

立法會
Legislative Council

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LC Paper No. CB(4)688/12-13
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by the Administration)

Panel on Administration of Justice and Legal Services

Minutes of meeting
held on Tuesday, 22 January 2013, at 4:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Dr Hon Priscilla LEUNG Mei-fun, JP (Chairman)
Hon Dennis KWOK (Deputy Chairman)
Hon James TO Kun-sun
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Hon CHAN Kin-por, BBS, JP
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin
Hon YIU Si-wing
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, JP
Dr Hon KWOK Ka-ki
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, JP
Hon TANG Ka-piu
Dr Hon CHIANG Lai-wan, JP
Hon Tony TSE Wai-chuen

Members attending : Hon WONG Kwok-hing, MH
Hon WU Chi-wai, MH

Members absent : Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon CHAN Kam-lam, SBS, JP
Dr Hon Kenneth CHAN Ka-lok
Hon CHUNG Kwok-pan

Public Officers attending : **Agenda item III**

Department of Justice

Mr Rimsky YUEN, SC, JP
Secretary for Justice

Mr Frank POON, JP
Solicitor General

Mr Benedict LAI, SBS, JP
Law Officer (Civil Law)

Ms Amelia LUK, JP
Law Officer (International Law)

Mr Kevin ZERVOS, SC, JP
Director of Public Prosecutions

Mr Paul WAN
Law Draftsman

Mr Arthur HO, JP
Director of Administration & Development

Home Affairs Bureau

Mr TSANG Tak-sing, GBS, JP
Secretary for Home Affairs

Mr William CHAN Heung-ping, JP
Director of Legal Aid

Ms Gracie FOO Siu-wai, JP
Deputy Secretary for Home Affairs (1)

Ms Aubrey FUNG Ngar-wai
Principal Assistant Secretary for Home Affairs
(Civil Affairs) 2

Agenda item IV

Department of Justice

Mr Benedict LAI, SBS, JP
Law Officer (Civil Law)

Mr Simon LEE
Deputy Law Officer (Civil Law)

Ms Angela HO
Senior Government Counsel

Agenda item V

Department of Justice

Mr Arthur HO, JP
Director of Administration & Development

Mr Benedict LAI, SBS, JP
Law Officer (Civil Law)

Mr Simon LEE
Deputy Law Officer (Civil Law)

**Attendance by
invitation**

: Agenda items IV and V

The Law Society of Hong Kong

Ms Maureen E MUELLER
Member of the Mediation Committee

Clerk in attendance : Ms Anita SIT
Chief Council Secretary (4)1

Staff in attendance : Mr Timothy TSO
Assistant Legal Adviser 2

Ms Shirley CHAN
Senior Council Secretary (4)1

Ms Angela CHU
Council Secretary (4)1

Miss Jenny LO
Administrative Assistant I (4)1

Ms Mandy WAN
Administrative Assistant (4)1

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I. Information paper(s) issued since the last meeting
[LC Paper No. CB(4)311/12-13(01)]

Members agreed to include an item on "The role of the Hong Kong legal profession in the development of the Qianhai Bay Economic Zone" as proposed by Mr Dennis KWOK in his letter dated 10 January 2013 (LC Paper No. CB(4)311/12-13(01)) in the Panel's "List of outstanding items for discussion".

II. Date of next meeting and items for discussion
[LC Paper No. CB(4)321/12-13(01) and LC Paper No. CB(4)321/12-13(02)]

2. Members agreed to discuss the following items as proposed by the Administration at the next regular meeting scheduled for 26 February 2013 at 4:30 pm –

- (a) Relocation of the Court of Final Appeal to the site of the former Legislative Council Building;

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- (b) Implementation of Projects under the Information Technology Strategy Plan of the Judiciary; and
- (c) Law Reform Commission's Consultation Paper on Adverse Possession.

3. The Chairman referred members to a letter dated 22 January 2013 from Dr Elizabeth QUAT requesting the Panel to discuss the procedures and measures of the Administration and the Judiciary on the handling of sexual offence cases. The letter was tabled at the meeting. The Chairman suggested and members agreed that the Administration and the Judiciary should be requested to provide information in relation to the concerns raised by Dr QUAT in her letter and the matter would be included in the Panel's "List of outstanding items for discussion".

(Post-meeting note: Dr QUAT's letter was issued to members vide LC Paper No. CB(4)354/12-13(02) on 23 January 2013. Responses from the Judiciary Administration, the Hong Kong Police Force and the Department of Justice ("DoJ") to Dr QUAT's concerns were issued to members vide LC Papers Nos. CB(4)439/12-13(01), CB(4)439/12-13(02) and CB(4)478/12-13(01) on 25 January 2013 and 12 March 2013 respectively.)

III. Briefing on the Chief Executive's 2013 Policy Address

[LC Paper No. CB(4)321/12-13(03) and LC Paper No. CB(4)321/12-13(04)]

4. Secretary for Justice ("SJ") briefed members on the policy initiatives of DoJ featured in the 2013 Policy Address, details of which were set out in the paper provided by DoJ.

5. Secretary of Home Affairs ("SHA") briefed members on the policy initiatives concerning legal aid services for the public, details of which were set out in the paper provided by the Home Affairs Bureau ("HAB"). SHA said that the scope of both the Ordinary Legal Aid Scheme ("OLAS") and the Supplementary Legal Aid Scheme ("SLAS") had been expanded to cover more types of civil proceedings, and that \$100 million had been injected into the Supplementary Legal Aid Fund to support the operation of the expanded SLAS. He added that the Legal Aid Services Council had commissioned a consultancy study to assess the desirability and feasibility of establishing an independent legal aid authority in Hong Kong. At

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present, there were sufficient safeguards to ensure impartiality and transparency in legal aid administration and legal aid services rendered by the Legal Aid Department ("LAD") to the public, the Administration had not interfered with LAD's administration of legal aid services.

Legal aid services

6. Mr WONG Kwok-hing noted from HAB's paper that the scope of SLAS had been expanded to cover representation for employees in appeals brought by either the employer or the employee against awards made by the Labour Tribunal. He opined that in cases where the employees receiving legal aid successfully filed a claim against the employers and the employers appealed against the adjudication, the contribution required of the employees towards the costs of the legal proceedings, including the legal cost which could not be recovered from the opposite party, would deter employees from pursuing the appeal cases even if there were reasonable grounds for taking or defending proceedings. In this connection, Mr WONG asked whether LAD would waive the relevant charges. Mr TANG Ka-piu sought confirmation on whether in such appeal cases, the employees would be legally represented under the legal aid schemes.

7. Mr WU Chi-wai said that for cases covered under OLAS, the legally aided person would be required to pay the legal costs and expenses incurred out of the damages or compensations awarded in the proceedings if he/she won the case. The amount recovered after deducting the relevant charges would be minimal. He enquired whether the legally aided person was liable to repay the legal costs for the opposite party if the latter failed to pay the costs.

8. Director of Legal Aid ("DLA") replied that in respect of appeal cases against awards made by the Labour Tribunal, employees could seek assistance under OLAS or SLAS, depending on their financial resources. The financial eligibility limit for legal aid applicants under SLAS (disposable financial resources of \$1.3 million) was higher than that of OLAS (disposable financial resources of \$260,000). DLA further said that a person receiving legal aid would be required to pay a contribution based on his or her financial resources for the expenses incurred in the proceedings. If the aided person succeeded in recovering damages in the proceedings, he/she would be required to repay LAD the expenses incurred including legal costs that could not be recovered from the opposite party out of the contributions paid and damages recovered, and the balance would be refunded to the aided person. In the circumstances, LAD would advise

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legal aid applicants to duly consider whether or not to pursue the proceedings, taking into consideration all relevant factors such as the ability of the opposite party to pay the legal costs of proceedings, etc.

9. Ms Emily LAU commented that many Hong Kong citizens could not get access to legal assistance, thus giving rise to cases of litigants in person. She considered that the injection of \$100 million into the Supplementary Legal Aid Fund was insufficient and called on the Administration to expand the scope of the legal aid schemes to ensure that more people would be eligible for legal aid. The Chairman suggested that the Administration should consider relaxing the financial eligibility limit for the legal aid applicants so that more middle class people would be eligible to apply. She also asked whether the Administration would consider expanding the scope of the schemes to provide assistance to small flat owners involved in disputes arising from compulsory land sale, and promoting the use of mediation in resolving building management disputes.

10. In reply, SHA said that the Administration strived to ensure that any persons who had reasonable grounds for taking or defending a legal action would not be denied access to justice because of the lack of means. Any call for increasing the provision of legal assistance had to be carefully considered having regard to the relevant financial implications. The scope of the legal aid schemes had been expanded to cover more types of proceedings, and the Administration would keep in view the effectiveness to ensure that the needs of legal aid applicants were met. SHA further said that the Administration would be launching a pilot scheme in early 2013 to provide free legal advice for litigants in person in the form of procedural advice relating to court proceedings. In respect of building management disputes, SJ and SHA advised that pilot schemes had been launched to promote the use of less expensive means of alternative dispute resolution such as mediation.

11. Mr LEUNG Kwok-hung enquired whether LAD would consider providing legal aid to all cases related to the Hong Kong Bill of Rights Ordinance (Cap. 383) or the International Covenant on Civil and Political Rights, as such cases were important in establishing the human rights jurisprudence of Hong Kong. SHA replied that LAD would consider meritorious cases related to human rights or civil or political rights of citizens. SJ advised that it was a common practice in other jurisdictions to consider the merits of the case concerned in assessing the eligibility of any legal aid application. He was not aware of any jurisdiction that would

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provide legal aid to a particular type of cases without having regard to relevant factors including the merits of the case concerned.

12. Ms Emily LAU expressed concern over the need to conduct another review on the independence of legal aid in Hong Kong. She said that a review on this subject had been conducted before, and that the legal profession and the public had long called for an independent legal aid authority. Mr Dennis KWOK shared a similar view, and asked when HAB would report the results of the review to the Panel. SHA replied that the study was being conducted by the Legal Aid Services Council and the Administration had yet to receive the report, but one of the factors to be considered would be the financial viability of an independent legal aid authority. SJ said that the Legal Aid Services Council had a statutory responsibility to advise the Chief Executive on the feasibility and desirability of establishing an independent legal aid authority in Hong Kong. It was on this basis that the Legal Aid Services Council had commissioned a consultancy review on the subject. The Administration would carefully consider any proposal tendered by the Legal Aid Services Council in its future report.

Development of mediation services

13. Mr TANG Ka-piu referred to the establishment of the Hong Kong Mediation Accreditation Association Limited ("HKMAAL") as mentioned in the Administration's paper. He expressed concern that such a body might set high standards for accreditation and many experienced mediators who did not have the required academic qualifications would be unable to obtain accreditation. SJ said that HKMAAL was set up on account of the positive responses received during public consultation to the proposed establishment of a non-statutory and industry-led body in respect of mediation in Hong Kong. SJ further said that a new Steering Committee on Mediation ("Steering Committee") had been set up to monitor the development of the accreditation of mediators. In its communication with HKMAAL, the Administration had emphasized the need to ensure openness and inclusiveness in setting the standards for accreditation of mediators.

14. Dr Anne CHIANG suggested that the Administration should step up the publicity on mediation services within local communities, as the general public knew little about mediation services and their effectiveness in resolving disputes. Mr Michael TIEN enquired about the effectiveness of the Pilot Project on Community Venue for Mediation ("Pilot Project") mentioned in the Administration's paper, and asked whether the

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Administration would consider extending the initiative to other community centres in Hong Kong. SJ advised that the Steering Committee would take the lead in promoting mediation services to the public as a less expensive and effective way of resolving disputes, through organizing seminars and talks. One of the focuses of the work of the Steering Committee in the coming year was to promote the use of mediation services for resolving disputes on buildings management matters, such as water seepage. SJ also advised that the Pilot Project was effective in promoting community mediation, and Deputy Law Officer (Civil Law) would provide further information regarding the initiative under agenda item IV of the meeting.

Role of legal profession in the development of Qianhai Economic Zone

15. Mr Martin LIAO asked about the progress of establishing association in the form of partnership between Hong Kong and Mainland law firms, and enquired whether the initiative would cover both solicitors and barristers. He also enquired how the Qianhai development plan would come into play under the National Twelfth Five-Year Plan in opening up markets for service industries. Mr Michael TIEN enquired how the relevant proposals would be taken forward, given the differences between the legal systems and regulatory regimes of the two places.

16. SJ replied that he had already started the communication with the relevant Mainland authorities on the pilot measures in promoting the use of Hong Kong's legal and dispute resolution services in Qianhai and in improving the mode of association between Hong Kong and Mainland law firms. These measures included encouraging enterprises operating business in Qianhai to choose Hong Kong law as the applicable law for their commercial contracts, and to use the arbitration services provided by Hong Kong professionals and institutions. SJ further said that a commercial court had been set up in Qianhai to deal with commercial disputes, and enterprises could choose to settle the disputes either in Hong Kong or in the Mainland, in accordance with the arrangement for reciprocal enforcement of judgments in commercial matters agreed between Hong Kong and the Mainland. SJ said that the proposed mode of association between Hong Kong and Mainland law firms would cover both solicitors and barristers, and he understood that the two legal professional bodies were making preparations to facilitate their members to take part in the pilot measures.

Class actions

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17. Noting from the DoJ's paper that the Working Group on Class Actions would hold its first meeting in the first quarter of 2013, Mr Dennis KWOK enquired about the time frame of the work of the Working Group and asked whether any representative from LAD was sitting on the Working Group. SJ replied that the Working Group comprised a representative from LAD. At this inception stage, he could not set a precise time frame for the work of the Working Group. However, the Administration was fully aware of the wide public concern over the subject. In response to Mr KWOK's request, he agreed to update the Panel on this subject later in the year. Referring to the allegation made recently by the Hong Kong Bar Association that the Administration was shifting the responsibility of dealing with consumer class actions to the Consumer Council, SHA said that the allegation was unsubstantiated.

Prosecution services

18. Mr Paul TSE said that he had received complaints from members of the public that the conduct of civil and criminal proceedings was ineffective and unfair. For instance, many criminal cases were scheduled for court hearings in one day in order to accommodate the schedule of judicial officers, but as it was not possible to handle such a large number of court cases within the same day, hearings for most of the cases had been deferred as a result. For some criminal cases, there was no genuine need for the litigants to attend the court for hearing, but the litigants were required to do so under the existing litigation procedures. Similar problems also occurred in civil proceedings such as the frequent deferment of the making of adjudications by the Small Claims Tribunal and the difficulties in executing the adjudications made. Mr TSE asked if any improvements could be made in this regard. In reply, SJ said that the Administration was considering whether the criminal justice system should be reformed to better meet the expectations of the public, and a discussion forum was held in November 2012 with the Judiciary and members of the private legal profession on how to enhance the effectiveness of the prosecution services. Regarding the procedural arrangements for court hearings, SJ said that the subject was under the ambit of the Judiciary, but DoJ could relay Members' views to the Judiciary for their consideration. With respect to whether litigants should be required to attend court hearings, SJ said that the matter could be looked into when discussing criminal justice system reform. As to civil litigation, SJ said that the subject was under the ambit of civil justice reform, which was outside the purview of DoJ.

Other issues

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19. The Chairman said that there were requests from local communities, especially from owners' corporations, for a comprehensive review of the Building Management Ordinance (Cap. 344). SHA replied that a review committee had already been set up to make recommendations on measures to enhance the operation of owners' corporations and to protect the interests of property owners. SJ added that if there were strong views among the public for amending the Ordinance, SJ as the chairperson of Law Reform Commission ("LRC") could bring the matter to LRC for their consideration.

20. Dr KWOK Ka-ki expressed concern over the recent remarks made by SJ relating to DoJ's request for the Court of Final Appeal to seek clarification on an interpretation from the Standing Committee of the National People's Congress on the right of abode provisions in the Basic Law, as an attempt to resolve the "problems" created by babies born in Hong Kong to mainland couples who had no resident status in Hong Kong. Dr KWOK said that such a move would undermine legal independence and autonomy of the Judiciary in Hong Kong. SJ replied that the request was made under the Hong Kong judicial system and was in accordance with the Basic Law. It would not undermine the judicial independence and the rule of law in Hong Kong.

21. Mr WONG Kwok-hing welcomed the plan to relocate DoJ to the west wing of the former central government offices ("CGO"), and asked if DoJ would consider reserving some spaces at the former CGO for holding exhibitions to educate the public on the rule of law and the development of the judicial system in Hong Kong. SJ said that the Administration would consider the suggestion when deciding on the accommodation arrangements of the relocation.

22. Mr WONG Yuk-man commented that legislation drafting in Hong Kong, in particular the drafting of the Chinese texts, required improvement to ensure readability and facilitate understanding by legal professionals and the general public.

IV. Report on Mediation

[LC Paper No. CB(4)321/12-13(05) and LC Paper No. CB(4)321/12-13(06) and LC Paper No. CB(4)321/12-13(07)]

23. The Law Officer (Civil Law) ("LO(CL)") briefed members on the Administration's paper which set out the work undertaken by the Mediation

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Task Force ("the Task Force") in implementing the recommendations of the Working Group on Mediation ("the Working Group"). He said that following the Chief Executive's announcement to develop mediation services in Hong Kong in the 2007-2008 Policy Address, DoJ had been taking measures for the promotion and development of mediation through the Working Group and the Task Force, both of which were chaired by SJ. The Task Force had implemented most of the key recommendations of the Working Group, which included the enactment of the Mediation Ordinance (Cap. 620), the establishment of the HKMAAL, development of a system for accreditation of mediators, and promotion of mediation through public education and publicity. Upon wrapping up of the work of the Task Force, the Steering Committee chaired by SJ was set up in November 2012. With the assistance of three sub-committees, the Steering Committee would monitor the implementation of the Mediation Ordinance and the accreditation and training of mediators, and promote the wider use of mediation.

Accreditation and training of mediators

24. Regarding the accreditation and training of mediators, LO(CL) advised that the Working Group had recommended the establishment of a single body for accrediting mediators to ensure the quality of mediators. Whilst the Working Group noted that the time was not right to prescribe a standardized system of accrediting mediators, the majority of the submissions received during public consultation urged that a single accreditation body should be set up as soon as possible. To take the recommendation forward, the Task Force had worked with major stakeholders to facilitate the establishment of HKMAAL which was a non-statutory, industry-led accreditation body for mediators. HKMAAL was incorporated on 28 August 2012 in the form of a company limited by guarantee. Its four founder members were the Hong Kong Bar Association, the Law Society of Hong Kong, the Hong Kong International Arbitration Centre and the Hong Kong Mediation Centre. These four professional bodies were closely involved in the development and promotion of mediation in Hong Kong. HKMAAL would commence operation in April 2013.

25. Ms Alice MAK said that some practicing mediators had expressed the concern that with the HKMAAL coming into operation, practicing mediators who were not accredited by the founder members of HKMAAL or not joining HKMAAL, might not be able to continue their practice. Ms MAK also enquired about the arrangements for the existing mediation

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training courses provided by different organizations after HKMAAL commenced operation.

26. Mr TANG Ka-piu expressed similar concerns. He was worried that many practicing mediators who did not possess professional qualification could not continue their practice if HKMAAL set stringent accreditation criteria. He said that while he concurred with the need to ensure the quality of mediators, he considered that professional qualification should not be a necessary accreditation requirement for mediators, especially for those mediators who mainly handled community and family disputes. He understood that there were some 30 organizations providing mediation training courses at the moment and a number of trainees of these courses had already engaged in the provision of mediation services. Mr TANG suggested that the Administration should conduct a survey to collect information on the number of mediators in Hong Kong, their background, their training in mediation and whether they engaged in providing mediation services on a full-time or part-time basis etc. Such information would help the development of a standardized accreditation system on the practicing mediators.

27. LO(CL) replied that the accreditation and training of mediators was one of the major work focuses of HKMAAL. He pointed out that HKMAAL was not a statutory organization and the legislation did not require mediators to be accredited by HKMAAL. He was given to understand that future accreditation of mediators would not be limited to the legal profession. While HKMAAL would need to ensure a proper accreditation standard, it would adopt an inclusive approach in devising the accreditation system. On the training provided to mediators, LO(CL) said that HKMAAL would set training standards and requirements, but it would not directly provide training courses, which would continue to be provided by the current course providers. As HKMAAL would commence operation in April 2013, detailed accreditation criteria and training requirements would be released by HKMAAL in due course. Regarding Mr TANG Ka-piu's suggestion of conducting a survey among practicing mediators, LO(CL) said that it was HKMAAL's responsibility to formulate accreditation standards and training requirements for mediators, and he believed that HKMAAL would assess the need of conducting relevant surveys and consultations with stakeholders.

28. Mr TANG Ka-piu opined that the Administration should collect relevant information to assess the possible impact on all stakeholders following the operation of HKMAAL, especially if the Administration was

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working towards setting up of a statutory body for the accreditation and training of mediation in Hong Kong.

29. The Chairman declared that she taught law courses (but not courses on mediation) in a university. She said that mediation was not new and had been used in resolving disputes in Hong Kong for many years. Before the promotion of mediation by the Government, people in different professions/fields had been engaged in providing mediation services. The success of mediation required the collaboration of different professions/fields, such as architecture, construction, social work and psychological counselling. HKMAAL should be open to mediators in different professions/fields. She urged the Administration to closely monitor the work of HKMAAL to ensure that the practicing mediators in different professions/fields would not be excluded from the new accreditation system. She understood that three local universities were currently providing training programmes in mediation. As these universities had rich experience in the training of mediators, she opined that HKMAAL should consider collaborating with the academic sector in formulating standards for training and promoting mediation in Hong Kong.

30. LO(CL) assured members that the Administration would continue to monitor the development of matters relating to the accreditation and training of mediators in Hong Kong through the Steering Committee, which would maintain close liaison with HKMAAL and provide advice and suggestions to HKMAAL on related issues.

31. Mr YIU Si-wing considered it important to devise a mechanism to monitor the services provided by mediators and handle related complaints. He enquired whether the Administration/HKMAAL had any plan to enhance the qualifications of practicing mediators to ensure that they could meet the standards set by HKMAAL.

32. The Deputy Law Officer (Civil Law) ("DLO(CL)") replied that apart from setting standards for accreditation and training of mediators, HKMAAL was also responsible for the establishment of a complaint and disciplinary system. He opined that the users of mediation also had a role to play in monitoring the services provided by mediators. It was hoped that, upon HKMAAL's standardization of accreditation and training requirements of mediators, there would be further improvement of the quality of mediation services.

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33. Mr YIU Si-wing suggested that a third party should be appointed to investigate complaints against mediators, especially if the complaints involved claims for compensation. DLO(CL) responded that to inspire public confidence in mediation, HKMAAL would devise a proper mechanism for handling complaints and views.

Operation of HKMAAL

34. Mr Dennis KWOK recalled that some members of the Subcommittee on Mediation Ordinance (Commencement) Notice were concerned about the readiness of HKMAAL to commence operation and the transparency of HKMAAL's operation. He enquired about the financial resources of HKMAAL and the Administration's role in monitoring the operation of HKMAAL.

35. LO(CL) advised that over the past few months, HKMAAL had been busily engaged in the preparation work for the commencement of its operation in April 2013. Under the current arrangement, HKMAAL was funded by its four founder members. The Administration would consider the request from HKMAAL for financial assistance if it made such a request in future. Although no Government official would serve as a Council member of HKMAAL, the Administration, through the Steering Committee, would continue to monitor the accreditation and training of mediators in Hong Kong. The Steering Committee would maintain close contact with HKMAAL and provide advice where appropriate. In fact, some members of the Steering Committee were also members of HKMAAL's founder members.

Mediation service for building management disputes

36. Ms Emily LAU enquired about the use of mediation for handling building management disputes, including the number of cases and success rate, as well as the availability of community venues for conducting mediations. For the benefit of the public, she urged the Administration to put in extra efforts to promote the use of mediation in resolving building management disputes.

37. LO(CL) agreed that mediation was an effective means to resolve building management disputes. The Steering Committee would continue to enhance its publicity work in this regard. At present, a number of mediation schemes for community groups were provided by various mediation service providers and the Home Affairs Department on both

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pro-bono and at cost bases. Due to the fact that some of the mediations on building management cases were conducted informally, statistics on the cases resolved were not generally available. The Steering Committee would consider devising measures to enhance collection of relevant statistics on mediation in future. As regards the community venues for mediation, LO(CL) said that, currently, facilities at the Henry G Leong Yaumatei Community Centre and the Leighton Hill Community Hall could be used for conducting mediations. The number of cases handled in each of these two venues since their operation was around 50. The Steering Committee would explore venues in other districts if there was a great demand for community venues for mediations.

38. The Chairman said that in response to the request from the Subcommittee on Mediation Ordinance (Commencement) Notice and to further follow up on issues relating to the development of mediation, the Panel would invite deputations to give views on the subject at a future meeting. Meanwhile, she requested the Administration to convey the concerns and views raised by members at this meeting to the Steering Committee and HKMAAL.

V. Proposed creation of a supernumerary post of Deputy Principal Government Counsel in the Civil Division of the Department of Justice

[LC Paper No. CB(4)321/12-13(08)]

39. The Director of Administration & Development ("D of AD") briefed members on the proposal to create a supernumerary post of Deputy Principal Government Counsel ("DPGC") in the Civil Division of DoJ for a period of two years from 1 April 2013 to 31 March 2015 to take forward the work required in the promotion and development of mediation in Hong Kong.

40. Ms Maureen E MUELLER, member of the Mediation Committee of the Law Society of Hong Kong ("the Law Society"), presented the Law Society's views on the proposed creation of the DPGC post. In gist, the Law Society welcomed the proposal and considered it helpful for the Law Society to be allowed to comment on the job specifications and selection criteria for the candidates if the proposal was approved.

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(Post-meeting note: The speaking note of Ms MUELLER was issued to members on 23 January 2013 via LC Paper No. CB(4)354/12-13(01).)

41. Ms Emily LAU enquired about the working relationship of the proposed DPGC with HKMAAL and the legal professional bodies. D of AD advised that the proposed DPGC would work closely with HKMAAL in monitoring the accreditation and training of mediators, but he would not serve as a member of HKMAAL. LO(CL) supplemented that HKMAAL was formed by four professional bodies which were closely involved in the development of mediation in Hong Kong. Some members of these four professional bodies were also appointed as members of the Steering Committee on Mediation and its Accreditation Sub-committee. As one of the main duties of the proposed DPGC was to provide secretariat and research support to the Steering Committee and its sub-committees, he believed that such working relationship could enable the proposed DPGC to establish close contact with all stakeholders, including HKMAAL and relevant professional bodies.

42. Noting that the proposed DPGC post would need the support of a Senior Government Counsel and a Personal Secretary I, Mr Yiu Si-wing enquired about the financial implications of the three posts and whether other additional posts would be created in future to support the work of DPGC. D of AD advised that the full annual average staff cost of the proposed DPGC post was \$2,383,000 and that of the Senior Government Counsel and Personal Secretary I posts was \$2,171,000, including salaries and on-cost. Should there be a need to create additional posts in DoJ to assist the work of DPGC in future, the Administration would follow the established procedures.

43. The Chairman sought explanation for ranking the proposed post at the DPGC level. D of AD explained that the proposed DPGC would take forward the heavy and extensive duties which included working with all relevant stakeholders in monitoring the implementation of the Mediation Ordinance, the development of accreditation and training of mediators, and the promotion of mediation in Hong Kong, as detailed in the Administration's paper. The areas of work involved were specialized and the issues to be dealt with might touch on the vested interests of stakeholders which were complex and sensitive. For example, the incumbent was tasked to monitor the development of a proper accreditation system and training requirements for mediators, and in this regard, the incumbent should ensure that the needs of practicing mediators were duly

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taken care of so that they would not be excluded from the new accreditation system. Taking into account the complexity of the work and the expertise required, the Administration considered that the position should be pitched at the DPGC level.

44. The Chairman invited members to indicate whether they agreed that the Administration might submit the staffing proposal to the Establishment Subcommittee for consideration. No member indicated objection. The Chairman concluded that the Panel agreed that the Administration could submit the staffing proposal to the Establishment Subcommittee for consideration.

VI. Any other business

45. There being no other business, the meeting ended at 6:40 pm.

Council Business Division 4
Legislative Council Secretariat
27 May 2013