

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1118/10-11  
(The minutes have been seen by  
the Administration and  
The University of Hong Kong)

Ref : CB2/BC/2/10

**Bills Committee on  
University of Hong Kong (Amendment) Bill 2010**

**Minutes of the second meeting  
held on Tuesday, 18 January 2011, at 10:45 am  
in the Chamber of the Legislative Council Building**

- Members present** : Hon Cyd HO Sau-lan (Chairman)  
Hon LEE Cheuk-yan  
Dr Hon David LI Kwok-po, GBM, GBS, JP  
Hon James TO Kun-sun  
Hon CHEUNG Man-kwong  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon Starry LEE Wai-king, JP  
Dr Hon PAN Pey-chyou  
Hon Tanya CHAN
- Member absent** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
- Public Officers attending** : Agenda item III  
  
Ms Amy WONG  
Principal Assistant Secretary (Higher Education),  
Education Bureau  
  
Miss Joyce CHAN Nga-sze  
Assistant Secretary-General (Quality Assurance),  
University Grants Committee

**Attendance by invitation** : Agenda items II and III

The University of Hong Kong

Professor TSUI Lap-chee  
Vice Chancellor and President

Professor Roland T CHIN  
Deputy Vice-Chancellor and Provost

Professor Johannes M M CHAN  
Dean of Faculty of Law

Mr Henry WAI  
Registrar

Ms Katherine MA  
Director of Communications

Ms Dora YUE  
Senior Assistant Registrar, Registry

Mrs Rebecca CHING  
Assistant Registrar (Appointments), Registry

Agenda item III

The University of Hong Kong Staff Association

Mr Stephen CHAN Chit-kwai, JP  
President

Dr Victor CHAN Ka-ming  
Executive Member

Academic Staff Association of The University of  
Hong Kong

Dr CHEUNG Kie-chung  
Chairman

Mr SZE Wing-suen  
Executive Committee Member

Hong Kong University Students' Union

Mr HO Hoi-ki  
General Secretary (Acting)

**Clerk in attendance** : Miss Odelia LEUNG  
Chief Council Secretary (2)6

**Staff in attendance** : Mr Kelvin LEE  
Assistant Legal Adviser 1

Ms Judy TING  
Council Secretary (2)6

Ms Carmen HO  
Legislative Assistant (2)6

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**I. Confirmation of minutes**  
[LC Paper No. CB(2)643/10-11]

The minutes of the first meeting held on 10 December 2010 were confirmed.

**II. Briefing on the Bill by Dr Hon David LI and the University of Hong Kong**

Declaration of interests

2. Dr David LI declared interest as the Pro-Chancellor of the University of Hong Kong ("HKU"). Mr Abraham SHEK, Mr James TO and Mr LEE Cheuk-yan declared interests as the representatives of Legislative Council ("LegCo") Members sitting on the Court of HKU. Mr Abraham SHEK also declared that he was a member of the Public Accounts Committee ("PAC") when its Report No 40 was released.

3. Dr David LI briefed members on the objects and contents of the Bill.

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(*Post-meeting note* : Dr David LI's speaking note was circulated to members vide LC Paper No. CB(2)858/10-11(01) on 19 January 2011.)

4. The Bills Committee deliberated (index of proceedings attached at **Annex**).

### **III. Meeting with deputations and the Administration**

#### Oral presentation by deputations

*The University of Hong Kong Staff Association*  
[LC Paper No. CB(2)875/10-11(01)]

5. Mr Stephen CHAN presented the views of The University of Hong Kong Staff Association ("HKUSA") as detailed in its submission.

*Academic Staff Association of The University of Hong Kong*  
[LC Papers Nos. CB(2)812/10-11(01) and CB(2)861/10-11(01)]

6. Dr CHEUNG Kie-chung presented the views of Academic Staff Association of The University of Hong Kong ("ASAHKU") as detailed in its submission.

*Hong Kong University Students' Union*  
[LC Paper No. CB(2)875/10-11(02)]

7. Mr HO Hoi-ki presented the views of Hong Kong University Students' Union as detailed in its submission.

#### Role of the Court and the Council of HKU

8. Professor TSUI Lap-chee, Vice Chancellor and President of HKU, said that one of the major proposals in the Bill was to remove the inconsistent descriptions of the role of the Court and the Council in the University of Hong Kong Ordinance ("the Ordinance") and the Statutes. The Bill provided that the Court be described as the "supreme advisory body" of HKU and the Council as its "supreme governing body".

9. Dr PAN Pey-chyou expressed support for the proposal in the Bill for rectification of the inconsistent descriptions of the role of the Court and the Council of HKU.

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10. Mr Abraham SHEK expressed support for the proposal. However, he was concerned that the original role of the Court was the supreme governing body of HKU. With the change of its role to an advisory body over the years, the representation of five LegCo Members in the Court had lost its original intended purpose. He considered that instead of being represented in the Court, LegCo should have Members elected from among themselves to sit on the Council which was the supreme governing body of HKU. Mr SHEK requested HKU to take the opportunity of the Bill to consider including LegCo representation in its Council to enhance its governance and public accountability.

11. Professor Johannes CHAN, Dean of Faculty of Law of HKU, explained that the functions of the Court and the Council had not been changed since the establishment of HKU. The functions of the Court were mainly to consider the annual accounts of HKU, its development proposals and proposed amendments to the Statutes. Among the eight University Grants Committee-funded ("UGC-funded") institutions, only HKU had LegCo representation in its Court. As regards the councils of the UGC-funded institutions, only the Council of The Chinese University of Hong Kong had representatives of LegCo elected from among LegCo Members as provided in the relevant ordinance. The Hong Kong Polytechnic University and the Hong Kong University of Science and Technology ("HKUST") had appointed LegCo Members to their Councils in their personal capacity. HKU was open on the appointment of LegCo Members to its Council. Indeed, two members elected by the Court were sitting on the Council and LegCo Members in the Court could be elected to the Council. Professor TSUI Lap-chee supplemented that historically, the Governor of Hong Kong was the Chancellor of the Court. That presumably was one of the reasons why the Court was described as the supreme governing body in the Ordinance when it was first enacted.

12. The Chairman and Mr CHEUNG Man-kwong echoed Mr Abraham SHEK and considered that LegCo used to have a role to play in the governing body of HKU. With the lapse of time and the assumption of the role of the Council of HKU as its governing body, LegCo Members should be represented by election in the Council.

13. Professor Johannes CHAN pointed out that all LegCo Members were appointed by the Governor of Hong Kong before 1991. He stressed the importance of separation between politics and academic affairs/governance of universities. That explained why the current management of HKU had not accepted any political appointments with a view to maintaining political

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neutrality. While HKU had no objection to LegCo having a role in the affairs of HKU, it had reservations about putting a mechanism in law to institutionalize the participation of LegCo Members in its governing body. Professor CHAN added that members of the Congress of the United States ("US") did not have representatives elected to sit on the governing bodies of US universities.

14. Mr CHEUNG Man-kwong said that LegCo Members sitting on the governing bodies of universities had not and would not interfere with the academic affairs of universities. Since many matters relating to the universities such as building student hostels had impact on the community, LegCo Members could reflect the views of members of the public to the governing bodies of universities.

15. Mr LEE Cheuk-yan said that LegCo Members represented members of the public. As members of the public considered that the upholding of academic freedom was of paramount importance, LegCo Members sitting on the governing bodies of universities would definitely not interfere with academic freedom.

16. Ms Audrey EU shared the view of other members that LegCo Members sitting on the governing bodies of universities should not be representing their political affiliations but LegCo as an institution. She requested HKU to provide a written response to members' view in this regard.

17. In response to Ms Audrey EU, Dr CHEUNG Kie-chung elaborated that given the greater number of staff representatives sitting on the Court and its inclusion of external members, should there be complaints about interference of academic freedom, the Court would be in a better position to discuss such matters. ASAHKU therefore considered that the Court should not assume merely the role of an advisory body. Ms Audrey EU requested HKU to provide written comments in this respect.

18. Ms Starry LEE declared that she was appointed as a member of the Council of HKUST. She was unconvinced about the need to build in a mechanism in law to provide LegCo representation in the Council of HKU, as not all UGC-funded institutions had LegCo representation in their governing bodies and given the competing claims of stakeholders to be represented in the governing bodies the membership of which was limited. In her view, LegCo could communicate with the UGC-funded institutions through various channels.

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19. The Chairman noted the worry of HKU about the inclusion in its governing body of LegCo Members who might be swayed by public opinion. In her view, being representatives of members of the public, LegCo Members were held accountable to the public and the possibility of their interference with academic freedom would be lesser than the absence of their representation in the governing bodies of universities. The Chairman requested HKU to provide written information on its consideration of some members' proposal for including LegCo representation in its Council and on overseas universities in this respect.

20. Mr LEE Cheuk-yan requested the Administration to compile a table on the composition of the governing bodies of the UGC-funded institutions for comparison.

21. Professor TSUI Lap-chee undertook to reflect to the Council the concern of HKUSA about the absence of representatives of staff associations in the Human Resource Policy Committee of the Council.

Adoption of the new academic titles

22. Professor TSUI Lap-chee explained that as part of the Human Resource Reform of HKU and following the global trend, new academic titles of Chairs, Professors, Associate Professors and Assistant Professors had been used by HKU since 2004. The Bill provided for the replacement of the old title of teachers comprising Readers, Senior Lecturers, Lecturers and Assistant Lecturers with these new academic titles. A total of 919 academic staff were using the new academic titles, and 13 academic staff preferred to retain their old academic titles. He added that the Bill had included a transitional provision to ensure that staff members retaining their old academic titles continued to enjoy the "good cause protection".

23. Professor TSUI Lap-chee pointed out the duties of two different types of academic staff. The duties of teachers included teaching, undertaking academic research and knowledge transfer, whereas language instructors and teaching consultants were responsible for teaching only. HKU was contemplating the creation of a new title of "lecturers" which comprised language instructors and teaching consultants. This was a proposal and had yet to be implemented. Should the proposal be implemented in future, staff having the title of lecturers would not be entitled to good cause protection as they were not required to undertake academic research and the question of academic freedom would not arise. Professor Roland T CHIN, Deputy Vice-Chancellor and Provost of HKU, supplemented that good cause protection related to the tenure system for and substantiated employment of

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academic staff of universities. Worldwide, language instructors and teaching consultants were not entitled to good cause protection.

24. Dr PAN Pey-chyou was concerned about possible confusion caused by the co-existence of two types of "lecturers", i.e. the existing 13 staff who retained their old academic titles and the new lecturers comprising language instructors and teaching consultants. Professor TSUI Lap-chee and Professor Roland T CHIN clarified that the proposal for creation of an academic new title of "lecturers" would not be put into place until after all the existing staff retaining the old academic titles no longer used the title of lecturers, hence no confusion would arise. After the adoption of the new academic titles, staff in the category of "teachers" might advance to the next higher rank in the professoriate titles on the basis on merits as against the availability of posts plus merits under the old academic titles. HKU Staff had been consulted and supported the adoption of the new academic titles as one of the human resources reforms.

25. In response to members, Dr CHEUNG Kie-chung opined that in discharging their teaching duties, language instructors and teaching consultants would consider the approach to take and the materials to cover. Moreover, in aspiring to join the rank of teachers, language instructors and teaching consultants would apply for fund to undertake research projects and publish articles. Their entitlement to good cause protection would be important to dispel their possible worries in these areas.

26. Mr LEE Cheuk-yan said that staff unions of HKU had expressed concern about the impact on their eligibility to the Senate since the new academic titles had been used before the amendment to the Ordinance. He considered that language instructors and teaching consultants should also be included in the definition of "teachers" and be entitled to good cause protection.

27. Professor TSUI Lap-chee assured members that the eligibility and participation in HKU affairs of staff adopting the academic titles had not been affected as the definition of teachers as provided in section 12(9) of the Ordinance included any other persons as designated in the Statutes. He stressed the need to distinguish academic freedom from freedom of speech. The provision of "good cause protection" was for the purpose of protecting academic freedom. HKU had never and would not hinder freedom of speech of its staff. Provided that the materials covered were relevant to the teaching subject, the pedagogy adopted by language instructors and teaching consultants would not be interfered with.

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28. Professor Johannes CHAN supplemented that some language instructors wished to change their title to "lecturers", hence the proposal for the creation of a new academic title of "lecturers". Currently, language instructors were not entitled to good cause protection.

29. Assistant Legal Adviser 1 pointed out that the entitlement of "good cause protection" for teachers had already been stipulated in section 12(9) of the Ordinance (clause 3 of the Bill) which provided that ".....the Council shall not terminate the appointment of any teacher except where after due enquiry into the facts and after receiving the advice of the Senate on the findings of such enquiry there exists in the opinion of the Council good cause for such termination". The academic staff included in the definition of teachers therefore had a direct relationship on whether they were entitled to good cause protection.

30. The Chairman requested HKU to provide written information on the existing ranks of academic staff who were and were not entitled to "good cause protection" and on overseas universities in this regard as well as its consideration of some members' request for the extension of "good cause protection" to language instructors and teaching consultants.

Redress mechanism

31. Professor Roland T CHIN briefed members on the four specific recommendations made by the UGC for improving the grievance procedures of the UGC-funded institutions, namely, guarding against retaliation, stipulating time limits for handling grievances, appointment of mediators and involvement of external parties in the final level of appeal. Professor CHIN said that HKU was considering the implementation of the recommendations. Ms Audrey EU requested written information from HKU on whether legislative amendments were necessary to implement the best practice guidelines.

32. Mr CHEUNG Man-kwong requested ASAHKU to consider whether it would be more fruitful to strive for a better redress mechanism than the conferment of the new title of lecturers to language instructors and teaching consultants.

Date of next meeting

33. Members agreed that the third meeting would be held on Wednesday, 9 February 2011 at 4:30 pm.

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**IV. Any other business**

34. There being no other business, the meeting ended at 12:47 pm.

Council Business Division 2  
Legislative Council Secretariat  
21 February 2011

**Proceedings of the second meeting of the  
Bills Committee on University of Hong Kong (Amendment) Bill 2010  
on Tuesday, 18 January 2011, at 10:45 am  
in the Chamber of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action required</b>
000342-000523	Chairman Mr Abraham SHEK Dr David LI	Declaration of interests. Confirmation of minutes.	
000524-000951	Dr David LI	Briefing by Dr David LI on the Bill.	
000952-001052	Chairman	Welcoming remarks by Chairman.	
001053-001713	Chairman Mr Stephen CHAN	Mr Stephen CHAN's presentation of views of The University of Hong Kong Staff Association.	
001714-002300	Chairman Dr CHEUNG Kie-chung	Dr CHEUNG Kie-chung's presentation of views of Academic Staff Association of The University of Hong Kong.	
002301-002506	Chairman Mr HO Hoi-ki	Mr HO Hoi-ki's presentation of views of Hong Kong University Students' Union.	
002507-003252	Chairman Professor TSUI Lap-chee	Professor TSUI Lap-chee's explanation of the background, object and content of the Bill	
003253-003440	Professor Roland CHIN Chairman	Professor Roland CHIN's explanation of HKU's consideration of the four specific recommendations on grievance procedures developed by the UGC.	
003441-003513	Chairman Mr James TO Mr LEE Cheuk-yan Mr Abraham SHEK	Declaration of interests.	
003514-003623	Professor TSUI Lap-chee	Professor TSUI Lap-chee's clarification of the position of the proposal for the creation of a new academic title of "lecturer" comprising language instructors and teaching consultants.	

Time marker	Speaker	Subject	Action required
003624-004814	Mr Abraham SHEK Professor TSUI Lap-chee Professor Johannes CHAN	<p>Mr Abraham SHEK's expression of concern about the absence of LegCo representation in the Council of HKU which was its supreme governing body and his call for HKU to consider including LegCo representation in its Council to enhance governance and public accountability.</p> <p>Professor TSUI LAP-chee and Professor Johannes CHAN's explanation of the functions of the Court and Council of HKU since the establishment of HKU and the existing channel for two members of the Court to sit on the Council.</p>	
004815-010056	Mr CHEUNG Man-kwong Professor TSUI Lap-chee Professor Johannes CHAN	<p>Mr CHEUNG Man-kwong's expression of support for LegCo representation in the Council having regard to the original functions of the Court of HKU. His enquiry about the reasons for not extending the "good cause protection" to cover academic staff without such protection currently.</p> <p>Professor TSUI Lap-chee and Professor Johannes CHAN's explanation that language instructors and teaching consultants were not entitled to "good cause" protection as they were not required to conduct research.</p> <p>Professor Johannes CHAN's emphasis on the need to separate politics from academic affairs and for HKU to maintain political neutrality. HKU had reservations about institutionalizing LegCo representation in its Council.</p> <p>Mr CHEUNG Man-kwong's elaboration on the role of LegCo Members in the governing body of a university.</p>	HKU
010057-010907	Dr PAN Pey-chyou Professor Roland T CHIN Professor TSUI Lap-chee	<p>Dr PAN Pey-chyou's concern about possible confusion caused by the co-existence of two types of lecturers.</p> <p>Professor Roland CHIN and Professor TSUI Lap-chee's explanation on the reasons for adopting the new academic titles and advice that the new academic title of lecturers would not be adopted until all the existing lecturers had no longer used the title.</p>	

Time marker	Speaker	Subject	Action required
010908-012029	Mr LEE Cheuk-yan Professor Johannes CHAN Professor TSUI Lap-chee	<p>Mr LEE Cheuk-yan's elaboration on his experience and views on the need for LegCo Members to sit on the Council and not the Court of HKU. His enquiry about the impact on eligibility and participation of staff adopting the new academic titles in HKU affairs before amendments to the Ordinance.</p> <p>Professor Johannes CHAN's reiteration on the inappropriateness to institutionalize LegCo representation in the Council of HKU.</p> <p>Professor TSUI Lap-chee's advice that the eligibility and participation in HKU affairs of staff adopting the academic titles had not been affected as the definition of teachers in section 12(9) of the Ordinance included any other persons as designated in the Statutes.</p>	
012030-014303	Ms Audrey EU Dr CHEUNG Kie-chung Professor Roland CHIN ALAI Professor TSUI Lap-chee Professor Johannes CHAN	<p>Ms Audrey EU's view that LegCo Members sitting on the governing bodies of universities should not be representing their political affiliations but LegCo as an institution. Her enquiry on whether legislative amendments were necessary to implement the guideline of best practices in redress mechanism developed by the UGC.</p> <p>Dr CHEUNG Kie-chung's explanation of the reasons why language instructors and teaching consultants should also be entitled to "good cause protection".</p> <p>Professor Roland CHIN's explanation on the relation between "good cause protection" and tenure system for academic staff.</p> <p>ALAI's advice on the definition of teachers and their entitlement to "good cause protection" in section 12(9) of the Ordinance.</p> <p>Professor TSUI Lap-chee's emphasis on the need to distinguish academic freedom from freedom of speech. The provision of "good cause protection" was for the purpose of protecting academic freedom.</p> <p>Professor Johannes CHAN's advice that HKU followed the global practice of providing "good cause protection" only to academic staff who conducted research-related activities.</p>	

Time marker	Speaker	Subject	Action required
014304-015253	Ms Starry LEE Mr Stephen CHAN Dr CHEUNG Kie-chung	<p>Ms Starry LEE's enquiry about the coverage of staff entitled to "good cause protection".</p> <p>Mr Stephen CHAN's reiteration on his call for HKU to consider including the representation of staff association in the Human Resources Policy Committee under the Council.</p> <p>Dr CHEUNG Kie-chung's reiteration of view on the reasons why language instructors and teaching consultants should be entitled to good cause protection.</p> <p>Ms Starry LEE's expression of view that she was unconvinced about the need to build in a mechanism in law to provide LegCo representation in the Council of HKU and the reasons for her view.</p>	
015254-015654	Chairman	<p>Chairman's request for written information on the existing ranks of academic staff who were and were not entitled to "good cause protection" and on overseas universities in this regard as well as its consideration of some members' request for the extension of "good cause protection" to language instructors and teaching consultants.</p> <p>Members' agreement that the third meeting would be held on 9 February 2011 at 4:30 pm.</p>	HKU
015655-015900	Mr CHEUNG Man-kwong	Mr CHEUNG Man-kwong's view on a better approach to tackle the issue of good cause protection by improving the redress mechanism.	
015901-020104	Mr LEE Cheuk-yan	Mr LEE Cheuk-yan's request for the Administration to compile a table on the composition of the governing bodies of the UGC-funded institutions for comparison.	Admin
020105 - 020214	Ms Audrey EU	Ms Audrey EU's request for information from HKU on whether legislative amendments were necessary to implement the guidelines of best practices in redress mechanism.	HKU

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action required</b>
020215-020314	Chairman Dr CHEUNG Kie-chung	Dr CHEUNG Kie-chung's request for confirmation from HKU on the endorsement of the proposed creation of the academic title of "lecturers" by the Council in 2004.	HKU

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