

**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 30 May 2012**

1. According to the Police, files and records on ex-police officers who have left the service after a specified period of time (about five years) will be destroyed. Noting that after the Court of Final Appeal's judgment in the case of *Lam Siu Po v Commissioner of Police*, the Police has received 55 requests from 54 ex-police officers and one serving officer for review of the results of past disciplinary cases (paragraph 7 of LC Paper CB(1) 2052/11-12(01)), the Subcommittee asked the Police to advise whether in any of these 55 cases, the relevant files and records had been destroyed when the request for review was received; and if yes, the number of such cases.
2. Noting that under the Police (Discipline) Regulations, a defaulter may be represented at a disciplinary hearing by any other police officer of the defaulter's choice who is a barrister or solicitor, the Subcommittee asked the Administration to consider whether similar arrangements can be provided for under the other disciplined services legislation.

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3. According to rule 5(1)(a) of the amended Part I of the Second Schedule to the Fire Services Ordinance (FSO), an accused may be represented at a disciplinary hearing by a barrister or solicitor. Noting that in actual practice, a barrister may be accompanied by a solicitor trainee or a clerk from the law firm at a disciplinary hearing, the Subcommittee asked the Administration to explain whether and how rule 5(1)(a) can cater for the presence of the aforesaid persons in addition to the barrister in question at the hearing.
4. The Administration is requested to consider a member's suggestions to improve the drafting of the following provisions under Part I of the Second Schedule to FSO:
 - (a) rule 3;
 - (b) rule 6(1);

(c) rule 7(2); and

(d) rule 7(3) (the Chinese version).

5. It is specified in rule 6(4) of Part I of the Second Schedule to FSO that "Evidence must not be taken on oath or affirmation". The Administration is requested to provide an explanation on why it is necessary to prohibit the taking of evidence on oath or affirmation.

6. It is specified in various rules of Part I of the Second Schedule to FSO that the Director is performing certain functions in connection with disciplinary proceedings, such as giving approval to legal representation of an accused at a hearing under rule 5(1), and communicating a finding to the accused under rule 7(1). To avoid ambiguity, the Administration is asked to consider stating explicitly that the functions in question are performed by the Director himself or by any other officers authorized by the Director.

The way forward

7. Given the highly compressed timeframe for scrutiny of the amendment regulations/rules and the complexity of many of the amendments, the Administration is asked to consider limiting the scope of the current legislative amendment exercise to only those proposals that are essential (e.g. legal representation, conducting hearings in absentia etc.) and including the other proposed amendments in the next phase of the review of the disciplinary services legislation.

Council Business Division 1
Legislative Council Secretariat
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