

**Report on Review of the Present Framework and  
Mechanism for Promoting and Upholding Teachers'  
Professional Conduct**

Submitted by the Working Group on  
Promoting and Upholding Teachers' Professional Conduct  
Education Commission

October 2015

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## EXECUTIVE SUMMARY

### 1. Review of current framework and mechanism at home and abroad

The Working Group on Promoting and Upholding Teachers' Professional Conduct (WGTPC) has reviewed the current framework and mechanism for promoting and upholding teachers' professional conduct in Hong Kong and bench-marked them with the regulatory regimes for teachers and other professions in major jurisdictions and have its major findings and recommendations set out in the following paragraphs.

### 2. Some General Observations

#### *From Self-Regulation to Public Scrutiny*

2.1 The regulatory regimes of teachers surveyed have a diversity of models. They range from an absolute or a great majority public control like those in the United States, Britain, Queensland and New Zealand, to a balanced control between teachers and the public like those in the British Columbia, Victoria and the post-2012 Scotland General Teaching Council (GTC), to a great majority teacher control like those in the pre-2012 Scotland GTC and Ontario. A summary on regulatory regimes of teachers and other professions in Hong Kong and other jurisdictions is attached.

2.2 However, the clear international trend is the shift from teacher control towards public control. Ontario is the only major jurisdiction surveyed that has retained more than a simple majority control by teachers of its teacher regulator.

2.3 The international trend of migration from self-regulation to public scrutiny and government regulation is also apparent in both the teachers and other professions.

*Public Scrutiny and Government Regulation, not Self-Regulation, are hallmarks of professionalism*

2.4 The Directive on Recognition of Professional Qualifications (2005/36/EC) of the European Union defines **professions** as “*those practised on the basis of relevant professional qualifications in a personal, responsible and professionally independent capacity by those providing intellectual and conceptual services in the interest of the client and the public*”.

2.5 The term “**professional autonomy**” (專業自主) has been repeatedly mentioned in the quest for a GTC. However, unfortunately and misleadingly, sometimes the term is used interchangeably with the term “**self-regulation by profession**” (專業自我規管). Although different academics may have different definitions for “professional autonomy”, invariably all definitions focus on the importance of a professional being able to *exercise his or her professional judgement independently in the provision of professional services*. It has nothing to do with how a profession is regulated, whether by themselves or by government.

- 2.6 There are three domains of accountability for a teacher. The first is administrative accountability, which is where the Education Bureau (EDB), the Incorporated Management Committee (IMC) and the principal play roles. It relates to a teacher's performance as an employee. This is about governance. The second is consumer accountability, which is about a teacher being held accountable to parents and students, or future employers and universities. The third is professional accountability, which is about a teacher being held accountable to and be judged by the professional peers. It is an evolving notion because of the changing political climates globally towards public scrutiny.
- 2.7 If the present regulatory framework and mechanism remain unchanged when teachers' registration stays with the EDB, the Committee on Professional Development of Teachers and Principals (COTAP) takes care of teachers' professional development and the tertiary institutions are autonomous with their curriculum of teacher education, then only professional conduct remains a domain which is left with a hypothetical GTC in Hong Kong, and is indeed what the Council on Professional Conduct in Education (CPC) is doing.

### 3. **Recommendations**

- 3.1 *The current Government controlled framework and mechanism shall be maintained.*

On the government controlled side of the current framework and mechanism on promoting and upholding teachers' professional conduct, subject to some suggestions for fine-tuning to be discussed later, according to the results of the extensive consultation the EDB has done in recent years, it is working well with the support of different stakeholders. Further, it is also in line with international standards of government control and public scrutiny. The experience of the teacher majority controlled CPC has failed to show that a teacher majority controlled regulatory regime could be a better model. The WGTPC sees no need or justification for the fundamental change departing from international standards as proposed by the GTC proponents or to delegate more authority relating to professional conduct of teachers to the CPC or other teacher majority controlled bodies.

- 3.2 *The present mechanism regarding misconduct case investigations of the EDB is satisfactory subject to it providing some principles on handling misconduct cases and decided cases.*
- a. The WGTPC is satisfied that under the present mechanism and the Enhanced Complaint Management in School and Appeal Procedure, the internal task force (ITF) of the EDB has the benefit of input by frontline teachers and has sufficient understanding of teaching environment to enable it to make proper recommendations to the Permanent Secretary of Education (PS(Ed)). The Appeal Board considering the decisions of the PS(Ed) also has the benefit of experienced teachers. There is little or no merit in the suggestion that the investigation shall be transparent or representative. Confidentiality instead of transparency is of paramount importance in investigation work. Further, it is also a fundamental principle that a regulator's work shall be

apolitical instead of representative. Therefore, it is not recommended to involve outside teachers in the misconduct complaint investigation work of the ITF.

- b. However, it is suggested that the EDB shall consider to provide some principles on handling misconduct cases and decided cases illustrating how these principles are applied so that the teaching profession can be properly guided. These principles and decided cases can be provided as supplement to the Code for the Education Profession of Hong Kong (the “Code”), its operational criteria and practical guidelines.
- c. It is also recommended that the PS(Ed) and the CPC shall explore the feasibility of asking the CPC through a sub-committee to play a role as an expert adviser to the parties to a misconduct case giving the parties on a voluntary basis their professional advice as what the professional conduct standards should be in the given circumstances of a particular case.

3.3 *The EDB shall prepare and publish a combined guide to a prospective complainant advising the options.*

- a. Because of the CPC’s operational problems and the recommended improvements to be made, it is not recommended to consolidate the overlapping work of the ITF of the EDB and the CPC until the CPC is given some years to try out the improved procedures. Given the privileged roles of the CPC in advising both on setting conduct standards as well as implementation of these standards in misconduct complaints and it comprising representatives of all stakeholders of the education sectors, it will have the potential to become the preferred body to advise on non-offence misconduct complaints if after the implementation of recommended reforms, it can earn through its improved operation the trust and recognition of all stakeholders.
- b. The EDB shall prepare and publish a combined guide to a prospective complainant advising the options available, the different procedures under each option including the usual time lines, the personnel involved and their procedural and other differences.

3.4 *The CPC shall have a balanced composition.*

- a. To ensure that the interests of the teachers and other stakeholders and the public are fairly represented and in line with international standard and practice, the CPC is recommended to have a balanced composition comprising 14 directly or indirectly elected registered teachers (including principals) and 14 members representing other stakeholders and the public including 1 member elected from teacher education institutions, 3 members elected from school sponsoring bodies, 3 members elected from school councils and associations of school principals, 3 parent members nominated by Committee on Home-School Co-operation, 3 lay members appointed by EDB and 1 EDB representative.

- b. The chairman will continue to be elected by the members among themselves. The chairman can be a registered teacher, a member from the other education stakeholders or a lay member.
- c. The 14 elected teachers/principals shall include: 3 teachers from aided secondary schools, 3 teachers from aided primary schools, 1 teacher from each of (i) Government secondary schools, (ii) Government primary schools, (iii) directly subsidised and private secondary schools, (iv) directly subsidised and private primary schools, (v) special schools and (vi) associations of teachers and 2 from kindergartens.

3.5 *The tenure of CPC members shall remain to be 2 years subject to the maximum of 6 years.*

It is not recommended to change the 2-year tenure of CPC members. It is recommended that the 6 years' rule applicable to other government advisory committees shall also apply to both appointed members and directly elected members of the CPC to give opportunity to other teachers and stakeholders. The imposition of a maximum term for members is comparable to that applicable to elected members of the GTC Scotland.

3.6 *The misconduct case procedure of the CPC shall be simplified to just 2 stages.*

- a. It is recommended to simplify the misconduct case procedure of the CPC to just 2 stages namely, an investigation committee and a hearing committee. The submission of report after hearing by the hearing committee to the PS(Ed) instead of publication of its decision to the parties is recommended. This can avoid the problem of legal proceedings against the CPC or its members hearing the misconduct cases. There are sufficient safeguards of the interest of any teacher dissatisfied with the decision of the CPC or the PS(Ed) as there are still a chance to file an appeal to the Appeal Boards Panel after the PS(Ed)'s decision and an opportunity to appeal to court.
- b. It is also recommended that the CPC shall take a stringent attitude towards delaying tactics of the parties. If the parties are given a reasonable notice, an investigation or a hearing meeting shall be fixed and take place regardless the parties' unwillingness to appear. The possible adverse recommendation being made against an absent party will be a force to drive an unwilling party to attend the meeting.
- c. It is also recommended that, for the investigation stage, the investigation panel shall have an option of asking for written submissions only in lieu of oral submissions for cases in respect of which they are of view that oral evidence is unnecessary.

3.7 *A separate panel of members outside the CPC council hearing misconduct cases shall be established.*

It is recommended that a separate panel of members hearing misconduct cases comprising both senior teachers and lay members outside the CPC shall be appointed

by the PS(Ed). Each case shall be heard by 3 members at least 1 of whom shall be a lay member. These members may come from panels established by the PS(Ed) for such purpose. The lay members may comprise professionals of legal background which may help teacher members who may not have legal knowledge. The CPC members will be released of hearing of misconduct cases and can concentrate their effort on investigation and setting standards and promoting professional conduct. This can avoid any perceived or actual bias or conflict of interest and will be in line with similar practice in disciplinary proceedings elsewhere including teachers in Scotland, solicitors in Hong Kong and England.

- 3.8 *The EDB should provide some principles in handling teachers' misconduct cases with a view to supplementing the Code and enhancing the transparency of PS(Ed)'s decision on similar cases.*
- 3.9 *Subject to keeping confidentiality of the misconduct cases, the CPC is encouraged to publish its minutes. However, the final decision on the arrangements shall rest with the CPC.*
- 3.10 *On the request of asking EDB to write to schools asking for release of CPC members to attend CPC meetings, EDB should abstain from schools' professional judgement and formulation of views on the subject of releasing teachers to attend CPC meetings.*
- 3.11 *No change in funding mode for the CPC.*

The WGTPC does not see any valid reason why the present funding arrangement needs to be changed in view of the advisory role the CPC plays and the work it does.

- 3.12 *The CPC, shall focus its effort on reviewing the Code, drafting the operational criteria and practical guidelines. The EDB shall provide secretarial support for such work.*
- 3.13 *The CPC should focus its effort to discuss and come up with suggestions on wider publicity to promote the Code.*

#### **4. Conclusion**

All the recommendations are intended to empower the CPC to re-invent itself and move forward, discharge its functions effectively and to gain respect from the education sector and the public and to become a trusted adviser to the PS(Ed) and to create potential and open up opportunities for greater responsibilities in the future.

**A Summary on Regulatory Regimes of Teachers and Other Professions  
in Hong Kong and Other Jurisdictions<sup>Note</sup>**

Name	Background / Function	Size	Composition	Investigating / Discipline Committee / Panel
<b>Regulatory Regimes of Teachers Professions</b>				
<b>The General Teaching Council for Scotland</b>	<ul style="list-style-type: none"> <li>• Statutory body</li> <li>• Set up in 1965</li> <li>• Funded by teachers</li> <li>• 4 meetings held in public each year; minutes open for public inspection.</li> </ul>	37	<ul style="list-style-type: none"> <li>• 19 elected teachers</li> <li>• 11 nominated by stakeholders</li> <li>• 7 lay members</li> </ul>	<ul style="list-style-type: none"> <li>• Investigating Panel has a quorum of 3 Council members including 1 lay member and a majority of registered teachers.</li> <li>• It reviews papers and does not have any oral hearing.</li> <li>• The Investigating Panel may refer a case to the Fitness to Teach Panel which (has a first instance session and an appeals board) comprises 3 members including a majority of teachers and at least one lay member all recruited from the public. Council members do not sit on this Panel.</li> </ul>
<b>Ontario College of Teachers (OCT)</b>	<ul style="list-style-type: none"> <li>• Set up in 1997 by statute</li> <li>• To regulate the teaching profession in public interest</li> <li>• Funded by members' fees</li> </ul>	37	<ul style="list-style-type: none"> <li>• 23 elected teachers</li> <li>• 14 lay members appointed by government</li> </ul>	<ul style="list-style-type: none"> <li>• The Discipline Committee consists of 3 members including one lay member and a majority of teachers. The parties are OCT (as prosecutor) and the teacher involved.</li> </ul>
<b>Teachers' Council (TC) of British Columbia</b>	<ul style="list-style-type: none"> <li>• Mandate from the Teachers Act.</li> <li>• Sets standards for teachers in areas of teacher education, certification, conduct and competence.</li> </ul>	16	<ul style="list-style-type: none"> <li>• 15 voting members               <ul style="list-style-type: none"> <li>◆ 5 elected teachers</li> <li>◆ 3 appointed by the Minister of Education on the advice of the BC Teachers' Federation (BCTF)</li> <li>◆ 7 appointed by the Minister</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Disciplinary and Professional Conduct Board comprises 17 members, 9 from the TC (5 of whom must be from non-BCTF), 8 lay members appointed by the Commissioner. Members from the DPCB will form disciplinary panels.</li> </ul>



Name	Background / Function	Size	Composition	Investigating / Discipline Committee / Panel
			<p>from the various education stakeholder groups</p> <ul style="list-style-type: none"> <li>1 non-voting member appointed by the Minister</li> </ul>	
<b>Queensland College of Teachers (QCT)</b>	<ul style="list-style-type: none"> <li>Statutory body</li> <li>Set up in 2006</li> <li>Its income is derived from registration fees.</li> </ul>	17	<ul style="list-style-type: none"> <li>3 elected registered teachers</li> <li>14 members nominated by stakeholders</li> <li>Chairman appointed by the Education Minister.</li> </ul>	<ul style="list-style-type: none"> <li>QCT through its Professional Practice and Conduct Committee investigates complaints, hears minor cases and refers serious cases to Queensland Civil and Administrative Tribunal.</li> <li>The Tribunal consists of a lawyer, a registered teacher and a layman.</li> </ul>
<b>Victorian Institute of Teaching</b>	<ul style="list-style-type: none"> <li>Statutory body</li> <li>Set up in 2001</li> <li>It finances its operation from registration fees.</li> </ul>	12	<ul style="list-style-type: none"> <li>6 elected teachers</li> <li>5 government nominees including its Chairman, parents, employers and teacher educators</li> <li>Secretary of the Department of Education or nominee</li> </ul>	<ul style="list-style-type: none"> <li>Disciplinary Proceedings Panel consisting of the Panel Chairman, a Council member or former Council member and a non-Council teacher hears disciplinary cases.</li> <li>Cases may go to Victorian Civil and Administrative Tribunal for review.</li> </ul>
<b>New Zealand Teachers Council</b>	<ul style="list-style-type: none"> <li>Statutory body</li> <li>With full regulatory and leadership functions</li> </ul>	11	<ul style="list-style-type: none"> <li>4 elected teachers and principals</li> <li>4 (including the Chairman) appointed by the Minister of Education</li> <li>3 from New Zealand Educational Institute (NZEI),</li> </ul>	

Name	Background / Function	Size	Composition	Investigating / Discipline Committee / Panel
			Post Primary Teachers Association (PPTA) and the New Zealand School Trustees Association (NZSTA).	
<b>California Commission on Teachers Credentialing</b>	<ul style="list-style-type: none"> <li>• An agency in the Executive Branch of California State Government</li> <li>• Created in 1970 by the Ryan Act</li> </ul>	19	<ul style="list-style-type: none"> <li>• All appointed by government</li> <li>• Only 6 are teachers.</li> </ul>	<ul style="list-style-type: none"> <li>• Its Committee of Credential (consisting of 7 members appointed by the Commission through public recruitment representing the public, primary and secondary teachers, administrators and school boards) hears disciplinary cases after initial investigation by Commission staff.</li> </ul>
<b>Council on Professional Conduct in Education</b>	<ul style="list-style-type: none"> <li>• Non-statutory, advisory body</li> <li>• Advises the Government on the promotion of professional conduct in education</li> </ul>	28	<ul style="list-style-type: none"> <li>• 14 elected teachers</li> <li>• 11 from educational organisations</li> <li>• 2 lay members</li> <li>• 1 from Education Bureau (EDB).</li> <li>• The Chairman is elected by the members.</li> </ul>	<ul style="list-style-type: none"> <li>• Except the lay members and EDB representative, all CPC members sit by rotation on committees investigating and hearing misconduct cases and making recommendations to the Permanent Secretary for Education (PS(Ed)).</li> </ul>
<b>Committee on Professional Development of Teachers and Principals</b>	<ul style="list-style-type: none"> <li>• Non-statutory advisory body</li> <li>• Advises the Government on the professional development of the teaching profession</li> </ul>	18	<ul style="list-style-type: none"> <li>• All appointed by EDB</li> <li>• 12 front-line educators</li> <li>• 3 lay members</li> <li>• 1 parent representative</li> <li>• 1 UGC representative</li> <li>• 1 EDB representative</li> </ul>	

Name	Background / Function	Size	Composition	Investigating / Discipline Committee / Panel
<b>Regulatory Regimes of Other Professions</b>				
Name	Background / Function	Size	Composition	Investigating / Discipline Committee / Panel
<b>Law Society of Hong Kong</b>	<ul style="list-style-type: none"> <li>• Funded by its members.</li> </ul>	20	<ul style="list-style-type: none"> <li>• 20 elected solicitors</li> </ul>	<ul style="list-style-type: none"> <li>• The Chief Justice appoints not more than 120 solicitors of at least 10 years' standing, not more than 60 laymen and not more than 10 foreign lawyers to a Solicitors Disciplinary Tribunal Panel.</li> <li>• No Council member can be appointed to the Panel.</li> <li>• The Tribunal comprises 2 solicitors and 1 lay member (plus a foreign lawyer, if necessary) and hears cases prosecuted by the Law Society.</li> <li>• Appeals from the Tribunal will go to the Court of Appeal.</li> </ul>
<b>Solicitors Regulatory Authority</b>	<ul style="list-style-type: none"> <li>• Independent regulatory body of the Law Society of England and Wales.</li> <li>• Funded by its members.</li> </ul>	15	<ul style="list-style-type: none"> <li>• 7 solicitors</li> <li>• 8 lay members</li> </ul>	<ul style="list-style-type: none"> <li>• It sets standards for entry and practice, registers members and students, investigates and prosecutes disciplinary cases before Solicitors Disciplinary Tribunal which comprises 2 solicitors and 1 lay member all appointed by the Master of Rolls (a senior judge).</li> </ul>

Name	Background / Function	Size	Composition	Investigating / Discipline Committee / Panel
<b>Hong Kong Medical Council</b>	<ul style="list-style-type: none"> <li>Statutory, governed by the Medical Registration Ordinance, Cap. 161</li> </ul>	28	<ul style="list-style-type: none"> <li>7 doctors are elected by Hong Kong Medical Association</li> <li>7 are directly elected doctors</li> <li>10 doctors and 4 laymen appointed by Government</li> </ul>	<ul style="list-style-type: none"> <li>The Council hears disciplinary cases with a quorum of 5 of whom at least 1 must be a layman. The quorum of 5 can consist of 3 Council members and 2 assessors (who are doctors outside the Council).</li> </ul>
<b>Hong Kong Institute of Certified Public Accountants (HKICPA)</b>	<ul style="list-style-type: none"> <li>Funded by its members.</li> </ul>	23	<ul style="list-style-type: none"> <li>14 elected accountants</li> <li>1 immediate past president</li> <li>2 government representatives</li> <li>2 co-opted members</li> <li>4 government appointed laymen</li> </ul>	<ul style="list-style-type: none"> <li>A disciplinary committee consists of 5 members of whom 3 are laymen from a panel appointed by the Government and 2 are professional accountants from a panel appointed by the Council.</li> <li>It hears disciplinary cases.</li> </ul>
<b>Financial Reporting Council (FRC)</b>	<ul style="list-style-type: none"> <li>Statutory body</li> <li>Funded by the HKICPA and 3 other regulators.</li> </ul>	11	<ul style="list-style-type: none"> <li>All appointed by the Chief Executive</li> <li>The majority of them are laymen.</li> </ul>	<ul style="list-style-type: none"> <li>The FRC is set up to investigate auditing or reporting irregularities relating to listed companies and refer cases to HKICPA's Disciplinary Committee.</li> </ul>
<b>Social Workers Registration Board</b>	<ul style="list-style-type: none"> <li>Statutory body</li> <li>Set up in 1998</li> </ul>	15	<ul style="list-style-type: none"> <li>8 elected registered social workers</li> <li>7 appointed by the Government.</li> </ul>	<ul style="list-style-type: none"> <li>Its Disciplinary Committee consisting of 3 social workers and 2 lay members hears disciplinary cases and recommends to the Board for decision.</li> <li>Appeals from the Board go straight to Court of Appeal.</li> </ul>

Name	Background / Function	Size	Composition	Investigating / Discipline Committee / Panel
<b>Estate Agents Authority (EAA)</b>	<ul style="list-style-type: none"> <li>• Statutory body</li> <li>• Set up in 1997</li> <li>• Regulates estate agents, promotes competence and integrity, provides training and sets standards of conduct and promotes status of estate agents</li> </ul>	20	<ul style="list-style-type: none"> <li>• All appointed by the Chief Executive.</li> <li>• 1/4 of the members are estate agents</li> <li>• 1/4 are lay members with knowledge of the profession</li> <li>• 1/2 are persons who do not fall within the first two classes.</li> <li>• The Chairman and Vice-Chairman are lay members.</li> </ul>	<ul style="list-style-type: none"> <li>• The EAA and its Disciplinary Committee may exercise disciplinary powers after investigation by its staff and hearing the parties. Appeals will go to its Appeal Tribunals of at least 3 members.</li> <li>• The members of Tribunals are drawn from a panel of 12 non-EAA members appointed by the Secretary for Housing and Transport.</li> </ul>

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<sup>Note</sup> For the full text of this table, please refer to Annex 5 of the report.

# **REPORT FROM THE WORKING GROUP ON PROMOTING AND UPHOLDING TEACHERS' PROFESSIONAL CONDUCT**

## **Introduction**

1. The Working Group on Promoting and Upholding Teachers' Professional Conduct (WGTPC) was set up by the Education Commission (EC) at its meeting on 4<sup>th</sup> February, 2013.
2. The EC resolved to set up the WGTPC after the EC Chairman and the Permanent Secretary of Education (PS(Ed)) having received a letter from certain members of the Council on Professional Conduct in Education (CPC) in April, 2012 reflecting on their grave concerns regarding the operation of the CPC. One concern was that some CPC members against the advice from the Education Bureau (EDB) had made use of the CPC as a platform to press the Government to set up a General Teaching Council (GTC) and hence the operation of the CPC had been adversely affected.

## **Membership of WGTPC**

3. A list of the membership of the WGTPC appears in Annex 1.

## **Terms of Reference**

4. The terms of reference of the WGTPC appear in Annex 2.

## **Work of WGTPC**

5. The WGTPC has held 5 internal meetings, 1 consultative meeting and subsequent inquiries with the EDB officials understanding the current framework and mechanism for promoting and upholding teachers' professional conduct and 4 consultative meetings with the CPC members hearing their views before preparing the present report. The WGTPC has also held 5 more consultative meetings with CPC members and other stakeholders seeking their feedbacks on the draft recommendations before finalising the present report. The details of these meetings are set out in Annexes 3 and 3A.
6. The views collated and issues identified and feedbacks received from the consultative meetings are set out in Annexes 4 and 4A.
7. The WGTPC has received a letter dated 20<sup>th</sup> June, 2013 from Miss Alice Tai Yuen Ying, Chairperson of the Ad Hoc Committee on Complaints Handling in Schools (Ad Hoc Committee) sending in the views on the CPC her Committee has collected in its consultation regarding complaints handling mechanism by schools which is related to the CPC's work. This letter with a summary of the views collated is also included in Annex 4.
8. The key issues identified by the WGTPC and its recommendations and conclusions are set out in paragraphs 47 to 96 below.

## **Review of Regulatory Regimes of Teachers and Other Professions in Major Jurisdictions**

9. The WGTTC has reviewed the regulatory regimes of teachers and other professions in Hong Kong and other major jurisdictions for reference and bench-marking purposes. A summary of this review is set out in Annex 5. Some general observations from the survey appear in paragraphs 27 to 46 below.

## **Current Framework and Mechanism for Promoting and Upholding Teachers' Professional Conduct**

### *Statutory Framework and Mechanism*

10. The Education Ordinance (EO) forms the statutory framework for promoting and upholding teachers' professional conduct as the powers of registration and de-registration vested in the PS(Ed) derived from the EO. Persons who are not considered as "fit and proper" will be refused or cancelled teacher registration.

### *School-based approach*

11. The mechanism on handling the registration status of teachers having committed offence or misconduct is set out in the diagram in Annex 6. It can be appreciated from Annex 6 that a misconduct complaint not related to offences received by the EDB will be referred the relevant school for school based investigation with the consent of the complainant. A non-offence misconduct complaint may be lodged with the CPC by a complainant. The EDB will handle offence related complaints directly. In short, a misconduct complaint may go to the EDB, the relevant school or the CPC. There is no referral of cases between the CPC and the EDB.
12. Schools play an important role in promoting and upholding teachers' professional conduct. Schools, as employers, have to remind serving teachers the conduct and performance expected of them as an education professional and the need to comply with the Code for the Education Profession of Hong Kong (the "Code") on a regular basis. For protection of students, schools also have a very important role in selecting the suitable persons for appointment. Schools can also administer disciplinary actions to staff members who are found to have misconduct proportionate to the nature and gravity of the misconduct. The role of schools in this regard is clearly set out in the School Administration Guide and the Code of Aid.
13. After having received a complaint and making internal investigations, schools will submit a report together with evidence to substantiate the allegations to the Regional Education Offices (REO) concerned of the EDB for examination. If necessary, the REO will seek further clarifications from schools or conduct further investigation before replying the complainants. In general, a substantive reply to the complainants will take about 2 months after their personal particulars are made available. For complaint cases related to violation of the EO, the Education Regulation or the Code of Aid, the REO will conduct investigation direct. Referral to other departments will be made in case of suspected breach of other Ordinances by the teachers concerned.

*Committee on Enhancement of Complaint Management in Schools*

14. The EDB set up an Ad Hoc Committee in September 2011 to make recommendations on how to properly handle school complaints and streamline the related procedures. Based on the recommendations of the Ad Hoc Committee, the EDB launched the Pilot Project on Revised School Complaint Handling Arrangements (Pilot Project) in the 2012/13 school year to help schools develop a new mechanism or refine their existing mechanisms for establishing a fair, just and open system for managing complaints. The Pilot Project has entered into its second phase in September 2013 when the Ad Hoc Committee renamed the Pilot Project as Pilot Project on Enhancement of Complaint Management in Schools and itself as the Committee on Enhancement of Complaint Management in Schools. The work-flow of the Enhanced Complaint Management in School and Appeal Procedure (Enhanced Procedure) is shown in Annex 7. For the schools which have participated in the Pilot Project, the school-based approach dealing with misconduct complaint mentioned in paragraphs 11 to 13 above will be enhanced by the Enhanced Procedure.

*Internal Task Force (ITF)*

15. In execution of the power under the EO, the PS(Ed) may set up committees to offer advice on a need basis. An ITF composed of EDB directorate officers has been formed to review the teacher registration status of those teachers who are involved in offences or misconduct cases and make recommendations to the PS(Ed).
16. To uphold teachers' professional conduct, the ITF will keep track of all the teacher offence cases as collected from different sources, including newspapers, law enforcement departments, and schools. But it is only upon conclusion of the court cases or completion of investigation of the misconduct cases in schools that the ITF will review the registration status of those teachers concerned. A case-by-case approach is adopted by the EDB taking into consideration the court verdict, records of proceedings, reports from schools, and the nature and gravity of each case. For a teacher who is convicted of serious offence or has committed serious misconduct, the EDB will cancel his/her teacher registration or refuse his/her application for teacher registration.
17. Upon cancellation or refusal of teacher registration, the person will not be allowed to serve as a teacher in schools, including tutorial schools. As for less serious offence and misconduct cases, the EDB will issue warning letters to the teachers concerned. The EDB maintains that all along, the offence cases and misconduct cases have been handled in a very prudent, lawful, reasonable and just manner and a stringent line has been adopted by it.
18. In calendar year 2012, the EDB handled about 50 cases of offence/misconduct cases of which about one quarter are non-offence misconduct cases.

*Enhanced Measures relating to Sexual Conviction Records*

19. In connection with the concern about teacher misconduct, a series of enhancement measures have been implemented by the EDB since 2010. The EDB has issued circulars



to advise schools to be more prudent in the selection of teachers and adopt the Sexual Conviction Records Check (SCRC) scheme implemented by the Hong Kong Police Force in December 2011 in their appointment procedures. The SCRC scheme enables employers of persons undertaking child-related work and work related to mentally incapacitated persons to check whether their prospective employees have any sexual offence conviction records in order to help reduce the risk of sexual abuse to children. Teachers are also required to report to their schools employers if criminal proceedings are instituted against them and schools have to report to the EDB serious offences or acts of misconduct allegedly committed by teachers when such cases come to their notice.

#### *EDB as gatekeeper*

20. The EDB maintains the view that there is a need that it shall continue to play a gate-keeping role in teacher registration and de-registration for better protection of the students. To further safeguard the well-being of students, the EDB has been very stringent in vetting of all applications for teacher registration and monitoring of the registration status of teachers, as well as releasing teacher registration information to prospective employers with the consent of the teachers, since the EDB's implementation of the enhanced measures in 2010.

#### *Consultation on handling misconduct cases*

21. To enhance transparency of the mechanism, the EDB has issued articles on its homepage to explain the existing mechanism. More than 80 sessions of territory-wide focus group discussions with frontline teachers and principals have been organised since 2011 to tap their views on the mechanism and criteria for handling the controversial cases. Besides, a high-level focus group with members from the parents, other professional trades and the education sector has been formed to give advice to the EDB on similar aspects. To uphold a high standard of the teaching profession, teachers and principals and the high-level focus group consulted all consider that a stringent line should be adopted, in particular for sex-related cases. A clear majority of them agree that the EDB should make case-by-case judgment in handling the registration status of teachers who have committed serious offence and misconduct cases, and some would appreciate greater transparency in the criteria for cancelling registration of teachers.

#### *Consultation on regulatory regime*

22. Besides, the EDB has been tapping the views of school sponsoring bodies, teachers, principals and parents on the current mechanism on upholding teachers' professional conduct, teacher registration and promoting teachers' continuing professional development, through various channels such as school visits and daily contact. Both the EC and the CPC have been informed of the preliminary findings in 2012. According to the EDB, in short, an overwhelming majority of the stakeholders consider the present mechanism fine and do not see the need for any drastic change. The predominant view is for the EDB to keep the functions of teacher registration and deregistration, and they object to fee collection for and annual renewal of teacher registration.

#### *CPC as an Advisory Body of the EDB*

23. Upon the recommendation of the EC Report No. 5 (ECR5), the Government established the CPC in 1994 as an advisory body to advise the Government on measures to promote professional conduct in education. The terms of reference (ToRs) of the CPC are as follows:
- i. To advise the Government on measures to promote professional conduct in education;
  - ii. To draft operational criteria defining the conduct expected of an educator and to gain widespread acceptance of these criteria among all sectors of the education community through consultation; and
  - iii. To advise the PS(Ed) on cases of disputes or alleged professional misconduct involving educators.
24. The CPC comprises 28 members from three categories, namely, organization-nominated category (11 members elected by education organisations), teachers-nominated category (14 elected by teachers) and 3 nominations by the PS(Ed) including 1 EDB representative and 2 lay members from other professions. The details of its composition are set out in Annex 5 (paragraph 32).
25. The CPC in execution of its ToRs has done the following work:
- i. The CPC's advice on promoting teachers' professional conduct given to the PS(Ed) is to establish a GTC. It has published 29 newsletters, except in 2 issues, there have been articles in each issue promoting GTC. It has also held seminars and surveys to promote its work including the advocacy for GTC. The Concern Group for Teachers' Sexual Misconduct established under the CPC has advised the PS(Ed) to take a stringent approach and cancel the registration of all teachers convicted of sex-related offences.
  - ii. Since the CPC's establishment, the Code which was issued by the then Education Department in 1990 has been adopted as the CPC's work basis. Despite the requirement in the ToRs, no operational criteria defining the conduct expected of an educator have been drafted by the CPC. In 2009, the PS(Ed) requested the CPC to review the Code and again requested it to draft operational criteria for the Code. A set of draft practical guidelines to accompany the Code was submitted to the PS(Ed) in 2013 before the CPC had time to consider or approve it.
  - iii. The CPC only handles professional misconduct complaints lodged by complainants to the CPC direct. The CPC has drawn up its Case Handling Procedures as set out in Annex 8. As at 30<sup>th</sup> April, 2014, 487 complaint cases have been received by the CPC since its establishment, which amount to some 40 plus cases on average in every 2-year term of the CPC or 20 cases a year. As at 30<sup>th</sup> April, 2014, during the term beginning on 1<sup>st</sup> May, 2012, 33 old cases had been brought down from the previous terms, 103 new cases received, 70 cases disposed of and 66 pending cases carried forward to the next term. For the 66 pending cases, 11 of them are aged from over 3 to over 10 years. Of the 487 cases handled, only 30 cases have been found substantiated against the accused. A summary of the numbers of cases handled during the 10 terms of the CPC can be found in Annex 9.

26. The CPC is an advisory committee of the EDB for promoting professional conduct in education. As for the complaint cases handled by the CPC, it is to make recommendations on the disciplinary action to be taken against teachers found to have professional misconduct for consideration of the PS(Ed) as the regulatory power for handling teacher misconduct rests with the PS(Ed). The PS(Ed) may accept or disagree with the views of the CPC, taking into consideration the deliberation of the CPC and making reference to the disciplinary action for similar cases handled by the EDB.

### **Some General Observations**

#### *Restricted Remit*

27. Teacher regulatory regime comprises registering teachers, setting education and training standards, setting induction and professional development standards, setting and maintaining standards of professional conduct and handling disciplinary cases. The survey summarised in Annex 5 may cover all aspects of teacher and other professions' regulatory regimes. As the remit of the WGTPC is confined to the review of the current framework and mechanism on promoting and upholding of teachers' professional conduct, the WGTPC will confine its analysis on whether there is a need for change of the regulatory regime so far as professional conduct of teachers is concerned.

#### *General Teaching Council (GTC)*

28. Although GTC is not within the ToRs of the CPC, a lot of meeting time, newsletter spaces and activities of the CPC in the past 2 decades have been spent or focused on this issue.
29. There is a suggestion from some CPC members that professional conduct of the teachers cannot be effectively promoted and maintained without a GTC, a full-fledged teaching professional body, set up by statute with a great majority or full control by teachers. The survey summarised in Annex 5 set out what GTC represents, the history of the GTC debate in Hong Kong and how similar teacher regulators and other professional regulatory bodies in Hong Kong and other major jurisdictions are constituted, empowered and performing.

#### *From Self-Regulation to Public Scrutiny: Lessons from teachers overseas and other professions*

30. The regulatory regimes of teachers surveyed have a diversity of models. They range from an absolute or a great majority public control like those in the USA, Britain, Queensland and New Zealand, to a balanced control between teachers and the public like those in the British Columbia, Victoria and post-2012 Scotland, to a great majority teacher control like those in pre-2012 Scotland and Ontario.
31. However, the clear international trend is the shift from teacher control towards public control. Ontario is the only major jurisdiction surveyed that has retained more than a simple majority control by teachers of its teacher regulator. Its council has 23 elected teachers and 14 lay members appointed by government.
32. The international trend of migration from self-regulation to public scrutiny and government regulation is also apparent in both the teachers and other professions.

33. For the teaching profession, in 2012 the GTC England was abolished and the government has re-gained absolute control of the teaching profession. In the same year, GTC Scotland reduced its 60% teacher majority to a simple majority of 19 elected teachers in a council of 37 members consisting of 18 other stakeholders and lay members.
34. For one of the often cited older professions, solicitors, their professional bodies in Hong Kong and England only investigate and prosecute misconduct cases before a tribunal whose members (comprising 2 independent and experienced solicitors and 1 layman) are all appointed by a judge. In 2007, the English Law Society has hived off its regulatory body into an independent body called Solicitors Regulatory Authority comprising a simple majority of lay members and a minority of solicitors.
35. The accountants in Hong Kong have 6 government appointees in its 23-member council of Hong Kong Institute of Certified Public Accountants (HKICPA). Its 5-member disciplinary committee consists of a simple majority of 3 lay members appointed by government. The more important investigation work of misconduct cases relating to listed companies has been hived off to the Financial Reporting Council (FRC), a statutory body whose council consisting of all government appointees with a majority of laymen. The FRC on 10<sup>th</sup> October, 2013 published a global survey done by Deloitte, a Big-4 accounting firm in England, suggesting that Hong Kong shall follow the international standards that all the major regulatory functions of the auditing profession shall be vested in a regulator independent of the accounting profession.
36. The Estate Agents Authority has a council of all government appointed members of whom only a quarter are estate agents.

*Current Teacher Regulatory Regime in Hong Kong*

37. The CPC discharges some of the usual functions of a teacher regulator although in an advisory capacity (including drafting and promoting operational criteria for professional conduct code and investigating and hearing some misconduct complaints and advising the PS(Ed) on the cases). By its composition, the teachers have an absolute majority control of the CPC. Of its 28 members, other than 2 lay members, 1 EDB representative, 1 from teacher education bodies and 2 from school sponsoring bodies, 22 other members can be registered teachers or principals through direct or indirect election through different organisations.
38. The other usual teacher regulatory functions in Hong Kong are discharged by the EDB and its advisory committees appointed by the Government including the Committee on Professional Development of Teachers and Principals (COTAP). The regulatory regimes for teachers in Hong Kong (other than the CPC) are in the league of the USA, Britain, Queensland and New Zealand and in line with the international standards of majority public scrutiny and government regulation. The teacher absolute majority control of the CPC is not in line with the international standards and trend.

*Public Scrutiny and Government Regulation, not Self-Regulation, are hallmarks of professionalism*

39. The Directive on Recognition of Professional Qualifications (2005/36/EC) of the European Union defines **professions** as “*those practised on the basis of relevant professional qualifications in a personal, responsible and professionally independent capacity by those providing intellectual and conceptual services in the interest of the client and the public*”.
40. The above definition makes no reference to how a profession is regulated. The definition characterises a profession by the way it is practised. The definition also pinpoints the overriding interest of the client and the public. Self-regulation may be a common feature in many professions in their early stage of development. However, as a profession grows in size and importance, public scrutiny and government regulation increase. Such increase is consistent with the definition and nature of a profession. The increase in public scrutiny and government regulation can be observed also in both younger and long established professions outside the education sector. A self-regulated profession is subject to the public scepticism of promoting self-interests of the profession instead of public interest when their interests conflict, e.g. on the issues of pay, new supply, redundancy and penalty for misconduct. Public scrutiny and government regulation are hallmarks of maturity and importance of a profession.
41. The term “**professional autonomy**” (專業自主) has been repeatedly mentioned in the quest for a GTC. However, unfortunately and misleadingly, sometimes the term is used interchangeably with the term “**self-regulation by profession**” (專業自我規管). Some CPC members expressed the view that a full-fledged teacher regulator shall be controlled exclusively by teachers because of professional autonomy. At present, the 3 government appointed CPC members are excluded from teacher misconduct case investigation or hearing. Although different academics may have different definitions for “professional autonomy”, invariably all definitions focus on the importance of a professional being able to *exercise his or her professional judgement independently in the provision of professional services*. It has nothing to do with how a profession is regulated or governed, whether by themselves or by government.
42. The argument that the establishment of a teacher majority controlled full-fledged regulator is necessary for promotion of professional conduct of teachers is unsustainable as shown by the experiences of similar teacher and other professional regulators in other major jurisdictions and in Hong Kong. Professional conduct of teachers in most major jurisdictions worldwide is promoted not by such teacher-dominated bodies. It is promoted by regulators subject to public control and scrutiny.
43. There are three domains of accountability for a teacher. The first is administrative accountability, which is where the EDB, the IMC and the principal play roles. It relates to a teacher’s performance as an employee. This is about governance. The second is consumer accountability, which is about a teacher being held accountable to parents and students, or future employers and universities. The third is professional accountability, which is about a teacher being held accountable to and be judged by the professional peers. It is an evolving notion because of the changing political climates globally towards public scrutiny.
44. If the present regulatory framework and mechanism remain unchanged when teachers’ registration stays with the EDB, the COTAP takes care of teachers’ professional development and the tertiary institutions are autonomous with their curriculum of teacher

education, then only professional conduct remains a domain which is left with a hypothetical GTC in Hong Kong, and is indeed what the CPC is doing.

#### *Public Scrutiny and Participation in Disciplinary Process*

45. The survey in Annex 5 also shows that members of regulatory councils of professions do not always sit on investigation or disciplinary committees. It is common for senior members of a profession independent of its regulatory council and the public to sit on these committees to avoid conflict of interest or perceived bias. The participation of lay members at disciplinary committees is now the rule rather than exception. Examples of exclusively non-governing council members sitting on disciplinary committees can be found in the cases of the Scottish teachers and solicitors in Hong Kong and England and Wales in paragraphs 12, 38 and 40 of Annex 5.

#### *Misconduct Investigation and Hearing Process*

46. Further, when the misconduct investigation and hearing procedure of the CPC are compared with comparable processes in other jurisdictions and of other professional bodies, they are on the higher end of complexity with 6 stages involving 5 panels and 2 levels of appeal before a recommendation is made to the PS(Ed). After the PS(Ed)'s review and decision, there are still an appeal mechanism and a judicial review opportunity.

#### **Issues and Recommendations**

47. The WGTPC will set out below the key issues it has identified and its recommendations to resolve the issues.

**Issue 1:** *Is there a need to change the current Government controlled framework and mechanism to a teacher majority or absolute controlled framework and mechanism?*

48. The proponents for GTC are in fact proposing to change the present Government controlled teacher regulatory regime to a teacher absolute or majority controlled regulatory regime.
49. The survey report commissioned by the CPC in 2002 showed a popular support from the teachers for a GTC. Another similar survey done in 2009 by Hong Kong Professional Teachers' Union showed a similar result. Unfortunately the survey questionnaires are fundamentally flawed in their designs and the results are of doubtful value. The 2009 questionnaire at the beginning paragraph clearly stated that the survey was for the purpose of fighting for greater professional autonomy. Many leading questions were set in the questionnaires. Both questionnaires had not defined GTC or explained its practical implications, e.g. possible payment of membership and seminar fees and annual renewal of teacher's registration. They also did not explain that most similar bodies overseas do not enjoy a teacher majority or absolute control as the authors of the questionnaires had impliedly advocated. As illustrated above, a teacher regulator can take many forms. The kind of absolute teacher controlled GTC advocated by certain vocal CPC members is not found in other major jurisdictions except Ontario. Further, the surveys had not taken into account of the views and interests of other stakeholders and the public. Popular demand for more power by the profession alone cannot be a valid reason for change if it is not premised on rational grounds like fundamental defects in the present regulatory regime.

50. Paragraphs 3 to 6 of Annex 5 summarised the history of the public discussion on the set up of a GTC in Hong Kong. The EC decided to put a hold on the set-up of a GTC after a consultation had found that there was a disagreement as to its roles, responsibilities and composition and functions with a promise for further consultation.
51. The consultations of the education sector and its stakeholders done by the EDB in recent years as mentioned in paragraphs 21 and 22 above have shown that the consensus is in support of the current government controlled regulatory framework and mechanism.

**Recommendation 1:**

52. On the government controlled side of the current framework and mechanism on promoting and upholding teachers' professional conduct, subject to some suggestions for more transparency in the EDB's disciplinary procedure and practice and precedents and better co-ordination of disciplinary functions of different bodies to be discussed in detail in paragraphs 53 to 56, according to the results of the extensive consultation the EDB has done in recent years, it is working well with the support of different stakeholders. Further, it is also in line with international standards of government control and public scrutiny. The experience of the teacher majority controlled CPC has failed to show that a teacher majority controlled regulatory regime could be a better model. Therefore, the WGTPC sees no need or justification for the fundamental change departing from international standards as proposed by the GTC proponents or to delegate more authority relating to professional conduct of teachers to the CPC or other teacher majority controlled bodies.

**Issue 2:** *The ITF comprises only EDB officials without involvement and field knowledge of frontline teachers. The ITF's work is not transparent and it is not representative of the profession.*

53. As shown in Annex 6, when a misconduct (non-offence) case comes before the EDB, it will pass the case to the relevant school to go through a school based investigation before a report is submitted to the EDB for further investigation. In the Enhanced Complaint Management in School and Appeal Procedure as shown in Annex 7, the school is responsible for appointing appropriate personnel to investigate the complaint. It is reasonable to expect that the school will appoint some senior teachers to take charge of the investigation and report to the EDB concerning the misconduct complaint. The WGTPC has been assured by the EDB that the ITF comprises senior professional officials who have substantial frontline teaching experience. A teacher aggrieved by the decision of the PS(Ed) may within 21 days after the service of the notice of decision, appeal to the Appeal Boards Panel which comprises members appointed by the Chief Executive under section 59 of the EO. When an Appeal Board is formed under section 62 (1B) of the EO to hear or determine any appeal concerning registration or cancellation of registration of a teacher, it will consist of 5 members from the Appeal Boards Panel and at least 3 of them must be registered teachers.

**Recommendation 2**

54. The WGTPC is satisfied that under the present mechanism and the Enhanced Complaint Management in School and Appeal Procedure, the ITF has the benefit of input by frontline teachers and has sufficient understanding of teaching environment to enable it to make proper recommendations to the PS(Ed). The Appeal Board considering the decisions of

the PS(Ed) also has the benefit of experienced teachers. There is some merit in the suggestion that investigation work will benefit from the input of teachers. There is little or no merit in the suggestion that the investigation shall be transparent or representative. Confidentiality instead of transparency is of paramount importance in investigation work. Further, it is also a fundamental principle that a regulator's work shall be apolitical instead of representative. Generally, law enforcement officials are not appointed by election in most democracies.

55. Therefore, it is not recommended to involve outside teachers in the misconduct complaint investigation work of the ITF.
56. However, it is suggested that the EDB shall consider to provide some principles on handling misconduct cases and decided cases illustrating how these principles are applied so that the teaching profession can be properly guided. This measure of transparency shall not hamper investigation of individual cases so long as identity of the parties involved are kept strictly confidential and they are only made available after conclusion of the cases. These principles and decided cases can be provided as supplement to the Code, its operational criteria and practical guidelines.
57. It is also recommended that the PS(Ed) and the CPC shall explore the feasibility of asking the CPC through a sub-committee to play a role as an expert adviser to the parties to a misconduct case giving the parties on a voluntary basis their professional advice as what the professional conduct standards should be in the given circumstances of a particular case.

**Issue 3:** *The ITF's work on misconduct cases overlaps with the CPC's work on misconduct cases and the public is confused as to which body the public shall lodge their complaints.*

58. It is true that the work of the ITF on non-offence misconduct cases overlaps with the CPC's work on misconduct cases. Both bodies have received similar number of cases, about 50 cases (with one quarter being non-offence misconduct cases) for the ITF for the calendar year 2012 (see paragraph 18 above) and 52 new cases for the CPC for the period from 1<sup>st</sup> April, 2012 to 30th April, 2013 (see paragraph 25 above). They have their differences in their respective procedures and personnel involved. The CPC can be a less formal option as their cases can be resolved without reference to the PS(Ed) or any EDB officials. The CPC has attracted more non-offence misconduct cases while the ITF has handled mainly offence misconduct cases.

**Recommendation 3:**

59. Because of the CPC's operational problems and the recommended improvements to be discussed in the following paragraphs, it is not recommended to consolidate the work to either body until the CPC is given some years to try out the improved procedures to be suggested in the later paragraphs.
60. At the same time, the Enhanced Complaint Management in Schools and Appeal Procedure mentioned in paragraph 14 above (which precedes the ITF investigation) is also being tried out. After a few years, both systems can be reviewed to see if any re-distribution of duties is necessary. The CPC because of its privileged roles in advising both on setting conduct



standards as well as implementation of these standards in misconduct complaints and it comprising representatives of all stakeholders of the education sectors, it will have the potential to become the preferred body of the teaching profession to advise on non-offence misconduct complaints if after the implementation of recommended reforms, it can earn through its improved operation the trust and recognition of all stakeholders that it is a trustworthy body of the teaching profession which handles misconduct complaints against its members in a fair and efficient manner.

61. It is recommended that the EDB shall prepare and publish a combined guide to a prospective complainant advising the options available, the different procedures under each option including the usual time lines, the personnel involved and their procedural and other differences.

**Issue 4:** *The proper work of the CPC provided in its ToRs has been greatly hampered by the quest for GTC, which is outside its ToRs, by its teacher majority.*

62. On the teachers controlled side of the current framework and mechanism on promoting and upholding teachers' professional conduct, that is the CPC, there is much room for improvement. The operational experience in the past two decades of the CPC since its establishment under a teacher majority control has been far from satisfactory.
63. The persistence of a majority of its members to pursue the establishment of a GTC as the mandate of the CPC despite repeated reminders from the EDB that it is not within its ToRs has wasted a lot of time and energy of its members and secretariat staff. This has led to those matters within its proper remit have not been given due time and attention causing undue delay or lack of progress in these matters. It has also led to tense relationship and hostility within the CPC and between the EDB staff and the CPC members in majority control.
64. Paragraph 25 above has set out briefly what the CPC has done or failed to do under each of the 3 tasks it has been entrusted with under its ToRs. For the first two tasks of promoting professional conduct of teachers and drafting operational criteria of the Code, it has not given sufficient time and effort. It has focused more effort on promoting GTC, an ultra vires matter, than promoting professional conduct of teachers through newsletters, seminars and surveys. It has not drafted the operational criteria after 2 decades it has been entrusted with the task. For the third task of advising PS(Ed) on complaint cases, it has entrapped itself in a web of complicated procedure which has prevented itself from discharging its function effectively. The low rate of success for complaints, at less than 7% (30 out of 436 cases) over 20 years, is also an area of grave concern. It is suspected that some complainants may have dropped their cases due to long delay in the process.

**Recommendation 4:**

65. As the CPC is dominated by a teacher absolute majority with its chairman elected by a teacher majority, it has not been perceived as being fair and unbiased in the conduct of the CPC meetings and other matters. To ensure that the interests of the teachers and other stakeholders and the public are fairly represented and in line with international standard and practice as discussed in detail in paragraphs 30 to 44 above, the CPC is recommended to have a balanced composition comprising 14 directly or indirectly elected registered teachers (including principals) and 14 members representing other stakeholders and the

public including 1 member elected from teacher education institutions, 3 members elected from school sponsoring bodies, 3 members elected from school councils and associations of school principals, 3 parent members nominated by Committee on Home-School Co-operation, 3 lay members appointed by EDB and 1 EDB representative.

66. It is also recommended that the chairman will continue to be elected by the members among themselves. The chairman can be a registered teacher, a member from the other education stakeholders or a lay member.
67. It is also recommended that the 14 elected teachers/principals shall include: 3 teachers from aided secondary schools, 3 teachers from aided primary schools, 1 teacher from each of (i) Government secondary schools, (ii) Government primary schools, (iii) directly subsidised and private secondary schools, (iv) directly subsidised and private primary schools (v) special schools and (vi) associations of teachers and 2 from kindergartens.
68. The recommendations mean: reduction of directly elected teachers' seats from 14 to 13, reduction of indirectly elected seats to teachers organisations from 7 to 1, increase of seats to school councils (including principals associations) and sponsoring bodies from 3 in total to 3 to each group, to lay members from 2 to 3 and creation of 3 seats to parents and no change in the seats to teacher education institutions and EDB's representative Parent and lay members in total will only constitute 6 seats or less than a quarter of the future CPC membership. Over three quarters of the membership will still be directly or indirectly elected from the education sector. For easy reference, a comparison table of the present and recommended compositions of the CPC is set out in Annex 10.
69. The WGTPC has noted the objections from the CPC and some teacher organisations to the recommended changes in the composition and other stakeholders' greater participation in the CPC but have not put forward any new reasons which WGTPC has not examined in the early part of this Report. They also opposed to the appointment of other stakeholders to the CPC by the Government. It is worth noting that balanced composition is the current model of the Scottish GTC which the GTC proponents have held in high regard. Appointing members by the Government to advisory committees, of which the CPC is one of them, is the norm. As far as practical, representatives from certain groups of non-teacher stakeholders are recommended to be elected from their own grouping. However, for appointment of lay members and parents, their potential pools amount to millions, it is only practical to rely on the common sense and integrity of the Government and its appointees (in the case of parents) instead of election to identify and appoint the representatives directly or indirectly.

**Issue 5:** *The 2-year term of office of the CPC members is too short and leads to frequent turnover of its members.*

70. All elected members of the CPC are elected every two years for a 2-year term. However, they are eligible for re-election. There are some long serving elected members who have been re-elected for several terms. Therefore, the experience in fact can be carried forward if the members' interest in the work is maintained and they seek re-election. If half of its elected members are to retire each year, an election (which takes several months in the process) will have to be held every year creating additional administrative burden on an annual basis on the secretariat and other bodies which are fielding candidates for election.

### **Recommendation 5:**

71. Therefore, it is not recommended to change the 2-year tenure of CPC members. However, it appears that CPC members are not subject to the usual 6 years' rule for government advisory committees. The WGTPC sees no reason why they shall be exempted as they are also advisory committee members. For elected or appointed members of the GTC Scotland, each member is subject to the maximum term of 8 years in each period of 20 years (see paragraph 9 of Annex 5). It is recommended that the 6 years' rule shall also apply to both appointed members and directly elected members to give opportunity to other teachers and stakeholders.

**Issue 6:** *There are delays in the investigation and hearing of misconduct cases by the CPC causing frustration and disappointment to the CPC members and the CPC members also worry about their personal legal liability in discharge of their duties.*

72. The investigation and hearing procedure regarding misconduct cases of the CPC is probably one of the most elaborated and complex when compared with similar procedures in other major jurisdictions surveyed and reported in Annex 5. In the CPC, a case may go through 5 panels at 6 levels, namely, Preliminary Investigation Panel, Case Filing Panel, Inquiry Panel, Vetting Panel and Judgement Panel. The Vetting Panel is an appeal panel which may intervene at 2 levels of appeal. This procedure was introduced since the end of its 4<sup>th</sup> term and has caused long delay in the conclusion of cases.
73. Despite the elaborated procedure, according to its ToRs, it is only to advise the PS(Ed) and does not have any decision making role. Some members attribute the delay to the CPC's lack of power to compel the attendance of parties and its lack of final power of sanction. It is noted that the ITF or the EDB also does not have power to compel the attendance of parties for investigation. The ITF, like the CPC, also plays an advisory role and does not have the final power of sanction. The difficulty of fixing a meeting between the CPC members investigating or hearing a case is also cited as the cause for the delay.
74. The WGTPC thinks that the crux of the issue is the complexity of the CPC's elaborated procedure and the leniency of its members in tolerating the delaying tactics of the parties. The CPC's elaborated procedure is too grand for the advisory role it plays in the disciplinary process. After the review of the CPC recommendation by the PS(Ed) and PS(Ed)'s decision, the teacher who is not satisfied with the decision can still appeal to an Appeal Board which comprises independent members or apply to court for judicial review.

### **Recommendation 6:**

75. It is recommended to simplify the misconduct case procedure of the CPC to just 2 stages namely, an investigation committee and a hearing committee. The submission of report after hearing by the hearing committee to the PS(Ed) instead of publication of its decision to the parties is recommended. This can avoid the problem of legal proceedings against the CPC or its members hearing the misconduct cases. There are sufficient safeguards of the interest of any teacher dissatisfied with the decision of the CPC or the PS(Ed) as there are still a chance to file an appeal to the Appeal Boards Panel after the PS(Ed)'s decision and an opportunity to appeal to court.

76. It is also recommended that the CPC shall take a stringent attitude towards delaying tactics of the parties. If the parties are given a reasonable notice, an investigation or a hearing meeting shall be fixed and take place regardless the parties' unwillingness to appear. The possible adverse recommendation being made against an absent party will be a force to drive an unwilling party to attend the meeting.
77. It is also recommended that, for the investigation stage, the investigation panel shall have an option of asking for written submissions only in lieu of oral submissions for cases in respect of which they are of view that oral evidence is unnecessary.
78. After the adoption of the simplified procedure recommended, CPC will have a procedure comparable to that in GTC Scotland and more elaborated when compared to that applies to teachers in Ontario or US or solicitors in England or Hong Kong.

**Issue 7:** *There is a perception that teachers presiding over investigation and hearing of disciplinary cases have a tendency of bias in favour of teachers.*

79. This perception is inherent in the fact that only teacher members of the CPC can be involved in misconduct investigation and hearing work of the CPC and the majority of the CPC members are directly or indirectly elected by teachers. An elected representative is perceived to represent the interests of his or her voters. A success rate of less than 7 % over the past 2 decades for complainants does not help remove the suspicion of the presiding CPC members being biased.

**Recommendation 7:**

80. It is recommended that a separate panel of members hearing misconduct cases comprising both senior teachers and lay members outside the CPC shall be appointed by the PS(Ed). Each case shall be heard by 3 members at least 1 of whom shall be a lay member. These members may come from panels established by the PS(Ed) for such purpose. The lay members may comprise professionals of legal background which may help teacher members who may not have legal knowledge. The CPC members will be released of hearing of misconduct cases and can concentrate their effort on investigation and setting standards and promoting professional conduct. This can avoid any perceived or actual bias or conflict of interest and will be in line with similar practice of non-governing council members taking charge of disciplinary proceedings in GTC Scotland and for solicitors in England and Wales and Hong Kong and other professions in other major jurisdictions. (See discussion in paragraph 45 above)

**Issue 8:** *The PS(Ed) does not always follow the recommendations of the CPC on misconduct cases.*

81. Some CPC members complain that the PS(Ed) does not always follow the recommendations of the CPC on misconduct cases. The EDB's explanation is that it adopts a case-by-case approach taking into consideration the court verdict, records of proceedings, reports from schools, and the nature and gravity of each case. The PS(Ed) will not accept CPC's recommendation when it is found to be inconsistent with decisions in similar cases or in breach of established criteria.

**Recommendation 8:**

82. It is recommended that the EDB shall provide some principles on handling misconduct cases and decided cases as supplement to the Code to enhance transparency in the decision of the PS(Ed) in making decision on misconduct cases. This can also avoid misunderstanding when the PS(Ed) does not follow recommendations by the CPC when they are inconsistent with established principles and decided cases.

**Issue 9:** *Teachers do not have keen interest in the work of the CPC as reflected by the low voting rates of teachers during CPC election. The CPC is not transparent as it only publishes notes not minutes in its website.*

83. There are 2 vacant seats on the CPC not filled by the last election. This also reflects the teachers' lack of interest in the work of the CPC. The low voting rate and the unfilled vacancies do reflect adversely on the standing the CPC. The CPC only publishes its resolutions and not its minutes in full.

**Recommendation 9:**

84. Improved transparency of its work at meetings will certainly help publicise and generate interest in its work. More focus on its core tasks and improvement in its performance and better publicity of its work after adoption of the recommendations made in this report will help command respect and also generate interest in the work of the CPC. It is recommended that subject to keeping confidential the misconduct cases and other matters which by their nature deserve confidentiality, the CPC is encouraged to publish its minutes. However, the final decision whether to publish its minutes in brief or in detail shall rest with the CPC.

**Issue 10:** *The EDB does not write to school principals asking them to release their teachers to attend CPC meetings.*

85. Some CPC members complain that the EDB does not give support to the work of the CPC by writing to school principals asking for release of CPC members to attend CPC meetings.

**Recommendation 10:**

86. The work on the CPC like any other voluntary work to be undertaken by a teacher shall be a matter to be mutually discussed and sensibly agreed between a teacher and its employer subject to other commitments a teacher may have. On the request of asking the EDB to write to schools asking for release of CPC members to attend CPC meetings, it is recommended that the EDB should abstain from schools' professional judgement and formulation of views on the subject of releasing teachers to attend CPC meetings.

**Issue 11:** *The CPC does not have independent recurrent funding from Government.*

87. Some CPC members complain that the CPC does not have independent recurrent funding for its activities. The EDB pays for the expenses of CPC activities according to its yearly plan and refuses to provide funds and other resources to support activities like promotion of GTC which are outside the ToRs of the CPC.

**Recommendation 11:**

88. The WGTPC does not see any valid reason why the present funding arrangement needs to be changed in view of the advisory role the CPC plays and the work it does.

**Issue 12:** *There is a long delay in the drafting of operational criteria of the Code and the updating the Code.*

89. As mentioned in paragraph 25 above, the CPC has been tasked by its ToRs in 1994 to draft operational criteria for the Code and asked by the PS(Ed) in 2009 to review the Code. So far, it has only submitted a draft of practical guidelines to the Code in 2013.

**Recommendation: 12**

90. It is recommended that the CPC after implementing the recommendations above shall focus its effort on reviewing the Code, drafting the operational criteria and practical guidelines. It is also recommended that the EDB shall provide secretarial support in the drafting work and provide some principles in making recommendations on misconduct cases and decided cases as supplement to the Code.

**Issue 13:** *Teachers are generally not familiar with the Code.*

91. Some CPC members are of the view that the Code is not widely known among teachers and there are various suggestions for wider publicity.

**Recommendation 13:**

92. It is clearly within the ToRs of the CPC to advise the PS(Ed) on the promotion of professional conduct of teachers which include wider publicity of the Code. It is recommended that with the implementation of the recommendations above, the CPC shall focus its effort on discussing among itself and coming up with recommendations in this regard to the PS(Ed).

**Conclusion**

93. After the review by the WGTPC, it has found that although there is room for fine-tuning on the Government side of the current framework and mechanism which accounts for the bulk of the current regulatory regime, it is working well and supported by its stakeholders and in line with international standards and trend. However, there is room for an overhaul of the operation of the CPC which albeit accounts for a small portion of the current regulatory mechanism for promoting and upholding professional conduct of teachers. There is no need or justification to change the current framework and mechanism to a teacher absolute or majority control regulatory regime like GTC advocated by some CPC members against international standards and trend.
94. The current review was prompted by the grave concern of its members on the operation of the CPC. After the review, the WGTPC is convinced that the CPC is an institution which, if properly reformed and managed, will have a great potential for promoting professional conduct of teachers and other respectable tasks it may be entrusted with in the future.

Unfortunately, at present, both the majority and the minority in the CPC are dissatisfied and frustrated with the present operation of the CPC. The majority of the WGTPC is of the view that maintaining the status quo is not an option as it will only continue the self-destruction of the CPC by its endless arguments on GTC and other procedural issues and alienate itself from the teaching profession. There is a minority view within the WGTPC that the disappointing performance of the CPC is not a matter of public concern, not even with the teaching profession. Given the present political environment, the CPC should not be structurally altered unless extremely necessary.

95. The WGTPC is keenly aware that the CPC was established after a public consultation and the present CPC comprises members by profession-wide election. The recommendation to reduce the teacher majority in the CPC composition may be politicised and criticised as a hostile move to disenfranchise the teachers. However, when the matter is viewed in a proper perspective, the teachers have never been enfranchised in the first place as the CPC from its inception has been an advisory committee to the PS(Ed) and not an independent regulator. On the contrary, all the recommendations are intended to empower the CPC to re-invent itself and move forward, discharge its functions effectively and to gain respect from the education sector and the public and to become a trusted adviser to the PS(Ed) and to create potential and open up opportunities for greater responsibilities in the future.
96. The WGTPC sincerely hopes that the teaching profession and other stakeholders in the education sector and the public can view the recommendations with an open mind and embrace the changes recommended and allow the CPC to move forward to become a highly respected institution in the education sector.

**Working Group  
on Promoting and Upholding Teachers' Professional Conduct**

**Membership**

Chairman

Mr Duffy WONG Chun-nam, JP

Members

Professor CHENG Kai-ming, SBS, JP

Mr CHIU Pit-leung

Mr Stephen HUI Chin-yim

Dr Lawrence LAM Chi-kit, BBS, MH, JP

Ms Shirley Marie Therese LOO, MH, JP

Mrs Rita MANSUKHANI AU Hay-lun, MH

Mr TANG Fei, MH

Mr WONG Hak-lim

Mr Addy WONG Wai-hung, MH



**Working Group  
on Promoting and Upholding Teachers' Professional Conduct**

**Terms of Reference**

- To review the present framework and mechanism for promoting and upholding teachers' professional conduct
- To make recommendations to refine the present framework and mechanism for promoting and upholding teachers' professional conduct

## **List of Activities of the Working Group on Promoting and Upholding Teachers' Professional Conduct**

### WGTPC Meetings

- The WGTPC had held four internal meetings between March and October 2013 to take stock of local and overseas experiences as well as discuss key issues, strategies and framework for improving the present framework and mechanism for promoting and upholding teachers' professional conduct. The WGTPC had conducted another internal meeting in September 2015 to discuss the feedback of stakeholders collected at the consultation meetings listed in Annex 3A.

### Consultation Meetings with CPC Members

- The WGTPC had also conducted four consultation meetings to exchange views with CPC members<sup>1</sup> on the present framework and mechanism for promoting and upholding teachers' professional conduct:

<b>Date</b>	<b>Time</b>	<b>Venue</b>
7 May 2013	3:55pm – 5:15pm	Conference Room 2, Central Government Offices (CGO)
	5:20pm – 6:20pm	Conference Room 6, CGO
	6:25pm – 8:00pm	Conference Room 2, CGO
6 June 2013	4:30pm – 6:35pm	Room 701, Kowloon Government Offices
5 July 2013	4:30pm – 6:50pm	Conference Room 7, CGO
18 July 2013	5:00pm – 6:45pm	Conference Room 5, CGO

<sup>1</sup> Out of a total of 27 CPC members, the WGTPC had met 23 of them in these four consultation meetings.

## Discussion and Endorsement at EC Meetings

- The WGTPC reported the recommendations of the draft Report at the EC meetings on 16 June and 7 October 2014. The Final Report, taking account of the views of stakeholders, was deliberated and endorsed at the EC meeting on 20 October 2015.

**A List of Consultation Meetings Conducted by the  
Working Group on Promoting and Upholding Teachers' Professional  
Conduct on the Recommendations of the Draft Report**

<b>Date</b>	<b>Stakeholders Consulted</b>
22 September 2014	Members of the Council on Professional Conduct in Education (CPC sent the written feedback on 25 March 2015)
23 September 2014	
16 October 2014	
6 July 2015	Parent Representatives of the Committee on Home-School Co-operation
17 July 2015	Representatives from School Councils and Associations, Education Bodies and School Sponsoring Bodies

## **Summary of Views Collated by the Working Group on Promoting and Upholding Teachers' Professional Conduct**

### **Views of Council on Professional Conduct in Education (CPC) Members**

#### *Handling Teachers' Misconduct Complaint Cases*

1. The CPC had backlog cases because the accused sometimes did not turn up for the scheduled Inquiry Panel meetings. The progress of handling complaint cases had been affected. To address this problem, a CPC member suggested a mid-way compromise by setting a time period beyond which the panels could proceed with the inquiries according to CPC's case handling procedures even if the accused was absent.
2. As CPC members were volunteers and had other commitments, there was difficulty in fixing a meeting date among the Panel Members which sometimes led to the delay in processing complaints.
3. As CPC did not have the power to mete out punishment to the alleged, the CPC's judgment and recommendations on handling teachers' misconduct cases did not bind on both the complainant and the alleged. Further, some CPC members were of the view that the Education Bureau (EDB) did not provide concrete explanations for not accepting the CPC's recommendations.
4. Some CPC members expressed concern on the lack of legal protection if the alleged person was not satisfied with the judgment of CPC and pursued legal actions. CPC members would risk themselves in handling complaint cases, in particular when the accused brought his / her lawyer to attend the Vetting Panel meetings during the appeal stage. While the proposal of changing CPC's case handling procedures from hearing to paper review might be practicable, detailed planning and deliberation would be necessary.
5. There was suggestion to review CPC's terms of reference (ToR) in enhancing its role to study teachers' misconduct cases. It would be worthwhile for CPC to develop benchmarks or standards on different levels of punishment on teacher misconduct. But some CPC members opined that the EDB did not provide CPC

with any yardstick on cases that warranted teacher de-registration as the personal information could not be released due to data privacy. The CPC could not get a full picture of these cases from the EDB.

6. Since both the CPC and the EDB had appeal mechanisms for teachers to appeal against decisions taken by the Vetting Panel of CPC and the Permanent Secretary for Education (PS(Ed)) respectively, some CPC members did not object to shelve off the CPC's Vetting Panels and Final Judgment Panel in order to avoid duplication of work.
7. Since both the EDB and the CPC were responsible for handling teachers' misconduct cases, there could be overlapping of work between them. It was not clear which type of teachers' misconduct cases was handled by the EDB and which type by the CPC.
8. On handling complaints, some CPC members attempted to defend the alleged from the perspective of a teacher and there was doubt on the practice of "insiders regulating insiders".

#### *Transparency of the Teacher Registration Mechanism*

9. As the EDB's Internal Task Force (ITF) responsible for reviewing the registration status of teachers involved in offence or misconduct cases was composed of the EDB's officials only, there was suggestion to expand the ITF's composition by including frontline teachers so as to enhance its transparency and representativeness. The suggestion was not supported on the ground of personal data privacy as the teachers' misconduct cases might contain a lot of personal information including psychiatric health reports and mitigation letters.

#### *Updating Code for the Education Profession of Hong Kong (Code)*

10. The drafting work was not accorded with high priority because the CPC had concentrated its efforts on promoting the establishment of a GTC. Without much discussion at the CPC's Council meetings, the draft guidelines were sent to PS(Ed) for consideration.
11. As not every teacher had the Code and many were not aware of the content of the Code, some CPC members had the following suggestions:

- a. To include the contents of the Code in the training programmes conducted by the Teacher Education Institutes;
- b. To examine candidates in teachers' recruitment tests on their knowledge of the Code (i.e. similar to the arrangements of Basic Law Test in Civil Service recruitment);
- c. To arrange briefing sessions on the Code as one of the activities of Teachers' Development Days;
- d. To draw teachers' attention on some major clauses of the Code during their school meetings;
- e. To set up on-line questionnaires with a view to enhancing teachers' knowledge on the Code;
- f. To encourage those teachers who did not have sufficient knowledge of the Code to attend the CPC's talks and briefing sessions; and
- g. To invite members of IMCs to attend CPC's promotion talks.

#### *Terms of Office and Composition*

12. The duration of a term of two years had led to frequent turnover of members. It took time for the new members to get familiar with the ToR, regulations and procedures.
13. CPC had a total of 28 seats. Excluding the representative of EDB and two lay members nominated by the PS(Ed), the remaining 25 seats were elected among teachers and educational organisations which resulted in the dominance of a single teacher union in CPC. A CPC member remarked that as the composition of the Executive Committee of CPC was dominated by the union (among the seven members, five of them were union members), views from non-union members were sometimes neglected.
14. CPC members' views to revamp the composition of CPC were diverse. To uphold impartiality in handling teachers misconduct cases, some did not object to revamp CPC and make the following suggestions:
  - a. To add representatives from other professions, parents or parent-teacher association as lay members;
  - b. To retain some CPC members of previous terms in each new term; and
  - c. To add co-opted members who could come from the former CPC members and / or retired principals and teachers.

15. Another CPC member considered that as the CPC was a professional body, it should not include parents as members. To resolve the legal protection matters, the member suggested hiring lawyers to CPC, instead of increasing the number of lay members.
16. There was the view that any proposal to change the current composition of the CPC would be highly sensitive and had political impact.

*Other Concerns*

17. Some CPC members opined that the processing time on acquiring the Sexual Conviction Record Check's result from the Police and teacher registration record from the EDB was long. They suggested the EDB to share the information on teachers' misconduct cases with the school sector so that schools would not employ these teachers.
18. The CPC did not have recurrent funding from the government to step up its publicity activities.
19. To promote the work of CPC and enhance teachers' awareness of their professional conduct, it was suggested that more promotion talks on teachers' professional conduct be conducted at schools, tertiary institutions and professional seminars, etc. CPC members could share their views by acting as the speakers in talks and / or as the facilitators in discussions.
20. Teachers did not have keen participation in the CPC as reflected by the low rate of voting during the CPC election.
21. The EDB did not provide sufficient support to the CPC. For instance, the EDB did not write to schools requesting principals to release their teachers to attend CPC meetings during office hours. Currently, the CPC members had to attend meetings in the evenings.
22. Some CPC members said that the CPC's meeting room was too crowded. They also remarked that the atmosphere of the CPC's meetings was always contentious which had led to the recurrent discussion of some agenda items without conclusion like the setting up of GTC.



### *General Teaching Council (GTC)*

23. While some CPC members considered that the CPC should not focus its work on the pursuit of GTC which was outside its ToR, some considered that the pursuit of GTC establishment was the historical mission and ultimate goal of the CPC. The latter opined that the CPC was “a toothless tiger” because it was only an advisory body without any power to sanction teachers who had committed an offence or act of misconduct. GTC was a requisite for enhancement of the status of the teaching profession and the CPC would continue to fight for this end. Some members had included the pursuit of GTC in their election manifestos for soliciting the support of teaching force.
24. The EDB did not provide secretariat support for the General Teaching Council Preparatory Sub-committee on the ground that the pursuit of GTC was outside the CPC’s ToR. CPC members had to arrange the meeting logistics which increased their workload.
25. The government should provide reasons on the deferment of setting up a GTC for the education sector and conduct another round of consultation to collect stakeholders’ views.
26. There were views that the CPC should not consider itself as a transitional organization to a GTC. Instead, the CPC should focus on the work related to teachers’ professional conduct. The EDB has been tapping the views of stakeholders and the predominant view was that EDB should retain the power of registration and de-registration of teachers. Most teachers were not sure about the details and functions of the proposed GTC. Even supporters of a GTC found no urgency for its establishment.
27. A CPC member doubted whether the teaching force would be ready to take up the GTC complex functions such as teacher registration, de-registration and continuing professional development. He also expressed concern on the operation of a GTC without government’s financial support.
28. On the suggestion of whether a revised model of GTC with reduced functions was acceptable, some CPC members did not object to setting up a GTC to enhance the morale of the teaching force and promote professional conduct in education without teacher registration and de-registration functions.

29. There was also a suggestion of having a GTC with its membership appointed by the government. The CPC should be retained but formed under the EC as a Sub-committee.

### **Views of School Sponsoring Bodies**

30. Some CPC members had preconceived positions on complaint handling which affected their impartiality in handling complaints and rendered their findings unconvincing.
31. Some CPC members representing teachers' unions handled complaints in questionable ways. It often looked as if they were biased in favour of employees and that was unfair to schools.
32. The lengthy process (which might take more than one year) for the CPC to file a case and handle the complaint, together with the prejudiced attitudes of some members in handling the cases often brought immense and unnecessary pressure to the alleged persons / schools.

### **Views of Teachers' Unions / Organisations and Educational Research Organisations**

33. The education sector already had the CPC, which should be the organisation responsible for handling complaints about teachers, and hence there was no need to set up the Review Board on School Complaints (Review Board). Moreover, as most of the members of the Review Board were not from the education sector, they might not be able to make professional judgments on complaints over educational matters.
34. The work of the CPC and the Review Board should be clearly defined to avoid confusion.
35. Some stakeholders had doubts about the ways and efficiency of the CPC in handling complaints.
36. The CPC should be responsible for handling issues related to the professional conduct of teachers. Its functions did not include handling those matters relating

to internal administration of schools, personnel disputes and employment terms, etc.

37. The CPC was not a statutory body and its power was limited, for instance, it had no power to take disciplinary action against a teacher or terminate his / her registration for professional misconduct.
38. In principle, the CPC should remain impartial in handling all cases. However, some CPC members might have preconceived positions which affected their impartiality in handling complaints and rendered their findings unconvincing.
39. The existing composition and representativeness of the CPC might lead to problems. CPC members were nominated to stand for election by educational organisations and serving teachers from different categories. Among them, some unions had their own representatives elected as members of the CPC of the “teachers’ unions” category. On the other hand, many members nominated by serving teachers also had union background as well. Since members with union background often interpreted and handled questions from the perspective of the unions, their positions would be determined by the roles they play, thus rendering the existing operation of the CPC unsatisfactory.

### **Views of School Councils**

40. The CPC was not a statutory body. Its role and authority in handling school staff complaints should be clarified.
41. Under the new mechanism, the duties and responsibilities of the bodies / organisations responsible for handling staff complaints (such as the CPC, Hong Kong Professional Teachers’ Union and Hong Kong Federation of Education Workers) should be clarified. Their roles and status in handling staff complaints must also be recognised by the stakeholders.

#### Note:

*The Chairman of the former Ad Hoc Committee on Complaints Handling in Schools had written a letter to the WGTPC on 20 June 2013 which summarised the stakeholders’ comments on the CPC (i.e. paragraphs 30-41) collected through consultations conducted on handling staff complaints between January and February 2013.*

## Written Feedback on the Draft Recommendations from the Council on Professional Conduct in Education

“We hope the WGTPC can understand that the Council on Professional Conduct in Education (CPC) is a non-statutory body and is therefore not to be compared to those statutory bodies around the world. We also want to clarify that many of your recommendations have been built on individual CPC members’ views and not through structured enquiries.

### Recommendation 1

*“The current Government controlled framework and mechanism shall be maintained.”*

- Since the CPC is an advisory body but not a regulatory regime, we have reservations about the following statement: *“The experience of the teacher majority controlled CPC has failed to show that a teacher majority controlled regulatory regime could be a better model.”* (paragraph 3.1 of the Executive Summary of the Draft Report)
- The arguments leading to this recommendation are flawed in that the CPC is in no way a *“regulatory regime”* because of the advisory role it takes.

### Recommendation 2

*“The present mechanism regarding misconduct case investigations of the EDB is satisfactory subject to it publishing its internal guidelines and criteria for misconduct cases and decided cases.”*

- We have no comment to the above statement.
- The recommendation in paragraph 3.2c of the Executive Summary is ambiguous in that the kind of possible changes brought to the role of the CPC is not clearly stated. We have concerns as to what this recommendation actually implies. The role of the CPC in handling misconduct cases would be downgraded under this recommendation.
- With reference to the terms of reference of the CPC, we are not to play the role as an adviser to the parties involved in misconduct cases. CPC only gives advice to the Permanent Secretary for Education after conclusion of the cases.

### Recommendation 3

*“The EDB shall prepare and publish a combined guide to a prospective complainant advising the options.”*

- We have no comment to the above recommendation.
- However, we do not agree with the statement in paragraph 3.3a of the Executive Summary *“Because of the CPC’s operational problems and the recommended*

*improvements to be made, it is not recommended to consolidate the overlapping work of the ITF of the EDB and the CPC until the CPC is given some years to try out the improved procedures.”* This statement is unfair to the CPC. As a non-statutory body, the CPC is hindered in processing complaint cases by operational limitations and constraints, not “operational problems”, well known to the CPC Secretariat. Judging from the number of cases received, the CPC has long earned and enjoyed the “trust and recognition of all stakeholders”.

#### Recommendation 4

*“The CPC shall have a balanced composition.”*

- We query what grounds the WGTTC holds in suggesting drastically changing the composition of CPC membership which has been the same since its establishment.
- We strongly oppose the expansion of the number of appointed members as this implies an increase in government control. We would not comment on the details of the number of seats for different membership categories under the proposed CPC composition, nor would we make a counter proposal. This is because we consider it unjustified to make any change in the composition. We insist to maintain the status quo and keep the existing composition.
- The EDB could make use of the quota of two appointed members to involve parents.

#### Recommendation 5

*“The tenure of CPC members shall remain to be 2 years subject to the maximum of 6 years.”*

- The Six-year Rule should only be applicable to appointed members but not elected members.

#### Recommendation 6

*“The misconduct case procedure of the CPC shall be simplified to just 2 stages.”*

- As one of its major tasks of the current term (i.e. 11<sup>th</sup> term), the CPC is conducting a review of the existing Case Handling Procedures and the Case Study Sub-committee has started the review.
- Asking for oral submissions at the investigation stage as mentioned in paragraph 3.6c of the Executive Summary is not an accurate description of our current practice, which is to meet the parties involved only at the inquiry stage.

#### Recommendation 7

*“A separate panel of members outside the CPC council hearing misconduct cases shall be established.”*

- We consider it necessary for CPC members to conduct hearings for misconduct cases in order to maintain credibility and trust from stakeholders.
- We do not agree to have a separate hearing panel. Given that CPC members are elected by educators, we have the responsibility to hear the misconduct cases lodged with the CPC. However, we may explore the possibility of including lay members in the inquiry process.

Recommendation 8

*“The EDB should provide guidelines and criteria in handling teachers’ misconduct cases with a view to supplementing the Code and enhancing the transparency of PS(Ed)’s decision on similar cases.”*

- We have no comment.

Recommendation 9

*“Subject to keeping confidentiality of the misconduct cases, the CPC is encouraged to publish its minutes. However, the final decision on the arrangements shall rest with the CPC.”*

- Our current practice of uploading the resolutions in the minutes to the CPC website is in line with this recommendation.

Recommendations 10 and 11

*“The EDB should not interfere with the employment relationship between teachers and their schools or direct schools to release teachers to attend CPC meetings.”*

*“No change in funding mode for the CPC.”*

- We have no comment.

Recommendations 12 and 13

*“The CPC, shall focus its effort on reviewing the Code, drafting the operational criteria and practical guidelines. The EDB shall provide secretarial support for such work.”*

*“The CPC should focus its effort to discuss and come up with suggestions on wider publicity to promote the Code.”*

- Reviewing and promoting the Code as well as drafting the practical guidelines are the major tasks of the current CPC Term. We will focus our work according to the three stipulated terms of reference as always.”

## **Summary of Feedback on the Draft Recommendations from the Committee on Home-School Co-operation (CHSC)**

### General Comments

- CHSC members agreed with the need to review the present framework and mechanism in view of the changes in education and the expectation of society. Further, CPC had been established for more than 20 years and the review helped enhance its functions to keep abreast of the latest development.
- If the Code for the Education Profession of Hong Kong (Code) could have more explicit explanations and illustrations on teachers' professional conduct, it would help reduce the number of disputes and complaints. Hence, it was important to have a more detailed set of the Code for reference of the teaching profession.

### Issue 1: Simplifying the case handling procedures of the CPC

- CHSC members, in general, supported the proposal of simplifying the case handling procedures of CPC and having two separate stages on investigation and hearing comprising members from two different panels to ensure impartiality.
- While some parents might not fully understand the complicated details of the CPC procedures, they were concerned about how the complaints could be handled in a fair manner. To avoid teachers presiding over hearing of cases and having bias in favour of teachers (自己人查自己人), some members suggested that the 3 members of the proposed CPC hearing panel could comprise legal professionals to help the alleged persons defend their cases, as well as other stakeholders such as school managers.
- A member opined that each school could nominate a teacher representative to form a pool of hearing panel members who would be randomly selected to attend hearing. This would improve fairness in the procedures. However, another member remarked that it might not be realistic to do so. Unlike the jury system, it would be difficult for schools to nominate suitable representatives who were keen on the work and available for conducting the hearing.
- Another member added that as an advisory body, CPC only gave recommendations to the EDB and our demand and expectation on its work should not be too high. Since serious misconduct cases would be handled by EDB and that CPC members had grave concerns about their legal liability in handling complaints, it would be more appropriate for CPC to focus on the mediation of less serious cases and conduct case studies to gauge moral

standards of the teaching profession.

*Issue 2: Enhancing the representation with more stakeholders in the CPC*

- The suggestion of introducing 3 parent representatives to CPC was welcome by the CHSC members as parents were very concerned about teachers' conduct. Also, this would enhance transparency of CPC and enable CPC to have more diversified views from different stakeholders.
- A member pointed out that as with CHSC, most of the advisory bodies of the Government were composed of appointed members. Such an appointment system had all along been an effective way to select suitable candidates to serve as members.
- Regarding the 3 proposed seats for parents, a member pointed out that not all schools had representatives in the existing 18 district-based Federations of Parent-Teacher Associations. Members of these parents' group could hardly and fully represent the interests of all parents. Besides, it would be difficult to work out the criteria for eligible voters. Hence, filling the 3 seats by appointment rather than election should be a more reliable option.
- Currently, for the elected teacher seats, voters from primary and secondary school categories can vote for any candidates from the same school category, regardless of their respective school types (i.e. aided, government or Direct Subsidy Scheme & private). For the sake of fairness, a member opined that voters should only vote for candidates from the same school type under their own category of schools, i.e. voters from aided secondary schools should only vote for candidates from aided secondary but not those from government secondary and private secondary schools.



## **Summary of Feedback on the Draft Recommendations from the Education Sector including School Councils, Association of School Sponsoring Bodies, Principal Associations, Teacher Unions and Education Bodies**

### General Comments

- Apart from enhancing the functions of CPC and improving its operation, it was also important to clarify its roles and responsibilities in relation to various parties in the whole mechanism so that CPC could move forward in the right direction. There was a need to have a holistic picture on the mechanism in handling complaints by EDB, the enhancement of complaint management in schools and case handling procedures of CPC as well as to illustrate the differences of the various channels of handling complaints.
- The Code for the Education Profession of Hong Kong (Code) was widely consulted and well written and it served as a useful reference for the teaching profession. They suggested that more explicit explanations and illustrations on teachers' professional conduct were necessary.

### Issue 1: Simplifying the case handling procedures of CPC

- The majority of representatives supported that there was a need to streamline the case handling procedures of CPC. They did not have strong views on the proposal of simplifying the procedures to just two separate stages on investigation and hearing comprising members from two different panels to ensure impartiality.
- A representative remarked that the existing case handling procedures of CPC was too complicated and time-consuming which discouraged the public from lodging a complaint. Another representative opined that the procedures should not be oversimplified as people might question the reliability of the judgments made by CPC.
- As regards the proposed 3-member hearing panel, some representatives were of the view that it was inappropriate to include a lay member to hear the misconduct cases as they might not be knowledgeable about learning and teaching as well as classroom practices. A representative pointed out that the nature of complaints was not only limited to maladministration, but would be related to educational issues which required the professional judgment from those within the teaching profession.

Issue 2: Enhancing the representation with more stakeholders in CPC

- In general, the representatives did not agree to the proposed balanced composition with half of elected teacher members and half of members appointed by the government.
- Most representatives considered that the increase in appointed members would lower the credibility and professional image of CPC. Some representatives pointed out that teacher ethics were based on the profession's agreed regulations (“行規”) which should be regulated by its own profession rather than by outsiders.
- A number of representatives did not agree with introducing 3 parent seats to CPC since they considered that the participation of parents in school affairs at present was sufficient for them to monitor the teaching profession. Some of them remarked that parents were able to reflect their views in a school through various channels such as the parent-teacher association, parent representatives in the Incorporated Management Committee and classroom observations by parents. Hence, it was not necessary to extend parent participation in the teaching profession by including 3 parent seats in the CPC.
- A representative opined that the operational problems of the CPC were not justified to change its composition dramatically. The increase in the number of appointed members and decrease in elected members would be viewed as a step backwards which was undesirable under the current political atmosphere. The operational problems might be solved by the CPC members themselves. Another representative, on the other hand, acknowledged the need for more public scrutiny to enhance transparency of the operation of the CPC.
- Some representatives suggested that there could be adjustment or improvement in the election of the CPC. Under the existing election mechanism, only those education organizations registered with Hong Kong Teachers' Centre (HKTC) would participate in the CPC election. Some representatives suggested that the participation of education organizations or school sponsoring bodies could be expanded by allowing those outside the HKTC list to join the CPC election. They also agreed that voters should only vote for candidates from the same school type under their own category of schools.

## **Regulatory Regimes of Teachers and Other Professions in Hong Kong and Other Jurisdictions**

### **General Teaching Council (GTC)**

1. Although GTC is not within the terms of reference (ToR) of the Council on Professional Conduct in Education (CPC), a lot of meeting time, newsletter spaces and activities of the CPC in the past 2 decades have been spent or focused on this issue.
2. There is a suggestion by some CPC members that professional conduct of the teachers cannot be effectively promoted and maintained without a GTC, a full-fledged teaching professional body, set up by statute and self-regulated by teachers. We need to find out what GTC represents, the history of the GTC debate in Hong Kong and how similar teacher regulatory bodies and other profession regulatory bodies in Hong Kong and other countries are constituted, empowered and performing.

### **History of the GTC debate in Hong Kong**

3. The Education Commission Report (ECR) No. 5 in 1992 considered but did not recommend the establishment of a GTC. It had recommended instead the establishment of the CPC and the Advisory Committee on Teacher Education and Qualifications (now known as Committee on Professional Development of Teachers and Principals or COTAP).
4. The ECR No. 7 in 1997 recommended the establishment of a GTC and a preparatory committee under the EC was formed to draw up details. In the policy addresses in 1997 and 1998, it was stated that a GTC would be set up in 1999 and a \$20 million start-up fund was set aside.
5. The preparatory committee conducted public consultation on GTC in late 1998 and early 1999. On 26<sup>th</sup> July, 1999 by a press release the Education Commission (EC) noted from the consultation that although there was general support for a GTC, there were diverse views on its roles, responsibilities and composition. In the policy address in October, 1999, it was stated that the set-up of a GTC would proceed at a slower pace. In the October, 2001 policy address, it was announced that the set-up of a GTC was to be delayed due to education reform.
6. In the 2 decades since its inception, the CPC has been advocating the set-up of a GTC despite it has been reminded that it is not within its terms of reference to do so.

## **GTC and similar teacher regulatory bodies**

*GTC Scotland* ([www.gtcs.org.uk](http://www.gtcs.org.uk))

7. The CPC in its newsletter no. 3 published in January, 1997 referred to the GTC of Scotland. It is one of the earliest independent teacher regulators of its kind. GTC Scotland has the following roles:
  - a. register teachers and others working in educational settings;
  - b. establish and review the standards of education and training to school teachers;
  - c. establish and review the standards of conduct and professional competence of a registered teacher;
  - d. handle disciplinary cases; and
  - e. advise the Government on teachers' education, training, career development, fitness to teach and supply of teachers.
8. GTC Scotland is a statutory body set up in 1965 and funded by teachers not from the public purse.
9. Its Council has 37(49) members including 19(30) elected teachers, 11(15) nominated by stakeholders (universities, employer bodies, churches and parents councils) and 7(4) lay members. The figures in brackets were those before its revamp in 2012. It now has a simple majority of teacher members (19/37) instead of the 60% majority in the past. No member may serve more than 8 years in any period of 20 years.
10. Its Council holds 4 meetings each year all in public with its minutes open for public inspection.
11. Its Investigating Panel has a quorum of 3 Council members including 1 lay member and a majority of registered teachers. It reviews papers and does not have any oral hearing. The Investigating Panel may refer a case to the Fitness to Teach Panel.
12. The Fitness to Teach Panel which (has a first instance session and an appeals board) comprises 3 members including a majority of teachers and at least one lay member all recruited from the public. Council members do not sit on this Panel.

*Britain: GTC England* (<https://www.education.gov.uk/help/contactus/nctl>)

13. GTC England was set up in 1998 and abolished on 31 March 2012 as the British government considered it “does little to raise teaching standards or professionalism. Instead it simply acts as a further layer of bureaucracy while taking money away from teachers”: Michael Gove, British Secretary of State for Education. It was replaced by a National College for Teaching and Leadership staffed by civil servants.

*Canada: Ontario College of Teachers (OCT)* (<http://www.oct.ca>)

14. OCT was set up in 1997 by statute to regulate the teaching profession in public interest. It is funded by members' fees.
15. Its Council consists of 37 members of whom 23 are elected teachers and 14 are lay members appointed by government.
16. A complaint will be investigated by the staff and reviewed by an Investigation Committee which will not hear the parties. The complaint may be referred to the Discipline Committee for public hearing. The Discipline Committee consists of 3 members including one lay member and a majority of teachers. The parties are OCT (as prosecutor) and the teacher involved.

*Canada: British Columbia*

*Teachers' Council (TC)* (<http://www.bcteacherregulation.ca/AboutUs/Council.aspx>)

17. TC comprises 16 members, 15 of whom are voting members. Of the 15 voting members, 5 are elected teachers, 3 are appointed by the Minister of Education on the advice of the BC Teachers' Federation (TF), and the remaining 7 are appointed by the Minister from the various education stakeholder groups. One non-voting member is appointed by the Minister.
18. TC receives its mandate from the Teachers Act. It is responsible for setting standards for teachers in areas of teacher education, certification, conduct and competence.

*Commissioner for Teacher Regulation*

(<http://www.bcteacherregulation.ca/AboutUs/Commissioner.aspx>)

19. The Commissioner for Teacher Regulation is an independent statutory decision maker appointed under the Teachers Act by the Lieutenant Governor in Council on the recommendation of the Minister. The Commissioner oversees the discipline process of teachers in British Columbia.

*Disciplinary and Professional Conduct Board (DPCB)*

(<http://www.bcteacherregulation.ca/AboutUs/ProfessionConductandDisciplineBoard.aspx>)

20. DPCB comprises 17 members, 9 from TC (5 of whom must be from non-BCTF), and 8 lay members appointed by the Commissioner. Members from DPCB will form disciplinary panels.

*Teacher Regulation Branch (TRB)* (<http://www.bcteacherregulation.ca/>)

21. TRB, part of the Ministry of Education as the operational arm of the regulatory structure, provides administrative support to the Commissioner for Teacher Regulation, the BC Teachers' Council and the Disciplinary and

Professional Conduct Board.

*Australia: Queensland College of Teachers (QCT)* (<http://www.qct.edu.au/>)

22. It is a statutory body set up in 2006. Its income is derived from registration fees.
23. Its Board consists of 17 members. Its Chair is appointed by the Education Minister. Only 3 members are registered teachers selected by election. The other members are nominated by stakeholders including employers, unions, parents, community and universities.
24. QCT through its Professional Practice and Conduct Committee investigates complaints, hears minor cases and refers serious cases to Queensland Civil and Administrative Tribunal. The Tribunal consists of a lawyer, a registered teacher and a layman.

*Australia: Victorian Institute of Teaching (VIT)* (<http://www.vit.vic.edu.au/>)

25. It is a statutory body set up in 2001. It finances its operation from registration fees.
26. Its Council has 12 members, including the Secretary of the Department of Education or nominee, 6 elected teachers, 5 government nominees including its Chair, parents, employers and teacher educators.
27. Disciplinary Proceedings Panel consisting of the Panel Chair, a Council member or former Council member and a non-Council teacher hears disciplinary cases. Cases may go to Victorian Civil and Administrative Tribunal for review.

*New Zealand Teachers Council (NZTC)* ([www.teacherscouncil.govt.nz](http://www.teacherscouncil.govt.nz))

28. NZTC consists of 11 members including 4 elected teachers and principals, 4 (including the chair) appointed by the Minister of Education and 3 from New Zealand Educational Institute (NZEI), Post Primary Teachers Association (PPTA) and the New Zealand School Trustees Association (NZSTA).
29. It is a statutory body with full regulatory and leadership functions.

*USA: California Commission on Teachers Credentialing (CTC)* ([www.ctc.ca.gov](http://www.ctc.ca.gov))

30. CTC consists of 19 members all appointed by government with only 6 of them being teachers.
31. Its Committee of Credential (consisting of 7 members appointed by the Commission through public recruitment representing the public, primary and secondary teachers, administrators and school boards) hears disciplinary cases after initial investigation by Commission staff.

*Hong Kong: Council on Professional Conduct in Education (CPC)*  
(<http://cpc.edb.org.hk/>)

32. The CPC consists of 28 members, 14 elected teachers, 11 from educational organisations (2 from teacher unions, 3 from subject-related bodies, 1 from teacher education bodies, 1 from school heads bodies, 1 from education policy bodies, 2 from school sponsoring bodies and 1 from other education bodies), 2 lay members and 1 from Education Bureau (EDB).
33. The Chair is elected by the members. Except the lay members and the EDB representative, all CPC members sit by rotation on committees investigating and hearing misconduct cases and making recommendations to the PS(Ed).
34. It is to advise the Government on the promotion of professional conduct in education, to draft and to promote operational criteria for professional conduct and to advise the Permanent Secretary for Education on disputes and misconduct cases relating to teachers.

*Hong Kong: Committee on Professional Development of Teachers and Principals (COTAP)*

35. The COTAP consists of a Chairman and 18 members appointed by the EDB, 12 of them from among front-line educators of the kindergarten, primary, secondary and special education sectors, school sponsoring bodies, and tertiary institutions, 3 lay members, a parent representative, a representative from the University Grants Committee (UGC) and a representative from the EDB.
36. The COTAP is a non-statutory body. It advises the Government on policies and measures relating to the professional development of the teaching profession, and may, where necessary, commission and/or conduct educational research and professional development programmes for the teaching profession.

### **Regulatory Regimes of Other Professions**

*Solicitors: Law Society of Hong Kong* (<http://www.hklawsoc.org.hk>)

37. Its Council comprises 20 elected solicitors. It is funded by its members.
38. The Chief Justice appoints not more than 120 solicitors of at least 10 years' standing, not more than 60 laymen and not more than 10 foreign lawyers to a Solicitors Disciplinary Tribunal Panel. No Council member can be appointed to the Panel. The Tribunal comprises 2 solicitors and 1 lay member (plus a foreign lawyer, if necessary) and hears cases prosecuted by the Law Society. Appeals from the Tribunal will go to the Court of Appeal.

*English Solicitors: Solicitors Regulatory Authority* (<http://www.sra.org.uk/>)

39. It is an independent regulatory body of the Law Society of England and Wales. Its board comprises 7 solicitors and 8 lay members. It is funded by its members.
40. It sets standards for entry and practice, registers members and students, investigates and prosecutes disciplinary cases before the Solicitors Disciplinary Tribunal which comprises 2 solicitors and 1 lay member all appointed by the Master of Rolls (a senior judge).

*Doctors: Hong Kong Medical Council (<http://www.mchk.org.hk/>)*

41. The Hong Kong Medical Council consists of 28 members of whom 7 doctors are elected by Hong Kong Medical Association, 7 are directly elected doctors, 10 doctors and 4 laymen appointed by the Government.
42. It is a licensing and disciplinary body of medical doctors.
43. The Council hears disciplinary cases with a quorum of 5 of whom at least 1 must be a layman. The quorum of 5 can consist of 3 Council members and 2 assessors (who are doctors outside the Council).

*Accountants: Hong Kong Institute of Certified Public Accountants (HKICPA) (<http://www.hkicpa.org.hk/>)*

44. Its Council has 23 members of whom 14 are elected accountants, 1 immediate past president, 2 government representatives, 2 co-opted members and 4 government appointed laymen. It is funded by its members.
45. A disciplinary committee consists of 5 members of whom 3 are laymen from a panel appointed by the Government and 2 are professional accountants from a panel appointed by the Council. It hears disciplinary cases.

*Accountants: Financial Reporting Council (FRC) ([www.frc.org.hk](http://www.frc.org.hk))*

46. The FRC is a statutory body set up to investigate auditing or reporting irregularities relating to listed companies and refer cases to HKICPA's Disciplinary Committee. The FRC Council comprises 11 members all appointed by the Chief Executive, the majority of them are laymen. It is funded by the HKICPA and 3 other regulators.
47. The FRC on 10<sup>th</sup> October, 2013 published a global survey done by Deloitte, a Big Four accounting firm in England, suggesting that Hong Kong shall follow the international standards that all the major regulatory functions of the auditing profession shall be vested in a regulator independent of the accounting profession.

*Social Workers: Social Workers Registration Board (<http://www.swrb.org.hk/>)*

48. Social Workers Registration Board was set up in 1998 as a statutory body.

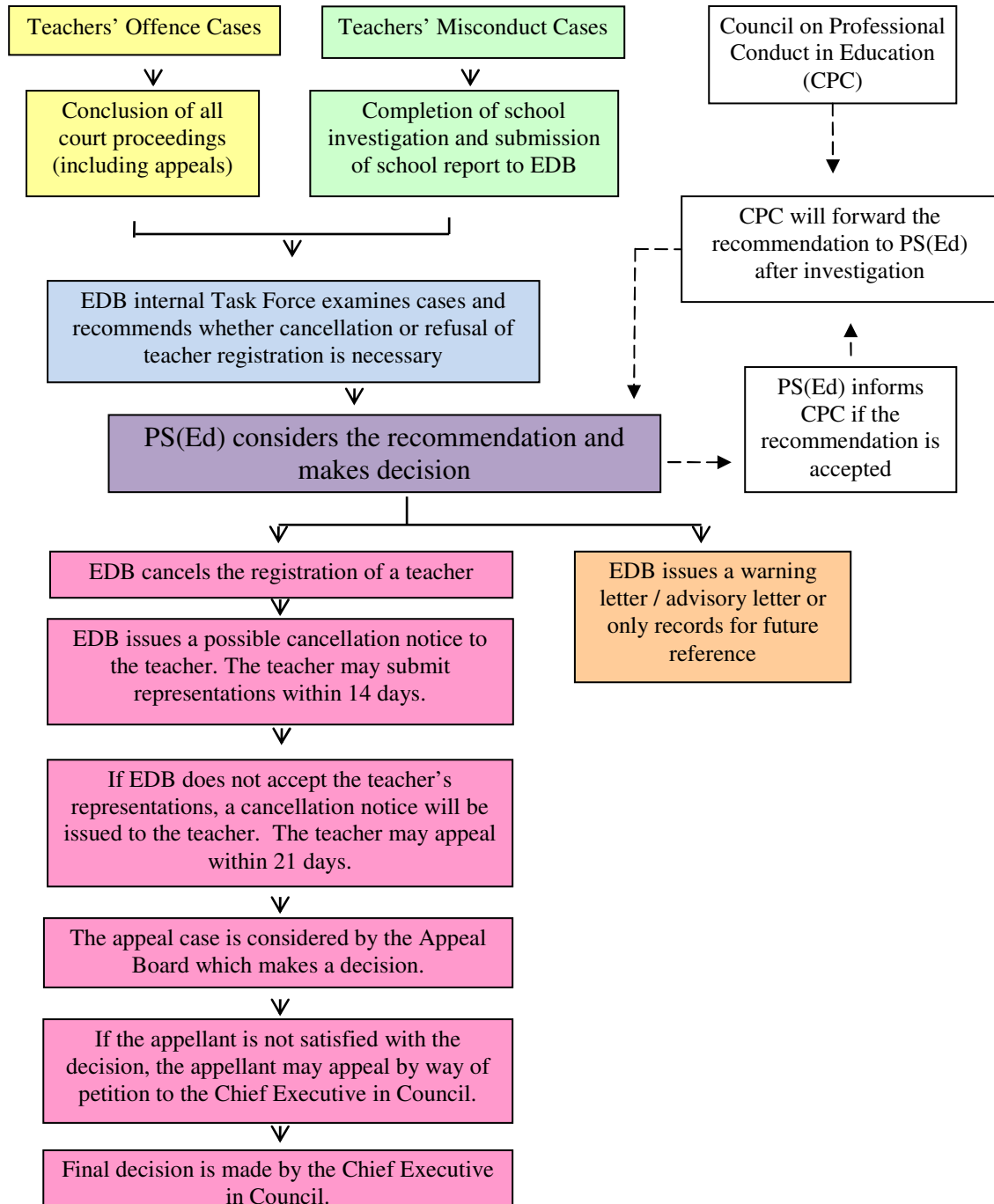


49. It consists of 15 members of whom 8 are elected registered social workers, 7 are appointed by the Government.
50. Its Disciplinary Committee consisting of 3 social workers and 2 lay members hears disciplinary cases and recommends to the Board for decision. Appeals from the Board go straight to Court of Appeal.
51. The Social Workers Registration Board Ordinance has set out a list of offences which will disqualify a person from registration.

*Estate Agents: Estate Agents Authority (EAA) (<https://www.eaa.org.hk>)*

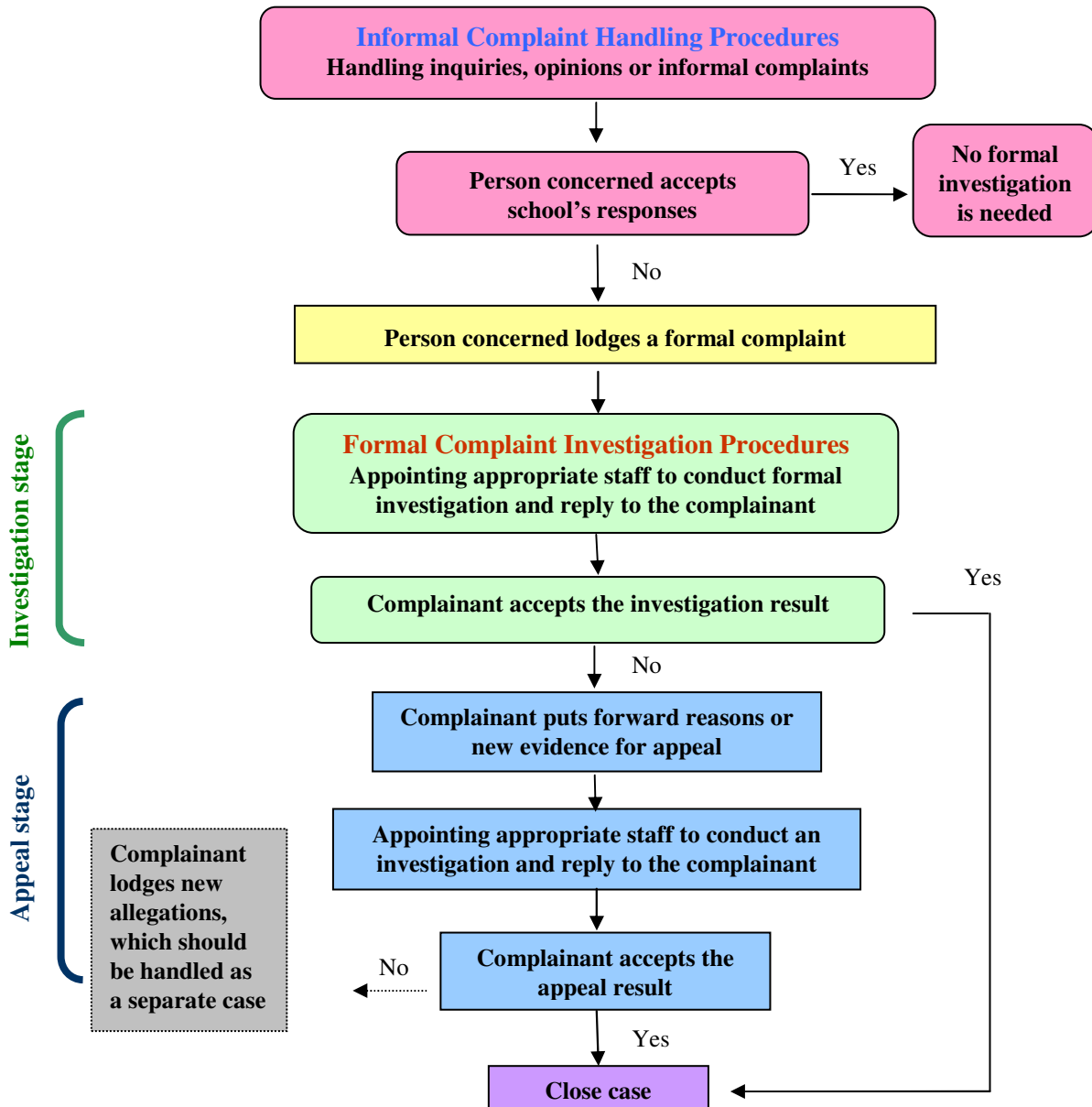
52. The EAA is a statutory body set up in November 1997 to regulate estate agents, promote competence and integrity, provide training and set standards of conduct and promote status of estate agents.
53. The EAA consists of 20 members all appointed by the Chief Executive. One quarter of the members are estate agents, one quarter are lay members with knowledge of the profession and one half are persons who do not fall within the first two classes. The Chair and Vice-Chair are lay members.
54. The EAA and its Disciplinary Committee may exercise disciplinary powers after investigation by its staff and hearing the parties. Appeals will go to its Appeal Tribunals of at least 3 members. The members of Tribunals are drawn from a panel of 12 non-EAA members appointed by the Secretary for Housing and Transport.

## Mechanism on Handling the Registration Status of Teachers Committing Offence or Misconduct

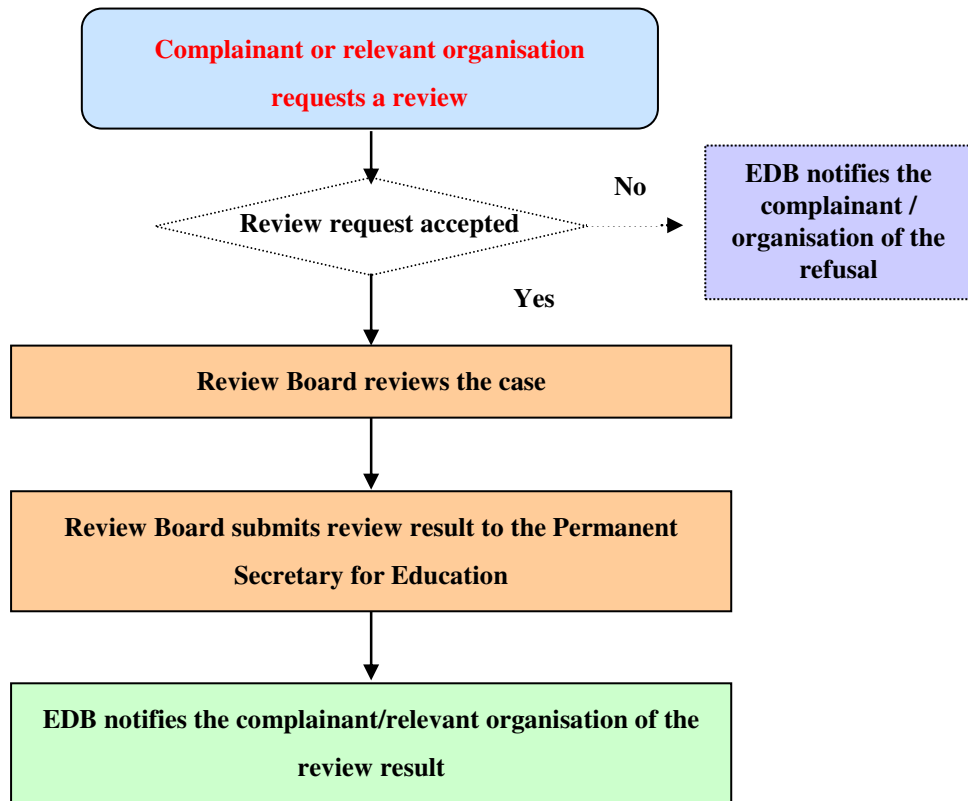


## Enhanced Complaint Management in School and Appeal Procedure

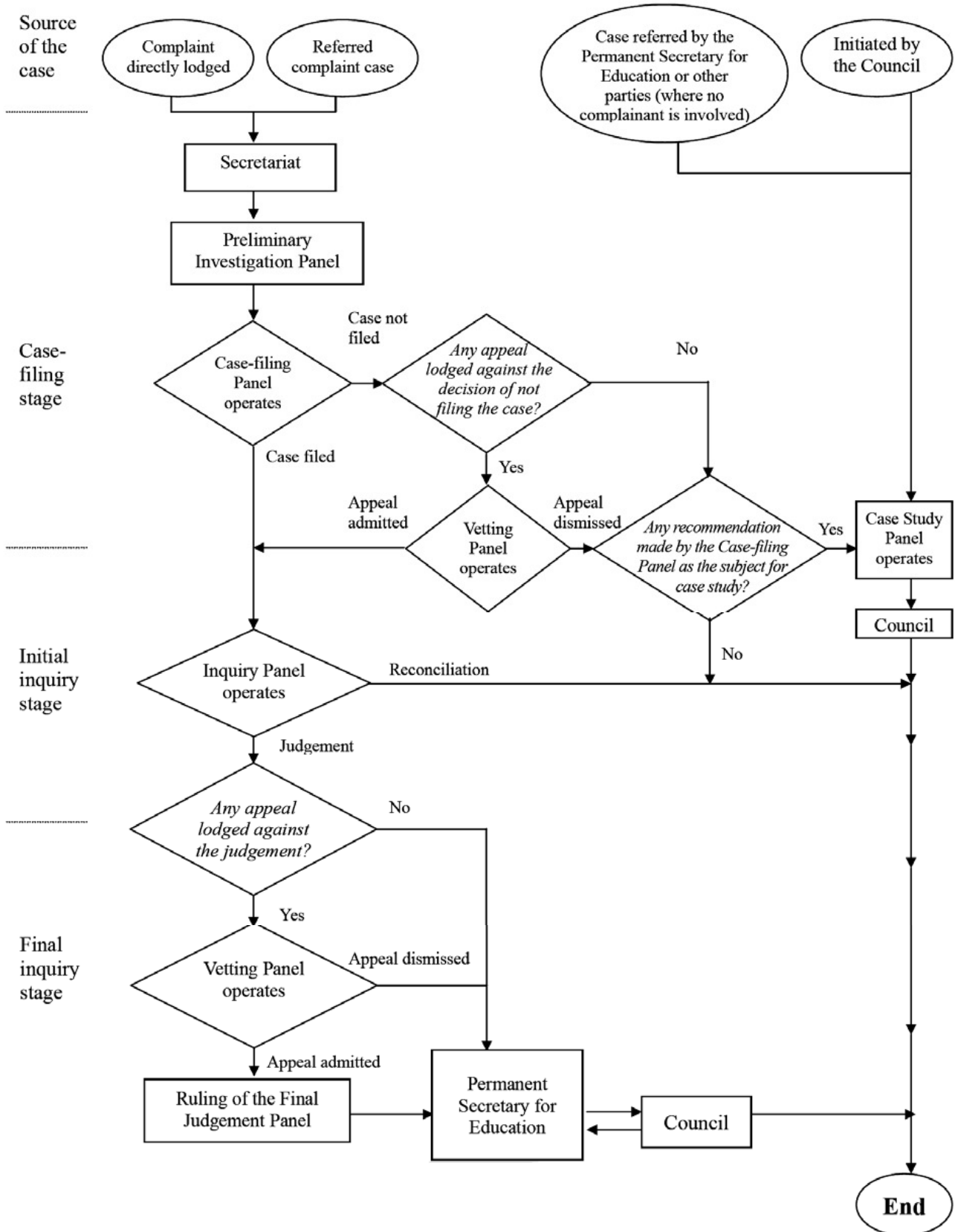
**Diagram 1: Complaint Handling Procedures in Schools**



**Diagram 2: Review Stage**



### Case Handling Procedures of Council on Professional Conduct in Education (CPC)



### Progress of Cases Handled by the Council on Professional Conduct in Education (CPC)

CPC Term	Cases Received in Current Term (a)	Cases from Previous Term(s) (b)	Total (c)=(a)+(b)	Cases Handled (d)	Cases Pending (e)= (c)-(d)
1st Term	22	--	22	21	1
2 <sup>nd</sup> term	10	1	11	10	1
3 <sup>rd</sup> Term	26	1	27	19	8
4 <sup>th</sup> Term	39	8	47	33	14
5 <sup>th</sup> Term	29	14	43	30	13
6 <sup>th</sup> Term	58	13	71	38	33
7 <sup>th</sup> Term	100	33	133	89	44
8 <sup>th</sup> Term	40	44	84	47	37
9 <sup>th</sup> Term	60	37	97	64	33
10 <sup>th</sup> Term(as at 30 April 2014)	103	33	136	70	66
<b>Total</b>	<b>487</b>	<b>--</b>	<b>--</b>	<b>--</b>	<b>--</b>

**Remarks:**

- From the 1<sup>st</sup> to 3<sup>rd</sup> terms, complaint cases were handled according to the old Case Handling Procedures under which a "Case Study Group" with 3 Council members would study the cases and make recommendations to the then Director of Education. A new Case Handling Procedures was adopted since 26 March 2002 (i.e. near the end of the 4<sup>th</sup> Term) under which a hearing would be conducted if a complaint case is accepted and filed by the CPC.
- By the end of the 10<sup>th</sup> term (i.e. 30 April 2014), there were 66 cases not yet completed and 11 of them were aged over 3 years, including 1 case being handled for more than 6 years and 2 cases for more than 10 years due to their respective legal proceedings. Since there are no guidelines under the Case Handling Procedures on how to close a case under legal proceedings, the 3 cases have been suspended up to now.
- Up to 30 April 2014, the total number of substantiated cases is 30 out of the 487 cases received by CPC.

### Proposed CPC Composition

<i>Present Composition of CPC (Total: 28 seats)</i>		<i>Recommended Composition after Consultation (Total: 28 seats)</i>	
<b>Elected Members: Organisation-nominated Category (Total: 11)</b>	<b>Elected Members: Teacher-nominated Category (Total: 14)</b>	<b>(Total: 14)</b>	<b>(Total: 14)</b>
		<b>Elected Members by Other Stakeholders (Subtotal: 7)</b>	<b>Elected Members by Teachers (Subtotal: 14)<sup>#</sup></b>
TEI (1)	Aided Sec (3)	TEI (1)	Aided Sec (3)
School Groups & SSB (2)	Gov't Sec (1)	SSB (3)	Gov't Sec (1)
Org of School Heads (1)	DSS & Private Sec (1)	School Councils and Associations of School Principals (3)	DSS & Private Sec (1)
Teachers' Unions (2)	Aided Pri (3)		Aided Pri (3)
Subject-related Org (3)	Gov't Pri (1)	<b>Nominated Members by CHSC* (Subtotal: 3)</b>	Gov't Pri (1)
Educational Commentary & Research Org (1)	DSS & Private Pri (1)	Parents (3)	DSS & Private Pri (1)
Other Educational Org (1)	KG (2)		KG (2)
	Special Schools (2)		Special Schools (1)
<b>Appointed Members (Total: 3)</b>		<b>Appointed Members (Subtotal: 4)</b>	Associations of Teachers (1)
EDB Representative (1)		EDB Representative (1)	
Lay Members (2)		Lay Members (3)	

\* CHSC : Committee on Home-School Co-operation

# Notes

- (1) For these elected teacher seats, both principals and teachers can be nominated for the election.
- (2) Currently, voters from primary and secondary school categories can vote for candidates from all 3 categories (i.e. aided, gov't and private schools). For the sake of fairness and to better reflect the views of teachers of a specific type of schools, it is suggested that voters can only vote for candidates from their own category of schools.
- (3) Associations of Teachers include representatives from 4 categories of the existing composition, namely (i) Teachers' Unions, (ii) Subject-related Organisations, (iii) Educational Commentary & Research Organisations and (iv) Other Educational Organisations.