

立法會
Legislative Council

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**Subcommittee on Statutes of the
University of Hong Kong (Amendment) (No.2) Statutes 2003**

Background brief prepared by the Legislative Council Secretariat

Purpose

This paper provides background information on the amendments to the Statutes of the University of Hong Kong (HKU) and the concern of the Non-academic Staff Association of HKU (the Association) on the amendments. This paper also summarises relevant deliberations of the Panel on Education on the issue.

Background on the Amendments

2. The Secretary for Education and Manpower (SEM) commissioned the University Grants Committee (UGC) to launch a review of higher education in Hong Kong (the Review) in May 2001. UGC submitted its final recommendations to SEM in September 2002 which included, among others, that “the universities should carry out a review of the fitness for purpose of their own governance and management structures, enhance external participation and transparency in their grievances procedures, and clarify their relationships with their continuing education arms or community colleges”. The recommendations except the establishment of the Further Education Council have been endorsed by the Chief Executive in Council. HKU has responded by appointing an independent review panel for the task.

3. According to the letter of 23 July 2003 from HKU to the Education and Manpower Bureau (Annex to LC Paper No. LS171/02-03 issued vide LC Paper No. CB(2)3099/02-03 on 29 September 2003), the amendments to the Statutes are proposed after a review of the fitness for purpose of the governance and management structures carried out by the review panel. The report of the review panel was approved by the HKU Council at its meeting on 29 April 2003 for immediate implementation. In the course of implementation, the HKU Council has identified a number of statutory amendments that are necessary for the recommendations of the review panel to take effect. These

amendments have been approved by the Chancellor on the recommendation of the Council and the Court of HKU in accordance with the normal due process.

4. The amendments to the Statutes include the following -
 - (a) the reduction of the size of the Council and the Senate of the university;
 - (b) the modes of appointment of the Dean of each Faculty and the Head of a Teaching Department;
 - (c) the delegation to any person or committee of the HKU Council's powers to adjudicate upon complaints from members and employees of HKU and to deal with appeals from the Disciplinary Committee; and
 - (d) some other technical amendments.

Concerns of the Association about the amendments to the Statutes

5. The Association wrote to the Chairman of the House Committee on 30 September 2003 (issued vide CB(2)3109/02-03 dated 2 October 2003) expressing concern about the restriction in the regulations of the HKU Council for the election to the Council. The restriction is imposed in accordance with Recommendation 2 of the report of the review panel that no student or staff member shall serve on the HKU Council if he is an office holder of the Students' Union or Staff Association respectively (**Appendix I** refers). The Association holds the view that if it is specified that each member of the Council will be appointed on ad personam, it is not necessary to impose such a restriction.

Panel's discussion on the issue

6. The Panel on Education has not discussed the proposed amendments to the Statutes. However, the Panel was briefed by the Administration on the outcome of the "Higher Education Review" at the special meeting on 2 December 2002. Members noted that the Administration supported the recommendation by UGC that university councils should review their governance and management structures. They considered that there was also a need to establish a sound mechanism to handle staff grievances and complaints in the higher education sector. An extract from the minutes of the relevant meeting is in **Appendix II**.

**Recommendation 2 of the
Review Panel on University Governance and Management**

R2. On the composition of the Council, there should be a clear majority of lay members and the ratio of external to University members should be about 2:1. On the assumption that the optimal size of the University Council is about 21 members, it would be composed as follows:

- ◆ 14 members would be persons who are not students or employed by the University: six of whom would be appointed by the Chancellor in consultation with the Council Chairman; six appointed by the Council itself; and the remaining two elected by the Court. The lay members would be drawn from the graduates of the University, the corporate sector and the professions, the wider local community, and the international community.
- ◆ 7 members would be university staff or students. The Vice-Chancellor would be an ex-officio member. The other six members would comprise two students – one undergraduate and one postgraduate; three teachers – at least one chair professor and one non-professorial member of Senate; and one non-teacher who is not an officer as defined in the University of Hong Kong Ordinance.

No student or staff member shall serve on Council whilst an office holder of the Students' Union or Staff Associations respectively. With the exception of the Vice-Chancellor, no member of the Council may serve more than three consecutive terms of three years each, unless each further term of appointment is specifically approved by the Court.

Extract from the minutes of special meeting of the
Panel on Education on 2 December 2002

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I. Briefing on the Higher Education Review

[Legislative Council (LegCo) Brief issued by the Education and Manpower Bureau File Ref : EMB CR 3/21/2041/89]

Institutional governance and staff grievances

46. Mr CHEUNG Man-kwong noted that the Government supported UGC's recommendation that UGC-funded institutions should clearly define their organisational, financial and quality assurance arrangements with their continuing education arms or community colleges. He asked whether such quality assurance arrangements would include the establishment of an independent and transparent mechanism to deal with students' grievances and complaints. Mr CHEUNG pointed out that extending the jurisdiction of the Ombudsman to tertiary institutions could not resolve the problem of staff grievances and complaints since the Ombudsman could only handle procedural issues but not academic issues. He cited the recent events surrounding non-renewal of contract in the School of Law of CityU as an example to illustrate the need to establish an open and transparent mechanism to handle staff grievances and complaint in the higher education sector. He stressed that LegCo Members would not like to interfere with the internal management of institutions, but had the obligation to handle complaints received from staff and students in the higher education sector.

47. SEM responded that students and staff who felt aggrieved would seek the assistance of LegCo Members if they were not satisfied with the decision of the internal mechanisms established by the institutions. He anticipated that UGC-funded institutions would review their governance structures and improve the openness and transparency of their grievance and complaint mechanisms.

48. Mr CHEUNG Man-kwong said that members would receive fewer complaints from students and staff of UGC-funded institutions if appropriate grievances and complaint mechanisms were in place. He suggested that the Administration should not only encourage but also supervise the institutions to increase external participation and transparency in their grievance procedures.

49. SG(UGC) responded that all UGC-funded institutions should have established an internal mechanism for handling staff grievances and complaints. Some university councils were reviewing their governance structures to ensure "fitness for purpose", drawing on the principles and international good practice

Action

set out in the Report. UGC would monitor the progress of the review developments in individual institutions and would conduct periodic comprehensive audits on the institutions covering teaching, research, governance and community services. He cited the Independent Committee on Review of Recent Events in the School of Law established by CityU to investigate the disputes arising from non-renewal of contracts as an example to illustrate that some institutions had increased external participation and transparency in their grievances procedures.

50. Ms Audrey EU shared the view of Mr CHEUNG Man-kwong. She said that there was a genuine need to establish a sound mechanism to handle staff grievances and complaints in the higher education sector. She pointed out that external participation could not fully understand and resolve internal staff disputes. She suggested that the Administration should play a proactive role to facilitate the establishment of an effective mechanism to handle staff grievances and complaints in the long run. Otherwise, more disputes might arise if institutions decided to delink their staff salary scales from the civil service system.

51. The Chairman shared the concern of Ms Audrey EU. He suggested that the Administration should play a role in monitoring the operation of institutions' grievances and complaint mechanisms on a continuous basis. In this connection, Ms Emily LAU asked whether the Administration would continue to explore other alternatives for handling staff grievances and complaints in the higher education sector.

52. SG(UGC) responded that UGC received mixed reactions about the proposal of extending the jurisdiction of the Ombudsman to UGC-funded institutions during the consultation. University councils held a strong view that under the principle of institutional autonomy, institutions should handle internal personnel matters themselves. In fact, the proposal was unlikely to meet staff's demand in full because section 8 of the Ombudsman Ordinance had specified that the Ombudsman shall not undertake investigation in, among other things, personnel matters such as appointments, dismissals, pay and conditions of service, etc. He added that since there were only around 50 cases of staff grievances and complaints in a year, UGC did not consider it necessary to establish an independent council to handle staff grievances and complaints for institutions in the higher education sector. In the circumstances, UGC would continue to encourage institutions to review and improve their grievances and complaint procedures. At the Chairman's request, SG(UGC) agreed to provide an update on the development of an internal grievances and complaint mechanism in individual institutions at an appropriate time.

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