

監警會如何確保有效率、公正及嚴謹地處理所有佔領事件衍生的投訴個案

Ensuring efficiency, impartiality and meticulousness in handling all Occupy Movement complaint cases



今期《監警會通訊》訪問了特別工作小組主席陸貽信資深大律師及秘書長朱敏健先生，講解監警會審核由佔領事件衍生的投訴個案處理程序和原則。由於大量佔領事件的投訴令工作量增加，加上個案牽涉到公眾利益，所以監警會制定了數項新程序，以提高審核投訴警察課調查報告的效率。

嚴重投訴個案委員會轄下設立特別工作小組

由於所有佔領事件的投訴均涉及公眾利益，故這些投訴都會交由監警會嚴重投訴個案委員會審核。為提升效率並確保詳細審視所有投訴，14名嚴重投訴個案委員會的委員組成特別工作小組，專責審核被分類為「投訴撤回」、「無法追查」及「透過簡便方式解決」的佔領事件投訴個案。特別工作小組亦會審視被分類為「須知會投訴」的個案，確保分類正確及合理。

For this issue of the *IPCC Newsletter*, we interviewed the STF Chairman Mr Arthur Luk Yee-shun, Senior Counsel, and Secretary-General Mr Ricky Chu, regarding the processes and principles the IPCC adopted for reviewing complaint cases arising from the Occupy Movement. To deal with the increased workload arising from the influx of Occupy Movement complaints, which are of immense public interest, the IPCC developed several additional procedures, improving its efficiency in reviewing the CAPO investigation reports on these cases.

The Special Task Force within the Serious Complaints Committee

As all Occupy Movement complaints are of considerable public interest, they are placed under the purview of the IPCC's SCC. With a view to enhancing efficiency and ensuring that each Occupy Movement complaint would be meticulously examined, a STF comprising 14 Members was established within the SCC, to examine Occupy Movement complaints that have been classified as "Withdrawn", "Not Pursuable" or "Informally Resolved". In addition, the STF examined Occupy Movement complaints categorised as "Notifiable Complaints", to ensure that such categorisations are proper and fully justified.

特別工作小組由陸貽信資深大律師擔任主席，成員包括副主席張華峰議員、副主席謝偉銓議員、陳培光醫生、葉成慶先生、劉玉娟女士、黃幸怡女士、黃德蘭女士、葉振都先生、杜國鑾先生、甄孟義資深大律師、何世傑博士、陳章明教授及許宗盛先生。特別工作小組再細分為兩組，每組各有九名委員。其中一組負責審核在港島區發生的投訴個案，另一組則負責九龍區。特別工作小組主席及另外三名委員兩組均有參與。

特別工作小組的工作充分顯示監警會在監察及審閱佔領事件的投訴上一絲不苟，和平常的處理方式有數個分別。非佔領事件的「投訴撤回」及「透過簡便方式解決」個案，秘書長獲授權決定有關分類是否正確。至於「無法追查」及「須知會投訴」則由委員組成的審核小組決定，與佔領事件衍生的投訴個案由特別工作小組處理有所不同。

陸貽信資深大律師解釋監察及審核佔領事件投訴機制時強調：「這做法不是因為我們不信任投訴警察課的分類，但因為事件涉及公眾利益，我們認為這些個案必須審慎處理。而這個安排旨在讓秘書處及委員會能在作決定前完全了解個案。」

秘書長朱敏健補充：「不論指控是否輕微，監警會都高度重視每一宗佔領事件的投訴。所以每一宗佔領事件的個案，即使經秘書處審視及提出質詢後認同分類正確及合理，所有投訴個案仍須交由特別工作小組審核。作出此安排因為我們不欲錯過任何一宗可能需要監警會審核的個案。」

增加的工作量

雖然嚴重投訴個案委員會及特別工作小組全面的程序加重了監警會整體的工作量，但相關程序卻有效地提升了會方的工作效率，以下資料反映了我們嚴謹的工序。

截至10月9日，監警會就佔領事件的355宗「須知會投訴」向投訴警察課提出了113項質詢，亦有就150宗呈交予監警會的「須匯報投訴」的調查報告提出了110項質詢。為確保適時處理佔領事件的投訴，監警會與投訴警察課加開工作層面會議，旨在盡快釐清雙方對於事實及相關資料的分歧。此安排亦可讓雙方就個別個案交流意見。在這段時間，監警會與投訴警察課便就150宗呈交予監警會的「須匯報投訴」的調查報告召開了14次工作層面會議，並就355宗「須知會投訴」召開了七次工作層面會議。

The STF is chaired by Mr Arthur Luk Yee-shun, Senior Counsel; Members are Vice-Chairman Hon Chris Cheung Wah-fung, Vice-Chairman Hon Tony Tse Wai-chuen, Dr Chan Pui-kwong, Mr Simon Ip Shing-hing, Ms Noeline Lau Yuk-kuen, Ms Sandy Wong Hang-ye, Ms Mary Wong Tak-lan, Mr Adrian Yip Chun-to, Mr Clement Tao Kwok-lau, Mr John Yan Mang-ye, Senior Counsel, Ir Dr Vincent Simon Ho, Prof Alfred Chan Cheung-ming and Mr Herman Hui Chung-shing. The STF is divided into two sub-groups, each with nine Members: one dealing with Occupy Movement complaints arising from incidents that occurred in Hong Kong Island, the other dealing with Occupy Movement complaints from Kowloon. Four Members, including the STF Chairman, are involved in both sub-groups.

The operation of the STF is a clear display of the IPCC's meticulous approach to monitoring and reviewing the Occupy Movement complaints. It differs from the normal practice in a number of ways. For non-Occupy Movement "Withdrawn" and "Informally Resolved" cases, the Secretary-General would be the authority in deciding if such classifications are proper. For "Not Pursuable" cases and "Notifiable Complaints", the authority to make such decisions lies with the vetting sub-groups formed by Council Members. This differs from delegating the STF to handle all such Occupy Movement complaints.

Explaining the case processing mechanism in monitoring and reviewing the Occupy Movement complaints, Mr Arthur Luk emphasised that, "It is not because we do not trust CAPO's classification, but because in light of public interest, we feel that it is necessary to handle the cases in this meticulous manner. The purpose of this arrangement is to ensure that both the Secretariat and Council Members could thoroughly understand these cases before making final decisions."

Secretary-General Mr Ricky Chu added, "The IPCC places high importance on every single Occupy Movement complaint, no matter how minor the allegations may seem. So every case, including those which have been assessed by the Secretariat as properly classified or justifiably categorised with or without Query, would still have to be submitted to the STF for review. This is because we do not want to miss any case that may otherwise require further IPCC input."

The increased workload

The comprehensive procedures adopted by the SCC and the STF have proven to be effective and efficient, even though the IPCC as a whole experienced a substantial increase in workload. A glimpse at the following reflects our meticulous approach.

In connection with the Occupy Movement complaints, as at 9 October, the IPCC had issued a total of 113 Queries for 355 "Notifiable Complaint" cases and 110 Queries for the 150 "Reportable Complaint" cases submitted to the IPCC. To ensure prompt attention to Occupy Movement complaints, additional working level meetings have been held between IPCC and CAPO for timely clarification of discrepancies in facts and information, as well as exchanging views on issues relevant to the cases. During this period, the IPCC has held 14 working level meetings for the 150 "Reportable Complaint" cases submitted to the IPCC, and seven working level meetings with CAPO for the 355 "Notifiable Complaint" cases.



陸貽信資深大律師解釋：「就佔領事件的投訴所設立的工序，目的不是想倉促處理這些個案。以確保每一宗個案都必須根據所有規則及程序處理。我們的目標是提高處理這些個案的效率。」

審核佔領事件投訴的原則

陸貽信資深大律師強調：「審核佔領事件衍生的個案與審核一般的投訴個案，原則上並無差別。我們必須秉持獨立、公正及公平的原則。這是處理每一宗投訴個案的基本原則。」

被問到審核佔領事件投訴時有沒有遇上困難，陸貽信資深大律師說：「除了投訴個案數量多之外，並沒有什麼困難之處。我們使用與一般投訴相同的基本原則去處理，即是以證據為依歸，以及觀察調查過程是否妥善。」

增加的工作量亦包括處理具爭議性的個案時，需要觀看錄影片段。被問如何看待這些證據時，陸貽信資深大律師指：「我們觀看錄影片段時，主要是用我們的常識。從觀看的片段，最好是一些未經剪輯的片段，客觀地去了解發生甚麼事情，使我們作出公平、公正及公道的結論。」

秘書長朱敏健作結時指出，委員參與嚴重投訴個案委員會及特別工作小組完全是自願性質，而嚴重投訴個案委員會的委員除了要在私人時間處理佔領事件投訴外，亦要審核其他恆常的投訴個案。陸貽信資深大律師總結時亦感激所有委員毫無怨言，認真及嚴謹地審視這些佔領事件投訴個案。

Mr Arthur Luk further explained, "The procedures established for the handling of the Occupy Movement complaints is not to rush through these cases. All the established rules and procedures must be followed for every case. We aim to improve the efficiency in handling these cases."

The principle behind the review of the Occupy Movement complaints

Mr Arthur Luk stressed that, "In essence, the review of the Occupy Movement complaints is no different from normal cases. We must adhere to the principles of independence, impartiality and fairness. These are the basic principles that must be applied to every case."

When asked about whether reviewing the Occupy Movement complaints presented any difficulties, Mr Arthur Luk answered, "Not really, besides the sheer amount of the cases. We have adopted the same principles as in handling normal complaint cases – we look at the evidence and whether the investigation had been properly carried out."

The increased workload also includes the additional viewing of footage, especially for controversial cases. When asked how such evidence is viewed, Mr Arthur Luk stated, "We view the footage as ordinary people with common sense; we just watch the clip, ideally an unedited one, objectively and try to figure out what happened. This helps us arrive at a fair, just and equitable conclusion."

In closing, Mr Ricky Chu pointed out that joining the SCC and STF was completely voluntary, and SCC Members had to review normal cases on top of the Occupy Movement complaints, all in their own personal time. Mr Arthur Luk concluded that he was grateful that all Members were willing to view the Occupy Movement complaints seriously and meticulously, without any complaints themselves.