FURTHER EDUCATION IN HONG KONG

Hong Kong operates an educational system very similar to that in the UK and the standards are very competitive by international standards.

Higher education in Hong Kong is classified as any education above secondary education. Therefore, what traditionally may be called further education in the UK may fall within the areas of secondary education and higher education in Hong Kong.

This profile will focus on providers, which therefore do not offer a degree qualification.

There appear to be three main routes for secondary school leavers into further education institutions in Hong Kong. These are:

1. **The Vocational Training Council (the “VTC”)**

   Established in 1982, the VTC was set up to provide and promote a cost-effective and comprehensive vocational education and training system aimed to meet the needs of the economy of Hong Kong. The VTC provides courses to over 190,000 students each year through its 13 member institutes.

   The Council of VTC has a membership of 18 non-government members, including leading figures in the education, industry, commerce, service and labour sectors, and three government officials, namely, the Commissioner for Labour, the Director-General of Trade and Industry and the Deputy Secretary for Education. The Executive Director of VTC also sits on the Council as an ex-officio member.

   The training boards offer advice on the resourcing and training needs of various sectors and make recommendations on how these needs may be best met. The five general committees are responsible for specific training areas common to more than one sector of the economy. These areas are apprenticeship and trade testing, information technology training and development, management and supervisory training, technologist training, and vocational training for people with disabilities.

   About 46,500 full-time study places are offered to school leavers through various pre-employment vocational education programmes, which are delivered mainly at nine campuses of four of the member institutions.

1.1 *Project Yi Jin*

   Project Yi Jin is a government scheme aimed at secondary school leavers aged 21 or above. The Project aims to:

   - provide an alternative pathway for secondary school leavers and adult learners to pursue continuing education;
   - build a firm foundation of knowledge and skills for work and further study by providing training in Chinese, English, Putonghua and Information Technology to students;
   - promote the concept of “lifelong learning”; and
   - upgrade Hong Kong’s human resources and enhance the competitiveness of Hong Kong.
Nine institutes in Hong Kong participate in the Project and these are:

- Lingnan Institute of Further Education;
- Li Ka Shing Institute of Professional and Continuing Education, Open University of Hong Kong;
- School of Continuing and Professional Education, City University of Hong Kong;
- Caritas Community and Higher Education Service;
- School of Continuing and Professional Education, Hong Kong Institute of Education;
- School of Business and Information Systems, Vocational Training Council;
- Hong Kong College of Technology;
- Hong Kong Institute of Technology; and
- School of Continuing Education, Hong Kong Baptist University.

The Programme is designed to offer successful students, the equivalent of five passes in the Hong Kong Certificate of Education Examination. The courses are vocationally orientated and aimed at those students who are interested in more practical studies.

The Project programme consists of a total of 600 contact hours, including 420 contact hours for core modules and an additional 180 hours of contact hours for the optional modules which vary from institute to institute.

Project courses are offered on both a full-time and a part-time basis. Full-time students must complete all modules at the same institution in order to obtain a full certificate. Part-time students may enrol in modules run by different institutions, and obtain a certificate upon completion of a module. If a student has completed over 300 contact hours of Project modules at the same institution, they will be awarded a full certificate by that institution upon completion of the whole programme. In general, full-time students can complete the Project programme in one year. Depending on individual circumstances, part-time students may complete the programme in two years at the earliest.

The courses offered on the project are self-financing and costs vary from $27,500 to $29,500 per course depending on which institution the student wishes to study at. The government does offer some reimbursement of up to 30% for successfully completed and passed modules.

1.2 Construction Industry Council

The Construction Industry Council provides training courses and conducts various trade tests for the industry. The courses range from a basic introduction to the skills required in the construction industry for new joiners to courses for those already employed in the industry.
The majority of the part-time courses are intended for staff currently employed within the sector of different levels who require training and upgrading either in their technical skills, safety, theoretical knowledge or in their management know-how; and these courses serve as a form of continuing education in-service. Some of these courses are offered on an open basis for the whole industry, whilst an increasing number of courses are tailor-made to suit the individual needs of construction companies and other related organisations.

The range of part-time courses offered can be classified into three main categories:

- skills enhancement courses;
- safety related courses; and
- technology and supervision courses.

2. **Responsibility for Further Education in Hong Kong**

The Hong Kong Qualifications Framework (the “QF”) was launched to promote lifelong learning by providing a seven-level hierarchy covering qualifications in the academic, vocational and continuing education sectors. To ensure wide acceptance of the qualifications conferred by institutions set up under the QF, a quality assurance mechanism has been set up. All QF recognised qualifications are therefore quality assured.

The Hong Kong Council for Academic Accreditation and Vocational Qualifications (the “HKCAAVQ”) was appointed by the Secretary of Education under the Qualifications Framework as the body that accredits all non-university higher education institutions, and therefore the further education providers in Hong Kong.

The HKCAAVQ was established under the HKCAAVQ Ordinance which came into force in October 2007.

Accreditation is not compulsory for all non-university higher education providers and the programmes run by the providers. However there are incentives for doing so, namely that accreditation demonstrates that the institution meets recognised standards of quality assured qualifications.

The HKCAAVQ also has the power to conduct accreditation activities for education and training providers who do not wish to fall under the QF. The HKCAAVQ provides to these institutions, an independent, authoritative and professional judgement on whether the institution can be granted HKCAAVQ accreditation status. The assessment is made with a reference to both local and international recognised standards through a process of peer review.

3. **Establishing a presence in Hong Kong**

3.1 **Establishing a company in Hong Kong**

A provider establishing itself in Hong Kong will need to first determine the business entity it will wish to use. There are three potential vehicles open to such providers:
3.1.1  *A subsidiary company*

A subsidiary is essentially a private limited company incorporated in Hong Kong. Hong Kong allows for 100% foreign ownership of companies, which implies that you can set up a wholly-owned subsidiary company in Hong Kong.

Setting up a subsidiary is the most common and preferred option for most foreign companies, as it provides limited liability and numerous tax advantages. A subsidiary is a separate legal entity from its foreign parent company therefore the liabilities of the subsidiary company do not extend to the parent company. Additionally, locally incorporated companies can gain preferential access to the mainland China markets and benefit from the free trade agreement with China.

The basic requirements for registering a subsidiary company are: approval of company name, local registered address, at least one director and shareholder, a local resident company secretary and an auditor. The company must have share capital but there is no minimum requirement. For taxation purposes, a subsidiary is treated as a Hong Kong resident company and is eligible for tax exemptions and incentives applicable to local companies.

3.1.2  *A Branch office*

A branch office like a subsidiary is a legally incorporated entity except that a branch office is treated as an extension of the foreign parent company and is not a separate legal entity in its own right. This makes the foreign parent company accountable and responsible for all the debts and liabilities of the branch office. Like a subsidiary company, a branch office must be registered with the Hong Kong’s Companies Registry.

The basic requirements to set up a branch office are: company name approval, a local resident authorised representative and an established place of business in Hong Kong. Generally, branch offices are subject to the same legal and tax consequences as companies incorporated in Hong Kong. Branch offices have to adhere to the ongoing compliance requirements like filing annual returns, filing tax returns and are required to execute other public disclosure requirements.

3.1.3  *A Representative office*

Foreign companies that wish to gain market insight, exposure and a better understanding of the Hong Kong business environment before setting up a fully-fledged office can opt for establishing a representative office first. A representative office cannot engage in profit making activities and is not treated as a legal entity. It cannot sign or enter into any contracts, sign deals on behalf of the company, raise invoices or letters of credit nor engage in trading activities. The representative office has to restrict itself to promotion and liaison activities, undertaking market research and co-ordinating activities on behalf of the parent company.

Since a representative office has no legal standing, the parent company bears the liability for its activities. A representative office
usually has foreign managerial personnel and locally appointed support staff. There are no registration requirements with the Companies Registry, no minimum capital requirements and no compliances like filing tax returns or maintaining accounts etc. The only requirement is to register with the Inland Revenue Department and obtain a Business Registration Certificate.

3.2 Establishing an FE Provider

Setting up an education institute in Hong Kong has long been regarded as a lucrative business opportunity. As a result, numerous institutions ranging from pre-schools to universities are set up by individuals and foreign companies each year.

The Hong Kong authorities have issued a set of entry requirements into the educational sector.

Providers who wish to open one of the following types of providers, a kindergarten, an academic school that offers primary or secondary education, a tutorial centre, a computer education sector, a language school, an enrichment centre that offers diplomas and certificate courses or a distance learning centre must obtain a “Certificate of Registration of a School” from the Education Bureau of Hong Kong.

In this context, a school is defined as an institution, organisation or establishment that provides formal education (including distance learning) for 20 or more people during any one day or more than eight people at any one time.

There is also the option of establishing a private school, which can broadly be split into two groups, pre-schools or kindergartens and academic schools. The former need not be discussed. Academic schools are those that offer theoretical, structured courses and formal education. Examples of such schools include:

- schools that offer primary and secondary education
- business schools
- IT schools
- language schools
- Fine Art schools
- Tuition schools
- Enrichment centres
- adult education centres
- distance learning centres

Again, if a private provider wishes to set up any of the above institutions, they will need to apply for the “Certificate of Registration of a School”.

The definition of school does not apply to non-academic institutes, therefore institutes that offer practical, hands-on learning courses such as cookery
courses, hair styling courses etc do not require a “Certificate of Registration of a School”.

In order to apply for such a licence, several legal requirements must be satisfied. These shall now be discussed in turn.

Company Registration:

The first step in establishing an educational provider in Hong Kong, is to first establish a company. Please see above for further information.

Find suitable school premises:

The premises chosen by the provider must be suitable for running a school. The chosen premises, should ideally be designed and constructed for use as a school. Due to the size of Hong Kong, this may not be possible however. If the chosen building was not constructed as a school, the following clearances will need to be granted by the appropriate authority:

- Town Planning Board clearance;
- Land Registry clearance;
- Fire services department clearance;
- Buildings department clearance; and
- if the premises are within a housing estate or commercial building, Housing department clearance.

Maximum Number of Students;

The maximum number of students in a class within a provider offering post secondary education must not exceed 45.

School name:

The chosen name of the provider must not be identical or sufficiently similar to the name of another registered provider or the name of a provider whose registration has been cancelled.

School Manager:

The provider must nominate a person as a School Manager. This person must then be registered with the Education Bureau. This application can be made alongside the application for school registration. The School Manager must be resident in Hong Kong for at least nine months a year and must be at least 18 years old. If the School Manager is over the age of 70, then a medical certificate from a doctor must be submitted along with the application certifying that the individual is physically fit for the position.

Size of classrooms:

The classrooms must be large enough to seat all the students in that class along with the teacher or lecturer.
Qualified teaching staff:

The teaching staff should have the necessary qualifications for the relevant courses. Teachers in pre-schools, primary, secondary and post-secondary schools must be registered with the Education Bureau.

Once the provider has satisfied the above legal criteria, the application procedure for obtaining the School Registration Certificate involves submitting the following documents and information to the Education Bureau:

- the prescribed application for School registration;
- the prescribed application for a School Manager;
- the prescribed additional information sheet detailing the particulars of a school;
- five copies of the proposed school layout;
- school premises Handover Certificate/Occupation Permit/Letter of Direct Allocation;
- staff hiring expenditure details;
- a syllabus;
- a list of textbooks to be used;
- proposed timetables;
- proof of title to the premises, a lease or title deeds for example;
- proof that if the school is named after an individual or organisation, that individual or organisation has consented to such use;
- if the school is offering computing classes, a layout of the computer room; and
- copies of the previously mentioned clearances.

As an estimate, providing that all the documentation is present and there are no inaccuracies in the documentation, the process for approval will take between 10 to 20 days. Once the Education Bureau is satisfied with the documentation, it will issue the provider with the Certificate of Registration.

If the Education Bureau decides that the application does not comply with all of the minimum requirements, it will issue a provisional certificate, along with a list of issues that require remediation. This provisional certificate is normally valid for one year and the provider will have to ensure that the issues are resolved within the set time frame. If the outstanding points have been resolved then a full certificate will be issued. If the attempt to resolve the outstanding issues fails, then the applicant will need to reapply for the certificate.
HIGHER EDUCATION IN HONG KONG

Education in Hong Kong has a similar system to that of the UK and the standards of education employed in Hong Kong are extremely competitive by international standards.

Hong Kong currently follows the British system and operates on a 6-3-2-2-3 basis (Primary School, Junior Secondary, Senior Secondary, Advanced Level Matriculation, University Bachelors Degree). The current system requires 'secondary five' students to sit for the Hong Kong Certificate of Education Examination (HKCEE) by the end of their junior secondary education. On the basis of their performance on the HKCEE about one third of the secondary five graduates are provided spaces in the publicly funded schools to study advanced level courses leading to the Hong Kong Advanced Level Examinations (HKALE). Students sit for the HKALE at the end of their seventh year of secondary school and the HKALE is used as the basis for admission to Hong Kong tertiary institutions.

This system is being replaced by a new 6-3-3-4 system (Primary School, Junior Secondary, Senior Secondary, University Bachelors Degree). The new academic structure will be introduced in the academic year 2009-2010 and the first cohort of new senior secondary students will leave school in 2010; those who enter university in 2012 will take the new 4 year undergraduate programme.

This curriculum applies to publicly funded secondary schools only and does not apply to independent schools such as the English Schools Foundation and international schools, which follow the US, UK, IB and other overseas curricula.

Higher education in Hong Kong is classified as any education above secondary education, including professional, technical and academic education. This is therefore the highest level of education in Hong Kong and is regulated under the Hong Kong Law Education Ordinance.

1. Types of Higher Education Institutions

1.1 Universities

These are education institutions which have gained approval from the Chief Executive and the Executive Council and then made into law by the Legislative Council. Universities have self-accreditation status.

1.2 Colleges

These are institutions which have gained approval from the Chief Executive and the Executive Council and then made into law by the Legislative Council. They are accredited by the Hong Kong Council for Academic Accreditation and Vocational Qualifications (HKCAAVQ) for their academic awards.

1.3 Post-secondary colleges

These are institutions formed under the Post-secondary Colleges Ordinance. They are allowed to give academic awards provided the prior permission of the Chief Executive and the Executive Council has been granted. They are accredited by HKCAAVQ for their academic awards.
1.4 **Vocational training councils**

These institutions are formed under the Vocational Training Council Ordinance and are accredited by HKCAA for their academic awards.

1.5 **General institutions**

These are formed under the Education Ordinance and are approved by the Secretary of Education and Manpower Bureau for Higher Education. They are accredited by HKCAA for their academic awards.

2. **Current situation**

There are currently nine universities, seven of which are funded by the UGC. Two colleges, one of which is funded by the UGC (see below), two post secondary Colleges, two Vocational Training Council Institutions and seven other general institutions.

Of the universities in Hong Kong, the University of Hong Kong and the Chinese University of Hong Kong have the best reputations. However, the Hong Kong University of Science and Technology is developing a strong name in the area of technology and business.

3. **Students**

The number of places available for undergraduate degrees is substantially less than the number of students who actually fulfil the entry requirements for a general admission to university. Approximately 20% of the students who reach the required grades in the HKALE are not able to gain a place at a university. For these students, studying an associate degree or higher diploma programme is a popular option.

It is estimated that each year more than 30,000 students from Hong Kong choose to study abroad. Popular destinations of study include the UK, US Canada and Australia.

4. **Responsibility for higher education in Hong Kong**

Each of the higher education institutions in Hong Kong is an autonomous body with its own ordinance and governing council. The institutions therefore have a substantial amount of freedom in the control of curricula and academic standards, the selection of staff and students, initiation and acceptance of research, and the internal allocation of resources.

There are, however, eight higher education institutions that are funded by the University Grants Commission ("UGC"). These institutions offer publicly funded programmes at sub degree, degree, taught postgraduate and research postgraduate levels. Among these eight institutions, seven are universities and the remaining institution is the Hong Kong Institute of Education.

The UGC is a non-statutory advisory committee, which has neither statutory nor executive powers, responsible for advising the Government of the Special Administrative Region (SAR) of the People’s Republic of China on the
development of the tertiary education sector, the financing of UGC-funded tertiary institutions and the administration of government grants to higher education. The UGC has recently completed a review of higher education in Hong Kong.

The UGC seeks to promote responsible understanding between the higher education institutions, the government and the community at large. It mediates interests between institutions and the administration. On the one hand, the UGC safeguards the academic freedom and institutional autonomy of the institutions, while on the other it ensures value for money for taxpayers.

The main function of the UGC is to allocate funding to its funded institutions, and to offer impartial and respected expert advice to the government on the strategic development and resource requirements of higher education in Hong Kong. Specifically, the UGC has to determine precise grant recommendations in the light of indications of the level of funding that can be made available, overall student number targets by level of study and year to meet community needs as agreed with the government and the breakdown of these numbers between institutions, as agreed in principle by the institutions.

Funding for UGC-funded institutions is composed of recurrent grants and capital grants. The former are to support institutions' academic work and related administrative activities. The latter are used to finance major capital works projects and the related detailed design studies, as well as minor campus alterations and improvements works. In respect of capital works projects, the UGC advises both institutions and the government on campus development plans and proposals made by institutions, with a view to supporting their academic and overall development.

The UGC also provides higher education institutions with developmental and academic advice, having regard to international standards and practice. Both the UGC and the institutions are aware of the need to ensure the evolving needs of Hong Kong are effectively met. The UGC carries out an academic development planning exercise on a triennial basis with the aim of reviewing recent developments within the institutions and assessing and working with the institutions on their development proposals for the future. The UGC ensures that in deliberating institutions' academic planning and funding proposals, the development requirements of individual institutions is given proper consideration - appropriate to their respective roles and missions.

Quality assurance is another area where the UGC has an active role. Promoting quality in higher education is one of the top priorities of both the UGC and its funded institutions. The UGC supports institutions in quality assurance and enhancement initiatives and processes, and monitors academic standards of the institutions, in accordance with their role. To strengthen its role in quality assurance, the UGC established the Quality Assurance Council (QAC) in April 2007. The QAC is a semi autonomous advisory body which assists the UGC in assuring the quality of programmes, however funded, at first degree level, and all programmes above first degree level which are funded by the UGC.

In respect of research, the UGC carries out Research Assessment Exercises primarily to inform the distribution of the research portion of block grants, to discharge public accountability and to induce improvements in research. To this extent the Research Grants Council (RGC) was established as a semi autonomous advisory body within the organisational structure of the UGC to
work in close partnership with the UGC and to advise and report back to the government.

All universities in Hong Kong, irrespective of how they are funded, have self-accreditation status. The exception to this is the Hong Kong Institute of Education (a "College"), which has self accrediting status in respect of its teacher education programmes at degree and above levels.

The HKCAAVQ is a statutory body which was established under the HKCAAVQ Ordinance (Chapter 1150) which came into effect on 1 October 2007. It replaced the Hong Kong Council for Academic Accreditation (HKCAA). The HKCAAVQ is appointed by the Secretary for Education as the accreditation authority under the Qualifications Framework ("QF").

The QF was officially launched on 5 May 2008. The aim of the QF is to clearly define the standards of different qualifications, ensure their quality and indicate the articulation ladders between different levels of qualification. The QF is a hierarchy that orders and supports qualifications of academic, vocational and continuing education. To strengthen the leading role of particular industries in the development of vocational training so as to enhance the effectiveness of the latter, Specifications of Competency Standards (SCSs) are formulated by the respective industries. To ensure wide acceptance of the qualifications conferred by various education and training bodies under the QF, a quality assurance mechanism is set up. All QF-recognised qualifications are quality assured. The QF therefore enables people to set clear goals and direction for obtaining quality assured qualifications.

It is the HKCAAVQ that accredits all non-university higher education institutions and the programmes of study run by them at degree and sub degree levels. Although accreditation for non-university higher education institutions and their programmes is voluntary, there are incentives for institutions to become accredited. Accreditation demonstrates that the institution meets well defined local and internationally recognised standards of quality assured qualifications.

The HKCAAVQ is also empowered to conduct accreditation activities for education and training operators or assessment agencies, and for learning programmes or qualifications which do not have an intention to come under the QF. In conducting non-QF related academic or vocational accreditation activity with the party concerned the HKCAAVQ provides an independent, authoritative and professional judgement on whether the operator, assessment agency, learning programme or qualification can be granted HKCAAVQ accreditation status. Assessment is made with reference to local and internationally recognised standards through a process of peer review. The HKCAAVQ will issue an accreditation report on the outcome of the accreditation activity.

The HKCAAVQ has also been named the advisor to the Register of Non-Local Courses under the Non-Local Higher and Professional Education (Regulation) Ordinance ("the Ordinance"). Non-local academic and professional courses offered in Hong Kong leading to post-secondary and professional qualifications should register under the Ordinance. The HKCAAVQ assesses each application for registration against the registration criteria stipulated in the Ordinance and gives its recommendation to the Registrar who makes the final decision. The HKCAAVQ also assesses the annual returns submitted by registered courses to advise the Registrar on their eligibility for continued registration.
The HKCAAQV has also produced draft guidelines for the accreditation of non-local programmes, which may have implications for three year degree and top up programmes

5. **UK higher education institutions in Hong Kong**

Hong Kong offers an expanding and competitive market opportunity for overseas higher education institutions. This is aided by the fact that there is no entry barrier for overseas education and training institutions to offer their programmes in Hong Kong. The Hong Kong Education Bureau has recently called for expressions of interest in establishing HE institutions on the 100,000 square metre site at the Queen’s Hill Barracks near Fan Ling.

UK institutions can establish a presence in Hong Kong in a variety of ways without having to set up a campus in Hong Kong, and indeed this seems to be the choice made by many overseas higher education institutions. According to the Hong Kong Education Bureau, in January 2008 there were over 150 registered, and 400 exempt, courses run by 36 different UK higher education institutions in Hong Kong.

The Non-Local Higher and Professional Education (Regulation) Ordinance (‘the Ordinance’) makes it possible for UK higher education institutions to work as independent operators, offering a number of courses to local students registered with the Hong Kong Education Bureau. In addition, there are also various collaborations between UK and Hong Kong higher education institutions. These collaborations are exempt from registration under the Ordinance.

Overall the UK is a significant provider of international education services in Hong Kong providing 63% of non-local courses. This is compared to 22% from Australia, 5% from the USA and 1% from Canada.

This document has been prepared by Eversheds LLP. Unless expressly stated to the contrary, the material contained in this document is for general information purposes only. It does not constitute legal or professional advice. Professional or legal advice should be obtained before taking or refraining from any action as a result of the contents of this document. No liability is accepted by Eversheds for any action taken in reliance on the information contained in this document. Any and all information is subject to change.

© Eversheds LLP 2011. Unauthorised copying of this document is not permitted. If you wish to copy this document, please contact Eversheds LLP for approval. Eversheds LLP is a limited liability partnership.

For further information on Eversheds LLP or the Education team, please contact Glynne Stanfield at Eversheds LLP on 0845 497 3806 or email: glynnestanfield@eversheds.com