

香港司法機構
司法機構政務處



JUDICIARY ADMINISTRATION
JUDICIARY
HONG KONG

本函檔號 OUR REF: JORC 4/1

來函檔號 YOUR REF:

電話 TEL: 2825 4261

傳真 FAX: 2121 1895

15 May 2012

Ms Alice LEUNG
Clerk to Subcommittee on
Proposed Senior Judicial Appointments
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms Leung,

Subcommittee on Proposed Senior Judicial Appointments

I am writing further to my letter in this series dated 9 May 2012.

2. At the meeting of the Legislative Council Subcommittee on Proposed Senior Judicial Appointments held on 7 May 2012, Members referred to the Judiciary's policy to consider only internal candidates for appointment to the Court of Final Appeal ("CFA"), including appointments as Permanent Judges ("PJs") and Non-permanent Hong Kong Judges ("HKNPJs") but not the Chief Justice, and requested the Judiciary to provide information on the overseas practices for appointment to the highest appellate courts in other jurisdictions.

3. The relevant information is set out in the following paragraphs for Members' information, please.

Background

4. In 2002, the Judiciary and the Judicial Officers Recommendation Commission (“JORC”) conducted a review of the JORC’s operation concerning the appointment of judges. In conducting the review, the Judiciary and the JORC had made reference to existing practices in other common law jurisdictions and considered the circumstances in Hong Kong.

5. One of the outcomes of the review is that for judicial appointments at such senior levels as PJs and HKNPJs of the CFA, the appointees should usually have previous judicial experience. In considering such appointments, candidates would be identified from the pool of persons who (a) satisfy the statutory requirements; and (b) have previous judicial experience at the appropriate levels of court. As far as HKNPJs are concerned, they may be retired senior judges of the Hong Kong Judiciary.

6. The Judiciary and the JORC took the view that for appointments at such senior levels and in a relatively small jurisdiction like Hong Kong, the internal elevation arrangement above was appropriate.

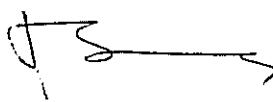
Overseas Practices for Appointment to the Highest Appellate Courts in Other Jurisdictions

7. Available published sources show that both internal and external candidates may be considered for forthcoming appointments to the Supreme Court of the United Kingdom and the High Court of Australia (i.e. the highest appellate court in Australia). In the case of New Zealand, the judges of their Supreme Court have been promoted from their Court of Appeal.

The Views of the Judiciary

8. Notwithstanding the recent developments in some overseas jurisdictions, the Chief Justice is of the view that the existing policy in considering only internal candidates for appointment as PJs and HKNPJs remains appropriate for the time being, having regard to the prevailing circumstances in Hong Kong.

Yours sincerely,



(Mrs Angela Lo)
for Judiciary Administrator