

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

**List of outstanding items for discussion**  
(position as at 18 June 2014)

**Proposed  
timing for  
discussion**

**1. Development of Mediation services in Hong Kong**

The Steering Committee on Mediation chaired by the Secretary for Justice ("SJ") and with cross-sector membership was set up in late 2012 to further promote and develop mediation in Hong Kong. The Department of Justice ("DoJ") would like to update the Panel on the latest progress of work undertaken by the Steering Committee in various areas.

July 2014

**2. Issues relating to the role and functions of the Hong Kong Mediation Accreditation Association Limited ("HKMAAL")**

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.

July 2014

The DoJ has advised that it will cover issues relating to the HKMAAL in its submission for item (1) above in one go.

**3. Provision of accommodation support for law-related organizations ("LROs") in the West Wing of the former Central Government Offices ("CGO WW") and the former French Mission Building ("FMB")**

The Administration has earlier announced that some space in the CGO WW and also the FMB (which will be available after the relocation of the Court of Final Appeal) will be provided for use by LROs, including legal and dispute resolution institutions. The DoJ would like to brief the Panel on the proposed mechanism and arrangements for the provision of accommodation support to LROs in the two buildings.

July 2014

**Proposed  
timing for  
discussion**

**4. Law Reform Commission Report on Excepted Offences under Schedule 3 to the Criminal Procedure Ordinance (Cap.221)**

The Law Reform Commission ("LRC") briefed members on its second annual report flagging up the progress of LRC reports on 27 May 2014. Members raised concerns on the proposed repeal of the list of excepted offences in Schedule 3 to the Criminal Procedure Ordinance (Cap. 221) to enable the Court will have full discretion to impose an appropriate and adequate sentence, having regard to the gravity of the offence and the circumstances of the convicted person. The Panel will be briefed as soon as practicable in July 2014 or soon after on the relevant LRC report to discuss issues relating to the subject.

November 2014

**5. 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 22 April 2014, DoJ briefed members on the relevant background and latest developments regarding the captioned subject. Representative of the Hong Kong Bar Association ("the Bar Association") suggested and members agreed that relevant parties should prepare more detailed submissions, including the communications between the Bar Association and DoJ, and the latest developments in the law regarding the issue in the last four years for the Panel's consideration at a meeting in Fall 2014.

To be advised by DoJ (last Quarter of 2014)

**6. 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.

To be advised by the Home Affairs Bureau ("HAB")

HAB has submitted an information paper to the Panel on the

**Proposed  
timing for  
discussion**

progress of the review of SLAS which is issued on 18 June 2014 (LC Paper No. CB(4)822/13-14(06)).

**7. Operation of the Resource Centre for Unrepresented Litigants and the two-year pilot scheme to provide legal advice for Litigants in Person ("LIPs Scheme")**

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.

To be advised by  
the HAB

Separately, 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 has submitted a paper to account for the first year of operation of the LIPs Scheme which is issued on 18 June 2014 (LC Paper No. CB(4)822/13-14(06)).

**8. The Law Society of Hong Kong's proposal to introduce a common entrance examination in Hong Kong**

At the meeting on 16 December 2013, members received a briefing on a consultation on the feasibility of implementing a common entrance examination ("CEE") by The Law Society of Hong Kong ("the Law Society") as a means of admitting individuals to practice as solicitors in Hong Kong. The consultation period ran from 1 December 2013 to 14 February 2014. Members agreed to arrange a meeting of the Panel to receive views from the relevant stakeholders and members of the public, such as those who could not get admitted to the Postgraduate Certificate in Laws ("PCLL programmes").

To be advised by  
the Law Society

**Proposed  
timing for  
discussion**

A total of 104 responses were received by the consultants appointed by the Law Society to conduct the consultation. In addition, the consultants conducted 11 interviews with stakeholders. The consultants are reviewing the responses, and preparing their findings and recommendations, which will in due course be considered by the various Committees with recommendations to the Council of the Law Society.

**9. Adjustment to scale rates**

Hon Dennis KWOK proposed to discuss the issue of "Adjustment to scale rates".

To be advised by  
the Judiciary  
Administration

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 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 has appointed 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.

**10. 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 advised by  
the Judiciary  
Administration

**Proposed  
timing for  
discussion**

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. Members also requested information on the current mechanism for handling complaints against judicial conduct in other jurisdictions.

The requested information provided by the Judiciary which it has obtained and collated so far has been issued vide LC Paper No. CB(4)840/13-14(01) on 18 June 2014. The Judiciary will also inform the Panel of the outcome of the review which is expected to be completed by end-2014.

**11. 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 advised by  
the Chief  
Secretary for  
Administration's  
Office  
(Administration  
Wing) and the  
Judiciary  
Administration

**12. Procedure for the making of subsidiary legislation relating to the legal professional bodies**

**Proposed  
timing for  
discussion**

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 advised by  
DoJ

**13. 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 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.

To be advised by  
DoJ

**14. 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 advised 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.

**15. 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 advised 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 Practice Rules.

**Proposed  
timing for  
discussion**

**16. 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.

At the meeting on 28 November 2011, members agreed that the Panel should review the issue in future.

**17. 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)

Relevant bureaux and departments will consult their

**Proposed  
timing for  
discussion**

3. Patents Ordinance (Cap. 514)
4. Registered Designs Ordinance (Cap. 522)
5. Arbitration Ordinance (Cap. 341)<sup>1</sup>.

relevant LegCo Panels on the proposed amendments to the 10 remaining Ordinances according to their respective work programmes.

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.

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

To be decided by the Panel (Pending submission from the Hong Kong Bar Association)

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

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<sup>1</sup> 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**

available.

**19. Review on the implementation of Civil Justice Reform**

Hon Dennis KWOK proposed to discuss the issue of "Review on the implementation of Civil Justice Reform" as the legal profession has identified problems and deficiencies since the Civil Justice Reform came into operation in April 2009. (LC Paper No. CB(4)784/13-14(01))

To be advised by  
the Judiciary  
Administration

Council Business Division 4  
Legislative Council Secretariat  
18 June 2014