

**For discussion**

**Sub-Committee on  
the Independent Police Complaints Council Ordinance  
(Commencement) Notice**

**Preparation for the enactment of the  
Statutory Independent Police Complaints Council on 1 April 2009**

**Purpose**

Following the enactment of the Independent Police Complaints Council (IPCC) Ordinance in July 2008, we propose that the IPCC commences operation as a statutory body from 1 April 2009. This paper sets out the preparation work completed/underway to achieve the commencement date.

**Background**

2. The IPCC Ordinance was enacted in July 2008 to codify the existing police complaints system and to establish the IPCC as a statutory body. The Ordinance specifies the functions, powers and operation of the statutory IPCC, as well as the obligation of the Police to comply with the requirements made by the statutory IPCC under the Ordinance. The statutory framework enhances the transparency of the police complaints system and reinforces the monitoring role of the IPCC.

3. To allow time for the necessary preparation to be made before the IPCC starts operation as a statutory body, section 2 of the IPCC Ordinance states that '[t]his Ordinance shall come into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.' On 9 January 2009, the Administration published in the Gazette that Secretary for Security has appointed 1 April 2009 as the commencement date of the IPCC Ordinance.

## **Continuity of appointments to and operation of the IPCC**

4. To cater for a smooth transition, section 45 of the IPCC Ordinance provides for the continued appointment of the Chairman, Vice-chairmen and other members, observers as well as the employees of the existing IPCC upon the establishment of the statutory IPCC. In addition, to ensure that the day-to-day operation of the Council will continue without disruption upon the commencement of the Ordinance, section 43 of the Ordinance provides for the continuance of things done by the existing Council and the continued validity of anything done by, in relation to or on behalf of the existing Council.

## **Preparation for the establishment of the statutory IPCC**

5. Compared to the existing administrative arrangements, the IPCC Ordinance provides for, among others, the Council's functions in monitoring the handling and investigation of reportable complaints by the Police and related operational procedures. These include: the manner and procedures for examining the lists of complaints as well as the investigation reports and interim investigation reports on reportable complaints submitted by the Police; matters related to the conduct of interviews by the IPCC in relation to investigation reports submitted by the Police; observations conducted by IPCC members and observers on interviews and collection of evidence carried out by the Police in relation to reportable complaints and related procedural matters.

6. Schedule 1 of the Ordinance further provides for matters related to the internal administration of the Council, such as the proceedings of the Council (including arrangements for declaration of interest by IPCC members), execution of documents of the Council, establishment of committees under the Council and their operation, the scope of delegation of the Council's functions as well as the financial management of the Council. The secretariat of the statutory IPCC will cease to be a government department.

7. In preparation for the establishment of the statutory IPCC, the Council has taken steps to put in place the necessary arrangements to reflect the provisions in the IPCC Ordinance and the new status of its secretariat. Details are set out at the **Annex**.

### **Staffing and financial arrangements for the statutory IPCC**

8. The IPCC secretariat is currently staffed by civil servants and a small number of contract officers. The IPCC Ordinance empowers the statutory IPCC to appoint its own staff. To allow a smooth transition, it is the Council's intention to phase out the experienced civil servants currently working in its secretariat in stages with a view to fully replacing all civil servants in the secretariat by 31 March 2012. Civil servants who continue to work in the IPCC secretariat upon the commencement of the IPCC Ordinance will do so on a secondment basis. The Administration will continue to liaise with the IPCC on the phasing out programme and provide necessary support.

9. To facilitate the discharge of its functions of monitoring the Police's handling and investigation of reportable complaints, the Administration is committed to ensuring that the statutory IPCC will continue to be provided with appropriate support and resources. As a statutory body, the IPCC will have a high degree of flexibility and independence in managing its own finances. In reflection of this, the financial provision for the statutory IPCC will be set out under a separate head of expenditure in the Government's Estimates in the form of a one-line vote with the Secretary-General of the Council as the Controlling Officer, i.e. he will have full autonomy to deploy or redeploy resources allocated or savings generated for purposes and functions pertinent to the statutory IPCC.

10. The Administration will advise the statutory IPCC annually of the time and manner in which the relevant resource allocation exercises and estimates of expenditure are to be conducted/prepared. This will facilitate the statutory IPCC to consider the level of financial provision needed for the subsequent financial year and to prepare resource bids when necessary. Any requests made by the Council for additional

resources will be subject to the established resource bidding procedures in the normal manner and will be considered at a high-level forum, with the personal participation of both the Chief Secretary for Administration and the Financial Secretary.

**Steps taken by the Complaints Against Police Office (CAPO) in preparation for the establishment of the statutory IPCC**

11. In preparation for the operation of the statutory IPCC, CAPO is consulting IPCC on the Force's updated internal procedures and guidelines regarding the handling and investigation of reportable complaints and notifiable complaints to bring them in line with the requirements under the IPCC Ordinance and to dovetail with the updated procedures of the IPCC. CAPO will disseminate the updated procedures and guidelines within the Force in March 2009, and ensure officers' compliance with the updated arrangements once the Ordinance commences operation.

**Security Bureau  
February 2009**

**Preparation made by the IPCC  
for the establishment of the statutory IPCC**

In preparation for the establishment of the statutory IPCC, the Council has taken steps to put in place the necessary arrangements to reflect the provisions in the IPCC Ordinance and the new status of its Secretariat. The main steps include –

**(1) Matters related to the Council's functions in monitoring the handling and investigation of reportable complaints by the Police**

- (a) reviewing and determining the procedures for meetings of the IPCC and IPCC committees and the Council's committee structure;
- (b) reviewing and determining the procedures for the consideration of the lists of complaints and the investigation reports on reportable complaints submitted by the Police;
- (c) reviewing the format of investigation reports on reportable complaints;
- (d) reviewing and determining the procedures and guidelines in respect of the conduct of interviews by the IPCC in relation to reportable complaints;
- (e) reviewing and determining the procedures and guidelines in respect of the conduct of observations by IPCC members and observers on interviews and collection of evidence carried out by the Police in relation to reportable complaints.

**(2) Matters related to the internal administration of the statutory IPCC**

- (a) drawing up internal manuals regarding the management of finances and accounts, human resources, records, procurement and stores, office security and information technology security;

- (b) setting up a new accounting system and determining the operation of the Council's bank account(s) and investment of funds;
- (c) considering the terms of employment, drawing up employment agreement(s) and conducting recruitment exercises;
- (d) arranging the transfer of inventory from the IPCC Secretariat (as a Government department) to the statutory IPCC;
- (e) reviewing existing service contracts and services provided by Government departments to ensure continued availability of services or that alternative services are made available;
- (f) arranging for assignment of the lease of the existing premises from the Government Property Agency to the statutory IPCC;
- (g) determining and producing a common seal for the IPCC, and revamping the organization logo, website, existing booklets/leaflets and producing new stationery with the change of the IPCC's Chinese name;
- (h) drawing up guidelines in respect of requests from members of the public for access to information; and
- (i) preparing publicity materials in connection with the establishment of the statutory IPCC.