

Press Release

Judiciary issues report on solicitors' rights of audience

The Judiciary today (November 29) released a report by the Working Party on Solicitors' Rights of Audience.

The Working Party was set up by the Chief Justice in June 2004 under the chairmanship of Mr Justice Bokhary, Permanent Judge of the Court of Final Appeal, to consider whether solicitors' existing rights of audience should be extended and, if so, by what mechanism such extended rights of audience should be granted.

In announcing the release of the report, a Judiciary spokesman said the Chief Justice has accepted the Working Party's recommendations. He has sent the report to the Secretary for Justice and has requested the Administration to consider the matter and take it forward by appropriate legislation.

The report stated that legislation providing the necessary framework is plainly the appropriate means by which to grant higher rights of audience to solicitors (see paragraph 66).

The summary of the report's recommendations is as follows (see paragraph 67):

- (1) Applicants for higher rights of audience must have five years' post-qualification practice of which at least two years must have been in Hong Kong.
- (2) The three years immediately preceding the application must include what an assessment board considers to be sufficient litigation experience, with the greatest weight being given to actual advocacy.
- (3) Successful applicants should be granted higher rights of audience for civil proceedings, criminal proceedings or both.

- (4) A Higher Rights Assessment Board should be established. This would be chaired by a senior judge, nominated by the Chief Justice, and would consist of the following additional members:
 - (a) Two experienced members of the Judiciary, nominated by the Chief Justice;
 - (b) Three litigation solicitors, nominated by the Council of the Law Society;
 - (c) Three Senior Counsel, nominated by the Bar Council;
 - (d) One member selected by the Chairman from a panel of persons appointed by the Chief Justice, who are not, in the opinion of the Chief Justice, connected in any way with the practice of law; and
 - (e) A Law Officer or Deputy Law Officer in the Department of Justice, nominated by the Secretary for Justice.
- (5) Application for higher rights of audience should be made to the Council of the Law Society, which will review applications before passing them with its recommendation for rejection or grant to the Assessment Board.
- (6) The Assessment Board should not be bound by the Council's recommendation, and it should be the Board's decision which is determinative.
- (7) In addition to satisfying the minimum practice requirements, an applicant should have to satisfy the Board that he is in all other respects suitable to be granted higher rights of audience.
- (8) Applicants for higher rights of audience must either:
 - (a) pass an Advocacy Course approved by the Assessment Board; or

- (b) satisfy the Assessment Board that they are suitably experienced and suitably qualified senior litigation practitioners to exercise higher rights of audience in proceedings relating to the qualification for which they have applied.
- (9) Successful applicants should be issued with a Higher Rights Qualification Certificate by the Council of the Law Society. The Council must maintain a register of those granted Certificates, and must provide the Judiciary Administrator with the names of such person.
- (10) The conduct and discipline of solicitor-advocates will be the responsibility of the Council of the Law Society, who will apply a code of conduct to be drawn up by the Council of the Law Society in consultation with the Bar Council and the Judiciary.
- (11) Legislation should be enacted to provide the necessary framework for the granting of higher rights of audience to solicitors.

The report is available for public access on the Judiciary's website at <http://www.judiciary.gov.hk>.

Thursday, November 29, 2007