

**For discussion  
on 9 January 2017**

**Legislative Council Panel on Education**  
**Review on Regulation of Non-local Higher  
and Professional Education Courses Operated in Hong Kong**

**Purpose**

This paper briefs Members on the outcome of the review on regulation of non-local higher and professional education courses operated in Hong Kong, and the measures for stepping up monitoring and regulatory efforts over the operation of the non-local courses, as well as the related publicity arrangements.

**Background**

2. The regulation of courses conducted in Hong Kong by non-local institutions of higher education and professional bodies which lead to the award of a non-local higher academic or professional qualification is governed by the Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493) (the Ordinance). The Registrar of Non-local Higher and Professional Education Courses (the Registrar) will approve registration of a course if it meets the criteria laid down in the Ordinance<sup>1</sup>, and approve exemption from registration of courses if the executive heads of local institutions of higher education<sup>2</sup> certify that the criteria are met by the collaborative non-local institutions. The objective of the Ordinance is to

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<sup>1</sup> In the case of courses leading to the award of non-local higher academic qualifications, the major registration criteria are: (a) the awarding institution is a non-local institution recognised in the home country; and (b) effective measures are in place to ensure that the standard of the course is maintained at a level comparable with a course conducted in the home country leading to the same qualification and is recognised as such by that institution, the academic community in that country and the relevant accreditation authority in that country (if any).

<sup>2</sup> Including the eight University Grants Committee-funded universities (i.e. City University of Hong Kong, Hong Kong Baptist University, Lingnan University, The Chinese University of Hong Kong, The Education University of Hong Kong, The Hong Kong Polytechnic University, The Hong Kong University of Science and Technology, and The University of Hong Kong), Hong Kong Shue Yan University, The Open University of Hong Kong and The Hong Kong Academy for Performing Arts.

protect local consumers of higher education services against the marketing of non-local higher and professional education courses which do not fulfil the criteria stipulated in the Ordinance.

## **The Review**

3. In view of the rising public concern over the operation of non-local courses, a review has been conducted by the Education Bureau (EDB) of the existing monitoring and regulatory arrangements under the Ordinance. The outcome of the review indicates that in achieving the policy objective of providing protection to local consumers of higher education services, the monitoring mechanism which encompasses five major areas under the existing regulatory framework of the Ordinance is generally effective. The five major areas are –

- (a) **Registration:** detailed vetting of applications for registration is conducted by the Registrar and the Hong Kong Council for Accreditation of Academic and Vocational Qualifications (HKCAAVQ);
- (b) **Periodic Checking:** operators are required to submit annual returns for the Registrar and HKCAAVQ to review regularly the operation of the registered courses;
- (c) **Safeguards:** to safeguard the interests of students, the Ordinance has required that the tuition fee charged for any part of a course should not be payable before the period of three months. There are also stipulated rules over the refund of fees and charges that the operators have to observe;
- (d) **Requirements on Advertisements:** there are provisions as laid down in the Ordinance governing advertisements. For example, the advertisements must not contain any statement or representation which is false or misleading in a material particular; and
- (e) **Penalty:** the Registrar may cancel the registration of a course if he/she considers that the registration criteria have not been met. Also, operators who commit offences under the Ordinance are liable to penalties ranging from a fine to imprisonment.

4. Notwithstanding the generally effective monitoring mechanism, EDB

considers that there is room to enhance monitoring efforts under the existing regulatory framework, in particular on ensuring the requirements as laid down in the Ordinance are fully met by the operators.

5. The review also points to the changing landscape of the higher education sector in Hong Kong in that there is rising expectation of the community over the quality of the non-local courses. We therefore see the need for more publicity among students and parents about the existing regulatory regime and the quality assurance of non-local courses such that they will know what to pay attention to when enrolling for courses.

6. The key measures in response to the outcome of the review are summarised in the ensuing paragraphs.

## **Measures Implemented**

### *Imposition of New Condition for Registration*

7. According to section 21 of the Ordinance, the Registrar may by notice in writing require the operator of a registered course to provide information/document in relation to the course and is in the operator's possession or under his control. This requirement could facilitate the Non-local Course Registry (NCR) to obtain more information from the operator to examine whether the course in question is conducted in compliance with the statutory requirements. However, the operator may turn down the Registrar's request by claiming that the information/document required is not in his possession (e.g. the information/document is with the overseas institution).

8. To address the problem as set out in paragraph 7 above, a new condition for registration has been imposed on courses registered since 31 October 2016 to the effect that the operators concerned are required to maintain certain documents (e.g. copies of each student's application form(s), offer letter(s), credit exemption document(s), attendance record(s), transcript(s) and payment record(s)) relating to the non-local courses for a specified period (commencing from the beginning of the student's studies until two calendar years after the completion or termination of such student's studies), such that when the Registrar requests for documents to review the operation of the courses when warranted, the operators could not claim that the documents are not in their possession, or they risk contravening the condition imposed which may lead to cancellation of registration of their

courses.

### *Referral of cases to enforcement departments*

9. In the case of minor contravention of the requirements under the Ordinance (e.g. omitting the registration number in the advertisement), the established practice is that instead of referring the case to the enforcement department in the first instance, NCR will first issue a warning letter to the operator. Further enforcement action will be taken if the operator fails to take remedial action or commit the same contravention repeatedly. With a view to enhancing enforcement efforts and to serve as a deterrent to repeated contraventions, NCR will tighten the aforementioned exercise of discretion. Operators of registered courses have been informed of the above tightened arrangements and they are strongly reminded to comply with the legislative requirements in full.

10. As regards serious offence (i.e. offences liable on conviction to imprisonment) such as conducting a non-local course without registration/exemption under the Ordinance, NCR will maintain the current practice of referring such suspected cases to enforcement departments in the first instance where prima facie evidence is available.

### *Recording of complaints and contraventions*

11. NCR has been conducting regular examination of advertisements on non-local courses. It also investigates cases of complaints filed by members of the public. To closely follow up cases of possible contraventions and to facilitate the consideration of taking enforcement action, templates for periodic reports have been prepared by NCR and put into use since mid-July 2016 to record comprehensively possible cases of contravention spotted from newspapers, magazines and websites, and arising from complaints.

### *Awareness on regulation and quality assurance of non-local courses*

12. Apart from ensuring non-local courses are operated in compliance with the statutory requirements, educating the students and their parents about the regulatory regime and accreditation arrangements for non-local courses in Hong Kong is equally important. To this end, arrangements have been made since November 2016 to publicise the regulatory regime of non-local courses in Hong Kong, and the way in which consumers could protect themselves

when considering enrolling in non-local courses. In addition, we have, via various channels<sup>3</sup>, informed the students and parents that some non-local courses are locally accredited by the HKCAAVQ. Local accreditation is a quality assurance process that assesses a non-local course against a set of criteria to ensure the learning programme meets minimum quality standards under the Hong Kong Qualifications Framework. A non-local course accredited by HKCAAVQ enjoys similar status to locally-accredited programmes.

13. To encourage operators of non-local courses to further enhance the quality assurance of their non-local courses thereby providing better protection for students, letters were issued to all operators of non-local courses in November 2016 reminding them that they could seek subsidy under the Accreditation Grant Scheme of the Qualifications Framework Fund for the local accreditation of their courses.

## **Measures under Preparation**

### *Examination of annual return*

14. Operators are required under the Ordinance to submit annual returns to the Registrar with specified information. The annual return form is being revised such that operators would be required to provide more information, e.g. the course contents, the exemption of credits granted to students. The additional information would facilitate NCR to examine the operation of the courses, and to initiate investigation in case of suspected breach of the statutory requirements.

### *Inspection*

15. According to section 24 of the Ordinance, authorised inspection officers could enter any premises and require any person found on such premises to produce documents kept in such premises for inspection. Inspection was previously conducted on a need basis. With a view to enhancing monitoring of the operation of non-local courses, we are planning to conduct regular inspection. Preparatory work including training for staff

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<sup>3</sup> For example, we have issued an EDB Circular and posters to all secondary schools, and attended an interview on a radio programme targeting students who are going to take the Diploma in Secondary Education Examination.

and the drawing up of an inspection manual is underway. Our plan is to conduct regular inspection starting from the third quarter of 2017. Targets of inspection include those operators that have attracted the highest number of complaints; and whose annual returns have revealed irregularities. Random inspection would also be conducted subject to caseload.

### *Enhanced Publicity*

16. The publicity efforts detailed in paragraph 12 will continue with the launching of a TV/ radio Announcement of Public Interest tentatively scheduled for broadcast in early February 2017, and organisation of seminars for career guidance teachers in February 2017. We will also make use of the career guidance handbooks to be issued to students who are going to take the Diploma in Secondary Education Examination in May 2017 to publicise the points to note before enrolling in non-local courses.

### **Way Forward**

17. EDB considers that the measures implemented and to be implemented will be able to enhance the overall monitoring and regulatory efforts, and to provide better protection for students. EDB will keep in view the effectiveness of the aforementioned measures and consider whether further enhanced measures are required in due course.

**Education Bureau**  
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