

立法會
Legislative Council

LC Paper No. CB(2)2349/07-08
(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 Tuesday, 13 May 2008, at 8:30 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon LAU Kong-wah, JP (Chairman)
Hon Margaret NG
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 TAM Yiu-chung, GBS, 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 LEUNG Kwok-hung
- Members absent** : Hon LEE Cheuk-yan
Dr Hon LUI Ming-wah, SBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Daniel LAM Wai-keung, SBS, JP
Hon KWONG Chi-kin
- 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 MA Wai-luk
Assistant Commissioner of Police (Service Quality Wing)

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

Mr Brandon CHAU
Secretary, Independent Police Complaints Council (Acting)

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

Miss Helen DIN
Legislative Assistant (2)1

I. Continue discussion on the Bill

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

2. The Bills Committee requested the Administration -

- (a) to provide information on the number of complaints in the past three years where the classification of "unsubstantiated" was

changed after the Independent Police Complaints Council (IPCC) provided its comments to the Police;

- (b) to consider amending "the Council may require the Commissioner to provide explanations" in clause 15 to the effect that the Commissioner must provide to the Council explanations, with supporting material including any written statement taken from a person interviewed by a member of the police force in respect of a notifiable complaint and any video recording of the interview;
- (c) to consider amending clause 16(2)(e) along the lines of "such other information as the Council and the Commissioner may agree." or "such other information as the Council thinks necessary";
- (d) to provide a sample of the Criminal and Disciplinary Checklist prepared by the Police, with personal data (if any) excised;
- (e) to consider amending clause 16(3) to the effect that an investigation report on a reportable complaint classified as one that was for informal resolution must contain a summary of the process of informal resolution, a record of the facts in relation to the complaint and the information in support of resolving the complaint by informal resolution;
- (f) to provide a sample of the Police's report to IPCC on informal resolution cases, with personal data (if any) excised;
- (g) to consider requiring complaints not to be resolved by informal resolution to be investigated by officers of a Police formation other than the one in which the Police officer who was the subject of complaint was attached;
- (h) to consider requiring the staff of IPCC to explain to a complainant before a complaint was to be resolved by informal resolution;
- (i) to provide information on the number of complaints resolved by informal resolution in the past one year;
- (j) to provide information on the number of complaints where investigation could not be completed within six months from the date of receipt of the complaint;

- (k) to provide information on the respective percentage of complaints where investigation was completed within one to six months in the past one year;
- (l) to provide a sample of the interim investigation report provided by the Police to IPCC;
- (m) to consider substituting "explain" in clause 17(3) with "contain";
- (n) to consider amending clause 17(4) along the lines that "the Council may advise the Commissioner of its opinion on a report submitted under subsection (3)";
- (o) to explain the disciplinary procedures after a complaint was found substantiated and how IPCC might give its opinion during the process;
- (p) to consider conducting disciplinary proceedings on a Police officer only after IPCC had completed its review on the related complaint;
- (q) to consider incorporating an express provision in the Bill to empower IPCC to disclose to the public any disagreement with the Police;
- (r) to consider providing IPCC with general power under clause 18 to make recommendations and give opinion in respect of an investigation report submitted by the Police under clause 16;
- (s) to consider providing IPCC with general power to conduct interviews under clause 19 for the purpose of performing its monitoring role; and
- (t) to explain the meaning of "in private" in clause 19(4) and whether an interviewee could disclose the contents of an interview afterwards, keep a voice record of the interview or communicate with his lawyer during the interview.

3. The Bills Committee suggested that the Chairman of IPCC provide his views, if any, on the statement made by the Police in response to his remarks made at the meeting on 24 April 2008.

4. The Administration advised that it would propose amendments -

- (a) to clauses 16 and 18 to expressly provide for submission of amended investigation report and supplementary investigation

report made by the Police to IPCC; and

- (b) to clause 19(8) to provide that the interview records must be kept only for such period as might be necessary for IPCC's performance of its functions under the Bill.

II. Date of next meeting

- 5. The Bills Committee noted that the next meeting had been scheduled for 22 May 2008 at 2:30 pm.
- 6. The meeting ended at 12:40 pm.

Council Business Division 2
Legislative Council Secretariat
19 June 2008

**Proceedings of meeting of the
Bills Committee on
Independent Police Complaints Council Bill
on Tuesday, 13 May 2008, at 8:30 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 001558	Chairman Hon James TO Chairman Admin Secretary of IPCC(Atg)	Statement made by the Police in response to remarks made by the Chairman of Independent Police Complaints Council (IPCC) at the meeting on 24 April 2008 (LC Paper CB(2)1895/07-08(01)); information on the number of complaints in the past three years where the classification of "unsubstantiated" was changed after the Independent Police Complaints Council (IPCC) provided its comments to the Police	Admin to provide information on the number of complaints in the past three years where the classification of "unsubstantiated" was changed after IPCC provided its comments to the Police
001559 - 001938	Admin	Briefing on clause 16; amendments to be proposed by the Administration to clause 16	
001939 - 005052	Hon James TO Hon Mrs Selina CHOW Hon Emily LAU Admin Chairman Secretary of IPCC(Atg)	Views of IPCC on clause 15(3); amending "the Council may require the Commissioner to provide explanations" in clause 15 to the effect that the Commissioner must provide to the Council explanations, with supporting material including any written statement taken from a person interviewed by a member of the police force in respect of a notifiable complaint and any video recording of the interview	Admin to consider amending "the Council may require the Commissioner to provide explanations" in clause 15 to the effect that the Commissioner must provide to the Council explanations, with supporting material including any written statement taken from a person interviewed by a member of the police force in respect of a

Time marker	Speaker	Subject(s)	Action Required
			notifiable complaint and any video recording of the interview
005053 - 013048	Hon James TO Hon Emily LAU Hon Margaret NG Chairman Admin Secretary of IPCC(Atg)	Views of IPCC on clause 16; scope of clause 16(2)(d); amending clause 16(2)(e) along the lines of "such other information as the Council and the Commissioner may agree." or "such other information as the Council thinks necessary"; providing a sample of the Criminal and Disciplinary Checklist prepared by the Police, with personal data (if any) excised; consider amending clause 16(3) to the effect that an investigation report on a reportable complaint classified as one that was for informal resolution must contain a summary of the process of informal resolution, a record of the facts in relation to the complaint and the information in support of resolving the complaint by informal resolution.	Admin to consider amending clause 16(2)(e) along the lines of "such other information as the Council and the Commissioner may agree." or "such other information as the Council thinks necessary"; to provide a sample of the Criminal and Disciplinary Checklist prepared by the Police, with personal data (if any) excised; to consider amending clause 16(3) to the effect that an investigation report on a reportable complaint classified as one that was for informal resolution must contain a summary of the process of informal resolution, a record of the facts in relation to the complaint and the information in support of resolving the complaint by informal resolution.
013049 - 014638	Hon Emily LAU Hon James TO Hon Alan LEONG Chairman	Views of the Hong Kong Bar Association on clause 16; existing practice in respect of reports submitted to IPCC on	Admin to provide a sample of the Police's report to IPCC on informal

Time marker	Speaker	Subject(s)	Action Required
	Admin Secretary of IPCC(Atg)	complaints to be resolved by informal resolution; providing a sample of the Police's report to IPCC on informal resolution cases, with personal data (if any) excised	resolution cases, with personal data (if any) excised
014639 - 014724	Admin	Briefing on clause 17	
014725 - 015011	Chairman Secretary of IPCC(Atg)	Views of IPCC on clause 17	
015012 - 020149	Hon James TO Hon Emily LAU Chairman Admin	Investigation of complaint cases not resolved by informal resolution; requiring complaints not to be resolved by informal resolution to be investigated by officers of a Police formation other than the one in which the Police officer who was the subject of complaint was attached; requiring the staff of IPCC to explain to a complainant before a complaint was to be resolved by informal resolution; providing information on the number of complaints where investigation could not be completed within six months from the date of receipt of the complaint	Admin to consider requiring complaints not to be resolved by informal resolution to be investigated by officers of a Police formation other than the one in which the Police officer who was the subject of complaint was attached; to consider requiring the staff of IPCC to explain to a complainant before a complaint was to be resolved by informal resolution; to provide information on the number of complaints where investigation could not be completed within six months from the date of receipt of the complaint
Break			

Time marker	Speaker	Subject(s)	Action Required
022355 - 022819	Chairman Admin	Briefing on clause 18; amendments to be proposed by the Administration to clause 18	
022820 - 024614	Hon James TO Admin Chairman Secretary of IPCC(Atg)	Why a benchmark of six months was adopted in clause 17(1)(a); scope of clause 17(3)(a); interpretation of clause 17(4); providing information on the respective percentage of complaints where investigation was completed within one to six months in the past one year; information on the number of complaints resolved by informal resolution in the past one year; providing a sample of the interim investigation report provided by the Police to IPCC; substituting "explain" in clause 17(3) with "contain"; whether "on the explanation given " in clause 17(4) should be deleted	Admin to provide information on the respective percentage of complaints where investigation was completed within one to six months in the past one year; to provide information on the number of complaints resolved by informal resolution in the past one year; to provide a sample of the interim investigation report provided by the Police to IPCC; to consider substituting "explain" in clause 17(3) with "contain"; to consider amending clause 17(4) along the lines that "the Council may advise the Commissioner of its opinion on a report submitted under subsection (3)"
024615 - 024927	Admin Chairman	Briefing on clause 19; amendments to be proposed by the Administration to clause 19(8)	
024928 - 033956	Hon James TO Admin Chairman	Scope of clause 18(1)(e); mechanism for taking disciplinary actions against a	Admin to explain the disciplinary procedures after a

Time marker	Speaker	Subject(s)	Action Required
	Secretary of IPCC(Atg) SALA1	member of the police force; drafting of clause 18(1)(a) to (d) and 18(1)(e); disciplinary procedures after a complaint was found substantiated and how IPCC might give its opinion during the process; conducting disciplinary proceedings on a Police officer only after IPCC had completed its review on the related complaint; incorporating an express provision in the Bill to empower IPCC to disclose to the public any disagreement with the Police; providing IPCC with general power under clause 18 to make recommendations and give opinion in respect of an investigation report submitted by the Police under clause 16	complaint was found substantiated and how IPCC might give its opinion during the process; to consider conducting disciplinary proceedings on a Police officer only after IPCC had completed its review on the related complaint; to consider incorporating an express provision in the Bill to empower IPCC to disclose to the public any disagreement with the Police; to consider providing IPCC with general power under clause 18 to make recommendations and give opinion in respect of an investigation report submitted by the Police under clause 16
033957 - 035921	Hon James TO Hon LEUNG Kwok-hung Admin Chairman	Whether IPCC should be empowered to interview witnesses at any stage of an investigation; role of IPCC in the interviewing of witnesses; providing IPCC with general power to conduct interviews under clause 19 for the purpose of performing its monitoring role	Admin to consider providing IPCC with general power to conduct interviews under clause 19 for the purpose of performing its monitoring role
035922 - 040950	Hon James TO Chairman Admin	Interpretation of clause 19(4); meaning of "in private" in clause 19(4); whether an interviewee could disclose the contents of an	Admin to explain the meaning of "in private" in clause 19(4) and whether

Time marker	Speaker	Subject(s)	Action Required
		interview afterwards, keep a voice record of the interview or communicate with his lawyer during the interview	an interviewee could disclose the contents of an interview afterwards, keep a voice record of the interview or communicate with his lawyer during the interview

Council Business Division 2
Legislative Council Secretariat
19 June 2008