

**Panel on Administration of Justice and Legal Services
Information Paper for Meeting on 25 June 2007**

Policy relating to recruitment of law draftsmen

Purpose

This paper sets out the policy on the Chinese language proficiency requirement in the recruitment of law draftsmen in the Department of Justice.

Background

2. At its meeting on 24 April 2006, the Panel expressed concern about the recruitment of law draftsmen with experience and competence in drafting legislation in English. It requested the Department of Justice (the Department) to review its policy relating to recruitment of law draftsmen to the Law Drafting Division (LDD) of the Department, e.g. to consider, inter alia, relaxing the requirement in respect of Chinese language proficiency for appointment. The Department was also requested to –

- (a) provide information on the years of experience of legislative draftsmen in the LDD in the past ten years; and
- (b) advise when the Chinese language proficiency was imposed as an entry requirement on the Government Counsel (GC) grade.

Chinese Language Proficiency Requirement

3. One of the policy objectives in the development of the Civil Service is to develop and maintain a biliterate civil service that is able to operate efficiently in both English and Chinese. It has been the Government's policy since 1997 to set the proficiency requirements of Chinese and English languages at the same level in each civil service grade. For the Government Counsel (GC) grade in the Department of Justice, Chinese language proficiency has been adopted as a general entry requirement for recruitment to the basic rank since 1998.

4. In 2003, the Civil Service Bureau (CSB) introduced the revised language proficiency requirements (LPRs) whereby all applicants to civil

service posts in degree/professional grades had to obtain a pass in both the Use of English (UE) and Use of Chinese (UC) papers in the Common Recruitment Examination (CRE) before they would be eligible for appointment. In October 2006, the CRE language papers have been modified to cater for the different needs among degree / professional grades. The results of the UE and UC papers are now classified into “Level 2”, “Level 1” or “Fail”, with “Level 2” being the higher score. Heads of Departments are now given the discretion to determine, in the light of the job requirements of the grades in question, whether a specific job requires the attainment of ‘Level 2’ or ‘Level 1’ in the CRE language papers. Furthermore, the attainment of Grade ‘C’ or above and Grade ‘D’ in the Use of English and in Chinese Language and Culture (or Chinese Language and Literature) of the Hong Kong Advanced Level Examination are also respectively accepted as equivalent to ‘Level 2’ and ‘Level 1’ results of the CRE.

Exemption

5. While the English and Chinese proficiency are set as general requirements for appointment to civil service grades, exemptions from the LPRs can be sought from CSB where the situation so warrants. For example, where recruitment difficulty is envisaged (there is a clear need to trawl a wider group of local as well as overseas candidates with specialised skills and experience for a particular job), exemptions from the LPRs may be granted by CSB.

Policy relating to recruitment of GC

6. Law Draftsmen in the LDD are members of the GC grade, one of the degree / professional grades. For appointment to the entry rank of the GC grade, the Chinese and English LPR for the grade is respectively set at attaining ‘Level 1’ and ‘Level 2’ of the CRE. Grade ‘D’ in Chinese Language and Culture or Chinese Language and Literature and Grade ‘C’ in the Use of English of the Hong Kong Advanced Level Examination are also accepted as equivalent to the requisite CRE results. Hence, the English LPR is higher than that of Chinese.

7. We have in place a bilingual legal system. Draft legislation is prepared by law draftsmen in both English and Chinese. Under this system, a bilingual counsel allows greater operational flexibility in terms of staff deployment. A drafting counsel who is proficient in both official languages can

handle both texts of an item while a counsel who is not proficient in the Chinese language must pair up with another colleague. In handling drafting files and conducting legal research, a bilingual counsel has ready access to documents, publications and materials in both official languages.

8. Experience in the recent GC recruitment exercises indicate that there was no difficulty recruiting candidates who passed the aptitude benchmark and met the LPRs. None of the candidates who were found suitable for joining LDD in respect of professional qualifications and other qualities had been disqualified because of failure to meet the LPRs. The current LPRs therefore have not precluded quality candidates from joining the *entry rank* of the GC grade in LDD. With the University of Hong Kong and the City University providing some 380 full-time PCLL graduates and 110 part-time PCLL graduates each year, and the Chinese University of Hong Kong offering its first full-time PCLL graduates by 2008-09, we envisage that there should not be difficulty recruiting quality candidates who meet the LPRs. For long-term development of the GC grade, the operational requirements of the Department and in line with the civil service policy to develop a biliterate civil service, we do not see a need for relaxing the LPRs for recruitment to the *entry rank* of the GC grade.

9. We recognise that there could be benefits and indeed operation need, in terms of promoting cross fertilisation of specific areas of expertise, for recruiting monolingual counsel to join the Department. However this should be done in the recruitment of counsel at the *promotion ranks* of the GC grade where specialization is required instead of at the entry rank where the Department is looking for aptitude in general legal knowledge.

10. Under the prevailing civil service policy, *open recruitment* (as opposed to internal promotion or in-service recruitment) to promotion posts may be carried out if it is justified by operational needs, e.g. where there are no suitable in-house candidates to fill the post and there is a need to bring in outside expertise and experience. In such circumstances, we see the need for greater flexibility on the language requirements. Exemptions would be sought to relieve eligible candidates with considerable work experience outside Government from the requirement to sit for the CRE.

11. Where there is a need to recruit experienced counsel from outside to join at the *promotion ranks*, the Department of Justice, having regard to the operational needs of the particular vacancy, may seek exemption from the Chinese language proficiency requirement. This will help to trawl a wider net

of local and overseas candidates with the specific skills and experience required. For example, In LDD, an open recruitment exercise for appointment to the position of the Law Draftsman is currently underway. In this exercise, exemption from the Chinese language proficiency requirement has been granted. There are other examples of exemption from the Chinese proficiency requirement for recruitment of counsel with specialised expertise and skills to the promotion ranks in the Department. Recently, a monolingual (Anglophone) counsel with the required experience and expertise has been recruited to the Deputy Principal Government Counsel rank for the Company Ordinance Rewrite Exercise. Another monolingual (Anglophone) counsel was also appointed to the Deputy Principal Government Counsel rank in 2001 in the Commercial Unit of the Civil Division. In fact, in conducting open recruitment at the promotion ranks, the Department will as a matter of practice review the Chinese language proficiency requirement in respect of the particular vacancy and assess the need for seeking exemption. We will continue to adopt such an approach in future open recruitment to promotion rank exercises.

Experience of legislative draftsmen

12. The legislative drafting experience of our law draftsmen in LDD has in general been increasing steadily over the years, with around 11 years of experience on average at present. To develop the drafting skills of our legislative draftsmen, we would continue to organise relevant in-house training programmes and workshops and nominate our counsel to join overseas legislative drafting conferences or seminars and provide close guidance and supervision to our junior counsel in LDD in their performance of legislative drafting duties. The years of legislative drafting experience of counsel in the LDD in the past ten years are summarised in the Annex for Members' information.

Department of Justice
June 2007

**Years of legislative drafting experience of Counsel in the Law Drafting Division
as at 1 April 2007**

Legislative drafting experience	1 Apr 97	1 Apr 98	1 Apr 99	1 Apr 00	1 Apr 01	1 Apr 02	1 Apr 03	1 Apr 04	1 Apr 05	1 Apr 06	1 Apr 07
16 years or more	4	5	5	5	5	4	5	5	5	4	4
12 to less than 16 years	2	2	2	3	4	4	4	5	5	6	10
8 to less than 12 years	5	4	6	6	8	8	13	11	13	13	8
4 to less than 8 years	8	9	13	15	14	14	7	11	7	6	8
Less than 4 years	23	21	13	10	7	8	9	3	3	2	3
Total*	42	41	39	39	38	38	38	35	33	31	33
Average years of experience	6yrs	7yrs	7.3yrs	8yrs	9yrs	8.6yrs	9.3yrs	10yrs	10.4yrs	11.3yrs	10.9yrs

* Excluding officers on final leave.