

LC Paper No. CB(2)864/00-01(02)

**Extract minutes of Panel meeting on Administration of Justice and Legal Services
held on 20 April 1999**

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**IV. Proposal to create one permanent post of Assistant Principal Legal Aid Counsel and to regularize the directorate structure of the Application and Processing Division of the Legal Aid Department
(LC Paper No. CB(2)1692/98-99(05))**

Discussion

15. At the invitation of the Chairman, Director of Legal Aid (DLA) took members through the Administration's paper (LC Paper No. CB(2)1692/98-99(05)) on the proposal to create one permanent post of Assistant Principal Legal Aid Counsel (APLAC) at DL1 on the legal directorate scale and to regularize the existing directorate structure of the Application and Processing Division (A&PD) of the Legal Aid Department (LAD). He advised that the heavy demands for legal aid services had resulted in increases in workload of the Headquarters Office and the Kowloon Branch Office (KBO) of the LAD, putting a heavy strain on the directorate staff of A&PD who not only were responsible for the operation of the Division but also were involved in the overall management of the Department. The proposals for which the Administration sought the Panel's support aimed at improving the span of directorate supervision and ensuring the efficient operation of A&PD.

16. Mr TSANG Yok-sing referred to Enclosure 1 of the paper and pointed out that there had not been a linear increase in the number of civil cases in A&PD from 1991 to 1998. For KBO, for example, the number of applications received in 1997 was greater than that in 1998. According to the statistics, the number of cases handled in recent years in fact appeared to be steady.

17. In response, DLA said that the number of applications made to A&PD in 1997 was extraordinarily high in that the number included several thousands of cases relating to the right of abode in Hong Kong of Mainland children as well as those concerning Vietnamese people. Putting the sudden increases in these cases aside, the number of applications in 1998 still represented an increase over that in 1997. He further advised that for the period over the past 10 years, the average annual increase was about 10%.

18. Mr Albert HO said that under the existing system, about one-third of the LAD's cases were handled by in-house counsel and the rest were taken up by counsel on fiat.

He asked whether or not LAD could assign out more litigation cases to private practitioners, thus allowing counsel in LAD to devote more time to processing legal aid applications and monitoring the assigned-out cases. Echoing Mr HO's views, the Chairman said that by adopting a more flexible approach of internal deployment, the Department might be able to cope with short-term fluctuations in workload without having to create additional permanent staff. She pointed out that, as indicated in Enclosure 2 of the Administration's paper, the establishment of A&PD in the Headquarters Office and KBO had expanded by 193% and 101% respectively since 1991.

19. In reply to the above queries, DLA explained that deployment to strengthen the structure of A&PD had taken place. As a result of a re-engineering exercise in 1997, one APLAC from the Litigation Division(LD) had been transferred to A&PD to lead a dedicated section to improve the processing and monitoring of personal injury cases. After the transfer, the number of sections in LD had been reduced from five to four. In addition, the APLAC in the Official Solicitor's Office had been temporarily transferred to assist the Assistant Director of Legal Aid (ADLA) in KBO. He said that the present proposals merely sought to turn the existing directorate structure of A&PD into a permanent one. He added that so far as the establishment of the directorate levels in A&PD was concerned, there had been no increase in strength since 1989. As for LD, a post of ADLA at DL2 to take charge of civil litigation cases was created in 1998.

20. DLA further advised that the policy was that LAD should assign about 70 to 80% of its civil cases to counsel on fiat. It was considered essential to maintain a stable proportion of cases to be handled by counsel in the Department so that they could improve their professional experience and expertise for the satisfactory performance of their duties both in LD and A&PD. In 1998, a Working Party had been established within the Department to review the mechanism for assigning out cases and the Working Party recommended that monitoring of such cases by A&PD should be strengthened.

21. Mrs Miriam LAU said that according to paragraph 7 of the paper, in the 12 months from December 1997 to November 1998, 89% of the applications in civil cases were processed within the standard processing time, i.e. within three months from the date of application. Mrs LAU opined that as this achievement was above LAD's performance target of 80% and therefore was indicative that the Department had been coping well with its workload, the Administration would need to give more justifications for the proposed creation of an APLAC post. She also queried the need, as mentioned in paragraph 8 of the paper, to transfer the APLAC on loan to KBO back to the Official Solicitor's Office to "underpin the Director of Legal Aid in the conduct of the Official Solicitor's cases", following the creation of the proposed APLAC post.

22. The Administration responded that with public aspiration calling for a more

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efficient service, there had been renewed demand that the standard processing time for legal aid applications be further shortened. This together with the increase in the number of applications and assigned-out cases had put a strain on A&PD. With regard to KBO, before 1997, there had been only one ADLA to supervise the whole office, which comprised over 100 supporting staff members and was responsible for handling more than 10 000 applications per year and monitoring over 10 000 assigned-out cases. The directorate structure was grossly inadequate to provide satisfactory services to the public. Since the staff deployment in 1997 to improve the directorate structure in KBO, supervision and operational efficiency had been greatly enhanced.

23. Mrs Miriam LAU considered that the Administration should substantiate the proposal with more supporting information such as the demand of the public to further shorten the processing time for legal aid applications and the ultimate performance target intended to be achieved by the Administration.

24. In response to the Chairman, DLA said that the Administration was still examining the pros and cons of making the Official Solicitor's Office independent from LAD.

Conclusion

25. Members concluded that whilst they were in support of improving legal aid services provided to the public, they had yet to be fully convinced of the need for the creation of the proposed post of APLAC. The Chairman said that in these days when organizations alike were focusing their minds on productivity enhancement and structural streamlining, the Administration had to further justify its proposals when such proposals were put forward for the consideration of the LegCo Establishment Subcommittee.

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