

**Procedure for endorsement of removal of judges
by the Legislative Council under Article 73(7) of the Basic Law**

1. The proposed procedure for the above matter was set out in the draft paper of the Panel on Administration of Justice and Legal Services (“the Panel”) dated 27 January 2004 (“the proposed procedure”). The Administration made a few comments on the proposed procedure (see the Director of Administration’s letter dated 24 February 2004). The Judiciary had stated that it agreed with such comments and had nothing further to add (see the letter dated 26 February 2004 from the Judiciary Administrator [“JA”]).
2. The Judiciary has since been sent the views of the Bar Association and the Law Society. It is noted that the former is agreeable to the proposed procedure and that the latter has provided some comments for the Panel’s consideration.
3. The Judiciary wishes to make the following points arising from the comments made by the Law Society.
4. First, the subject of the mechanism for handling complaints against judges had already been addressed and discussed by the Panel and the Judiciary had already stated fully its position to the Panel (see the JA’s papers dated 12 March 2002 and 16 October 2002 to the Panel). The Panel discussed this subject at its meetings on 22 July 2002 and 28 October 2002. Pursuant to the Panel’s suggestion, the Judiciary had published a bilingual leaflet publicising the mechanism in May 2003 and the Panel was informed of this before its publication. Further, pursuant to the Panel’s suggestion, the Judiciary has since published statistics on complaints against judges in its annual reports. The Judiciary’s position is as stated in the JA’s aforesaid papers to the Panel, including in particular that the present complaint mechanism is satisfactory.
5. Secondly, in relation to the Tribunal to be appointed by the Chief Justice or the Chief Executive under Article 89 of the Basic Law (“the Tribunal”) :
 - (a) As regards its composition, the Judiciary’s position is that as a matter of interpretation of Article 89 of the Basic Law, it is plain that it could only consist of local Judges and that other persons could not be appointed to the Tribunal.

- (b) As regards its procedure, it would be a matter for the Tribunal to determine after hearing submissions as appropriate. The procedure of the Tribunal must be fair and must comply with the requirements of natural justice.
- 6. Thirdly, after considering the Law Society's comments, the Judiciary remains of the view that the proposed procedure is adequate. LegCo would of course have the flexibility to modify or adapt the proposed procedure where the circumstances of a particular case justify departure from it or part of it.