

**Extract from minutes of meeting of Administration of Justice
and Legal Services Panel held on 26 June 2001**

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VI. Operation of the Legal Aid Services Council

(LC Paper Nos. CB(2)1549/00-01(01), 1907/00-01(04) to (06))

28. At the invitation of the Chairman, Mr LEE Jark-pui briefed members on the discussion paper (LC Paper No. CB(2)1549/00-01(01)) prepared by the Legal Aid Services Council (LASC). Mr LEE said that the paper explained the objectives and justifications for certain amendments to the Legal Aid Services Council Ordinance, the Legal Aid Ordinance and the Personal Data (Privacy) Ordinance. The proposed amendments were put forward by LASC in October 2000, pursuant to a consultancy review of the Council's role and operation in overseeing the administration of legal aid services. Mr LEE added that broadly speaking, the legislative proposals as set out in Appendix I of the LASC paper could be categorised into -

- (a) amendments to enhance the powers of LASC; and
- (b) amendments to address the operational difficulties encountered by LASC.

29. Mr LEE Jark-pui informed Members that the Administration had only very recently responded to the proposals. A meeting was held by LASC on 20 June 2001 to consider the Administration's response. However, because of the absence of a quorum for the meeting, the related discussion proceeded only on an informal basis. He said that another meeting of LASC to discuss the matter again would be held in July 2001.

30. In response to the Chairman, Deputy Director of Administration (DD/A) introduced the Administration's paper (LC Paper No. CB(2)1907/00-01(05)), which set out the Administration's response to the various legislative amendment proposals put forward by LASC and the Administration's views on the way forward to address the issues identified by LASC. The gist of the Administration's views was -

- (a) certain proposals could be implemented under the existing legislative framework and did not necessitate amendment to the LASC Ordinance. These included appointment of committees, networking with legal aid bodies in other jurisdictions, producing and distributing publicity materials, obtaining information relevant for the consideration of issues regarding delivery of legal aid

services, and doing things incidental to the carrying out of the LASC's functions;

- (b) certain proposals would be taken forward at the earliest opportunity or revisited as necessary. These included powers to appoint LASC's own staff, enter into contract or take on lease, power for the Chief Executive to permit submission of LASC's annual report at a later date, and changing the quorum for LASC meetings; and
- (c) the issue of LASC acting as trustee went beyond the role envisaged for the Council.

31. Mr Martin LEE sought the Administration's views on LASC's proposal to change the quorum requirement for LASC meetings. DD/A responded that the problem was a practical one. The Administration considered that LASC could continue the arrangement of using committees, working parties or groups to discuss specific issues and then report their deliberations to LASC for decisions; hence, it might not be necessary for the full Council to meet as frequently as at present. Nevertheless, the Administration was prepared to reconsider the need for changing the quorum requirement as and when necessary, taking into account the impact on the composition of a Council meeting.

32. Mr LEE Jark-pui said that LASC normally met 10 times a year. Experience had shown that the Council had encountered difficulties on a number of occasions in obtaining a quorum for the meeting.

33. Ms Emily LAU and Mr Martin LEE considered that the Administration should render every possible assistance to LASC to enhance its independent role and facilitate its operation in monitoring the provision of legal aid services. Ms Emily LAU opined that LASC should have the authority to appoint its own staff and take on lease of accommodation as it considered necessary, and that the Government should provide the requisite resources and support to LASC.

34. Mr LEE Jark-pui informed members that in August 2000 LASC reviewed the existing arrangement of its secretariat being serviced by civil servants. LASC had decided that the subject would be considered again after the Administration had decided on the Council's proposals on amending the relevant ordinances, as the volume of work of LASC in future would depend on the extent to which the Administration would accept the Council's proposals.

35. The Chairman pointed out that prior to the setting up of LASC in 1996, there was widespread support among LegCo Members for the establishment of an independent legal aid authority. One of the major functions entrusted to LASC was to advise the Administration on legal aid policy, in particular on the feasibility and desirability of establishing an independent legal aid authority.

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LASC's recommendation to set up such an independent authority, however, had not been accepted by the Administration. The Chairman said that with the passage of time, it was opportune for LASC to comprehensively review its operation in order to fulfil its designated roles effectively.

36. Mr Ruy BARRETTO said that LASC's position as regards measures to enhance its roles and functions was set out in the paper submitted to the Panel, and put forward to the Administration for consideration. As regards the question of staff appointment, he opined that ultimately, LASC should be able to employ its own staff, which would facilitate the Council in discharging its complex roles as both an advisory and monitoring body.

37. The Chairman suggested that the matter could be followed up by the Panel at a meeting in November 2001, depending on the progress of discussion between LASC and the Administration regarding LASC's proposals.

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