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Tel : 2869 9253
Date : 1 November 2004
From : Clerk to Panel
To : Hon Margaret NG (Chairman)
Hon LI Kwok-ying, MH (Deputy Chairman)
Hon Albert HO Chun-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Miriam LAU Kin-yee, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Lik, JP
Hon KWONG Chi-kin

Panel on Administration of Justice and Legal Services

**Request for review and amendment of section 18(3) of the
Hong Kong Court of Final Appeal Ordinance (CFA Ordinance)
by Mr CHAN Siu-lun**

Background

Mr CHAN Siu-lun was a litigant in a civil personal injuries claim arising from a car accident. He was awarded compensation by the Court of First Instance. The award was increased on his appeal to the Court of Appeal in November 1988. He then appealed to the Court of Final Appeal (CFA), but his application for leave to appeal was dismissed in December 1988. Further applications for leave to appeal were dismissed by the Appeal Committee of CFA in January and July 2000.

2. Since July 2001, Mr CHAN had written repeatedly to the Panel on Administration of Justice and Legal Services asking the Panel to take up with the Administration the issue of amending section 18(3) of the CFA Ordinance to the effect that there could be a further appeal from the decision of the Appeal Committee.

Consideration by the Panel

3. The Panel had considered Mr CHAN's request at its meetings on 26 November 2001, 27 January and 24 February 2003, and also by circulation of papers in January 2002, May/July/September/October 2003 and January 2004.

4. The Panel had requested the Administration to comment on whether, as a matter of policy, a further appeal from the decision of the Appeal Committee should be provided. The Administration explained that it was a general legal policy principle that there should be a limit or finality of legal proceedings. As the existing appellate structure for determining applications for leave by the Appeal Committee was working well, there was no ground for amending the CFA Ordinance to provide for a further appeal against the decision of the Appeal Committee. A copy of the paper provided by the Administration for the consideration of the Panel is attached for members' reference (**Appendix I**). The two legal professional bodies were consulted on the matter and they were in support of the Administration's position.

5. A member of the Panel had pointed out that CFA comprised five judges and the Appeal Committee comprised three judges of CFA. The decision of the Appeal Committee, therefore, in effect represented the majority view of the CFA. Having considered the matter, members of the Panel agreed not to further pursue Mr CHAN's request unless he raised new points which merited consideration.

Complaints made by Mr CHAN

6. Since then, Mr CHAN continued to write to the Panel to reiterate his request for the issue to be reconsidered, and made complaints to the President of LegCo, the Chairman of the House Committee, the Secretary General and the Complaints Division of the LegCo Secretariat, The Ombudsman as well as the media to express dissatisfaction at how his request had been handled. The Secretariat had responded in writing to Mr CHAN on appropriate occasions.

Previous decision of Members on Mr CHAN's case in December 2003

7. In November 2003, the Secretariat made a full case report to the President, the Chairman of the House Committee, the Chairman and members of the Panel and Duty Roster Members, and sought Members' advice on the case. Members decided to inform Mr CHAN that Members did not see the need for the matter to be further pursued and would not respond to him further unless he raised new points which merited consideration. The Complaints Division informed Mr CHAN of Members' decision on 4 December 2003.

Advice sought

8. In September 2004, Mr CHAN submitted further letters via the Radio Television Hong Kong and requested Members of the third term LegCo to follow up on his case. In view of the new composition of LegCo, the Secretariat considers it prudent to consult Members on Mr CHAN's request.

9. On the instruction of Hon Margaret NG, Panel Chairman, Panel members' views are sought on whether Mr CHAN's request should be reconsidered. Members who consider that the matter should be followed up further by the Panel are invited to inform the undersigned **on or before 15 November 2004**. If no suggestions are received from members by the specified date, it would be taken as the Panel's endorsement of the previous decision made by Members in December 2003 mentioned in paragraph 7 above, and the Panel would take no further action on the matter.

10. Members are invited to note that the Complaints Division of the LegCo Secretariat will, in the light of the Panel's decision, consult Duty Roster Members on Mr CHAN's request.

11. To facilitate members' consideration of the matter, I attach a check-list which sets out in detail the actions taken by the Secretariat in relation to Mr CHAN's request since July 2001 (**Appendix II**). Members who would like to have sight of any of the documents referred to in Appendix II are requested to approach the Secretariat.

(Mrs Percy MA)
Clerk to Panel

Encl

c.c. Hon James TO Kun-sun)
Hon LEUNG Yiu-chung) (Non-Panel Members)
Hon LAU Chin-shek, JP)
SALA2
PCS(C)

LegCo Panel on the Administration of Justice and Legal Services

Review of Section 18(3) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484)

Introduction

The paper sets out the views of the Administration as to whether there is a need to amend section 18(3) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) (the “Ordinance”).

Background

2. A member of the public wrote to the LegCo Panel on Administration of Justice and Legal Services requesting the Administration to consider amending section 18(3) of the Ordinance to the effect that there could be a further appeal from the decision of the Appeal Committee (“AC”). The member of the public is a litigant in a civil personal injuries claim. His application for leave to appeal to the Court of Final Appeal (“CFA”) was heard and denied by the AC. The Administration is requested to consider, as a matter of policy, whether there should be a further appeal from the decision of the AC.

The Existing Arrangement

3. Under section 23 of the Ordinance, no appeal shall be admitted to the CFA unless leave to appeal has been granted by the Court of Appeal (“CA”); or in the absence of such leave, leave has been granted by the CFA. Under section 24(3) of the Ordinance, if an application for leave is refused by the CA, an application for leave may be made to the CFA. Section 18(2) of the Ordinance provides that the power of the CFA to hear and determine any application for leave to appeal shall be exercised by the AC, which consists of either the Chief Justice (“CJ”) and two permanent judges; or three permanent judges appointed by the CJ. Section 18(3) of the Ordinance provides that the decision of the AC shall be final and not itself subject to appeal.

Considerations

4. The AC, when determining an application for leave to the CFA, needs to consider whether the question involved in the appeal is one of great general or public importance; or whether a point of law of great and general importance is involved; or whether substantial and grave injustice has been done.

5. In considering whether there should be a further appeal against the decision of the AC, regard should be made to the following:

(a) The function of the CFA

6. In civil matters, the CFA deals with questions which are of great general or public importance, or on matters where the amount in dispute is of the value of \$1,000,000 or more. As for criminal matters, leave to appeal to the CFA would only be granted if a point of law of great and general importance is involved in the decision and/or where it is shown that substantial and grave injustice has been done. The CFA is not meant to function as a second court of appeal in the ordinary way. The CFA should deal with cases of importance which are appropriate for a final appellate court to deal with. The purpose of the leave criteria is to ensure this.

(b) Public interest

7. The threshold for the AC to grant leave is to establish a “reasonably arguable case”. In cases where even this reasonable threshold cannot be passed, there should be no reason for the whole matter to be heard by the CFA again. To require the CFA to, unnecessarily, review decisions made by other judges would result in delay in the hearing of other cases. It is a general legal policy principle that there should be a limit or a finality of legal proceedings. Providing another layer of appeal for cases that are unlikely to be meritorious would contravene such principle and does not serve the public interest.

(c) Public demand

8. Apart from the request from the member of public in the case mentioned in paragraph 2, the existing arrangement for the determination of application for leave by the AC has worked well.

(d) Existing safeguard against bias

9. There are safeguards expressly provided in section 18(2A) (a) – (c) of the Ordinance which, inter alia, precludes a judge from sitting as a member of the AC if he has given judgment, passed sentence or refused the appeal for the case in the court(s) below. This in some way ensures that the members in the AC would not have preconceived views on the cases and can take a fresh look at the merits of the case before making the decision.

(e) Implications for the composition of the CFA

10. In hearing appeals, the CFA comprises five judges : The CJ, three permanent judges and a non-permanent judge (Hong Kong or overseas). If the CJ or a permanent judge does not sit, a non-permanent Hong Kong judge will sit instead. As the AC comprises the CJ and two permanent judges or three permanent judges, the decision of the AC would represent in effect the majority view of the CFA.

11. If there were to be further appeal from the decision of the AC, this must be scrutinised by the full court of the CFA as there is no other appropriate body which has the standing, authority and expertise to review the AC's decision. In this regard, the three members of the AC could not sit on the CFA, having regard to the principles of natural justice, and non-permanent Hong Kong judges would have to be appointed in their place. Therefore, the CFA would comprise four non-permanent judges and only one judge out of the CJ and three permanent judges (i.e. the judge out of the four who did not sit on the AC). This represents a fundamental departure in the composition of the CFA from the existing position and what is envisaged in the Ordinance to be its usual composition.

(f) Past practice

12. Appeals before the re-unification were referred to the Judicial Committee of the Privy Council (“the Judicial Committee”) which usually comprised five judges.

13. As to applications for special leave to appeal, the Judicial Committee itself comprising three judges would deal with them. As it was the Judicial Committee itself comprising three judges which would deal with applications for special leave to appeal, there would be no appeal against its decisions. Section 18(3) of the Ordinance mirrors the position before July 1997.

Conclusion

14. In conclusion, the Administration believes there is no sound reason for providing an appeal against the decision of the AC. The existing arrangement ensures that the applications for leave are heard fairly by judges of high standing who sit at the apex of the court system and has worked well since its inception. It is therefore considered that the existing appellate structure is adequate in promoting justice and change to the system is neither necessary nor desirable.

Chief Secretary for Administration's Office
Administration Wing
September 2001

**Check-list of actions taken
in relation to Mr CHAN Siu-lun's request to
review and amend section 18(3) of the
Hong Kong Court of Final Appeal (CFA) Ordinance**

3 July 2001	Mr CHAN wrote to the Clerk to Panel (the Clerk) with copies of letters which he had previously sent to the Secretary for Justice requesting for amendment of section 18(3) of the CFA Ordinance.
28 July 2001	Having consulted the Panel Chairman and upon her instruction, the Clerk wrote to the Administration requesting it to explain its stance on whether there should be a further appeal from the decision of the Appeal Committee (AC) of CFA.
30 July 2001	Mr CHAN wrote to the Clerk with copies of documents which he had sent to the Department of Justice in support of his request.
31 July 2001	The Clerk replied to Mr CHAN in writing advising him that the Legislative Council could not intercede in a decision of AC, but the Panel had requested the Administration to explain the reasons for not providing for a further avenue of appeal from the decision of AC.
1 August 2001	Mr CHAN provided the Clerk with a copy of his letter dated 23 July 2001 to the Chairman of the Panel explaining what he saw were the grounds for amending section 18(3) of the CFA Ordinance.
6 August 2001	The Clerk requested the Administration to take into account Mr CHAN's letter dated 23 July 2001 in preparing a written response for the Panel's consideration.
20 August 2001	Mr CHAN provided the Clerk with copies of papers, minutes and reports of certain LegCo Panels and Bills Committees, speeches of government officials and letters which he had sent to some LegCo Members.
4 September 2001	Mr CHAN provided extracts from minutes and agendas of certain LegCo committees.
15 September 2001	Mr CHAN provided a copy of the determination of AC on his application for leave to appeal on 19 January 2000, and some judgements of the House of Lords and law literature. On the instruction of the Chairman, the Clerk circulated a list of the documents received from Mr CHAN to Panel members for their information on 24 September 2001.
18 September 2001	The written response from the Administration was considered by the Panel at its meeting on 18 September 2001. The Panel decided that the issue of "Review of section 18(3) of the CFA Ordinance" should be discussed at a future meeting.

20 September 2001	The Clerk wrote to Mr CHAN and advised him of the Panel's decision. A copy of the Administration's paper was provided to Mr CHAN for his information.
22 September 2001	Mr CHAN provided copies of the judgments of the Court of Appeal and AC on his case, together with some overseas court judgments.
25 September 2001	Mr CHAN wrote to the Clerk with copies of his letters previously addressed to some LegCo Members, and requested the Panel to take prompt action to deal with his request. On the same day, the Clerk issued the documents provided by Mr CHAN on 22 and 25 September 2001 to the Administration for its comments.
8 October 2001	After seeking the Panel Chairman's instruction, the Clerk circulated for Panel members' information a copy of her reply to Mr CHAN dated 20 September 2001 as well as Mr CHAN's letter dated 25 September 2001 and a list of the correspondence provided by him. Members' attention was drawn to the Panel's decision reached at the meeting on 18 September 2001 that the issue should be discussed at a future meeting.
11 October 2001	The Clerk informed Mr CHAN in writing that he would be notified of the date of the meeting at which the Panel would discuss the subject matter. A letter from Mr CHAN was received on the same day expressing disappointment at the delay in dealing with his request.
11 October 2001	In response to the Clerk's letter dated 25 September 2001, the Administration responded that it had nothing to add to its paper already provided to the Panel.
18 October 2001	On the advice of the Panel Chairman, the Clerk wrote to the two legal professional bodies for their views on the proposal to amend section 18(3) of the CFA Ordinance and the Administration's paper.
23 October 2001	The Secretary General (SG) replied Mr CHAN explaining the way the Panel had handled his request and that the Clerk had acted in accordance with the instruction of the Chairman and the Panel.
29 October 2001	At its meeting, the Panel decided to discuss the issue at the meeting on 26 November 2001.
1 November 2001	The Clerk informed Mr CHAN in writing that the issue would be discussed at the Panel meeting on 26 November 2001.
3 November 2001	Mr CHAN wrote to the Clerk with further arguments in support of his request.
8 November 2001	The Clerk wrote to the Administration inviting comments on the points raised by Mr CHAN in his letter dated 3 November 2001.

21 November 2001	The Administration responded in writing to the points raised in Mr CHAN's letter dated 3 November 2001.
26 November 2001	At its meeting, the Panel considered the two written responses from the Administration and the replies from the two legal professional bodies which supported the explanation provided by the Administration. Members raised no queries on the Administration's position that there was no ground for amending the CFA Ordinance to provide for a further appeal against the decision of AC.
27 November 2001	The Clerk informed Mr CHAN in writing that the Panel had considered the issue and accepted the Administration's stance.
28 November 2001	Mr CHAN wrote to the Clerk stating that he did not agree with the views of the Administration and requesting the Panel to hold another meeting to further discuss the issue.
29 November 2001	Mr CHAN wrote to the Clerk expressing the view that the matters he raised had not been discussed by the Panel at its meeting on 26 November 2001. He requested the Panel to hold another meeting to discuss all policy matters relevant to the review of section 18(3) of the CFA Ordinance.
6 December 2001	The Panel Chairman wrote to Mr CHAN advising him that the Panel had fully considered and dealt with the issue and that there was no basis for a further discussion.
28 December 2001	Mr CHAN wrote to the Panel again and requested the Panel to reconsider the issue at another meeting.
16 January 2002	On the instruction of the Panel Chairman, the Clerk sought Panel members' views on whether the issue should be further discussed by the Panel. Mr CHAN's letter dated 28 December 2001 and other relevant documents were provided to members for consideration. Panel members were advised that if they took the view that the issue should be reconsidered, they should inform the Clerk accordingly on or before 22 January 2002.
30 January 2002	As no feedback was received from members by 22 January 2002, the Clerk wrote to Mr CHAN and informed him that the Panel would not take further action on his request.
31 January 2002	Mr CHAN wrote to the Clerk and enquired about the basis of the Panel's decision as conveyed in the Clerk's letter dated 30 January 2002
5 February 2002	The Clerk wrote to Mr CHAN to explain how members were consulted on his request.

20 December 2002	Mr CHAN delivered to the Secretariat his letter dated 1 December 2002 requesting the Panel to hold a meeting to discuss the issue of review and amendment of section 18(3) of the CFA Ordinance.
23 December 2002	The Clerk informed Mr CHAN in writing that the Panel Chairman would be consulted on his request.
17 January 2003	The Clerk wrote to Mr CHAN to advise that on the advice of the Panel Chairman, the Panel would be consulted on his request at its next meeting on 27 January 2003.
27 January 2003	The Panel Chairman sought members' views on the matter at the meeting on 27 January 2003. The Panel agreed that the Administration should be requested to comment on Mr CHAN's submission dated 1 December 2002 in the light of any new information provided by him. The Panel would decide on the way forward after considering the Administration's response. (For the purpose of the meeting on 27 January 2003, a Background Brief has been prepared by the Secretariat on the actions taken by the Panel on Mr CHAN's previous requests.)
28 January 2003	As agreed at the meeting on 27 January 2003, the Clerk provided a copy of Mr CHAN's letter dated 1 December 2002 to the Director of Administration and requested for a written response in the light of the issues raised in Mr CHAN's letter.
7 February 2003	The Clerk wrote to Mr CHAN to advise him of the Panel's decision at the meeting on 27 January 2003 and the follow-up action taken in relation to his request.
20 February 2003	The Director of Administration replied to the Clerk stating that the Administration did not consider that there were any new or additional points which might affect its views on the subject matter as set out in its previous papers provided to the Panel in September and November 2001.
21 February 2003	The Clerk issued the Director of Administration's letter dated 20 February 2003 for the consideration of members of the Panel.
24 February 2003	At its meeting on 24 February 2003, the Panel considered the subject matter and decided that it would not further discuss the issue.
25 February 2003	The Clerk wrote to Mr CHAN and informed him of the Panel's decision taken at the meeting on 24 February 2003.
5 March 2003	Mr CHAN wrote to the Complaints Division and requested DRMs to consider his case.

13 March 2003	The Complaints Division issued a reply to Mr CHAN and advised him that DRMs had taken note of his views but had not given instructions for follow-up actions to be taken.
16 March 2003	Mr CHAN wrote to the Complaints Division again and requested DRMs to follow-up on his case.
18 March 2003	Mr CHAN wrote to the President of LegCo and the Chairman of the House Committee and suggested that the Council and the House Committee should request a reply on the matter from the Panel.
23 March 2003	Mr CHAN wrote to the Clerk with copies of his letters dated 1 and 5 March 2003 addressed to various news media expressing his dissatisfaction at the Panel and the Administration's refusal to review and amend section 18(3) of the CFA Ordinance. He requested the Panel to bring up the issue at its meeting on 31 March 2003 and include the item for discussion at the following meeting.
24 March 2003	The Clerk sought the Panel Chairman's instruction on Mr CHAN's letter dated 23 March 2003.
26 March 2003	<p>The Panel Chairman instructed that Mr CHAN's request for the Panel to discuss the matter should not be acceded to as the Panel had decided at its meeting on 24 February 2003 that the matter should not be further pursued.</p> <p>The Complaints Division informed the President, Chairman of the House Committee and Duty Roster Members (DRMs) that Mr CHAN had approached the Division in March 2003 and requested Members to follow-up his request. The Complaints Division sought Members' advice on a reply to be made to Mr CHAN.</p>
27 March 2003	In response to Mr CHAN's letter dated 23 March 2003, the Clerk wrote to Mr CHAN and informed him that the Panel Chairman had decided that the issue should not be further discussed by the Panel.
28 March 2003	Mr CHAN wrote to the Clerk and requested the Panel to review its decision not to discuss the issue. In his view, the Panel had not conclusively "decided" the matter at the meeting on 24 February 2003 as no formal voting had been taken by members. He also queried whether the Panel had complied with rule 77(13) of the Rules of Procedure.
31 March 2003	Mr CHAN wrote to the Public Information Division requesting for an explanation of the legal meaning of rule 77(13) of the Rules of Procedure.

3 April 2003	The Complaints Division issued a reply to Mr CHAN and advised him that DRMs had taken note of the actions taken by the Panel since the issue was raised by him. Members were of the view that no action was called for. Members also did not see a need for the subject matter to be pursued by the House Committee.
6 April 2003	Mr CHAN wrote to the Clerk with copy of his letter dated 6 April 2003 addressed to individual members of the Panel requesting for the Panel to review its decision not to discuss the subject matter.
9 April 2003	The Clerk wrote to Mr CHAN and advised him that a reply would be issued to him in due course.
11 April 2003	The Clerk sought the Panel Chairman's instruction on Mr CHAN's letters dated 28 March and 6 April 2003 and agreement to issuing a written reply to Mr CHAN.
16 April 2003	Mr CHAN wrote to the Clerk with copy of his letter dated 16 April 2003 which he had directly addressed to individual members of the Panel requesting members to discuss the subject matter.
17 April 2003	As agreed by the Panel Chairman, the Clerk issued a reply to Mr CHAN regarding his letter dated 28 March 2003 and explained the Panel's decision on the subject matter.
23 April 2003	<p>As agreed by the Panel Chairman, the Clerk circulated a copy of Mr CHAN's letter dated 28 March 2003 and the reply dated 17 April 2003 to Mr CHAN for the information of Panel members.</p> <p>Mr CHAN wrote to the Clerk with copy of a letter of the same date which he had directly addressed to individual members of the Panel requesting members to raise the issue for discussion at the meeting on 28 April 2003.</p>
29 April 2003	Mr CHAN wrote to the Clerk asking for "instructions given by the Panel" on his letters dated 6, 16 and 23 April 2003.
2 May 2003	The Clerk sought the Panel Chairman's agreement to circulate Mr CHAN's letter dated 29 April 2003 to members of the Panel for their consideration.
4 May 2003	Mr CHAN wrote to the Director of Administration (copied to the Panel) stating that the Administration's letter dated 20 February 2003 to the Panel had not fully responded to his submission dated 1 December 2002. He requested the Administration to revisit the issues and provide "full comments" on the points raised. Mr CHAN asked the Clerk to issue the letter for the Panel's consideration.

7 May 2003	With the agreement of the Chairman, the Clerk circulated Mr CHAN's letter dated 29 April 2003 to Panel members and invited suggestions on any follow-up actions. Members were advised that if they did not notify the Clerk of any proposed follow-up actions by 13 May 2003, the Clerk would reply Mr CHAN in writing that no further action would be taken by the Panel on his request.
9 May 2003	As requested by Mr CHAN, the Clerk circulated his letter dated 4 May 2003 to the Director of Administration to Panel members for their information.
15 May 2003	The Clerk issued a written reply to Mr CHAN concerning his letters dated 6, 16, 23 and 29 April 2003. Mr CHAN was informed that Panel members had considered his request and did not consider it necessary for any follow-up actions to be taken on his request.
17 and 18 May 2003	Mr CHAN wrote to the Clerk requesting the Panel to take follow-up action on the subject matter in the light of his written request dated 4 May 2003 for the Administration to provide a fuller response to his submission dated 1 December 2002.
28 June 2003	The Director of Administration gave a reply to Mr CHAN's letter dated 4 May 2003. The Administration maintained its stance that there was no sound reason for providing an appeal against the decision of the Appeal Committee. The Administration considered that Mr CHAN's submission did not provide additional points which might affect the Administration's views.
2 July 2003	Mr CHAN wrote to the Director of Administration (copied to the Panel) stating that the Administration's reply dated 28 June 2003 had not fully addressed the issues raised by him. He requested the Administration to provide a further response.
9 July 2003	The Clerk sought the Panel Chairman's agreement to circulate the Director of Administration's reply dated 28 June 2003 to Mr CHAN for the Panel's information.
10 July 2003	As agreed by the Panel Chairman, the Clerk circulated the Director of Administration's reply dated 28 June 2003 for the Panel's information.
27 August 2003	The Director of Administration gave a reply to Mr CHAN's letter dated 2 July 2003. The Administration advised that it had reviewed the issues again and was of the view that the AC had been operating well since its inception. There was no evidence to suggest that section 18(3) of the CFA Ordinance was defective and warranted an amendment.
30 August 2003	Mr CHAN wrote to the Director of Administration again (copied to the Panel) stating that the Administration's reply dated 27 August 2003 still failed to conclusively address all the issues raised by him.

	<p>He requested the Administration to provide a further response in the light of his comments.</p>
4 September 2003	<p>The Clerk sought the Panel Chairman's agreement to circulate the Director of Administration's reply dated 27 August 2003 to Mr CHAN for the Panel's information.</p>
12 September 2003	<p>Mr CHAN wrote to the Clerk requesting for prompt instruction by members of the Panel to take follow-up actions to deal with the subject matter.</p>
15 September 2003	<p>The Clerk sought the Panel Chairman's agreement to circulate Mr CHAN's letter dated 12 September 2003 for the consideration of Panel members, and invite members to suggest any follow-up actions if they considered necessary.</p>
16 September 2003	<p>With the agreement of the Panel Chairman, the Clerk circulated Mr CHAN's letter dated 12 September 2003 to members of the Panel. Members' attention was also drawn to the relevant documents previously issued on the subject matter. Members were advised that if they did not suggest any follow-up actions by 19 September 2003, the Clerk would advise Mr CHAN in writing that no further action would be taken by the Panel on his request.</p>
19 September 2003	<p>The Public Information Division received a fax from Oriental Daily News advising that Mr CHAN would like SG to follow up personally on the matters raised in his letter dated 12 September 2003.</p>
22 September 2003	<p>Having advised the Panel Chairman that no feedback was received from members on follow-up actions to deal with Mr CHAN's letter dated 12 September 2003, the Clerk wrote to inform Mr CHAN that members of the Panel had considered his request and the replies to him from the Administration. The Panel would not take any further action on his request.</p>
24 September 2003	<p>Mr CHAN wrote to the Complaints Division again complaining that members of the Panel had not raised questions on the Administration's position on the subject matter and had not taken a vote before arriving at the decision not to further discuss the matter. He reiterated his request for the matter to be pursued by the House Committee.</p>
26 September 2003	<p>SG replied Mr CHAN in writing in response to Oriental Daily New's fax dated 19 September 2003. SG advised Mr CHAN that he was satisfied that appropriate action had been taken on Mr CHAN's request.</p>
28 September 2003	<p>Mr CHAN wrote to SG (his letter was wrongly dated as 25 April 2003) on SG's reply dated 26 September and requested SG to "find out why the Clerk is unable to elicit any response from the Panel".</p>

	<p>Mr CHAN also stated that he had written to the Complaints Division on 24 September requesting for “tight supervision to monitor the work of the Clerk to handle the matters”. He requested DRMs to follow up the issue.</p>
30 September 2003	<p>On the instruction of SG, the Clerk wrote to the Panel Chairman drawing her attention to SG’s reply to Mr CHAN dated 26 September and Mr CHAN’s letter dated 28 September, as well as the Clerk’s earlier reply to Mr CHAN dated 22 September. The Chairman was requested to give instructions on the matters raised by Mr CHAN.</p>
2 October 2003	<p>The Clerk informed members of the Panel in writing that as no feedback had been received from members on Mr CHAN’s letter dated 12 September 2003, a reply had been issued to Mr CHAN advising him that the Panel would not take any further action on his request. A copy of the Clerk’s letter dated 22 September 2003 to Mr CHAN was also enclosed for members’ information.</p>
3 October 2003	<p>The Complaints Division drew DRMs’ attention to Mr CHAN’s letter dated 24 September 2003 and suggested to DRMs that a reply would be issued to Mr CHAN to advise him that the issue raised by him fell outside the scope of the Redress System, and that Members did not see a need to refer the matter to the House Committee.</p>
5 October 2003	<p>Mr CHAN wrote to SG requesting for “tight supervision to monitor the work of Clerk to Panel” in handling the issue raised by him.</p> <p>Mr CHAN wrote to the Complaints Division requesting DRMs to take action on his case.</p>
12 October 2003	<p>Mr CHAN wrote to the Complaints Division again requesting DRMs to take action on his case.</p>
14 October 2003	<p>SG replied Mr CHAN in writing in relation to Mr CHAN’s letters dated 28 September and 5 October 2003.</p>
15 October 2003	<p>Mr CHAN wrote to the Complaints Division again requesting DRMs to take action on his case.</p>
17 October 2003	<p>Director of Administration replied Mr CHAN in writing in response to the latter’s letter dated 30 August 2003.</p>
20 October 2003	<p>The Complaints Division drew DRMs’ attention to Mr CHAN’s letters dated 5, 12 and 15 October 2003 and sought their advice on a written reply to be made to Mr CHAN.</p>
21 October 2003	<p>Mr CHAN wrote to the Director of Administration alleging that the latter’s reply dated 17 October 2003 still had not fully addressed the issues raised by him, and demanded a further response.</p>

24 October 2003	<p>The Clerk circulated for the Panel's consideration the Director of Administration's reply to Mr CHAN dated 17 October 2003 and Mr CHAN's letter dated 21 October 2003 to the Director, and invited members to suggest follow-up actions at a Panel meeting if they so wished.</p>
27 October 2003	<p>The Clerk wrote to Mr CHAN informing him that the Director of Administration's letter dated 17 October 2003 to him and his letter dated 21 October 2003 to the Director had been issued for the attention of members of the Panel.</p>
29 October 2003	<p>The Clerk circulated for the attention of members of the Panel copy of Mr CHAN's letter dated 30 August 2003 to the Director of Administration. Members were reminded that the letter should be read in conjunction with the reply dated 17 October 2003 from Director of Administration to Mr CHAN.</p>
30 October 2003	<p>The Clerk wrote to Mr CHAN to advise him of the action taken on 29 October 2003.</p> <p>Mr CHAN wrote to the President of LegCo requesting for inquiry into his complaint against the Secretariat that it had not acted in compliance with the Rules of Procedure. Mr CHAN informed in his letter that he had filed a complaint with the Ombudsman on 18 October 2003 but the latter replied to him on 28 October 2003 that interpretation of Rules of Procedure rested with the LegCo President. It was not an administrative matter and Ombudsman had no authority to comment or conduct an investigation.</p>
31 October 2003	<p>The Complaints Division issued a reply to Mr CHAN in response to his letters to the Division dated 24 September, 5, 12 and 15 October 2003. Mr CHAN was advised that DRMs remained of the view that no follow-up actions were called for nor did they see the need for the matter to be pursued by the House Committee.</p>
5 November 2003	<p>The Complaints Division sought the President's advice on a written reply to be made to Mr CHAN on his letter dated 30 October 2003 to the President.</p>
6 November 2003	<p>The Complaints Division replied Mr CHAN in writing on behalf of the President in response to his letter dated 30 October, advising him that the President had studied the matter and was of the view that the Secretary General's previous reply to him had fully responded to the points raised by him.</p>
7 November 2003	<p>Mr CHAN wrote to the Complaints Division expressing dissatisfaction with his case being handled by the same group of Duty Roster Members and requested Members to refer his complaint to the House Committee.</p>

9 November 2003	Mr CHAN wrote to the Complaints Division enquiring about the reason for the President's to respond to him through the Complaints Division. He also requested the President to fully comment on a total of seven letters sent to him by the Secretariat between October 2001 and October 2003.
13 November 2003	Mr CHAN made a verbal request for his case to be brought to the attention of the Chairman of the House Committee.
27 November 2003	The Complaints Division made a full case report to the President, Chairman of the House Committee, Chairman and members of the Administration of Justice and Legal Services Panel and DRMs. The Complaints Division sought Members' advice on how to take forward the case. As the Secretariat has been handling the case for over two years and the Panel has fully and conclusively inquired into the issue raised by Mr CHAN, the Secretariat proposed to inform Mr CHAN that Members did not see the need for the matter to be pursued, unless Mr CHAN raised new points which merited consideration.
4 December 2003	Members agreed with the above lines and the Complaints Division informed Mr CHAN accordingly.
9 December 2003	Mr CHAN wrote to the Complaints Division requesting Members to give a reply. The Complaints Division and the Clerk both considered Mr CHAN's letter of 9 December 2003 contained no new points which merited consideration.
18 December 2003	The Director of Administration replied to Mr CHAN in writing in response to his letter dated 21 October 2003.
19 December 2003	Mr CHAN submitted a copy of his letter dated 19 December 2003 to the Director of Administration for the Complaints Division's reference.
28 December 2003	Mr CHAN submitted a copy of his letter dated 28 December 2003 to the Director of Administration for the Complaints Division's reference.
29 December 2003	Mr CHAN submitted a copy of his letter dated 28 December 2003 to the Director of Administration for the Complaints Division's reference. Mr CHAN presented his argument regarding his request to review and amend section 18(3) of the CFA Ordinance.
2 January 2004	The Clerk circulated for the Panel's consideration the Director of Administration's reply to Mr CHAN dated 18 December 2003 and Mr CHAN's letter dated 28 December 2003 to the Director. Members who would like to suggest any follow-up actions were invited to raise the matter at the Panel meeting on 29 January 2004.

4 January 2004	Mr CHAN wrote to the President requesting for the Legislative Council's reply to his letter dated 9 December 2003. The Complaints Division and the Clerk both considered that Mr CHAN's letter of 4 January 2004 contained no new points which merited consideration.
16 January 2004	Mr CHAN provided the Clerk and the Complaints Division with a copy of his letter dated 16 January 2004 to the Director of Administration which argued against the Director's stance.
28 January 2004	Mr CHAN wrote to the President requesting the Legislative Council to take action to deal with section 18(3) of the CFA Ordinance. The Complaints Division and the Clerk both considered that Mr CHAN's letter of 28 January 2004 contained no new points which merited consideration.
18 February 2004	Mr CHAN wrote to the President requesting for a review of the Ordinance and an explanation.
20 February 2004	Mr CHAN submitted to the President a copy of the Director of Administration's interim reply to him dated 20 February 2004. The Complaints Division and the Clerk both considered that Mr CHAN's letter of 18 February 2004 contained no new points which merited consideration.
1 March 2004	Mr CHAN submitted to the President a copy of his letter dated 1 March 2004 to the Director of Administration.
10 March 2004	Mr CHAN submitted to the President a copy of his letter dated 10 March 2004 to the Director of Administration.
29 March 2004	Mr CHAN submitted to the President a copy of his letter dated 26 March 2004 to the Hong Kong Bar Association. The Complaints Division and the Clerk both considered that Mr CHAN's letters dated 1, 10 and 26 March 2004 contained no new points which merited consideration.
23 April 2004	Mr CHAN submitted to the President a copy of the Director of Administration's reply letter dated 17 April 2004. The Director stated that after review, he was satisfied that section 18(3) was consistent with the constitutional guarantee of fair trial. There was no need to amend the relevant provision. The Complaints Division and the Clerk both considered that Mr CHAN's letter of 23 April 2004 contained no new points which merited consideration.
28 May 2004	Mr CHAN submitted to the President and the Clerk a copy of his response letter dated 28 May 2004 to the Director of Administration.
1 June 2004	The Clerk sought the Panel Chairman's instruction on how to take the case forward.

2 June 2004	<p>The Panel Chairman considered that Mr CHAN's letter dated 28 May 2004 contained no new points which merited consideration by the Panel.</p> <p>The Complaints Division also considered there were no new points in the letter which merited consideration.</p>
11 June 2004	<p>Mr CHAN submitted to the President a copy of the Director of Administration's reply letter dated 29 May 2004. The Director advised that a decision of the AC was final and was neither subject to appeal nor could it be reopened by the AC, unless any "special circumstances" existed to justify reopening of the case. Mr CHAN should seek legal advice on whether any "special circumstances" existed in his case to justify his petition for leave to appeal. Mr CHAN argued against the Director's explanation.</p>
16 June 2004	<p>The Clerk sought the Panel Chairman's instruction. The Chairman agreed that the letters contained no new points which merited consideration by the Panel.</p>
5 July 2004	<p>Mr CHAN submitted to the President a copy of the Director of Administration's reply letter dated 30 June 2004 and his letter dated 4 July 2004 in response. The Director explained again that it was a matter of public policy that there should be an end of litigation and that a litigant should not be vexed more than once in the same course. There should be no further appeal against the decision of the AC. The court had the power to reopen a decision made by it if special circumstances existed. The Complaints Division and the Clerk both considered that Mr CHAN's letters of 11 June and 5 July 2004 contained no new points which merited consideration.</p>
10 August 2004	<p>Radio Television Hong Kong (RTHK) referred to the Secretariat Mr CHAN's complaint against the President for allegedly failing to reply to his letters.</p>
11 August 2004	<p>SG replied RTHK explaining fully how Mr CHAN's case had been handled by the Secretariat, the Panel and the President since July 2001. SG also informed RTHK of Members' decision on the case.</p>
27 September 2004	<p>RTHK referred two letters from Mr CHAN requesting Members of the third term of LegCo to follow-up on his request.</p>
5 October 2004	<p>The Complaints Division wrote to Mr CHAN informing him that Members of the third term of LegCo would be consulted on his request.</p>

17 October 2004	<p>Mr CHAN wrote to the Secretariat attaching the Director of Administration's reply to him dated 12 October 2004 and his reply dated 16 October 2004 to the Director's letter. The Director replied Mr CHAN that his previous position remained valid and that the arrangements under section 18(3) of the CFA Ordinance were appropriate and adequate. Mr CHAN contended that the Director's explanation was not adequate to convince the public.</p>
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