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2 May 2006

Mr WONG Yan-lung, SC, JP
Secretary for Justice
4th floor, High Block
Queensway Government Offices
Hong Kong

Dear Mr WONG,

Panel on Administration of Justice and Legal Services

Language proficiency requirements for appointment as legislative draftsmen

At the meeting of the Panel on 24 April 2006, the work of the Law Drafting Division of the Department of Justice (DoJ) was raised and two papers were presented for discussion by the Division. During the discussion, Panel members expressed concern about the recruitment of draftsmen who are experienced and competent in drafting legislation in English. On behalf of the Panel, I write to convey their concern to you.

In the discussion on the paper on Mentorship Scheme in the Law Drafting Division, the Panel was given to understand that in line with the language proficiency requirements for entry to the Civil Service, new appointees to the Government Counsel grade on civil service terms are required to obtain, inter alia, a Grade E or above in Chinese Language in the Hong Kong Certificate of Education Examination or equivalent. As members of that grade, legislative draftsmen of the Law Drafting Division are subject to the same recruitment criterion. However, it was also pointed out to the Panel that DoJ has the flexibility to employ those who do not meet the requirement under the Non-Civil Service Contract (NCSC) Scheme, which is a scheme to allow government departments to employ temporary and short-term contract staff to meet changing service and operational needs. In the past few years, DoJ has employed a few retired Anglophone Government Counsel to continue to serve in the Law Drafting Division under NCSC terms.

Members have expressed dismay at the application of the Chinese language proficiency requirement to draftsmen of the Government Counsel grade in the Law Drafting Division. It is clearly not conducive to attracting the best available drafting talent and thus maintaining a high quality of legislative drafting as far as the English text is concerned, the English language being the *lingua franca* of the common law. Panel members consider that DoJ should be able and aim to recruit the most suitable candidates as legislative draftsmen, including Anglophone candidates who may not meet the Chinese language proficiency requirement.

While Panel members have noted that some retirees have been re-employed by DoJ as NCSC staff to work in the Law Drafting Division, they do not consider that this is a wholly satisfactory solution to address the problem. As the terms and conditions of service for NCSC staff are usually less favourable than those applicable to civil servants in comparable civil service ranks, they would not be as attractive to candidates of high calibre who might otherwise consider applying for work in the Law Drafting Division, other than retirees not looking for long term prospects.

In view of the foregoing, Panel members request DoJ to review its whole recruitment policy of legislative draftsmen to the Law Drafting Division so as to facilitate and not to preclude the engagement or development of draftsmen with expertise in legislative drafting in the English language, e.g. to consider, inter alia, relaxing the requirement in respect of Chinese language proficiency for appointment of legislative draftsmen in the Law Drafting Division. A copy of this letter will also be sent to the Secretary for Civil Service as the matter may also concern Government policies relating to Civil Service recruitment in general.

I look forward to your early response.

With best regards,

Yours sincerely,

(Hon Margaret NG)
Chairman
Panel on Administration of Justice and
Legal Services

c.c. Miss Denise YUE Chung-ye, GBS, JP
Secretary for the Civil Service

Hon TAM Yiu-chung, GBS, JP
Chairman of the Panel on Public Service

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4 May 2006

The Hon Margaret NG
Chairman
Panel on Administration of
Justice and Legal Services
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Chairman,

Panel on Administration of Justice and Legal Services
Language proficiency requirements for appointment as legislative draftsmen

Thank you for your letter of 2 May 2006 conveying the comments made by Members of your Panel on the policy relating to the recruitment of our law draftsmen.

We will, as the Panel has suggested, conduct a review on the present arrangements and will consult the Civil Service Bureau in the process. This exercise may take a little bit of time, but we shall let you know our conclusions as soon as practicable.

Yours sincerely,

(Wong Yan Lung, SC)
Secretary for Justice

c.c. Secretary for the Civil Service

The Hon Tam Yiu-chung, GBS, JP
Chairman of the Panel on Public Service
c/o LegCo Secretariat

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