

PFC Staff Side Paper D/2010/01

**Police Force Council Staff Side Submission
to LegCo Panel on Public Service
Item V - P(D)R proposed legislation amendment
(Meeting on 2010-06-21)**

Background

The Police Force Council Staff Side (PFC SS) represents the four staff associations of the Hong Kong Police with members from Constable to Chief Superintendent rank. We appreciate the time taken by members to examine the progress of the Administration in drawing up proposed legislative amendments to P(D)R and Traffic Wardens (Discipline) Regulations.

The Police Force Council Staff Side (PFC SS) believes the Discipline regulations are an integral part of the proper management and function of the police force and all officers recognize and support regulations, systems and procedures that provide for efficient and fair due process when handling discipline matters.

At all levels within the police there is a common understanding that it is time to outline changes that are necessary and practical to ensure fairness to the officer under discipline action and efficiency of our disciplinary system. The prosecutors and other police formation personnel who need to deal with discipline matters on a day-to-day basis know the discipline system well and have now identified areas for change that are in the best interest of the force as a whole.

We met with CSB (Mrs Agnes ALLCOCK) on 5th May 2010 and frankly discussed the scope of legislative amendments to the P(D)R. We note the reply from CSB, dated 1st June, and the intention to continue to examine our suggestions with reference to Force Management and then to produce a set of reasonable and practical improvements to the P(D)R as proposed legislation later this year.

Review process and proposals

The Police Force Council Staff Side has fully supported a detailed review of discipline regulations to address both the issues that were

raised in recent Judicial Review and ruled unconstitutional and those items that we all feel **are essential** to the future proper functioning of the discipline system for the Police.

We feel it is right to take this opportunity, in Phase 1 of this review of the P(D)R, to have legislation that can immediately provide for some very practical improvements to the current Discipline process. We have a consensus amongst the four police staff associations in the PFC SS to support the Commissioner of Police in his recommendations for changes to the Discipline regulations that cover **four key areas** in addition to the CSB proposals for defense legal representation and acceptability of written, audio or video record of proceedings. *(Amending to Regs. 9(11), 9(12), 19(1) and 19(2), and Reg. 3C(5) of the P(D)R, as well as Reg. 8(11) of the TW(D)R in compliance with the CFA judgment)*

The Staff Side supports the Commissioner of Police in recommending:

1. Introducing a mechanism, in order to differentiate, based on the seriousness of the charge(s), between proceedings, which may result in non-terminatory and terminatory awards (including reduction of ranks) into the P(D)R.

PFC SS Proposal: To introduce a straightforward differentiation at the start of proceedings that improves the current authorities/system for disciplinary award but allows for an early decision to impose a non-terminatory limit on awards in appropriate cases.

2. Introducing a statutory provision to permit - Hearing in Absentia [HiA].

PFC SS Proposal: Have a straightforward statutory wording similar to PS(A)O and clarify the circumstances of 'absentia' in guidelines to departments.

3. Addressing Chinese language inconsistencies in the offence of 'Conduct **calculated** to bring the public service into disrepute'

PFC SS Proposal: Rationalise the English and Chinese with the English term 'likely', i.e. 'Conduct likely to bring the public service into disrepute' and the Chinese as '其行為有可能致使公共服務聲譽受損'

4. Harmonising Parts II and III of the P(D)R.

Way Forward

We appreciate it will require some more time for CSB to continue the discussions with all stakeholders and produce a set of reasonable and practical proposals. There is an immediate need to incorporate the above suggestions in the legislative changes to be covered in Phase 1. We believe that CSB, Force Management, the PFC SS and other stakeholders can achieve a set of proposals that provide a real improvement in our discipline process.

We welcome your support for our suggestions in Phase 1 so we can achieve an improved and balanced set of legislative amendments and note these should be presented to panel members later in the year.

Following on from the Phase 1 we note CSB assurance that further consideration to any residual matters or wider changes that move towards adopting a more unified or aligned discipline system(s) for all ranks can be part of a Phase 2 review.

**Police Force Council Staff Side
June 2010**