU had not set up a Court as its advisory body. This was at variance with the provision in section 8A which specifies that there is to be a Court. Audit recommended that the UGC should request CityU to examine urgently whether a Court should be set up as its advisory body in accordance with the Ordinance. If CityU considered a Court unnecessary, the UGC should make a recommendation to the Government to amend the relevant legislation.

4. Audit also observed that the overall attendance rates of external members of the Councils of the eight UGC-funded institutions for the three financial years from 2000-2001 to 2002-2003 ranged from 50% to 80%. The attendance rates for CityU dropped from 74% in 2001-2002 to 53% in 2002-2003 (July to November 2002). Audit recommended that the UGC should advise the eight institutions to ascertain, where necessary, the reasons for the low attendance rates of external members of their Council meetings; advise the eight institutions to take appropriate action to improve the attendance rate of external members of the Councils at the Council meetings; and recommend to the Government and the institutions that, as a matter of principle, they should not appoint those Council/Court members whose attendance at Council/Court meetings was low.

5. To strengthen the internal audit function and the corporate governance structure of the institutions, Audit recommended that the UGC should request five institutions including CityU to set up an audit committee. The UGC should request the eight institutions to take account of the findings of the audit report on governance arrangements and good practices in their review of their governance structures, and conduct periodic reviews, say every five years, on the effectiveness of their governing bodies.

Deliberations of the Panel

6. Following the publication of the Sutherland Report, the Panel held a series of meetings to discuss the various issues raised including expansion of the post-secondary sector, deregulation of university salaries and governance of universities. The deliberations of the Panel on the governance of universities are summarised in the ensuing paragraphs.

Mechanism for handling complaints

7. At the time when the Sutherland Report was published, the School Staffing Committee of CityU's School of Law decided not to renew the contract for 10 serving staff members upon expiry of their current contracts. Members

were concerned about the existence or otherwise of an independent and transparent mechanism to deal with the grievances of students and staff in UGC-funded universities. They noted the recommendation of the Sutherland Report that the internal review of universities might cover fitness for purpose of any mechanisms to settle internal university disputes or to review administrative decisions, and that the remit of the Office of The Ombudsman could be extended to cover the UGC sector.

8. Some members were of the view that extending the jurisdiction of The Ombudsman to cover the UGC sector could not resolve the problem of staff grievances and complaints since The Ombudsman could only handle procedural but not academic issues. They suggested that the Administration should supervise the institutions to increase external participation and transparency in handling grievances.

9. The UGC responded that it had received mixed reactions about the proposal of extending the jurisdiction of The Ombudsman to UGC-funded institutions during the consultation. University councils held a strong view that under the principle of institutional autonomy, institutions should handle internal personnel matters themselves. In fact, the proposal was unlikely to meet staff's demand in full because section 8 of The Ombudsman Ordinance specified that The Ombudsman shall not undertake investigation in, among other things, personnel matters such as appointments, dismissals, pay and conditions of service, etc.

10. The UGC also pointed out that all UGC-funded institutions should have established an internal mechanism for handling staff grievances and complaints. Some universities were reviewing their governance structures to ensure "fitness for purpose", drawing on the principles and international good practices set out in the Sutherland Report. The UGC would monitor the progress of the review in individual institutions and would conduct periodic comprehensive audits on the institutions covering teaching, research, governance and community services.

11. Members considered it important to establish a sound mechanism to handle staff complaints and grievances in the higher education sector, and that the Administration should play a proactive role in facilitating the establishment and monitoring the operation of the mechanism on a continuous basis.

12. According to the UGC, there were only around 50 cases of staff grievances and complaints in respect of UGC-funded institutions in a year. The UGC therefore did not consider it necessary to establish an independent council to handle staff grievances and complaints for institutions in the higher education sector. The UGC had assured members that it would continue to encourage institutions to review and improve their procedures to deal with staff grievances and complaints.

Role of the UGC in governance of universities

13. Members had sought clarification on the role of the UGC in the governance of universities. According to the UGC, the UGC should not be equated with the Government. The UGC acted as a buffer between the Government and the institutions, safeguarding freedom and autonomy of the institutions on the one hand and ensuring value for money for the taxpayers on the other. The academic freedom and autonomy of the institutions were well protected under the existing framework. The UGC acknowledged that there was room for improvement within the existing governance and management structures of the institutions, but it should not be the task of the UGC to dictate how exactly the structures should be improved. In the view of the UGC, the Sutherland Report enumerated the basic ingredients of good governance and provided some examples of high performance of overseas universities for reference.

Conclusions and recommendations of PAC

14. Pursuant to the publication of Report No. 40 of the Director of Audit, PAC conducted public hearings on its findings. In November 2003, PAC published Report No. 40A. The conclusions and recommendations of PAC concerning the corporate governance of UGC-institutions relevant to CityU are summarised in the following paragraphs.

Attendance of external members at Council meetings

15. PAC expressed serious concern that the attendance rates of external members at meetings of the Councils of CityU and some other institutions were generally low. As a result, when decisions were required to be made at meetings of the Councils, there might be over-reliance on internal members. PAC recommended that the UGC should request -

- (a) all the institutions to adopt measures to ensure that external members would constitute a majority at the Council meetings;
- (b) all the institutions to consider publishing the attendance records of their Council members and uploading the records onto their websites for the information of the public; and
- (c) that, as a matter of principle, the institutions should not re-appoint those Council and/or Court members whose attendance at Council and/or Court meetings was low.

Audit committee

16. PAC also expressed serious concern that five institutions including CityU had not established an audit committee, which was not in line with good corporate governance practices. PAC recommended that the UGC should request these institutions to set up an audit committee to strengthen their audit function and the corporate governance structure.

Governance structure

17. PAC expressed concern that CityU had not set up a Court as its advisory body, although the Ordinance specifies that there is to be a Court. PAC also noted that CityU hoped to set up a Court within a year if the proposal was supported by its Review Committee on Governance and Management (the Review Committee).

18. PAC recommended that the UGC should request UGC-funded institutions to conduct periodic review, say every five years, of the effectiveness of their governing bodies.

Follow-up to PAC Report No. 40A

19. To follow up on its recommendations in Report No. 40A, PAC published Report No. 43 in February 2005. On the "fitness for purpose" review of the governance structure of the institutions, PAC was informed that CityU Council had established an Implementation Committee to follow up the Review Committee's recommendations. According to the implementation plan approved by the CityU Council in March 2004, the various recommendations would be implemented in 2004 and 2005.

20. As regards the membership, attendance and attendance records in relation to Council meetings, PAC was informed that CityU Council had approved the recommendation of its Review Committee to downsize the CityU Council so that there would be a clear majority of lay members. The Council, in consultation with the Administration, had been examining the necessary legislative amendments to the Ordinance to implement the recommendation. To involve the external members in more aspects of the work of CityU, the CityU Council had approved the recommendation for restructuring its committees so that lay members would be in the majority. The recommendation had been implemented starting from the 2004-2005 academic year.

21. Regarding its recommendation to conduct periodic reviews of the effectiveness of governing bodies, PAC was informed that the Review Committee had submitted a Code of Practice to the CityU Council for consideration in July 2004. Aimed at enhancing the effectiveness of the

Council, the Code of Practice covered the responsibilities of Council members, the conduct of Council business, the governing framework and legal status of CityU, as well as financial affairs and staffing matters.

The City University of Hong Kong (Amendment) Bill 2006

22. The City University of Hong Kong (Amendment) Bill 2006 is a Member's bill presented by Ir Dr Raymond HO to the Council on 18 October 2006. The Bill seeks to change the structure of the Council of CityU and reduce the total number of Council members. A comparison of the composition of CityU Council under the existing Ordinance and the Bill is in **Appendix I**.

Relevant papers

23. A list of the relevant papers on the Legislative Council website is in **Appendix II**.

Council Business Division 2
Legislative Council Secretariat
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Appendix I

Bills Committee on City University of Hong Kong (Amendment) Bill 2006

A comparison of the composition of CityU Council under the existing Ordinance and the Bill

Appointments by Chief Executive	Existing Provision	The Bill
Overall number	Not more than 18	Not more than 15
Persons not eligible	Public officers & employees of the University	Students & employees of the University
Minimum and maximum number of persons to be appointed	Not less than 10 who have experience in commerce and industry in Hong Kong	Nil
	Not more than 9 on recommendation of the Council	Not more than 8 on recommendation of the Council
	9 appointed by CE	Not more than 7 appointed by CE

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List of relevant papers

Council/Committee	Date of meeting	Paper / Report
Panel on Education	26 March 2002	CB(2)2174/01-02 (http://www.legco.gov.hk/yr01-02/english/panels/ed/minutes/ed020326.pdf) Report (http://www.ugc.edu.hk/eng/doc/ugc/publication/report/her/herreport.pdf)
Panel on Education	7 May 2002	CB(2)2339/01-02 (http://www.legco.gov.hk/yr01-02/english/panels/ed/minutes/ed020507.pdf)
Panel on Education	2 December 2002	EMB CR 3/21/2041/89 (http://www.legco.gov.hk/yr02-03/english/panels/ed/papers/embr3_21_2041_89_e.pdf) CB(2) 1462/01-02(01) (http://www.legco.gov.hk/yr02-03/english/panels/ed/papers/ed1202cb2-1462-1e.pdf) CB(2)2174/01-02 (http://www.legco.gov.hk/yr01-02/english/panels/ed/minutes/ed020326.pdf) CB(2)2339/01-02 (http://www.legco.gov.hk/yr01-02/english/panels/ed/minutes/ed020507.pdf)

Council/Committee	Date of meeting	Paper / Report
		<p>CB(2)503/02-03(01) (http://www.legco.gov.hk/yr02-03/english/panels/ed/papers/ed1202cb2-503-1e.pdf)</p> <p>CB(2)503/02-03(02) (http://www.legco.gov.hk/yr02-03/english/panels/ed/papers/ed1202cb2-503-2e.pdf)</p> <p>Appendix to LC Paper No. CB(2)503/02-03 (http://www.legco.gov.hk/yr02-03/english/panels/ed/papers/ed1202cb2-503-appendix-e.pdf)</p> <p>CB(2)901/02-03 (http://www.legco.gov.hk/yr02-03/english/panels/ed/minutes/ed021202.pdf)</p>
Public Accounts Committee		<p>Chapter 8 of the Report No. 40 of the Director of Audit (http://www.aud.gov.hk/pdf_e/e40ch08.pdf)</p> <p>Chapter 1 of the Supplemental Report of the Public Accounts Committee No. 40A (http://www.legco.gov.hk/yr03-04/english/pac/reports/40a/ch1.pdf)</p> <p>Chapter IV of the Report of the Public Accounts Committee No. 43 (http://www.legco.gov.hk/yr04-05/english/pac/reports/43/m_4.pdf)</p>