

**立法會**  
***Legislative Council***

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LC Paper No. CB(4)498/13-14  
(These minutes have been seen  
by the Administration)

**Panel on Administration of Justice and Legal Services**

**Minutes of meeting**  
**held on Tuesday, 28 January 2014, at 4:30 pm**  
**in Conference Room 1 of the Legislative Council Complex**

- Members present** : Dr Hon Priscilla LEUNG Mei-fun, SBS, JP (Chairman)  
Hon Dennis KWOK (Deputy Chairman)  
Hon James TO Kun-sun  
Hon CHAN Kam-lam, SBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Starry LEE Wai-king, JP  
Hon CHAN Kin-por, BBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon NG Leung-sing, SBS, JP  
Hon Steven HO Chun-yin  
Hon YIU Si-wing  
Hon MA Fung-kwok, SBS, JP  
Hon Alice MAK Mei-kuen, JP  
Dr Hon Elizabeth QUAT, JP  
Hon Martin LIAO Cheung-kong, JP  
Hon TANG Ka-piu  
Dr Hon CHIANG Lai-wan, JP  
Hon CHUNG Kwok-pan  
Hon Tony TSE Wai-chuen
- Members attending** : Hon WONG Kwok-hing  
Hon CHAN Chi-chuen

**Members** : Hon Albert HO Chun-yan  
**Absent** Hon Ronny TONG Ka-wah, SC  
Hon WONG Yuk-man  
Hon Michael TIEN Puk-sun, BBS, JP

**Public Officers** : Item III  
**attending**

Department of Justice

Mr Rimsky YUEN, SC, JP  
Secretary for Justice

Mr Benedict LAI, SBS, JP  
Law Officer (Civil Law)

Ms Amelia LUK, JP  
Law Officer (International Law)

Mr Paul WAN, JP  
Law Draftsman

Mr Keith YEUNG, SC  
Director of Public Prosecutions

Mr Arthur HO, JP  
Director of Administration & Development

Mr Peter WONG  
Acting Solicitor General

Home Affairs Bureau

Ms Florence HUI Hiu-fai, SBS, JP  
Under Secretary for Home Affairs

Mr Thomas Edward KWONG  
Director of Legal Aid

Ms Aubrey FUNG Ngar-wai  
Principal Assistant Secretary (Civic Affairs) 2  
Home Affairs Bureau

Item IV

Mr Howard LEE  
Assistant Director of Administration (3)

Mr Esmond LEE, JP  
Deputy Judiciary Administrator (Development)

Ms Wendy CHEUNG  
Assistant Judiciary Administrator (Development)

**Clerk in attendance** : Miss Mary SO  
Chief Council Secretary (4) 2

**Staff in attendance** : Mr Timothy TSO  
Assistant Legal Adviser 2

Ms Cindy CHAN  
Senior Council Secretary (4)5

Ms Rebecca LEE  
Council Secretary (4)2

Ms Sandy SZETO  
Administrative Assistant I (4)2

Ms Mandy WAN  
Administrative Assistant (4)1

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**I. Information paper(s) issued since the last meeting**

Members noted the following papers issued since the last meeting:

LC Paper No. CB(4)262/13-14(01) -- Letter dated 13 December 2013 from Hon Dennis KWOK requesting to discuss the issue of "Setting up a court in Hong Kong to hear international commercial disputes"

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- LC Paper No. CB(4)262/13-14(02) -- Letter dated 17 December 2013 from Hon Dennis KWOK requesting to discuss the issue of "Compensation for wrongful conviction"
- LC Paper No. CB(4)267/13-14(01) -- Information paper on "Review of Solicitors' Hourly Rates" provided by the Judiciary Administration
- LC Paper No. CB(4)296/13-14(01) -- Referral from the Public Complaints Office of the Legislative Council on the proposal of adding the Independent Police Complaints Council to the list of organizations under the jurisdiction of The Ombudsman
- LC Paper No. CB(4)310/13-14(01) -- Letter dated 13 January 2014 from the Department of Justice enclosing an extract of the Secretary for Justice's speech made at the Ceremonial Opening of the Legal Year 2014

**II. Items for discussion at the next meeting**

- LC Paper No. CB(4)322/13-14(01) -- List of outstanding items for discussion
- LC Paper No. CB(4)322/13-14(02) -- List of follow-up actions

2. Members agreed to discuss the following items at the next regular meeting to be held on 25 February 2014 at 4:30 pm:

- (a) Mechanism for handling complaints against judicial conduct; and
- (b) Proposed legislative amendments relating to the adjudication of Equal Opportunities claims in the District Court.

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In respect of (a), members agreed to invite related organizations to give views on the subject matter.

3. Members also agreed to include the issues of "Compensation for wrongful conviction", "Adding the Independent Police Complaints Council to the list of organizations under the jurisdiction of The Ombudsman" and "Review of Solicitors' Hourly Rates" in the list of outstanding items for discussion by the Panel.

4. Mr Dennis KWOK said that the issue of "Setting up a court in Hong Kong to hear international commercial disputes" could be incorporated in the Panel's future discussion with the Administration on the Government policy to promote Hong Kong as a legal and arbitration services centre in the Asia Pacific region.

### **III. Briefing on the Chief Executive's 2014 Policy Address**

LC Paper No. CB(4)322/13-14(03) -- Paper provided by the  
Department of Justice

LC Paper No. CB(4)322/13-14(04) -- Paper provided by the Home  
Affairs Bureau

5. At the invitation of the Chairman,

- (a) Secretary for Justice ("SJ") briefed members on the policy initiatives of the Department of Justice ("DoJ") in 2014, details of which were set out in LC Paper No. CB(4)322/13-14(03); and
- (b) Under Secretary for Home Affairs briefed members on the policy commitments in respect of legal aid and legal advice services in 2014, details of which were set out in LC Paper No. CB(4)322/13-14(04).

### Discussion

#### *Drafting of legislation*

6. Mr WONG Kwok-hing asked whether consideration could be given to commencing the drafting of the legislation on the basis of policy intention, so as to expedite the legislative process. Mr WONG pointed out that although the Administration had agreed at the last legislative term to introduce a bill to amend the Employment Ordinance (Cap. 57) to remove the requirement for an

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employer's agreement to the making of an order for reinstatement or re-engagement of an employee who had been dismissed unreasonably and unlawfully and to require the employer to pay a further sum to the employee for failing to comply with such an order, the amendment bill had not yet been introduced into the Legislative Council.

7. SJ responded that the Law Drafting Division of the DoJ would only start to draft the legislation upon receipt of the drafting instruction from the bureau/department concerned, albeit there were instances whereby the drafting exercise commenced upon receipt of the drafting instruction by stage at the request of the relevant bureau/department. SJ agreed to check the progress of the drafting of the Employment (Amendment) Bill and revert to the Panel.

*[Post-meeting note: The response from the DoJ on the progress of the drafting of a proposed Bill to amend the Employment Ordinance was issued to members vide LC Paper No. CB(4)423/13-14(01) on 19 February 2014.]*

*Legal aid*

8. Mr WONG Kwok-hing said that employees needed to take winding up or bankruptcy proceedings against an insolvent employer to get back their entitlements. However, in most instances, these employees could not pursue such legal actions because of their failure to pass the means test for legal aid. In the light of this, Mr WONG urged the Administration to either relax the financial eligibility limits for legal aid involving wages claims or give the Director of Legal Aid a discretion in relaxing the financial eligibility limits for this type of legal aid applicants.

9. Under Secretary for Home Affairs ("USHA") clarified that the financial resources of legal aid applicants were not assessed simply by aggregating all of the applicants' gross income and capital. Rather, the Legal Aid Department ("LAD") would take into account various statutory deductible items as allowed under the Legal Aid Ordinance (Cap. 91) ("the Ordinance"), such as rent and the statutory allowance for living expenses for assessing a person's disposable capital.

10. The Chairman suggested that the Administration should, in view of some high costs civil cases, consider setting prescribed lawyer fees for different types of civil proceedings, so that public resources for legal aid could be deployed more evenly, and with fees and charges payable to outside counsel and solicitors for representing legally aided persons lowered, public money could be used to help more people in need of legal aid. Director of Legal Aid responded that at present, a statutory mechanism for determining lawyer fees for civil proceedings

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was in place where legal costs were taxed by the Registrar of the High Court under the Rules of the High Court (Cap. 4A). USHA responded that the Administration would take into account the Chairman's suggestion in its on-going review of legal aid services.

*Independence of legal aid*

11. Mr Dennis KWOK enquired about the Administration's position on the Legal Aid Services Council ("LASC")'s recommendation that the LAD should be re-positioned and placed directly accountable to the Chief Secretary for Administration ("CS").

12. Ms Emily LAU questioned how the independence of the LAD would be enhanced should the LAD be placed directly accountable to the CS. Ms LAU urged for the establishment of an independent legal aid authority as advocated again by the Hong Kong Bar Association at the Ceremonial Opening of the Legal Year 2014 held on 13 January 2014. Mr LEUNG Kwok-hung expressed similar view.

13. USHA responded that the Administration was considering the LASC's recommendation on placing the LAD directly accountable to the CS and would report to the Panel on the Administration's position on the way forward in June/July 2014. Under Secretary for Home Affairs pointed out that having considered the institutional, financial and operational and governance dimension of the LAD, the LASC considered that there was no immediate need to establish an independent legal aid authority as the degree of independence upheld and exercised by the LAD was considered sufficient. To address the perception issue about the lack of independence, the LASC recommended placing the LAD directly accountable to the CS and strengthening its oversight role over the LAD with a view to enhancing public confidence in the rule of law in Hong Kong.

*Inter-departmental working group on gender recognition*

14. Mr CHAN Chi-chuen welcomed the setting up of an inter-departmental working group ("IWG"), headed by SJ, to study possible legislation on various aspects of gender recognition in light of the observations made in the judgment of the Court of Final Appeal ("CFA") in the W Case (*FACV 4/2012*) whereby a woman who underwent gender change surgery won the right to marry in Hong Kong. Mr CHAN further asked the following questions:

- (a) whether the IWG had set down a timeframe for completing its work;
- (b) when the IWG would conduct public consultations of its work;

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- (c) why no expert on gender reassignment was enlisted as a member of the IWG; and
- (d) whether consideration would be given to using the wider term of "transgender" person, as opposed to "transsexual" person, in its terms of reference.

15. SJ responded as follows:

- (a) the IWG would convene its first meeting on 29 January 2014 to consider, amongst other things, the timeframe for completing its work, including the timing for conducting consultations. At the meeting, the use of the wider term of "transgender" person, as opposed to "transsexual" person, would also be considered in the context of formulation of the terms of reference of the IWG;
- (b) apart from representatives from the Constitutional and Mainland Affairs Bureau, the Food and Health Bureau and the Security Bureau, the membership of the IWG also comprised one barrister and one solicitor. In fact, the barrister on the IWG, Mr Stewart WONG, S.C., was a member of the legal team representing the Registrar of Marriage in the W case; and
- (c) the IWG would consult relevant experts or professionals as and when appropriate.

16. The Chairman noted that there were concerns from religious groups over freedom of religious belief and urged the IWG to have regard to the fact that there was no consensus in the community on same sex marriage.

17. SJ explained that the work of the IWG would not touch on the issue of same sex marriage and related matters, as the focus of the work of the IWG was to examine whether there was a need to amend the legislation to protect the rights of transsexual persons.

*Mediation*

18. Ms Starry LEE urged that apart from promoting Hong Kong as a centre for international legal and dispute resolution services in the Asia Pacific region, focus should also be put on promoting the use of dispute resolution service locally, such as in dealing with disputes arising from building management matters.



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19. SJ responded that another on-going initiative of the Administration was to promote and develop the use of mediation in Hong Kong in settling disputes of which the DoJ had all along been heavily involved. To continue with the efforts to foster the development of mediation in Hong Kong, a Steering Committee on Mediation was set up under the DoJ in November 2012. Under one of the three Sub-committees formed under the Steering Committee, one of its current projects was to promote the use of mediation by building owners to resolve disputes arising from water seepage.

*Arbitration*

20. Mr Dennis KWOK said that apart from establishing the Advisory Committee on Promotion of Arbitration, more resources should be allocated to promote the use of Hong Kong arbitration services by overseas firms, as had been done in Singapore.

21. SJ responded that one of the two key functions of the Advisory Committee on Promotion of Arbitration was to consider, advise on and co-ordinate on-going and new initiatives for the promotion of Hong Kong arbitration services in the Asia Pacific region. SJ further said that funding had recently been provided by the Administration to the Hong Kong International Arbitration Centre to undertake overseas activities to promote Hong Kong arbitration services.

22. Mr CHUNG Kwok-pan said that as reported in some newspapers following the Chief Executive ("CE")'s 2014 Policy Address, some land developers indicated that they might consider using arbitration to settle long-standing disputes with the Lands Department ("Lands D") on the amount of land premium to be paid in order to expedite the land development process. Mr CHUNG queried whether the use of arbitration could help settle such disputes and whether Hong Kong had suitable number of arbitrators to handle these cases.

23. SJ responded that if the land developer and the Lands D agreed to resolve their disputes on the amount of land premium to be paid by arbitration, both sides would be required to accept the arbitral award made by the arbitrator(s). Relevant arbitration rules were being devised by the HKIAC. SJ assured members that Hong Kong had sufficient number of arbitrators to handle all land-related cases.

24. Mr LEUNG Kwok-hung asked whether it was the Administration's plan to require the use of arbitration to resume land under Article 105 of the Basic Law ("BL 105"). SJ responded that arbitration could only be used upon the agreement of both sides to the dispute. If one side did not agree, arbitration

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could not take place. Compensation for resumption of land was a different issue, and was governed by separate legislation on that issue.

25. The Chairman welcomed the use of arbitration to resolve land premium disputes. The Chairman further urged the Administration to expand the use of arbitration to resolve building management disputes, as a mediation settlement was non-binding whereas an arbitration settlement was an immediately enforceable award.

*Use of the former French Commission Building ("FMB") upon the relocation of the Court of Final Appeal ("CFA") from there*

26. Dr CHIANG Lai-wan opined that the Chinese language of paragraph 13(e) of LC Paper No. CB(4)322/13-14(03), concerning the use of the former FMB upon the relocation of the CFA from there, could be improved to make it more comprehensible. Noting that the former FMB would be put to use by law-related organizations ("LROs") upon the relocation of the CFA from there, Dr CHIANG enquired what these LROs were.

27. SJ responded that the Administration planned to attract reputable international legal and dispute resolution organizations (in addition to those which had already established offices in Hong Kong, such as the Hague Conference on Private International Law) as well as local legal and dispute resolution organizations, to set up offices in the former FMB and in the West Wing of the former Central Government Offices ("CGO") so as to form a "legal hub". Similar efforts were being made in some overseas jurisdictions such as Singapore.

28. Responding to Dr CHIANG's further enquiry about the eligibility of the LROs for setting up offices in the former FMB and the former CGO, SJ said that a committee would be set up to consider the suitability of the LROs.

29. Mr Dennis KWOK said that if Hong Kong could attract international arbitration organizations, such as the London Court of International Arbitration, to set up offices in the former FMB and the former CGO, this would obviate the need for the Administration to promote the development of Hong Kong's legal and dispute resolution services in Qianhai and Nansha.

30. In response, SJ said that the DoJ would continue with its efforts to facilitate renowned legal and dispute resolution institutions to develop services and set up permanent presence in Hong Kong. It was, however, of no less importance for DoJ to facilitate the provision of Hong Kong's legal and dispute resolution services in Qinhai and Nasha, which was a market serving a different clientele. The same indeed applied to the Shanghai Free Trade Zone and other

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new economic development areas on the Mainland. The DoJ's efforts were in line with the increasing enthusiasm of the trade to develop services in these areas.

*Judicial review*

31. Ms Starry LEE expressed concern about the long time sometime taken by the court to deal with an application for judicial review. Ms LEE queried whether this might be due to shortage of judicial manpower and/or courtroom.

32. SJ responded that neither the DoJ nor the Government had a say in the time needed by the court to handle an application for judicial review, albeit the DoJ had in the past applied to the court to expedite the process in certain cases. SJ further said that he was not in a position to comment on judicial manpower and resources which fell under the ambit of the Judiciary Administration.

*Prosecutions policy*

33. The Chairman and Mr Dennis KWOK urged for greater transparency in the prosecutions policy by publicizing the reasons for decision to prosecute or not to prosecute.

34. SJ responded that the DoJ was committed to operating in an open and accountable fashion, with as much transparency as was consistent with the interests of public justice. The DoJ would in future publicize reasons to prosecute or not to prosecute for cases of public importance or wide public concern, on the condition that to do so would not compromise justice.

35. Director of Public Prosecutions ("DPP") supplemented that paragraph 23 of the Prosecutions Code promulgated by the Prosecutions Division ("PD") last year set out at length publication of reasons to prosecute or not to prosecute. DPP further said that there were reasons to prosecute or not to prosecute each case handled by the PD. The main reason for the PD not publicizing the reasons to prosecute was because to do so would prejudice the case. For cases which the PD decided not to prosecute, the main reason for not publicizing the reasons for the decision was because to do so would infringe the privacy of the alleged persons.

36. Ms Emily LAU said that the long time taken by the PD to decide whether or not to prosecute the former CE, Mr Donald TSANG, and the former Commissioner, Independent Commission Against Corruption, Mr Timothy TONG Hin-ming, had aroused much public concern. There was also a saying from some quarters in the community that the reason why no decision had been made by the PD to take prosecution action against Mr TSANG and Mr TONG

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was because the matter was in the hands of the incumbent CE. Ms LAU urged the PD to continue to carry out its duties in an impartial and professional manner.

37. DPP stressed that the PD was committed to open justice, not to mention that prosecutorial independence was constitutionally guaranteed under BL63. SJ supplemented that all cases being handled by the PD were confined within the PD and no person/organization outside the PD had ever attempted to interfere with the work of the PD.

38. Mr Dennis KWOK hoped that the PD's Prosecutions Code could elaborate more on the "public interest" test in deciding whether or not to prosecute, as exemplified in the "Code for Crown Prosecutions" in the United Kingdom.

*Implementation of BL23*

39. Mr James TO said that following a trespass into the People's Liberation Army barracks in Central by some members of the public recently, a former Basic Law Committee member, Professor WANG Zhenmin, called for BL23 to be implemented. Mr TO enquired whether the DoJ had commenced work or would commence work in this regard.

40. SJ responded that the Government did not have a plan or a timetable to legislate for BL23 for the time being, as the Government presently had work to do on many other areas. SJ further said that Hong Kong already had enough statutory and common law provisions to deal with such acts as unlawful entries into the military barracks.

*Law Reform Commission ("LRC")'s proposals on class action*

41. Mr Dennis KWOK asked when the Administration would take forward the LRC's recommendation on introducing a class action regime in Hong Kong.

42. SJ replied that in view of the complexity of the issues involved in the introduction of a class action regime in Hong Kong, the DoJ had set up a cross-sector working group to study the LRC's proposals and to make recommendations to the Administration on how to take the matter forward. The working group was making steady progress, albeit it was difficult to say at this stage when the working group would complete its work.

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*Review of the operation of the LRC*

43. Mr Dennis KWOK asked when the review of the operation of the LRC would commence to improve its efficiency by, say, appointing full-time professional staff to carry out its work.

44. SJ responded that the major task at hand was to expedite the implementation of the LRC's recommendations where practicable. The DoJ was reviewing the operation of the LRC. Views of the Panel would be sought when there was a concrete proposal.

*Crime prevention*

45. Dr CHIANG Lai-wan urged the DoJ to educate youth about the dire consequence of committing a crime.

46. SJ responded that the DoJ attached great importance to educating youth about the importance of rule of law, and efforts in this regard would be stepped up. DPP supplemented that education and publicity work targeting at youth would be carried out at schools as well as in places such as youth centres. Topics to be covered would cover crimes commonly committed by youngsters, such as drug abuse, participation in the activities of triads and other organized crime syndicates and unlawful sexual intercourse with a minor.

Concluding remarks

47. The Chairman urged the Administration to carefully consider including building management disputes in the types of disputes that could be resolved by arbitration and examining ways to make more effective use of the funding allocated for the provision of legal aid services.

**IV. Administration of Justice (Miscellaneous Provisions) Bill**

LC Paper No. CB(4)329/13-14(01) -- Paper entitled "Administration of Justice (Miscellaneous Provisions) Bill: Supplementary Information" provided by the Judiciary Administration

LC Paper No. CB(4)329/13-14(02) -- Background brief on "Administration of Justice (Miscellaneous Provisions) Bill" prepared by the Legislative Council Secretariat

LC Paper No. CB(4)344/13-14(01) -- Submission from the Hong Kong Bar Association

48. Deputy Judiciary Administrator (Development) ("DJA (Development)") briefed members on the supplementary information on and responses to matters raised by Members regarding some of the legislative proposals relating to court operations in the Administration of Justice (Miscellaneous Provisions) Bill, details of which were set out in the LC Paper No. CB(4)329/13-14(01).

Discussion

*Right of audience and disclosure of documents*

49. Mr TANG Ka-piu said that although section 23(1)(e) of the Labour Tribunal Ordinance (Cap. 25) stipulated that an office bearer of a registered trade union or of an association of employers should have a right of audience before the Labour Tribunal ("LT"), not all applications for right of audience by the trade union representatives were granted by the LT. As one of the factors that the Judicial Officers would take into account was whether the other party opposed to representation by trade union, Mr TANG was of the view that guidelines on the granting of right of audience should be laid down.

50. On disclosure of documents under the proposed legislative amendments, Mr TANG Ka-piu sought clarification whether the Presiding Officers would have the power to order a party of the Tribunal proceedings to submit the document(s) to the opposite party; and whether further disclosure of document(s) by the trade union office bearer to the other parties would constitute a breach of the proposed statutory restriction or prohibition in the Tribunal which would give rise to a liability of contempt of court.

51. DJA (Development) responded that most of the applications for right of audience by the trade union representatives were granted. He reiterated that the reasons for parties making discovery by disclosing documents in the proceedings was for the fair disposal of cases before the Tribunal. As regards the issue of whether a party or trade union office bearer might use documents disclosed in the Tribunal proceedings would have to be considered having due regard to the rationale underlying the proposed restriction or prohibition. So if a party or a trade union office bearer used the document for the purpose of the proceedings in question, the proposed restriction or prohibition on disclosure would not be contravened.

52. Having considered that such legislative amendments relating to disclosure

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of documents should warrant further discussion and consultation, Mr TANG Ka-piu strongly requested the Judiciary to withhold its proposal to impose a general statutory duty on the receiving parties that they should not use the documents and information disclosed to them for any purpose other than for the purpose of the Tribunal proceedings. DJA (Development) agreed not to include the proposal in the Bill.

*Appeals in civil matters to the Court of Final Appeal*

53. Noting that from Annex A of the joint paper provided by the Administration and JA (i.e. LC Paper No. CB(4)329/13-14(01)) that there was only six civil appeals heard purely on "as of right" grounds among the total number of 27 civil cases filed in 2012 and amongst these six civil appeals heard as of right, one third of the cases (i.e. 33%) was successful in overturning the previous judgment, Mr Dennis KWOK was of the view that such as of right grounds for civil appeals were important to the appellants. Furthermore, having regard to the fact that the number of approved leave applications for criminal and civil appeals constituted only a small number of the total number of leave applications disposed of in the CFA (i.e. ranging from 12% to 29% from 2008 to 2012) in the past few years, Mr KWOK considered that more substantial justifications should need to be provided to support the abolition of the as of right appeal mechanism if the granting of such applications to appellants was difficult.

54. DJA (Development) stressed that the CFA did not operate as a second court of appeal operating on the same basis as the Court of Appeal of the High Court. Allowing appeals to be lodged to the CFA as of right might lead to justice being delayed to the party who had the merits in a case. He further said that the abolition of the as of right appeal mechanism would not prevent litigants from applying for leave to appeal under the existing procedures and the CFA would hear meritorious appeals.

55. DJA (Development) advised that the workload and resources for dealing with a leave application and a substantive appeal by the CFA were different. For consideration of leave applications, they might be disposed of on paper under the procedures of rule 7 of the Hong Kong Court of Final Appeal Rules (Cap. 484A). If the court directed for a hearing, the hearing time normally lasted for about one to two hours and only three Judges were involved. For substantive appeals, the hearing bundles involved were normally much more substantial and the hearing time normally lasted for one or more days and five Judges were involved.

56. The Chairman considered it important that the Judiciary should have sufficient manpower resources on the premise if the as of right appeal

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mechanism was to be abolished and that no applications for leave to appeals to the CFA would be dismissed due to manpower constrain.

57. Dr CHIANG Lai-wan expressed support to the proposed amendment to repeal section 22(1)(a) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) so that appeals in civil matters would no longer lie to the CFA as of right and that all appeals should be based on their respective merits (i.e. great general or public importance).

*Delivery of reasons for verdicts and sentences in criminal proceedings in the District Court*

58. Mr Dennis KWOK expressed support to the proposed amendment of section 80 of the District Court Ordinance (Cap. 336) to dispense with the requirement for a District Judge to orally deliver the reasons for the verdict. However, Mr KWOK agreed with the Hong Kong Bar Association that practice direction or relevant guidelines should clearly spell out the circumstances under which the reasons for the verdict should be orally delivered; and if the reasons were handed down in writing, the defendant and his/her representatives should be given sufficient time to read, understand and digest the reasons.

59. DJA (Development) replied that a District Judge would give due consideration to such factors as the likely duration needed for the oral delivery, the complexity of a case, availability of legal representation and background of the parties concerned before deciding whether to deliver a verdict orally. Moreover, should the reasons for the verdicts be handed down in writing, supporting administrative measures would be arranged for the defendant and his/her legal representatives to have sufficient time to consider the reasons.

*Calculation of qualifying experience for appointment as Permanent Magistrates*

60. In response to Dr CHIANG Lai-wan's enquiry about the suggestion of amending section 5AB of the Magistrates Ordinance (Cap. 227) to allow a person's period(s) of experience as a Court Prosecutor, Court Interpreter or Judicial Clerk in the Government to be combined with period(s) of other types of qualifying professional experience to fulfill the requisite minimum five-year period for appointment as a Special Magistrate, DJA (Development) responded that such a proposal should be studied separately.

Conclusion

61. In concluding the discussion, the Chairman said that except for the part relating to the proposed restriction or prohibition on the receiving party to use documents and information disclosed in the Tribunal proceedings for any



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purpose other than for purpose of the relevant Tribunal proceedings under Cap. 25, members did not object the Administration introducing the Bill into the Legislative Council in the 2013-2014 legislative year.

**III. Any other business**

62. There being no other business, the meeting ended at 6:45 pm.

Council Business Division 4  
Legislative Council Secretariat  
21 March 2014