

**For discussion
on 18 May 2015**

**Legislative Council
Panel on Administration of Justice and Legal Services
Judicial Manpower and Other Support for the Judiciary**

PURPOSE

This paper seeks to provide the latest information on the judicial manpower situation at various levels of court and other support for the Judiciary.

BACKGROUND

2. At the meeting of the Legislative Council (“LegCo”) Panel on Administration of Justice and Legal Services (“Panel”) held on 16 December 2013, while deliberating on the judicial manpower situations at various levels of court, Members expressed comments on the long court waiting time, the shortage of judicial manpower and the under-provision of courtroom facilities/office accommodation for the Judiciary. Members agreed to follow up with the Government on issues relating to judicial manpower and courtroom facilities/office accommodation at a future meeting.

JUDICIAL MANPOWER SITUATION

Latest Enhancement of Judicial Establishment

3. When the Panel was last updated of the judicial manpower situation at various levels of court in December 2013 set out in LC Paper No. CB(4)225/13-14(05), the overall establishment of Judges and Judicial Officers (“JJOs”) stood at 193.

4. As a result of an establishment review in 2013, the overall establishment of JJOs has been enhanced from 193 in December 2013 to 200 as at 1 April 2015 upon obtaining the approval of the Finance Committee (“FC”) of LegCo to create seven additional JJO posts on 20 March 2015.

5. Hence, there is a net addition of seven judicial posts. The seven additional posts included three Justice of Appeal of the Court of Appeal of the High Court (“JA”) posts, one Judge of the Court of First Instance of the High Court (“CFI Judge”) post, one District Judge (“DJ”) post and two Permanent Magistrate posts.

6. During the past few years, a substantial number of CFI Judges have been deployed to sit as additional judges of the Court of Appeal, to help reduce the waiting times in the Court of Appeal, in particular that for criminal appeal cases. It is expected that with the addition of three JA posts, a greater proportion of cases heard at the Court of Appeal would be conducted by substantive JAs than at present, thereby releasing CFI judicial manpower back to that level of court to handle trials. The establishment of substantive judicial manpower at the CFI has also been enhanced with the creation of an additional CFI Judge post to cover the absence of judges for attending training and dealing with judicial education matters. The establishment for DJs and the Permanent Magistrates have also been strengthened for similar purposes.

Filling of Judicial Vacancies

7. The Judiciary conducted a total of nine open recruitment exercises for filling judicial vacancies at various levels of court in the past four years from 2011 to 2014. A total of 81 judicial appointments were made through these open recruitment exercises so far. As a result, the substantive judicial manpower position of the Judiciary has been improved. Compared to the position as at 1 December 2013 (with 159 substantive JJOs and 34 vacancies), 169 judicial posts out of the enhanced establishment of 200 are filled and there are 31 JJO vacancies as at 1 May 2015. The breakdown of these figures by levels of court is at Enclosure I. If the seven additional judicial posts which were just created in March 2015 are discounted for comparison, the number of judicial vacancies has indeed greatly reduced from 34 (as at 1 December 2013) to 24 (as at 1 May 2015). Furthermore, this has to be viewed in the context that out of the 31 or 24 vacancies, 13 at the magisterial level are not fillable for the time being having regard to the shortage of courtrooms at that level of court.

Encl. I

Manpower Positions at Various Levels of Court

8. More specifically, the judicial manpower position of judicial ranks at various levels of court as at 1 May 2015 is outlined briefly in the following paragraphs.

Court of Final Appeal

9. The Court of Final Appeal (“CFA”) has the full strength of one Chief Justice and three Permanent Judges (excluding the post created for a Non-Permanent Judge of the CFA).

Court of Appeal of the High Court

10. The Court of Appeal of the High Court (“CA”) has an establishment of 14 judicial posts, comprising the Chief Judge of the High Court and 13 JAs including the three JA posts which were created on 20 March 2015. Prior to the creation of the three JA posts in March 2015, all the 11 judicial posts in the CA were substantively filled. The additional vacancies will be filled by suitable candidates in accordance with the established appointment policies and procedures.

Court of First Instance of the High Court

11. The CFI has an establishment of 34 CFI Judges, including the CFI Judge post which was created on 20 March 2015. At present, 27 CFI Judge posts are substantively filled and there are seven vacancies. These vacancies have arisen due to the retirement and elevation of Judges to the CA, and the creation of the new post in March 2015.

12. In respect of the recruitment of CFI Judges, through the three recruitment exercises conducted in 2012, 2013 and 2014, a total of 16 CFI Judges have been appointed but not all vacancies could be filled. It is noteworthy that the number of eligible candidates found suitable for appointment was much smaller than the available vacancies. For the latest recruitment exercise conducted in October 2014, judicial appointments have been made starting from April 2015 but it is known that not all the remaining vacancies could be filled. It is apparent that there are some recruitment difficulties at the CFI level.

District Judge and Equivalent Ranks

13. The District Court, Family Court and Lands Tribunal have a total establishment of 37 judicial posts comprising the Chief District Judge, the Principal Family Court Judge and 35 DJs (excluding two posts of Member, Lands Tribunal to be elaborated in paragraph 15 below). One of the DJ posts was newly created on 20 March 2015. In addition, DJs are cross-posted to perform the duties of the High Court Masters' Office which has an establishment of 11 posts (one Registrar, four Senior Deputy Registrars and six Deputy Registrars). Altogether, there are 48 judicial posts at such ranks (excluding Members, Lands Tribunal).

14. Through the last recruitment exercise in 2011, which was completed in 2012, a total of 22 DJs were appointed. At present, 38 judicial posts at the District Court, Family Court and Lands Tribunal are substantively filled. For the High Court Masters' Office, three posts are substantively filled and the duties of the eight vacancies are mostly taken up by DJs deployed under the cross-posting policy¹. Hence, against the present strength of 41, there are currently seven vacancies at the DJ or equivalent ranks (excluding Members, Lands Tribunal). These vacancies have recently arisen mainly from the retirement and elevation of Judges to the CFI, and the creation of the new DJ post in March 2015.

Member, Lands Tribunal

15. There is an establishment of two Member, Lands Tribunal ("M/LT") posts. Subsequent to the completion of the last recruitment for M/LT in 2013, all vacancies have been filled.

Magistrates' Courts, Specialized Courts and other Tribunals

16. The Magistrates' Courts, Specialized Courts and other Tribunals have a total establishment of 94 judicial posts comprising the Chief Magistrate, 11 Principal Magistrates and equivalent, 71 Permanent Magistrates and equivalent and 11 Special Magistrates, including the two Permanent Magistrate posts created on 20 March 2015. In addition,

¹ Since 2000, the Judiciary has adopted a flexible and effective cross-posting policy by deploying personnel between the High Court Masters' Office and the District Court. The Judiciary has ceased to conduct open recruitment for Deputy Registrars since then. Instead, DJs are subject to cross-posting as Deputy Registrars to perform the duties of the High Court Masters' Office. This cross-posting arrangement enables DJs to acquire civil experience at the Masters' Office.

Principal Magistrates and Permanent Magistrates are cross-posted² to the District Court Masters' Office to perform the duties of the Registrar (for Principal Magistrates) or the Deputy Registrars (for Permanent Magistrates). The District Court Masters' Office has an establishment of four posts (one Registrar and three Deputy Registrars). Hence, altogether, there are 98 judicial posts at such ranks.

17. Following the completion of the recruitment exercises in 2011 and 2014, a total of 41 judicial appointments were made comprising 31 Permanent Magistrates and 10 Special Magistrates. At present, only one fillable vacancy at the Permanent Magistrate rank remains unfilled. It should however be noted that upon the completion of the West Kowloon Law Courts Building in 2015-16, additional courtrooms would be provided. Thereafter, up to 13 posts at magisterial level which are currently not fillable due to insufficient courtroom facilities would become fillable. Depending on the operational needs at the time, a sizeable number of Permanent Magistrate posts may need to be filled after 2015-16.

Deployment of Temporary Judicial Manpower

18. Pending the substantive filling of judicial vacancies through open recruitment, in line with the established practice, the Judiciary has been engaging and will continue to engage temporary judicial resources as far as practicable to help maintain the level of judicial manpower required, and thereby help maintain court waiting times at reasonable levels and help reduce the court waiting times in some cases. The number of deputy JJOs appointed fluctuates according to operational needs. The duration of their sittings also varies.

19. On 1 December 2013, the total number of deputy JJOs engaged to cope with the court's workload was 60, comprising 30 deputies who were appointed from within the Judiciary to act in higher positions and 30 deputies appointed from outside the Judiciary. The total number has dropped to 58 as at 1 May 2015, comprising 33 deputies appointed from within the Judiciary and 25 deputies appointed from outside the Judiciary.

² Under the cross-posting policy which has been well-established since 1988, the Judiciary deploys Principal Magistrates and Permanent Magistrates to the District Court Masters' Office to sit as Registrar (for Principal Magistrates) or the Deputy Registrars (for Permanent Magistrates). The cross-posting policy permits the Judiciary to exercise greater flexibility in the cross-posting of judicial officers between various courts.

Various Reviews

20. The recruitment of JJOs in the past few years has been largely successful. However, from the experiences of the past open recruitment exercises for CFI Judges, the Judiciary has detected that there are some recruitment difficulties at the CFI level as mentioned in paragraph 12 above.

21. To address the recruitment difficulties at the CFI level and also the long-term needs of the whole of the Judiciary, the Judiciary has decided to conduct specific reviews in two important areas, i.e. the terms and conditions of service of JJOs and the statutory retirement ages of JJOs, in addition to the regular reviews on judicial remuneration which are being conducted by the Standing Committee on Judicial Salaries and Conditions of Service (“Judicial Committee”) under the established mechanism approved by the Chief Executive-in-Council in 2008.

22. By way of background, it is relevant to note that Judicial Committee conducts annual reviews on the judicial remuneration of substantive JJOs (including the year when a benchmark study is carried out. See paragraph 23 below). The Judicial Committee adopts a balanced approach in reviewing judicial remuneration by taking into account a basket of factors. The review of judicial pay is an annual exercise with well-established procedures.

23. The benchmark study is conducted by the Judicial Committee on a regular basis on the level of earnings of private sector and public sector legal practitioners, to ascertain their earning levels, monitor such trends and review judicial salaries where appropriate. The Judicial Committee is of the view that a benchmark study should in principle be conducted every five years to monitor the changes in the pay differentials between the levels of judicial pay and those of legal practitioners. The last benchmark study was conducted in 2010 and it is understood that the Judicial Committee would conduct the next benchmark study in 2015.

24. The Judiciary will continue to provide relevant information and give its views to the Judicial Committee in these regular reviews under the established mechanism.

Review on Terms and Conditions of Service of JJOs

25. JJOs are entitled, as their conditions of service, to a range of benefits and allowances in addition to salary. The scope of their benefits and allowances is largely similar to those available in the civil service, with some adaptations having regard to the unique characteristics of the judicial service. The package of benefits and allowances, which is an integral part of judicial remuneration, is an important component to help attract capable legal practitioners to join the Bench.

26. The present review on the conditions of service for JJOs covers the existing package of benefits and allowances provided for JJOs, including housing benefits, medical benefits and education allowances, etc. It should be noted that this review will not cover the part on judicial pay, which is being taken care of under a separate mechanism (please refer to paragraphs 21 to 22 above). The review has now reached an advanced stage and the Judiciary hopes that it would be able to submit its findings and proposal to the Government within 2015-16.

Review on Statutory Retirement Ages of JJOs

27. The review on retirement ages of JJOs is being conducted with a view to considering whether any changes should be made in order to attract quality candidates and experienced private practitioners to join the Bench at the later stage of their career life, in particular at the CFI level, and to facilitate retention of judicial manpower without creating recruitment blockages. An internal working group chaired by a Permanent Judge of the Court of Final Appeal has been set up within the Judiciary to conduct a comprehensive study on the matters. The study will take a longer time. The Judiciary will keep the Government posted of developments at appropriate juncture of the study.

ADMINISTRATIVE AND PROFESSIONAL SUPPORT FOR JUDGES

28. To ensure that JJOs are provided with adequate support to carry out their judicial duties, administrative and logistical support has been and will continue to be provided by staff in the Judiciary Administration. Furthermore, legal and professional support to JJOs will also be enhanced through the engagement of legally qualified assistants under various schemes.

The Scheme on Judicial Assistants for the Court of Final Appeal

29. The Judiciary started in 2010 the Scheme on Judicial Assistants to provide assistance to appellate judges in the CFA and CA in conducting research on law points and assisting in other work of the court. The scheme has been proven a success in the past five years from 2010 to 2014.

30. Recently, a review on the Scheme on Judicial Assistants has been conducted. With a view to enhancing support for appellate judges, it has been decided that starting from 2015, the CFA and the CA will have separate schemes for providing assistance to their Judges and will conduct separate recruitment exercises for such purposes.

31. The Scheme on Judicial Assistants will continue to operate for the CFA but there will no longer be rotation for individual Judicial Assistants who will stay in the court throughout their engagement. It is expected that dedicated and structured legal and professional support would be enhanced for the CFA Judges as a result.

Proposed Pilot Scheme on Providing Legally Qualified Assistance for the High Court

32. Consideration is being given to engaging legally qualified persons to provide assistance to JAs in handling criminal and civil appeal cases. Such persons are to provide various forms of dedicated legal and professional support to the JAs in the CA. While the focus of work will be in the CA, such persons will also be tasked to assist in specific areas of work in the CFI, e.g. the Competition Tribunal, as may be required. The proposed pilot scheme on providing legally qualified assistance is being finalized and recruitment advertisements will be issued shortly.

Professional Staff for the Executive Body of the Judicial Institute

33. It is relevant to mention that the Judicial Institute will provide continued support to JJOs at all levels of court on matters relating to judicial training, legal research and production/updating of manuals and directions etc. for enhancing their judicial skills and knowledge.

34. In addition, an Executive Body (“EB”) will be set up under the Judicial Institute to provide dedicated legal and professional support to JJOs. The EB will be staffed by ten legally qualified professionals comprising the Executive Director (Judicial Institute) (“ED(JI)”) as its head, three Directors and six Counsel. The ED(JI) position, which is a permanent

non-civil service position pitched at D3 level, was approved for creation by the FC of LegCo on 20 March 2015. The ten legally qualified professionals of the EB will be engaged by phases to provide dedicated legal and research support to JJOs. The Judiciary will keep in view the setting up of the EB and the recruitment of its professional staff.

COURTROOM FACILITIES AND OFFICE ACCOMMODATION

Present position

35. The Court of Final Appeal is currently accommodated at the former French Mission Building at No. 1 Battery Path. With funding approval given by the Finance Committee in May 2013, conversion works for the future Court of Final Appeal Building at No. 8 Jackson Road are now entering the final stage. It is expected that the requirements of the Court of Final Appeal will be met upon its relocation to No. 8 Jackson Road in the second half of 2015.

36. On the other hand, the CA and the CFI under the High Court are facing an acute shortage of courtrooms, chambers and supporting facilities. The present High Court Building (“HCB”) at 38 Queensway has been in use since 1984. Expansion has been constrained by the amount of floor space which has remained the same in the past 30 years. The existing facilities are increasingly inadequate for meeting the operational needs of the High Court, let alone the additional requirements arising from the expansion of the judicial establishment, a continual need to appoint deputy JJOs to meet operational needs, the engagement of legally qualified persons to assist JAs in handling criminal and civil appeal cases, and setting up of the Competition Tribunal following the enactment of the Competition Ordinance as well as the Judicial Institute.

37. The situation is similar for the District Court (including Family Court) and the Lands Tribunal. Both the District Court and Lands Tribunal are under the purview of the Chief District Judge. At present, the District Court is housed in the Wanchai Law Courts Building (“WLCB”) at 12 Harbour Road, a joint-user building which also accommodates users of several government departments. Owing to limited space in the WLCB, the Lands Tribunal is currently accommodated in a historic building at 38 Gascoigne Road. According to our original plan, the Lands Tribunal should take up the space occupied now by the Small Claims Tribunal in the WLCB upon the latter’s re-provisioning to the West Kowloon Law Courts Building in 2016. However, having re-examined the accommodation needs

of the District Court in the context of a recent review on civil jurisdictional limits to enhance access to justice and another ongoing review to streamline existing family court procedures, the Judiciary envisages that very likely, it is necessary to provide additional courtrooms, chambers and supporting facilities for the District Court to support its future expansion. As a result, it is now quite clear to the Judiciary that there would not be adequate space in the WLCB to co-locate the Lands Tribunal with the District Court.

38. Regarding the courts/tribunals at the magisterial level, the accommodation requirements will be largely met in the immediate term –

- (a) upon commissioning of the West Kowloon Law Courts Building in 2016, which will house the Tsuen Wan Magistrates' Courts (to be renamed as the West Kowloon Magistrates' Courts), Small Claims Tribunal, Coroner's Court and Obscene Articles Tribunal now located in different buildings³ under one roof; and
- (b) upon construction of additional courtrooms and facilities for the Eastern Magistrates' Courts at space to be released by the Coroner's Court and the Obscene Articles Tribunal in the Eastern Law Courts Building.

39. On top of the above, additional office accommodation is required to house the additional support staff in the Judiciary who are engaged to support the whole range of initiatives.

Accommodation Needs in short to medium terms

40. In view of the foregoing, the Judiciary considers that there is an imminent need to provide additional courtrooms, chambers and supporting facilities for the High Court and District Court.

41. To cope with the requirements of the High Court and District Court in the short to medium terms, the Judiciary is exploring with the Government to –

³ Currently, the Tsuen Wan Magistrates' Courts are located in the Tsuen Wan Law Courts Building, the Small Claims Tribunal in the WLCB, and the Coroner's Court and the Obscene Articles Tribunal in the Eastern Law Courts Building.

- (a) relocate the High Court Library and some non-court related functions (mainly teams providing backroom administrative support) out of the HCB such that the space so vacated can be converted into additional courtrooms and chambers for the High Court and Competition Tribunal, etc. The Government has been requested to provide, where possible, alternative accommodation for the High Court Library and other outgoing teams in premises close to the HCB; and
- (b) make full use of the floor space to be released by the Small Claims Tribunal for the construction of additional courtrooms, chambers and supporting facilities for the District Court and Family Court in the WLCB. In this connection, the Judiciary is pleased that the Government has had no in-principle objection to allow the Lands Tribunal to stay at 38 Gascoigne Road for the time being, instead of moving to the WLCB as originally planned.

Accommodation Needs in the Long Term

42. Both the HCB and WLCB have been in use for three decades and have already reached capacity. Upon implementation of the proposals in paragraph 41 above subject to the support from the Government and funding availability, there would be hardly any room for further expansion. This is not conducive to the effective delivery of court services to the community and administration of justice in the long run.

43. As part of the Judiciary's long term accommodation strategy, the Judiciary is keen to pursue the proposal to co-locate the District Court (including Family Court) and Lands Tribunal under one roof in a dedicated court building. The co-location can facilitate flexible deployment of courtrooms, JJOs and supporting staff having regard to the prevailing caseload situation. Furthermore, the Judiciary does not consider it desirable for courts to be housed in multi-user buildings as a matter of principle.

44. The Judiciary has been engaging in close dialogues with the Government to address its long term accommodation needs at the High Court and District Court levels. Very recently, the Judiciary is approached by the Government to enter into active exploratory discussion on some potential sites for this purpose. The Judiciary has just received some preliminary technical information on the potential sites from the Government. The Judiciary will study the information and proposals carefully and conscientiously with a view to identifying suitable sites for

the future development of court premises for both the High Court and the District Court in the long run. In this regard, the Judiciary is grateful to the Government for its assurance that it will continue to strive to provide all the necessary support to the Judiciary in promoting the effective, efficient and fair administration of justice in Hong Kong, and for the efforts of the Government in this regard so far.

ADVICE SOUGHT

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

Judiciary Administration
May 2015

**Establishment, Strength and Vacancy of JJOs
(Position as at 1 May 2015)**

Level of Court	Establishment	Strength	Vacancy
Court of Final Appeal	4*	4	0
Court of Appeal	14	11	3
Court of First Instance	34	27	7
High Court Masters' Office	11	3	8#
District Court (including the Family Court and Lands Tribunal)	39	40	-1
<i>Judges</i>	<i>37</i>	<i>38</i>	<i>-1</i>
<i>Members, Lands Tribunal</i>	<i>2</i>	<i>2</i>	<i>0</i>
District Court Masters' Office	4	0	4^
Magistrates' Courts/ Specialized Court/ Other Tribunals	94	84	10
<i>Permanent Magistrates and Above</i>	<i>83</i>	<i>73</i>	<i>10</i>
<i>Special Magistrates</i>	<i>11</i>	<i>11</i>	<i>0</i>
Total	200*	169	31

Notes : * Excluding one Permanent Judge post created for a Non-Permanent Judge of the Court of Final Appeal.

For the vacancies in the High Court Masters' Office, the duties are mostly taken up by District Judges deployed under the cross-posting policy.

^ Duties of the District Court Masters' Office are all taken up by Principal Magistrates/Permanent Magistrates deployed under the cross-posting policy.