Panel on Administration of Justice and Legal Services

List of issues suggested to be considered
(position as at 18 March 2014)

		Proposed timing for discussion
1.	**Review on Family Procedure Rules** The Judiciary has formed a working party to examine the desirability, impact and practicalities of formulating a single set of procedural rules for the family jurisdiction applicable both to the Family Court and the High Court. The working party issued a consultation paper on this on 17 February 2014 and would like to brief members on the recommendations.	April 2014
2.	**Reform of the current system to determine whether an offence is to be tried by judge and jury or by judge alone** Hon Dennis KWOK proposed to discuss the issue of "Reform of the current system to determine whether an offence is to be tried by judge and jury or by judge alone". At the Panel meeting on 23 July 2013, members agreed that the issue be included in the list of items for discussion by the Panel.	1st quarter of 2014
3.	**Further expansion of the Supplementary Legal Aid Scheme ("SLAS")** At the meeting on 10 July 2012, members agreed that the Panel should follow up with the Administration on proposals not supported for inclusion in SLAS, including the inclusion of claims against property developers by minority owners in respect of compulsory sales of building units and claims against sale of goods and provision of services; and related issues, such as raising the financial eligibility limits for SLAS as well as the Ordinary Legal Aid Scheme.	July 2014

		Proposed timing for <u>discussion</u>
4.	**Operation of the Resource Centre for Unrepresented Litigants and the Two-year Pilot Scheme to Provide Legal Advice for Litigants in Person**	
	The Resource Centre for Unrepresented Litigants ("Resource Centre") was set up by the Judiciary in 2003 to provide assistance on court procedures to unrepresented litigants in civil proceedings in the High Court and the District Court. The purpose is to save the courts' time in explaining rules and procedures to the unrepresented litigants, thereby expediting the court process and lowering legal costs. Separately, the Home Affairs Bureau ("HAB") launched in March 2013 a two-year pilot scheme to provide free legal advice for litigants in person ("LIPs") to assist LIPs who have commenced or are parties to legal proceedings in the District Court or higher courts and have not been granted legal aid. The pilot scheme seeks to provide procedural advice to facilitate access to justice by LIPs and other parties involved. HAB will submit a progress report to the Panel in June 2014 to account for the pilot scheme's first year of operation since March 2013 for Members' information.	To be confirmed by HAB
5.	**Adjustment to scale rates**	
	Hon Dennis KWOK proposed to discuss the issue of "Adjustment to scale rates". The Law Society of Hong Kong has recently commissioned a review of the rates for calculating legal costs on party and party taxation ("scale rates") which were last revised by the Registrar of the High Court in 1997. The Law Society has formally endorsed the recommendations of the review report, including that the solicitors' hourly rates be raised to better reflect the current market conditions and that the scale rates should be	To be confirmed by the Judiciary Administration

Proposed timing for <u>discussion</u>

adjusted annually according to an inflation-linked index.

The Judiciary considers that there are many important issues relating to the Solicitors' Hourly Rates for taxation on a party and party basis. They would not only affect the work and interests of the solicitors but would also have a much broader impact on many stakeholders in the community at large in the overall context of access to justice. The Chief Justice is in the course of appointing a working party to review the matter and make recommendations.

An information paper on "Review of solicitors' hourly rates" provided by the Judiciary Administration had been issued to the Panel in December 2013.

6. Mechanism for handling complaints against judicial conduct

In their letter dated 22 May 2013, Hon LEUNG Kwok-hung and Hon WONG Yuk-man requested to discuss the arrangement for Masters to handle court cases.

To be confirmed by the Judiciary Administration

The existing mechanism for handling complaints against judicial conduct had been working for some time. The Chief Justice considers that it may be time for an internal review to be conducted, and has recently set up an internal working group to review the mechanism to see what improvements could be made.

At the Panel meeting on 25 February 2014, members received views from deputations on the mechanism for handling complaints against judicial conduct. Whilst noting the internal working group of the Judiciary had yet to complete its review, the Judiciary Administration was requested to provide information regarding the number of complaint cases against judicial conduct received in the past three years, broken down by the nature of complaints, the level of courts and the rank of judges involved, as well as how these complaint cases had been dealt with.

		Proposed timing for <u>discussion</u>
	Members also requested information on the current mechanism for handling complaints against judicial conduct in other jurisdictions. The Judiciary Administration will provide in the second quarter of 2014 an information note in response to the Panel's request for members' information. The Judiciary Administration will also inform the Panel of the outcome of the review which is expected to be completed by end-2014.	
7.	**Manpower and other support for the Judiciary**	
	Whilst deliberating on the judicial manpower situation at various levels of court and long court waiting times at the Panel meeting on 16 December 2013, members expressed concern on the long court waiting times, the shortage of judicial manpower and the under-provision of courtrooms and office accommodation for the Judiciary. Members agreed to follow up with the Administration on issues relating to judicial manpower and courtroom facilities/office accommodation for the Judiciary at a future meeting.	To be confirmed by the Chief Secretary for Administration's Office (Administration Wing) and the Judiciary Administration
8.	**Procedure for the making of subsidiary legislation relating to the legal professional bodies**	
	The Subcommittee on Solicitors (General) Costs (Amendment) Rules 2013 agreed that the Panel on Administration of Justice and Legal Services be requested to follow up with the Administration and related parties on the proper procedure for the making of subsidiary legislation relating to the legal professional bodies.	To be confirmed by the Department of Justice ("DoJ")
9.	**Bilingual legislation drafting**	
	The Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions agreed that the Panel on	To be confirmed by DoJ

		Proposed timing for <u>discussion</u>
	Administration of Justice and Legal Services be requested to follow up with the Administration regarding the suggestion of the setting up of a panel of advisory language specialists to help ensure no discrepancies between the English and Chinese defined terms in the drafting of the legislation.	
10.	**Issues relating to the role and functions of the Hong Kong Mediation Accreditation Association Limited**	
	At the meeting on 26 November 2013, Dr Hon CHIANG Lai-wan suggested and members agreed to revisit the issues relating to the role and functions of the Hong Kong Mediation Accreditation Association Limited at a future meeting.	To be confirmed by DoJ
11.	**Duty Lawyer Service for non-refoulement claims under the unified screening mechanism**	
	Hon Dennis KWOK proposed to discuss the issue of the "Duty Lawyer Service for non-refoulement claims under the unified screening mechanism".	To be confirmed by the Security Bureau and HAB
	At the Panel meeting on 23 July 2013, members agreed that the issue be included in the list of items for discussion by the Panel.	
12.	**Proposed amendments to Rule 4B(2) of the Solicitors' Practice Rules and Rule 8(4) of the Foreign Lawyers Practice Rules**	
	The Law Society of Hong Kong invites the Panel's views on its proposed amendments to Rule 4B(2) of the Solicitors' Practice Rules and Rule 8(4) of the Foreign Lawyers Practice Rules.	To be confirmed by the Law Society
	At the Panel meeting on 23 July 2013, members agreed that the Law Society be invited to brief members on the proposed amendments to Rule 4B(2) of the Solicitors' Practice Rules and Rule 8(4) of the Foreign Lawyers	

		Proposed timing for <u>discussion</u>
	Practice Rules.	
13.	**Draft Solicitor Corporation Rules and consequential amendments to Legal Practitioners Ordinance (Cap. 159)**	
	The Law Society of Hong Kong intends to consult the Panel on two issues relating to solicitor corporations, namely, whether solicitor corporations should be required to take out top-up professional indemnity insurance and notify clients of the identity of the supervising partners. According to the Law Society, the Chief Justice had granted his approval in principle to the draft Solicitor Corporation Rules and consequential amendments to the Legal Practitioners Ordinance (Cap. 159). The Law Society had already made submissions on the two issues in its paper to the Panel on 2 September 2013. The Law Society will consider in due course the question of whether to allow solicitor corporations to form partnerships.	To be confirmed by the Law Society
14.	**Implementation of the measures to strengthen the governance and operational transparency of the Legal Aid Department**	
	On 30 April 2013, the Legal Aid Services Council ("LASC") submitted to the Chief Executive its recommendations on the feasibility and desirability of the establishment of an independent legal aid authority in Hong Kong together with the report of a consultancy study on the issue. While the LASC agreed with the consultant that there is no immediate need to establish an independent legal aid authority, it has recommended a host of measures to enhance its function to oversee the delivery of quality legal aid services to strengthen the governance and operational transparency of the Legal Aid Department.	To be confirmed by HAB

Proposed timing for discussion

At the Panel meeting on 25 June 2013, members received views from the deputations on the future development of legal aid in Hong Kong. Members agreed to follow up the issue pending supplementary information from the Administration. In September 2013, the Administration submitted an information paper to the Panel on legal aid costs for members' reference.

15. Inclusion of the statutory Independent Police Complaints Council ("IPCC") under the purview of The Ombudsman

During the scrutiny of the IPCC Bill introduced into LegCo in July 2007, the relevant Bills Committee discussed the question of whether the statutory IPCC to be established under the Bill should be subject to the jurisdiction of The Ombudsman. The relevant Bills Committee had sought the views of The Ombudsman on the matter, who indicated that she had no objection in principle to having the statutory IPCC under her purview though it was recognized that the decision was ultimately one of policy.

To be decided by the Panel

At the Panel meeting held on 27 April 2009, members raised the issue of whether the statutory IPCC, to be established on 1 June 2009, should be subject to The Ombudsman's jurisdiction. Members agreed to bring up the issue after IPCC had been in operation for some time.

The Administration informed the Panel in writing on 23 September 2011 that it had consulted the Security Bureau on including the statutory IPCC under the purview of The Ombudsman. The Security Bureau advised that IPCC had discussed the proposal in May 2011. IPCC members raised unanimous concern that the proposal, if implemented, would undermine the image and public perception of IPCC being an independent oversight body established under the IPCC Ordinance (Cap. 604) if IPCC were subjected to the scrutiny of another statutory authority.

		Proposed timing for <u>discussion</u>
	At the meeting on 28 November 2011, members agreed that the Panel should review the issue in future.	
16.	**Extending the applicability of the Ordinances of HKSAR to the offices set up by the Central People's Government ("CPG") in HKSAR**	
	The following five Ordinances have been adapted - 1. The Legislative Council Commission Ordinance (Cap. 443) 2. Plant Varieties Protection Ordinance (Cap. 490) 3. Patents Ordinance (Cap. 514) 4. Registered Designs Ordinance (Cap. 522) 5. Arbitration Ordinance (Cap. 341)[1]. Relevant policy bureaux and departments are studying the remaining 10 Ordinances under their respective purview to examine the extension of applicability of the Ordinances to the CPG Offices.	Relevant bureaux and departments will consult their relevant LegCo Panels on the proposed amendments to the 10 remaining Ordinances according to their respective work programmes.
17.	**Prosecutorial independence**	
	During the discussion on issues relating to prosecution policy and practice at the Panel meeting on 27 June 2011, some members were of the view that the existing arrangement of having SJ, a political appointee, to control prosecutions would undermine the public perception of the prosecutorial independence. They considered that the power to make prosecutions should rest with an independent Director of Public Prosecutions to ensure that prosecution decisions were free from political interference. Some other members, however, shared the Administration's view that it was SJ's constitutional responsibility to control criminal prosecutions as stipulated in Article 63 of the	To be decided by the Panel (Pending submission from the Hong Kong Bar Association)

[1] Arbitration Ordinance (Cap. 341) was repealed and replaced by Arbitration Ordinance (Cap. 609), which was enacted in 2010. Section 6 of the Arbitration Ordinance (Cap. 609) provides that the Ordinance applies to the Government and the offices set up by the CPG in the HKSAR.

Proposed timing for discussion

Basic Law and the control of prosecutions should continue to be rested with SJ.

Members noted that in the United Kingdom, a protocol between the Attorney General and the prosecuting departments was drawn up setting out when, and in which circumstances that the Attorney General would or would not be consulted on prosecution decisions and how the Attorney General and the Directors of the prosecuting departments would exercise their functions in relation to each other. The Administration was requested to consider whether a similar protocol should be adopted in Hong Kong. The Panel Chairman suggested that the Panel of the Fifth LegCo should be invited to consider as to how the issue should be followed up when the written submission of the Hong Kong Bar Association was available.

Council Business Division 4
Legislative Council Secretariat
18 March 2014