

### **Corporatization of public services**

19.1 Mr LEE Cheuk-yan enquired whether the Administration had further plans to corporatize other Government departments apart from the Survey and Mapping Office of the Lands Department. The Head, Efficiency Unit advised that the Efficiency Unit was tasked to identify opportunities to improve the efficiency and service quality of governmental services. Corporatization was one of the many institutional arrangements to bring about such improvement. He confirmed that at present, the Survey and Mapping Office of the Lands Department was the only governmental unit designated for corporatization.

### **Free Legal Advice Scheme**

19.2 Mr Martin LEE referred to a written reply of the Administration which stated that currently, there was no plan to set up more centres under the Free Legal Advice Scheme (FLAS) in addition to the existing seven centres at District Offices, but the Duty Lawyer Service planned to launch its official website in 2001-02 which would include information on services presently on offer to the public. Mr LEE said that while he supported the launch of the website, he considered that FLAS, which provided free and face-to-face advisory service, should be enhanced by setting up additional service centres.

19.3 In response, the Director of Administration (D of Admin) advised that the FLAS was jointly operated by the Government, the Law Society of Hong Kong and the Hong Kong Bar Association. Experience had shown that the existing centres could provide an adequate level of service to the public. He nevertheless agreed to consider Mr LEE's suggestion in conjunction with the two law associations.

### **Legal Aid**

19.4 Miss Margaret NG declared interest that she had been assigned cases by the Legal Aid Department (LAD) to act as counsel for the aided persons. Referring to the concern raised by the Panel on Administration of Justice and Legal Services on whether there were adequate in-house lawyers in LAD to handle legal aid cases, Miss NG requested the Administration to provide information in due course on the respective number of in-house lawyers deployed for different areas of work in the department.

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19.5 Miss Margaret NG questioned whether adequate financial provision had been earmarked for the provision of legal aid to eligible persons. She referred to the information provided by the Department of Justice that in 2001-02, a sum of \$23.6 million had been earmarked for briefing out proceedings on the right of abode, and that as at 12 March 2001, 1 034 cases out of the total 2 090 judicial review cases on the right of abode were pending. Noting that for the period April 1999 to February 2001, the expenditure on legal aid for right of abode cases was about \$11 million, she enquired about the financial provision for legal aid for such cases in 2001-02.

19.6 In reply, the Director of Legal Aid (DLA) affirmed that in accordance with the existing policy, legal aid would be granted to applicants if both the means test and the merits test were met. The relevant provision for 2001-02 had been included in the provision of \$644,586,000 under Subhead 208 "Legal aid costs". DLA pointed out that as payments under Subhead 208 was not cash limitable, all eligible persons would not be deprived of legal aid due to lack of funds. As the expenditure on legal aid for right of abode cases accounted for only 2.1% of the total expenditure of LAD in 2000-01, the Department did not consider it necessary to earmark special provision to cater for legal aid for right of abode cases in 2001-02. As far as these cases were concerned, Legal Aid Certificates had been issued to cover the legal proceedings of some selected representative cases in fresh hearings and this arrangement was considered cost-effective.

19.7 Mr Albert HO expressed concern that LAD often retained the damages received on behalf of aided persons for some time and in releasing the damages, the interest earned on the damages so retained was not paid to the aided persons. He asked whether the Administration would consider changing the existing arrangement to the effect that the interest earned on the damages would also be released to aided persons and whether implementing such change would require legislative amendments.

19.8 In response, DLA pointed out that in essence, legal aid was a form of financial assistance payable in advance to the aided person for which no interest would be charged. He advised that the damages received by LAD on behalf of aided persons would be disbursed to the persons concerned as soon as the Department had ascertained the costs to be reimbursed to the Government. Under Section 19C of the Legal Aid Ordinance (Cap. 91), any interest or dividend received by the Government under the Ordinance on all moneys paid to the DLA by or on behalf of an aided person should be paid into the general revenue.

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Hence, legislative amendments would be required if the interest earned on the damages was to be disbursed to the aided persons concerned. In view of Mr HO's concern, he agreed to further examine the issue with the Finance Bureau. DLA also agreed to provide information on the amount of interest that had been earned in 2000-01 in respect of the damages received by LAD on behalf of aided persons.

19.9 Mr LEE Cheuk-yan referred to the amendments enacted under the Legal Aid (Amendment) Bill 1999 and implemented in 2000 to adopt the average monthly expenditure of the households in the lowest 35% income bracket as the benchmark for assessing the means of legal aid applicants. He enquired whether there were plans to review the appropriateness of this benchmark. In reply, the Deputy Director of Legal Aid (Policy and Administration) advised that since the legislative amendment had only been implemented for about six months, more operational experience had to be gained to enable a meaningful review. In this regard, the Administration planned to take stock of the position about one year after its implementation.

### **Independent Commission Against Corruption**

19.10 Referring to interviewing of witnesses by the Independent Commission Against Corruption (ICAC) and the Mainland officials in each other's jurisdiction under the Mutual Case Assistance Scheme (MCAS), Mr LAU Kong-wah enquired whether the figures on the visits and the witnesses interviewed were indicative of any trend of cross-boundary corruption activities. In reply, the Commissioner for ICAC (C/ICAC) said that it was difficult to deduce trends of corruption activities from the figures which were not necessarily related to the number of substantiated cases and prosecutions. In fact, the number of witnesses interviewed hinged mainly on the actual need of the Hong Kong and Mainland authorities and whether the individual witnesses concerned would consent to the interview.

19.11 In this regard, Miss Emily LAU urged that ICAC should keep statistics on the number of occasions on which witnesses were interviewed under the MCAS, as the public was very concerned about the operation of the MCAS in the absence of any formal mutual agreement on juridical and legal assistance in criminal matters between Hong Kong and the Mainland. In reply, C/ICAC said that ICAC would start compiling such statistics. Miss LAU enquired whether ICAC officers were obliged to inform the witnesses of their rights, and whether sufficient guidelines or working procedures were in place to ensure that the

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interviewees would not be intimidated in the process.

19.12 In response, C/ICAC advised that according to the procedures agreed between ICAC and the Mainland authorities under the MCAS, an interview would only be arranged with the witness's consent and such interviews would be held at ICAC premises and in the presence of ICAC officers. The witness would be clearly informed of his/her rights as a witness by ICAC officers. The same procedures applied to the interviews of witnesses by ICAC in the Mainland. As regards the use of language in the interview, the Director of Investigation/Private Sector, Independent Commission Against Corruption (D of I/PS,ICAC) said that in normal practice, only Putunghua and Cantonese were used in interviewing witnesses. In the specific case quoted by Miss LAU, ICAC had not been informed in advance of the use of a different dialect by the Mainland officials during the interview, which was not comprehensible to the ICAC officers present. He confirmed that ICAC had conveyed its grave concern about the incident to the Guangdong People's Procuratorate which had agreed to follow up the case. Meanwhile, ICAC would consider laying down appropriate guidelines on the use of dialect/language in future interviews arranged under the MCAS.

19.13 Mr James TO expressed concern on whether ICAC had the necessary means to prevent a suspect of corruption offence(s) from leaving Hong Kong, especially for alleged offences under Section 9 of the Prevention of Bribery Ordinance (Cap. 204) (POBO). As pursuant to the Section, ICAC had to obtain confirmation from the principal concerned on whether the advantages accepted by the suspect had been permitted, Mr TO enquired on the number of cases in which ICAC could not carry on the investigation under Section 9 of POBO due to the delay or absence of confirmation from the principals concerned. He and Mr LAU Kong-wah were also concerned whether ICAC had encountered particular difficulties in the investigation of corruption cases involving residents of the Mainland or Mainland-financed organizations.

19.14 In response, C/ICAC advised that ICAC could only act within the powers conferred by the law. Its power to detain a suspect or prohibit him from leaving Hong Kong was subject to the conditions and/or the court's approval as stipulated in the law. While from time to time, there were cases of suspects of corruption offences leaving Hong Kong to evade ICAC's investigation, ICAC would track the whereabouts of these persons and would seek the assistance of the Interpol if necessary. However, if these persons had fled to places with which Hong Kong had no agreement on mutual juridical or legal assistance in criminal matters, including the rendition of fugitives, it would be difficult for ICAC to take

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further enforcement action against the persons.

19.15 D of I/PS, ICAC advised that if there was prima facie evidence for a breach of Section 9 of POBO, ICAC would seek to interview the suspect's principal as early as possible and so far, ICAC had not encountered much difficulty with the management of Mainland-financed companies and other companies in this regard. In fact, most Mainland-financed organizations had laid down codes of conduct or guidelines on the acceptance of advantages for their staff in Hong Kong and this had facilitated ICAC's investigation.

19.16 Mrs Sophie LEUNG asked whether ICAC had any specific measures to prevent and combat cross-boundary corruption activities in view of increasing contacts and exchanges between Hong Kong and the Mainland. Hong Kong residents might slacken their alertness to corruption issues when carrying out economic activities in the Mainland. In response, C/ICAC advised that corruption prevention was a major task for ICAC and promotion work was carried out at various fronts and for different target groups, including new arrivals to Hong Kong and the management and staff of Mainland-financed organizations operating in Hong Kong. As part of its public education programme, ICAC would disseminate the message that corruption activities taken place outside Hong Kong might still be within the jurisdiction of local anti-corruption legislation. There were also frequent exchanges between the ICAC and the counterpart Mainland authorities on corruption issues.

### **Resource provision for the Legislative Council**

19.17 Miss Emily LAU enquired about the progress of the construction of a new Legislative Council (LegCo) building and commented that despite repeated calls from LegCo Members over the past six years or so, the Administration had not yet put up any concrete proposal. In response, D of Admin advised that the Administration had consulted Members recently on the options for the project and the Administration was currently looking into two options taking into account Members' views. The Administration planned to revert to Members in about June 2001 and the present target was to complete the project by 2007-08.

19.18 Miss Emily LAU expressed concern about the adequacy of secretariat support for LegCo. As the establishment of the LegCo Secretariat had been frozen for a few years, she enquired whether the Administration had any plan to improve the manpower resources of the Secretariat. In this regard, she also questioned whether the Administration had assessed the appropriate level of

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resources to be provided for LegCo Members, given that they were vested with the responsibility to monitor the executive branch of government staffed by some 190 000 civil servants.

19.19 In response, D of Admin advised that the Administration was undertaking a review on the remuneration and reimbursements for LegCo Members with a view to putting up recommendations for consideration by the Independent Commission on Remuneration for Members of the Executive Council and the Legislature of the Hong Kong Special Administrative Region. As regards the staffing provision for the LegCo Secretariat, it would be up to the Secretariat to put up relevant proposals to the Administration in accordance with established procedures.

19.20 The Secretary General, LegCo Secretariat pointed out that no new resources had been bidden in the past two years as the annual resource allocation exercise in respect of recurrent expenditure had been suspended. Nevertheless, the LegCo Commission saw strong needs to strengthen the manpower support of the Secretariat. On the instruction of the Commission, the LegCo Secretariat had conducted an overall review of its staffing position and would put up a proposal to the Commission for consideration shortly.