

政府總部
公務員事務局
香港中環雪廠街11號
中區政府合署西座



CIVIL SERVICE BUREAU
GOVERNMENT SECRETARIAT
WEST WING
CENTRAL GOVERNMENT OFFICES
11 ICE HOUSE STREET
HONG KONG

本函檔號 Our Ref.: CSBCR/DP/1-010-005/6 Pt. 2

電話號碼 Tel. No.: 2810 2140

來函檔號 Your Ref.: CB1/PL/PS

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>

18 August 2010

Ms Sarah YUEN
Clerk to Panel on Public Service
Legislative Council Building
8 Jackson Road, Central
Hong Kong

Dear Ms YUEN,

**Panel on Public Service
Follow-up to meeting on 21 June 2010**

At the meeting of the Panel on Public Service on 21 June 2010, Members requested the Administration to provide information on the following -

- (a) reasons (in the form of breakdown by category) for rejecting the 52 applications for legal or other forms of representation at disciplinary hearings conducted under the respective Disciplined Services Legislation as at 31 May 2010; and
- (b) reasons for the delay in re-processing the disciplinary cases concerning Mr LAM Siu-po and Mr CHIU Hoi-po, appellants in two successful cases of appeal to the Court of Final Appeal.

Applications for legal or other forms of representation

In general, approving authorities will consider the circumstances of the case and take into account, but not limited to, the following factors¹ in

¹ These factors were mentioned by the Court of Final Appeal ("CFA") in the case of *Stock Exchange of Hong Kong Ltd v. New World Development Co. Ltd and Others (FACV 22/2005)*. They were also mentioned in the CFA judgement on *Lam Siu Po* case.

considering applications for legal representation –

- (a) seriousness of the charge and potential penalty;
- (b) whether any points of laws are likely to arise;
- (c) the officer's capacity to present his case;
- (d) procedural difficulties;
- (e) the need for reasonable speed to make the adjudication; and
- (f) the need for fairness amongst the individuals concerned.

The approving authority will consider the circumstances of the case and other appropriate factors, such as the possibility of leakage of sensitive information in considering applications for other forms of representation.

The decision to approve or reject an application for legal or other forms of representation is made having regard to one or more factors as mentioned above. The main factors considered by the relevant Disciplined Services Departments in rejecting the 52 applications are tabulated below –

Main factors considered in rejecting an application	No. of applications rejected			Total
	Hong Kong Police Force	Fire Services Department	Correctional Services Department	
Factor (a)	2			<i>2</i>
Factors (a) + (b)			1	<i>1</i>
Factors (a) + (c)	45			<i>45</i>
Factors (a) to (d)	1			<i>1</i>
Factors (a) to (e)		1		<i>1</i>
Factors (a) to (f)		1		<i>1</i>
Other Factor			1 ²	<i>1</i>
Total	48	2	2	52

Re-processing of disciplinary cases of two police officers

As regards the re-processing of disciplinary cases concerning the two police officers (namely Mr LAM Siu-po and Mr CHIU Hoi-po), the

² The application was rejected on the ground that the defence representative (not legal representative) under application was involved in the preliminary investigation of the disciplinary case. Hence, it would not be fair to have him acting as the defence representative given that he had previous knowledge of the case.

Police management has advised that since the alleged offences of the two officers took place in 2000, it has taken some time to retrieve, re-examine and re-confirm the information and circumstances of the cases. The Police management has undertaken to follow up on the two cases as expeditiously as practicable, taking into consideration the specific circumstances of each case.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Ivy LAW', with a long horizontal flourish extending to the right.

(Ms Ivy LAW)
for Secretary for the Civil Service

cc: relevant Disciplined Services Departments