

香港大學

《2010年香港大學(修訂)條例草案》委員會
第二次會議會後跟進

“好的免職因由”(“good cause”)的保護(Protection)

- (a) 所有實職聘任制(substantive appointment)的全職教員(professoriate staff)，包括講座教授(Chairs)、教授(Professors)、副教授(Associate Professors)、助理教授(Assistant Professors)，以及舊職銜的教授(Readers)、高級講師(Senior Lecturers)、講師(Lecturers)，均享有“好的免職因由”(“good cause”)的保護(Protection)。除此之外的員工均不在保護之列。教學相關(academic-related)的職級見附件 I。

海外大學有關“好的免職因由”資料見附件 II。

- (b) 港大暫時無意將“好的免職因由”保護擴展至非教員職級(教員職級(professoriate grades)包括講座教授(Chairs)、教授(Professors)、副教授(Associate Professors)、助理教授(Assistant Professors)；以及舊職銜的教授(Readers)、高級講師(Senior Lecturers)、講師(Lecturers))。大學各職級員工的受聘條件不同，教員(professoriate staff)負責教學、研究、知識轉移及行政的工作。港大若要解僱教員或免除其職務，一貫採用“好的免職因由”原則，意指無能力有效率地執行有關職位的職責、疏於職守或使任職者不適宜繼續任職的公職上或私下的不當行為，才屬不宜繼續教職。港大創校初期已有“好的免職因由”的法定條文，這悠久的法定條文保障了教員的研究工作及知識轉移方面的自由。

“好的免職因由”的保障並非港大維護學術自由的唯一方法，現在甚至不是最主要的方法。保障學術自由，現已是港大的一項基本政策，在大學網頁公開給所有員工。此外，所有僱員：不論是教員(academic)、與教學相關(academic-related)、或非教學(non-academic)的職員，均保證享有學術自由。僱員若有感學術自由受損，可採用現存的透明的申訴程序解決。港大與外國大學不同之處是：“好的免職因由”不會容許港大因裁員、財政困難、學術方向改變而終止聘任教員。

- (c) 港大於2004年進行人力資源改革，其中一建議乃為教學相關(academic-related)僱員，包括職務為授課、成績評核、學生指導的教學顧問及語言教師，更改職銜為“講師 I/II/III”，以精簡現有職級，及反映其工作性質。這類僱員現時沒有“好的免職因由”保障，也不會因新的職銜而有所改變。這些建議見於人力資源改革首階段，原則已於2004年9月的校務會議通過。更改詳情則有待完成使用新職銜的立法程序，當大學可以將“講師”職銜更改用途後，再作制定。

港大校董會(Court)及校務委員會(Council)成員

(d) 現時港大校董會(Court)及校務委員會(Council)的組成見附件 III 及 IV。

受教資會資助院校的管治架構見附件 V。當中只有香港中文大學在其條例中設有機制，令其校董會會有三位經選舉產生的立法會議員代表。其餘七所院校，現時只有香港科技大學及香港理工大學的校董會(Council)中有成員為立法會議員，但均以其個人身份出任。

人力資源政策委員會(Human Resource Policy Committee)的僱員代表

(e) 人力資源政策委員會(Human Resource Policy Committee)為校務委員會(Council)屬下，負責檢討人力資源政策事宜。主席為校務委員會中之校外委員，當中的僱員代表是校務委員會成員中一位經選舉產生的教員。僱員組織並無代表，但需要時僱員組織代表會被邀出席會議，以作資料交換及諮詢。

人力資源政策委員會將就香港大學職員協會(Hong Kong University Staff Association)最近提出的僱員代表問題，作出研究。

立法會代表參與香港大學校務委員會

(f) 有關立法會草案委員會的提議，於香港大學校務委員會(Council)加入立法會議員代表一事，香港大學校務委員於最近一次會議中經商討後，希望藉此機會向草案委員會解釋：香港大學校務委員會組成(見附件 IV)包括兩大類，選舉產生的學生及僱員代表、校外人士(非學生及僱員)；委員組別並沒有包括任何組織代表，所有成員均以個人身份(*ad personam basis*)參與。

基於校務委員會的組成及其一直堅守的“託管原則”(principle of trusteeship)，校務委員會認為不適宜於其組成機制中增加某一組織的代表。

在現存的機制下，立法會議員可參透過以下三個途徑成為香港大學校務委員會成員：

- 通過校董會「兩位非大學學生及僱員的人士」的選舉中選出(校董會中現有五位立法會議員，有提名資格)；
- 校監在「七位非大學學生及僱員的人士」一項中委任；
- 校務委員會通過「六位非大學學生及僱員的人士」一項中委任。

港大重申，正如與草案委員會見面時所言，校董會及校務委員會的基本權責，自成立以來從未改變過。雖然如此，港大以後在處理校務委員會成員的委任時，會記取草案委員會這項建議。

附件 VI 為部份海外大學的管治架構，及當中的政府/立法組織/政治團體的參與。

申訴程序

- (g) 大學教育資助委員會近期制訂申訴機制最佳做法指引，邀請院校考慮四大範疇：委任調解人員、防範報復行爲、訂明處理申訴的時限、及校外人士參與。

港大一貫採用保證公平的原則處理申訴/投訴，此原則已蘊藏於所有僱員申訴程序之內，港大對大學教育資助委員會建議之四大範疇見解如下：

委任調解人員

港大的現有申訴程序有依靠非正式程序的解決：首先於學系、學院級，然後於副校長級處理。現有程序並不阻止調解。事實上，現時在學系學院級處理申訴/投訴，本質上已是嘗試調解；港大近期亦曾採用專業調解員服務。假如調解將會成爲一種正式程序，我們希望具有一定彈性，因爲有些個案爭辯並非調解能夠解決，強制進行調解程序只會流於形式，無助解決事件。

防範報復行爲

港大認同必須明文規定禁止報復行爲，並聲明嚴重後果。並會於程序內加入此訂明。

訂明處理申訴的時限

港大認同處理申訴/投訴的每個步驟必須訂明時限，但這時限應是實際及可行的。並會於程序內加入此訂明。

校外人士參與

現時的大學申訴小組可以委任校外人士參與，即非大學僱員或其管治委員會中的委員。

港大會按指引修改現有程序，此等修改無須啓動立法。

二零一一年二月二日

THE UNIVERSITY OF HONG KONG

Academic-related Staff Grade

- Principal Clinical Dental Instructor
- Tutor in Dental Surgery Assisting
- Tutor in Dental Radiography
- Tutor in Dental Technology
- Senior Teaching Consultant
- Teaching Fellow
- Instructor Dental Technologist
- Instructor in Dental Technology
- Tutor in Dental Hygiene
- Senior Language Instructor
- Language Instructor
- Teaching Consultant
- Field Instructor
- Assistant Language Instructor
- Instructor in Nursing Studies
- Clinical Instructor (SHS)
- Tutor
- Instructor in Dental Surgery Assisting

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“Good Cause Protection”
- A brief survey of existing practices in overseas institutions

	Institutions	“Good cause” or similar provisions	Category of staff	Other means to protect academic freedom
1.	The University of Hong Kong	<p>“Good cause” provision</p> <p>“Good cause” means inability to perform efficiently the duties of the office, neglect of duty, or such misconduct, whether in an official or a private capacity, as renders the holder unfit to continue in office.</p> <p>(It does not include redundancy as in the case of some overseas universities – see below.)</p>	<p>Professoriate staff (Chairs, Professors, Associate Professors, Assistant Professors; and those Senior Lecturers and Lecturers retaining the old academic titles) who are on substantive appointment</p> <p>Officers of the University (i.e. Chancellor, Pro-Chancellor, Vice-Chancellor, Deputy Vice-Chancellor, Pro-Vice-Chancellors, Treasurer, Deans of Faculties, Registrar, Librarian, Director of Estates, Director of Finance and Dean of Student Affairs)</p>	<p>Approved policy framework for assuring academic freedom of the University staff and students:</p> <ul style="list-style-type: none"> - A working definition of academic freedom in the form of an institutional declaration, as follows: "Academic freedom refers to the freedom of academic institutions, structures and individuals to study, teach, research and publish without being subject to undue interference, free of any authority or standard other than the rational methods by which truth is established. The notion of academic freedom reflects the belief that it enhances the pursuit, transmission and application of knowledge, and as such may be supported by society through the funding of academics and their institutions. Academic freedom embodies an acceptance of the need to encourage openness and flexibility in academic work, and of the accountability of academics to each other and to the norms of cooperative pursuit of knowledge." - A list of specific academic freedom enjoyed by the University and its members with corresponding responsibilities is posted on the University’s web.

2.	University of Virginia	There are different sets of policy for professoriate and non-professoriate staff members (who are known as “General Faculty”), but no information has been provided.	N/A	N/A
3.	University of Birmingham	<p>“Good cause” provision in Statutes: “Good cause” means: (a) conviction for an offence which may be deemed by the Council to be such as to render the person convicted unfit for the execution of the duties of the office, employment or membership; or (b) conduct of an immoral, scandalous or disgraceful nature incompatible with the duties of the office, employment or membership; or (c) conduct constituting failure or persistent refusal or neglect or inability to perform the duties or comply with the conditions of office whether such failure results from physical or mental incapacity or otherwise; or (d) disqualification from being a Trustee of a charity in accordance with Section 72 of the Charities Act 1993.</p> <p>The Ordinances, however, also</p>	<p>Academic staff, i.e. those who are on Academic Teaching Staff or Research Staff conditions of employment.</p> <p>They do not apply to casual, visiting or ‘consultant’ teachers.</p>	Ordinance of the University of Birmingham contains a definition of academic freedom and the protection and responsibilities it confers.

		set out the following as potential reasons for dismissal: redundancy, mis-conduct, under-performance, ill-health, unsatisfactory probationary period, expiry of fixed term contract, removal of honorary clinical contract (for clinical academic staff), statutory reasons, and any other suitable reason.		
4.	University of Cambridge	<p>‘Good cause’ provision</p> <p>‘Good cause’ shall mean:</p> <p>(a) conviction for an offence which may be deemed by a Tribunal appointed under the provisions of Chapter III of this Statute to be such as to render the person convicted unfit for the performance of the duties of his or her office or for employment as a member of the academic staff;</p> <p>(b) conduct of an immoral, scandalous, or disgraceful nature incompatible with the duties of the office or employment;</p> <p>(c) conduct constituting failure or persistent refusal or neglect or inability to perform the duties or comply with the conditions of the office;</p> <p>(d) physical or mental incapacity established under the provisions of Chapter IV of this Statute</p>	<p>Academic staff referring to:</p> <p>(a) the Vice-Chancellor; and</p> <p>(b) every person who holds any of the other University offices specified or referred to:</p> <p>University officers shall be those persons only who hold any of the University offices of Vice-Chancellor, Pro-Vice-Chancellor, Proctor, Orator, Registrary, Librarian, Director of the Fitzwilliam Museum, Esquire Bedell, University Advocate, and Deputy University Advocate; Professors, Readers, University Senior Lecturers, University Lecturers, Assistant Directors of Research, Senior Assistants in Research, University Pathologist in the Department of Veterinary Medicine, Director of Biotechnology, Assistant Directors of Development Studies, Director of the Melville Laboratory for</p>	N/A

		However, an appropriate body is empowered to dismiss any member of the academic staff by reason of redundancy.	Polymer Synthesis, Director of the Institute of Criminology, Director of the Scott Polar Research Institute, Director of the Botanic Garden, Executive Director of Research in the Faculty of Economics, Deputy Director of the McDonald Institute for Archaeological Research; or any other University office established by Statute or Ordinance.	
5.	University of London	N/A	N/A	Statutes: 20.1 Academic staff employed by the University shall have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges.
6.	University of Oxford	<p>‘Good cause’ provision</p> <p>‘Good cause’ means:</p> <p>(a) conviction for an offence which may be deemed by the Visitation Board in the exercise of its powers under Part D to be such as to render the person convicted unfit for the performance of the duties of the office or employment as a member of the academic staff; or</p> <p>(b) conduct of an immoral, scandalous, or disgraceful nature incompatible with the duties of</p>	<p>(a) professors, readers, and lecturers;</p> <p>(b) employees of the University who are subject to the jurisdiction of the Visitation Board; and</p> <p>(c) the Vice-Chancellor</p>	<p>There is a Policy Statement on Freedom of Speech stating that:</p> <ul style="list-style-type: none"> - Members, students, and employees of the College must conduct themselves so as to ensure that freedom of speech within the law is secured for members, students, and employees of the College and for visiting speakers. The freedom protected by this Code of Practice is confined to the exercise of freedom of speech within the law. The College believes that a culture of free, open and robust discussion can be achieved only if all concerned avoid needlessly offensive or provocative action and

		<p>the office or employment; or (c) conduct constituting failure or persistent refusal or neglect or inability to perform the duties or comply with the conditions of office or employment; or (d) physical or mental incapacity established under Part E.</p> <p>However, at the same time, the Statutes enables the Council, as the appropriate body, to dismiss any member of the academic staff by reason of redundancy.</p>		<p>language. Whilst there is no legal prohibition on offending others, the College expects speakers and those taking part in meetings or protest activities to respect its values, to be sensitive to the diversity of its community and to show respect to all sections of that community. An event which is likely to give rise to an environment in which people will experience, or could reasonably fear, harassment, intimidation, verbal abuse or violence, particularly because of their ethnicity, race, nationality, religion or belief, sexual orientation, gender, disability or age, is also likely to be unlawful.</p> <p>A Code of Practice is issued under section 43 of the Education (No 2) Act 1986 on Freedom of Speech.</p>
7.	The University of Auckland	Academic Collective Employment Agreement	All Academic staff, including Professors	<p>S161 of the Education Act: Ministers and authorities and agencies of the Crown (the Government) are obliged to respect academic freedom –and autonomy—and that these two are to be “preserved and enhanced”</p> <p>.</p>
8.	University of Delhi	No	N/A	There are no restrictions on academic freedom and freedom of expression.
9.	National University of Singapore	Code of Conduct which provides for guidance on the conduct expected. Staff whose conduct are not consistent with the guidelines will be subjected to the disciplinary process, which	The code of conduct applies to all categories of staff.	All staff are accorded the freedom of speech, including academic staff.

		could include termination of employment.		
10.	Waseda University	No	N/A	Staffs are protected by the Japanese labour law and Faculty Union. Administrative staffs are also protected by the law and Staff Union. Those unions are in-house labour unions.

Note: Information listed in the table is provided by the respective Universities through the Universitas 21 Secretariat, except for Universities of Cambridge, London and Oxford, of which information is collected from their respective webpages.

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THE UNIVERSITY OF HONG KONG

The Court of the University of Hong Kong

Membership Composition

- Chancellor
- Pro-Chancellor
- Vice-Chancellor
- Deputy Vice-Chancellor
- Pro-Vice-Chancellors
- Treasurer
- Life Members of Court
- Registrar (also serves as the Secretary to the Court)
- Chairman of Convocation
- Deputy Chairman of Convocation
- Clerk of Convocation
- 5 persons elected by the Members of the Legislative Council from among their own number
- 12 members elected from among its number by the Standing Committee of Convocation
- 5 Members elected by the Court
- 3 Members elected by the Grant Schools Council
- 3 Members elected by the H.K. Subsidized Secondary Schools Council
- Not more than 20 members, not being already included in any of the foregoing classes, appointed by the Chancellor
- Council Members
- Senate Members

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THE UNIVERSITY OF HONG KONG

The Council of the University of Hong Kong

Membership Composition

- 7 persons, not being students or employees of the University, appointed by the Chancellor, one of whom shall be appointed the Chairman by the Chancellor
- 6 persons, not being students or employees of the University, appointed by the Council
- 2 persons, not being students or employees of the University, elected by the Court
- Vice-Chancellor
- Treasurer
- 4 full-time teachers elected in accordance with regulations
- 1 full-time employee of the University, not being a teacher, elected in accordance with regulations
- 1 full-time undergraduate student elected in accordance with regulations
- 1 full-time postgraduate student elected in accordance with regulations

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THE UNIVERSITY OF HONG KONG
Governance structure of the UGC-funded Institutions

Institution	Executive/governing body (Ordinance Description)	Advisory Body (Ordinance Description)	Academic Supervisory Body (Ordinance Description)
HKU	Council (校務委員會) (Executive body) *	Court (校董會) (Supreme governing body) *	Senate (教務委員會)
CityU	Council (校董會) (Supreme governing body)	Court (顧問委員會) (Supreme advisory body)	Senate (教務會) (Supreme academic body)
HKUST	Council (校董會) (Supreme governing body)	Court (顧問委員會) (Supreme advisory body)	Senate (教務委員會) (Supreme academic body)
CUHK	Council (大學校董會) (governing and executive body)	–	Senate (教務會)
PolyU	Council (校董會) (governing and executive body)	University Court ** (大學顧問委員會) (Supreme advisory body to Council)	Senate (教務委員會)
HKIEd	Council (校董會) (executive governing body)	–	Academic Board (教務委員會)
HKBU	Council (校董會) (executive body)	Court (諮議會) (Supreme advisory body)	Senate (教務議會) (Supreme academic body)
LU	Council (校董會) (executive body)	Court (諮議會)	Senate (教務會) (Supreme academic body)

Note: * It is now proposed that Council be described as the “Supreme governing body” and Court as the “Supreme advisory body” in the Amendment Bill.

** While the relevant legislation does not specify the setting up of a court, the PolyU has set up a University Court as an advisory body to its Council in 1995.

THE UNIVERSITY OF HONG KONG

“Governing Body”**- A brief survey of existing structure in overseas institutions**

	Institutions	Governing Body	Special Category for Members from Government, Legislative Body and Political Parties
1.	Harvard University	The Harvard Corporation is the University's executive board.	Nil
2.	Princeton University	The Trustees of Princeton University, a 40-member board, is responsible for the overall direction of the University. It approves the operating and capital budgets, supervises the investment of the University's endowment and oversees campus real estate and long-range physical planning.	Nil
3.	University of Virginia	The Board of Visitors Total: 18 members <ul style="list-style-type: none"> - 16 members appointed by the Governor of Virginia (four per year for four year terms; reappointment for one additional four-year term permitted) - 1 non-voting student member appointed by the Board who serves for one year - The Governor of Virginia serves a four-year term and cannot be re-elected 	(a) The majority of Board members are appointed by the Governor of Virginia. (b) Most Board members are likely to have connections with political parties.
4.	University of Birmingham	The Council is the University's supreme governing body.	Nil
5.	University of Cambridge	The Regent House is the governing body of the University.	Nil
6.	University of London	The Board of Trustees is the governing body of the University.	Nil

		<p>Total: 14 members:</p> <ul style="list-style-type: none"> - 9 independent (including the Chair) from outside the University and the Colleges; - the Vice-Chancellor; and - 4 Heads of Colleges. 	
7.	University of Nottingham	<p>Council</p> <p>Total: 25 members</p> <ul style="list-style-type: none"> - 14 External members (drawn from Business) and - 11 Internal members (staff and student representatives) 	Nil
8.	University of Oxford	<p>Council is the executive governing body responsible for the academic policy and strategic direction of the University. Council, composed of members of Congregation elected by Congregation, ex officio members and lay members, is (subject to the provisions of the Statutes) responsible for the administration of the University and for the management of its finances and assets.</p>	Nil
9.	The University of Auckland	<p>Council</p> <ul style="list-style-type: none"> - Not fewer than 12 nor more than 20 members 	<p>Nil</p> <p>(Council members are likely to be active members of political parties.)</p>
10.	University of Delhi	<p>The University Court is the highest decision making body in principle. It comprises all the Professors, some elected representatives from Professional groups and Industry.</p> <p>The Executive Council is the supreme body responsible for legislating on executive decisions. It comprises the core team of the Vice Chancellor and elected members by teachers of civil society.</p> <p>The Academic Council is the basic institution for all academic matters. It comprises all Head of Departments, some Professors by rotation through seniority and 26</p>	Nil

		elected representatives of teachers and the Vice Chancellor's core team.	
11.	National University of Singapore	Board of Trustees - Up to 25 Trustees according to the NUS' Articles of Association	Yes (The Second Permanent Secretary from Ministry of Education is an ex-officio member.)
12.	Waseda University	Executive Board Total: 18 members - The President - 5 Vice-Presidents - 12 Executive Directors	Nil

Note: Information listed in the table is provided by the respective Universities through the Universitas 21 Secretariat, except for Harvard University, Princeton University, and Universities of Cambridge, London, Nottingham and Oxford, of which information is collected from their respective webpages.

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