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**Panel on Education**

**Updated background brief prepared by the Legislative Council Secretariat  
for the meeting on 11 July 2011**

**The English Schools Foundation**

**Purpose**

This paper summarizes the concerns of Members of the Legislative Council and the Panel on Education ("the Panel") about the governance, school administration, financial arrangements, school fee, and subvention arrangement for the English Schools Foundation ("ESF").

**Background**

2. ESF was established in September 1967 under the English Schools Foundation Ordinance (Cap. 1117) ("the Ordinance"), and is vested with the power, subject to the provisions of the Education Ordinance (Cap. 279), to own, manage, administer and operate within the territory schools offering, without regard to race or religion, a modern liberal education through the medium of English to boys and girls who are able to benefit from such an education. ESF currently operates nine primary schools, five secondary schools and one special school, while its associate company, the ESF Educational Services Limited ("ESL"), operates four kindergartens and two private independent schools ("PISs").

3. Within the education system in Hong Kong, schools may be categorized with reference to their curriculum, specific funding status, student intake autonomy and modus operandi, generally as Government, aided and caput schools; schools under the Direct Subsidy Scheme ("DSS"); PISs; EFS schools and private international schools. A brief comparison of these school categories with ESF is set out in **Appendix I**.

4. According to the Administration, ESF schools are similar to private international schools in Hong Kong, both in terms of the curriculum offered and student mix. The annual student enrolment survey results as at September 2010 show about 87% of the ESF primary school students are non-Chinese speaking. The schools directly operated by ESF receive recurrent subsidies calculated on a per-class basis. The schools and kindergartens operated by ESL do not receive any subsidy from the Government. The relevant subsidies for ESF are set out in **Appendix II**. A mutual understanding was reached between the Administration and ESF in 1999 on the need to review the subsidy and to freeze the subvention rate for ESF at the 1999-2000 school year level with effect from the 2000-2001 school year, pending a mutually acceptable long term agreement on the subvention arrangement.

### **Concerns of the Public Accounts Committee ("PAC")**

5. In February 2005, PAC issued its Report No. 43 which covered, inter alia, government subsidies to ESF and its corporate governance and school administration. Amongst others, PAC expressed the following areas of concern -

#### *Government subsidies to ESF*

- (a) there was divergence of views between the then Education and Manpower Bureau ("EMB") and ESF on whether ESF schools were different from international schools and whether the existing government subsidies to the ESF schools should continue;
- (b) the EMB's arrangements for freezing ESF per-class subsidies and capping the number of ESF classes eligible for recurrent government subsidies were at variance with the Government's parity of subsidy principle for providing government subsidies to ESF schools;
- (c) EMB should expeditiously complete the review of government subsidies to ESF; and
- (d) EMB and ESF should come to an agreement expeditiously over the future of government subsidies to ESF;

*Corporate governance and school administration of ESF*

- (e) ESF and its schools had not adopted a high standard of corporate governance and had not exercised proper financial and administrative controls to achieve value for money;
- (f) the large size of ESF's membership, standing at 132, was not conducive to making decisions effectively;
- (g) the external members of ESF did not constitute a majority at any of ESF's four annual general meetings held in the 2000-2001 to 2003-2004 financial years;
- (h) large percentages of internal and external members failed to attend ESF's meetings;
- (i) ESF's existing arrangement for an internal auditor reporting directly to the Financial Controller was not sufficient to help ESF discharge its monitoring functions effectively;

*Corporate governance and school administration of ESF's schools*

- (j) there were chaos and negligence in the administration of some ESF schools;
- (k) the school administration guidelines provided by ESF were fundamentally inadequate and some schools had not taken more initiative to ensure propriety and achieve value for money in their operation;
- (l) with the exception of one school, the composition of school councils did not include alumni;
- (m) most school councils did not specifically set out their delegated decision-making powers;
- (n) some school councils did not participate in major school activities recommended by ESF; and
- (o) most schools did not require council members to declare their personal interests which might conflict with their roles.

6. To address the concerns raised by PAC, ESF established a Governance Task Force to examine how the governing structure of ESF should be reformed. In June 2005, ESF approved a framework for the reform. In June 2006, ESF approved the proposals for legislative amendments to the Ordinance and the Regulations of The English Schools Foundation.

### **Deliberations of the Panel on Education**

7. ESF briefed the Panel on the legislative proposals at its meeting on 22 March 2007. In the context of discussing the draft Bill, members had considered the school administration and financial arrangements of ESF as well as Government subsidies to ESF. The Administration briefed the Panel on the redevelopment of Kowloon Junior School of ESF at its meeting on 13 December 2010. The main concerns of members included capital grant for ESF, adjustment of school fees as well as positioning of and subvention arrangement for ESF. The deliberations of the Panel are set out in the ensuing paragraphs.

#### School administration

8. Members noted that as at December 2006, ESF had implemented only about 60% of the recommendations made by the Independent Commission Against Corruption ("ICAC") concerning staff recruitment and school administration. Members queried why ESF had not implemented all the proposals.

9. ESF explained that it accepted all the recommendations made by ICAC but the implementation of some of the recommendations would take time. For instance, the development of a web-based budgeting financial control system for the 20 ESF schools would involve tremendous system design and development works as well as staff training before the system could be implemented. Subject to the early enactment of the Bill, ESF envisaged that all the ICAC recommendations could be implemented by the end of 2007.

#### Financial management

10. Members were concerned how the reform in the governance structure of ESF and its schools would improve the monitoring of the schools' daily operation, including administration and financial management matters. Members considered that ESF should conduct internal reviews on its financial and audit systems to facilitate early detection and rectification of any system irregularities and ensure system reliability and integrity in the long term.

11. ESF explained to members the various systems and measures in place to monitor the daily operation of the schools with emphasis on the administrative and financial aspects. Under the new governance structure, schools would be responsible for their own financial management and required to submit regular reports on their financial position to the Board of Governors ("the Board") and the Chief Executive Officer ("CEO"). ESF was developing a web-based financial management system to facilitate on-line monitoring of the financial operation and transactions in each school. Any significant or unreasonable spending by individual schools would be readily detected by the system. In addition, ESF had strengthened the internal audit functions as recommended by PAC, and established an Audit Committee to oversee the strategic issues as well as to examine the internal audit reports prepared by individual schools. The Audit Committee would also oversee the system reliability matters and recommend the appropriate timing for conducting reviews on system operation and application.

12. According to the Administration's reply to a written question concerning ESF raised at the Council meeting on 27 October 2010, ESF had introduced a series of reform measures since the end of 2008 which included, among others, -

- (a) the establishment of independent Standing Committees, with no staff among their membership, overseeing audit, finance and remuneration matters;
- (b) the introduction of a Code of Conduct with relevant declaration of interest arrangements;
- (c) putting in place the Standing Orders to regulate the conduct of its business;
- (d) the introduction of a vigorous annual budgeting process;
- (e) the formulation of a long-term financial strategy for the renewal of its building stock and the establishment of a Major Building Projects Committee to monitor the major construction projects for reporting to the Board; and
- (f) a review of the housing policy and its property holdings.

#### Government subsidies

13. Members noted the concern of some ESF parents about the lower level of government subsidies to ESF schools as compared with aided schools.

Some parents were of the view that ESF schools should be subsidized on the basis of the average unit costs, as in the case of aided schools.

14. According to ESF, the Administration would discuss with it subvention matters after it had implemented the necessary reforms in governance and school administration.

#### The English Schools Foundation (Amendment) Bill 2007

15. Hon Abraham SHEK took forward the proposals for the legislative amendments by introducing The English Schools Foundation (Amendment) Bill 2007 to the Council on 30 May 2007. The Bill sought to make changes to the governance structure of ESF and the administration of its schools. The main proposals of the Bill were as follows -

- (a) the supreme governing body would be the Board consisting of 26 voting members and one non-voting member who was the CEO of ESF. Twenty-two voting members would be external members, i.e. non-employees of ESF, among whom 10 would be independent community representatives to be nominated by a Nominating Committee;
- (b) there would be five advisory committees advising the CEO;
- (c) three standing committees under the Board should be established to advise on auditing, remuneration and financial management matters respectively;
- (d) the School Councils of ESF schools would have more defined functions and would be encouraged to include alumni among their membership; and
- (e) each school of ESF should establish a parent teacher association comprising the parents of students of the school, its teaching staff and principal.

16. A Bills Committee was formed to examine the Bill with focus of its deliberations on the objects of ESF and composition of the Board, the Nominating Committee and the School Councils. The Bill was passed by the Council on 5 March 2008 with two major amendments, namely, to add a definition of students with special educational needs and to designate one of the six seats for parent representatives on the Board for the parents of students with special educational needs who should be elected by all parents of students in ESF schools.

### Policy of capital grant

17. When the Administration briefed the Panel on the redevelopment of Kowloon Junior School of ESF at its meeting on 13 December 2010, members sought information on the policy of capital grant for ESF schools and other local schools.

18. The Administration explained that according to the prevailing policy on capital grant to ESF schools, ESF was entitled to a capital grant which equalled to 100% of the cost for constructing a standard-design public sector school of the same student population adjusted downwards to take into account the smaller enrolment in ESF schools. The Administration would examine each redevelopment proposal on an individual basis and ensure that the project was for the benefit of students. A capital grant would not be granted for non-standard facilities. Notwithstanding the prevailing policy, the capital grant was subject to the approval of the Finance Committee. The prevailing policy on capital grant to ESF schools also applied to PISs, aided schools and DSS schools.

19. Members also enquired whether the Administration would examine the financial position of ESF when it applied for the capital grant. They sought clarification on whether, if ESF was found to be financially capable of footing the capital works expenditure, the Administration would still provide the capital grant because of the prevailing policy. The Administration advised that it had examined the financial position of ESF with respect to the redevelopment of the Kowloon Junior School. It had also studied whether ESF had a prudent capital redevelopment plan for its schools.

### Positioning of and subvention arrangement for ESF

20. Members pointed out that issues relating to ESF were a historical legacy from the British colonial era. To address the problem, it was necessary to first determine the role and positioning of ESF under the present day circumstances. International schools were not eligible for any Government subvention but loans only and the prevailing policy on capital grant did not apply to them. In members' view, the Administration should decide whether ESF schools should be classified as international or DSS schools. If ESF schools were positioned as international schools, the subvention arrangements for ESF should be on a par with those for other international schools. If ESF schools were classified as DSS schools, they should be subject to the regulation in the same manner as other DSS schools. Members held the view that ESF could not maintain its unique position indefinitely as the subvention arrangement for it should be accountable to the public. Some members also pointed out that there were

both local and non-local students studying in ESF schools. While local students should be eligible for local education subsidies, it was not the case for non-local students. Members considered it important for the Administration to come up with a solution and called on the Administration to complete the review on the subvention arrangement for ESF as soon as practicable.

#### Financial arrangements between ESF and ESL

21. Some members raised the issue of financial arrangements between ESF and ESL. According to these members, there were allegations about ESF transferring some of its fund to ESL which was meant for maintenance and capital works projects. As a result, ESF might have to increase the tuition fees or raise fund in order to carry out maintenance and capital works projects.

22. The Administration advised in its supplementary information paper to the Panel in January 2011 that ESL was a non-profit making organization set up under ESF and run by the common management with ESF. Based on the advice of an independent auditor and legal counsel, ESF and ESL entered into a Development and Operating Agreement ("the Agreement") in 2006 and an Explanatory Memorandum in 2007 in relation to the two PISs operated by the ESL at Ma On Shan and Discovery Bay. The Agreement was discussed and endorsed by the former Executive Committee of ESF where parents and other stakeholders such as teachers and staff were represented.

23. The Administration also informed that as stipulated in the Agreement, ESF should construct, fit out and complete the two PISs, the cost of which added up to around \$278 million. In return, there was an agreement that the repayment by ESL would be made within 20 years. Total payment received by ESF up to 2009-2010 school year was \$41.6 million and another \$15.6 million would be repaid in the 2010-2011 school year. ESF had held two public meetings to brief parents on the financial arrangements and had uploaded the relevant materials onto their website for parents' information.

#### School fees of ESF schools

24. Some members expressed grave concern that the school fees of ESF schools was becoming unaffordable to expatriate families. There was a view that if ESF's original role was to provide affordable education for children of expatriate civil servants, the increase of school fees of ESF schools should be comparable to that of the civil service pay. Given the limited school choice for the expatriate families, the Administration should address the need of their children for education.



25. According to ESF, it had increased its school fees only once between 1998-1999 and 2005-2006 school years at a very small rate. ESF had fallen behind in a number of vital activities including building maintenance, enhancement of information technology systems, significant curriculum development such as the introduction of the International Baccalaureate Primary Years Programme in primary schools and the improvement to the curriculum of Chinese Language subject. An increase of school fees was therefore necessary and ESF would try to keep the tuition fee at a reasonable level.

26. The Administration advised that fees adjustments by ESF were subject to the approval of the Education Bureau ("EDB") under Regulation 65 of the Education Regulations. Factors which had been considered in examining ESF's application for fee increase included, inter alia, explicability of the case; benefits to students; sound financial planning; affordability of the educational service, including the level of reserves; and engagement with parents and other stakeholders in soliciting support and addressing their concern.

27. In considering the fees adjustment application by ESF, EDB had also attached importance to the "test of due process", including its consultation with stakeholders on the fees proposal. According to the Administration, ESF's Board of Governors, which had a wide representation, had discussed and reached consensus on the recent fees adjustment proposal. The school fees of ESF between 2001-2002 and 2010-2011 school years are set out in **Appendix III**.

### **Latest developments**

28. The Administration has taken forward a review on the subvention arrangement for ESF. The review covers a number of areas including ESF's role and positioning, its service targets, financial management and fees-related arrangements. The Administration will report to the Panel on the progress of the review at the meeting on 11 July 2011.

### **Relevant papers**

29. A list of the relevant papers on the LegCo website is in **Appendix IV**.

**The ESF in the School System in Hong Kong – A Brief Comparison**

	<b>Schools under the English Schools Foundation</b>	<b>Aided Schools</b>	<b>Schools under the Direct Subsidy Scheme</b>	<b>Private Independent Schools</b>	<b>Non-profit Making Private International Schools</b>
<b>Government subsidy for construction of school premises</b>	<p>May be provided with:</p> <ul style="list-style-type: none"> <li>◆ Capital grant for construction of school premises<sup>6</sup>.</li> <li>◆ Up to 50% of the capital grant may be converted into an interest-free loan, the amount of which will be such that the notional compound interest foregone is equal to the amount of the capital grant to be converted.</li> </ul>	<p>May be provided with:</p> <ul style="list-style-type: none"> <li>◆ Capital grant for construction of school premises; or</li> <li>◆ Government-built standard design school buildings for lease.</li> </ul>	<p>May be provided with:</p> <ul style="list-style-type: none"> <li>◆ Capital grant for construction of school premises<sup>6</sup>; or</li> <li>◆ Government-built standard design school buildings for lease.</li> </ul>	<p>May be provided with:</p> <ul style="list-style-type: none"> <li>◆ Capital grant for construction of school premises<sup>6</sup>.</li> </ul>	<p>May be provided with:</p> <ul style="list-style-type: none"> <li>◆ Interest-free loan for construction of school premises<sup>7</sup>.</li> </ul>

<sup>6</sup> The amount of the capital grant equals to 100% of cost for building a standard-design public sector school of the same student population.

<sup>7</sup> The amount of the interest-free loan (repayable in 10 years) equals to 100% of cost for building a standard-design public sector school of the same student population.

	<b>Schools under the English Schools Foundation</b>	<b>Aided Schools</b>	<b>Schools under the Direct Subsidy Scheme</b>	<b>Private Independent Schools</b>	<b>Non-profit Making Private International Schools</b>
<b>Recurrent subsidies</b>	Reimbursement of rates and Government rents.  Recurrent subsidies calculated on a per class basis at a rate now frozen at the 1999/2000 school year level <sup>8</sup> .	Reimbursement of rates and Government rents.  Recurrent subsidies calculated on a per class basis.	Reimbursement of rates and Government rents.  Recurrent subsidies calculated in terms of the average unit cost of an aided school place for each eligible student enrolled and its operating history <sup>9</sup> . Non-local students will not be eligible for DSS subsidy.	Reimbursement of rates and Government rents.  (No other form of recurrent Government subsidies.)	Reimbursement of rates and Government rents.  (No other form of recurrent Government subsidies.)

<sup>8</sup> A 6.44% reduction applies on the total recurrent subsidies for efficiency savings purposes.

<sup>9</sup> Under the subsidy formula, a school will be denied of the DSS subsidy if its school fees are beyond two and a third (2 1/3) of the average unit cost of an aided school place. For example, in the 2003/2004 school year, the DSS subsidy we provide at secondary three level for schools at / over 16 years of age is \$31,552 per student, which is calculated in terms of the average unit cost for an aided school place at secondary three level. Accordingly, for a secondary three student of a DSS secondary school at / over 16 years of age –

- (a) If the school fees charged exceed two and a third (2 1/3) of the average unit cost, i.e.  $\$31,552 \times 2 \frac{1}{3} = \$73,621$ , no subsidy will be provided to the DSS school in respect of the student concerned.
- (b) Otherwise, a subsidy of \$31,552 will be provided.

	<b>Schools under the English Schools Foundation</b>	<b>Aided Schools</b>	<b>Schools under the Direct Subsidy Scheme</b>	<b>Private Independent Schools</b>	<b>Non-profit Making Private International Schools</b>
<b>Application of Code of Aid</b>	No applicable Code of Aid.	Code of Aid applies <sup>10</sup> .	Subject to audit inspection by EMB.	No applicable Code of Aid.	No applicable Code of Aid.
<b>Financial assistance to students</b>	Hardship grant provided by Government at 2% and 3% of the basic grant for primary and secondary schools respectively.	Means-tested assistance provided by Government.	<p>Fee remission / scholarship schemes administered by individual schools, with their own funds / income.</p> <p>As a requirement, for every dollar of tuition fees charged over and above 2/3 of the average unit cost for an aided school place, 50 cents should be set aside by schools for this purpose, subject to a minimum remission equivalent to 10% of the fees<sup>11</sup>.</p>	<p>Fee remission schemes administered by individual schools, with their own funds / income.</p> <p>As a requirement, not less than 10% of fee income should be set aside by schools for this purpose.</p>	Fee remission schemes administered by individual schools, with their own funds / income.

<sup>10</sup> The Code of Aid governs, amongst other things, appointment and dismissal of staff; implementation of school-based management structure; tendering and purchasing procedures; use of premises; conditions on the use of various types of grants; and audit inspection by EMB, etc.

<sup>11</sup> For example, for a DSS school at / over 16 years of age charging \$40,000 per school place (in the 2003/2004 school year), it has to set aside about \$9,483 per school place (i.e. \$40,000 – \$31,552 x 2/3) x 50%) for fee remission purposes.

	<b>Schools under the English Schools Foundation</b>	<b>Aided Schools</b>	<b>Schools under the Direct Subsidy Scheme</b>	<b>Private Independent Schools</b>	<b>Non-profit Making Private International Schools</b>
<b>Curriculum</b>	Mostly UK-based curricula.	School-based curriculum developed on the basis of the local curriculum recommended by EMB.	Free to design the curriculum, but must prepare students for local public examinations.	Free to design the curriculum <sup>12</sup> .	Non-local curricula.
<b>Student admission</b>	Admission at full discretion of the schools.	Admission in accordance with the relevant admission systems – <ul style="list-style-type: none"> <li>- P1: “Primary One Admission System”</li> <li>- S1: “Secondary School Places Allocation System”;</li> </ul>	Admission in accordance with the class structure approved by EMB.  Admission criteria should be transparent. Only local children are entitled to DSS subsidy.	Admission in accordance with the school development plan agreed by EMB.  At least 70% of the students must be Hong Kong permanent residents.	Admission at full discretion of the schools.  For schools receiving land grant at nominal premium from Government, at least 50% of the students should belong to the target group it serves, as the school has publicly stated.

<sup>12</sup> In allocating a private independent school, preference will be given to school which will incorporate Chinese language, Chinese history / culture in their curriculum.

### Existing Subsidies for the ESF

#### Recurrent Subsidies

- ♦ Basic Grant: This comprises teaching and non-teaching staff salaries, based on the “actual” salaries as calculated on the prevailing aided schools salary structure, provident fund, general operating expenses, major repairs, furniture and equipment. It is determined on the basis of the number of classes and the notional subsidy per class payable to standard-size aided secondary and primary schools, adjusted to take into account the difference in class size between ESF and local schools.
- ♦ Hardship Grant: Noting the compulsory education policy for local children up to the age of 15 or the completion of Form III, and being concerned that no child should be debarred from school because of his parent’s inability to pay the school fees, the ESF is now given a specific grant for the relief of hardship cases. The amount of this Hardship Grant payable to the ESF amounts to 2% of the Basic Grant at primary level and 3% at secondary level.
- ♦ Curriculum Development Grants (or Subject Grant): The same rate applies for all eligible curricula as in the aided sector.
- ♦ Rates and Government Rents Reimbursement: Full reimbursement applies.

#### Capital Subsidies

- ♦ Capital Subsidies: The ESF is offered a choice between the two options of –
  - (a) Receiving a full capital grant amounting to construction cost of a standard public sector school of the same student population; or
  - (b) Converting half of the grant into an interest-free loan of which the notional compound interest forgone equals to the amount of the converted portion of the grant.

**Points to Note**

- ♦ Jockey Club Sarah Roe School, which is the only special school under the ESF, receives Government subsidies in the same mode as other ESF schools but with reference to other aided special schools. It falls outside the scope of the 1999 Review.

Source : Extracted from the information paper provided by the Education Bureau in November 2004 (CB(2)210/04-05(01)).

## Appendix III

### School fees of the ESF between 2001/02 and 2010/11 school years

School Year	Primary level	Secondary level	
	(\$ per student per annum)	(\$ per student per annum)	
	Year 1 - 6	Year 7 - 11	Year 12 - 13
2001/02	47,300	78,600	
2002/03	47,300	78,600	
2003/04	47,300	78,600	
2004/05	47,300	78,600	
2005/06	47,300	78,600	
2006/07	51,500	82,600	
2007/08	54,300	85,000	
2008/09	58,100	89,250	
2009/10	58,100	89,250	
2010/11	61,000	93,000	94,000

Source : Extracted from the information paper provided by the Education Bureau in January 2011 (CB(2)755/10-11(01)).



**Relevant papers on  
The English Schools Foundation**

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Legislative Council	3.3.2004	<a href="#">Official Record of Proceedings Pages 77 - 78 (Question)</a>
Panel on Education	13.12.2004	<a href="#">CB(2)210/04-05(01)</a>
Legislative Council	23.2.2005	<a href="#">Report No. 43 Report of the Public Accounts Committee on the Reports of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2004 and the Results of Value for Money Audits</a>
Panel on Education	22.3.2007 (Item V)	<a href="#">Agenda Minutes CB(2)1333/06-07(02) CB(2)1358/06-07(02) CB(2)1812/06-07(01)</a>
Legislative Council	12.3.2008	<a href="#">CB(2)1248/07-08</a>
Legislative Council	27.10.2010	<a href="#">Official Record of Proceedings Pages 21 - 24 (Question)</a>
Panel on Education	13.12.2010 (Item V)	<a href="#">Agenda Minutes</a>
Legislative Council	1.6.2011	<a href="#">Official Record of Proceedings Pages 83 - 87 (Question)</a>