

立法會
Legislative Council

LC Paper No. CB(2)2091/07-08
(These minutes have been seen
by the Administration)

Ref : CB2/BC/13/06

**Bills Committee on
Independent Police Complaints Council Bill**

**Minutes of meeting
held on Thursday, 8 May 2008, at 4:30 pm
in the Chamber of the Legislative Council Building**

- Members present** : Hon LAU Kong-wah, JP (Chairman)
Hon LEE Cheuk-yan
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon Bernard CHAN, GBS, JP
Hon WONG Yung-kan, SBS, JP
Hon Howard YOUNG, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Audrey EU Yuet-mee, SC, JP
Dr Hon Joseph LEE Kok-long, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon KWONG Chi-kin
- Members absent** : Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Dr Hon Philip WONG Yu-hong, GBS
Hon Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Daniel LAM Wai-keung, SBS, JP
Hon LEUNG Kwok-hung
- Public Officers attending** : The Administration
Mrs Jessie TING, JP
Deputy Secretary for Security

Ms Manda CHAN
Principal Assistant Secretary for Security

Ms Jane LEE
Assistant Secretary for Security

Mr FAN Sik-ming
Chief Superintendent of Police (Complaints and Internal
Investigations Branch)

Ms WONG Ching-han
Senior Inspector of Police

Ms Fanny IP
Senior Assistant Law Draftsman

Ms Lonnie NG
Senior Government Counsel

Independent Police Complaints Council

Mrs Philomena LEUNG
Secretary, Independent Police Complaints Council

**Clerk in
attendance** : Mrs Sharon TONG
Chief Council Secretary (2) 1

**Staff in
attendance** : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Mr Raymond LAM
Senior Council Secretary (2) 5

Ms Camy YOONG
Clerical Assistant (2) 1

I. Continue discussion on the Bill

The Bills Committee deliberated (index of proceedings attached at **Annex I**).

2. The Bills Committee requested the Administration -

(a) to review clause 7(1)(a) in relation to the word "manner"; and

- (b) to consider consolidating clause 13 and the definition of "notifiable complaint" in clause 2(1).
3. The Administration advised that it would propose amendments -
- (a) to confine the scope of clause 9(b) and (c) to complaints regarding the validity or technicality of summons and notice for the imposition of a fixed penalty under any enactment;
 - (b) to delete "in the opinion of the Commissioner" in clauses 10(b) and 11(b) and "the Commissioner is of the opinion" in clause 12(1) to better reflect the legislative intent that the Independent Police Complaints Council (IPCC) might provide its opinion on whether a complaint was vexatious or frivolous or made in good faith, and whether a belated complaint was of a serious nature;
 - (c) to amend clause 11 to provide expressly to the effect that a belated complaint must be categorised as a reportable complaint if it was serious in nature and met other prescribed criteria of a reportable complaint; and
 - (d) to amend clause 12 to expressly provide that a request for review must not seek the review of a reportable complaint that was classified as "for informal resolution" so as to reflect the existing practice.
4. Mr James TO indicated that he would propose amendments in respect of providing IPCC with investigative power.
5. In response to Mr James TO's suggestion to provide for a statutory mechanism for the automatic referral of any disagreement between IPCC and the Commissioner of Police to the Chief Executive for a determination, the Administration stressed that IPCC and the Police had been working in the spirit of mutual understanding and cooperation in operating the police complaints system, and the Police took IPCC's comments and recommendations seriously, and the Secretary for Security would state this point during the resumption of Second Reading debate on the Bill. In addition, clause 28 of the Bill already provided a general power for IPCC to make such reports to the Chief Executive as it thought necessary. The Administration therefore considered it unnecessary to provide for the statutory mechanism as suggested by Mr TO.
6. Chief Superintendent of Police (Complaints and Internal Investigations Branch) made a statement in response to the remarks made by the Chairman of IPCC at the meeting on 24 April 2008 as detailed in his speaking note in **Annex II**.

II. Date of next meeting

7. The Bills Committee noted that the next meeting had been scheduled for 13 May 2008 at 8:30 am.

8. The meeting ended at 6:40 pm.

Council Business Division 2
Legislative Council Secretariat
28 May 2008

**Proceedings of meeting of the
Bills Committee on
Independent Police Complaints Council Bill
on Thursday, 8 May 2008, at 4:30 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000233	Chairman	Opening remarks	
000234 - 000346	Chairman Hon James TO Admin	Examination of clause 6	
000347 - 002025	Admin Hon James TO Chairman	Examination of clause 7; paragraphs 13 and 14 of LC Paper No. CB(2)1689/07-08(02); draft of clause 7(1)(a); effect of clause 7(1)(b)	Admin to review clause 7(1)(a) in relation to the word "manner"
002026 - 002134	Chairman Admin	Examination of clause 8	
002135 - 002708	Admin Chairman	Examination of clause 9; amendments to be proposed by the Administration to confine the scope of clause 9(b) and (c) to complaints regarding the validity or technicality of summons and notice for the imposition of a fixed penalty under any enactment	
002709 - 003432	Admin Chairman	Examination of clause 10; paragraphs 2 to 5 of LC Paper No. CB(2)1842/07-08(01); paragraph 3 of LC Paper No. CB(2)1702/07-08(01); amendments to be proposed by the Administration to clause 10	
003433 - 003645	Admin Chairman	Examination of clause 11; paragraph 2 of LC Paper No. CB(2)1702/07-08(01); amendments to be proposed by the Administration to clause 11	

Time marker	Speaker	Subject(s)	Action Required
003646 - 004422	Admin Chairman Hon Alan LEONG	Examination of clause 12; paragraph 3 of LC Paper No. CB(2)1702/07-08(01); amendments to be proposed by the Administration to clause 12	
004423 - 004735	Admin Chairman	Examination of clause 13	Admin to consider consolidating clause 13 and the definition of "notifiable complaint" in clause 2(1)
004736 - 005059	Admin Chairman	Examination of clause 14; paragraphs 11 and 12 of LC Paper No. CB(2)1689/07-08(02)	
005100 - 015935	Admin Chairman Hon Alan LEONG Hon James TO Hon Mrs Selina CHOW SALA1 Secretary of IPCC	Examination of clause 15; whether the Independent Police Complaints Council (IPCC) should be empowered to require the Commissioner of Police (CP) to investigate a complaint he had categorised as notifiable; whether clauses 15 and 28 should be amended to the effect that the categorisation and classification of a complaint would be determined by IPCC and CP could submit a report to the Chief Executive, if he could not agree with IPCC's categorisation or classification of a complaint; whether a statutory mechanism should be established for the automatic referral of any disagreement between IPCC and CP to the Chief Executive for a determination; views of IPCC on clause 8(3) and clause 15(3); whether the arrangement under clause 28 should be set out in clause 15 and other relevant clauses	

Time marker	Speaker	Subject(s)	Action Required
015936 - 020441	Admin Chairman Hon James TO	Police's statement in response to the remarks made by the Chairman of IPCC at the meeting on 24 April 2008	

Council Business Division 2
Legislative Council Secretariat
28 May 2008

二零零八年五月八日
《投訴警方獨立監察委員會條例草案》委員會會議
警方講辭

主席：

警監會主席在條例草案委員會於四月二十四日的會議上，就警隊現時調查投訴警察個案的工作提出意見，警隊希望作出一些澄清。

警隊並不同意調查投訴的工作往往是循著歸類為「無法證實」的方向進行。在現行兩層架構下，投訴警察課負責調查市民對警方提出的投訴，調查的結果必須接受警監會的嚴謹審批。警監會只在信納警方已就有關投訴進行專業的調查工作後，才會通過該宗投訴的調查結果。事實上，警監會時常積極發揮並堅守其監察角色。如警監會對有關投訴個案提出任何質詢，投訴警察課便必須給予徹底圓滿的答覆，該會才會通過該宗投訴的調查結果。

警監會如對警方的調查工作有任何不滿，可拒絕通過調查結果，以及將事件呈交行政長官考慮。在黃先生擔任警監會主席的任期內，警監會沒有需要採取該項程序。反映投訴警察課調查投訴的水準甚高，以及該課的確盡力解答警監會在監察過程中提出的質詢。

香港警隊與警監會的職責同樣是確保市民提出的所有投訴警察個案均經過妥當調查，而處理投訴的手法及水平均合乎市民的期望。警隊會與警監會繼續攜手合作，維持一套具有效制衡的機制來監管調查投訴警察的工作。

多謝主席！