

**Extract from the minutes of meeting of the Panel on Education  
held on 18 March 2002**

X X X X X X X X

Action

**IV. Supervision of the administration of University Grants Committee-funded tertiary education institutions**

13. Members noted that the Association of Lecturers at the Hong Kong Institute of Education had made a submission to the Panel in writing [LC Paper No. CB(2)1333/01-02(05)].

14. The Chairman welcomed representatives from the Administration and UGC as well as the representatives of 10 deputations and two individuals to the meeting.

Meeting with deputations

15. The Chairman reminded the representatives and individuals attending the meeting that when addressing the Panel, they were not covered by the protection and immunity provided under the Legislative Council (Power and Privileges) Ordinance and their written submissions would also not be covered by the Ordinance. He also stressed that the Panel should discuss policy issues and individual staff complaints should not be discussed at the meeting.

16. The Chairman then invited representatives of deputations and individuals to give their views on the subject of supervision of the administration of UGC-funded tertiary institutions. A gist of their views is summarised in paragraphs 17 - 32.

*Academic Staff Association, the University of Hong Kong (HKU)  
[LC Paper No. CB(2)1333/01-02(02)]*

17. Dr C W CHAN of the HKU Academic Staff Association introduced the submission. He highlighted that UGC-funded tertiary institutions should not be exempted from public scrutiny and criticism in the name of institutional autonomy. Since UGC-funded tertiary institutions were funded by public money, they should be accountable to the public. He cautioned that institutional autonomy and protection of academic freedom were two separate matters. Dr CHAN urged the Administration not to refrain from supervising the management of UGC-funded tertiary institutions for the sake of upholding the principle of institutional autonomy. He was concerned that without proper

Action

supervision, institutional autonomy would mean centralisation of powers in the hands of the management which ultimately would undermine academic freedom. He added that the mechanism for appointment and dismissal of Vice-Chancellors/Presidents of tertiary institutions should also be reviewed.

18. Dr C W CHAN said that the Association was deeply concerned over the allegations about maladministration, infringement of academic freedom and racial discrimination at CityU and had written to the President of City U on 5 February 2002 to express its concerns. However, the Association had not received any response from the University. With reference to the proposed modifications to the staffing procedures for academic staff of CityU which would be implemented from 1 July 2002, he considered that the fairness and transparency of the mechanism for handling matters relating to non-renewal of contract at CityU would be further undermined as cases not supported by a lower tier committee would not be forwarded to the next tier committee.

*Concern Group of the City University Law School (the Concern Group)*  
*[LC Paper No. CB(2)1389/01-02(01)]*

19. Dr Andy CHIU of the Concern Group introduced the submission. He stressed that the decision of the School Staffing Committee of the CityU's School of Law on non-renewal of contract for 10 serving staff members upon expiry of their current contract was not an isolated case but a manifestation of the problems in administration of UGC-funded tertiary institutions. He pointed out that the composition of the School Staffing Committee was questionable as it comprised a member whose contract was also recommended for substantiation by the Committee. Dr CHIU suggested that the assessment criteria for performance should be set out in detail and the operation of the assessment system should be made transparent. He considered that the School Staffing Committee should give an explanation to staff members whose contract of employment would not be renewed. He added that the interest of law students at CityU would be undermined because of the dispute.

*Non-Academic Staff Association, HKU*  
*[LC Paper No. CB(2)1361/01-02(01)]*

20. Mr Stephen CHAN of the HKU Non-Academic Staff Association introduced the submission. He expressed concern that some 2 200 non-academic staff represented by his Association had no representative in Council of HKU. He pointed out that unlike their counterparts appointed on substantiation terms, staff members appointed on contract terms were not provided with a formal channel to lodge appeals against maladministration. As a result, most contract staff would refrain from expressing their views for fear of losing their jobs. He suggested that a grievance committee should be set up at departmental or faculty level to facilitate mediation between the management and the staff in an informal and harmonious manner.

Action

21. Ms Emily LAU referred to Mr Stephen CHAN's remark that staff appointed on contract terms would refrain from expressing their views for fear of losing their jobs. She expressed concern whether appointment of academic staff on contract terms would affect academic freedom. Mr Stephen CHAN responded that under the prevailing economic climate, most contract staff members dared not express their views about administration in the institution for fear that their employment contracts would not be renewed. Ms Cyd HO said that it was acceptable for an institution to appoint staff on contract terms so long as the assessment criteria for renewal of contract were fair and transparent and no favouritism was practised.

*Hong Kong Tertiary Education Action Group (the Action Group)*

22. Members noted that the Action Group had tabled its submission at the meeting [LC Paper No. CB(2)1389/01-02]. Dr Priscilla LEUNG representing the Action Group informed members that the Concern Group had written to the Council Chairman and the President of CityU on 28 February 2002 but neither of them had responded to its letter. Such a lack of response reflected that the management of CityU did not respect the views of students and staff. Dr Priscilla LEUNG said that as an active staff member of the School of Law at CityU for 12 years, she had never been consulted on the dispute about non-renewal of contract in the School and had not met SG/UGC before. She suggested that SG/UGC should discuss with front-line staff in the School of Law for a better understanding of the dispute and adopt a more proactive approach in supervising the administration in CityU. Dr LEUNG further said that the Appeal Committee set up to consider the appeals of the staff members not offered re-appointment in the School of Law was not empowered to deal with management malpractices. The Action Group therefore suggested that an independent disciplinary committee should be set up to examine whether there was any misuse of public fund or abuse of power in the School of Law of CityU. It also suggested that the Chief Executive as the Chancellor of CityU should set up a committee to investigate whether there was maladministration or nonfeasance of the CityU's management.

23. Responding to the concerns expressed about appointment of academic staff on contract terms, Dr Priscilla LEUNG said that it was acceptable for an institution to appoint academic staff on contract terms which was a common practice in overseas tertiary institutions but appointment of the staff concerned should be substantiated if their performance had been found satisfactory for a certain period of time, says six years. However, appointment on contract terms should not be used as a tool of applying differential treatment. Referring to the new staffing procedures to be implemented in CityU on 1 July 2002, Dr LEUNG pointed out that if personnel matters relating to non-renewal of contract would be decided at departmental or faculty level, it would inhibit contract staff from expressing views and deprive the staff of the basic right to

Action

appeal. Consequently, it would hamper academic development and accountability in CityU in the long run.

*Students' Union of CityU (the Students' Union)*

24. Mr TSANG Ka-yin said that he was the vice-president (external) of the Students' Union. He informed members that the Students' Union had tried to approach the management of CityU since November 2001 to find out more about the staff changes in the School of Law at CityU but all the efforts were in vain. Mr TSANG expressed grave concern that the management of CityU had used institutional autonomy as an excuse to avoid responding to students' concerns and views even though students' interest was at stake in the staff changes. Mr TSANG called on Legislative Council (LegCo) Members to assist students on the matter. Mr Sunny WONG, president of the Students' Union, said that students were very concerned that undergraduate programmes in the Law School would be disrupted if the cases of non-renewal of contract could not be settled before the commencement of the next academic year.

25. Mr SZETO Wah asked why the Students' Union did not disclose the President of CityU's reply letter to the invitation to attend a press conference organised by the Union. Mr TSANG Ka-yin of the Students' Union explained that there was nothing substantial in the letter. The President had merely stated that it would be inappropriate for him to comment on the cases of non-renewal of contract when the Appeal Committee was considering the appeals made by staff members concerned. However, the Students' Union would consider disclosing the letter, if necessary.

*Hong Kong Polytechnic University (PolyU) Staff Association  
[LC Paper No. CB(2)1347/01-02(01)]*

26. Dr CHAN Chun-wah representing the Association introduced the submission. He briefly outlined the staff appeals and grievance procedures for staff on both substantiation and contract terms of PolyU and explained the deficiencies to members. Dr CHAN added that the Association noted with deep regret about disputes arising from non-renewal of contract of a number of staff in the School of Law of CityU. The Association held the view that disputes could have been avoided if an open and transparent appeal mechanism was in place.

*Chinese University of Hong Kong Staff Association*

27. Mr Aaron W Y LI representing the Association said that UGC should reinforce supervision on the use of funds by UGC-funded institutions. It also suggested that institutions should let their staff know the criteria and standards for internal distribution of resources. He pointed out that as a result of budget cuts in recent years, contract staff were worried about non-renewal of contract,

Action

particularly when the authority for renewal of contract rest with the department or faculty heads. He suggested that UGC-funded institutions should review their appeals and grievance mechanism with a view to enhancing transparency and impartiality on an on-going basis.

*Hong Kong Professional Teachers' Union*  
[LC Paper No. CB(2)1361/01-02(02)]

28. Professor CHAN King-ming, Executive Councillor of the Union, briefed members on the submission of the Union. Members noted that the Union strongly recommended that a statutory and independent appeal and arbitration mechanism should be established to handle staff grievances and complaints on matters relating to termination and non-renewal of contracts in the tertiary education sector.

*Student representatives of School of Law, CityU*  
[LC Paper No. CB(2)1362/01-02(03)]

29. Members noted the submission of the student representatives of the CityU's School of Law. Miss YU Wing-ye, as a student representative of the CityU's School of Law, expressed strong dissatisfaction that the management of CityU had not disclosed the assessment criteria for considering an application for re-appointment of an academic staff in the CityU's School of Law and students' evaluation carried no weight in the assessment process. She said that she was very disappointed that students as a major stakeholder in the School of Law had no say in the selection and appointment of their teachers and the management of CityU had all along refused to respond to students' enquiries on the ground of confidentiality. Miss YU queried why the management of City U seemed to be free from public scrutiny and have absolute powers in running the University even though the University was publicly-funded.

*Federation of Hong Kong Higher Education Staff Associations*  
[LC Paper No. CB(2)1333/01-02(03)]

30. Mr Rajesh SHARMAN of the Federation said that there was an absence of an open, fair and transparent mechanism in determining contract renewals of the staff in the School of Law at CityU because the School Staffing Committee had not set out the assessment criteria for re-appointment. Moreover, the Committee comprised of four members, one of them also sought renewal of contract and was subsequently recommended for substantiation. This apparently constituted a conflict of interest in the deliberation process of the School Staffing Committee. Mr SHARMAN considered that the School Staffing Committee had not assessed his performance and contributions in a fair and objective manner. He briefly described a number of his past and

Action

current contributions to CityU, the School of Law, students of the School and local community.

*Dr John MO Shijian*

*Associate Professor of School of Law of the CityU*

31. Dr John MO briefed members on his submission [LC Paper No.CB(2)1362/01-02(01)]. He stressed that the School Staffing Committee had not conducted a fair and transparent performance assessment of the contract staff in the School of Law. Dr MO considered his academic qualifications and achievements comparable with the staff member whose appointment was recommended for substantiation. He suspected that the School Staffing Committee, comprising three non-Asian staff and one staff of Indian origin who had no right to vote, had discrimination against staff of Asian origin as it failed to give any reasons for non-renewal of his contract. Dr MO suggested that LegCo should consider establishing an open, fair and transparent mechanism to investigate into the matter.

*Mr GU Minkang*

*Assistant Professor of School of Law of the CityU*

32. Mr GU Minkang briefed members on his submission [LC Paper No.CB(2)1362/01-02(02)]. He said that there were many irregularities in the staffing procedures of City U regarding renewal of contract. Mr GU informed members that the School Staffing Committee had not given any reason to justify its recommendations on non-renewal of contract. The Dean of the School of Law who sat on the School Staffing Committee was the only person from the legal field sitting on the University's Approving Committee, the task of which was to consider appeal against the decision of the School Staffing Committee itself. The management of CityU had also refused to explain the powers and procedures of the Appeal Committee to concerned staff. He added that it was not satisfactory that the Appeal Committee only comprised independent members from legal field but no law professor from other tertiary institution. Mr GU strongly requested that an independent committee should be set up to investigate into the matter.

Meeting with the Administration

*Institutional autonomy and academic freedom*

33. At the invitation of the Chairman, Deputy Secretary for Education and Manpower (2) (DS(EM)2) gave an overall response to the concerns expressed by deputations about institutional autonomy and academic freedom. She quoted paragraph 5.2 of the report on Higher Education in Hong Kong published by UGC in October 1996 as follows for members' reference -

Action

"Institutional autonomy has many and complex components, not all of which require absolute autonomy, but the essential point is that our institutions are legally entitled to freedom of action in managing their affairs within the restraints of the laws of Hong Kong. The claim for autonomy does not rest upon any assumption of special privileges, but upon the argument (based on long experience) that the institutions can properly undertake the work expected of them by the community which supports them only if they have freedom of choice and of action. This does not exempt them from public interest and criticism, nor does it mean that their policies should not be under review by themselves, and by others"

34. DS(EM)2 further explained that a two-pronged mechanism had been established to achieve a balance between institutional autonomy and public accountability. Firstly, UGC-funded institutions were statutory autonomous bodies governed by respective ordinances. In all cases, an institution had its own structure of governance which included a governing body (usually known as the Council), and a body to regulate academic affairs (usually known as the Senate). Various stakeholders such as staff and students were represented on the Council and the Senate. Staff and students also would not be inhibited from conveying their views to these governing bodies directly. Secondly, UGC served an intermediary role between the Administration and the institutions to protect the institutions from political interference into their internal administration.

35. Secretary General of UGC (SG/UGC) said that institutional autonomy and academic freedom were closely related. It was the majority view of the higher education sector that academic freedom could hardly survive and flourish in the absence of institutional autonomy. He explained that an institution should have the autonomy to make decision in respect of selection of staff and students, determination of curricula and setting of standards, selection of research topics and areas and deployment of resources, etc. Referring to the concerns about appointment of academic staff on contract terms, SG/UGC said that while staff on contract terms might feel less secure in appointment than those on substantiation, it was a matter of staffing policies which should be determined by individual institutions. He stressed that it would be wrong to seek to intervene in academic decisions of institutions or to substitute our judgement for theirs. Rather, the important task was to ensure fair procedures and equitable treatment of staff.

36. SG/UGC further said that the principles of institutional autonomy and academic freedom had all along been upheld as the administration of institutions was in the hands of academic staff and institutions had enjoyed stable funding because of the triennium allocation. SG/UGC stressed that public criticism remained an effective and indispensable tool to balance

Action

institutional autonomy, and staff, students and concern groups should also play a role in holding the institutions accountable. However, there should not be any interference with the internal administration of the institutions.

37. Mr CHEUNG Man-kwong and Mr SZETO Wah remarked that the scope of institutional autonomy should not be narrowly interpreted as the power and authority of the management of an institution to manage their affairs. Other stakeholders of the institution including staff and students should also have their say in the administration. Mr CHEUNG pointed out that under the spirit of school-based management, teachers and parents in schools were now represented in School Management Committees and participated in school administration.

38. With reference to the response given by DS(EM)2 about institutional autonomy in paragraph 33, Mr SZETO Wah queried why the Administration considered that the Panel's decision to set up a Subcommittee to follow up on the Management-Initiated Retirement Scheme (MIRS) of the Hong Kong Institute of Education (HKIEd) was an interference of institutional autonomy. Mr LEUNG Yiu-chung raised a similar query. Miss Cyd HO considered that providing a venue for exchange of views between the staff and the management by way of a Panel or Subcommittee meeting should not be interpreted as interfering with the internal administration of the institution.

39. SG/UGC responded that holding institutions to public accountability should not amount to interference. In answer to a point raised by Mr LEUNG Yiu-chung, he pointed out that what he had objected to was the motion moved at the Panel meeting on 22 October 2001 urging HKIEd to suspend its MIRS.

*Appeal and monitoring mechanism*

40. Mr CHEUNG Man-kwong recalled that the Panel had met deputations complaining about the administration of UGC-funded institutions on various occasions. He considered the phenomenon unsatisfactory. Mr CHEUNG said that institutional autonomy did not mean that the management of an institution could act freely without any monitoring. If each institution had an effective appeal and monitoring mechanism, the Panel would not have received so many complaints from the staff of tertiary institutions. He was of the view that each institution should have an independent and effective mechanism to deal with staff appeals. Mr CHEUNG asked how the Administration and UGC would help UGC-funded institutions resolve the disputes between the management and the staff. He considered that UGC should in its report on Higher Education in Hong Kong (the Report) provide a feasible mechanism for handling staff grievances and appeals within the higher education sector. Ms Emily LAU pointed out that the mechanism must be accepted by all stakeholders in the higher education sector.



Action

41. In response to members' views about the need to provide an appeal mechanism for staff of UGC-funded institutions, SG(UGC) confirmed that the Report to be released next week would cover areas such as the internal governance of institutions and macro governance of the higher education sector as a whole. He added that the report would incorporate recommendations on regulation of institutional autonomy as well as the provision of grievances and appeals mechanisms in higher education. SG/UGC suggested that members might wish to follow up discussion on the issue at the special meeting scheduled for Tuesday, 26 March 2002.

*Review and appeal mechanism of non-renewal of contract at CityU*

42. Members present at the meeting noted with grave concern about the allegations made by some deputations about the irregularities in the review and appeal mechanism of non-renewal of contract at CityU. They considered that the governance mechanism to be recommended in the Report would not be able to address the imminent problems arising from the dispute in the School of Law of CityU.

43. Ms Emily LAU expressed support for the principle of institutional autonomy. She said that LegCo should refrain from interfering with the internal administration of tertiary institutions as far as possible. Ms LAU suggested that CityU should take the initiative to set up an independent committee comprising members of good credibility to investigate into the matter.

44. SG/UGC responded that CityU had established an Appeal Committee to consider the appeals lodged by the affected staff members. As he had been informed, the Appeal Committee would submit its report to the President of CityU within the week. He undertook to relay Ms Emily LAU's suggestion to the Council of CityU for consideration. However, he would like to point out that non-renewal of contract was different from dismissal in nature. In response to the Chairman's enquiry, SG/UGC confirmed that the Appeal Committee was chaired by Professor Edmond KO, who was the current Vice-President for Education and Dean of Students of CityU. The Committee comprised five members, namely, the Chairman, two staff of CityU and two lay members. He undertook to provide the membership list of the Committee after the meeting.

*(Post-meeting note : The membership of the Appeal Committee set up by CityU to consider the appeals of the staff members not offered re-appointment in the School of Law has been issued by fax to members vide LC Paper No. CB(2)1399/01-02 on 19 March 2002.)*

Action

45. Ms Audrey EU was of the view that inviting the management of CityU to discuss its internal administration with the Panel at a meeting should be the last resort. Ms EU pointed out that the Administration had agreed that institutions should be entitled to freedom of action in managing their affairs within the restraints of the laws of Hong Kong. Since the Concern Group had made so many allegations about racial discrimination, conflict of interest and black-box operation of the School Staffing Committee of the School of Law of CityU, she considered that UGC should follow up the matter with CityU and revert to the Panel as soon as possible.

46. Mr LEUNG Yiu-chung expressed dissatisfaction that it seemed that UGC had not taken any role in the dispute of non-renewal of contract in the School of Law at CityU. He pointed out that CityU should not be free from any supervision in the name of institutional autonomy. Mr LAU Kong-wah considered that the complaint lodged by the Concern Group was very serious as it involved allegation of racial discrimination and public interest was at stake. Mr LEUNG and Mr LAU urged UGC to take an active role to supervise the administration of institutions. Mr LAU also requested UGC to liaise with CityU and provide the Panel with a written response to the submission of the Concern Group. He added that CityU should co-ordinate with UGC for a meeting with the Panel as soon as practicable.

47. In response to the queries about the role of UGC raised by Mr LEUNG Yiu-chung and Mr LAU Kong-wah, SG/UGC said that UGC had all along played an active role to ensure improvements of the administration and management of the institutions. UGC had conducted a management review on the institutions in 1999 and recommendations had been made to the institutions. Each institution was requested to follow up on the recommendations and report to UGC accordingly. As regards the dispute of non-renewal of contract at the School of Law of CityU, SG/UGC pointed out that he had kept in close contact with CityU on the matter. He assured members that UGC would take follow-up actions, if necessary, when the report of the Appeal Committee was available.

48. DS(EM)2 supplemented that the Administration and UGC would continue to discuss with CityU as and when appropriate. She added that UGC had communicated with frontline teaching staff and students of UGC-funded institutions on various occasions and she expected that more communication would be conducted in the future.

49. Miss Cyd HO considered that the four monitoring mechanism as highlighted in paragraph 5 of the Administration's paper [LC Paper No. CB(2)1333/01-02(06)] could not help resolve the dispute between staff members concerned and the management in the School of Law of CityU. She suggested that the management of CityU should be invited to give response to the views of deputations and staff expressed at the meeting. Miss HO also held

Action

the view that CityU should withhold its decision on non-renewal of contract of the staff concerned until the community as a whole was satisfied with its explanation on the relevant review and appeal procedures.

50. Mr MA Fung-kwok said that while he agreed that the management of CityU should be given the opportunity to respond to the allegations made by the deputations about the irregularities of its review and appeal mechanism, he wondered whether these deputations had exhausted other channels before resorting to LegCo for assistance. He pointed out that the governing bodies of UGC-funded institutions which had the duty to supervise the administration of the institutions comprised lay members and some of them were LegCo Members. Mr MA was of the view that the Panel should focus its discussion on the long-term solution to address the issue such as the governance of UGC-funded institutions when the Report was released.

51. After discussion, members agreed that the Panel should follow up the discussion on the review and appeal mechanism for non-renewal of contract at CityU with the Administration, UGC, CityU and all interested parties at a special meeting. Members further agreed that subject to the availability of the report of the Appeal Committee, the special meeting would be held on 2 April 2002 at 9:00 am.

52. SG/UGC responded that the Appeal Committee set up by CityU was considering the appeal lodged by seven teaching staff in its School of Law. He undertook to liaise with CityU for a meeting with the Panel after the Appeal Committee had made its decision. He would also relay members' views and concerns, as well as the joint submission of the Concern Group, to CityU for a written response. Referring to the allegations that the management of CityU had repeatedly refused to respond to the enquiries raised by its staff and students, Ms Emily LAU remarked that CityU should be requested to have a dialogue with its staff and students before attending the special meeting.

X X X X X X X X

Council Business Division 2  
Legislative Council Secretariat  
12 April 2002