

立法會
Legislative Council

LC Paper No. CB(2)2889/02-03
(These minutes have been seen
by the Administration)

Ref : CB2/PL/AJLS

Panel on Administration of Justice and Legal Services

**Minutes of meeting
held on Monday, 26 May 2003 at 4:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)
Hon Jasper TSANG Yok-sing, GBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Miriam LAU Kin-yee, JP
Hon James TO Kun-sun
Hon CHAN Kam-lam, JP
Hon Mr Ambrose LAU Hon-chuen, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
- Member attending** : Hon Cyd HO Sau-lan
- Members absent** : Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
- Public officers attending** : Item IV
Mr Wilfred TSUI
Judiciary Administrator

Mr Augustine L S CHENG
Deputy Judiciary Administrator (Operations)

Item V

Mr CHAN Yum-min, James
Assistant Director of Administration

The Law Society of Hong Kong

Mr IP Shing-hing
President

Mr Alex LAI

Item VI

Mr Andrew H Y WONG
Director of Administration

Miss Eliza LEE
Deputy Director of Administration

Mr John READING
Deputy Director of Public Prosecutions

Mrs Fanny YU
Deputy Director of Legal Aid

Ms Alice CHUNG
Assistant Director of Legal Aid

Mr CHAN Yum-min, James
Assistant Director of Administration

Clerk in attendance : Mrs Percy MA
Chief Assistant Secretary (2)3

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mr Paul WOO
Senior Assistant Secretary (2)3

Item IV

Mr Watson CHAN
Head, Research and Library Services Division

Mr Michael YU
Research Officer 7

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I. Confirmation of minutes of meeting
(LC Paper No. CB(2)2064/02-03)

The minutes of the meeting held on 31 March 2003 were confirmed.

II. Information papers issued since the last meeting

2. Members noted the following papers which had been issued -

- (a) LC Paper No. CB(2)1955/02-03(01) - Response of the Hong Kong Bar Association to the Administration's paper on "Review of the financial limits of the civil jurisdiction of the District Court";
- (b) LC Paper No. CB(2)1995/02-03(01) - Response of the Administration to the submission by the Law Society of Hong Kong on "Payment of compensation to persons wrongfully imprisoned";
- (c) LC Paper No. CB(2)2055/02-03(01) - Referral from the Bills Committee on Interest on Arrears of Maintenance Bill 2001;
- (d) LC Paper No. CB(2)2124/02-03(01) - Judiciary Administrator's reply letter dated 16 May 2003 to the Bar Association on "Review of the financial limits of the civil jurisdiction of the District Court"; and
- (e) LC Paper No. CB(2)2144/02-03 - Leaflet on "Complaints against a Judge's conduct".

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III. Items for discussion at future meetings

(LC Paper Nos. CB(2)2181/02-03(01) - (02); 2137/02-03(01); 2140/02-03(01); 2182/02-03(01) and 2183/02-03(01))

Meeting on 23 June 2003

3. Members agreed to discuss the following items at the next regular meeting on 23 June 2003 -

- (a) Issues arising from the incident of the police arresting a witness in a civil trial (discussed at the meeting on 28 April 2003);
- (b) Transcription charges for notes of proceedings; and
- (c) Review of provision of legal aid services.

Pilot Scheme for the Reform of Ancillary Relief Procedures in Matrimonial Proceedings

(LC Paper No. CB(2)2137/02-03(01))

4. The above item was discussed at the Panel meeting on 27 January 2003. Members noted that a paper had been provided by the Judiciary Administration on the outcome of the consultation exercise on the Pilot Scheme. Members agreed that as the policy aspect of the proposal had been considered by the Panel, the Administration could proceed to introduce the relevant Rules into the Legislative Council (LegCo). It would be for the House Committee to consider whether a subcommittee should be set up to study the Rules in detail.

Civil jurisdictional limits of the District Court

(LC Paper No. CB(2)2140/02-03(01))

5. The above item was discussed at the Panel meeting on 31 March 2003. At the request of the Panel, the Judiciary Administration had provided a paper setting out the comments of the two legal professional bodies on the Judiciary's proposal to increase the civil jurisdictional limits of the District Court to \$1 million and the Judiciary's response to the comments.

6. Members noted that the new jurisdictional limits might take effect on 1 December 2003, subject to approval of LegCo. Members agreed that as the policy aspect of the proposal had been considered by the Panel, the Administration could take steps to implement the proposal. It would be for the House Committee to consider whether a subcommittee should be set up to study the resolution to be introduced into LegCo.

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Power of court to order repayment of deposit to purchaser of property (item 12 on the list of outstanding items for discussion)
(LC Paper No. CB(2)2182/02-03(01))

7. Members noted the letter dated 20 May 2003 from the Administration which advised that it did not intend to further pursue the issue of granting a limited discretion to the court to order a return of deposit to purchaser of property under certain circumstances. Members agreed that the matter did not need to be pursued at present. Members agreed to remove the issue from the list of outstanding items.

Setting up of a Resource Centre for Unrepresented Litigants
(LC Paper No. CB(2)2183/02-03(01))

8. Members noted the paper provided by Administration in May 2003 on the progress of the setting up of the Resource Centre. Members agreed that the item should be put on the list of outstanding items and discussed at a future meeting.

Procedure for endorsement of appointment and removal of judges by LegCo under Article 73(7) of the Basic Law

9. Members agreed that with the endorsement of the Panel's report by the House Committee on 16 May 2003, the Panel should further consider the issue of whether the procedure for endorsement of judicial appointments should also apply to endorsement of removal of judges. Members agreed to seek the views of the Judiciary and the Administration on the matter before deciding the way forward to deal with the issue.

(Post-meeting note : The Judiciary Administrator and the Director of Administration subsequently advised that the Judiciary and the Administration had no objection to the proposal to apply the procedure for endorsement of appointment of judges to removal of judges.)

Pre-sale of uncompleted residential properties

10. Mr Albert HO suggested that the item might be discussed by the Panel. Mr CHAN Kam-lam informed members that the Panel on Planning, Lands and Works and Panel on Housing would hold a joint meeting in June to consider problems arising from pre-sale of uncompleted residential properties. Members agreed that the Panel could decide whether any issues should be pursued by this Panel, in the light of the discussion of the Panels.

IV. Research Report on "Operation of Youth Courts in Selected Places"

(RP07/02-03)

11. Head, Research and Library Services (H/RL) briefed members on the Research Report prepared by the Research and Library Services Division (RLSD). The Report provided an overview of the juvenile justice system and the operation of youth courts in the United Kingdom (UK), Canada and New Zealand, focusing on the jurisdiction and constitution of a youth court, procedures after arrest of a juvenile offender, court procedures, sentencing and court environment. The operation of youth courts in Hong Kong was also highlighted in the Report.

Issues raised by members

Trial of juveniles in adult court

12. In reply to Mr Albert HO, H/RL said that the system in UK, Canada and New Zealand differed in respect of trial of juveniles in adult courts. In UK, for offences such as homicide, grave crimes, and those crimes jointly charged with an adult, juveniles would be transferred to adult court for trial. In New Zealand, for offences such as murder, manslaughter and those crimes jointly charged with an adult, juveniles would be tried in adult court. In Canada, it was a general rule for juveniles who committed offences jointly with adults to be tried separately in Youth Justice Court, although there might be exigent circumstances wherein a particular case could be ordered by the court to be tried jointly in the adult court. The system in Hong Kong was similar to that in UK and New Zealand. Juveniles would be transferred to adult court for trial of offences such as homicide and crimes jointly charged with an adult. Research Officer 7 added that he was not aware of any statutory provisions providing for the discretion of the court in Hong Kong to order a juvenile jointly charged with an adult to be tried separately in a juvenile court.

13. Mr Martin LEE expressed concern about the possibility of abuse of a juvenile standing trial together with an adult offender for a jointly charged offence. He said that the juvenile might be intimidated to collaborate in giving false evidence or be forced to admit commission of certain acts which would exonerate the adult offender from the offence in question. He considered that to afford better protection to juveniles charged with offences committed jointly with adult offenders, a system similar to that in Canada should be adopted, i.e. the juveniles should be tried separately in a youth court.

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RLSD

14. The Chairman pointed out that as stated in paragraph A2.2 in Appendix IV of the RLSD's Report, the juvenile court in Hong Kong had the jurisdiction to adjudicate alleged criminal offences, other than homicide, committed by juveniles aged 10-15. Nevertheless, there were occasions where juveniles might be transferred to adult courts for trial. She said that it was not clear whether the juvenile court judge had the discretion to decide whether or not certain cases should be referred to adult courts for trial. She requested RLSD to provide supplementary information, if available, on whether judges in Hong Kong, UK and New Zealand had discretionary power to order juveniles who had committed grave crimes or crimes jointly charged with adult offenders to be tried separately in youth courts. She said that the existing practice of transfer of juveniles to adult court for trial of specific crimes should be further studied.

Diversivory measures for handling juveniles

15. The Chairman noted that in Hong Kong, a juvenile aged under 18 could be dealt with either by prosecution or by police caution under the Police Superintendent's Discretion Scheme. In UK, Canada and New Zealand, different diversivory measures were available to deal with young offenders in appropriate cases other than by way of formal judicial proceedings. These measures ranged from reprimand, warning or caution, referral to rehabilitation/community based programmes, family group conferencing and other extrajudicial sanctions programmes. Ms Miriam LAU informed members that in discussing the Juvenile Offenders (Amendment) Bill 2001, the Bill Committee had recommended that the Administration should introduce effective alternatives to prosecution for the purpose of rehabilitation and reintegration of juveniles. Ms Cyd HO said that the Administration should give proper regard to the principles of restorative justice in deciding the introduction of diversified sentencing options for young offenders.

Appointment of juvenile court judges

16. Ms Miriam LAU pointed out that in UK, there were statutory requirements providing that youth court judges had to be specially qualified for handling juvenile cases. In New Zealand, judges must have the suitable training, experience and personality, as well as an understanding of different cultures. She opined that Hong Kong should make reference to the experience of overseas jurisdictions in this regard in considering whether any reform measures should be taken. Ms Cyd HO shared Ms Miriam LAU's views. She added that it was necessary for the judges to better acquaint themselves with the cultures of ethnic minority groups in Hong Kong.

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17. Judiciary Administrator (JA) responded that although there were no statutory requirement governing the appointment of juvenile court judges in Hong Kong, the Chief Magistrate, in appointing judges for trial of juvenile cases, would have to satisfy himself that the judges were well qualified to handle the cases. He undertook to convey the views expressed by members for the Judiciary's consideration.

18. The Chairman requested the Judiciary to explain in writing the existing system for the selection of judges to handle juvenile cases.

Access to juvenile court hearing and reporting restrictions

19. Mr Albert HO pointed out that in Hong Kong, the press was allowed to have access to juvenile court hearings but it might not be allowed to report on the cases in question. H/RL supplemented that juvenile courts in Hong Kong were not open to members of the public but bona fide representatives of newspapers or news agencies were allowed to observe the hearings. It was an offence for any person to publish written reports or broadcast any proceedings in the juvenile court or an appeal from a juvenile court, or reveal the name, address, school or any particulars calculated to lead to the identification of the juvenile or any witness concerned in the proceedings. The court, nevertheless, might dispense with these restrictions if it was in the interest of justice to do so.

Court environment

20. The Chairman pointed out that to ensure that juveniles were protected against undue influence of adult offenders, under existing arrangement, juveniles would be segregated from adult offenders whilst they were detained in the court building before and after appearing in court. She said that during the visit to the juvenile courts in the Eastern Magistrates' Courts and Kowloon City Magistrates' Courts on 13 March 2003, members generally felt that the conditions and environment of the police cells for detaining juveniles were less than satisfactory. Members also made the following observations regarding the Kowloon City Magistrates' Courts -

- (a) male juveniles were grouped together in one cell and not individually detained;
- (b) male juveniles and adult offenders were detained in adjacent cells or cells opposite to each other where they could communicate easily; and
- (c) female juveniles and female adult offenders were mixed in one cell and not separately detained.

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The Chairman informed members that the Judiciary Administration had been asked to liaise with the Police with a view to taking improvement measures.

21. JA responded that the Judiciary Administration had subsequently written to the Police to convey members' concerns and requested the Police to look into the matters (copy of JA's correspondence to the Police was circulated vide LC Paper No. CB(2)1579/02-03(01) on 24 March 2003). The Chairman requested JA to inform the Panel of any development.

22. Ms Cyd HO opined that juvenile offenders should be fully informed of their right to lodge complaint against maltreatment by the Police and the channel for lodging complaints.

23. Regarding courtroom environment, the Chairman requested the Judiciary Administration to explain in writing whether there were concrete plans to improve the courtroom setting of juvenile courts to provide a more informal and approachable atmosphere.

(Post-meeting note : The written response from the Judiciary Administration to the issues raised in paragraphs 18, 21 and 23 above was circulated vide LC Paper No. CB(2)2880/02-03(01).)

The way forward

24. The Chairman said that the Administration had commissioned a consultancy study on review of services for juvenile offenders. The study was expected to be completed by mid-2003. She said that the issues raised by members could be discussed with the Administration when the consultancy study was completed. She suggested that a joint meeting with the Panel on Security might be held to consider the relevant policy and related issues.

25. The Chairman asked the Clerk to write to the Administration to request it to brief the Panel on the consultancy study in due course.

(Post-meeting note : The Secretary for Security subsequently advised that the consultancy report would be completed in August 2003. It would brief the Panel on the report in the next legislative session.)

V. Consultancy Report on "System for the Determination of Judicial Remuneration"

(LC Paper Nos. CB(2)1871/02-03; 2181/02-03(03) - (04); 2208/02-03(01) and 2231/02-03(01))

26. The Chairman advised members that the Consultancy Report prepared by Sir Anthony Mason (the Report) had been circulated to the Panel on 25

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April 2003 (vide LC Paper No. CB(2)1871/02-03).

27. The Chairman drew members' attention to the written submissions from the Law Society of Hong Kong and Justice which were tabled at the meeting (LC Paper Nos. CB(2)2231/02-03(01) and 2208/02-03(01)). She added that the Hong Kong Bar Association had earlier responded in writing (LC Paper No. CB(2)2181/02-03(04)). The Bar Association indicated support for the recommendations set out in the Report.

28. Assistant Director of Administration (AD of A) informed members that the Chief Executive (CE) had received from the Chief Justice the Judiciary's proposal on the appropriate system for the determination of judicial remuneration in Hong Kong. CE noted that the Report was very detailed and raised some points of principle which needed to be examined carefully. CE had asked the Administration to consider how best to take the proposal forward. AD of A advised that the Administration had yet to take a view on the Judiciary's proposal and would be happy to hear the views of other interested parties.

Views of the Law Society

(LC Paper No. CB(2)2231/02-03(01))

29. In introducing the Law Society's submission, Mr IP Shing-hing said that the Law Society supported the recommendations in the Report. He advised that the Law Society was of the view that to enhance public confidence in and perception of judicial independence, judicial remuneration should not be reduced. The prohibition was a widely accepted safeguard in all major common law jurisdictions.

30. Mr IP Shing-hing added that the Law Society had considered the exceptional example of Canada where, subject to prior recourse to the views and recommendations of an independent body, reduction of judicial remuneration was permitted. The recommendations of the independent body were not binding. However, any departure from its recommendations had to be justified on strict rationality test. This system had proved to have created uncertainty, debate as well as dissent within the ranks of judges. The Law Society concurred with the view expressed in the Report that the Canadian model was undesirable.

Issues raised by members

Recommendation 1 of the Report : Legislation should be enacted prohibiting absolutely any reduction in judicial remuneration

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31. Ms Audrey EU noted that as stated in paragraph 3.17 of the Report, there was judicial decision in the United States that failure to increase judicial salaries for inflation did not amount to a prohibited reduction of salaries. She sought the Law Society's view on whether, in the situation of a deflation, reduction of judicial remuneration to account for the effects of deflation should amount to a prohibited reduction.

32. Mr IP Shing-hing responded that for the serving judges, such a reduction should be in breach of the absolute prohibition against reduction in Recommendation 1. However, in his view, for newly appointed judges, a pay reduction at a rate which reflected the rate of deflation might be permitted.

33. Mr Albert HO considered that "absolute prohibition of any reduction" meant prohibition of any reduction in the absolute amount of judicial remuneration. Hence, a reduction to account for the effects of deflation would constitute a prohibited reduction within the meaning of recommendation 1 of the Report.

34. Mr Albert HO further said that the Democratic Party was in support of prohibition against reduction in judicial remuneration, having regard to considerations such as the important role played by judges in safeguarding the rule of law and judicial independence, the career prospect for judges before and after retirement etc. In his view, the recommendations in the Report would be acceptable to the community at large.

35. The Chairman opined that the determination of judicial remuneration should not be influenced or capable of being influenced by political pressure. The presence of a legislative mechanism prohibiting reduction in judicial remuneration would limit the possibility of undesirable politicization of the matter.

36. The Chairman considered that the meaning of "absolute prohibition of any reduction" in the Report should be clarified. She requested the Clerk to write to the Judiciary and the two legal professional bodies to seek their views on -

- (a) whether reduction of judicial salaries to account for the effects of deflation was a prohibited reduction; and
- (b) whether failure to increase judicial salaries for inflation amounted to a reduction.

(Post-meeting note : A reply letter dated 10 June 2003 from the Judiciary was circulated vide LC Paper No. CB(2)2512/02-03(01) on 17 June 2003. The written responses from the Bar Association and

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the Law Society were circulated vide LC Paper Nos. CB(2)2635/02-03(01) on 24 June 2003 and CB(2)2854/02-03(01) on 17 July 2003 respectively.)

37. Ms Audrey EU said that the issue raised by Mr IP Shing-hing in relation to reduction in remuneration for newly appointed judges was not mentioned in the Report. She opined that to implement such a pay adjustment system might arouse criticism of unfairness as it would result in judges of the same rank discharging the same responsibilities receiving unequal pay. Mr Albert HO and Ms Cyd HO held similar view. Ms HO said that the practice would create dissent among judges.

Recommendation 2 : Provisions should be made by Ordinance for a standing appropriation to meet the payment of judicial remuneration

38. Mr Albert HO asked whether the proposed standing appropriation should also cover remuneration for administrative staff of the Judiciary. The Chairman opined that the purpose of the present study was confined to review of the system of determining remuneration and conditions of service for judges and judicial officers. Therefore, the standing appropriation should not include remuneration for administrative staff.

Recommendation 3 : Judicial remuneration should be fixed by the Executive after considering recommendations by an independent body

39. Mr IP Shing-hing pointed out a similar system existed in UK, where a review body established by executive appointment undertook reviews of remuneration of senior public servants including the judiciary, and made recommendations to the Government. It was up to the Government to decide whether to implement the recommendations.

40. Ms Audrey EU drew members' attention to the submission from Justice. According to Justice, an independent body should be established to fix judicial remuneration. The body could build into its consultative processes the consultation of the Executive in considering the level or amount of judges' remuneration. Once the body had made its recommendations, the Executive should be bound to adopt the recommendations. The Chairman and Ms Audrey EU declared interests as members of Justice.

Recommendation 6 : The members of the independent body should be appointed by the Executive. The statute should contain provisions relating to membership such as providing for members from the legal profession and for members possessing certain experience and expertise,

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those ineligible for membership, terms of reference and grounds for removal

41. In response to Ms Audrey EU, Mr IP Shing-hing said that the Law Society had yet to formulate any concrete views on the above recommendation.

The way forward

42. The Chairman said that the Panel should further discuss the issue after receiving the comments and responses from the Judiciary Administration and the legal professional bodies.

VI. Review of Criminal Legal Aid Fees, Prosecution Fees and Duty Lawyer Fees
(LC Paper No.CB(2)2181/02-03(05))

43. At the invitation of the Chairman, Director of Administration (D of A) briefed members on the paper provided by the Administration which reported on the findings of the 2002 biennial review of fees payable to -

- (a) lawyers in private practice engaged to appear for the Government in criminal cases;
- (b) lawyers in private practice who undertook litigation work in respect of criminal cases on behalf of the Legal Aid Department (LAD); and
- (c) duty lawyers providing legal assistance under the Duty Lawyer Scheme.

In gist, according to the findings of the 2002 biennial review, the Consumer Price Index (C) (CPI(C)) for the reference period (i.e. April 2000 to March 2002) had decreased by 4.3%. Office rental had also decreased during the period by 11.5%. Given the persistent deflation, the Administration proposed to adjust the above-mentioned fees downward by 4.3% to reflect the changes in consumer prices. The Administration also proposed to seek the approval of the Legislative Council (LegCo) Finance Committee (FC) to delegate the authority to approve future revisions of the fees to D of A, if the changes were no greater than the changes in price indices as measured by CPI(C).

Declaration of interests

44. The Chairman declared interests that she had been engaged in a number of cases as counsel for the Government and had undertaken litigation work on behalf of LAD. Mr Martin LEE also declared interests that he had recently taken up a litigation case on behalf of LAD.

45. Mr CHAN Kam-lam expressed the view that there were interests involved for members to engage in the discussion of the proposed fees adjustments, if the members concerned continued to act as duty lawyers or take up cases briefed out from LAD or the Department of Justice.

46. The Chairman sought the views of Senior Assistant Legal Adviser 2 (SALA2) on Mr CHAN's comments.

47. SALA2 said that matters relating to disclosure of personal pecuniary interest by LegCo Members were set out in the Rules of Procedure (RoP). Rule 84 of RoP provided, inter alia, that a Member speaking in any debate or proceedings of the Council or any committee or subcommittee should declare any direct pecuniary interests which he had in the matter. Where there was such a direct pecuniary interest on a question to be voted on in the Council or a committee of the whole Council, the Member concerned should withdraw therefrom when the vote was taken. SALA2 advised that a Member could speak at a meeting of a committee on a matter in which the Member had a pecuniary interest, subject to the Member making a declaration of interest and withdrawing from voting where a relevant question was voted on.

Issues raised by members on the proposed fees reduction

48. The Chairman and Mr Martin LEE questioned the need for a uniform cut on the fees, pointing out that duty lawyers and lawyers undertaking litigation work on behalf of LAD took up the job as a service to the community. The Chairman further said that she felt uneasy about the statement made in the Administration's paper that under the present market condition, there should be no difficulty in engaging the services of counsel and solicitors if the fees were reduced by 4.3%. She opined that the statement was unfair to lawyers who were prepared to offer their services at nominal fees. Referring to the schedule of existing fees and the newly proposed fees provided at the Annex to the Administration's paper, the Chairman said that the current fees payable to lawyers for some of the items were already set at exceptionally low levels.

49. Mr Martin LEE said that to most of the lawyers concerned, the fees payable was not a major consideration in deciding whether or not they should take up a case under the Duty Lawyer Scheme or briefed out from LAD. However, to further reduce the fees from the existing levels could be

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perceived by the lawyers as the Administration's failure to recognise their service and contribution to the community. Mr LEE expressed concern that this might have an adverse impact on the services provided and, in the end, litigants who were in need of the legal assistance would suffer.

50. D of A explained that during the relevant period covered in the 1998 review, CPI(C) had increased by 10%. Despite the findings, the Administration had not made any upward adjustments to the fees in view of the worsening economic climate and market condition at the time. In the following review in 2000, CPI(C) for the relevant reference period had decreased by 8.8%. Nevertheless, the market conditions then showed signs of recovery. Despite the deflation of 8.8%, the Administration decided to freeze the fee levels for the 2000 review. He added that the movements in CPI(C) during the reference periods for the 1998 and 2000 reviews more or less offset each other. As regards the latest 2002 review, as the deflationary situation persisted, the Administration considered that there was a case for adjusting the fees downward to reflect the changes in CPI(C) during the reference period.

51. Mr Martin LEE said that as CPI(C) for the reference period for the 1998 review had increased by 10% whereas that for the 2000 review had decreased by 8.8%, the Administration should recompense for the difference by deducting the discrepancy from the current proposed reduction of fees.

52. D of A responded that each biennial review was an independent exercise intended to arrive at a conclusion on whether and by how much the fees should be adjusted, on the basis of changes in consumer prices during the particular reference period. Under the existing fee adjustment mechanism, the Administration would not take into account any accumulative differences in previous adjustments.

53. Mr James TO opined that the Administration should consider making an undertaking to FC that although there might be short-term deviations of fee adjustments from CPI(C), the aggregated adjustments should conform to the trend of CPI(C) movements in the longer term. Mr CHAN Kam-lam said that in deciding the fee adjustments arising from the 1998 and 2000 reviews, the Administration should have followed the changes in CPI(C) as reflected in the two reviews. He opined that in future fee adjustments, the Administration should adhere to the established mechanism based on movements in CPI(C) to avoid arguments and disputes. Mr Martin LEE supported Mr CHAN's views.

The way forward

54. In reply to the Chairman, D of A said the Administration had invited the two legal professional bodies to give views on the proposed reduction of

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fees, and responses were awaited. He further informed members that the Legal Aid Services Council and Duty Lawyer Service had raised no objection to the proposal.

55. D of A informed members that the Administration intended to seek the approval of FC on the reduction of fees within the current legislative session. This would be followed by a motion to seek the approval of LegCo on the relevant amendment Rules to give effect to the reduction.

Adm

56. Mr CHAN Kam-lam said that the Administration should include the following information in the paper to be submitted to FC -

- (a) the number of cases briefed out to lawyers in private practice in the past two years;
- (b) the number of lawyers engaged for such cases; and
- (c) the amount of fees paid to the lawyers.

Council Business Division 2
Legislative Council Secretariat
23 July 2003