

For Information

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

Review of Court Waiting Time Targets

PURPOSE

This paper briefs Members on the outcome of the latest round of review of court waiting time targets which was conducted by the Judiciary in 2012-2013 and as a result of this review, the revision of certain targets that has been adopted in the Controlling Officer's Report of the Judiciary in the Draft Estimates for 2014-15. The opportunity is also taken to update Members on the latest developments that are related to the subject of court waiting time targets.

REVIEW OF COURT WAITING TIME TARGETS

Background

2. In April 2011, the Audit Commission ("Audit") published its Value-for-Money Audit Report No 56, which included a review of the administrative and court support work of the Judiciary Administration. In relation to the management of court waiting times, Audit made the following observations:

- (a) the actual waiting times for certain types of cases (e.g. building management and tenancy cases in the Lands Tribunal, Small Claims Tribunal cases and classification cases in the Obscene Articles Tribunal) were significantly better than the targets throughout 2004 to 2010;
- (b) no waiting time target had been set for the Juvenile Court;
- (c) from 2004 to 2010, the number of targets not achieved in each year ranged from 3 to 10 (10% to 32% of the total number of targets). In particular, the target for the defended cases in the Family Court was not achieved throughout 2004 to 2010; and

- (d) the Judiciary should not focus its attention on the average court waiting times only. In Audit's view, apart from monitoring the average court waiting times, the Judiciary should also pay attention to the waiting times of individual cases. This would provide a fuller understanding of the court performance for determining whether the operational objective had been achieved.
3. Audit recommended that the following should be undertaken:
- (a) to regularly review the court waiting time targets, in conjunction with the court users' committees¹, with reference to all relevant factors in order to determine whether revisions would be required for motivating and measuring performance more effectively;
 - (b) in reviewing the court waiting time targets, to pay particular attention to cases for which the actual waiting times were significantly shorter than the targets, so as to determine whether revised targets should be set to reflect the latest situation;
 - (c) to review the need for setting waiting time targets for cases in the Juvenile Court;
 - (d) to closely monitor the waiting times at different levels of courts and tribunals, and take effective measures to address changes in their workloads, with a view to keeping their waiting times within the targets; and
 - (e) for better performance management, to monitor both the average court waiting times and the percentage of cases with waiting times longer than the targeted averages.

The Review

4. One of the operational objectives of the courts and tribunals is to ensure just and expeditious adjudication of cases. To indicate the extent to which this operational objective has been achieved, waiting time targets have been set as one of the performance indicators. They have been

¹ There are three court users' committees in the Judiciary, namely the Civil Court Users' Committee, the Criminal Court Users' Committee and the Family Court Users' Committee.

compared with the actual average waiting times² to show how far they are met.

5. Whilst the actual waiting times for cases are contingent upon a wide range of factors including caseload, complexity of cases, judicial resources and courtroom availability (some of which are beyond the control of the Judiciary), court waiting time targets to a certain extent provide one of the reference tools for the Judiciary in assessing administrative efficiency in the processing of cases and the adequacy, or otherwise, of judicial and other supporting resources so deployed.

6. In view of the recommendations of Audit in paragraph 3 above, the Judiciary, in consultation with the various court users' committees, had reviewed the targets in 2012-2013.

7. Particular attention was drawn to the following during the review:

- (a) whether the targets should be revised so as to measure and reflect the performance more realistically;
- (b) whether new targets should be set for cases where no targets were set. Apart from juvenile cases, the Judiciary Administration also noted that no target had been set for the compulsory sale application cases in the Lands Tribunal;
- (c) what and how to monitor waiting times for individual cases, on top of the monitoring of average waiting times; and
- (d) how often the waiting time targets should be reviewed.

8. In reviewing the targets, the Judiciary had taken note of the court waiting times for the years 2010 to 2012 (**Annex A**) and the prevailing situation at the time:

- (a) The court waiting time targets for the Court of Final Appeal, the District Court (including those for the Family Court) and the Magistrates' Courts (except for summons which marginally exceeded the target) and specialized court and tribunals had all been met in 2012; and

² In calculating the actual waiting time, the first date offered in the listing is generally taken as the trial or hearing date.

- (b) The more difficult cases largely rested with the Court of Appeal and the Court of First Instance where most had exceeded their targets in 2012. This was due to more complex, lengthy and refiled cases. It was also due to the temporary constraints in the deployment of judicial manpower in the High Court as a result of the retirement of judges and elevation of judges to higher positions.

Review Results

9. Considering the factors as set out in paragraph 8 above, it was then considered that a more prudent approach would be to withhold making major changes to the court waiting time targets until the manpower situation at the High Court had settled.

10. Notwithstanding the above, fine-tuning of some individual targets was considered appropriate. These include the following six areas:

- (a) To re-define the targets for Civil Running List in the Court of First Instance by changing the formulation “from setting down of a case to hearing” to that of “from the not-to-be-warned date to hearing” ;
- (b) To set separate targets for Civil Fixture List and Civil Running List in the District Court, same as the arrangement in the Court of First Instance;
- (c) To slightly adjust the targets for the Lands Tribunal;
- (d) To cover all Defended List hearings in the said target for the Family Court;
- (e) To re-define the target for financial applications in the Family Court by changing the formulation “from filing of summons to hearing” to that of “from setting down of a case to hearing”; and
- (f) To apply, as a new measure in response to Audit’s comments in paragraphs 2(b) & 3(c) above, the targets currently adopted for charge cases for the Magistrates’ Courts to charge cases in the Juvenile Court.

—— Details of these six refinements are set out in **Annex B**.

11. With regard to the compulsory sale application cases in the Lands Tribunal, in view of the small sample size of cases listed for trial (which were 9, 5, 7, 20 and 23 for the years between 2008 and 2012 respectively), it was considered unreliable and unnecessary to set a target at this stage. The situation would however be closely monitored to see if changes would be justified in future.

12. Audit has also recommended that apart from the average court waiting times, the Judiciary should also monitor the percentage of cases with waiting times longer than the targets. In this connection, the Judiciary would, starting from 2014 onwards, monitor the percentage of cases with waiting times longer than the targets and take appropriate follow-up measures with a view to keeping the waiting times within targets. Special attention would be drawn if the said percentage reaches 50%.

13. The recommendations mentioned in paragraphs 9 - 12 were all endorsed by the three court users' committees in April - June 2013 (Family Court Users' Committee on 25 April 2013, Civil Court Users' Committee on 9 May 2013 and Criminal Court Users' Committee on 5 June 2013). Those targets suggested to be refined, which have taken effect since 1 January 2014, have correspondingly been adopted in the Controlling Officer's Report of the Judiciary in the Draft Estimates for 2014-15. A table summarizing the revised targets which are highlighted in italics and bold type is at **Annex C**.

LATEST DEVELOPMENTS

Court Waiting Times in 2013

14. The court waiting times for the various levels of court in 2013 are set out at **Annex D**. It should be noted that the overall performance is generally satisfactory, with the main exception for the High Court³. Most of the performance targets at various levels of courts have been achieved.

³ For Magistrates' Courts, the average waiting times for summons also exceeded the target mainly due to the more complex nature of disputed summonses. The Judiciary is planning to launch an open recruitment exercise for Special Magistrates in early 2014 with a view to filling the existing vacancies. The Judiciary will continue to monitor closely the situation and deploy additional judicial resources to improve the waiting times.

15. Targets in the High Court that were not met include the following:

(a) Civil Appeals in the Court of Appeal of the High Court

16. The average waiting times for civil appeals in the Court of Appeal of the High Court exceeded the target since great efforts and priority had been given to timely disposal of criminal appeals. This was also due to more complex, lengthy and re-fixed cases. Additional judicial resources will be needed to improve the waiting times.

(b) Criminal Fixture List, Civil Fixture List and Appeals from Magistrates' Court in the Court of First Instance of the High Court

17. The average waiting times for the Criminal Fixture List, Civil Fixture List and appeals from Magistrates' Courts in the Court of First Instance of the High Court exceeded the targets due to more complex, lengthy and re-fixed cases as well as increase of caseload in criminal and civil cases. It was also due to the temporary constraints in the deployment of judicial manpower in the High Court as a result of elevation of Judges to higher positions and retirement of Judges. In addition, substantial judicial resources at the Court of First Instance were deployed to assist in the Court of Appeal by appointing Court of First Instance Judges as additional judges to hear cases in the Court of Appeal.

Improvement Measures

18. The 2012 open recruitment exercise for the Court of First Instance Judges of the High Court was completed in mid-2012 and new appointments had been made in the latter part of 2012 and in 2013. In July 2013, the Judiciary launched another recruitment exercise for the Court of First Instance Judges, which has also been completed. Appointments from this recruitment exercise have been/will be announced when they were/are made.

19. The Judiciary has also completed an establishment review in 2013, which concluded that additional judicial posts are needed for the High Court (in particular for the Court of Appeal of the High Court) to cope with the increased workload. Three Justice of Appeal posts and an additional Court of First Instance Judge post will have to be sought in 2014-15. With the establishment of the Court of Appeal Judges then enhanced from 10 to 13, it is expected that the judicial manpower temporarily re-deployed from the Court of First Instance (i.e. for the Court of First Instance Judges to sit as additional judges of the Court of Appeal)

can be released back to that level of court to hear cases. For details of the establishment review, Members may refer to the Judiciary's earlier paper on Judicial Manpower Situation at Various Levels of Court and Court Waiting Times (LC paper No. CB(4)225/13-14(05)). In the interim, additional deputy judges have been and will be appointed to sit in 2013 and 2014 with a view to improving the waiting times. The Judiciary will continue to closely monitor the situation upon the creation and filling of these additional posts and will make every effort to improve the waiting times.

NEXT REVIEW OF COURT WAITING TIME TARGETS

20. As foreshadowed in the 2012-13 review, the latest developments make it all the more sensible to defer a more fundamental review of the waiting time targets for the High Court until the manpower situation thereat has settled. In the earlier review of court waiting time targets, consideration had been given to conducting the next review in 2014-15, which could then be repeated thereafter on the basis of a three-year cycle. Nonetheless, having regard to the fact that the creation of additional judicial posts will only be sought in 2014-15, not to mention the filling of these posts, it is now considered more realistic to schedule the next review to a time later than 2014-15, preferably when the new judicial posts for the High Court are created and substantially filled. Hopefully, this would enable a more comprehensive and critical examination of the various targets. The intention is to re-visit this matter in due course in consultation with the court users' committees.

ADVICE SOUGHT

21. Members are invited to note the contents of this paper.

Judiciary Administration
February 2014

Prevailing Targets and Average Waiting Times for All Levels of Courts (2010-2012)

	Prevailing Target in 2010-2012	Average Waiting Time (Days)		
		2010 (Actual)	2011 (Actual)	2012 (Actual)
Court of Final Appeal				
application for leave to appeal				
criminal-from notice of hearing to hearing	45	42	38	40
civil-from notice of hearing to hearing	35	33	30	29
substantive appeal				
criminal-from notice of hearing to hearing	100	101	95	93
civil-from notice of hearing to hearing	120	97	102	105
Court of Appeal of the High Court				
criminal-from setting down of a case to hearing	50	50	53	52
civil-from application to fix date to hearing	90	89	117	131
Court of First Instance of the High Court				
Criminal Fixture List-				
from filing of indictment to hearing	120	166	169	180
Criminal Running List-				
from setting down of a case to hearing	90	81	79	72
Civil Fixture List-				
from application to fix date to hearing	180	215	231	244
Civil Running List-				
from setting down of a case to hearing	90	60	83	50
Appeals from Magistrates' Courts-				
from lodging of Notice of Appeal to hearing	90	95	86	92
District Court				
Criminal - from first appearance of defendants in District Court to hearing	100	128	86	62
Civil - from date of listing to hearing	120	80	72	96
Family Court				
Dissolution of marriage-from setting down of a case to hearing				
Special Procedure List	35	32	33	33
Defended List (one day hearing)	110	128	107	98
Financial applications-from filing of summons to hearing	110-140	88	90	83

	Prevailing Target in 2010-2012	Average Waiting Time (Days)		
		2010 (Actual)	2011 (Actual)	2012 (Actual)
Lands Tribunal				
from setting down of a case to hearing				
appeal cases	100	37	32	20
compensation cases	100	42	46	41
building management cases	100	30	35	25
tenancy cases	60	27	26	21
Magistrates' Courts				
from plea to date of trial				
summons	50	50	54	54
charge cases—				
for defendants in custody	30-45	37	38	41
for defendants on bail	45-60	51	51	51
Coroner's Court				
from date of listing to hearing	42	39	40	42
Labour Tribunal				
from appointment to filing of a case	30	22	21	25
from filing of a case to first hearing	30	24	25	25
Small Claims Tribunal				
from filing of a case to first hearing	60	35	38	39
Obscene Articles Tribunal				
from receipt of application to classification	5	3	3	2
from referral by a magistrate to determination	21	20	21	21

Refinements of Court Waiting Time Targets

Set out in this annex below are details of the six refined court waiting time targets that have been adopted since 1 January 2014.

- (a) *To re-define the targets for Civil Running List in the Court of First Instance by changing the formulation “from setting down of a case to hearing” to that of “from the not-to-be-warned date to hearing”:*

2. When the Registrar/Master gives leave to a plaintiff to set down a case for trial at a particular Case Management Conference/Checklist Review hearing, a timeframe is normally set for parties concerned to comply with the court’s direction. The last date of this timeframe is the “not-to-be-warned” date. It is the date by which the parties should have complied with all the requirements including exchange of witness statements and preparation of bundles and be ready for trial. Normally, such a date is noted down in the court order concerned as “... not to be warned before (date)”. The re-definition of this target to refer to the not-to-be-warned date would be in line with the principle that the period to be measured for civil cases should be confined to where the control would rest with the Judiciary itself and not with the parties.

- (b) *To set separate targets for Civil Fixture List and Civil Running List in the District Court, same as the arrangement in the Court of First Instance :*

District Court

- (i) *Civil Fixture List –
from date of listing to hearing*
- (ii) *Civil Running List –
from not-to-be-warned date to hearing*

3. Before the fine-tuning, there was only a target for civil cases at the District Court level, with the Fixture and Running Lists combined together. To provide greater clarity, the two lists would be separately accounted for, as in the case of the Court of First Instance.

(c) *To slightly adjust the targets for the Lands Tribunal :*

Lands Tribunal

- (i) *Appeal Cases –
from 100 days to 90 days*
- (ii) *Compensation Cases –
from 100 days to 90 days*
- (iii) *Building Management Cases –
from 100 days to 90 days*
- (iv) *Tenancy Cases –
from 60 days to 50 days*

4. In view of Audit's comments that the targets of the Lands Tribunal were well above the actual performances, it was considered appropriate to revise the targets downwards. However, given that a review of the listing procedures (which include, among others, the allocation of hearing day and time for different types of cases) was being conducted in the Lands Tribunal and this might affect the waiting times, only a slight adjustment was made to the targets. Subject to the results of such review, further refinement may be necessary in the next review of court waiting time targets.

(d) *To cover all Defended List hearings in the said target for the Family Court :*

5. The previous target for the Defended List in dissolution of marriage in the Family Court covered one-day hearings only. To reflect the actual court waiting times of all hearings on the Defended List, the target would be re-defined to cover all Defended List hearings, irrespective of their length of hearings.

(e) *To re-define the target for financial applications in the Family Court by changing the formulation "from filing of summons to hearing" to that of "from setting down of a case to hearing" :*

6 The target for financial applications in the Family Court would be re-defined as "from setting down of a case to hearing" so as to reflect the actual situation and to make it tally with the definition for dissolution of marriage cases in the Family Court.

(f) To apply the targets currently adopted for charge cases for the Magistrates' Courts to charge cases in the Juvenile Court :

7. The new targets would be restricted to charge cases only since the numbers of summons for juvenile cases were very small (which were 5, 2, 4, 3 and 2 for the years between 2008 and 2012 respectively).

Targets Before and After Review

	Target before Review (Days)	Revised Target in 2014 (Days)
Court of Final Appeal		
application for leave to appeal		
criminal-from notice of hearing to hearing	45	45
civil-from notice of hearing to hearing	35	35
substantive appeal		
criminal-from notice of hearing to hearing	100	100
civil-from notice of hearing to hearing	120	120
Court of Appeal of the High Court		
criminal - from setting down of a case to hearing	50	50
civil - from application to fix date to hearing	90	90
Court of First Instance of the High Court		
Criminal Fixture List-		
from filing of indictment to hearing	120	120
Criminal Running List-		
from setting down of a case to hearing	90	90
Civil Fixture List-		
from application to fix date to hearing	180	180
Civil Running List-		
from setting down of a case to hearing	90	-
<i>from not-to-be-warned date to hearing</i>	-	30
Appeals from Magistrates' Courts-		
from lodging of Notice of Appeal to hearing	90	90
District Court		
Criminal - from first appearance of defendants in District Court to hearing	100	100
Civil - from date of listing to hearing	120	-
<i>Civil Fixture List - from date of listing to hearing</i>	-	120
<i>Civil Running List - from not-to-be-warned date to hearing</i>	-	30

	Target before Review (Days)	Revised Target in 2014 (Days)
Family Court		
Dissolution of marriage – from setting down of a case to hearing		
Special Procedure List	35	35
Defended List (one day hearing)	110	-
<i>Defended List (all hearings)</i>	-	110
financial applications - from filing of summons to hearing	110-140	-
<i>financial applications - from setting down of a case to hearing</i>	-	110-140
Lands Tribunal		
from setting down of a case to hearing		
appeal cases	100	90
compensation cases	100	90
building management cases	100	90
tenancy cases	60	50
Magistrates' Courts		
from plea to date of trial		
summons	50	50
charge cases—		
for defendants in custody	30-45	-
for defendants on bail	45-60	-
<i>charge cases except for Juvenile Court—</i>		
<i>for defendants in custody</i>	-	30-45
<i>for defendants on bail</i>	-	45-60
<i>charge cases for Juvenile Court—</i>		
<i>for defendants in custody</i>	-	30-45
<i>for defendants on bail</i>	-	45-60
Coroner's Court		
from date of listing to hearing	42	42
Labour Tribunal		
from appointment to filing of a case	30	30
from filing of a case to first hearing	30	30
Small Claims Tribunal		
from filing of a case to first hearing	60	60
Obscene Articles Tribunal		
from receipt of application to classification	5	5
from referral by a magistrate to determination	21	21

Court Waiting Times for Various Levels of Court in 2013

	2013 Target	2013 (Actual)
Court of Final Appeal		
application for leave to appeal		
criminal-from notice of hearing to hearing	45	40
civil-from notice of hearing to hearing	35	33
substantive appeal		
criminal-from notice of hearing to hearing	100	97
civil-from notice of hearing to hearing	120	111
Court of Appeal of the High Court		
criminal-from setting down of a case to hearing	50	50
civil-from application to fix date to hearing	90	138
Court of First Instance of the High Court		
Criminal Fixture List-		
from filing of indictment to hearing	120	211
Criminal Running List-		
from setting down of a case to hearing	90	83
Civil Fixture List-		
from application to fix date to hearing	180	261
Civil Running List-		
from setting down of a case to hearing	90	85
Appeals from Magistrates' Courts-		
from lodging of Notice of Appeal to hearing	90	105
District Court		
Criminal - from first appearance of defendants in District Court to hearing	100	60
Civil - from date of listing to hearing	120	91
Family Court		
Dissolution of marriage-from setting down of a case to hearing		
Special Procedure List	35	33
Defended List (one day hearing)	110	108
Financial applications-from filing of summons to hearing	110-140	86
Lands Tribunal		
from setting down of a case to hearing		
appeal cases	100	27
compensation cases	100	53
building management cases	100	39
tenancy cases	60	29

	2013 Target	2013 (Actual)
Magistrates' Courts		
from plea to date of trial summons	50	66
charge cases—		
for defendants in custody	30-45	41
for defendants on bail	45-60	49
Coroner's Court		
from date of listing to hearing	42	41
Labour Tribunal		
from appointment to filing of a case	30	21
from filing of a case to first hearing	30	25
Small Claims Tribunal		
from filing of a case to first hearing	60	37
Obscene Articles Tribunal		
from receipt of application to classification	5	2
from referral by a magistrate to determination	21	16