

**Legislative Council Panel on
Administration of Justice and Legal Services (“AJLS Panel”)**

Budgetary arrangement and resources for the Judiciary

Purpose

This paper sets out the Judiciary’s position on: (i) the working of the budgetary arrangement for the Judiciary as agreed between the Judiciary and the Administration in 2005 (“the revised budgetary arrangement”); (ii) whether there is any scope to further improve the revised budgetary arrangement; and (iii) certain issues relating to the system for determination of judicial remuneration in response to the requests set out in paragraphs 2 to 4 in the letter of 25 April 2007 by the Clerk to the AJLS Panel.

The revised budgetary arrangement

2. The revised budgetary arrangement for the Judiciary was agreed between the Judiciary and the Administration in July 2005. Under the revised budgetary arrangement, the Judiciary would submit to the Administration its forecast resource requirements for the forthcoming financial year prior to the Administration drawing up the operating expenditure envelope for the Judiciary. The Administration would adopt a pragmatic approach by discussing with and consulting the Judiciary Administrator on its funding requirements and would accord resource bids from the Judiciary the usual high priority and would be as facilitating and as constructive as possible.

3. The revised budgetary arrangement for the Judiciary was first implemented in the context of the preparation for the 2006-07 draft estimates. Following this revised arrangement, the Judiciary submitted to the Administration its forecast resource requirements for 2006-07 in August 2005, i.e. prior to the Administration drawing up the operating expenditure envelope for the Judiciary. The draft and approved estimates of 2006-07 for the Judiciary amounted to \$952.7 million, representing an increase of 6.7% over its revised estimates for 2005-06. This provided adequate resources for the Judiciary to shelve the closure of the Tsuen Wan Magistrates’ Courts, defreeze the recruitment of Judges and Judicial Officers (“JJOs”), appoint more deputy JJOs to cope with judicial work and engage additional staff to provide support to the increased level of judicial and court activities.

4. In 2006, the Judiciary reviewed the revised budgetary arrangement and considered that it was working satisfactorily. The Administration also reviewed the revised budgetary arrangement. As a result, both the Judiciary and the Administration agreed in March 2006 that the revised budgetary arrangement should be adopted as a standing practice for the preparation of the Judiciary's budgets in the future.

5. In August 2006, the Judiciary submitted its forecast resource requirements for 2007-08 to the Administration prior to the Administration drawing up the operating expenditure envelope for the Judiciary. The draft and approved estimates of 2007-08 for the Judiciary amount to \$995.6 million, representing an increase of 10.5% over the revised estimates of 2006-07. This would provide adequate resources for the Judiciary to appoint additional JJOs to fill existing vacancies, appoint additional deputy JJOs to help improve waiting times and engage adequate staff to provide support for the increased level of judicial and registry services.

6. The Judiciary maintains the view that overall speaking, the revised budgetary arrangement is working satisfactorily and the Administration has been helpful in the process. Such arrangement should be continued with necessary refinements at paragraphs 7 and 8 below. The Judiciary will submit its forecast resource requirements for 2008-09 to the Administration in the summer of 2007 prior to the Administration drawing up the operating expenditure envelope for the Judiciary for 2008-09. The Judiciary looks forward to the Administration adopting the same approach in the past two budget exercises that it would accord resource bids from the Judiciary the usual high priority and would be as facilitating and as constructive as possible.

Refinement to the revised budgetary arrangement

7. Upon further review of the revised budgetary arrangement, the Judiciary proposed to the Administration in January 2007 that the revised budgetary arrangement should not only be confined to the bidding of financial resources by the Judiciary as in the 2006-07 and 2007-08 budget exercises but should also cover manpower resources in the annual budget exercises in the future. This is rational and necessary as manpower requirements should be an essential and integral part of the budget submission. The provision of adequate resources to the Judiciary includes the provision of necessary financial and manpower resources, including adequate judicial resources and the necessary support staff.

8. In January 2007, the Administration agreed to the Judiciary's proposal at paragraph 7. Under the agreed arrangement, the Judiciary would submit to the Administration its forecast manpower proposals each financial year prior to the Administration drawing up the establishment ceiling and the operating financial envelope for the Judiciary for the coming financial year. The Administration would adopt a pragmatic approach by discussing with and consulting the Judiciary on its manpower requirements and would be as facilitating as possible in considering manpower proposals from the Judiciary. It is also agreed that this new element of the revised budgetary arrangement should be implemented for the 2008-09 budget exercise.

9. The Judiciary believes that the refinement at paragraphs 7 and 8 would further enhance the revised budgetary arrangement to ensure that the Judiciary is adequately resourced and manned to enable it to achieve its policy objectives in the administration of justice without undue delay.

System for the determination of judicial remuneration

10. With regard to the issues referred to in paragraphs 3 and 4 of the letter of the clerk to the AJLS Panel, the Judiciary would like to reiterate its position as follows:

- (a) The recommendations and views contained in Sir Anthony Mason's Consultancy Report ("the Consultancy report") should be adopted as the appropriate system for the determination of judicial remuneration in Hong Kong ("the Judiciary's proposal");
- (b) The Judiciary's proposal is based on the principle of judicial independence and takes into account the experience of and is consistent with the widely accepted position in many common law jurisdictions; and
- (c) The Judiciary's proposal includes the statutory prohibition of reduction in judicial remuneration and the provision by statute for a standing appropriation to meet the payment of judicial remuneration.

11. The Judiciary understands that the Administration has consulted the Standing Committee on Judicial Salaries and Conditions of Service ("the Judicial Committee") on the Judiciary's proposal. We look forward to the Judicial Committee's acceptance of the Judiciary's proposal in its recommendation to the Administration and to the Administration's acceptance of the Judiciary's proposal.

Judiciary Administration
May 2007