

立法會
Legislative Council

LC Paper No. CB(2)2350/07-08
(These minutes have been seen
by the Administration)

Ref : CB2/BC/13/06

**Bills Committee on
Independent Police Complaints Council Bill**

**Minutes of meeting
held on Thursday, 22 May 2008, at 2:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon LAU Kong-wah, JP (Chairman)
Hon LEE Cheuk-yan
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon Bernard CHAN, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon KWONG Chi-kin
- Members absent** : Dr Hon LUI Ming-wah, SBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Howard YOUNG, SBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Dr Hon Joseph LEE Kok-long, JP
Hon Daniel LAM Wai-keung, SBS, JP
- Public Officers attending** : Mrs Jessie TING, JP
Deputy Secretary for Security
- Ms Manda CHAN
Principal Assistant Secretary for Security

Ms Jane LEE
Assistant Secretary for Security

Mr FAN Sik-ming
Chief Superintendent of Police (Complaints and Internal
Investigations Branch)

Ms WONG Ching-han
Senior Inspector of Police

Ms Fanny IP
Senior Assistant Law Draftsman

Ms Lonnie NG
Senior Government Counsel

**Clerk in
attendance** : Mrs Sharon TONG
Chief Council Secretary (2) 1

**Staff in
attendance** : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Mr Raymond LAM
Senior Council Secretary (2) 5

Miss Helen DIN
Legislative Assistant (2) 1

I. Continue discussion on the Bill

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee requested the Administration -
 - (a) to consider allowing a person interviewed by the Independent Police Complaints Council (IPCC) to be accompanied by a lawyer or a person who could offer assistance to the interviewee at the interview;
 - (b) to consider setting out in the Bill that the company of a lawyer at an interview was not subject to IPCC's consent;
 - (c) to provide information on IPCC's existing practice regarding

persons who might be present at an interview by IPCC, including circumstances under which a lawyer was allowed/not allowed to be present, and what such persons could/could not do at the interview;

- (d) to provide information on the number of persons interviewed by IPCC in a year;
- (e) to consider providing in the Bill that any person could make a request for an interview with IPCC for the purpose of providing information relating to an investigation report, or facilitating IPCC in the performance of its duties in identifying any fault or deficiency in any practice or procedure adopted by the Police Force, and providing that if IPCC refused such a request, it must provide reasons;
- (f) to provide information on the number of cases in a year where IPCC interviewed persons for the purpose of considering an investigation report or an interim investigation report after it had been submitted to IPCC;
- (g) to consider allowing IPCC to conduct interviews upon receipt of an interim investigation report, unless it appeared to the Commissioner of Police that there were reasonable grounds that the conduct of such interviews would be likely to prejudice the investigation of any crime or of any complaint made to him;
- (h) to consider allowing IPCC -
 - (i) to interview any person at any time;
 - (ii) to interview any person at any time after the Complaints Against Police Office had interviewed such a person; or
 - (iii) to interview any person at any time unless there were reasonable grounds to believe that it would prejudice the investigation of any crime or any complaint made to the Commissioner of Police, provided that "prejudice" was narrowly defined;
- (i) to consider revising clause 19(3) in relation to the word "prejudice";
- (j) to consider revising clause 19(8) and (9), such as combining the two subclauses, to set out clearly that IPCC could disclose information relating to an interview by IPCC for any purpose

allowed under clause 37;

- (k) to consider allowing IPCC to disclose information on the grounds of public interest or revealing abuse of power, serious neglect of duty or other serious misconduct as provided in section 30 of the Prevention of Bribery Ordinance (Cap. 201); and
 - (l) to consider incorporating an express provision in the Bill to provide IPCC with full and unrestricted access to facts which were the basis of legal advice, and the conclusion of the legal advice basing on such facts, which were relevant to the classification of complaints.
3. The Bills Committee asked the Clerk to convey to IPCC its requests for
- (a) IPCC to advise on its latest position regarding the draft wording for its proposed amendment to clause 20 of the Bill, noting that the scope of the proposed formulation set out in Appendix I to LC Paper No. CB(2)1981/07-08(01) was broader than the scope suggested by the IPCC Chairman at the Bills Committee meeting held on 24 April 2008; and
 - (b) the Secretary of IPCC or other staff of the IPCC Secretariat to attend all future meetings of the Bills Committee.

II. Date of next meeting

4. The Bills Committee agreed that additional meetings would be scheduled as follows to continue discussion with the Administration -

<u>Date</u>	<u>Time</u>
7 June 2008	9:00 am - 1:00 pm
10 June 2008	8:30 am - 12:45 pm (merged with the meeting originally scheduled at 10:45 am on the same day)
12 June 2008	8:30 am - 10:30 am

<u>Date</u>	<u>Time</u>
16 June 2008	8:30 am - 12:45 pm
17 June 2008	8:30 am - 10:30 am
	2:30 pm - 6:30 pm

5. The meeting ended at 4:30 pm.

Council Business Division 2
Legislative Council Secretariat
19 June 2008

**Proceedings of meeting of the
Bills Committee on
Independent Police Complaints Council Bill
on Thursday, 22 May 2008, at 2:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000720	Chairman Hon Emily LAU Hon James TO	Scheduling of additional meetings	
000721 - 000924	Chairman Hon Emily LAU Admin	Absence of the Secretary of the Independent Police Complaints Council (IPCC) or other staff of the IPCC Secretariat at the meeting	
000925 - 002912	Chairman Hon James TO Hon Mrs Selina CHOW Hon Emily LAU Admin	Allowing a person interviewed by IPCC to be accompanied by a lawyer or a person who could offer assistance to the interviewee at the interview; setting out in the Bill that the company of a lawyer at an interview was not subject to IPCC's consent; IPCC's existing practice regarding persons who might be present at an interview by IPCC, including circumstances under which a lawyer was allowed/not allowed to be present, and what such persons could/could not do at the interview; number of persons interviewed by IPCC in a year	Admin to consider allowing a person interviewed by IPCC to be accompanied by a lawyer or a person who could offer assistance to the interviewee at the interview; to consider setting out in the Bill that the company of a lawyer at an interview was not subject to IPCC's consent; to provide information on IPCC's existing practice regarding persons who might be present at an interview by IPCC, including circumstances under which a lawyer was allowed/not allowed to be present, and what such persons could/could not do

Time marker	Speaker	Subject(s)	Action Required
			at the interview; to provide information on the number of persons interviewed by IPCC in a year
002913 - 003755	Hon Emily LAU Hon James TO Admin Chairman	Whether persons relating to a complaint could request for an interview with IPCC; providing in the Bill that any person could make a request for an interview with IPCC for the purpose of providing information relating to an investigation report, or facilitating IPCC in the performance of its duties in identifying any fault or deficiency in any practice or procedure adopted by the Police Force, and providing that if IPCC refused such a request, it must provide reasons	Admin to consider providing in the Bill that any person could make a request for an interview with IPCC for the purpose of providing information relating to an investigation report, or facilitating IPCC in the performance of its duties in identifying any fault or deficiency in any practice or procedure adopted by the Police Force, and providing that if IPCC refused such a request, it must provide reasons
003756 - 010458	Hon Emily LAU Hon James TO Hon LEUNG Kwok-hung Admin Chairman	Effect of clause 19(2) and (3); number of cases in a year where IPCC interviewed persons for the purpose of considering an investigation report or an interim investigation report after it had been submitted to IPCC; allowing IPCC to conduct interviews upon receipt of an interim investigation report, unless it appeared to the Commissioner of Police that there were reasonable grounds	Admin to provide information on the number of cases in a year where IPCC interviewed persons for the purpose of considering an investigation report or an interim investigation report after it had been submitted to IPCC;

Time marker	Speaker	Subject(s)	Action Required
		that the conduct of such interviews would be likely to prejudice the investigation of any crime or of any complaint made to him	to consider allowing IPCC to conduct interviews upon receipt of an interim investigation report, unless it appeared to the Commissioner of Police that there were reasonable grounds that the conduct of such interviews would be likely to prejudice the investigation of any crime or of any complaint made to him
010459 - 011025	Hon James TO Chairman Admin	Allowing IPCC to interview any person at any time; allowing IPCC to interview any person at any time after the Complaints Against Police Office had interviewed such a person; allowing IPCC to interview any person at any time unless there were reasonable grounds to believe that it would prejudice the investigation of any crime or any complaint made to the Commissioner of Police, provided that "prejudice" was narrowly defined	Admin to consider allowing IPCC (i) to interview any person at any time, (ii) to interview any person at any time after the Complaints Against Police Office had interviewed such a person; or (iii) to interview any person at any time unless there were reasonable grounds to believe that it would prejudice the investigation of any crime or any complaint made to the Commissioner of Police, provided that "prejudice" was narrowly defined

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011026 - 011250	Hon Emily LAU Hon Audrey EU	Revising clause 19(3) in relation to the word "prejudice"	Admin to consider revising clause 19(3) in relation to the word "prejudice"
011251 - 011813	Hon Emily LAU Admin Chairman	Clause 19(8) and (9)	Admin to consider revising clause 19(8) and (9), such as combining the two subclauses, to set out clearly that IPCC could disclose information relating to an interview by IPCC for any purpose allowed under clause 37
011814 - 012654	Hon James TO Admin Chairman	Allowing IPCC to disclose information on the grounds of public interest or revealing abuse of power, serious neglect of duty or other serious misconduct as provided in section 30 of the Prevention of Bribery Ordinance (Cap. 201) (POBO)	Admin to consider allowing IPCC to disclose information on the grounds of public interest or revealing abuse of power, serious neglect of duty or other serious misconduct as provided in section 30 of POBO
012655 - 020049	Chairman Admin Hon Margaret NG Hon Mrs Selina CHOW Hon James TO Hon Emily LAU Hon LEUNG Kwok-hung	Examination of clause 20; drafting amendments proposed by IPCC to clause 20; inviting IPCC to advise on its latest position regarding the draft wording for its proposed amendment to clause 20; amendments proposed by the Chairman of IPCC to clause 20 at the meeting on 24 April 2008	Admin to consider incorporating an express provision in the Bill to provide IPCC with full and unrestricted access to facts which were the basis of legal advice, and the conclusion of the legal advice basing on such facts,

Time marker	Speaker	Subject(s)	Action Required
			which were relevant to the classification of complaints

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