

For information

Paper for the Panel on Administration of Justice and Legal Services

Guide to Judicial Conduct

Purpose

This paper informs Members of the background to, the present position and the way forward of the “Guide to Judicial Conduct”.

Background

2. As stated by the Chief Justice in his address at the Opening of the Legal Year 2004 on 12 January 2004, the most valuable asset of the Judiciary is its collective reputation. In order to protect and enhance the Judiciary’s reputation, it is of fundamental importance that judges^{Note} must at all times observe the highest standards of conduct and integrity. This is essential for the maintenance of public confidence in the Judiciary and the administration of justice. Judges must do their utmost to uphold the independence and impartiality of the Judiciary and to preserve the dignity and the standing of the judicial office.

3. As pointed out by the Chief Justice in that speech, whilst judges must be and must be seen to be independent and impartial, they are not isolated from the community. On the contrary, they are part of the community which they serve. Through their daily lives, they have contact with people from all walks of life. Whilst judges are members of the community, it must however be recognized and accepted that there are proper limitations and restraints on a judge’s extrajudicial activities. They are necessary for the purpose of maintaining the independence and impartiality of the Judiciary and the dignity and the standing of the judicial office.

Developments in other jurisdictions

4. In recent years, a number of jurisdictions have developed some form of guides to judicial conduct. These include Australia, Canada,

^{Note} The reference to “judges” also includes judicial officers.

England and Wales (on outside activities and interests), New Zealand and the United States.

Working Party on Judicial Conduct

5. Against the above background, the Chief Justice appointed the Working Party on Judicial Conduct (“Working Party”) in September 2002 to advise on what may be appropriate for Hong Kong. The Working Party is chaired by the Chief Judge of the High Court ex officio, and comprises judges at all levels of court.

6. In December 2002, after consultation with judges, the Working Party recommended to the Chief Justice that :

- (a) A Guide to Judicial Conduct should be drafted to provide judges with useful and practical guidelines on judicial conduct, including in the area of out of court activities; and
- (b) The Guide should be made available to the public to increase transparency.

7. In January 2003, the Chief Justice accepted these recommendations and requested the Working Party to proceed to draft and recommend an appropriate Guide.

Present Position

8. The Working Party has commenced its work on drafting the Guide. Judges have been and will continue to be consulted throughout the process. The Guide would cover matters concerning the discharge of judicial duties and out of court activities. The Guide should be of assistance to judges in making sound and balanced judgment in these matters.

9. With the change of the Chief Judge of the High Court in July 2003, and with new developments in other jurisdictions during last year, for instance, the publication of the Guidelines for Judicial Conduct in New Zealand, the work of the Working Party has not yet been completed. However, steady progress has been made.

Way Forward

10. It is expected that the Working Party will complete its work and recommend an appropriate Guide to the Chief Justice in the course of this year. Upon acceptance by the Chief Justice, the Guide will be issued to all judges, and made available to members of the public.

Judiciary Administration
March 2004