



THE **TENURE** MEMO

A report on the erosion of academic freedom safeguards
at the London School of Economics

UCU Branch Committee
London School of Economics & Political Science

19 November 2024

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Introduction



This memo details concerning findings from an investigation by the University College Union (UCU) branch committee at the London School of Economics (LSE).

The special employment protections for safeguarding academic freedom, sometimes informally called ‘**tenure**’ at LSE, have been quietly **eroded over the past five years**. We believe that this erosion was achieved by misleading the Academic Board and the UCU, and in some cases failing to consult them entirely. For some categories of academic staff, LSE has been systematically ignoring contractual employment protections altogether. Staff and student representation on Council can now be easily removed, and Academic Board was never consulted on losing the constitutional guarantee of controlling its own procedures for nominating representatives. We believe hundreds of staff covered by the Academic Annex have been made redundant without following Annex procedures.

These findings are particularly concerning in light of **new and ongoing negotiations** between the LSE and the UCU over proposed revisions to the Academic Annex, which have the potential to further undermine employment protections and academic freedom at the LSE.

The National UCU motion “Defending academic freedom in the era of the green paper and marketisation” (2016/H/06-02/097/HE19) mandates that any attempt to weaken a Model Statute like the LSE Academic Annex must be publicised, and it is on this basis that the present Memo makes its material public.

'Tenure' Protections

For most of the twentieth century, **tenure** in the UK was assured, providing a guarantee of academic freedom. In the UK, tenure meant that academics could not be dismissed because of redundancy or financial pressure, but only for a 'good cause' like gross misconduct.

Unfortunately, tenure was abolished by the Thatcher-era Education Reform Act 1988.

Facing pushback for abolishing tenure, the Thatcher government included a section on academic freedom in the 1988 Act. The law established a body called the University Commissioners, who were instructed to draft and insert provisions on redundancy, disciplinary proceedings, grievances, and appeals into the statutes of most higher education institutions at the time. The **Commissioners were instructed to design the provisions to ensure academic freedom was upheld**. They thus created a 'Model Statute' that enshrined academic participation in these procedures, guaranteeing special employment protections for academic staff. At LSE, this document is an Annex to the School's Articles of Association, i.e. its constitutional document as a company limited by guarantee. It is known as the **Academic Annex**.

The Academic Annex became a powerful substitute for tenure for three reasons:

- ➔ **Procedural Checks and Balances.** The following of various procedures, including governing body approval of redundancies, was mandated.
- ➔ **Academic Influence.** It gave academics influence over the process.
- ➔ **Safety Locks.** Various locks made it difficult to change.

This memo will show how **most of these safeguards have been quietly eroded**.

As a result, LSE has weakened its substitute for tenure and thereby weakened academic freedom, placing it at a **major competitive disadvantage** compared to Cambridge, Oxford, and North American and EU universities with 'real tenure'.

1988: Thatcher
abolishes UK tenure.
It is replaced at the LSE by
the **Academic Annex**.



Locks on the Annex

The Academic Annex was an especially powerful safeguard for academic freedom because **it was difficult to change**. This was thanks to four ‘locks’ hindering its modification. The first two were **recently dismantled without transparent consultation**, and the third has come under attack in practice:

Privy Council Oversight

Changing the Annex required approval from the UK Privy Council, **even if** the LSE Articles of Association did not separately have that requirement, by Article 19A.2, and by the Order in Council underpinning 19A and the Annex. *This was removed in 2019.*


Guaranteed Staff+Student Veto

A supermajority (75%) of Council votes is required to change the Academic Annex. From 2019, LSE students and staff (PSS and Academics) were constitutionally guaranteed seats on Council, amounting to greater than 25% of the votes, which constitutionally guaranteed them effective veto power. *This guarantee was removed in 2022.*

Contract Reinforcement

The procedures in the Academic Annex are **included** in employment contracts for Academic, Research, Policy Fellow, and Education Career Track staff. *These contractual terms are routinely breached.*

Union and Academic Board participation

 Changes to the Terms and Conditions of employment at the LSE require collective agreement with UCU, and Council must consider views of the Academic Board before amending the Annex.

Lack of transparency among School Management means that the removal of these locks went unnoticed by the LSE academics who benefited most.

Privy Council Oversight Removed

Changing the Articles of Association once required Privy Council approval because the LSE was a designated institution under §129 of the Education Reform Act 1988. Unfortunately, **that designation was lifted** when the Higher Education and Research Act (HERA) 2017 came into effect on 1 August 2019, revoking the requirement to seek Privy Council approval for changes to the Articles.



We believe the Academic Annex maintained a **separate requirement of Privy Council approval**. We believe that until 2019 it flowed from Article 19A.2 of the Articles of Association, backed by an Order in Council, and read in light of §203(3) of the original 1988 Act. (See “*Detailed Timeline*” on page 12 for more.)

A UCU investigation has led us to conclude that in January 2019, Article 19A.2 was modified with a sunset clause that would **lift Privy Council oversight of the Annex** when it was lifted from the Articles as a whole on 1 Aug 2019. School management had told the Academic Board that a new article **merely incorporated the current Article 19A** (May 2018 AB Papers and Oct 2018 AB Minutes). UCU was in June 2018 told that the replacement article did not change anything. We believe that is false.

The School then immediately set about **revising the Articles again**, in February 2019, claiming to the UCU and Academic Board that another phase of approvals was required when in fact they were already approved.

1993-2019

Article 19A.2:
Changing the Academic Annex requires Privy Council approval (*full stop*).

2017

HERA 2017: sets into motion that LSE’s designated status will cease to have effect in August 2019, which will lift requirement to seek Privy Council approval to amend the Articles.

Jan 2019

19A.2 Converted to 15.4: Changing the Academic Annex requires Privy Council approval **only whilst it is required for the Articles** (sunset clause).

Aug 2019

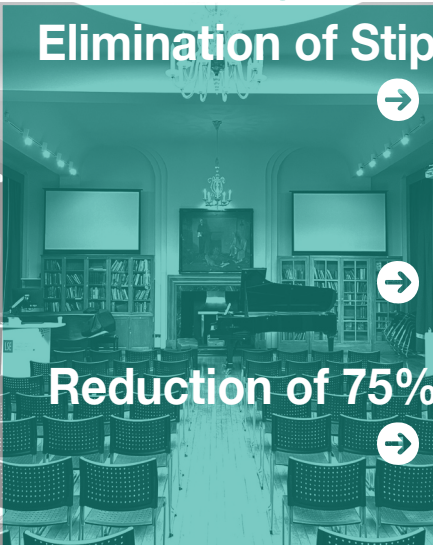
Privy Council oversight over the Articles ends, thereby removing oversight over the Annex.

Staff+Student Veto Undermined

At an 11 May 2022 Academic Board meeting, the School presented an amendment to the Articles of Association that assured certain new staff categories are covered under the Academic Annex. Academic Board was never informed about another major governance change, that the constitutional guarantee of a **Staff+Student veto would be removed**.

Council approved new Articles in July 2022 that removed all provisions stipulating staff and student representation on Council, including details on term limits and appointment procedures. (See “Detailed Timeline” on page 12 for more.)

How guaranteed Staff+Student Veto Was Eliminated



Elimination of Stipulated Staff+Student Seats on Council

- 2019 Articles required greater than 25% Staff+Student seats on Council: Vice Chair of Academic Board, LSE Student Union (LSESU) General Secretary, 3 Academic Board members, 1 PSS, and 1 LSESU Student Union nominee.
- The 2022 Articles quietly removed these provisions, as well as term limits and Academic Board influence over nomination procedures.

Reduction of 75% Threshold to 50%

- The provisions were instead moved to ‘Standing Orders’ of Council, which can be changed/eliminated by a simple majority, unlike the 75% needed to amend the Articles.

The School failed to consult UCU or Academic Board on these amendments to the Articles, eliminating the constitutionally protected Staff+Student Veto. Council then **voted to dilute Staff+Student voice by increasing the limit on lay members to 12**.

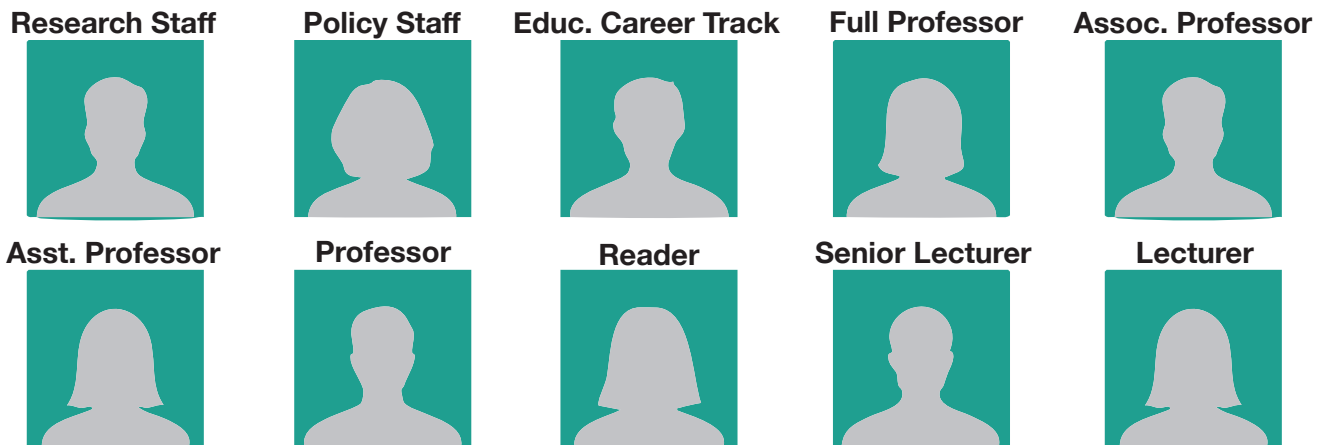
When Academic Board members of the Court of Governors voted in December 2018 to transfer to Council the Court’s power to amend the Articles, **the guarantee of Staff+Student Veto was regarded as crucial** to the case for such transfer.

In 2024, UCU asked why Academic Board was never told about this significant change in governance. School Management responded with the **claim that they are not required to consult Academic Board on academic governance**, and that these are **not employment matters relevant to the union**.

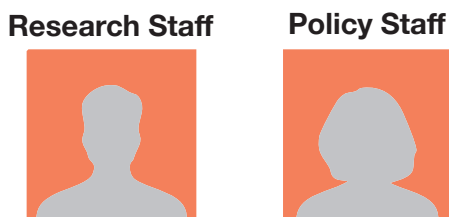
Employment Contracts Breached



The Academic Annex applies to a variety of categories of academic staff, as specified in paragraph 2(1) of the Annex and Article 14.3 in the Articles of Association:



The Annex provides **checks and balances on redundancy procedures** that can only be initiated by Council and, through byelaws, requires consultation with UCU. In the UK, redundancy procedures apply whenever a fixed-term contract is not renewed after two years, and whenever an open-ended contract is terminated, even when funding runs out. The School is supposed to apply Annex procedures to both.



But, **LSE routinely fails to follow Annex procedures** for the staff categories of Research Staff and Policy Fellow Staff, in breach of these employees' contracts.

The School says it is allowed to disregard these protections because of an informal verbal agreement with UCU from over 20 years ago. **UCU has found no record of this informal agreement, which would not anyway have any legal validity.** The School's account of this purported agreement has been inconsistent, shifting over time to justify different practices. In contrast, UCU records show that the Union consistently advocated for compliance with the Annex for all covered staff.

The 'tenure' protections of the Annex apply equally to all the staff listed above. So, **there is a slippery slope here:** if it is possible to disregard them for one staff category, then it is equally possible to disregard them for any categories of staff.

Summary of Dismantled Annex Safeguards

	Safeguard	Previous	Current	
1	Privy Council Approval for Changes to the Annex	Required (Article 19.2A + Order in Council)	Revoked	Changed from 1 Aug 2019
2	Statutory seats for Staff+Students on Council	6 out of 18 (33%)	Removed	Changed from 5 Jul 2022 without AB or UCU consultation
3	Percentage vote needed to alter Council composition and procedures for nomination	75% (In Articles)	50% (In Council Standing Orders)	Changed from 5 Jul 2022 without AB or UCU consultation
4	Employment Contract serving as an assurance of Annex Protections	Incorporated	Routinely Breached	

Although these safeguards are well-known to senior academic staff, most appear to be **unaware of how substantially they have been weakened**.

Remaining Safeguard: Union + Academic Board Participation

The Union's role in safeguarding academic employment remains robust. The UCU plays a designated role in:

- ➔ **Collective Agreement** needed to change employment Terms & Conditions;
- ➔ **Constitutional Requirement** to consult the Union on any regulations that set out procedures regarding Academic Staff (Article 14.4, Articles of Association)

Article 14.4 sets out a statutory requirement to consult the Academic Board on any such regulations as well.

New Concerns Ahead



The School recently proposed substantial amendments to the Academic Annex, claiming that it is 'outdated'. The recent **weakening of safeguards on the Annex makes it more vulnerable than ever** to change.

The School would strip Academic Annex protections from Research Staff and Policy Fellows



Currently, the Academic Annex equally covers a range of academic staff categories. The School would **codify their existing practice of failing to follow Annex procedures** for Research Staff and Policy Staff. We cannot condone the summary **removal of contractual rights from an entire staff category**, which would also set a worrying precedent for other staff categories in the future.

Will disciplinary/dismissal protections be weakened?

The Academic Annex ensures disciplinary procedures designed to protect academic freedom. We are **concerned the School might significantly expand possible reasons for dismissal** and diminish the right to a fair hearing.



Will Council members retain a role in Annex procedures?



Independent members of Council play a role in many Annex procedures. Model Statutes have often been reformed to transfer these powers to management or external consultants. Such a change would **reduce independent oversight and put academic freedom at risk**.

Staff Representation

On LSE Governing Body Over Time

Articles Version	Statutory Court Composition	Statutory Council Composition	Statutory Staff+Student Veto	Statutory Term Limits	Statutory Nomination Procedures
Jul 1993	<ul style="list-style-type: none"> Maximum 100 governors Maximum 25% Academic Staff 	Maximum 25% Academic Staff	No	Yes (Court)	No
Aug 1995	<ul style="list-style-type: none"> Maximum 100 governors Maximum 25% Academic Staff (including Director) 	Maximum 25% Academic Staff (including Director)	No	Yes (Court)	No
Dec 1999	<ul style="list-style-type: none"> Maximum 100 governors Minimum 11 Academic Staff Minimum 6 Students 	<ul style="list-style-type: none"> 2-25 members, including: <ul style="list-style-type: none"> 14 lay members 6 academic governors 3 academic (SMC) governors 2 student governors 	No, but some seats guaranteed	Yes (Court & Council)	No (Court); Yes (Council: Members re-elected annually by Court)
Jan 2006	<ul style="list-style-type: none"> Maximum 100 governors Minimum 11 Academic Staff Minimum 6 Students 	<ul style="list-style-type: none"> 2-25 members, including: <ul style="list-style-type: none"> 14 lay members 6 academic governors 3 academic (SMC) governors 2 student governors 	No, but some seats guaranteed	Yes (Court & Council)	No (Court); Yes (Council: Members re-elected annually by Court)
Jan 2019	None	<p>Council Becomes the Governing Body</p> <ul style="list-style-type: none"> 10 independent members Director LSESU General Secretary 1 LSESU nominee 3 Academic Board nominees Vice Chair of AB 1 PSS appointed by Council 	Yes	Yes	Yes (Academic Board nomination procedures determined by Academic Board)
Jul 2022	N/A	None	No	No	No

Detailed Timeline

- **29 Jul 1988.** Education Reform Act 1988 receives Royal Assent. Section 203(3) instructed the University Commissioners to ensure that once these provisions were in place, instruments modifying them (like the Annex) would require approval by the Privy Council, **even where there would otherwise be no requirement for that instrument to be approved by the Privy Council.** See Section 203(3): <https://www.legislation.gov.uk/ukpga/1988/40/section/203>
- **31 Mar 1993.** Article 19A and the Academic Annex become binding statutory legislation through an Order by Her Majesty in Council (Statutory Instrument 1993 No. 1043), with 19A.2 stating that **the Annex cannot be amended without the approval of the Privy Council.** In full, Article 19A.2 states: “No special resolution duly passed by an extraordinary general meeting or other meeting of the Court of Governors which would have the effect of modifying the provision in the said Annex to the Articles shall have that effect unless it has been approved by the Privy Council.”
- **Apr 2014.** Following two years of UCU resistance to gutting the Academic Annex, the School is revising its Articles of Association. There is outrage across the School as **staff fear it will separate the Annex from the Articles, which would remove the requirement for a 75% supermajority** of the Court of Governors and approval from the Privy Council to amend the Annex. The School Secretary publishes an open letter to staff promising the School will not remove the Annex from the Articles to quell dissent.
- **30 Sep 2016.** LSE, along with the other colleges of the University of London, becomes a designated institution under Section 129 of the Education Reform Act 1988 under The Education (Designated Institutions) (England) (No. 3) Order 2016. **Privy Council approval is required for any amendments**, however minor, to the Articles of Association of a designated institution established as a company limited by guarantee.
- **27 Apr 2017.** Higher Education and Research Act (HERA) 2017 receives Royal Assent. It sets out that on 1 August 2019, the LSE’s designated status under

s.129 of the Education Reform Act 1988 will cease to have effect, thereby removing Privy Council oversight of the Articles of Association.

➤ **30 May 2018.** At an LSE Academic Board meeting, papers include a revision of Article 19A.2 replacing it with Article 15.4, which includes language that we believe caused the **Privy Council's oversight of the Annex to be lifted on 1 August 2019**. The accompanying paper, however, includes the statement that "Article 15 incorporates the current Article 19A." But Article 19A has, in fact, been **tampered with**, adding what we believe amounts to a sunset clause that states that Privy Council oversight of the Annex would be retained "**whilst the Privy Council shall retain oversight for the approval of the Articles**".

UCU was told around the same time that Article 15 did not change anything. When asked in 2024, the School told UCU that Article 15.4 **was a technical amendment to provide regulatory alignment** with the inevitable legal situation after 1 August. But we believe the 1988 Act and original Order in Council **should have retained Privy Council oversight of the Academic Annex**, provided these requirements existed independently of the s.129 designation under the 1988 Act.

The Academic Board minutes show that staff also asked about a ceiling on staff representation on Council, and **the School Secretary "explained that this was a drafting issue"** and that "there was no plan to reduce the number of academics on Council."

➤ **20 December 2018.** University of London Act 2018 receives Royal Assent, paving the way for UoL member institutions to become universities in their own right.

➤ **22 Jan 2019.** Articles of Association are approved by the Privy Council and go into force. Article 15.4 replaces 19A.2 to remove Privy Council oversight of the Annex. This **change is enacted without having provided what we consider to be a transparent account** to the union, Academic Board, or the Court of Governors.

➤ **20 Feb 2019.** At an Academic Board meeting, the School invites the Board to note that the Privy Council has "confirmed" new Articles of Association. It claims these new Articles were necessary for compliance with the regulatory requirements of the Office for Students (OfS). Academic Board is shown the Articles as approved in 2019, along with a letter from the Privy Council Office confirming approval of the changes. Academic Board is told that the Articles were "confirmed" as the "new School Constitution" and that **their "second iteration" would include an amendment** to the Academic Annex [apparently

referring to what became Article 14.3 applying the Annex to various staff categories] that would be submitted to the Privy Council in the summer for “formal ratification”. **The language is misleading: “confirmation” and “formal ratification” are not procedures that apply** to Articles that have already been fully approved, and the School was aware that Privy Council oversight would cease to apply to the Articles from August.

➤ **26 Apr 2019.** The UCU branch committee receives and discusses another proposed update to the Articles of Association from the School, but which does not erase the statutory minimum on staff representation on Council.

➤ **6 June 2019.** JNCC meeting. The papers include the revised Articles with tracked changes. School Management told the union that the Articles had been redrafted as part of the School’s application for University title, which had been submitted to the OfS in March. The School told the union that the revised Articles could not be approved by Council until OfS approved the application. The union was told that the revised Articles “will need to be submitted to the Privy Council if the OfS approves the School’s application for University title.”

As before, **the tracked changes do not remove the statutory minimum on staff representation on Council**, they do include Article 15.3 clarifying coverage of the Annex to new staff categories, and they do not show that the Court will be abolished. At the meeting, the School told the union that the Court would be replaced by Council as the governing body of the School and “School” will be replaced with “University”. This is inaccurate: Council had already become governing body with adoption of the 2019 version of the Articles earlier that year but LSE had not yet become a university in its own right, blurring whether this was a new set of Articles or merely a second round of approvals of the Articles that were actually already in force.

➤ **1 Aug 2019.** The sunset clause in Article 15.4 goes into effect, removing Privy Council oversight of the Academic Annex along with its oversight of the Articles as a whole.

➤ **13 August 2019.** UCU agrees to amendments to the Articles and Annex, but is not updated about Privy Council. There is a long delay before the Articles proceed, which the School attributes to the COVID-19 pandemic.

➤ **22 Feb 2022.** Council agrees in principle to proposed new amendments to the Articles of Association. We believe this version of the amendments **does not include removing statutory Staff+Student seats on Council**, but the School has so far failed to provide copies of these papers in response to a UCU request.

- **11 May 2022.** At an Academic Board meeting, a paper shows amendments on which the union had confirmed its agreement in April. These amendments are the application of the Academic Annex to newer staff categories, previously agreed with the union in 2019, and a new proposal to remove the now defunct article on the Privy Council. The paper links to the online version of the Articles of Association that had been adopted in 2019. **This was misleading because the paper does not reveal any amendments removing statutory Staff+Student seats on Council.** The paper gave the appearance that only the two amendments described would be made.

- **5 Jul 2022.** New Articles of Association are approved by Council. The LSE acquires university status, and radical changes come into the constitution of the School, including that the statutory minimum on **staff and student representation on Council is removed, as are term limits and a constitutional assurance of Academic Board's control of the procedures for nominating its representatives on Council.** Minutes show that the Council Standing Orders were amended, transferring the stipulations on Staff+Student representation to this instrument. **The Standing Orders also expand the limit on lay members of Council, immediately diluting the Staff+Student vote.** Council now requires only a simple majority to amend the rules on the composition of Council and the guarantee of staff and student representation. **Council can now in principle move very quickly to further dilute or reduce the staff vote to block a veto on changes to the Academic Annex,** to extend or reduce terms/term limits for members of Council, or to take control of the nominations process away from Academic Board. These changes were not transparently reported to Academic Board at its first Michaelmas Term 2022 meeting.