

CSO/ADM CR 2/3221/94
CB2/PL/AJLS

Room 1211
Central Government Offices
(West Wing)

Tel No. 2810 2576

Fax No. 2501 5779

14 November 2002

By Fax [2509 9055]

Mrs Percy Ma
Clerk to the Panel on Administration
of Justice and Legal Services
Legislative Council Building
8 Jackson Road
Hong Kong

Dear Mrs Ma,

**Panel on Administration of Justice and Legal Services (“the Panel”)
Operation of Legal Aid Services Council (“LASC”)**

Thank you for your letter of 4 November, inviting the Administration to update the Panel on our discussion with the LASC as regards a number of legislative amendment proposals put forward by the LASC.

Since the Panel's meeting on 26 June 2001, the Administration has discussed further with the LASC on way forward with the various proposals. Following these discussions, the LASC has advised the Administration that it has decided not to pursue legislative amendments for six proposals. It recommends that three proposals should be implemented. The LASC has also sought additional information from the Administration on two subjects. Details are as follows.

The Council has decided not to pursue legislative amendments for the following six proposals -

- (a) power for the LASC to appoint committees;
- (b) power to produce and distribute publicity materials;
- (c) power for the LASC to act as trustees;
- (d) provision that the expenses of the LASC are to be paid out of monies appropriated by LegCo;
- (e) provision that the LASC is able to do things incidental or conducive to the carrying out of the objects of the LASC; and
- (f) provision on disclosure of information by the Legal Aid Department to the LASC.

As to the three proposals which the LASC recommends for implementation, the Administration's proposed way forward is set out in the following paragraphs.

Power for the LASC to appoint its own staff

The Administration would revisit the need for a specific statutory provision for the LASC to appoint its own staff, as and when the LASC has taken a decision with concrete plan to change the existing arrangement for staffing its secretariat with civil servants. We note that the LASC so far has no concrete plan which will necessitate appointment of its own staff.

Power for the LASC to enter into contract on its own

The Administration would revisit the need to provide in statute a contract-making power for the LASC when we next have the opportunity to propose changes to the Legal Aid Services Council Ordinance. In the interim, the LASC secretary is authorized to enter into contracts on behalf of the

Government for the use of the LASC. Given the nature of goods and services covered by these existing contracts, which range from cleansing service, newspaper reading service, internet on-line service, to maintenance services for equipment including telephone, water heater and photocopies, the Administration considers that this arrangement should not give rise to perception that the independence of the LASC is compromised.

Power for the Chief Executive to extend time for submission of the LASC's annual report

We agree to identify an opportunity to take forward the LASC's suggestion.

Apart from the above, the Administration has provided additional information to the LASC on the following matters :

Composition of the LASC and Quorum for the LASC's meetings

The Administration considers that the composition and quorum for LASC's meeting are interrelated and have been carefully devised.

We have explained to the LASC that in formulating the composition of the LASC, our underlying principle is that the LASC should be chaired by a non-official who is independent of both the Government and the legal profession, and that members should comprise lawyers and distinguished lay members, other than the Director of Legal Aid. Such a composition can ensure a balanced representation of, and cross-fertilization of views between, both members drawn from within and outside the profession. The composition will also ensure that while the LASC will be equipped with the necessary legal expertise to facilitate deliberations, checks and safeguards are in place to enable the LASC to arrive at a balanced view on matters put before it. The LASC's efficiency and accountability in overseeing the legal aid administration could accordingly be enhanced.

The existing quorum requirement is designed in such a way as to help ensure this balanced representation of membership at full LASC's meeting, i.e. there would not be a complete absence of members drawn from the profession or lay members at the meeting.

Networking with other institutions

We consider that the existing law does not prevent the LASC from establishing contact with legal aid bodies in other jurisdictions if the LASC so wishes. No express provision to this effect would therefore be necessary.

As regards empowering the LASC to become a member of another institution, we consider that this may run the risk of compromising the independent status of the LASC. We are therefore not in favour of this suggestion. We note the LASC has suggested deferring the consideration of this issue until such time when the need arises for the LASC to become a member of an actual institution.

I am copying this letter to the Chairman of the LASC to keep the LASC informed of our return to the Panel.

Yours sincerely,

(Chan Yum-min, James)
for Director of Administration

cc Mr J P Lee, JP
Chairman, LASC