

立法會
Legislative Council

LC Paper No. CB(2)2080/11-12
(The minutes have been seen by
the Administration and The Hong
Kong Polytechnic University)

Ref : CB2/BC/11/10

**Bills Committee on
The Hong Kong Polytechnic University (Amendment) Bill 2011**

**Minutes of the third meeting
held on Thursday, 2 February 2012, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Members present : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
(Chairman)
Hon CHEUNG Man-kwong
Hon Audrey EU Yuet-mee, SC, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Kin-por, JP
Hon Tanya CHAN

Members absent : Dr Hon Samson TAM Wai-ho, JP

Public Officers attending : Agenda item I

Mr Wallace LAU
Principal Assistant Secretary (Higher Education),
Education Bureau

Mrs Dorothy MA
Deputy Secretary-General (1), University Grants
Committee Secretariat

Attendance by invitation : Agenda item I

The Hong Kong Polytechnic University

Professor Timothy W TONG, JP
President

Dr NG Tat-lun, SBS, JP
Deputy Council Chairman

Professor Philip CHAN
Deputy President and Provost

Mr Nick YANG
Executive Vice President

Mr Alan LI
Director of Human Resources

Ms Connie CHAN
Acting Secretary to the Council

Ms Tracy NG
Director of Communications and Public Affairs

Clerk in attendance : Ms Amy YU
Chief Council Secretary (2)6

Staff in attendance : Miss Carrie WONG
Assistant Legal Adviser 4

Ms Judy TING
Council Secretary (2)6

Miss Meisy KWOK
Legislative Assistant (6)

Action

I. Meeting with The Hong Kong Polytechnic University and the Administration

The Bills Committee deliberated (index of proceedings attached at **Annex**).

Participation of part-time students in the election of student Council members

2. Members noted from The Hong Kong Polytechnic University ("PolyU") that the current number of its full-time and part-time undergraduate and sub-degree students were 14 812 and 4 736 respectively; while the current number of its full-time and part-time postgraduate students were 2 880 and 6 829 respectively.

3. Members noted from the response of the Hong Kong Polytechnic University Student Union ("PUSU") (LC Paper No. CB(2)929/11-12(01)) that it had solicited some students' views on its proposal of allowing part-time students to vote in the election of student members in the University Council. According to PUSU, the initial results showed that students did not have a strong view towards the proposal and there were practical difficulties in implementing it.

4. Ms Cyd HO said that it was unclear from PUSU's response whether it had consulted part-time students on the proposal, and requested that clarification be sought from PUSU in this regard. She considered that the views of part-time students should be solicited given that their rights were involved and in view of the high proportion of part-time students in PolyU.

Clerk

Joint venture and partnership

5. Regarding the concern raised at the last meeting about the lack of any specific conditions on the use of PolyU Council's powers conferred under section 6, Prof Timothy TONG, President of PolyU, said that the leading paragraph of the proposed section 6 had already made it clear that activities stated in section 6(a) to (o) should be "conducive to the better carrying out of the objects and policies of the University" and hence such activities should be carried out in an appropriate manner. He explained that specific conditions (i.e. "in such manner and to such extent as it thinks necessary or expedient") were considered necessary for section 6(g) and (h) only as both items involved substantial financial resources. For section 6(b) or (m), in case the use of substantial financial resources were involved, it would then become section 6(g) or (h) and hence the specific conditions therein would apply.

6. Mr CHEUNG Man-kwong maintained his view that the phrase "in such manner and to such extent as it thinks necessary or expedient" should

be added to the proposed section 6(m) with a view to alerting the University to exercise reasonable care when using the powers conferred under the section to enter into partnerships or joint ventures with other parties, particularly when significant financial resources were involved (such as joint ventures to establish universities on the Mainland). He considered this important given the expected increase in joint venture activities undertaken by universities in the next decade. In his view, the proposed amendments would not affect the institutional autonomy of the University and the decision on such matters rested with the University.

7. Prof Timothy TONG said that while agreeing to the rationale behind Mr CHEUNG Man-kwong's suggestion, PolyU was of the view that the leading paragraph of the proposed section 6 had already provided that the powers conferred under section 6 should be carried out in an appropriate manner. Should specific conditions be added to section 6(m) as suggested by Mr CHEUNG Man-kwong, it would also be necessary to consider the need to add similar conditions to other paragraphs under section 6 such as section 6(b). He reiterated that section 6(g) and (h) were different from other subsections in that both items involved financial resources. Furthermore, not all partnerships and joint venture activities under section 6(m) involved significant financial resources, such as student exchange activities.

8. Ms Audrey EU shared the view that the leading paragraph of the proposed section 6 had already provided general conditions which applied to the exercise of the powers under paragraphs (a) to (o) of the section, and considered it not necessary to add specific conditions to any of those paragraphs.

9. Citing the incident that happened a few years ago involving concerns raised by a group of PolyU staff about the rapid growth in the number of subsidiaries, substantial financial loss and the governance of the University, Ms Cyd HO queried whether the proposed amendments to section 6 could prevent recurrence of similar problems.

10. Prof Timothy TONG said that in response to the incident, the Council had reviewed and formulated new policies and guidelines to strengthen the governance of knowledge transfer of the University. Mr Nick YANG, Executive Vice President of PolyU, supplemented that an Independent Review Panel was set up by the PolyU Council in March 2010 to review the operation of PolyU's subsidiaries, associates and jointly controlled entities ("SAJCE"). The Panel had put forward four recommendations in the areas of investment and management structure, which had been implemented over the past two years. These recommendations included (a) no cash investment

by the University to promote technology transfer; (b) avoidance of shareholdings and directorship in the University's SAJCE; (c) development and timely execution of exit strategy for SAJCE; and (d) establishment of an effective governance structure to enhance accountability. On avoidance of directorship, Mr YANG added that even if full-time university staff were to take up directorship in the University's SAJCE, they could not receive any remuneration. In addition, full-time university staff providing services to SAJCE were subject to the university's regulations governing outside practices. On the execution of exit strategy, PolyU had closed down eleven operations with unsatisfactory performance.

11. Mr Jeffrey LAM declared interest as a serving Court member and a former Council member of PolyU. He considered it important to put in place a robust mechanism to monitor the operation of knowledge and technology transfer of PolyU. He suggested that PolyU should conduct periodic reviews, say annually or biennially, on the relevant mechanism taking into account the latest developments in knowledge and technology transfer.

12. Mr CHAN Kin-por opined that in collaborating with commercial organizations on knowledge transfer, it was important for PolyU to safeguard its interests on the one hand and ensure that the relevant mechanism was not so stringent as to impede knowledge transfer between the University and society on the other.

13. Prof Timothy TONG said that the PolyU Council had established a Knowledge Transfer Committee to help set broad-based policies and give recommendations on knowledge transfer to the University management. External members with relevant legal background and experience in knowledge transfer were invited to sit on the committee. The University would also seek legal advice before embarking on knowledge transfer projects. Mr Nick YANG supplemented that in formulating policies and guidelines on knowledge transfer, PolyU had made reference to the experience and practices of renowned overseas universities, in particular Stanford University and University of California, San Diego. PolyU had endeavoured to strike a proper balance between the advancement of knowledge transfer and the monitoring of the relevant operation.

PolyU 14. Ms Cyd HO requested PolyU to provide information on its exit strategy in respect of its joint ventures or partnerships entered into with external parties, and how the University would protect the intellectual property rights of products generated in the course of its publicly-funded research activities to ensure that they were not exploited by commercial organizations for profiteering.

Appointment and removal of the President or Deputy President

15. Ms Audrey EU noted that the proposed section 8(2) and (4) provided that the appointment and removal of the President and Deputy President should require the votes of not less than two-thirds of all members for the time being. She sought clarification on the meaning of "all members for the time being". Prof Timothy TONG clarified that it meant the total number of Council members for the time being, and not the number of Council members present at the meeting concerned. The number of "all members for the time being" could be less than the number of Council seats (which was proposed to be reduced from 29 to 25 under the Bill) for different reasons such as a vacancy in the Council seats.

PolyU 16. Ms Audrey EU further sought clarification on whether the person appointed by the Council as acting President in accordance with section 8(5) was a member of the Council for the purposes of the appointment and removal of the President and Deputy President under the proposed section 8(2) and (4). PolyU was requested to provide a written response in this regard.

PolyU 17. In response to Ms Audrey EU's enquiry, PolyU also agreed to clarify in writing, with reference to the proposed section 8(4A) and (4B), whether it was the University's intention that should the person proposed for appointment as President or Deputy President be a serving Council member, that person was not a member for the purpose of appointing himself or herself; and if so, whether PolyU would consider amending the relevant provisions to reflect such an intent.

Council's role in respect of the terms and conditions of service of staff

18. Members noted that in response to the enquiry of Assistant Legal Adviser 4, PolyU had decided to amend the terms "the remuneration and the terms and conditions of service" and "determined" in section 8(3) to "the policy governing the terms and conditions of service" and "approved" respectively for the sake of consistency with the drafting of the proposed sections 9(3)(c) and 11(c).

19. Prof Timothy TONG said that the proposed amendments to sections 8(3), 9(3)(c) and 11(c) sought to clarify the role of the PolyU Council in determining the policy governing the terms and conditions of service of staff members, while the University's management, under the authority of the President, should approve the terms and conditions of service of individual staff members. The terms and conditions of the service of the

President, the Deputy President and all Vice Presidents were determined by a committee under the PolyU Council or the PolyU Council itself, while those of staff members below the rank of the Vice President were recommended by the relevant staffing committee and approved by the President or his/her delegate. PolyU considered the allocation of powers in determining terms and conditions of service of staff under the Bill appropriate.

20. Mr CHEUNG Man-kwong noted with concern that under the proposed section 9(3)(c), the Council might delegate to any committee its power to approve the policy governing the terms and conditions of service of part-time or temporary staff. He sought clarification on whether the provision covered part-time teaching staff and enquired about the current number of such staff in the University. Pointing out the important role played by part-time teaching staff in the quality of teaching of the University, he considered that the Council should attach importance to the policy governing their terms and conditions of service.

21. Mr Alan LI, Director of Human Resources of PolyU, responded that the current number of full-time and part-time temporary staff were 1 236 and 1 711 respectively. Among the 1 236 full-time temporary staff, 136 were teaching staff. Prof Philip CHAN, Deputy President and Provost of PolyU, said that the University's part-time teaching staff were mostly professionals and practitioners engaged by the University to teach in its part-time programmes. Most of these part-time teaching staff had day-time job and taught in PolyU in the evenings. He assured members that there were established procedures for approving the appointment and terms of conditions of part-time teaching staff, depending on the rank of the appointees concerned. Remuneration of PolyU's part-time teaching staff was on par with prevailing market rates.

Procedures for handling staff complaints

22. In response to Ms Cyd HO's enquiry about the procedures for handling staff complaints on appointment, promotion and remuneration related matters, Mr Alan LI said that the University had taken on board the recommendations on best practices developed by the University Grants Committee ("UGC") on the basis of its findings on the grievance procedures adopted by overseas institutions and the UGC-funded institutions. The four major recommendations included appointment of mediators; time limit for handling grievances; safeguard against retaliation; and involvement of external parties in the final level of appeal. PolyU had set up a working group including representatives of the PolyU Staff Association to review its grievance procedures on the basis of UGC's recommendations. The PolyU

Council had approved the relevant new grievance procedures which were made known to all staff members at the end of 2011. Mr LI further said that the new grievance procedures involved two stages. First, a complaint would be resolved by mediation. Second, if a complaint would not be resolved by mediation, it would be handled by the University's Grievance and Appeal Committee, which comprised a Chairman, academic and non-academic staff members of the University and one external member who was not a Council member.

Appointment of lay members of the PolyU Council

PolyU 23. Ms Cyd HO raised concern about the number of lay members appointed by the Chief Executive ("CE") to the PolyU Council under the proposed section 10(1)(d)(i), and its implication on the institutional autonomy of the University. She pointed out that as the number of lay members appointed by CE constituted more than one-third of the total number of Council members, they could exercise veto power over important decisions which required two-thirds of the votes of all Council members. She requested PolyU to consider reducing the number of lay members appointed by CE from nine to eight, and increasing that appointed by the PolyU Council from eight to nine.

24. Prof Timothy TONG said that the Bill had made significant improvements in respect of the appointment of lay members to the PolyU Council. It was proposed under section 10(1)(d)(ii) that eight lay members were to be appointed by the PolyU Council. Under the existing Ordinance, the PolyU Council was not empowered to appoint any lay member. Mr NG Tat-lun, Deputy Council Chairman of PolyU, said that the Council had discussed the number of lay members to be appointed by CE.

PolyU 25. Ms Audrey EU stressed the importance of complying with the six-year and six-board rules ("the six-six rules") in the appointment of lay Council members. She requested PolyU to provide a written response on whether it would undertake to comply with the six-six rules in appointing lay members under the proposed section 10(1)(d)(ii), and how it would deal with the representation of Legislative Council in the PolyU Council in appointing lay members under the said section.

26. Mr NG Tat-lun said that after the passage of the Bill, the PolyU Council would appoint a working group to work out a mechanism for appointing lay members from different sectors of the community in accordance with the need of the University for expert advice with a view to contributing to the development of the University.

Admin

27. Mr Wallace LAU, Principal Assistant Secretary (Higher Education), Education Bureau, said that when appointing members to university Councils, the Administration had all along upheld the principle of appointment by merit. In response to Ms Audrey EU's request, he agreed to provide information on whether the Administration's appointments of members to the PolyU Council under section 10(1)(d) of the existing Ordinance made in the past were in compliance with the six-six rules and whether there had been any exceptions. The Administration was also requested to undertake to comply with the six-six rules in making such appointments in future.

II. Any other business

28. There being no other business, the meeting ended at 10:40 am.

Council Business Division 2
Legislative Council Secretariat
29 May 2012

**Proceedings of the third meeting of the
Bills Committee on The Hong Kong Polytechnic University (Amendment) Bill 2011
on Thursday, 2 February 2012, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject	Action required
000232-000404	Chairman	Welcoming remarks	
000405-000706	Chairman Prof Timothy TONG Clerk	Briefing by The Hong Kong Polytechnic University ("PolyU") on the respective number of its full-time and part-time students as set out in its paper (LC Paper No. CB(2)913/11-12(02). The Hong Kong Polytechnic University Student Union ("PUSU")'s response concerning its proposal of allowing part-time students to vote in the election of student members in the PolyU Council (LC Paper No. CB(2)929/11-12(01).	
000707-001154	Chairman Mr CHEUNG Man-kwong Ms Cyd HO Prof Timothy TONG	Ms Cyd HO's request for seeking clarification with PUSU on whether it had consulted part-time students on the proposal.	Clerk (para 4 of minutes refers)
001155-003057	Chairman ALA4 Prof Timothy TONG Mr CHEUNG Man-kwong Ms Audrey EU	Briefing by PolyU on its response to Assistant Legal Adviser 4 ("ALA4")'s letter dated 27 January 2012 seeking clarification on the difference in the nature of the powers enumerated in paragraphs (a) to (o) of section 6 which necessitated the specific condition(s) under which the powers in paragraphs (g) and (h) might be exercised but not in respect of the other powers. Discussions on whether specific conditions on the use of the Council's powers should be added to section 6(m).	
003058-003844	Chairman Ms Cyd HO Mr Nick YANG Dr NG Tat-lun	In response to Ms Cyd HO's enquiry, PolyU's elaboration on the recommendations put forward by the Independent Review Panel set up under	

Time marker	Speaker	Subject	Action required
		the PolyU Council on the operation of the University's subsidiaries, associates and jointly controlled entities.	
003845-004555	Chairman Mr Jeffrey LAM Prof Timothy TONG Mr Nick YANG	Declaration of interests by Mr Jeffrey LAM. His view on the importance of putting in place a monitoring mechanism on the operation of knowledge and technology transfer of the University.	
004556-004930	Chairman Mr CHEUNG Man-kwong	Mr CHEUNG Man-kwong's reiteration of the need to add specific conditions to the proposed section 6(m).	
004931-005445	Chairman Mr CHAN Kin-por Prof Timothy TONG Mr Nick YANG	Mr CHAN Kin-por's view that in collaborating with commercial organizations, it was important for PolyU to safeguard its interests on the one hand and ensure that the relevant mechanism was not so stringent as to impede the knowledge transfer between the University and the society on the other. Response of PolyU on the actions it had taken to improve the operation of its knowledge and technology transfer.	
005446-005747	Chairman Ms Cyd HO Mr Nick YANG Prof Timothy TONG	PolyU was requested to provide information on its exit strategy in respect of its joint ventures or partnerships with external parties, and how the University would protect the intellectual property rights of products generated in the course of its publicly-funded research activities to ensure that they were not exploited by commercial organizations for profiteering.	PolyU (para 14 of minutes refers)
Continuation of clause-by-clause examination of the Bill			
005748-010717	Chairman Professor Timothy TONG Ms Audrey EU Mr CHEUNG Man-kwong Ms Cyd HO	Clause 6 PolyU was requested to confirm, with reference to the proposed sections 8(4A) and (4B), whether it was the University's intention that should the person proposed for appointment as President or Deputy President be a serving Council member, that person was not a member for the	PolyU (para 17 of minutes refers)

Time marker	Speaker	Subject	Action required
		purpose of appointing himself or herself; and if so, how the relevant provisions would be amended to reflect such intent.	
010718-010905	Chairman Mr CHEUNG Man-kwong Professor Timothy TONG ALA4	Inconsistencies in the drafting of the proposed sections 8(3), 9(3)(c) and 11(2)(c).	
010906-011603	Chairman Ms Cyd HO Professor Timothy TONG Mr Alan LI	Discussions on PolyU's mechanism for handling staff complaints.	
011604-013006	Chairman Ms Audrey EU Professor Timothy TONG Ms Cyd HO ALA4 Mr CHEUNG Man-kwong	Discussions on the meaning of "two-thirds of all members for the time being" in the proposed section 8(2) and (4). PolyU was requested to clarify whether the person appointed by the Council as acting President in accordance with section 8(5) of The Hong Kong Polytechnic University Ordinance (Cap. 1075)("the Ordinance"), was a member of the Council for the purposes of the appointment and removal of the President and Deputy President under the proposed section 8(2) and (4).	PolyU (para 16 of minutes refers)
013007-013823	Chairman ALA4 Ms Tracy NG Professor Timothy TONG	PolyU's advice that it had decided to amend the terms "the remuneration and the terms and conditions of service" and "determined" in the proposed section 8(3) to "policy governing the terms and conditions of service" and "approved" respectively to achieve consistency with the drafting of the proposed sections 9(3)(c) and 11(c). The PolyU Council's role in determining the policy governing the terms of conditions of service of its staff.	
013824-014747	Chairman Professor Timothy TONG Mr CHEUNG Man-kwong Mr Alan LI Professor Philip CHAN	Clauses 7 and 8 Mr CHEUNG Man-kwong's concern about the terms and conditions of the service of PolyU's part-time teaching staff.	

Time marker	Speaker	Subject	Action required
014748-020520	Chairman Professor Timothy TONG Ms Cyd HO Dr NG Tat-lun Ms Audrey EU Mr Wallace LAU	<p>Clause 9</p> <p>Ms Cyd Ho's concern about the number of lay members to be appointed by the Chief Executive under the proposed section 10(1)(d).</p> <p>PolyU was requested to consider the proposal of reducing the number of lay members appointed by the Chief Executive to the PolyU Council from nine to eight, and of increasing that appointed by the PolyU Council from eight to nine.</p> <p>Ms Audrey EU's view on the importance of compliance with the six-year and six-board rules ("the six-six Rules") by PolyU and the Administration in appointing lay members to the PolyU Council.</p> <p>PolyU was requested to provide a response on whether it would undertake to comply with the six-six rules in making appointments under the proposed section 10 (1)(d)(ii) and how the PolyU Council would deal with the representation of LegCo in the PolyU Council in appointing lay members under the said section.</p> <p>The Administration was requested to provide information on whether the appointments of lay members to the PolyU Council under section 10(1)(d) of the Ordinance made in the past were in compliance with the six-six rules and whether there had been any exceptions.</p>	<p>PolyU (para 23 of minutes refers)</p> <p>PolyU (para 25 of minutes refers)</p> <p>Admin (para 27 of minutes refers)</p>
020521-020638	Chairman	Date of next meeting	