

立法會

Legislative Council

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Report of the Panel on Administration of Justice and Legal Services for submission to the Legislative Council

Purpose

This report gives an account of the major work of the Panel on Administration of Justice and Legal Services ("the Panel") during the 2016-2017 Legislative Council ("LegCo") session. It will be tabled at the Council meeting of 12 July 2017 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

The Panel

2. The Panel was formed by a resolution passed by the Council on 8 July 1998 and as amended on 20 December 2000, 9 October 2002, 11 July 2007 and 2 July 2008 for the purpose of monitoring and examining policy matters relating to the administration of justice and legal services. The terms of reference of the Panel are in **Appendix I**.

3. The Panel comprises 21 members, with Dr Hon Priscilla LEUNG Mei-fun and Hon Dennis KWOK Wing-hang elected as Chairman and Deputy Chairman respectively. The membership of the Panel is in **Appendix II**.

Major work

Consultation on enactment/amendment of legislation

4. The Panel continued to receive briefings by the Administration and provide views on any major legislative proposals in respect of policy matters relating to the administration of justice and legal services.

Proposed apology legislation

5. At the meeting held on 28 November 2016, the Panel was briefed by the Administration on the report entitled "Enactment of Apology Legislation in Hong Kong: Final Report and Recommendations" published by the Steering Committee on Mediation on the same day. Members generally supported the enactment of the proposed apology legislation, which sought to promote and encourage the making of apologies in order to facilitate settlement of disputes by stating the legal consequences of making an apology.

6. Members were generally in support of the enactment of apology legislation in Hong Kong. They had however expressed concern as to whether the claimants' right to a fair hearing would be unduly affected if the factual information conveyed in an apology should be treated as part of the apology and be protected by the proposed apology legislation. The Administration took the view that the proposed approach¹ was the most appropriate option since the Court could exercise its discretion to admit the factual information as evidence against the maker of the apology in exceptional circumstances, for example such statements of fact being the only evidence available to the claimant. As such the claimant's right to a fair hearing could be protected.

7. As regards members' concern on the Court's discretion to admit statements of fact as evidence against the maker of the apology and the legal uncertainty arising from the Court's discretion, the Administration advised that such kind of discretion by the Court was not uncommon in civil proceedings under common law and statutes, and that the Court practising common law was experienced in exercising its discretion conferred under the relevant legislation. Since the Court's discretion would only be invoked in exceptional circumstances, any legal uncertainty could be minimized in this regard.

8. A bills committee was formed to scrutinize the Apology Bill and its Second Reading debate was expected to be resumed at a LegCo meeting to be held in mid-July 2017.

Law Reform Commission's ("LRC") Report on Third Party Funding for Arbitration

9. At the meeting held on 28 November 2016, the Panel was briefed by the LRC's Third Party Funding for Arbitration Sub-committee on the report on Third Party Funding for Arbitration, which was released on 12 October 2016. Members generally supported the introduction of legislative amendments to the

¹ LC Paper No. CB(4)150/16-17(03), paragraph 10(c).

Arbitration Ordinance (Cap. 609) and the Mediation Ordinance (Cap. 620) to ensure that third party funding of arbitration and associated proceedings was not prohibited by the common law doctrines of maintenance and champerty.

10. Members welcomed the proposed reform and requested the Administration to introduce the relevant legislative amendments as soon as possible. Members also expressed their concern about the regulation and control of third party funders. The Administration advised that it would aim at adopting the "light touch" approach in the regulation of third party funders. The LRC recommended that third party funders funding arbitration should be required to comply with a Third Party Funding for Arbitration Code of Practice ("Code") issued by a body authorized under the Arbitration Ordinance.

11. Having noted that the Advisory Body had no power under the law to request for information from the third party funders nor could the Advisory Body do anything if the third party funders refused to provide the information requested from them, a member raised his concern about this. In response, a representative of the LRC clarified that the obligation of the third party funders to provide information as required by the Advisory Body was stated in the statute under section 98M(1)(j) of the Proposed Arbitration Ordinance Amendment. If there was failure to comply with the requirements under the Code, the Advisory Body was proposed to be taking the role of monitoring, supervising and recommending. The Administration took the view that the details of implementing the above recommendation should be subject to the comments received during the consultation on the drafting of the Code.

12. In response to a question raised by a member on whether third party funding was equivalent to conditional fee arrangement and whether there would be any cap on the amount of third party funding arrangement, a representative of the LRC clarified that the arrangement of conditional fees and contingency fees was not permitted in Hong Kong and the LRC's proposals did not seek to change the current situation. The LRC representative supplemented that, under the current situation, the lawyers would still be paid, regardless whether the cases were successful or not, and that the share of the proceeds of the successful cases would only be paid to funded parties and third party funders, but not to the lawyers. The Administration advised that it would not propose any cap on the amount of third party funding arrangement at the moment as there was no policy justification to impose such a cap.

13. Panel members generally supported the introduction of the legislative amendments. The Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016 was introduced and subsequently passed by the LegCo on 14 June 2017.

Manpower and other support for the Judiciary

14. The Panel continued to monitor the manpower and other support for the Judiciary during the current legislative session.

Judicial Manpower Position and Proposed Creation of Judicial Posts and a Supernumerary Directorate Post in the Judiciary

15. On 24 April 2017, the Panel was briefed on the latest information on the judicial manpower situation and also the Judiciary Administration's ("JA") proposals to create 14 permanent judicial posts to enhance the establishment of judicial manpower at various levels of courts/tribunal and one supernumerary civil service directorate post at Principal Executive Officer ("PEO") (D1) level for a period of around three years up to 31 March 2020.

16. The Panel noted that pending the substantive filling of judicial vacancies through open recruitment, the Judiciary had been engaging and would continue to engage temporary judicial resources to help maintain the level of judicial manpower required and court waiting times at reasonable levels. The Panel also noted that apart from meeting the Courts' operational needs, the deputy arrangements also served to provide opportunity for private practitioners to gain some judicial experience for their consideration of a judicial career in the future. In this connection, a member asked about the range of duration of such deputy arrangements.

17. The JA advised that the duration of the sittings would vary depending on a number of factors, including the level of the appointed positions and whether the appointments were from within or outside the Judiciary. Generally speaking, the duration for the appointment of deputies for higher positions would usually be shorter because the deputies appointed at high positions would usually be very experienced legal practitioners and it would be difficult for them to leave their work in the private practice for a long period of time. The JA supplemented that the same deputy, however, could be appointed for more than once, at different periods of time. The JA further said that duration of the sittings for deputies appointed at Magistrates' Courts could usually be longer and deputies appointed from within the Judiciary could serve for a longer period of time.

18. At the meeting, a member also enquired whether the Judiciary would consider proposing better pay adjustment and conducting further review on the conditions of service for District Judges. Regarding pay adjustment for District Judges, the JA in response advised that as a result of the 2015 Benchmark Study on the Earnings of Legal Practitioners in Hong Kong ("2015

Benchmark Study") and the annual review of judicial salary in 2016, a pay rise of 4% was granted, based on the 2015 Benchmark Study, on top of the annual pay increase of 4.85% for 2016-2017. As to the review of conditions of service, the JA responded that the last review of conditions of service for JJOs had covered, among others, the review of the provision of other benefits and allowance for JJOs at District Court and Magistrates' Courts levels. The JA further said that the Judiciary had been experiencing genuine and persistent difficulties in recruitment of Judges at CFI level and thus various reviews had been conducted to address the problem. The JA remarked that no great difficulties had been encountered for the recruitment of District Judges and that in reviewing the judicial remuneration of JJOs, a balanced approach had been adopted by taking into account a basket of factors.

19. The Panel supported the creation of the posts as proposed by the Judiciary. The Panel Chairman opined that additional manpower would be required to handle the expected increase in workload subsequent to the implementation of the proposed increases in civil jurisdictional limits of the District Court and Small Claims Tribunal.

Judicial Service Pay Adjustments

20. At the meeting on 23 January 2017, the Administration briefed members on the judicial service pay adjustments for 2016-2017. The Panel noted from the Administration that the findings of the 2015 Benchmark Study showed that, for the first time since 2005, judicial pay at all the three judicial entry ranks lagged behind legal sector earnings, and that the Judiciary had been facing persistent recruitment difficulties at the Court of First Instance of the High Court ("CFI") level. In this connection, apart from recommending a 4.85% increase in the pay for Judges and Judicial Officers ("JJOs") with effect from 1 April 2016 for the 2016-2017 annual salary review, the Standing Committee on Judicial Salaries and Conditions of Service ("the Judicial Committee") recommended a 4% pay increase for JJOs below the CFI level and a 6% pay increase for Judges at the CFI level and above with effect from 1 September 2016.

21. Members in general expressed support to the proposed judicial service pay adjustments. Some of them sought explanation on the difference in the extra proposed pay increase for JJOs below and at the CFI level. The Administration responded that as revealed by the findings of the 2015 Benchmark Study, for Magistrate, the pay differentials between judicial pay and legal sector earnings for Junior Counsel and solicitors were at -16% and 20%, for District Judge, both at -4%, in 2015; whereas the pay of CFI Judge was consistently lower than the legal sector earnings, at a substantial extent by -47%,

-42% and -60% in 2005, 2010 and 2015 respectively. The findings showed that as compared with that of Magistrates, the pay differential between judicial pay and legal sector earnings at the CFI level was significant and widening.

22. As regards the recruitment of JJOs, the Administration advised that according to the information provided by the Judiciary, all the vacancies at the rank of Permanent Magistrate could be filled as a result of the last recruitment exercises. However, there were recruitment difficulties at the CFI level as the number of eligible candidates found suitable for appointment was much smaller than the available vacancies for the previous three recruitment exercises conducted between 2012 to 2014. The Administration explained that in view of the above, the Judicial Committee considered it appropriate to grant a further increase for JJOs at the CFI level and above on top of the across-the-board increase for all JJOs.

23. A member raised that it was essential to ensure the attractiveness of the judicial pay in order to maintain an independent judicial system of the highest integrity. The Administration advised that firstly, the Judicial Committee emphasized that the data collected from the 2015 Benchmark Study should not be translated into precise figures for determining the levels of judicial salaries and it was never the policy intention to align judicial pay with legal sector earnings. Secondly, there would be strong arguments for proposing adjustments to judicial pay if (a) the findings demonstrated a clear trend of widening differential between judicial pay and earnings of legal practitioners; or (b) the Judiciary encountered recruitment and retention difficulties. Furthermore, the Judicial Committee was mindful that in considering whether and by how much judicial pay should be adjusted as a result of the 2015 Benchmark Study, the proposed package to enhance some of the conditions of service for JJOs and the resultant effect to the total remuneration package of JJOs should also be borne in mind.

Review of Conditions of Service for Judges and Judicial Officers

24. The Panel was briefed by the Administration on the review of the conditions of service for JJOs at the meeting on 23 January 2017. The Panel noted that the current review of conditions of service for JJOs was the first comprehensive review in this regard since the establishment of the mechanism for determining judicial remuneration in 2008. The Administration explained that in considering the need for a review, the Judiciary had taken into account the recruitment situation, uniqueness of judicial service and the adequacy of existing housing and other benefits in attracting talents from the private sector. Members were briefed on the proposed enhancements to five items, namely housing benefits, medical and dental benefits, Local Education Allowance,

Judicial Dress Allowance and provision of transport services for leave travel. The Panel in general supported the proposed enhancements.

Access to justice

Review of the Supplementary Legal Aid Scheme

25. The Panel has all along been calling on the Administration to review legal aid services to improve access to justice. At the meeting on 24 April 2017, the Panel received a briefing by the Legal Aid Services Council ("LASC") and Home Affairs Bureau ("HAB") on the recommendations made by LASC in relation to the review of Supplementary Legal aid Scheme ("SLAS") and the Government's position. The Hong Kong Bar Association also attended the meeting to give views.

26. The Panel noted that the Administration had decided to accept LASC's recommendation on:

- (a) expanding the scope of SLAS to cover monetary claims exceeding \$60,000 –
 - (i) for professional negligence against financial intermediaries licensed for Type 1 (dealing in securities), Type 2 (dealing in futures contracts) or Type 8 (securities margin financing) regulated activities by the Securities and Futures Commission; and
 - (ii) for proceedings in derivatives of securities, currency futures or other futures contracts when fraud, deception or misrepresentation was involved at the time of purchase;
- (b) not including cases related to claims against the incorporated owners of a multi-storey building, claims for property damage from accidents involving small marine boats, claims against property developers by minority owners in compulsory sales, disputes between limited companies and their minority shareholders, sale of goods and provision of services, defamation proceedings and election petitions, trusts, and class actions in SLAS;
- (c) not changing the level of financial eligibility limit ("FEL") for SLAS and that the FEL be monitored and reviewed annually; and

- (d) maintaining the age-related exemption of assets for means test for the Ordinary Legal Aid Scheme and SLAS at age of 60.

27. Members welcomed the Administration's proposal to expand the scope of SLAS. However, some members were disappointed that the Administration had not addressed the suggestions made by the Hong Kong Bar Association regarding the inclusion of claims against the incorporated owners of a multi-storey building and claims against property developers by minority owners in compulsory sales in SLAS, in particular that property was a major asset to many people, and that the number of complaints against bid-rigging in building maintenance works and disputes were surging in recent years.

28. Some members also disagreed with the Administration's explanation for not covering claims arising out of the sale of goods and the provision of services under SLAS on the grounds of low success rate and high cost-to-damage ratio of these claims. They urged the Administration to further review SLAS in this regard with a view to better protecting the rights and interests of consumers. The Administration assured that it would expand the scope of SLAS on an incremental basis and would further review the scope of SLAS as and when appropriate.

29. In response to members' enquiries, the Administration advised that it targeted to introduce the relevant legislative amendments into the LegCo in the 2017-2018 legislative year with a view to implementing the proposed expansion of SLAS in March or April of 2018.

Enhancing protection of complainants in sexual offence cases and mentally incapacitated persons during court proceedings

30. The Panel continued to follow up with the Administration on measures for handling sexual offence cases during court proceedings. Two Panel members proposed at the meeting on 18 October 2016 to discuss the measures for protecting mentally incapacitated persons ("MIPs") during court proceedings, and the implementation of measures for handling sexual offence cases and provision of screens for complainants in sexual offence cases during court proceedings. In response, the Administration advised that having taken note of the views of interested individuals and organizations on DoJ's withdrawal of prosecution against a defendant in a recent sexual offence case at a residential care home for persons with disabilities, DoJ decided to examine the procedures in handling prosecutions involving MIPs to see if there might be room for further improvement to better safeguard the rights of MIPs.

31. As such, the Administration consulted members at the meeting on 27 March 2017 on the Statute Law (Miscellaneous Provisions) Bill 2017 which included, inter alia, the proposed amendment to the Criminal Procedure Ordinance (Cap. 221) to give the court a discretion to permit complainants of certain sexual offences to give evidence by way of a live television link in order to enhance the protection of complainants.

32. Members expressed support to the proposed amendments to Cap. 221 so that where a complainant within the meaning of section 156(8) of the Crimes Ordinance (Cap. 200) was to give evidence in proceedings in respect of a specified sexual offence within the meaning of section 117(1) of Cap. 200, the court might, on application or on its own motion, permit the complainant to give evidence by way of a live television link, subject to such conditions as the court considered appropriate in the circumstances. Members agreed that this would provide better protection to children and MIPs during court proceedings. The Chairman of the Panel also shared the views of the Hong Kong Bar Association and the Law Society of Hong Kong ("Law Society") that the current proposal, which would confer upon the court a discretion to decide on whether the complainant would be allowed to testify by way of a live television link, would be an appropriate approach, as opposed to the option of making the live television link arrangement an automatic one.

33. Subsequently, the Administration introduced into the LegCo the Statute Law (Miscellaneous Provisions) Bill 2017 in June 2017.

34. At the meeting on 27 March 2017, the Administration also briefed members on the measures adopted by the prosecution for protecting MIPs in criminal proceedings, including that DoJ planned to implement the recommendations as set out in the report of the LRC on "Hearsay in Criminal Proceedings" as announced in November 2009, and to submit the working draft of the proposed Evidence (Amendment) Bill in this regard, so as to reform the law on hearsay evidence in criminal proceedings.

35. The Administration advised that the rule against hearsay in criminal proceedings renders hearsay evidence generally inadmissible in criminal proceedings unless that evidence falls within one of the common law or statutory exceptions to the rule. The rule seeks to ensure that the witness's credibility and accuracy can be tested in cross-examination. Despite this rationale, the hearsay rule has been the subject of widespread criticism over the years from academics, practitioners and the Bench. One recommendation made by LRC was to give the court a discretion to admit "hearsay evidence" of a declarant who is unfit to be a witness because of his physical or mental condition so that the admission of hearsay evidence becomes "necessary", on

the additional condition that the court is satisfied with the "reliability" of the evidence.

36. The Administration briefed members on the working draft of the proposed Evidence (Amendment) Bill and advised that if the recommendations in the above said report could be implemented, it would be helpful in avoiding the situation where prosecution could not proceed/continue to proceed as a result of an MIP not being able to appear in court to give evidence.

37. Members welcomed the Administration's proposal to enhance protection for MIPs during court proceedings and generally supported the direction of the proposed reform in relation to hearsay evidence in criminal proceedings.

38. Besides, some members suggested the Administration take more progressive steps in protecting vulnerable witnesses, such as allowing children and MIPs to give video-recorded evidence and be cross-examined in "pre-trial evidence sessions".

39. The Administration advised that its target was to issue a consultation paper to invite comments on the proposed Evidence (Amendment) Bill 2017 and to finalize this Bill as soon as practicable with a view to introducing it into the LegCo in early 2018.

Review of the Civil Jurisdictional Limits of the District Court ("DC") and the Small Claims Tribunal ("SCT")

40. The Panel was consulted by the JA at the meeting held on 24 April 2017 on the proposed increases in the civil jurisdictional limits of the DC and the SCT. The Panel noted that the JA, after having conducted a review of the civil jurisdictional limits of the DC and the SCT and consulted the stakeholders, proposed to increase the general financial limit of the civil jurisdiction of the DC from \$1 million to \$3 million; increase the financial limit for land matters of the DC from \$240,000 to \$320,000 in terms of the annual rent or the rateable value or the annual value of the land; increase the limit for the equity jurisdiction of the DC where the proceedings do not involve or relate to land from \$1 million to \$3 million; and increase the limit for the equity jurisdiction of the DC where the proceedings wholly involve or relate to land from \$3 million to \$7 million. The JA also proposed to increase the limit for SCT from \$50,000 to \$75,000.

41. Members generally recognized the SCT as a popular, quick and less costly avenue for resolving disputes and welcomed the increase in the limit of

SCT to \$75,000. Some members enquired whether there would be any further room to increase the limit of SCT to a higher limit, say \$100,000.

42. The JA advised that in considering the proposed increase in jurisdictional limit for SCT, a basket of factors had been taken into account. The JA further advised that, in assessing the changes in economic situation, the Composite Consumer Price Index was one of the indicators, but not the sole indicator, for reference. The JA remarked that there might be suppressed demand arising from cases which would otherwise not be commenced if not for the lower litigation costs to be incurred in the SCT. Hence, the JA decided to adopt a more cautious approach in adjusting the new limit to \$75,000 to ensure smooth operation.

43. A member enquired on the basis for proposing to increase the general financial limit of DC to \$3 million and the projected number of caseloads to be transferred from the High Court to the DC after the implementation of the proposed increases in jurisdictional limits of DC. The JA advised that various stakeholders were consulted on the proposed increase and that the said proposed increase to \$3 million for the general financial limit of the DC had been proposed by the Law Society. Having assessed the capabilities of the DC to handle cases with higher claims amount, the Judiciary considered that the DC would be able to handle cases with the claim amount of up to \$ 3 million.

44. The JA further explained that, after taking into account the overall impact arising from the proposed increases in the various limits of the DC and SCT as a whole, the aggregate impact on the DC in respect of the number of civil cases filed, the number of paper applications processed, the number of interlocutory hearings listed and the number of trials listed was expected to increase by 8% to 33%. Nevertheless, the JA supplemented that the DC would be capable of handling the proposed changes with resources commensurate with the workload. A member pointed out that the last review on the jurisdictional limits had been conducted in 2003. In response to the request of a member, the JA agreed that this subject matter should be reviewed regularly and more frequently in future though no definite timeframe had been set.

45. The Panel also raised concern as to the possibly heavier workload of judges, in particular that of Adjudicators in the SCT subject to the change in jurisdictional limits. Members also enquired about the Judiciary's plan to address judicial manpower issues, including enhancement of manpower of judges and provision of professional and clerical support.

46. The JA acknowledged that the workload of the SCT had been constantly heavy. To ease the already heavy workload at the SCT and to support the operation of two additional courts with the commissioning of West Kowloon

Law Courts Building, two additional Adjudicator posts would be created. Another two Adjudicator posts would also be created to cope with the further projected increases in workload arising from the implementation of the proposed increase in jurisdictional limit of the SCT. Moreover, with the commissioning of the West Kowloon Law Courts Building ("WKLCB") where more rooms and facilities were available for meetings and handling of pre-hearing procedures, each Adjudicator could now be assisted by two Tribunal Officers for mention hearing². The JA further advised that legal and judicial support would continue to be provided for judges in areas like legal researches, general and civil work.

Other issues

Proposed Arrangement with the Mainland on Reciprocal Recognition and Enforcement of Judgments on Matrimonial and Related Matters

47. In the light of the significant increase in the number of "cross-boundary marriages" between the Mainland and Hong Kong in recent years, the Administration first briefed members on 23 May 2011 on the need to enter into a possible arrangement with the Mainland on reciprocal recognition and enforcement of judgments on matrimonial and related matters ("Proposed Arrangement") with a view to providing better legal protection and certainty to parties to such a marriage should it break down. Thereafter, the Administration held several working meetings with the Mainland side to discuss the issues.

48. At the Panel meetings on 19 December 2016 and 22 May 2017, members were briefed respectively on the outcome of the seven-week public consultation regarding the Proposed Arrangement, as well as the key features of the updated Proposed Arrangement. The Hong Kong Bar Association and the Law Society were also invited to express their views at the above meetings.

49. Members, the Hong Kong Bar Association and the Law Society in general supported the Proposed Arrangement. However, members expressed concern on the difficulty in establishing a mechanism for reciprocal recognition and enforcement of matrimonial judgments owing to the differences in legal principles and civil procedures between Hong Kong and the Mainland. Some members were particularly concerned about the enforcement issues related to child welfare, for example the enforcement of maintenance orders, custody orders, and issues relating to child access, guardianship and abduction. They further pointed out that it was not uncommon for the courts in the Mainland to

² The SCT was operating two different types of courts, namely call-over and mention courts and the trial courts.

issue orders granting a child's care and residences to each parent and very often splitting up siblings. Besides, parents might also try to affect the judgments of the Mainland courts by bribery. With a view to protecting the interests of the children, members asked whether any safeguard measures would be introduced under the Proposed Arrangement in this regard.

50. In response, the Administration advised that widening the scope of the current regime to facilitate reciprocal enforcement of maintenance orders would be one of the main focuses under the Proposed Arrangement. According to the Proposed Arrangement, if the judgment involved a minor, the court should take into account the best interests of the child in deciding the application for recognition and enforcement of a relevant judgment. In addition, if the Mainland court considered that the recognition and enforcement of the judgment was manifestly contrary to the basic legal principles of Mainland law or the social and public interests of the Mainland, or the Hong Kong court considered that the recognition and enforcement of the judgment was manifestly contrary to the public policy of Hong Kong, or the judgment was obtained by fraud, the recognition and enforcement of such judgment would be refused under the Proposed Arrangement.

51. Members recommended that the Administration should consult the Immigration Department on the arrangements in handling children custody cases across the borders. Also, both the Administration and the Mainland side should set up channels for the parties in need to seek assistance and advice on enforcement issues.

52. Regarding the timetable for the implementation, the Administration advised that the Proposed Arrangement would come into effect after both sides had completed their respective internal procedures. Specifically it would be implemented in Hong Kong by way of legislation and in the Mainland by way of a judicial interpretation. The Administration would strive to introduce the legislative proposal into the LegCo by the end of 2017. Members noted that the Proposed Arrangement would not have any retrospective effect.

53. Towards the end of the LegCo session, the Panel was informed that the "Arrangement on Reciprocal Recognition and Enforcement of Civil Judgments in Matrimonial and Family Cases by the Courts of the Mainland and of the Hong Kong Special Administrative Region" had been signed between the Government and the Supreme People's Court of the Mainland on 20 June 2017.

Conversion of the former French Mission Building for accommodation use by law-related organization(s) and related purposes

54. At the meeting held on 27 February 2017, the Panel was briefed by the Administration on the works project for conversion of the former French Mission Building ("FMB") for accommodation use by law-related organizations ("LROs") and related purposes.

55. Panel members noted that the former FMB together with the DoJ offices in the Main Wing, the East Wing and part of the West Wing of the former Central Government Offices ("CGO") would form a "legal hub", which aimed at achieving the policy objective of enhancing Hong Kong's position as a hub for international legal and dispute resolution services in the Asia-Pacific region. Panel members noted that the estimated cost of the project was about \$234.2 million in money-of-the-day ("MOD") prices. Subject to members' views, DoJ planned to submit the proposal to the Public Works Subcommittee ("PWSC") for consideration and the Finance Committee ("FC") for approval. Subject to funding approval, the renovation works would commence in the fourth quarter of 2017 for completion by the first quarter of 2020.

56. Members were supportive of the proposed conversion works for the former FMB, which was conducive to enhancing Hong Kong's status as a leading center for international legal and dispute resolution services.

57. Panel members noted that since the FMB was a declared monument, the proposed conversion works were relatively complicated and subject to a number of constraints. Hence, refurbishment works to meet operational needs would also be carried out under this project for areas to be occupied by LROs, thereby minimizing the finishing and fitting-out works needed to be carried out by the prospective tenants.

58. Noting the Administration's plan to open up some designated areas in the FMB for public access and interpretation on scheduled days in future, a member hoped that the Administration would make the best use of this valuable monument with a view to enhancing the public's understanding of the historical significance of the building and its relation to the legal regime in Hong Kong. The Administration responded that DoJ would liaise with the Antiquities and Monuments Office ("AMO") regarding the appropriate mode and arrangement for guided tours on scheduled days to be conducted in future.

59. The Administration also advised the Panel that one of the key objectives of the proposed works was to restore the building to the French Mission era dating back to 1919. Hence, a classical design was to be adopted in principle to preserve the heritage value of the building. Notwithstanding this, necessary

conversion works would be carried out in order to comply with the prevailing statutory requirements for fire safety and barrier-free access, bearing in mind that alteration to the original building should be minimized.

60. The Panel Chairman suggested displaying information concerning the development of legal system in Hong Kong, say information on the first Chinese Judge or barrister in Hong Kong. The Administration responded that the history of the FMB as the former Court of Final Appeal would be displayed by means of public interpretation so as to enhance the understanding of the historical and cultural significance of the building. Besides, the AMO would be consulted on the suggestions on the display of heritage items.

Others

61. During the session, the Panel also discussed the LRC's Consultation Paper on Sexual Offences Involving Children and Persons with Mental Impairment; Legal education and training in Hong Kong; Implementation of the recommendations made by the LRC; Launch of Hong Kong e-legislation; Biennial Review of Criminal Legal Aid Fees; Prosecution Fees and Duty Lawyer Fees; Review of Solicitors' Hourly Rates - An Update; as well as Handling of prosecution works before the Magistrates' Courts. The Panel was also consulted on the following staffing and financial proposals:

- (a) Proposed Permanent Retention of one Post of Deputy Principal Government Counsel in the Legal Policy Division of the Department of Justice; and
- (b) Proposal to write off an irrecoverable judgment debt.

The Panel supported their submission to the Establishment Subcommittee for consideration and the Finance Committee for approval.

Meetings held and visit conducted

62. From October 2016 to June 2017, the Panel held a total of ten meetings. Another meeting was scheduled for 18 July 2017 to discuss "Provision of legal advice services for persons detained in police stations", "The Rule of Law and the Role of the Prosecutor", "Progress of work of the Inter-departmental Working Group on Gender Recognition" and "Measures to prevent the misuse of the legal aid system in Hong Kong and assignment of lawyers in legal aid cases".

63. The Panel conducted a visit to the WKLCB in April 2017 and exchanged views with the Chief Justice and the Chief Judge of the High Court on issues of wide public concern. Members noted that the commencement of operation of the WKLCB has enabled the Judiciary to meet the increasing demand for court services and enhance the operational efficiency of the courts.

Council Business Division 4
Legislative Council Secretariat
4 July 2017

Legislative Council

Panel on Administration of Justice and Legal Services

Terms of Reference

1. To monitor and examine, consistent with maintaining the independence of the Judiciary and the rule of law, policy matters relating to the administration of justice and legal services, including the effectiveness of their implementation by relevant officials and departments.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Panel on Administration of Justice and Legal Services

Membership list for the 2016-2017 session

Chairman Dr Hon Priscilla LEUNG Mei-fun, SBS, JP

**Deputy
Chairman** Hon Dennis KWOK Wing-hang

Members Hon James TO Kun-sun
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, SBS, JP
Hon CHAN Chi-chuen
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Elizabeth QUAT, BBS, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon Holden CHOW Ho-ding
Hon YUNG Hoi-yan
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung

(Total : 21 Members)

Clerk Ms Mary SO (up to 14 February 2017)
Ms Sophie LAU (since 15 February 2017)

Legal adviser Mr Stephen LAM

* Changes in membership are set out in Annex to Appendix II

Panel on Administration of Justice and Legal Services

Changes in membership

Member	Relevant date
Prof Hon Joseph LEE Kok-long, SBS, JP	Up to 6 November 2016
Hon LAU Kwok-fan, MH	Up to 7 November 2016
Hon Starry LEE Wai-king, SBS, JP	Up to 8 November 2016
Hon CHAN Han-pan, JP	Up to 8 November 2016
Hon CHAN Chun-ying	Up to 8 November 2016
Hon Jeffrey LAM Kin-fung, GBS, JP	Up to 9 November 2016
Dr Hon LAU Siu-lai	Up to 16 November 2016
Hon Andrew WAN Siu-kin	Up to 17 November 2016
Hon Tanya CHAN	Up to 21 November 2016
Hon Claudia MO	Up to 23 November 2016
Hon Kenneth LEUNG	Up to 23 November 2016
Hon LAM Cheuk-ting	Up to 23 November 2016
Hon KWONG Chun-yu	Up to 23 November 2016
Hon IP Kin-yuen	Up to 24 November 2016
Hon LEUNG Yiu-chung	Up to 27 November 2016
Dr Hon KWOK Ka-ki	Up to 27 November 2016
Hon MA Fung-kwok, SBS, JP	Up to 28 November 2016
Ir Dr Hon LO Wai-kwok, SBS, MH, JP	Up to 28 November 2016
Hon SHIU Ka-chun	Up to 28 November 2016
Hon WONG Ting-kwong, GBS, JP	Up to 29 November 2016
Hon Michael TIEN Puk-sun, BBS, JP	Up to 29 November 2016
Hon LEUNG Che-cheung, SBS, MH, JP	Up to 29 November 2016
Hon CHAN Hak-kan, BBS, JP	Up to 30 November 2016
Hon CHAN Kin-por, GBS, JP	Up to 30 November 2016
Hon Mrs Regina IP LAU Suk-yee, GBS, JP	Up to 30 November 2016
Hon Nathan LAW Kwun-chung	Up to 30 November 2016
Hon YIU Si-wing, BBS	Up to 1 December 2016
Hon Kenneth LAU Ip-keung, BBS, MH, JP	Up to 4 December 2016
Hon Jeremy TAM Man-ho	Up to 4 December 2016
Hon Alice MAK Mei-kuen, BBS, JP	Up to 5 December 2016
Hon KWOK Wai-keung, JP	Up to 5 December 2016

Hon HO Kai-ming	Up to 5 December 2016
Hon LUK Chung-hung	Up to 5 December 2016
Hon WONG Kwok-kin, SBS, JP	Up to 6 December 2016
Hon WU Chi-wai, MH	Up to 7 December 2016
Hon Wilson OR Chong-shing, MH	Up to 7 December 2016
Hon Charles Peter MOK, JP	Up to 13 December 2016
Dr Hon YIU Chung-yim	Up to 13 December 2016
Dr Hon Helena WONG Pik-wan	Up to 2 January 2017
Hon Abraham SHEK Lai-him, GBS, JP	Up to 15 January 2017
Dr Hon CHIANG Lai-wan, JP	Up to 16 January 2017
Hon Christopher CHEUNG Wah-fung, SBS, JP	Up to 22 January 2017