

政府總部
公務員事務局
香港金鐘添美道2號
政府總部西翼



**CIVIL SERVICE BUREAU
GOVERNMENT SECRETARIAT**
WEST WING
CENTRAL GOVERNMENT OFFICES
2 TIM MEI AVENUE, ADMIRALTY
HONG KONG

本函檔號 Our Ref.: CSBCR/DP/1-145/001/7 Pt. 17

來函檔號 Your Ref.:

電話號碼 Tel. No.: 2810 2140

傳真號碼 Fax No.: 2530 0986

電郵地址 E-mail Address: csbts@csb.gov.hk

網址 Homepage Address: <http://www.csb.gov.hk>

28 June 2012

Mr Arthur LEUNG
Clerk to Panel on Public Service
Legislative Council Complex
1 Legislative Council Road, Central
Hong Kong

Dear Mr LEUNG,

**Panel on Public Service
Follow-up to Panel meeting held on 21 May 2012**

I refer to your letter of 31 May 2012 and provide below the information required under item 9 of the list of follow-up actions on the subject of overview of civil service disciplinary matters –

- (a) Number of cases in which summary disciplinary actions were instituted against civil servants from HKPF in the past five years

For the 5-year period from 1 April 2007 to 31 March 2012, the Hong Kong Police Force has instituted action in 598 cases involving minor disciplinary offences, resulting in the issue of warnings or written admonishments to the civil servants concerned.

- (b) Number of successful appeals against decisions to reject applications for legal representation at disciplinary hearings

As at 31 March 2012, 22 officers had lodged appeals against the relevant authority's decisions not to approve legal representation at their disciplinary hearings processed under the Disciplined Services Legislation. Each of the appeals was considered in accordance with the principle of fairness by a more senior officer

not lower than the level of Assistant Commissioner/Director or equivalent. The factors for consideration mentioned in the Court of Final Appeal's judgement in *Stock Exchange of Hong Kong Ltd v. New World Development Co Ltd and Others* (FACV 22/2005) and grounds advanced by the officers had been taken into account by the authorities concerned when considering the appeals. Since the grounds advanced in the appeals could not justify varying the decisions in rejecting applications for legal representation, the authorities concerned had decided to uphold the decisions in all these cases.

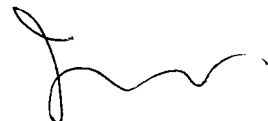
(c) Information about the impact (including the time taken) of allowing legal representation on the conduct of disciplinary proceedings

According to the Court of Final Appeal's judgement in *Lam Siu Po v. Commissioner of Police* (FACV 9/2008), legal representation at disciplinary hearings is a matter for the disciplinary authority to deal with under its discretion in accordance with the principle of fairness. In other words, legal representation should be allowed where fairness so requires.

When approval is given for an application for legal representation by an officer charged with disciplinary offences, separate legal representation will be provided to the prosecuting officer and the adjudicating tribunal at the relevant hearing. The Administration therefore needs to incur additional resources in processing applications (including appeals) for legal representation and in engaging outside lawyers for the prosecuting officer and the adjudicating tribunal. The additional expenses for conducting disciplinary hearings with legal representation are absorbed by the Administration.

Since no disciplinary case is identical, we do not consider it appropriate to compare the time taken to complete disciplinary proceedings of cases with legal representation against those without legal representation.

Yours sincerely,



(Ms Ivy LAW)

for Secretary for the Civil Service