

Commentary:

Special resolutions - Item 4

The statement regarding special resolutions has been transferred to a separate Statute and linked with other related provisions on this subject.

Grievances – item 4.8

When Council approved changes to the procedure for consideration of grievances submitted to Council, in July 2006, and approved the establishment of a Grievance Committee to take these decisions on its behalf, it also agreed that the provision in the Statutes allowing all members of the University to grieve to Council should be reviewed. (*Paper CO.06.07.13 provides further background, available on request*).

The proposed changes are intended to:

- significantly reduce the scope of the grounds upon which students and other members of the University may grieve to Council (currently any member may grieve to the Council about any issue)
- preserve the right for academic academic-related and support staff to grieve to Council.

Academic staff grievances will continue to be considered under procedures laid out in Statute 28 (or its successor - the Revised Model Statute) and associated Ordinances.

Reasons for the proposed amendments:

Grievances from students:

The number of grievances to Council has increased in recent years and the vast majority have been submitted by students, as a final stage after submission of an academic appeal or a complaint. As both of these processes already incorporate more than one stage of review, it is considered unnecessary for there to be an automatic right to an additional, final review by a Council Grievance Committee. It is questionable whether a Council Grievance Committee (comprising two lay members and an academic member) has the expertise to consider grievances which often require a detailed understanding of academic issues and procedures. It is not clear that the right to grieve to Council adds much value, it could be seen as simply delaying a final decision, and students still have the right (in many cases) to submit their case to the Office of the Independent Adjudicator.

Arguably it is not appropriate for a governing body to be involved in considering individual student cases: this work is at too great a level of detail, as a governing body should be focused on strategic issues. A review of legislation at a number of comparable universities has not revealed any other institutions which permit a grievance to be submitted to the governing body as a final stage of review. Instead, the Senate is given the responsibility to ensure that adequate processes for student complaints and appeals are in place.

However, the Legislation Review Reference Group recommended that rather than completely remove the right for students to grieve to Council, there should still be provision for very serious issues to be referred to Council for review, after other internal dispute resolution procedures have been exhausted.

Grievances from staff:

As the Council is the employer of all staff it is considered necessary to retain the ability for non-academic staff to submit grievances to Council to Council, on any matter. Provisions for considering grievances from academic staff grievances are set out separately in Statute 28 (or the Revised Model Statute) and associated Ordinances.

Additional powers

A small number of additional powers of the Council are proposed. The Charter already gives the University of Birmingham, and by extension, the Council, very broad powers: 'with full power and capacity by and in such name to sue and be sued and to take and hold and to do all other lawful acts whatsoever) and more specifically it is stated that the Council 'shall have absolute power within the University and shall have the government and control of the finances of the University and of the good order practical affairs business and work of the University'.

However, it is considered useful to make explicit some of the powers which the Council is most likely to wish to exercise. A couple of the powers listed have been moved from different sections of the Statutes, in order to bring them all together in one place.

1. The Council shall exercise all the powers and authority of the University except to the extent to which the exercise of the same may by the Charter Statutes and Ordinances be otherwise provided for.
2. The Council shall subject to the Charter make Statutes either on its own initiative or on the proposal of the Senate. No Statute shall be made amended or repealed until the Court and the Senate shall have had an opportunity of pronouncing an opinion thereon.
3. All Statutes must be passed by an Ordinary Resolution of the Council and special notice of the fact that Statutes will be considered and containing a short statement of the nature of the proposed Statutes must have been given.
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5. In accordance with the powers of the University set out in the Charter and subject to the Statutes the powers of the Council shall include:-
 1. To make Ordinances and Regulations for any matters in respect of which Ordinances and Regulations are authorised to be made.
 2. To exercise all such powers as are conferred on the Council by the Charter and Statutes and to carry the Charter Statutes and Ordinances into effect.
 3. To review and control or disallow any act of the Senate and to give directions to be obeyed by the Senate.
 4. To govern manage and regulate the finances accounts investments property business and all affairs whatsoever of the University.
 5. To make contracts on behalf of the University.
 6. To sell buy exchange lease or take leases of the University's real and leasehold estates.
 7. To provide the buildings premises furniture and apparatus and other means needed for carrying on the business of the University.
 8. To entertain adjudicate upon and if thought fit redress the grievances of:
 - a. employees of the University who may for any reason feel aggrieved, except where an employee has followed a procedure which culminates in a review by a committee of Council;
 - b. students who have a grievance concerning an issue or issues which, in the opinion of the Registrar and Secretary, impact upon a large section of the University and who have exhausted other internal dispute resolution procedures.
 9. To select a seal and arms for the University and have the sole custody and use of the seal.

10. To borrow or lend money on behalf of the University and for that purpose (if the Council think fit) to mortgage all or any part of the property of the University whether real or personal or give such other security, including by way of guarantee, whether upon such real or personal property or otherwise as the Council think fit.
 11. To enter into any financial instrument which is ancillary to the exercise of the Council's investment or borrowing powers.
 12. To appoint the auditor or auditors.
 13. To determine the level of fees payable within the University and entitlement to benefits and facilities.
 14. To appoint from time to time persons to hold such other full-time or part-time senior managerial, administrative or academic offices or appointments for such term, with such remuneration, upon such conditions as Council may think fit and to designate these offices or appointments with such names or titles as Council shall determine.
 15. Within the limits applicable to a charity, to pay remuneration to a member or members of the Council in respect of his, her or their services.
 16. To prosecute, defend or compromise litigation on behalf of the University.
 17. To appoint Advisory Boards consisting either wholly or partly of members unconnected with the University upon such terms and for such purposes as the Council may consider advisable.
 18. To make standing orders governing the procedure at meetings of the Council, including the power to add to amend alter or repeal any theretofore made.
6. The Council shall obey and carry out the Statutes.