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Panel on Education

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 9 February 2009**

**Governance structure and grievances and complaints mechanisms
of the University Grants Committee-funded institutions**

Purpose

This paper summarizes the major concerns expressed by the Panel on Education (the Panel) on the governance structure and grievances and complaints mechanisms of the University Grants Committee (UGC)-funded institutions.

Background

Report on Higher Education in Hong Kong

2. In May 2001, the then Secretary for Education and Manpower commissioned the UGC to launch a comprehensive review of higher education in Hong Kong. The review covered all aspects of higher education provision, including the governance of the UGC-funded universities. In March 2002, the UGC published the review report entitled "*Higher Education in Hong Kong*" (the Report). After consultation with the Panel and the stakeholders on the Report, the UGC submitted its final recommendations to the Secretary for Education and Manpower in September 2002. The Government accepted most of the UGC's final recommendations, and announced in November 2002 the blueprint for the further development of higher education in Hong Kong. Under the blueprint, the UGC-funded universities were required to review their governance and management structures including the grievances and complaints mechanisms to ensure that they were "fit for the purpose". The governing bodies of the UGC-funded institutions started their reviews of the fitness for purpose of their governance and management structures in 2003.

Report No. 40 of the Director of Audit

3. Against the above background, the Audit Commission (Audit) conducted a value for money audit on the UGC-funded institutions including their governance. The findings were contained in Report No. 40 of the Director of Audit which was released in March 2003. Audit observed that the overall attendance rates of external members of the Councils of the eight UGC-funded institutions for the three financial years from 2000-2001 to 2002-2003 ranged from 50% to 80%. Audit recommended that the UGC should advise the eight institutions to ascertain, where necessary, the reasons for the low attendance rates of external members at their Council meetings and to take appropriate action to improve their attendance rates. Audit also recommended that the Government and the institutions, as a matter of principle, should not appoint those Council/Court members whose attendance at Council/Court meetings was low.

4. To strengthen the corporate governance structure of the institutions, Audit recommended that the UGC should request the eight institutions to take account of the findings of the audit report on governance arrangements and good practices in their review of governance structures, and conduct periodic reviews, say every five years, on the effectiveness of their governing bodies.

Report No 40A of the Public Accounts Committee (PAC)

5. Pursuant to the publication of Report No. 40 of the Director of Audit, PAC conducted public hearings on the findings contained therein. In November 2003, PAC published Report No. 40A, and recommended, among others, that the UGC should request the institutions -

- (a) to adopt measures to ensure that external members would constitute a majority at their Council meetings;
- (b) to consider publishing the attendance records of their Council members and uploading the records onto their websites for public information;
- (c) as a matter of principle, not to re-appoint those Council and/or Court members whose attendance at Council and/or Court meetings was low;
- (d) to set up an audit committee to strengthen internal audit function and their corporate governance structure; and
- (e) to conduct periodic review, say every five years, of the effectiveness of their governing bodies.

Deliberations of the Panel

6. Over the past few years, the Panel held a number of meetings to discuss and receive views from deputations on matters relating to the governance structure and grievances and complaints mechanisms of the UGC-funded institutions. The major concerns raised by members are summarized in the ensuing paragraphs.

Governance structure

7. Members had all along expressed concern about the composition and representation of the governing bodies of the UGC-funded institutions. When the Panel discussed the subject in the course of deliberating the issue of academic freedom and institutional autonomy of the UGC-funded institutions in February and April 2007, members received the following views from deputations -

- (a) universities were managed by executives and not academics. Management of universities was becoming market driven and politicized;
- (b) over half of the Council members of some UGC-funded institutions, including the Hong Kong Institute of Education, the Hong Kong Polytechnic University and the Lingnan University, were appointed by the Chief Executive (CE). Such an arrangement, together with the provision in the relevant ordinances for CE to be the Chancellor of universities, provided a ready opportunity for the Administration to interfere with the internal affairs of the institutions;
- (c) students were not represented in the existing Councils of the Chinese University of Hong Kong and the Shue Yan University. To enhance transparency, independence and accountability of the institutions, students and staff members should be adequately represented in their Councils. Student representatives in university Councils should enjoy the same rights as other Council members, including the right to participate in any deliberations relating to the appointment and dismissal of university Presidents and senior staff members and to vote on such matters; and
- (d) members of university Councils should be drawn from different sectors of the community including the Legislative Council (LegCo), alumni and school sponsoring bodies, etc. The relevant provisions in the existing ordinances concerning Chancellor, composition of university Councils and the

appointment of Council chairman should be reviewed.

8. According to the Administration, the UGC-funded institutions were autonomous bodies governed by their own ordinances. Owing to historical and other reasons such as the different philosophy, religion, culture and circumstances of individual institutions, the ordinances for the eight UGC-funded institutions, including the provisions setting out the composition of the Councils, varied. Council membership might consist of senior staff of the institutions, deans, student and staff representatives, alumni, members appointed by the Council, and members appointed by CE, etc. Members appointed by CE were usually lay members who came from a wide spectrum of the community. As the duties and responsibilities of the Council of an institution were primarily concerned with the operations of the institution itself, the institution should be in the best position to decide on the most appropriate composition of its Council.

9. The Administration also pointed out that traditionally, CE was the titular head of the institutions to maintain the linkages between the Administration and the institutions and to demonstrate the Administration's support for the higher education sector. The powers and duties of the Chancellor were specified under the governing ordinances of the institutions, which primarily concerned conferment of degrees and other honorary awards.

10. As regards the appointment of Presidents/Vice-Presidents, the Administration explained that institutions might draw up their own procedures in accordance with the relevant ordinances. The provisions in the respective ordinances differed in respect of the involvement of student(s) and staff who served on the Councils. In view of the transient nature of the student body and the need to prevent conflict and partisanship among students of the institutions, and in order to ensure that decisions in relation to the choice of the heads and senior staff of the institutions were made on the basis of the long-term needs and interests of the institutions, the provisions which treated student Council members differently from other Council members and which excluded student representatives from direct participation in the appointment/removal of the President and Vice-Presidents were justified. Nevertheless, all UGC-funded institutions had engaged students in the process for selecting their heads through measures such as informal consultations, opportunities for candidates to meet with student representatives, and presentation of views to the Council for consideration.

11. The UGC Secretariat advised the Panel in June 2008 of the completion by all the UGC-funded institutions of their internal reviews on governance and management structure. These reviews covered the size and composition of the governing bodies, the fitness for purpose of the governance structure, the relevant governing ordinances and codes of practices where applicable, and the need for periodic reviews of the effectiveness of the governing bodies. The

institutions decided to conduct further reviews of their governance structure on a need basis. The last update on the review of governance and management structure of the eight UGC-funded institutions is in **Appendix I**.

12. Notwithstanding the reviews conducted, members requested the UGC-funded institutions to deliberate further the composition of their governing bodies, including the method of selecting their members and chairmen.

Role of the UGC in governance of universities

13. Members sought clarification on the role of the UGC in the governance of universities. According to the UGC, it was inappropriate to equate the UGC with the Government. The UGC should act as a buffer between the Government and the institutions, safeguarding freedom and autonomy of the institutions on the one hand and ensuring value for money for the taxpayers on the other. The UGC acknowledged that there was room for improvement within the existing governance and management structures of the institutions, but it should not be the task of the UGC to dictate how exactly the structures should be improved. In the view of the UGC, the Report had enumerated the basic ingredients of good governance and provided some examples of high performance of overseas universities for reference.

Transparency and accountability

14. Members called for the enhancement of the accountability and transparency of the UGC-funded institutions. At the meeting of the Panel on 11 January 2005, members suggested that the governing bodies of the UGC-funded institutions should make public the agendas and minutes of their meetings. The Convenor of the Heads of Universities Committee (HUCOM) was requested to consult the governing bodies of the UGC-funded institutions on the suggestion. The written responses of the UGC-funded institutions are summarized in **Appendix II**.

15. Members noted that most UGC-funded institutions were reluctant to make public the agendas, papers and minutes of meetings of their governing bodies. At the Panel meeting on 17 July 2008, members passed a motion urging the governing bodies of the UGC-funded institutions to enhance public accountability and transparency of the institutions by, inter alia, making public the minutes of and papers for their meetings. Members requested the institutions to improve their information flow by considering the compilation of a code of practice which should be made available to the public. The Panel also requested the governing bodies of the UGC-funded institutions to deliberate further on the matter and come up with a stance. Pursuant to the Panel's request, the governing bodies of each of the UGC-funded institutions considered the suggestion to make public the minutes of and papers for their

Council meetings. The written responses of the UGC-funded institutions are summarized in **Appendix III**.

Redress mechanisms

16. While agreeing that LegCo should not interfere with the internal administration of the UGC-funded institutions, members considered it necessary to provide a channel for staff to seek redress of their grievances. Some staff associations of the institutions considered the existing mechanisms for handling complaints lodged by staff against individual UGC-funded institutions ineffective. These complaints often led to legal proceedings or were widely reported in the media. In their view, neither the Court nor LegCo was the appropriate forum for handling complaints against institutions. Resorting to the Court would involve huge legal cost, whereas turning to the media or LegCo would politicize the matter.

17. For the purpose of effectively resolving complaints and grievances lodged by staff of the UGC-funded institutions, some deputations suggested the establishment of an independent inter-institutional redress mechanism. This mechanism would work like an arbitration system under which respectable persons from individual institutions such as professors and eminent members of the community should be appointed as arbitrators to resolve complaints concerning tertiary institutions. Such a mechanism would save resources and ensure effectiveness as persons with good understanding of the operation of tertiary institutions would assume the role of arbitrators.

18. Members supported the establishment of an elected inter-institutional complaints body to handle complaints lodged by staff in the UGC sector. Members noted that some institutions, such as the University of Hong Kong and the City University of Hong Kong allowed the staff complainant to be accompanied by a lawyer or a trade union representative. It was considered important for the staff members to have the right to bargain collectively and for staff associations and unions to participate in the complaints handling system, including representing employees to negotiate with the employer and accompanying staff members to attend hearings. Members were concerned about the increasing proportion of academic staff in the UGC-funded institutions who were appointed on fixed-term contracts. It was claimed that most contract staff dared not express their views against the institutions as they were worried about non-renewal of contracts. There had been complaints about disparity of treatment between contract staff and staff appointed on substantiated terms in respect of promotion.

19. In the Administration's view, all the UGC-funded institutions had established appeal and grievances mechanisms which were unique to the particular circumstances of each institution. The details of the existing grievances and complaints mechanisms adopted by the UGC-funded

institutions are in **Appendix IV**. The Administration considered that the suggestion to establish an independent inter-institutional redress mechanism to deal with complaints from staff of all the UGC-funded institutions would undermine the institutions' autonomy in handling staff matters and complaints having regard to their own policies, practices and individual circumstances.

20. Similarly, the UGC was of the view that individual institutions were in the best position to handle complaints lodged by their staff. The UGC was concerned about the possible effect of the suggestion on institutional autonomy as currently the authority and responsibility for handling complaints laid with the individual institutions. It also doubted the effectiveness of such a mechanism, given that the policies and practices adopted by different institutions varied according to their respective roles, missions and needs.

21. The Panel passed a motion at its meeting on 17 July 2008 urging the Councils and the administrative arms of all UGC-funded institutions to establish an elected independent inter-institutional complaints committee. In its written response to the Panel on the motion, HUCOM stated that it did not support the proposal to establish such a committee. In its view, review and appeal mechanisms had been in place in all UGC-funded institutions for handling staff and student grievances and complaints. These mechanisms involved elaborate procedures conferring on the parties concerned substantial rights and opportunities to be heard, to defend and to appeal. Considering the complexities of university operation and management and the wide range of institutional differences that existed across the UGC-funded sector, it would be extremely difficult if not impossible for such an institutional complaints committee to function effectively and achieve its intended purpose. All UGC-funded universities enjoyed institutional autonomy and their Councils were vested with statutory powers to deal with appeals. Any parties who felt aggrieved could also lodge appeals to judicial bodies. If an inter-institutional complaints committee could super-impose its rulings on these bodies, it would be tantamount to usurping the legal powers of the university Councils, infringing on the autonomy of the institutions, and slighting the judgements of the courts. It was also questionable whether the mediation or decision from the committee would carry enough weight to be binding on the parties concerned. The response of HUCOM is in **Appendix V**.

Extension of The Ombudsman's remit to cover the UGC sector

22. Members noted the recommendation in the Report to explore the possibility of extending the remit of The Ombudsman's to cover the UGC sector. Some members considered that extending the jurisdiction of The Ombudsman to cover the UGC sector could not resolve the problem of staff grievances and complaints since The Ombudsman could only handle procedural but not academic matters. Increasing external participation and transparency in handling grievances by the institutions should be a better

approach.

23. The UGC advised that it had received mixed reactions about the proposal of extending the jurisdiction of The Ombudsman to cover the UGC-funded institutions during the consultation. The university Councils held a strong view that in line with the spirit of institutional autonomy, institutions should handle internal personnel matters themselves. The university Councils also pointed out that section 8 of The Ombudsman Ordinance (Cap. 397) specifies that The Ombudsman shall not undertake investigation in, among other things, personnel matters such as appointments, dismissals, pay and conditions of service, etc.

Relevant papers

24. A list of the relevant papers on the Legislative Council website is in **Appendix VI**.

Council Business Division 2
Legislative Council Secretariat
3 February 2009

**Summary of the Present Situation on the
Review of Governance and Management Structures of the
University Grants Committee-funded Institutions**

<u>Institution</u>	<u>Present Position</u>
City University of Hong Kong (CityU)	<ul style="list-style-type: none"> • CityU has completed its review and the recommendations of the Review Committee have been implemented, including the restructuring of the Council Committees, and the issue of a Code of Practice for Council Members. • One of the recommendations of the Review Committee was to reduce the size of the Council with a clear majority of lay members. The corresponding changes to the CityU Ordinance were approved by the Legislative Council in June 2007.
Hong Kong Baptist University (HKBU)	<ul style="list-style-type: none"> • HKBU has completed its review and concluded that the University Court and Senate have been functioning effectively, and that the University Court and Council have been playing complementary roles in governing the University. Furthermore, the Senate, with its existing powers and duties, is fit for its purpose as the highest academic body of the University.
Lingnan University (LU)	<ul style="list-style-type: none"> • It is the practice of the LU Council to conduct a “fitness for purpose” review of its function whenever there is significant change to Council membership. The Council completed a review in 2004. No amendment to the Council composition has been proposed by LU.

<p>The Chinese University of Hong Kong (CUHK)</p>	<ul style="list-style-type: none"> • CUHK has completed the review and some of the recommendations, including the establishment of an Executive Committee under the Council and an audit committee have been implemented. It has also decided to reduce the size of its Council for effective governance. The precise composition of the Council remains to be finalized. To allow the existing members to complete their present terms of membership, CUHK intends to implement the recommendation over a period of two to three years. As an interim measure, an Executive Committee of the Council has been established since December 2003 to discharge on behalf of the Council such duties and powers as delegated to it by the Council.
<p>The Hong Kong Institute of Education (HKIEd)</p>	<ul style="list-style-type: none"> • The HKIEd has completed a review and decided to streamline the structure of the Council Committees by dissolving some Committees and subsuming some Sub-committees under other Committees, and to reduce the number of Council members.
<p>The Hong Kong Polytechnic University (PolyU)</p>	<ul style="list-style-type: none"> • PolyU has completed the review and concluded that its governance structure was fit for purpose, and that the University has an effective management structure. Nonetheless, to refine PolyU's governance and management structure, a number of recommendations have been approved for implementation by the Council, e.g. the institution of a process of self-evaluation to review the performance of Council as a whole once every two years, review of the University's committee structures, etc. It has also proposed reducing the size of its Council and adjusting Council's composition to achieve the reduction in size. • The University will initiate necessary legislative amendments regarding the size and composition of its Council in collaboration with the Administration.

<p>The Hong Kong University of Science and Technology (HKUST)</p>	<ul style="list-style-type: none"> • HKUST has further reviewed its governance and management structures, and is working on proposed amendments to the Hong Kong University of Science and Technology Ordinance to implement the recommendations arising from the review, including changes in the size and composition of the Council.
<p>The University of Hong Kong (HKU)</p>	<ul style="list-style-type: none"> • HKU has completed its review of the governance and management structures, and put in place processes and mechanisms to implement all the 17 recommendations arising from the review. The majority of the required measures, including the reconstitution of Council and Senate, have already been implemented. Implementation of the remaining recommendations is being carried out in phases. • Amendments to the Statutes of the University of Hong Kong Ordinance to reconstitute the University Council and Senate were introduced to the Legislative Council and became effective from November 2003. • HKU is working on amendments to the University of Hong Kong Ordinance so that the descriptions of the respective roles of the Council and the Court therein would be fully consistent with their powers as set out in the relevant statutes. HKU plans to submit their legislative amendments to the Administration for consideration, with a view to presenting the amendments to the Legislative Council in its 2007/08 session.

Source : Extracted from Annex A to LC Paper No. CB(2)1655/07-08(01) provided by the University Grants Committee Secretariat in April 2008.

Summary of written responses from the UGC-funded institutions concerning the suggestion of making public the agendas and minutes of meetings of their governing bodies

Institution	Response
<p>City University of Hong Kong (CityU) (Letter dated 28 January 2005)</p>	<p>The CityU Council approved a Code of Practice for Council members at its meeting on 22 November 2004 which incorporated the following statement :</p> <p><i>"In general, the principle of openness applies to the operation of the Council and students and staff of the University have access to information about the proceedings of the Council. The Council Secretariat issues a summary report of Council meetings in the university newsletter. The agenda, draft minutes, if cleared by the Chairman, and the signed minutes of Council meetings, together with the papers considered at meetings, are made available for inspection in the University Library. There may, however, be matters, covered in the rules and procedures, where it is necessary to observe confidentiality. Such matters are likely to concern individuals or have a commercial sensitivity."</i></p> <p>The CityU Council agreed that printed copies of the agendas, papers and minutes should be placed in the University Library for the time being.</p>
<p>The Chinese University of Hong Kong (CUHK) (Letter dated 1 March 2005)</p>	<p>According to established practice, agendas and minutes of meetings of the CUHK Council are treated as confidential documents. The CUHK Council deals with a lot of institutional management matters related to individual staff and students and certain matters such as business arrangements or contracts which are subject to non-disclosure clauses.</p> <p>According to customary practice, the CUHK Council would make public announcement of its decisions which are of public interest. The CUHK Council considers it not advisable or practicable to make public all the agendas and minutes of its meetings.</p>

Institution	Response
The University of Hong Kong (HKU) (Letter dated 23 April 2005)	Given the sensitivity of issues discussed and the practice to inform the public of its decisions and policies through appropriate channels, and in the interest of full freedom of discussion, the HKU Council considers it neither necessary nor appropriate to make public all the agendas and minutes of their meetings. Nevertheless, the HKU Council welcomes further deliberations by the HUCOM with the aim of arriving at a common policy.
The Hong Kong Institute of Education (HKIEd) (Letter dated 24 May 2005)	It has been the practice of the HKIEd Council to report a summary of its discussions/decisions to staff through the monthly Staff Bulletin. The HKIEd Council considers it not necessary to make public all the agendas and minutes of its meetings.
The Hong Kong Polytechnic University (PolyU) (Letter dated 14 July 2005)	The PolyU Council has adopted the recommendation of the Governance and Management Review Committee to upload its major decisions, other than those on confidential items, onto the Intranet.
Hong Kong University of Science and Technology (HKUST) (Letter dated 27 July 2005)	Given the existing channels to publicize its decisions, the HKUST Council takes the view that a balance should be struck between public accountability and academic freedom/institutional autonomy. In the interest of freedom of discussions at meetings, the HKUST Council does not consider it appropriate to make public the agendas and minutes of its meetings.
Hong Kong Baptist University (HKBU) (Letter dated 10 August 2005)	<p>HKBU holds the view that releasing the agendas and minutes of its Council meetings to the public might inhibit discussions at those meetings and would not be in the overall interest of the work of the Council and consequently the University.</p> <p>Under the established practice, information on major decisions made by the Council and development of HKBU is disseminated to various sectors through a number of well-publicized channels.</p>

Institution	Response
Lingnan University (Letter dated 13 September 2005)	The University Council does not consider it appropriate to make public all agendas and minutes of its meetings as the items discussed are mainly of academic nature or about personnel matters. For issues or resolutions of public interest, the Council would make them known to the public through proper channels such as press release, conference or the University homepage on the Internet.

Council Business Division 2
Legislative Council Secretariat
3 February 2009

**Summary of written responses from the UGC-funded institutions to the motion passed at the meeting on 17 July 2008
concerning the enhancement of the transparency of their governance**

Institution	Response
The University of Hong Kong (HKU) (Letter dated 19 December 2008)	The Council is of the opinion that the best way of achieving the objective of enhancing public transparency is to reinforce the existing communication channels. The Council has therefore agreed to release in future, through internet and after each meeting, a report summarizing all its decisions, except those on personal matters relating to individuals and plans and proposals not yet finalized, on the understanding that for the latter, the disclosure would be made at a later stage when the proposals are finalized.
The Hong Kong Institute of Education (HKIEd) (Letter dated 31 December 2008)	There are established channels for decisions of the HKIEd Council to be promulgated within the Institute and, if appropriate, also to the public. These communication channels include placing of the Council meeting agenda, Council papers other than those classified as confidential and summaries of the Council's decisions on the intranet and in the Staff Newsletters. The Council has resolved to place on the Institute's website and make available to the public relevant open documents of the Institute.
The Hong Kong Polytechnic University (PolyU) (Letter dated 8 January 2009)	The PolyU Council resolved to continue its practice since January 2006 of uploading major decisions at Council meetings, other than those classified as confidential, onto the University's Intranet.
Lingnan University (Letter dated 9 January 2009)	The Council was of the view that the University should enhance the existing communication channels to the public. It was however yet to decide whether the minutes of or a report summarizing the decisions of a Council meeting should be put on the web. It is anticipated that the Council at its next meeting on 16 February 2009 will reach a decision.

Institution	Response
Hong Kong Baptist University (HKBU) (Letter dated 12 January 2009)	Major decisions made by the Council and other administrative bodies have always been communicated to stakeholders through different channels (such as announcements, messages from the presidential officers to the University community, press releases, publications and meetings stakeholders) in a timely manner. The Council decides that decisions made at Council meetings (except those which are classified confidential) would be posted on the University website for public viewing.
City University of Hong Kong (Letter dated 14 January 2009)	It has been the practice for the past couple of years for copies of the minutes and papers of the Council, which are not of a confidential nature, to be lodged in the University library for the information of members of the University.
Hong Kong University of Science and Technology (HKUST) (Letter dated 21 January 2009)	The Council will further enhance the transparency of governance and reinforce the existing communication channels, by announcing through the intranet after each Council meeting the decisions taken, except where it relates to personnel or other sensitive matters that are subject to protection. Press releases will continue to be used as appropriate for communication outside of the University. The Council trusts that the above measures constitute a more pragmatic approach than making public the meeting documents of the Council.
The Chinese University of Hong Kong (Letter dated 21 January 2009)	In addition to the efforts to enhance the existing communication channels, the Council has agreed that in future, a summary report of the Council's decisions will be placed on the University's web after each Council meeting, except decisions relating to personal privacy, plans and proposals not yet finalized and any item the immediate release of which after the meeting or disclosure of such an item is considered inappropriate by the Council. The Council believes these measures will be an effective way to achieve the objective of enhancing transparency relating to university governance.

Council Business Division 2
Legislative Council Secretariat
3 February 2009

**Summary of the Existing Grievances and Complaints Mechanisms of the
University Grants Committee-funded Institutions**

<u>Institution</u>	<u>Present Position</u>
City University of Hong Kong (CityU)	<ul style="list-style-type: none"> • The University has established appeal procedures for handling grievances and complaints in relation to staffing matters, which are applicable to staff members who feel aggrieved by personnel decisions affecting them. The University's Regulations Governing Staff Discipline deal with grievances/complaints other than those on personnel matters. • Staff members are encouraged to consult the Head of Department or seek advice from the Human Resources Office first to consider whether the issue can be resolved without invoking the formal process. • Staff members who feel aggrieved by personnel decision may submit an appeal in writing to the President. The President will decide whether to appoint an Appeal Authority to consider the appeal. The Appeal Authority shall determine whether to form an Appeal Committee to assist and advise the Appeal Authority in reviewing the appeal. The decision of the Appeal Authority will be final. • Other grievances or complaints shall be made in writing and lodged with the President, Deputy President, Director of Human Resources or Head. Mediation will be conducted subject to consent of the complainant and the respondent. An investigator or the Head will conduct investigation if mediation is not forthcoming or fails, and will make recommendation to the President whether disciplinary proceedings are to be pursued. The President's decision will be final.

<u>Institution</u>	<u>Present Position</u>
	<ul style="list-style-type: none"> • The appeal and grievances mechanisms are incorporated in the University's Staffing Procedural Manual which is accessible on the University's intranet. The Regulations Governing Staff Discipline form part of the University's employment contract. They can also be accessible on the University's intranet. • The Appeal Procedures for staffing matters were last revised in September 2003. The Regulations Governing Staff Discipline were last revised in July 2007.
Hong Kong Baptist University (HKBU)	<ul style="list-style-type: none"> • The University's Grievance Procedures deal with all work-related grievances/complaints. Specific guidelines and procedures have also been laid down to deal with various types of grievances/complaints. • Staff members are encouraged to raise and discuss any work-related concern/grievance/complaint with their immediate supervisors in the first instance, or with a senior level if the immediate supervisor is involved. • Should informal resolution fail, or if a staff member so wishes, he/she may write to the appropriate authority (Vice-President or the President & Vice-Chancellor, as appropriate in accordance with the established procedures) to initiate the formal procedures to handle his/her grievance/complaint. Work-related grievances/complaints will be handled by a Conflict Resolution Committee. The President/Vice-Chancellor or the Vice-President may appoint a relevant Panel, in accordance with the respective guidelines and procedures, to attend to the respective grievance/complaint. • Any staff member who is not satisfied with the outcome of enquiry by the

<u>Institution</u>	<u>Present Position</u>
	<p>Committee on Conflict Resolution may write to the President & Vice-Chancellor who may refer the matter to be considered by an Appeal Committee, of which the decision will be final. For decisions of relevant Panel, the staff member can write to a higher level authority for appeal and the final decision shall rest with that authority.</p> <ul style="list-style-type: none"> • Procedures are made known to staff members via Personnel Office Circulars, Staff Handbook, and homepage of the Personnel Office. • The procedures were first established in 2002-2003, which will be reviewed in 2007-2008; and thereafter subject to periodic review every three to four years.
Lingnan University (LU)	<ul style="list-style-type: none"> • The University administers appropriate procedures for handling staff grievances and complaints on matters directly associated with the staff members' employment relationship with the University. • In general, under the existing mechanism, a staff member who has a grievance or a concern about the administration of a University policy is encouraged to try to resolve it by working with his Department/Unit Head or the University's Human Resources Office. • Respective Appeals Committees are responsible for handling appeals against termination and non-renewal of contract for academic and non-academic staff. Grievance, other than that relating to termination of employment and non-renewal of contract, which is not resolved informally at the levels of the Head of Department/Unit and/or the Human Resources Office may be presented in writing to the Office of the President, which may appoint an Investigation Committee to

<u>Institution</u>	<u>Present Position</u>
	<p>deal with the case. The Committee shall report its findings and recommendations to the President. The final decision rests with the Council.</p> <ul style="list-style-type: none"> • The functions and procedures of the Appeals Committee are widely publicized in the University through the campus computer network. A Staff Handbook including the relevant procedures is available on the website of the University for easy reference by staff members. • The procedures for handling grievances and complaints, like other staffing policies and procedures, are closely monitored by the University. They are subject to review on a periodic basis in the light of relevant developments. The Council Appeals Committee conducted a review of its procedure in June 2007.
The Chinese University of Hong Kong (CUHK)	<ul style="list-style-type: none"> • The University has established procedures for handling various types of complaints and grievances, e.g. sexual harassment complaints, complaints related to personnel matters, as well as other general complaints or disciplinary matters. • The existing administrative arrangements allow a staff member to resolve grievances or handle complaints in preliminary stages, with the guidance of his/her supervisor(s) and/or the University's Personnel Office. Mediation is also encouraged before formal procedures are triggered. • There are detailed procedures for handling various types of complaints. Generally, the formal procedures consist of: establishing whether there is a prima facie case; forming an Investigation Committee to undertake formal investigation; allowing representation/defense by the complainant; allowing appeal or review as applicable; and approving final decision/action.

<u>Institution</u>	<u>Present Position</u>
	<ul style="list-style-type: none"> • Where a review/appeal procedure is stipulated, the case will be handled by a separate committee / officer with appropriate authority (other than the one handling the complaint in the first place) as stipulated in the relevant procedures. The final decision rests with the committee or officer with duly delegated authorities. • The staff associations of the University are kept informed of, or consulted on, the various currently-in-force procedures. The established procedures are made known to the parties concerned and where appropriate, published in the Staff Handbook and the University website. • The University keeps the procedures on handling complaints or grievances under review from time to time, having regard to changing statutory provisions, the working environment and the development and needs of the University. For example, the procedures for handling sexual harassment complaints were last reviewed in September 2007.
The Hong Kong Institute of Education (HKIEd)	<ul style="list-style-type: none"> • The Institute has established procedures for handling work-related grievances and complaints made by a staff member, or a group of staff members, against any individual or a group of staff members. • Any staff member may refer the complaint to his or her immediate supervisor, or Head of Department/Unit who shall determine the nature of the complaint and attempt to resolve it informally at the departmental level. • If the complaint cannot be resolved at departmental level, the complaint may be

<u>Institution</u>	<u>Present Position</u>
	<p>referred to a relevant Vice-President. The Vice-President shall refer the complaint to the appropriate Department/Unit for further investigation or to the Grievance Committee for further investigation.</p> <ul style="list-style-type: none"> • If the complainant is not satisfied with the decisions made by the relevant decision authority, he/she may lodge an appeal in writing. The Appeal Authority will review the entire case and decide on the appropriate course of action. The decision of the Appeal Authority shall be final. • The Procedures for Resolving Staff Grievances are posted in the Institute's intranet and staff members are able to retrieve the grievances and complaints mechanisms / procedures when needed. • Review of the procedures will be conducted as the Institute deems fit. The Institute is now in the process of reviewing the grievances and complaints mechanisms/procedures.
The Hong Kong Polytechnic University (PolyU)	<ul style="list-style-type: none"> • The University has established procedures for handling grievances and complaints which have proven to have worked well over the years. In order to further refine these procedures and consequent upon the Report of the Governance and Management Review Committee appointed by the University Council, the University Management appointed a working group to conduct a comprehensive review of all existing regulations governing appeals and grievances by staff in PolyU. The PolyU Council approved in June 2007 a new Policy on handling staff grievances and appeals as proposed by the University Management. A set of new Procedures for handling grievances and appeals established in accordance with the approved Policy has been implemented since

<u>Institution</u>	<u>Present Position</u>
	<p>March 2008.</p> <ul style="list-style-type: none"> • The new Procedures handle all staff grievances including allegations concerning sexual harassment and violation of the University Code of Ethics, and appeals against decisions on human resources-related issues. • The new Policy puts greater emphasis on facilitating the conciliation of a grievance at an early stage. All parties concerned including staff members, supervisors, Heads of Department and the Senior Management Committee members are expected to make every attempt to resolve a complaint, as informally as possible, to the satisfaction of all parties concerned. • The relevant authority, the Grievance and Appeal Committee, the Review Committee or the Director of Human Resources and the Legal Counsel as appropriate, will investigate the complaint by scrutinising and considering all relevant documents. During the investigation process, the Grievance and Appeal Committee may take any action it deems appropriate or necessary including interviewing the parties concerned or seeking further information/evidence on the case. • The decisions of the Grievance and Appeal Committee, the Review Committee or the Director of Human Resources together with the Legal Counsel (or as the case may be, a small group chaired by a senior staff member and comprising the Director of Human Resources and the Legal Counsel) on complaints under their purview shall be final. • The new Procedures were announced to the University community in January 2008. They are also included in the Staff Handbook which is accessible by staff members any time via the University Portal.

<u>Institution</u>	<u>Present Position</u>
	<ul style="list-style-type: none"> • The University will review the implementation of the new Procedures from time to time.
<p>The Hong Kong University of Science and Technology (HKUST)</p>	<ul style="list-style-type: none"> • The University has established a set of Staff Grievance Procedures for handling employment-related grievances and complaints which do not fall under appeal mechanisms of separate University procedures. • In general, under the existing mechanism, a staff member who has a relevant grievance/complaint is encouraged to try to first resolve it by working with supervisors within the unit(s)/department(s) involved. • Complaints are handled at and escalated to management levels, i.e. from immediate supervisor, Head of Department, Dean/Vice-President and then to President. A Hearing Committee shall be established to resolve the matter in case of need. The Hearing Committee shall provide the President with a written report of its findings. The President will then issue a final decision. If the staff member is not satisfied with the decision of the President made after the conduct of a formal hearing, an appeal may be made to the Chairman of the University Council. The Council Chairman shall, in consultation with the Chairman of the Human Resources Committee, decide on a course of action. The decision of the Council Chairman will be final. • The Staff Grievance Procedures were announced vide an internal circular and are also posted on the University's staff intranet. • The regulations provide that the Staff Grievance Procedures will be kept under

<u>Institution</u>	<u>Present Position</u>
	review by the University.
The University of Hong Kong (HKU)	<ul style="list-style-type: none"> • The University has established procedures for handling staff grievances and complaints of all types. • Complaint should be referred to immediate supervisor/Head of Department/Dean of his/her Faculty, who shall attempt to clarify the nature of the complaint, and to resolve it. • A complaint that is not resolved may be referred to a Pro-Vice-Chancellor in writing. The case may also be referred to the Chairman of a Grievances Panel. If the Chairman of the Panel does not resolve the complaint, he shall set up a Committee of Enquiry for further investigation. Final decision rests with the Council of the University. • Procedures are set out in the Staff Manual and on the University's website. • There is no fixed timetable for review on the procedures. On completion of the investigation of a case, the Grievances Panel normally reviews the procedures in the light of its experience in the case. The procedures were revamped in 2004, and the current regulations and procedures were introduced in November 2004. The mechanism was examined in connection with a recent investigation held a few months ago, and no change was deemed necessary.

Source : Extracted from Annex B to LC Paper No. CB(2)1655/07-08(01) provided by the University Grants Committee Secretariat in April 2008.

HUCOM response to the motion of the LegCo Panel on Education urging the UGC-funded institutions to establish an elected independent inter-institutional complaints committee

- 1 Review and appeal mechanisms are already in place in all eight member universities of HUCOM for handling staff and student grievances and complaints. These mechanisms involve elaborate procedures conferring on the parties concerned substantial rights and opportunities to be heard, to defend and to appeal. Whilst such mechanisms can always be improved in the light of changing environments and the changing expectations of staff and students, the principles of openness, fairness and justice have been and will continue to be upheld. There are also proper channels for staff and students to monitor and question the policies and operations of their universities.
- 2 Considering the complexities of university operation and management and the wide range of institutional differences that exist across the UGC-funded sector, it will be extremely difficult if not impossible for such an inter-institutional complaints committee to function effectively and achieve its intended objective. We are of the view that complaints and appeals from staff and students can be more effectively and expeditiously handled by members of the same institution, who have a better understanding of the mission, tradition, and culture of their own university. We fail to see how an inter-institutional complaints committee would improve our mechanisms, except to prolong the processes and time in settling any disputes or problems.
- 3 All UGC-funded universities enjoy institutional autonomy and their Councils are vested with statutory powers to deal with appeals. Any party who still feels 'aggrieved' after the Councils have ruled can lodge further complaints/appeals to the judicial bodies. It is difficult to conceive how an inter-institutional complaints committee can super-impose its rulings on these bodies. It will be tantamount to usurping the legal powers of the university councils, infringing on the autonomy of the institutions, and slighting the judgements of the courts.
- 4 Whilst not all grievances and complaints are directly related to employer/employee relations, the solution to many disputes essentially depends on the readiness of both parties to accept or enforce the decisions/agreements reached. It is questionable whether the mediation or decision from such an inter-institutional complaints committee will carry enough weight to be binding on the employer or the employee.
- 5 An inter-institutional complaints committee would therefore be an extraneous channel for appeal. It can replace neither the existing appeal mechanisms in the universities nor the judicial processes. It is highly unlikely that its decisions would be respected or readily executed by the parties concerned. Given the above concerns, HUCOM cannot support the proposal to establish such a committee.

**Relevant papers on
governance structure and grievances and complaints mechanisms
of the University Grants Committee-funded institutions**

Meeting	Date of meeting	Paper
Panel on Education	17.5.1999 (Item IV)	Minutes Agenda
Panel on Education	27.9.1999	Minutes CB(2)2875/98-99(01) CB(2)2895/98-99(01) CB(2)2895/98-99(02)
Panel on Education	17.4.2000 (Item VIII)	Minutes Agenda
Panel on Education	18.3.2002 (Item IV)	Minutes Agenda
Panel on Education	26.3.2002 (Item I)	Minutes
Panel on Education	2.4.2002 (Item I)	Minutes Agenda
Panel on Education	7.5.2002 (Item I)	Minutes
Panel on Education	2.12.2002 (Item I)	Minutes
Panel on Education	17.2.2003 (Item IV)	Minutes Agenda
Panel on Education	3.3.2003 (Item II)	Minutes Agenda
Finance Committee	11.4.2003	Minutes Agenda
Panel on Education	21.6.2004 (Item IV)	Minutes Agenda
Panel on Education	5.7.2004 (Item I)	Minutes Agenda

Meeting	Date of meeting	Paper
Panel on Education	11.1.2005 (Item I)	Minutes Agenda
Panel on Education	26.1.2006 (Item III)	Minutes Agenda
Bills Committee on City University of Hong Kong (Amendment) Bill 2006	1.11.2006	CB(2)219/06-07(03) CB(2)219/06-07(04) CB(2)219/06-07(05)
Panel on Education	14.5.2007 (Item V)	Minutes Agenda
Panel on Education	9.7.2007 (Item III)	CB(2)2071/06-07(06) CB(2)2357/06-07(04) CB(2)2357/06-07(05)
Panel on Education	17.7.2008 (Item II)	Minutes Agenda

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