

**LC Paper No. CB(2)159/02-03(01)**

**Legislative Council**  
**Panel on Administration of Justice and Legal Services**

**Mechanism for Handling Complaints against Judges**

***“The Report on “Mechanism for Handling Complaints Against Judges in Overseas Places” prepared by the LegCo Secretariat (“the Report”)***

1. The Report appears to suggest that the investigation into the conduct of judges can be dealt with by a commission of inquiry appointed by the Chief Executive in Council under the Commissions of Inquiry Ordinance, Cap.86 (para 22.2). This is not accepted by the Judiciary. The Judiciary’s position is that the investigation into the conduct of judges can only be dealt with in accordance with Article 89 of the Basic Law. This article provides that judges may only be removed on the specified grounds by the Chief Executive on the recommendation of a tribunal of judges appointed thereunder. This provision is part of the constitutional guarantees for judicial independence. The Commissions of Inquiry Ordinance and the power to appoint a commission of inquiry thereunder cannot override the specific constitutional machinery provided for in Article 89 as the only machinery for investigating judges.

2. The Report states that “whereas most of the places have a formal complaints handling mechanism against judges, there is no such system in Hong Kong.”(para 23.10). The Judiciary’s position is that the present system is a formal system although it has so far not been well publicised (see para 4 below).

3. Under Table 9, the Report states that “the Judicial Administration” is the institution responsible for handling complaints against judges in Hong Kong (page 43). This should read : “The Chief Justice and the Court Leaders in the Judiciary”.

***The Judiciary’s response to the Panel’s suggestions***

4. The Judiciary will take steps to publicise its system for dealing with complaints against judges. A bilingual user friendly brochure will be prepared and will be available at all courts and tribunals. Further, the brochure will be available on the Judiciary website.

5. The Judiciary will publish statistics on complaints against judges in its annual report.

6. The Chief Justice has been giving consideration to developing a Guide or Code of Judicial Conduct for judges and judicial officers (“judges”) starting from a few years ago. The position in a number of jurisdictions has been looked into.

7. It is of fundamental importance that any Guide or Code of Judicial Conduct should not be imposed upon the Judiciary. It is a matter for the Judiciary and judges should be consulted and involved in considering this matter. The Chief Justice will be giving further consideration on this matter.

**Judiciary Administration**  
**October 2002**