

**Subcommittee on Amendments to Subsidiary Legislation on Discipline
Made under Disciplined Services Ordinances**

**List of follow-up actions arising from the discussion
at the meeting on 26 May 2012**

1. The Administration is requested to provide:
 - (a) the number of disciplinary cases in which the accused was denied legal representation and the reasons for such denial; and
 - (b) the number of cases in (a) above in which the punishment imposed on the accused was dismissal, compulsory retirement or reduction in rank.
2. Regarding the overall timeframe for handling disciplinary cases, the Administration is asked to follow up a member's suggestion of issuing written guidelines on the timeframe for completing each stage of disciplinary proceedings, namely investigation, disciplinary hearings, imposition of punishments and appeals against disciplinary decisions.
3. The Administration is requested to introduce amendments to L.N. 58, 59, 60, 61, 62 and 63 to the effect that if the possible punishment to be faced by the accused is dismissal, compulsory retirement or reduction in rank, then the accused is entitled to be legally represented at disciplinary hearings. The effect of the proposed amendment is that if his application for legal representation is refused, the accused may assume that the punishment to be imposed on him will not be dismissal, compulsory retirement or reduction in rank.
4. It is noted that under the current practice of the Correctional Services Department and the Customs and Excise Department, the adjudicating officer/tribunal, instead of a senior officer in headquarters, is empowered to decide on the defaulters' application for legal representation at disciplinary hearings. The Police, the Fire Services Department and the Government Flying Service are requested to consider and revert to the Subcommittee whether they can adopt the same practice; and if not, the reasons.
5. Noting that junior police officers (JPOs) and staff of the Traffic Warden grade are the only disciplined services staff currently not subject to "deferment or stoppage of increment" as a possible form of punishment in

disciplinary cases, the Subcommittee asked the Administration to advise whether there have been any policy considerations underlying the current arrangement for JPOs and the Traffic Warden grade.

6. Regarding the disciplinary proceedings involving disciplined services staff in the relevant disciplined services departments (DSDs), the Administration is requested to inform the Subcommittee of the measures, if any, to enhance the transparency of such disciplinary proceedings, in particular ways to enable the staff to understand the factors taken into consideration in deciding whether to approve applications for legal and other forms of representation (including representation by a "friend") at disciplinary hearings; the criteria adopted by the DSDs in interpreting such factors; and how the result of each application for legal representation and the outcomes of disciplinary proceedings are communicated to the accused.

7. Noting that according to the Administration, it will proceed to the next stage of review of disciplined services legislation upon completion of the current legislative amendment exercise, the Subcommittee asked the Administration to provide:

- (a) information on the subjects that will be included in the review; and
- (b) the time-frame for taking forward the review (such as staff consultation and legislative timetable).