

For information

Panel on Administration of Justice and Legal Services

Re-organisation of the Government Secretariat: Proposed transfer of the legal aid portfolio to the Home Affairs Bureau

Purpose

At the request of the Panel at the meeting on 28 May, this paper elaborates on the implications of the proposed transfer of the legal aid portfolio from the Administration Wing of the Chief Secretary for Administration's Office (the Administration Wing) to the Home Affairs Bureau (HAB).

The proposed transfer

2. The responsibilities for formulating legal aid policy and overseeing the implementation of various legal aid schemes currently rest with the Administration Wing. In meeting these responsibilities, the Director of Administration (AOSGA) (D6) is underpinned by a Deputy Director of Administration (AOSGB) (D3), who is in turn supported by an Assistant Director (AOSGC) (D2) and an Assistant Secretary (AO).
3. As explained on 28 May, legal aid is a stand-alone policy area that is getting increasingly detailed and complex. It is therefore logical and appropriate to place the subject on par with other equally important policies, viz. under a policy bureau. The move will enhance policy support for the legal aid portfolio at bureau level, with a Director of Bureau and a Permanent Secretary (AOSGA1) (D8) as new players, providing policy steer to the subject officers at directorate level.
4. Other than access to justice and legal considerations, the legal aid policy carries a livelihood or community interface perspective. It is for this very reason that the Legal Aid Services Council (LASC) has established interest groups with members drawn not just from the legal aid panel lawyers, but also from representatives of non-governmental organisations, members of District Councils, academics and accountants. The LASC has also maintained liaison with different stakeholders by organising seminars and

meeting a number of non-governmental organisations to discuss legal aid issues. Given the extensive social network that HAB has developed, we have confidence that HAB will be able to facilitate the tapping of community feedback on legal aid services.

5. To ensure continuity, both the AOSGC (D2) and AO posts in the Administration Wing, as well as the incumbents, will be transferred along with the re-organisation to HAB on 1 July 2007.

Impact of the proposed transfer

6. The proposed transfer of the legal aid portfolio is simply a re-distribution of responsibilities within the Government Secretariat. The statutory powers and functions vested in LASC and the Director of Legal Aid (DLA) will **not** be affected.

7. Safeguards exist in statute and in practice to ensure that the DLA's powers and functions are exercised in an impartial, transparent and accountable manner. The Legal Aid Ordinance (the Ordinance) requires the DLA to conduct means and merits test on legal aid applications based on criteria laid down in the relevant ordinance and regulations. Moreover, the decisions of DLA not to grant legal aid can be examined or reviewed by the court or Registrar of the High Court as appropriate. The Ordinance also prohibits the disclosure of information concerning the legal aid applicants and aided persons otherwise than for specified purposes, e.g. enabling the proper performance by a person of a function under the Ordinance such as the assigned lawyers, or with the consent of the person concerned.

8. The proposed transfer will **not** affect the day-to-day operation of the LAD or the established independence in the delivery of legal aid services.

Administration Wing
Chief Secretary for Administration's Office
June 2007