

Panel of Administration of Justice and Legal Services

Inclusion of the statutory Independent Police Complaints Council (“IPCC”)

under the purview of The Ombudsman

Views of The Ombudsman

When the IPCC Bill was scrutinised by the Bills Committee of the Legislative Council in 2008, the Committee sought the views of The Ombudsman on whether the IPCC Secretariat should be included under Part I of Schedule 1 to The Ombudsman Ordinance (“the Ordinance”) and on the proposal in the Bill to repeal the IPCC Secretariat in Part II of Schedule 1 to the Ordinance.

The then Ombudsman gave her views on the two matters to the Committee in writing in June 2008. Essentially, the incorporated IPCC as proposed in the then Draft IPCC Bill would have the following common features of all Government departments and the statutory bodies listed in the said Schedule 1:

- (a) substantially funded by General Revenue or statutory fees or charges;
- (b) performing administrative functions, and not being solely advisory,

adjudicative or appellate in nature;

- (c) having interface with or impact on the public in the course of discharging their functions.

As such, there was no objection in principle to bringing the incorporated IPCC within The Ombudsman's purview, though it was recognised that the decision was ultimately one of policy.

As regards the IPCC Secretariat, the then Ombudsman noted that the Independent Commission Against Corruption ("ICAC"), a statutory body, had been subject to the Code on Access to Information ("the Code") since the latter's inception in 1996 and saw no reason why the incorporated IPCC and its secretariat could not be treated in the same way as the ICAC.

Eventually the statutory IPCC has not been put within The Ombudsman's purview and the IPCC Secretariat was removed from Part II of Schedule 1 to the Ordinance.

The Ombudsman considers the observations above regarding the statutory IPCC

still applicable after it has come into operation. He has no objection in principle to having the statutory IPCC put under his purview.

We understand that the Code does not apply to the IPCC at present. As such, the question of whether or not to include it in Part II of Schedule 1 to the Ordinance does not arise.

Office of The Ombudsman

3 December 2010