

For discussion
on 12 March 2012

Legislative Council Panel on Education

Upholding academic freedom in the higher education sector

Purpose

This paper briefs Members on the existing legal and institutional framework safeguarding academic freedom in the higher education sector.

Academic freedom and institutional autonomy

2. Academic freedom is an important social value treasured by Hong Kong and is a cornerstone of our higher education sector. The HKSAR Government attaches great importance to upholding academic freedom and institutional autonomy.

3. Academic freedom and institutional autonomy in Hong Kong is guaranteed under the Basic Law. Article 137 of the Basic Law states that “educational institutions of all kinds may retain their autonomy and enjoy academic freedom. They may continue to recruit staff and use teaching materials from outside the HKSAR. ...”. Furthermore, Article 34 of the Basic Law states that “Hong Kong residents shall have freedom to engage in academic research, literary and artistic creation, and other cultural activities”. In addition, there are other provisions relevant to the protection of academic freedom. For example, Article 27 of the Basic Law states that “Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession, and of demonstration; and the right and freedom to form and join trade unions, and to strike”.

4. The eight University Grants Committee-funded institutions are all independent and autonomous statutory bodies. They have their own

governing ordinances and statutes which set out their objectives, functions and governance structure. The legislation provides the institutions with the power and freedom to carry out their objectives and functions.

Role and functions of the University Grants Committee

5. Established in 1965 as a non-statutory advisory body, the University Grants Committee (UGC) performs an important role as a “buffer” between the UGC-funded institutions and the Government. Its main function is to offer impartial and expert advice to the Government on the funding and development of higher education in Hong Kong, and to provide assurance to the Government and the community on the standards and cost-effectiveness of the operations and activities of the UGC-funded institutions. Specifically, the UGC determines the allocation of recurrent grants and the distribution of student number targets among its funded institutions, having regard to the Academic Development Proposals submitted by the institutions. Once allocations are approved, institutions have freedom and responsibility to determine the best use of their resources. Neither the Administration nor the UGC can dictate how the resources are to be allocated and utilised within the institution.

6. The UGC supports and safeguards academic freedom and institutional autonomy on the one hand, and pays due regard to the legitimate concerns of society and ensures the proper use of public funds on the other. In fact, the roles of the UGC, the Government and the institutions in the tertiary education sector are clearly defined in the UGC Notes on Procedures. In particular, the Notes on Procedure set out five major areas of institutional autonomy, namely –

- (a) selection of staff;
- (b) selection of students;
- (c) curricula and academic standards;
- (d) acceptance of research programmes; and
- (e) allocation of funds within the institution

An extract from the Notes on Procedures is at Annex. The Government and the UGC have all along respected and upheld academic freedom and institutional autonomy in accordance with the Notes on Procedures.

Governance of UGC-funded institutions

7. The UGC-funded institutions are independent autonomous bodies governed by their own ordinances. Among other things, the governing ordinances specify the composition of the Councils, the supreme governing bodies of institutions.

8. Academic and administrative matters such as academic planning, staff matters and internal allocation of resources fall squarely within the autonomy of the UGC-funded institutions in accordance with their own governing ordinances, statutes and internal procedures. Institutions enjoy academic freedom and considerable institutional autonomy in these areas, but this does not exempt them from public interest and criticism. While the Government will not interfere with the internal affairs of institutions, individual institutions should be mindful of the public interest and be held accountable for their decisions.

Advice sought

9. Members are invited to note the content of this paper.

Education Bureau
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**Paragraph 1.36 of the
University Grants Committee Notes on Procedures**

1.36 The five main areas of institutional autonomy are:

(a) Selection of staff

The institutions have unfettered rights in the selection, promotion, and dismissal of their staff. In the case of appointment of the Head of the institution, however, the importance of the post is such that some degree of consultation with Government and community leaders is desirable and normal. Nevertheless, the institutions' Councils take the final decision, and make the formal appointment.

(b) Selection of students

Whatever may be the procedures for setting or controlling entrance examinations, or for setting total student number targets, or for setting student number intake targets, the institutions have unfettered rights in the selection or rejection of students presented as candidates for admission.

(c) Curricula and academic standards

The institutions will need to take into account the other developments and requirements in other fronts e.g. primary and secondary education, other further education facilities, requirements for practising certain professions, general or specific employment opportunities, etc. and these are areas in which the UGC and the Government also have interests. Moreover, some standards and qualifications can only be attained if appropriate finance is made available, and decisions may therefore be dependent on financial resources. Nevertheless, final decisions on their own curricula and standards rest with the institutions.

(d) Acceptance of research programmes

This includes the initiation of research programmes, subject to resources being available, as well as the acceptance of research proposed by others (for example, by the Government). In all cases, academic merit, the institution's role and community needs have to be given great weight but the institution is the

only judge of whether its combined resources of people, accommodation, equipment and money can or should be deployed in the manner required.

(e) Allocation of funds within the institution

Apart from earmarked and indicated recurrent grants and earmarked capital grants, the institutions are free to allocate the funds available as they see fit. In practice, this freedom is considerably constrained by the fact that about three-quarters of institutional funds are committed to staff costs, which cannot easily or quickly be changed and that part of the remaining quarter is also committed for repairs, maintenance, services, supplies etc. Nevertheless, the institutions are free to make such changes as they can manage, to decide on specific allocations, to draw up budgets accordingly, and to change such budgets.