

**For discussion
on 17 October 2005**

LegCo Panel on Administration of Justice and Legal Services

**Policy Initiative of
the Administration Wing, Chief Secretary for Administration's Office**

Introduction

The 2005-06 Policy Agenda sets out the Government's new and on-going initiatives for the period from July 2005 to June 2007. This note elaborates on the initiative in the Policy Agenda pertinent to the Administration Wing. It also gives a brief account of the legal aid services.

2005-06 Policy Agenda

Effective Governance

Initiative

Continuing discussions with the Mainland in reciprocal enforcement of judgments in civil matters.

2. This is an on-going initiative. As part of the Administration's initiative to promote the HKSAR as a center for the resolution of commercial disputes, and to develop the HKSAR's legal services, we proposed to establish between the HKSAR and the Mainland a mechanism for reciprocal enforcement of judgment (the Arrangement). The Arrangement should cover only money judgments given by a designated court of either the Mainland or the HKSAR exercising its jurisdiction pursuant to a valid choice of forum clause contained in a commercial contract.

3. Since mid-2002, we have conducted six informal meetings with the Mainland authorities to exchange views on the scope of the proposed Arrangement, the issue of finality and other technicalities involved in the recognition and enforcement of judgments in both jurisdictions. We last briefed the Panel on 22 November 2004 on the progress of our discussion with the Mainland authorities.

4. We undertook to brief the Panel on any major development or discussion that involved deviation from the principles and direction of our original proposal. In this connection, we will brief Members more formally and in greater detail at the coming Panel meeting on 24 October 2005. A Panel paper will follow shortly.

Others

Annual review of the financial eligibility limits of legal aid applicants (the limits)

5. We reported to the Panel on the outcome of the 2004 annual review in December 2004. The movement in CPI(C) during the reference period (+0.4%) and the resultant impacts on the limits were small. After consulting the Panel, we agreed to withhold the adjustment of the limits pending the outcome of the 2005 annual review, which covers the period from July 2004 to July 2005.

6. We are compiling and studying the findings of the 2005 annual review. We would brief the Panel on the outcome of the review and proposed way forward in the fourth quarter of 2005.

Five-yearly review of the criteria used to assess the financial eligibility of legal aid applicants

7. In line with the established mechanism, we completed the review and consulted the Panel on the review findings and proposals to improve on the assessment criteria. The two Panel papers (No. CB(2)2581/02-03(02) and No. CB(2)159/03-04(03)) and discussion at the Panel meetings on 29 July 2003 and 29 January 2004 are relevant. We have also kept the Panel informed of our responses to the Legal Aid Services Council and the Law Society in September 2004.

8. As agreed, we will introduce the amendment regulations early in 2005-06 legislative session to give effect to the improvement measures. We stand ready to brief Members on the new regulations when a Subcommittee is set up to examine the subsidiary legislation.

Review of criminal legal aid fees

9. For the 2004 biennial review of the level of criminal legal aid fees, we advised the Panel in July 2005 that, taking account of the views submitted by the Bar Association and the Law Society on the review findings, the Administration has decided not to implement the recorded deflation of 4.4% and adjust downward the fee level. Rather, the Administration would reserve the 4.4% reduction and consider it together with the findings of the next biennial review, due in mid 2006.

10. As regards the review of the criminal legal aid fees system, in reply to a LegCo question on 11 May 2005, the Administration undertook to keep an open mind to proposals that might further improve the cost-effectiveness of the criminal legal aid fees system. In consultation with the Legal Aid Department,

we are examining the submissions made by the two legal professional bodies in April and June 2005. We will also take account of the Chief Justice's advice that a working party be formed, with relevant parties, to facilitate direct exchange of views on this important subject. We will respond to the professional bodies and the Chief Justice once we are ready. We will also keep the Panel informed of developments.

Pilot Scheme on mediation of legally aided matrimonial cases

11. Following consultation with the Panel, we launched the pilot scheme on 15 March 2005. The pilot scheme aims to establish whether extending funding to mediation of legally aided matrimonial cases could be justified on grounds of cost-effectiveness and other implications. Under the pilot scheme, both the legally aided person and the other party will be invited to join the scheme on a voluntary basis.

12. The pilot scheme will last for one year until early 2006. There is a panel of 72 mediators rendering service for the scheme at \$600 per hour. Up to 8 October 2005, 89 cases have been referred to the Mediation Co-ordinator's Office of the Judiciary to attend information session. Of these cases, 21 agreed to proceed to mediation, another 17 are being processed. As a matrimonial case takes about two years to conclude, we aim at completing the evaluation of the cases covered under the scheme in 2007-08.

Administration Wing
Chief Secretary for Administration's Office

October 2005