

Panel on Administration of Justice and Legal Services
List of outstanding items for discussion
(position as at 21 June 2018)

**Proposed
timing for
discussion**

1. Proposed creation of judicial posts and proposed creation/extension of directorate posts in the Judiciary

Proposed by the Judiciary. The Judiciary plans to seek members' views and support on the Judiciary's proposals to (a) create four permanent judicial posts; (b) create one permanent civil service directorate post at Principal Executive Officer (D1) level; and (c) extend one supernumerary civil service directorate post at Administrative Officer Staff Grade C (D2) level for three years from 27 November 2018 to 26 November 2021.

July 2018

2. Review on the statutory retirement ages of Judges and Judicial Officers ("JJOs")

The Judiciary has engaged a consultant to conduct the review on the statutory retirement ages of JJOs 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 Court of First Instance of the High Court level, and to facilitate the retention of judicial manpower. The review has been completed and the Judiciary submitted its recommendations to the Government at the end of 2017. The Government has considered the relevant recommendations and plans to consult the Panel in July 2018.

July 2018

At the work plan meeting on 31 October 2017, Dr Hon Priscilla LEUNG requested the Judiciary to report its measures to attract new blood as JJOs and to groom and retain existing talents when the Panel discusses the issue on the statutory retirement ages of JJOs.

**Proposed
timing for
discussion**

3. Mechanism for handling complaints against judicial conduct

At the Panel meeting on 18 October 2016, Hon Steven HO proposed to follow up on the issue of "Mechanism for handling complaints against judicial conduct".

To be confirmed

At the work plan meeting on 31 October 2017, the Judiciary indicated that it would provide an information paper on the review of the implementation of the revised mechanism for handling complaints against judicial conduct to the Panel before March 2018. The information paper was issued to members vide LC Paper No. CB(4)843/17-18(01) on 29 March 2018.

4. Law Reform Commission of Hong Kong ("LRC") ("LRC")'s Report on Class Actions

Hon Holden CHOW proposed to discuss the work progress of introducing a class action regime in Hong Kong (LC Paper No. CB(4)255/17-18(01)).

To be advised by the Department of Justice ("DoJ")

At the Panel meeting on 27 November 2017, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

5. Implementation of LRC Report on Enduring Powers of Attorney: Personal Care – Continuing Powers of Attorney Bill

On 22 January 2018, DoJ briefed the Panel on the launch of a consultation on the Continuing Powers of Attorney Bill which commenced on 28 December 2017. The Bill seeks to implement the LRC Report on Enduring Powers of Attorney: Personal Care. The consultation period ended on 28 April 2018. DoJ is now considering the responses received and proposes to brief the Panel on the result of the consultation as well as the proposed way forward on a date to be advised. The

To be advised by DoJ

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Bill will be refined taking into account the comments received during the consultation period before it is introduced into the Legislative Council.

6. Abolition of the common law offence of champerty

At the Panel meeting on 25 March 2014, members were briefed by DoJ on the recent developments of the common law offences of maintenance and champerty in Hong Kong and the Administration's position in relation to the item. Members were generally of the views that the common law offences of maintenance and champerty were outdated and should be reviewed to better suit the present day circumstances. DoJ was urged to adopt a liberal approach in addressing the issue and come up with ways to enhance access to justice for the middle-income group.

To be advised
by DoJ

On 1 September 2014, a member requested the Panel to discuss the issue of abolition of the common law offence of champerty again.

7. Recovery of costs in pro bono cases

Hon Dennis KWOK proposed to discuss the issue of "Recovery of costs in pro bono cases".

To be advised
by DoJ

At the Panel meeting on 24 November 2014, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

8. Implementation of Land Titles Ordinance (Cap. 585)

During the discussion of the item on "LRC Report on Adverse Possession" at the Panel meeting on 22 December 2014, Hon Dennis KWOK proposed that the Administration should be invited to brief members on the implementation progress of

To be advised
by DEVB

the Land Titles Ordinance (Cap. 585) ("LTO") enacted in 2004.

The Development Bureau ("DEVB") advised the Secretariat on 17 November 2015 that it plans to report the progress of the post-enactment review of the LTO to this Panel and the Panel on Development when the full package of necessary legislative proposed amendments to LTO is available.

DEVB is still engaging with major stakeholders on various proposed changes to the rectification, indemnity and conversion arrangements under the LTO for bringing existing land under the new title registration system as well as the proposal of implementing title registration on new land first ("new land first" proposal). With a view to enabling early implementation of the title registration system in Hong Kong, DEVB is actively forging consensus amongst the major stakeholders on the "new land first" proposal. The full package of necessary legislative amendments would only be available subject to a broad consensus being reached with the major stakeholders and in consultation with the LTO Steering Committee and the LTO Review Committee.

In view of the complexity of the issues involved and that consensus amongst stakeholders is yet to be reached, it would be difficult for DEVB to commit to a definite timeframe for report to members on the package of necessary legislative amendments at this stage; but DEVB and the Panel Clerk will keep in touch with each other should there be any update to such timeframe.

9. Legal issues relating to the co-location arrangements at the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link

At the Panel meeting on 18 May 2015, Hon Alice MAK proposed and members agreed to discuss the issue of "Legal issues relating to the co-location arrangements at the Hong

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(Note)

Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link" as soon as practicable.

(*Note: DoJ proposes to delete this item on the grounds that the matter was recently discussed at the joint Panel meeting (which included the Panel on Administration of Justice and Legal Services) held on 8 August 2017 and the special House Committee meeting held on 3 August 2017, and that the Government motion moved at the Council meeting of 25 October 2017 had been thoroughly debated and was passed at the Council meeting of 15 November 2017.*)

10. Reducing the use of paper in the Judiciary

Dr Hon Elizabeth QUAT proposed to discuss the issue of "Reducing the use of paper in the Judiciary" in her letter dated 19 May 2017 to the Chairman of the Panel. Dr Hon Elizabeth QUAT stated that paper was predominantly used to date in various aspects of the current court procedures and litigation landscape, and it was environmentally unfriendly, given the sheer quantity of paper consumed annually. The Judiciary should keep abreast of technology development and promote the use of less paper in the Judiciary and encourage less consumption of paper in the judicial sector.

At the Panel meeting on 22 May 2017, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

To be advised
by the Judiciary

11. Enhancing the Judiciary's website

Dr Hon Elizabeth QUAT proposed to discuss the issue of "Enhancing the Judiciary's website" in her letter dated 19 May 2017 to the Chairman of the Panel. Dr Hon Elizabeth QUAT stated that the Judiciary's website was not user-friendly and retrieval of information was difficult. Take the searching of Daily Cause Lists as an example, the absence of a search function made it difficult for members of the public to retrieve the information they needed.

To be advised
by the Judiciary

**Proposed
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At the Panel meeting on 22 May 2017, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

12. Community legal assistance in Hong Kong

Dr Hon Fernando CHEUNG proposed to discuss the issue of "Community legal assistance in Hong Kong" in his letter dated 26 May 2017 to the Chairman of the Panel because he considered that the society had long been concerned about the challenges faced by the less advantaged people in accessing assistance services. Moreover, Dr CHEUNG requested to discuss the report titled "Finding Community Legal Assistance in Hong Kong" recently published by the Global Network for Public Interest Law on this issue.

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

At the Panel meeting on 26 June 2017, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

13. Financial Eligibility Limits for legal aid

The Hong Kong Bar Association Standing Committee on Legal Aid Reform submitted a submission relating to the Financial Eligibility Limits for legal aid (LC Paper No. CB(4)41/17-18(01)). At the request of the Panel, HAB has provided its response to the submission and the response was circulated to members on 30 October 2017 (LC Paper No. CB(4)130/17-18(01)).

To be advised
by HAB

At the Panel meeting on 30 October 2017, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

**Proposed
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discussion**

14. Prosecution policy and the cooperation relationship between the Department of Justice and the Independent Commission Against Corruption on criminal cases involving corruption

Dr Hon Junius HO proposed to discuss the prosecution policy and the cooperation relationship between the Department of Justice and the Independent Commission Against Corruption on criminal cases involving corruption (LC Paper No. CB(4)661/17-18(01)).

To be advised
by DoJ

At the Panel meeting on 26 February 2018, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

15. Work of the Coroner's Court

Hon HUI Chi-fung proposed to discuss the work of the Coroner's Court (LC Paper No. CB(4)952/17-18(02)). He was concerned that there was a big difference between the number of death inquests held and the number of further death investigation reports ordered, and that the average waiting time of cases from the date of listing to hearing was too long.

To be advised
by the Judiciary

At the Panel meeting on 30 April 2018, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

16. Mutual legal assistance and agreement on surrender of fugitive offenders between Hong Kong and Taiwan

Due to a recent murder case in Taiwan which involved Hong Kong residents, Hon Holden CHOW and Hon Starry LEE proposed to discuss mutual legal assistance and agreement on surrender of fugitive offenders between Hong Kong and Taiwan (LC Paper No. CB(4)1165/17-18(01)).

To be confirmed

At the Panel meeting on 28 May 2018, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

(Note: On 15 June 2018, DoJ advised that the item on "Cooperation between Hong Kong and other places on juridical assistance in criminal matters" included in the list of outstanding items for discussion of the Panel on Security (LC Paper No. CB(2)1480/17-18(01)) was broad enough to cover "Mutual legal assistance and agreement on surrender of fugitive offenders between Hong Kong and Taiwan" proposed by Hon Holden CHOW and Hon Starry LEE.)

17. Photo-taking during court proceedings and issues relating to attempted interference to fair trials

Due to recent suspected cases of photo-taking during court proceedings and the uploading of such photos taken in court to the Internet, Hon Dennis KWOK and Hon Alvin YEUNG proposed to discuss photo-taking during court proceedings and issues relating to attempted interference to fair trials (LC Paper No. CB(4)1165/17-18(02)).

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At the Panel meeting on 28 May 2018, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

(Note: The response from the Judiciary Administration ("JA") on the matter was issued to members via LC Paper No. CB(4)1258/17-18(01) on 19 June 2018. According to JA, given that the handling of the photo-taking prohibition in court involves the exercise of judicial discretion and that there are on-going or potential court cases, in the interest of maintaining judicial independence, the Judiciary does not consider it appropriate to be involved in any discussion of this subject at the Panel.)

**Proposed
timing for
discussion**

18. Introducing codes of conduct for counsels and solicitors providing services to incorporated owners of buildings

Members noted that several submissions were received from property owners urging that the Hong Kong Bar Association and the Law Society of Hong Kong should introduce codes of conduct for counsels and solicitors providing services to incorporated owners of buildings.

To be confirmed

At the Panel meeting on 28 May 2018, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.