

THE UNIVERSITY OF HONG KONG

Follow-up to the second meeting of the
Bills Committee on University of Hong Kong (Amendment) Bill 2010

Good Cause Protection

- (a) All full-time professoriate staff members of HKU, who are on substantive appointment with the University, are entitled to “good cause protection”. Professoriate staff members include those appointed to the grade of Chairs, Professors, Associate Professors and Assistant Professors, as well as those Teachers, also on full-time substantive appointment with the University, who are holding the “old” academic titles of Readers, Senior Lecturers and Lecturers. Staff members who are not appointed to the aforementioned grades are not under “good cause protection”. The academic-related staff grades are listed in Annex I for members’ information.

Information on “good cause protection” in overseas universities is summarized in Annex II.

- (b) There is at present no intention to extend the application of “good cause protection” to staff who are not appointed to the professoriate grades (professoriate grades include Chair, Professor, Associate Professor and Assistant Professor; and the “old” titles of Reader, Senior Lecturer and Lecturer). The University appoints staff members to different grades with different conditions of appointment. Professoriate staff members of HKU are required to discharge the duties of teaching, research, knowledge transfer and administration. “Good cause”, when used by HKU with reference to removal from office, membership or place, 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. HKU has the statutory provision of “good cause” since its very early days. This historical statutory provision affords professoriate staff due protection to ensure freedom in their pursuit of research activities and knowledge transfer.

“Good cause protection”, however, is not the only means to ensure academic freedom at the University. It is not even the main means today, as academic freedom is a policy adopted by the University and is made known to all staff members on the University’s web-page. All staff members, be they academic, academic-related and non-academic, are assured of academic freedom. Besides, staff members who feel that their academic freedom is infringed could air their grievances through an established and transparent set of procedures for the resolution of staff grievances.

“Good cause” in HKU enables the University to terminate appointment only in the event of misconduct or non-performance. Unlike the cases in some

overseas universities, it does not allow the University to terminate appointments on the grounds of redundancy, budget difficulties or change of academic direction.

- (c) When HKU conducted its Human Resource Management (HRM) reform in 2004, it was recommended, inter alia, that academic-related staff, such as Teaching Consultants and Language Instructors, who were contributing to the teaching of classes, participating in the formal course assessment process, or undertaking academic advising and interact with students in an annual academic cycle, be accorded the title of “Lecturer I/II/III”. The intention is to streamline the staff titles currently in use and to accord a staff title to these members of staff that reflect their teaching duties. These staff members are not under “good cause protection” at present, and there is no intention to extend the protection to them by giving them the title of “Lecturer I/II/III”. This recommendation, alongside with other recommendations contained in the Proposal on the Reform of Human Resource Management (HRM) Phase I, was approved in principle by the HKU Council at its meeting held in September 2004. Details of the proposal have yet to be worked out pending the completion of the legislative amendments for the adoption of the new academic staff titles and the consequential release of the use of the “old” title of “Lecturer”.

Membership of HKU Court and Council

- (d) The current compositions of HKU Court and Council are attached at Annexes III and IV respectively.

A summary table listing the governing bodies of the UGC-funded institutions has also been prepared and attached in Annex V for reference. It can be seen from the document that only CUHK has statutory provision for the election of three Legislative Council members to their Council. Of the remaining seven UGC-funded institutions, only HKUST and HKPU have Legislative Council members appointed in their personal capacity to the Councils of these universities at present.

Staff representation on Human Resource Policy Committee

- (e) The Human Resource Policy Committee is a Council Committee to keep under review matters on human resources policy. It is chaired by a lay member of the Council. Staff representation is available through the presence of one elected academic member of the Council. There is no membership representation from staff associations/union on the Committee. However, representatives of staff associations/union may be invited to attend meetings for the purposes of information exchange and consultation whenever necessary.

Noting the concern raised by the Hong Kong University Staff Association, the issue of staff representation will be looked into by the Human Resource Policy Committee.

Legislative Council representation on HKU Council

- (f) The HKU Council was apprised of the Bills Committee’s proposal of including the representation of the Legislative Council in HKU Council at its very recent meeting. Having considered the proposal at that meeting, the HKU Council wishes to take the opportunity to explain to the Bills Committee that the membership composition of HKU Council (as set out in Annex IV), comprises two major categories of members – elected students and staff of the University; and external members who are not students and staff the University. There is no membership category for any constituencies; and all members serve the Council as trustees on an *ad personam* basis.

With the membership composition of the Council as such and the underlying basic principle of trusteeship which it firmly upholds, it is deemed not appropriate to add a membership category for a single body.

Members of the Legislative Council can participate in HKU Council through the existing mechanism in any of the following membership categories:

- under the category of “ two persons, not being students or employees, elected by the Court” (as there are five Legislative Council members on the Court);
- under the category of “ seven person, not being students or employees of the University, appointed by the Chancellor,.....”;
- under the category of “ six persons, not being students or employees of the University, appointed by the Council”.

The University wishes to reiterate that, as pointed out in the meeting with the Bills Committee, the respective roles of the Court and the Council remain unchanged since their establishment. Nonetheless, the University will take note of the proposal of the Bills Committee when dealing with the membership appointments to the Council in future.

A summary table listing the governing bodies of some overseas institutions as well as the participation of government/legislative body/political parties therein, is attached at Annex VI.

Grievances procedures

- (g) In the recent UGC study of the “best package” to assist institutions to enhance their grievances procedures, institutions have been invited to consider incorporating four specific features into the institutions’ procedures, namely, the appointment of mediators, guarding against retaliation, the stipulation of time limits for handling grievances, and the involvement of external parties.

HKU has all along adopted the over-riding principle of ensuring fairness in the handling of grievance/complaints; and this principle is enshrined throughout our existing procedures for the resolution of staff grievances. Our views on the four features developed by the UGC are set out below:

Appointment of Mediators

Our current set of procedures has relied on informal resolution, first at department and/or Faculty level, then at the Pro-Vice-Chancellor level. There is nothing in our existing procedures which prevents us from resorting to mediation. As a matter of fact, our existing practice of handling grievances/complaints at department/faculty level is in essence an attempt to mediate. The University has in fact used the service of a professional mediator very recently. We however wish to point out that if mediation is to be conducted as a formal process, some degree of flexibility should be allowed as they are bound to be cases where no mediation could resolve the dispute and hence compelling the parties to go through a mediation process will achieve nothing apart from imposing a formality.

Guarding against retaliation

We agree that there should be explicit provision in our procedures to guard against retaliation, and the specification of the consequences of engaging such conduct. We will include such provision in our procedures.

Stipulation of time limits for handling grievances

We agree that clear time limits should be set out in the handling of grievances/complaints at different stages, and that the time limit should be practical and achievable. We will include such provision in our procedures.

Involvement of external parties

The present composition of the University's Grievances Panel already allows the appointment of external parties (persons who not University employees and not serving on the University governing bodies).

We will make the necessary changes to our procedures. There is no need to initiate legislative amendments for such changes.

February 1, 2011

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

January 31, 2011

“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.

January 31, 2011

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

January 31, 2011

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

January 31, 2011

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 - 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.

January 31, 2011