

**For discussion
on 11 July 2013**

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

Mechanism for Handling Complaints against Judicial Conduct

I. Purpose

This paper briefs Members on the mechanism for handling complaints against judicial conduct.

II. Background

2. The mission of the Judiciary is to maintain an independent and effective judicial system which upholds the rule of law, safeguards the rights and freedoms of the individual, and commands confidence within and outside Hong Kong. To this end, the Judiciary attaches great importance to ensuring that judges¹ maintain a high standard of professional competence and integrity. It will deal in a fair and proper manner with legitimate complaints against judges.

3. The principle of judicial independence is fundamental in our judicial system. It involves the independence of each judge at any level of our courts to adjudicate according to law without any interference.

4. Judges have the duty to resolve disputes. One side is likely to be disappointed or dissatisfied by a judicial decision. Since a judicial decision is made by the judge in the course of independent adjudication, a complaint against the decision cannot be entertained. Anyone who feels aggrieved by a judge's decision can only appeal (where this is available) through the existing legal procedures.

¹ The term "judges" is used to include judges and judicial officers.

III. Mechanism for Handling Complaints against Judges' Conduct

5. The Judiciary recognises that it is important to have a mechanism for handling complaints against a judge's conduct (as opposed to a judge's judicial decision). Such a mechanism, whilst respecting judicial independence, would enable a complaint against a judge's conduct to be fairly and properly dealt with.

6. All complaints against judges are handled by the Chief Justice and/or the Court Leader of the relevant level of court as follows –

| Judges being complained against² | Court Leader to handle the complaint |
|---|---|
| <ul style="list-style-type: none">• Judges of the Court of Final Appeal• Chief Judge, High Court• President of the Lands Tribunal• Chief District Judge• Registrar of the Court of Final Appeal• Chief Magistrate | Chief Justice |
| <ul style="list-style-type: none">• Judges of the High Court• Registrar and Masters of the High Court | Chief Judge, High Court |
| <ul style="list-style-type: none">• Judges of the District Court and the Family Court• Registrar and Masters of the District Court• Presiding Officers and Members of the Lands Tribunal | Chief District Judge |
| <ul style="list-style-type: none">• Principal Magistrates, Magistrates and Special Magistrates of the Magistrates' Courts• Principal Presiding Officer and Presiding Officers of the Labour Tribunal• Principal Adjudicator, Adjudicators and Registrar of the Small Claims Tribunal• Coroners of the Coroner's Court• Presiding Magistrates, Adjudicators and Lay Assessors of the Obscene Articles Tribunal | Chief Magistrate |

² "Judges being complained against" include all deputy and temporary judges.

7. If a Court Leader considers it inappropriate for him/her to handle a complaint as this may lead to any real or perceived conflict of interest, he/she may instruct another judge to handle the complaint.

8. All complaints would be forwarded to the relevant Court Leaders. The relevant Court Leader will investigate the matter. The Court Leader may refer to the relevant court files and audio recordings. He/she may seek further information from the complainant as appropriate. In dealing with the complaint, he/she may seek comments from the judge concerned on the complaint. After investigation, the Court Leader will send a reply to the complainant.

9. The Court Leader may take such further action as may be appropriate. Such further action may include bringing the matter to the attention of the Chief Justice and/or at the appropriate time the attention of the Judicial Officers Recommendation Commission. And it may include the Chief Justice and/or the Court Leader giving appropriate advice to the judge concerned.

10. Where the Court Leader has instructed a judge to handle a complaint (see paragraph 7 above), the designated judge will handle the complaint in the same manner as the Court Leader (see paragraphs 8 and 9 above).

11. The Court Leaders usually acknowledge receipt of a complaint within 7 days upon receipt of the complaint. A full reply will usually be given after the relevant Court Leader or designated judge has completed his/her investigation. The response time will depend on the nature of the complaint, the complexity of the issues involved and the circumstances of the matter concerned.