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LC Paper No. CB(4)1310/14-15
(These minutes have been seen
by the Judiciary Administration
and the Administration)

Panel on Administration of Justice and Legal Services

Minutes of meeting
held on Monday, 18 May 2015, 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 Albert HO Chun-yan
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, GBS, JP
Hon Starry LEE Wai-king, JP
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin
Hon Alice MAK Mei-kuen, JP
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Dr Hon CHIANG Lai-wan, JP
Hon CHUNG Kwok-pan
- Members absent** : Hon Emily LAU Wai-hing, JP
Hon Ronny TONG Ka-wah, SC
Hon MA Fung-kwok, SBS, JP
Hon TANG Ka-piu, JP

Public Officers : Item III
attending

Judiciary Administration

Miss Emma LAU
Judiciary Administrator

Mr Arthur NG
Deputy Judiciary Administrator (Operations)

Mrs Connie NGAN
Assistant Judiciary Administrator
(Corporate Services)

Administration Wing

Ms Kitty CHOI, JP
Director of Administration

Mrs DO PANG Wai-ye, JP
Deputy Director of Administration

Item IV

Judiciary Administration

Miss Emma LAU
Judiciary Administrator

Mr Arthur NG
Deputy Judiciary Administrator (Operations)

Ms Wendy CHEUNG
Assistant Judiciary Administrator
(Development)

Mr Wilson CHIU
Assistant Judiciary Administrator
(Quality & Information Technology)

Item V

Judiciary Administration

Miss Emma LAU
Judiciary Administrator

Ms Wendy CHEUNG
Assistant Judiciary Administrator (Development)

Mrs Connie NGAN
Assistant Judiciary Administrator
(Corporate Services)

Attendance by invitation : Item III

The Law Society of Hong Kong

Mr Stephen HUNG Wan-shun
President

Mr Kevin SHE Sau-on
Research Officer

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

Staff in attendance : Mr KAU Kin-wah
Senior Assistant Legal Adviser 3

Ms Katrina WU
Senior Council Secretary (4)2

Ms Rebecca LEE
Council Secretary (4)2

Miss Vivian YUEN
Legislative Assistant (4)2

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

Members noted that no information paper(s) was issued since the last meeting.

II. Items for discussion at the next meeting

LC Paper No. CB(4)964/14-15(01) -- List of outstanding items for discussion

LC Paper No. CB(4)964/14-15(02) -- List of follow-up actions

2. Members agreed to discuss the following items at the next regular meeting scheduled for 22 June 2015 at 4:30 pm:

- (a) Reform of the current system to determine whether an offence is to be tried by judge and jury or by judge alone; and
- (b) Public consultation on the proposed Apology Legislation.

3. Members further agreed to include the following issues in the outstanding list of items for discussion by the Panel:

- (a) Legal issues relating to the co-location arrangements at the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link proposed by Miss Alice MAK;
- (b) Follow-up actions that would be taken by Secretary for Justice ("SJ") pursuant to the Court of Final Appeal's judgement on the case of *Chinachem Charitable Foundation Limited v The Secretary for Justice & Others FACV9/2014* handed down on 18 May 2015 proposed by Mr Paul TSE;
- (c) granting and refusal of bail proposed by Mr Paul TSE; and
- (d) rule of law in Hong Kong proposed by Dr CHIANG Lai-wan.

In respect of (b) above, Mr Paul TSE said that SJ should apprise members of matters, such as the implementation of a scheme to supervise the Foundation and the funding of a Chinese prize of worldwide significance to that of the Nobel Prize and whether the Department of Justice ("DoJ") would investigate whether the trustee of the Estate in question ("the Estate") had exercised due diligence to

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protect the assets of the Estate. As regards (c) above, Mr Paul TSE referred members to a judgement made by the Court of First Instance ("CFI") of the High Court in the case of *HKSAR v Leung Ka Kit [2014] HKCFI 1285* on 18 July 2014 where the judge mentioned that the Magistrate concerned had brought disgrace on the Judiciary for refusing a bail request without giving any reason and the prosecution had at no stage objected to bail. As to (d) above, Dr CHIANG Lai-wan pointed out that despite the fact that persons storming the Legislative Council ("LegCo") Complex and causing severe damage to various parts of the Complex were caught by the CCTV cameras, no prosecution action had been brought against these persons.

III. Manpower and other support for the Judiciary

LC Paper No. CB(4)964/14-15(03) -- Judiciary Administration's paper on "Judicial Manpower and Other Support for the Judiciary"

LC Paper No. CB(4)964/14-15(04) -- Background brief on "Manpower and other support for the Judiciary" prepared by LegCo Secretariat

Briefing by the Judiciary Administration and the Administration

4. Judiciary Administrator ("JA") briefed members on the latest judicial manpower positions at various levels of court as well as the provision of administrative and professional support for the Judges and Judicial Officers ("JJOs"), details of which were set out in paragraphs 3 to 34 of the Judiciary's paper [LC Paper No. CB(4)964/14-15(03)].

5. Director of Administration ("D of Admin") supplemented that the Government attached great importance to the Judiciary's requests for financial resources and manpower. Under the existing arrangements, the Government would first consult the Judiciary on its overall resource requirements, prior to the drawing up of the operating expenditure envelope for the Judiciary. In recent five financial years (including 2015-2016), the Government had acceded to all funding requests made by the Judiciary. All additional posts as requested by the Judiciary had also been supported by the Government. D of Admin next briefed members on the courtroom facilities and office accommodation for the Judiciary and said that:

- (a) to address the accommodation needs of the Judiciary in the short and medium terms, the Government Property Agency had identified

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a net operating floor area of 3 600 m² at the Queensway Government Offices ("QGO") to relocate the High Court Library and those teams providing administrative support out of the High Court Building ("HCB") such that the space so vacated at the HCB could be converted into additional courtrooms and offices for the High Court. About 2 000 m² of the aforesaid 3 600 m² net operating floor area would be handed over to the Judiciary by the end of 2015, with the remaining 1 600 m² net operating floor area to be handed over to the Judiciary upon the relocation of DoJ to the former Central Government Offices in 2018;

- (b) to meet the accommodation needs of the Judiciary at the High Court and District Court ("DC") levels in the long term, potential sites for such purpose had been identified by the Government. Preliminary technical information on the potential sites had recently been forwarded to the Judiciary for consideration; and
- (c) to address the shortage of courtrooms at the Wanchai Law Courts Building ("WLCB"), the Government agreed in principle not to pursue the original plan of relocating the Lands Tribunal, currently accommodated at 38 Gascoigne Road, to the space currently occupied by the Small Claims Tribunal in the WLCB, upon the latter's re-provisioning to the West Kowloon Law Courts Building in 2016. The space to be vacated by the SCT at the WLCB would be converted as additional courtrooms and supporting facilities for use by the DC and the Family Court.

Views of the Law Society of Hong Kong ("the Law Society")

6. Mr Stephen HUNG said that the Law Society welcomed the Government's plans to address the accommodation needs of the Judiciary and the various administrative and professional support for judges. In particular, Judicial Assistants had provided valuable support to judges in conducting research and providing professional support. The Scheme on Judicial Assistants should be expanded to cover judges other than appellate judges in the Court of Final Appeal ("CFA") and the Court of Appeal of the High Court. However, he considered the existing low daily rates of honoraria for deputy judges and magistrates had become a disincentive for private lawyers to take up temporary judicial appointments. For instance, the daily rate of honorarium for a Deputy Special Magistrate was lower than that for a duty lawyer or counsel on fiat. The problem was particularly so since deputy judges and magistrates were appointed on a daily rather than monthly basis. To better attract lawyers in private practice to serve as deputy judges and magistrates and to help enlarge the pool of suitable candidates for permanent judicial appointments, the Judiciary should raise the daily rates of honoraria for deputy judges and magistrates by,

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say, setting their daily rates of honoraria at 80% of the daily salaries of their permanent counterparts.

Discussion

Judiciary manpower situation and administrative and professional support for Judges

7. Mr NG Leung-sing expressed concern about the shortage of judicial manpower on the efficient operation of courts. Mr CHAN Kam-lam also queried whether insufficient judicial remuneration was the major reason for the shortage of judicial manpower.

8. JA responded that as a result of nine open recruitment exercises conducted by the Judiciary for filling judicial vacancies at various levels of court in the past four years from 2011 to 2014, all judicial posts at various levels of court, except at the CFI level, were largely substantively filled. To facilitate more eligible candidates to apply for the CFI Judge post, the Judiciary had been conducting recruitment exercises for CFI Judges on a yearly basis instead of every three years since 2013, having regard to the fact that the timing for joining the bench was a crucial factor for senior legal practitioners. JA further said that as mentioned by the Chief Justice ("CJ") on numerous occasions, it was of crucial importance that the high standards expected of judges were maintained. The Judiciary therefore considered it was better to leave positions vacant than to have appointments of persons not of the requisite standard. In view of the difficulties on the recruitment of CFI Judges and in order to address the long-term needs of the whole Judiciary, the Judiciary was conducting various reviews, including one review on the terms and conditions of service of the JJOs and another review on the statutory retirement ages of JJOs.

9. Mr Dennis KWOK said that although judicial remuneration might not be the major consideration for outside legal talents to join the bench as CFI Judges, Mr KWOK was of the view that the lack of judicial support and the existing statutory retirement age of CFI judges were factors discouraging outside law talents to become CFI judges, having regard to the heavy workload of CFI judges and bearing in mind that people who joined the bench, in particular at the CFI level, were generally at the later stage of their career life and that CFI judges must give an undertaking not to practise in future as barristers or solicitors in Hong Kong without the permission of the Chief Executive ("CE"). In this regard, Mr KWOK asked:

- (a) whether the Judiciary had any plan to expand the Scheme on Judicial Assistants to provide assistance to CFI Judges; and
- (b) when would the review on retirement ages of JJOs, referred to in

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paragraph 27 of the Judiciary's paper, and the review on terms and conditions of JJOs, referred to in paragraphs 25 to 26 of the Judiciary's paper, be completed.

10. Responding to Mr KWOK's first question, JA said that following a recent review on the Scheme on Judicial Assistants, the Judiciary had decided that starting from 2015, the CFA and the High Court would have separate schemes for providing legal and professional support to their judges and separate recruitment exercises would be conducted for such purposes. The Scheme on Judicial Assistants would continue to operate for the CFA but there would no longer be rotation for individual Judicial Assistants who would stay in the CFA throughout their engagement. It was expected that dedicated and structured legal and professional support would be enhanced for the CFA Judges as a result. Whilst the new scheme for providing legal and professional support to the High Court was mainly targeted at the Justices of Appeal, the scheme would also cover the provision of the same support to CFI Judges where appropriate. In fact, individual Judicial Assistants had in the past provided legal and professional support to CFI Judges on a need basis.

11. As to Mr KWOK's second question, JA said that the review on retirement ages of JJOs would take a longer time given the complexity of the issues involved. As regards the review on terms and conditions of service of JJOs, JA said that the review had now reached an advanced stage and the Judiciary hoped that it would be able to submit its findings and proposal to the Government within 2015-2016.

12. Mr Albert HO expressed support for extending the retirement ages of JJOs and urged the Judiciary to expedite the review on retirement ages of JJOs. Whilst noting that the new scheme for providing legal and professional support to Justices of Appeal of the Court of Appeal would not rule out providing the same to CFI Judges where warranted, Mr Albert HO urged that more judicial support be provided to CFI Judges due to the increased complexity of the cases handled by CFI Judges.

13. On Mr Albert HO's enquiry about whether recruitment of JJOs was open to legal practitioners and judges from outside Hong Kong, such as the United Kingdom ("UK") and New Zealand, JA replied in the positive as the recruitment advertisements were also placed on the Judiciary's website.

14. Mr Alan LEONG queried whether it was the policy of CJ not to engage CFI Judges from outside Hong Kong. Mr LEONG said that to his understanding, it had been a long time since the Judiciary had engaged a CFI Judge from the UK. JA replied that there was no such policy. Only applicants who met the professional qualifications stipulated in the High Court Ordinance (Cap. 4) would be put forward for consideration by the Judicial Officers

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JA

Recommendation Commission ("JORC") for the CFI Judge post. Mr LEONG requested the Judiciary to provide information on the number of eligible overseas applicants for the CFI Judge post each year in the past 10 years. JA undertook to consult internally and revert.

15. Mr NG Leung-sing said that overseas candidates for CFI judge post and other judicial posts should not be limited to natives of western countries, such as the UK, and should include persons of Chinese descent.

16. JA reiterated that applicants for judicial posts who met the statutory professional qualifications would be put forward for consideration by JORC, regardless of their race or nationality. JA pointed out that according to Article 92 of the Basic Law, "Judges and other members of the judiciary of the Hong Kong Special Administrative Region shall be chosen on the basis of their judicial and professional qualities and may be recruited from other common law jurisdictions".

17. The Chairman declared that she taught law at the City University of Hong Kong. The Chairman further said that apart from conducting open recruitment exercises to fill judicial posts and to appoint deputy JJOs to fill judicial vacancies on a temporary basis, the Judiciary should recruit more young legally qualified persons to join the Judiciary and step up ways to groom junior JJOs to take up senior judicial posts.

18. JA responded that the points made by the Chairman in paragraph 17 above had all along been carried out by the Judiciary. JA pointed out that many persons who were appointed Magistrates and District Judges nowadays were relatively young. Suitable JJOs of the lower courts were appointed to act in higher position to help meet operational needs of the respective higher courts. For example, as at 1 May 2015, 33 of the 58 deputies were appointed from within the Judiciary. JA further pointed out that the fact that open recruitment exercises were conducted for JJOs posts at the CFI level and below meant that not only applicants from outside the Judiciary could apply but applicants from within the Judiciary would also be included, all of whom would be assessed according to the relevant statutory requirements and appointment criteria in a fair and impartial manner.

Deployment of temporary judicial manpower

19. Mr Albert HO noted that pending the substantive filling of judicial vacancies through open recruitment, the Judiciary had been engaging temporary judicial resources from outside and within the Judiciary to help maintain the level of judicial manpower required. Mr HO said that to his knowledge, some JJOs had been appointed as deputy JJOs to act in higher positions for a long

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stretch of time. Mr HO asked why these JJOs were not offered the posts they were deputizing.

20. JA responded that all JJOs were appointed by the CE on the recommendations from JORC. Eligible applicants for judicial posts must meet the professional qualifications stipulated in the relevant ordinances.

21. Mr LEUNG Kwok-hung expressed concern about engaging deputy JJOs from within the Judiciary to fill a higher positions to maintain court waiting times at reasonable levels, as this would inevitably affect the work of the courts to which the deputy JJOs were from.

22. JA responded that engaging deputy JJOs was meant to be a short-term measure to provide the needed judicial manpower in the interim before substantive JJOs were appointed. As there was a limit to which the workload could be helped out by the appointment of deputy JJOs and that the judicial manpower situation must ultimately be addressed by filling the vacancies substantively, reviews on the terms and conditions of service of JJOs and on the retirement ages of JJOs were being conducted by the Judiciary. JA said that the impact of the deployment of temporary judicial manpower on the overall operation of the courts at all levels was thus far satisfactory.

23. Mr Paul TSE asked about the number of retired HC Judges who were appointed by CJ to be external deputy HC Judges in the past year and the criteria adopted by CJ for their appointments.

24. JA responded that deputy HC Judges were appointed by CJ on the recommendation of the Chief Judge of HC ("CJHC"). As she did not have the information on the number of retired HC Judges who were appointed to sit as deputy HC Judges in the past year in hand, JA undertook to provide the information after the meeting. As regards the criteria adopted in deciding whether or not to engage a retired HC Judge to sit as a deputy HC Judge, JA said that it would depend on operational needs at the time and whether the retired HC Judge was available and willing to sit at the required periods.

JA

Judicial education

25. In view of the fact that increasing number of judgements of the CFI were written in or had to be translated into Chinese, Mr Albert HO enquired about the assistance provided to CFI Judges in this regard.

26. JA responded that it was one of the main focuses of the former Judicial Studies Board and the newly set up Hong Kong Judicial Institute to enhance the Chinese language skills of the bilingual JJOs.

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27. Noting that the Finance Committee ("FC") of LegCo had recently approved the creation of a permanent non-civil service post of Executive Director of the Judicial Institute at its meeting held on 20 March 2015, Mr Paul TSE enquired about the progress of filling such position.

28. JA responded that the Judiciary was in the process of drawing up the remuneration package of the Executive Director of the Judicial Institute. Recruitment of the Executive Director of the Judicial Institute would commence shortly.

29. Mr NG Leung-sing enquired about whether, and if so, what professional support had been provided by the Judiciary to enhance the knowledge of JJOs on Mainland constitutional law and the Basic Law so as to better assist judges in adjudicating cases.

30. JA responded that CJ attached great importance to the pursuit of continuing judicial education by all JJOs. In 2012, the Judiciary conducted a review and concluded that judicial education needed to be enhanced to meet the ever increasing operational needs of all JJOs. In early 2013, the former Judicial Studies Board had been replaced by the setting up of the Judicial Institute. The role of the Judicial Institute was to enhance judicial skills and knowledge through the development of continuing and more structured judicial education for all JJOs. Under the new setup, the Judicial Institute comprised a Governing Body ("GB") and an Executive Body ("EB"). The GB of the Judicial Institute, which was chaired by CJ, was set up to provide strategic steer for and oversee the development of judicial education. The EB, to be set up and staffed by legally qualified professionals, would conduct research and provide executive support on training for the enhancement of judicial skills and knowledge. JA further said that in taking the judicial oath, JJOs had all sworn to act in full accordance with the law in discharging their judicial duties.

31. Mr Dennis KWOK said that the Panel was very supportive of setting up the Judicial Institute to enhance the continued education of JJOs. Responding to Mr KWOK's enquiry on the manpower provision of the Judicial Institute, JA said that apart from the creation of an Executive Director position, the Judicial Institute would also be staffed by nine legally qualified staff who would conduct research and provide professional support on training for the enhancement of judicial skills and knowledge. JA said that the Judiciary was grateful for the support of the Panel and the approval of FC for the creation of four additional judicial posts to provide "protected time" for JJOs for engaging in the planning, preparation, delivery of and attendance at judicial training activities.

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Courtroom facilities and office accommodation

32. Mr Dennis KWOK enquired about how the space to be vacated by the High Court Library and some offices providing backroom administrative support in the HCB, referred to by D of Admin in paragraph 5(a) above, would be used. JA responded that subject to the advice of the Architectural Services Department, the Judiciary hoped to construct six additional courtrooms and supporting facilities at the space so vacated in the HCB.

Conclusion

33. In closing, the Chairman hoped that the Judiciary would brief members on the operation of the Judicial Institute and other issues relating to judicial training in future.

IV. Review on the implementation of Civil Justice Reform

LC Paper No. CB(4)964/14-15(05) -- Judiciary Administration's paper on "Review of the Implementation of Civil Justice Reform"

LC Paper No. CB(4)964/14-15(06) -- Background brief on the "Implementation of Civil Justice Reform" prepared by LegCo Secretariat

Briefing by the Judiciary Administration

34. JA briefed members on the latest position regarding the implementation of the Civil Justice Reform ("CJR") from 2 April 2009 to 31 March 2014, details of which were set out in the Judiciary Administration's paper [LC Paper No. CB(4)964/14-15(05)].

Discussion

35. Whilst noting that the CJR Monitoring Committee took a consensual view that the implementation of the CJR had so far been smooth and satisfactory on the whole, Mr Dennis KWOK pointed out that there had been a rise in the numbers of interlocutory applications in the CFI and in the court waiting time at the CFI level during the post-CJR periods as set out in Tables 2.1 and 5.1 of Annex A to the Judiciary Administration's paper respectively. Mr KWOK asked about the reasons for such increases.

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36. JA responded that the increase in the numbers of interlocutory applications in the CFI in the fourth and fifth years of the post-CJR periods were broadly consistent with the growth in the caseload for the CJR related cases in those years as set out in Table 1.1 of Annex A to the Judiciary Administration's paper. As regards Table 5.1 of Annex A to the Judiciary Administration's paper, JA clarified that the figures therein were the average time spent on cases from commencement to trial in the CFI, and not the average court waiting time for the CFI. Whilst there was a rising trend for the average time from commencement to trial in the CFI during the first five years of the post-CJR periods due to, amongst others, the addition of more new complicated cases and when a larger number of years was taken into account, it should be noted that the increase in the average processing time had gently moderated from 159 days in the third year to 147 days in the fourth year, and further down to 116 days in the fifth year. Similar trend of improvement in the time spent from commencement to trial was even more marked in the DC as set out in Table 5.2 of Annex A to the Judiciary Administration's paper. Looking ahead, there was a chance that such average time spent on cases tried in the CFI and the DC could further improve. The Judiciary would continue to monitor the trend closely. As regards court waiting times, JA said that the relatively long waiting times for cases in the HC were mainly attributed to shortage of judicial manpower and more new and complicated cases. The Judiciary had been striving to tackle the problem of long waiting times at the HC. It should be noted that there was a clear trend that the average court waiting time for civil cases in the HC had dropped significantly from 261 days in 2013 to 193 days in 2014, which was much closer to the 180-day target set by the Judiciary in this regard. Further improvements were also noted in the past few months of 2015. The Judiciary would continue to monitor the court waiting times at the HC closely.

37. Mr Albert HO asked whether the Judiciary had consulted the views of the legal profession on the implementation of CJR. JA replied in the positive. Not only did the CJR Monitoring Committee include members of the Hong Kong Bar Association ("the Bar Association") and the Law Society, the Judiciary had also consulted the Bar Association and the Law Society direct to see if they had further views. Their organizational views were set out in paragraphs 27 to 31 of the Judiciary Administration's paper.

38. Mr Albert HO expressed reservation about the sanctioned payments under the CJR whereby a plaintiff or defendant might make an offer by way of a payment into court to settle disputes, as such initiative might put a party who was less financially well off in a disadvantaged position. Mr HO asked whether there had been a review on the implementation of CJR in the UK, and if so, whether this had covered the use of sanctioned payments to settle disputes.

39. JA responded that to her understanding, there had not been any significant

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JA

development in the implementation of CJR in the UK in recent years. Nevertheless, she agreed to check and revert to members after the meeting.

40. Responding to Mr Albert HO's enquiry about the additional court time spent in handling cases involving litigants in person ("LIPs"), JA said that more time and resources were in general needed for such cases but the Judiciary did not have such detailed information. The Judiciary however considered that the "Two-year Pilot Scheme to Provide Legal Advice for LIPs" ("the LIPs Scheme") launched by the Home Affairs Bureau ("HAB") in March 2013 to provide procedural advice for LIPs who had commenced or were parties to civil proceedings in the DC or above helped to facilitate smoother proceedings. The Judiciary had conveyed its feedback on the LIPs Scheme to HAB.

41. Mr Dennis KWOK said that the growing number of LIPs had strained judicial time and resources. Whilst noting the importance of Judiciary to maintain its independence and neutrality in handling cases filed with the courts, Mr KWOK asked about the measures that could be taken by the Judiciary to enhance assistance to LIPs.

42. JA responded that it would be inappropriate for the Resource Centre for Unrepresented Litigants operated by the Judiciary to offer legal advice to LIPs. The Judiciary was however prepared to facilitate the initiatives of the Executive Authorities and/or pro bono service providers in rendering assistance to LIPs as appropriate.

43. The Chairman noted from paragraph 11 of the Judiciary Administration's paper that litigating parties were making more efforts in attempting mediation, particularly for those types of cases which were more conducive to mediation, such as personal injuries ("PIs"). The Chairman however noted from paragraph 3 of Annex A to the Judiciary Administration's paper that the caseload for CJR related cases in the fourth and fifth years of the post-CJR periods increased by 6% and 15% year-on-year mainly because of an increase in civil actions and cases, such as PI cases. The Chairman queried why the number of PI cases had increased in the fourth and fifth years of the post-CJR periods, despite the fact that more litigating parties chose to use mediation to settle disputes.

44. JA clarified that the CJR related cases mentioned in paragraph 3 of Annex A to the Judiciary Administration's paper merely referred to the CJR related cases filed in the CFI, whereas paragraph 11 of the Judiciary Administration's paper referred to a general trend of using mediation to settle disputes which might or might not have been filed in the CFI or the DC. JA further said that as mediation services were provided by mediators in the private sector, the Judiciary did not have comprehensive information on the number of disputes settled by mediation as some of those disputes might not have been

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filed with the Judiciary. The mediation statistics set out in Annex B to the Judiciary Administration's paper were restricted to cases filed in the CFI and the DC. As indicated in Annex B, there was generally a steady increase in the number of mediation cases in the post-CJR periods which suggested a gradual change of litigation culture. Of the cases going through mediation, the percentage of them resulting in agreements ranged from 38% to 48% during the period from 2011 to 2014. The percentage went up to 65% in 2014 for both the CFI and the DC if cases with no agreement through mediation but disposed of within six months were also taken into account. With the court's increased emphasis on mediation under the Judiciary's Practice Direction 31, more and more litigation parties were aware that mediation would be one of the means of alternative dispute resolution.

45. Responding to the Chairman's enquiry as to whether PI cases filed in the CFI and the DC would invariably be directed by the courts to attempt to use mediation to settle disputes, JA said that this would depend on the circumstance of each PI case, albeit PI cases were generally conducive to mediation.

Conclusion

46. In closing, the Chairman said that members would continue to monitor the implementation of CJR.

V. Proposed creation of a supernumerary directorate post in the Judiciary Administration

LC Paper No. CB(4)964/14-15(07) -- Judiciary Administration's paper on "Proposed Creation of a Supernumerary Directorate Post in the Judiciary Administration of the Judiciary"

Briefing by the Judiciary Administration

47. JA briefed members on the Judiciary's proposal to create one supernumerary Administrative Officer Staff Grade C ("AOSGC") (D2) post in the Judiciary Administration for three years with immediate effect upon FC's approval to enhance administrative support in taking forward many initiatives in the Judiciary requiring legislative amendments, details of which were set out in the Judiciary Administration's paper [LC Paper No. CB(4)964/14-15(07)].

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Discussion

48. Whilst expressing support for the proposal to create one supernumerary AOSGC post in the Judiciary Administration for three years, Mr Dennis KWOK queried whether the proposal was adequate to provide administrative support for legislative proposals arising from the implementation of the Information Technology Strategy Plan and the adoption of a single set of procedural rules for the family jurisdiction applicable both to the Family Court and the HC.

49. JA responded that with the proposed creation of this supernumerary AOSGC post, the Development Office under the Development Division of the Judiciary Administration would be strengthened with manpower and re-organized into two teams, respectively headed by the current Assistant Judiciary Administrator (Development) ("AJA(D)") (renamed as AJA(D)1) and the proposed supernumerary AOSGC, designated as AJA(D)2. AJA(D)1 and AJA(D)2 would respectively be supported by a team of one Senior Administrative Officer and one Senior Executive Officer. That should help ease the workload relating to legislative work in the coming three years or so, though the Judiciary would continue to monitor the situation. The continued need for the proposed AOSGC post would be reviewed in good time.

Conclusion

50. The Chairman concluded that members had no objection to the Judiciary Administration submitting the proposal to the Establishment Subcommittee for endorsement, and subject to the passage of the Appropriation Bill 2015, FC for approval.

VI. Any other business

51. There being no other business, the meeting ended at 6:20 pm.