

立法會
Legislative Council

LC Paper No. CB(2)2609/11-12
(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 fourth meeting
held on Tuesday, 28 February 2012, at 10:45 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 Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Kin-por, JP
Dr Hon Samson TAM Wai-ho, JP
- Members absent** : Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Tanya CHAN
- 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

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

Professor Timothy W TONG, JP
President

Professor Philip CHAN
Deputy President and Provost

Mr Nicholas YANG
Executive Vice President

Mr Louis HEUNG
Director of Finance

Mr Alan LI
Director of Human Resources

Ms Tracy NG
Director of Communications and Public Affairs

Miss Connie CHAN
Acting Secretary to the Council

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 (2)6

Action

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

[LC Paper Nos. CB(2)1203/11-12(01) to (03) and CB(2)1155/11-12(01)]

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 the further response provided by The Hong Kong Polytechnic University Students' Union ("PUSU") [LC Paper No. CB(2)1155/11-12(01)] confirming that PUSU had conducted consultation with all students (both full-time and part-time students) to solicit their views on the Bill. According to PUSU, the consultation exercise showed that students did not have strong views on the Bill. As such, PUSU had confirmed its support for the proposed amendments in the Bill, including the proposal of having one student Council member elected by and from among full-time undergraduate and sub-degree students.

Appointment and removal of the President and Deputy President

3. Prof Timothy TONG, President of The Hong Kong Polytechnic University ("PolyU"), confirmed PolyU's intention that a Council member who was proposed for appointment as President or Deputy President was not a member for the purpose of appointment. To make PolyU's intention clear, PolyU had accepted the suggestion to add a new section 8(4C) to the Bill.

4. PolyU was requested to advise, in relation to the voting right of the acting President for section 8(2) and (4), whether "the President" in section 10(1)(a) could include the Acting President.

Appointment of lay members

5. Assistant Legal Adviser 4 drew members' attention to existing section 10(1)(d) which stipulated that the Chief Executive ("CE") might appoint 20 lay members to the PolyU Council, of whom not more than two should be public officers. Under the proposed section 10(1)(d)(i), CE might appoint nine members to the PolyU Council, but the section did not prohibit CE from appointing public officers as Council members. Similarly, the proposed section 10(1)(d)(ii) did not prohibit the PolyU Council from appointing public officers as Council members. Members noted that according to section 3 of the Interpretation and General Clauses Ordinance (Cap. 1), "public officers" was defined to mean any person holding an office of emolument under the Government, whether such office be permanent or temporary.

6. Prof Timothy TONG advised that the then Education and Manpower Bureau informed PolyU in December 2006 that it was the Administration's conscious decision not to appoint public officers to the PolyU Council. Accordingly, PolyU had taken on board the Administration's suggestion to delete the phrase "of whom not more than 2 shall be public officers" in amending the existing section 10(1)(d). Members requested PolyU to provide the relevant document from the then Education and Manpower Bureau to PolyU for their reference. As it was neither the Administration's nor PolyU's intention to appoint any public officer to the PolyU Council, members requested PolyU to consider providing expressly in the Bill the policy intent of the Administration and PolyU in this regard.

LegCo representation in the PolyU Council

7. Members noted from the paper provided by PolyU [LC Paper No. CB(2)1203/11-12(02)] that after the passage of the Bill, the PolyU Council would appoint individuals whose expertise and experience would facilitate the long-term development of PolyU. Legislative Council ("LegCo") Members might be invited to serve on the PolyU Council based on their own merit and in their personal capacity, but the University did not see the need to include a designated seat for LegCo Members in the PolyU Council.

8. Mr CHEUNG Man-kwong disagreed with PolyU's view that PolyU would be more able to realize its independency and autonomy without having to make available a dedicated seat for LegCo Members in the PolyU Council. In Mr CHEUNG's view, PolyU's independence and autonomy had already been undermined by the appointment of lay members to the PolyU Council by CE, the total number of which constituted more than one-third of all the Council members. These lay members could exercise veto power over important decisions which required two-thirds of the votes of the Council.

PolyU's powers in respect of fees and charges

9. Noting that the authority for determining fees for government-funded programmes was vested in individual institution, Mr CHEUNG Man-kwong raised concern about the availability of safeguards to prevent institutions from charging excessive fees for such programmes.

10. Principal Assistant Secretary (Higher Education) ("PAS (HE)") said that the recurrent grant to the University Grants Committee ("UGC")-funded institutions was a deficiency subvention calculated by deducting from the estimated gross expenditure an assured income from

tuition fees and other sources. The assumed tuition fee income was based on the indicative tuition fee level determined by the CE-in-Council. The present cost-recovery target for tuition fees for UGC-funded institutions was 18%. The institutions had all along followed the indicative tuition fee level in setting the fees for their UGC-funded programmes.

11. Deputy Secretary-General(1) of the UGC Secretariat assured members that there were clear established policies on the provision of recurrent grant to the UGC-funded institutions. UGC saw no incentive for institutions to charge excessive tuition fees for their UGC-funded programmes as individual institutions had to bear the risk of corresponding downward adjustments in the provision of recurrent grant from UGC in the coming year should they do so.

12. Members noted that under the proposed section 12(2) and (3), the President was vested with the authority to refund course fees and charges for facilities and services provided by PolyU. Ms Cyd HO sought information on the party/parties for refund of such fees and charges and whether PolyU would consider specifying such party/parties in the said sections.

13. Mr Louis HEUNG, Director of Finance of PolyU, responded that most refund of course fees were made to students. He agreed to consider the need to specify the party/parties for refund of course fees and charges in the proposed section 12(2) and (3).

Legislative timetable

14. The Bills Committee agreed that PolyU's response to issues raised by members at this meeting would be circulated to members for consideration. The Bills Committee also agreed that if there was no request for the Bills Committee to hold a further meeting to discuss PolyU's response, the Bills Committee would report its deliberations to the House Committee on 23 March 2012 supporting the resumption of the Second Reading debate on the Bill at the Council meeting of 25 April 2012.

II. Any other business

15. There being no other business, the meeting ended at 12:18 pm.

**Proceedings of the fourth meeting of the
Bills Committee on The Hong Kong Polytechnic University (Amendment) Bill 2011
on Tuesday, 28 February 2012, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject	Action required
000524-000649	Chairman	Welcoming remarks	
000650-001732	Chairman Prof Timothy TONG	Response from The Hong Kong Polytechnic University ("PolyU") to the issues raised at the third meeting on 2 February 2012 on [LC Paper No. CB(2)1203/11-12(02)]	
001733-001937	Chairman Dr Samson TAM Prof Timothy TONG Mr Nicholas YANG	Discussions on PolyU's exit mechanisms for joint ventures and start-up companies. In response to Dr Samson TAM's enquiry, PolyU advised that after exit, PolyU would cease to be a significant shareholder (i.e. less than 20% shareholding) and would not participate in any strategic development or management decision in the entity concerned.	
001938-002237	Chairman Prof Timothy TONG ALA4	PolyU was requested to advise, in relation to the voting right of the acting President for section 8(2) and (4), whether "the President" in section 10(1)(a) could include the Acting President.	PolyU (para 4 of the minutes refers)
002238-002614	Chairman Prof Timothy TONG Ms Cyd Ho Dr Samson TAM	Ms Cyd HO's concern about the proposed number of lay members that could be appointed by the Chief Executive ("CE") to the PolyU Council and its implications on the institutional autonomy of PolyU. Dr Samson TAM's expression of support for the amendments introduced by the Bill concerning the appointment of lay members by CE and the PolyU Council.	

Time marker	Speaker	Subject	Action required
002615-003259	Chairman Prof Timothy TONG Mr CHEUNG Man-kwong	Discussions on PolyU's position on the appointment of Legislative Council representation in the PolyU Council and compliance with the six-year and six-board rule ("the six-six rules") in appointment of lay members.	
003300-003517	Chairman Administration	The Administration's response to members' concern raised at the third meeting on 2 February 2012 regarding compliance with the six-six rules in appointing lay members to the PolyU Council under section 10(1)(d) of The Hong Kong Polytechnic University Ordinance (Cap. 1075) [LC Paper No. CB(2)1203/11-12(03)]	
003518-003928	Chairman Mr CHEUNG Man-kwong Prof Timothy TONG	Further response provided by the Hong Kong Polytechnic University Students' Union concerning the proposal for allowing part-time students to participate in the election of student representative in the PolyU Council [LC Paper No. CB(2)1155/11-12(01)]	
Continuation of clause-by-clause examination of the Bill			
003929-005758	Chairman Prof Timothy TONG ALA4 Mr CHEUNG Man-kwong Ms Starry LEE Administration Ms Cyd HO	<p>Clause 9</p> <p>Briefing by PolyU on the proposed amendments concerning the membership of the Council under the Bill and the proposed Committee Stage amendments ("CSAs") in respect of the drafting of the Chinese text of the proposed sections 10(1)(c)(i) and (f)(i) and (ii)</p> <p>Definition of "public officer" under section 3 of the Interpretation and General Clauses Ordinance (Cap. 1)</p> <p>PolyU was requested to provide for members' reference the document from the then Education and Manpower Bureau to PolyU in December 2006 confirming that the Administration had made a conscious decision not to appoint public officers to the PolyU Council.</p> <p>Members requested PolyU to consider</p>	<p>PolyU (para 6 of the minutes refers)</p> <p>PolyU</p>

Time marker	Speaker	Subject	Action required
		providing expressly in the proposed section 10(1)(d) (i) and (ii) the policy intent of the Administration and the PolyU Council not to appoint any public officer as Council member.	(para 6 of the minutes refers)
005759-010025	Chairman Prof Timothy TONG	Clause 10	
010026-011621	Chairman Prof Timothy TONG Mr CHEUNG Man-kwong Administration Mr Louis HEUNG University Grants Committee Ms Cyd HO	Clause 11 Discussions on the mechanisms for setting tuition fees for the University Grants Committee ("UGC")-funded programmes and determining recurrent grants to the UGC-funded institutions. Concern raised by Mr CHEUNG Man-about the availability of safeguards to prevent UGC-funded institutions from charging excessive tuition fees for their UGC-funded programmes PolyU was requested to provide information on the party/parties to which PolyU would refund the course fees and charges for facilities and services under the proposed section 12(2) and (3), and to consider the need to specify such party/parties in the provisions.	PolyU (para 12 and 13 of the minutes refers)
011622-011724	Chairman Prof Timothy TONG	Clause 12 PolyU's advice that in the light of the view of the legal adviser to the Bills Committee, CSAs would be moved to the drafting of the English text of the proposed section 18(g).	
011725-012140	Chairman Prof Timothy TONG ALA4 Mr CHEUNG Man-kwong	Clause 13 PolyU's advice that in the light of the views of the legal adviser to the Bills Committee, CSAs would be moved to the drafting of the proposed section 13(1), (2) and (3). Discussions on the transitional arrangements for existing members of the PolyU Council.	

Time marker	Speaker	Subject	Action required
012141-012338	Chairman ALA4	Completion of clause-by-clause examination of the Bill	
012339-012800	Chairman Ms Cyd HO Mr CHEUNG Man- kwong Mr Louis HEUNG Prof Timothy TONG	Members agreed to decide on the need to hold a further meeting after receipt of PolyU's response to issues raised by members at the meeting.	
012801-013300	Chairman Mr LAM Tai-fai Prof Timothy TONG Clerk Mr CHEUNG Man- kwong	Legislative timetable	

Council Business Division 2
Legislative Council Secretariat
19 July 2012