

立法會
Legislative Council

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**Establishment Subcommittee of the Finance Committee
of the Legislative Council**

**Minutes of the 7th meeting
held at the Chamber of the Legislative Council Building
on Wednesday, 2 May 2001, at 10:45 am**

Members present:

Hon CHAN Kwok-keung (Chairman)
Hon NG Leung-sing (Deputy Chairman)
Hon James TIEN Pei-chun, JP
Hon Eric LI Ka-cheung, JP
Hon Margaret NG
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching
Hon Andrew WONG Wang-fat, JP
Hon Jasper TSANG Yok-sing, JP
Hon Howard YOUNG, JP
Hon YEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon SZETO Wah
Hon LI Fung-ying, JP
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok

Members absent:

Dr Hon David LI Kwok-po, JP
Hon Bernard CHAN
Hon Henry WU King-cheong, BBS
Hon Michael MAK Kwok-fung

Public Officers attending:

Mr Stanley YING, JP	Deputy Secretary for the Treasury
Mr D W PESCOD, JP	Deputy Secretary for the Civil Service
Miss Anita CHAN	Principal Assistant Secretary for Commerce and Industry
Mr Philip YUNG	Deputy Director-General of Trade and Industry
Ms Carol YUEN	Assistant Director-General of Trade and Industry
Mr James CHAN	Assistant Director of Administration
Mr S Y CHAN, JP	Director of Legal Aid
Mrs Fanny YU	Deputy Director of Legal Aid (Policy and Administration)
Mr Benjamin CHEUNG	Deputy Director of Legal Aid (Application and Processing)
Mrs Annie WILLIAMS	Assistant Principal Legal Aid Counsel
Miss Ella HO	Senior Executive Officer, Legal Aid Department
Mr Alex MA	Assistant Director of Information Technology Services
Ms Eva CHENG, JP	Deputy Secretary for Information Technology and Broadcasting
Mr HA Yung-kuen	Assistant Director of Telecommunications

Clerk in attendance:

Miss Polly YEUNG Chief Assistant Secretary (1)3

Staff in attendance:

Ms Pauline NG Assistant Secretary General 1
Mrs Mary TANG Senior Assistant Secretary (1)2

EC(2001-02)1 Proposed creation of one permanent post of Administrative Officer Staff Grade C (D2) in the Trade and Industry Department with effect from 1 July 2001 to head the Asia Division to be offset by the deletion of one permanent post of Administrative Officer Staff Grade C (D2) in the Commerce and Industry Bureau of Government Secretariat; and re-distribution of duties and responsibilities among the directorate staff of the Commerce and Industry Bureau and the Trade and Industry Department to enhance operational efficiency

Members noted that the item had been discussed by the Panel on Commerce and Industry at its meeting on 9 April 2001.

2. Mr James TIEN sought explanation on the need to create one permanent post of Administrative Officer Staff Grade C as Assistant Director-General of Trade and Industry (Asia) (ADG of TI(Asia)) to head the Asia Division of the Trade and Industry Department. The Deputy Director-General of Trade and Industry (DDG of TI) said in response that the responsibility of ADG of TI(Asia) was to plan, co-ordinate and conduct bilateral commercial relations between Hong Kong, the Mainland as well as other economies in Asia. With the increasingly close economic ties between Hong Kong and the Mainland, there was a need to step up liaison with Mainland authorities on commerce and trade and to reflect the views of the local business community. Indeed, this was one of the key tasks of ADG of TI(Asia). While expressing support for the creation of the said post, Mr TIEN said that the person appointed to the post should be proficient in knowledge about Mainland trade legislation so that in future, enquiries on matters of trade could be directed to ADG of TI(Asia). This would dispense with the need for trade associations to approach the Mainland authorities for clarification. DDG of TI advised that apart from developing communication channels with counterparts in the Mainland, ADG of TI(Asia) would be expected to conduct research activities on the latest development in trade policies and legislation in the Mainland with a view to providing assistance to the local business sector in their trading activities with the Mainland.

3. The item was voted on and endorsed.

EC(2001-02)2

Proposed creation of one permanent post of Assistant Principal Legal Aid Counsel (DL1) in the Application and Processing Division of the Legal Aid Department, and redeployment of one permanent post of Assistant Principal Legal Aid Counsel (DL1) from the Litigation Division to the Application and Processing Division to maintain its efficient operation and to improve the quality of services

4. Members noted that the item had been discussed by the Panel on Administration of Justice and Legal Services (AJLS Panel) at its meeting on 20 February 2001.

5. Mr Howard YOUNG enquired if the AJLS Panel had discussed the justifications for the proposed creation of post in the Legal Aid Department (LAD) given that its increase in workload might be attributed to the granting of legal assistance to pursue cases in which the chances of success were slim. Upon invitation by the Chairman, Miss Margaret NG, Chairman of AJLS Panel, reported that the proposals were first presented to the Panel for consideration at its meeting on 20 April 1999. Members of the Panel were not convinced of the need for the proposed new post and had requested the Administration to provide further justifications. The Administration had since made efforts to cope with the increasing workload of the Application and Processing Division (A&PD) through redeployment of staff from other sections. However, in the light of operational experience, the department had come to the view that the proposed creation and redeployment of posts were necessary for the efficient operation of A&PD.

The present proposals were re-submitted to the Panel at its meeting on 20 February 2001 and were supported by the Panel on account of the need to provide directorate professional support to meet service needs as well as to maintain the improved quality of services by LAD. The Director of Legal Aid (DLA) supplemented that the implementation of a series of improvement measures in A&PD would require strengthening of directorate support, as well as increases in enhanced responsibility for the directorate. As the Assistant Customer Service Manager, one of the prime duties of the Assistant Principal Legal Aid Counsel (APLAC) in A&PD would be to take charge of customer service. He would be required to deal with complainants and community groups, and to explain to legal aid applicants the grounds for refusal of their applications which had to be set out in writing on a revised form. The series of measures had improved the quality of service to the public but had also increased the workload and work pressure on APLAC.

6. Referring to the steady increase in workload of LAD, which had gradually increased from about 18 000 cases per year in 1991 to almost 21 000 cases in 1995, reaching to a record high of 31 000 cases in 1999 and followed by a decrease to 21 000 cases in 2000, Mr James TIEN sought the Administration's views on the trend of development in legal aid service. Having regard to the downward trend experienced in 2000 and the fact that legal aid was public money, Mr TIEN made it clear that he would not wish to see that the proposed strengthening of directorate support was meant to increase the number of cases to be handled by LAD. He also considered it necessary to monitor closely the assigned-out cases and their progress.

7. In response, DLA advised that to cope with the increase in volume and complexity of cases and to address concerns about the quality of legal aid service, LAD had set up a Quality Improvement Team to carry out a process re-engineering study in 1997. On the need to strengthen directorate support for monitoring legal aid services, DLA advised that there was a need to monitor the processing time of legal aid applications to ensure compliance with the Department's performance pledge. Legal aid applicants would also need to know the progress of their applications so that they would be in a position to decide whether alternative steps needed to be taken in the event that their applications were unsuccessful. He added that the drastic increases in the number of applications from 1997 to 1999 were attributable to the upsurge in the number of applications relating to right of abode claims.

8. Responding to Mr James TIEN's concern about monitoring assigned-out cases and their progress, DLA pointed out that strengthening the monitoring of assigned-out cases was one of the improvement measures to be delivered through increased directorate support from the proposed creation of the APLAC post. The need to monitor assigned-out cases and their progress was one of the concerns of the Quality Improvement Team. The Departmental Working Group on Monitoring of Assigned-out Cases chaired by DLA was set up in 1998 to strengthen the monitoring of assigned-out cases. Measures included regular checking of the progress of such cases, issuing guidelines to professional officers and updating guidance notes to legal aid practitioners. The main task of APLAC of A&PD was to ensure that the guidelines in monitoring were complied with. As regards Mr TIEN's further enquiry on whether an

estimate could be made on the savings achieved as a result of the proposed creation of post in strengthening the monitoring of assigned-out cases, DLA said that it was difficult to provide such information on a hypothetical basis.

9. Miss Margaret NG declared her interest as a barrister who was on LAD's list of assigned counsel. Noting Mr James TIEN's concerns, she sought the Administration's clarification on whether it would, in an attempt to save cost, reduce the staff count in LAD so that less cases would be handled or assigned-out. She also enquired whether there was an existing mechanism which prevented over-charging by private legal practitioners engaged in assigned-out cases.

10. In response, DLA confirmed that applicants who passed the means and merits tests would be eligible for legal aid. There was no upper limit on the number of eligible cases and LAD would not discourage members of the public to apply for legal aid, neither would the Department seek to reduce the number of cases through reduction in manpower resources. In the assignment of cases, the fees to be charged by the private legal practitioners had to be initially assessed by the Department. There were existing mechanisms in the Courts which would tax the legal costs so as to guard against over-charging by legal practitioners. Where an extension of legal aid was applied for, the progress of the assigned-out cases would be examined in line with the fees charged before legal aid was continued.

11. Noting the reduction in the number of complaints received by LAD, Miss Emily LAU enquired about the nature of these complaints, whether these complaints were substantiated, and the number of legal practitioners currently included on the record of unsatisfactory performance. In reply, DLA advised that the complaints were mainly about staff attitude, level of contribution, progress of work, etc. These complaints were subject to investigation by the directorate officer-in-charge of the department and the outcome would be reported to the Senior Directorate. Follow-up action would be taken if the complaint was substantiated. At Miss LAU's request, the Administration agreed to provide before the relevant Finance Committee meeting the number of counsel and solicitors who were on the record of unsatisfactory performance, as well as a breakdown on the number and nature of complaints received by LAD, with indication on whether these complaints were substantiated or not.

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12. On the procedures for processing complaints, DLA explained that directorate officers of A&PD would be required to conduct investigation into the complaint and interview the complainant. If the complaint was against the assigned counsel/solicitor, the counsel/solicitor, as appropriate, would be required to explain the case to the APLAC in charge at A&PD, who would in turn submit the case to Departmental Committee on Monitoring Assignments to Counsel and Solicitors (DCMACS) for consideration if the performance of the counsel/solicitor appeared to be unsatisfactory. If the counsel/solicitor was not able to explain the case to the satisfaction of DCMACS, his or her name would be included on the record of unsatisfactory performance. Once included on the record, the assigned counsel/solicitor would not receive further assignments from LAD unless with the specific approval from the APLAC concerned.

13. Miss Emily LAU enquired whether more work could be assigned out and the resources required for monitoring the assigned work. In response, DLA advised that an optimum balance had been maintained between in-house litigation and assigned-out cases. At present, 75% of the matrimonial and personal injury cases for which legal aid was granted were assigned-out. Litigation work associated with insolvency and bankruptcy was being dealt with in-house as this had proven to be more cost-effective. All other types of litigation work were completely assigned out.

14. Miss Emily LAU queried the need to create one Personal Secretary II (PS II) post to serve the new APLAC post which would amount to a full annual average staff cost of \$320,000. She was concerned that it had become a standing practice for each directorate officer to be entitled to be served by one PS II and suggested that the arrangement should be critically reviewed. In reply, DLA confirmed that the staff cost of creating the PS II post would be absorbed by LAD and in fact the notional annual mid-point salary cost (NAMS) for the post had been included in the estimate submitted for the year 2001-02. As for the justifications for the PS II post, he added that since APLAC in A&PD was the frontline directorate officer responsible for supervising customer service, handling public and media enquiries as well as meeting clients and community groups involved in legal aid applications, the services of a PS II was required.

15. In this connection, the Deputy Secretary for the Civil Service (DS(CS)) assured members there was no fixed relationship between the creation of directorate posts and supporting clerical/secretarial posts. The creation of each post of supporting staff had to be justified, taking into account the function of the directorate post, the level of support required, and the structure of the Department as a whole. The Deputy Secretary for the Treasury confirmed that LAD could decide on the use of the NAMS that had been approved for the Department, including whether or not to use it for the proposed PS II post.

16. Miss Emily LAU noted the Administration's explanation and added that with a view to rationalizing staff resources, the secretarial support at the LegCo Secretariat was being reviewed. Her views were shared by Mr James TIEN who considered it appropriate to review secretarial support for officers in the light of fast developments in office automation. In response, DS(CS) stressed that the requirement for and functions of secretarial staff were reviewed on an ongoing basis. Arising from such review, the number of secretarial staff had been reduced by way of the Voluntary Retirement Scheme.

17. At this juncture, Mr Eric LI raised a point of procedure. He said that since the Bills Committee on Securities and Futures Bill had scheduled a meeting in Conference Room A concurrently, members attending the Bills Committee meeting who were also members of the Establishment Subcommittee (ESC) would have difficulties in taking part in the voting on agenda items where a division was claimed. This was because the ringing of the division bell could not be heard in Conference Room A and even if heard, the ringing of the bell which lasted for only one minute would not allow sufficient time

for members to proceed to the Chamber for voting. As the Chairman of the Bills Committee was prepared to adjourn the meeting to enable members to take part in the voting, Mr LI suggested that where a division was claimed, the Clerk to ESC would arrange to notify the Bills Committee prior to the ringing of the division bell so that sufficient time would be allowed for members of the Bills Committee to make their way from Conference Room A to the Chamber.

18. Mr James TIEN said that the issue brought up by Mr LI might be worth looking into by the Committee on Rules of Procedure. In response to his enquiry on why the ringing of the division bell for ESC meetings only lasted for one minute and whether changes to this arrangement could be entertained, the Assistant Secretary General 1 (ASG1) advised that the duration of the division bell had been agreed by members and stipulated in the relevant Procedure of the Finance Committee, ESC and Public Works Subcommittee. If members considered it necessary, the duration could be reviewed.

19. Miss Emily LAU pointed out that the crux of the matter was that at present, the ringing of the division bell could not be heard in Conference Room A. If this could be rectified such that the ringing of the bell could be heard in the entire LegCo Building, then it would not be necessary to consider changes to the existing arrangement. The Clerk would look into the arrangements for the ringing of the division bell after the meeting.

(Post-meeting note: ESC members and other FC members had been notified of the arrangements vide LC Paper No. ESC43/00-01 dated on 3 May 2001.)

20. Mr Andrew WONG suggested that on this occasion, relevant procedural rule should be suspended and the duration of the division bell should be extended from one minute to three minutes. Mr James TIEN however did not consider that the duration needed to be changed for this meeting. He pointed out that the implications of extending the duration of the division bell to three minutes should be carefully considered, having regard that such extension might have the unintended consequence of encouraging more clashes of meetings as members attending meetings held concurrently could rest assured that they would be given sufficient notice where a division was claimed.

21. The Chairman agreed that the ringing of the division bell should remain at one minute and that arrangements would be made to notify members of the Bills Committee meeting in Conference Room A when a division was claimed on any item at this meeting. On Mr Andrew WONG's concern that there might not be sufficient time for members to make their way to the Chamber, ASG1 said that to save time, members in Conference Room A could be alerted by security officers who communicate through the intercom.

22. The item was voted on and endorsed.

EC(2001-02)3

Proposed retention of one supernumerary post of Assistant Principal Legal Aid Counsel (DL1) in the Policy and Administration Division of Legal Aid Department from 1 July 2001 to 30 September 2002 to oversee the implementation of the Information Systems Strategy

23. Members noted that the item had been discussed by AJLS Panel at its meeting on 24 April 2001.

24. While acknowledging the need for retention of the post of an APLAC to plan and co-ordinate the implementation of the Information System Strategy (ISS) which had been re-scheduled due to unsuccessful tendering, Mr Howard YOUNG enquired if the post had ever been filled. In response, DLA confirmed that the supernumerary post had not been filled since being approved in February 2000. He further explained that in the light of the unsuccessful tendering exercise, LAD had decided to re-tender the development work of the case management and case accounting systems which was the core part of ISS and had in the meantime constructed the remaining systems through other Government contractors. The postholder would assume the role of a Project Director to oversee the implementation of the core part of the project, the tender for which was called for last year. As the progress on technical assessment and price evaluation had been satisfactory, the Administration expected that the contract would be awarded in June 2001.

25. The item was voted on and endorsed.

EC(2001-02)4

Proposed upgrading the rank and post of Director-General of Telecommunications from D5 to D6, renaming the rank and post of Senior Assistant Director of Telecommunications (D3) to Deputy Director-General of Telecommunications (D3), and creation of one permanent post of Assistant Director of Telecommunications (D2) in the Office of the Telecommunications Authority to strengthen the directorate structure to cope with its expanded responsibilities and increased complexity of work

26. Members noted that the item had been discussed by the Panel on Information Technology and Broadcasting (ITB Panel) at its meeting on 12 March 2001. Miss Emily LAU questioned the absence of any information on Panel consultation and whether the present proposal had the support of the ITB Panel.

27. The Clerk said that in accordance with the existing practice, the Administration would include salient information on Panel consultation in the relevant ESC paper. However, such information had not been provided in the present paper. The Deputy Secretary for Information Technology and Broadcasting (DS(ITB)) said that

Admin information on Panel consultation had been omitted in the present paper and undertook to include such information in future submissions. She reported that at the Panel meeting, members had indicated support for the present proposal.

28. On the increased responsibilities of the Office of the Telecommunications Authority (OFTA), DS(ITB) advised that the continuous liberalization of the telecommunications market had brought about an increase in level, scope and complexity of responsibilities borne by OFTA. Moreover, as a result of the enactment of the Telecommunications (Amendment) Ordinance 2000, OFTA undertook more responsibilities, especially in the fair competition regime extended to the entire telecommunications sector under the primary legislation. It was therefore considered that the staffing structure at the directorate level should be enhanced.

29. While agreeing that the liberalization of the telecommunications market had brought about increases in responsibilities to OFTA, Miss Emily LAU enquired if the proposed upgrading of posts was more justified than an increase in the number of staff. DS(ITB) said that with the growth of global telecommunication service, the role of the Director-General of Telecommunications (DG-Tel) had become increasingly important. DG-Tel would represent Hong Kong at high-level international meetings and conferences and to chair Workshops and Study Groups of the International Telecommunications Union (ITU). The present ranking of the DG-Tel post at D5 level could not adequately reflect the level of responsibility under the new regulatory regime. Miss LAU however commented that the ranking of DG-Tel would unlikely affect his role in representing Hong Kong.

30. Mr Howard YOUNG said that according to his understanding, the incumbent DG-Tel had taken part in an international conference in May 2000 as a member of the Mainland delegation. He enquired whether DG-Tel was required to attend these conferences prior to the change of sovereignty in 1997. The Assistant Director of Telecommunications confirmed that since the signing of the Sino-British Joint Declaration in 1984, DG-Tel had taken part actively in ITU international conferences as a member of the British delegation. After the reunification, DG-Tel participated in these conferences as a member of the Mainland delegation. He added that in March 2001, the incumbent DG-Tel was invited by the Secretary General of ITU to chair the ITU World Telecommunications Policy Forum in his own personal capacity, and not as a member of the Mainland delegation.

31. In response to Miss Emily LAU's enquiry on whether the proposed upgrading of DG-Tel post from D5 to D6 would result in the immediate promotion of the incumbent officer or whether the post would be open for promotion/recruitment, DS(CS) advised that whether the post should be open for recruitment or internal promotion was a matter that had yet to be decided. Upon approval of the post by the Finance Committee, the Administration would consider the most appropriate way to fill the post. Pending such decision, the incumbent postholder of DG-Tel would remain in the post in order that the necessary regulatory and management work could continue. He reiterated that a conscious decision would be made as to who would be the most suitable candidate for the post and there would not be an automatic promotion.

32. The item was voted on and endorsed.
33. The Subcommittee was adjourned at 11:45 am.

Legislative Council Secretariat
23 May 2001