

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

**List of issues suggested to be considered**  
(position as at 20 February 2014)

**Proposed  
timing for  
discussion**

**1. Establishment of an electronic database of Hong Kong legislation with legal status**

The project work started in January 2013. The Law Drafting Division of the Department of Justice ("DoJ") would like to update members on the progress of the project.

March 2014

**2. Reform of the current system to determine whether an offence is to be tried by judge and jury or by judge alone**

Hon Dennis KWOK proposed to discuss the issue of "Reform of the current system to determine whether an offence is to be tried by judge and jury or by judge alone".

1<sup>st</sup> quarter of  
2014

At the Panel meeting on 23 July 2013, members agreed that the issue be included in the list of items for discussion by the Panel.

**3. Review on Family Procedure Rules**

The Judiciary has formed a working party to examine the desirability, impact and practicalities of formulating a single set of procedural rules for the family jurisdiction applicable both to the Family Court and the High Court. The Judiciary would like to brief members on the recommendations of the working party when ready.

2<sup>nd</sup> quarter of  
2014

**Proposed  
timing for  
discussion**

**4. Further expansion of the Supplementary Legal Aid Scheme ("SLAS")**

At the meeting on 10 July 2012, members agreed that the Panel should follow up with the Administration on proposals not supported for inclusion in SLAS, including the inclusion of claims against property developers by minority owners in respect of compulsory sales of building units and claims against sale of goods and provision of services; and related issues, such as raising the financial eligibility limits for SLAS as well as the Ordinary Legal Aid Scheme.

2<sup>nd</sup> quarter of  
2014

**5. Operation of the Resource Centre for Unrepresented Litigants and the Two-year Pilot Scheme to Provide Legal Advice for Litigants in Person**

The Resource Centre for Unrepresented Litigants ("Resource Centre") was set up by the Judiciary in 2003 to provide assistance on court procedures to unrepresented litigants in civil proceedings in the High Court and the District Court. The purpose is to save the courts' time in explaining rules and procedures to the unrepresented litigants, thereby expediting the court process and lowering legal costs.

June 2014

Separately, the Home Affairs Bureau ("HAB") launched in March 2013 a two-year pilot scheme to provide free legal advice for litigants in person ("LIPs") to assist LIPs who have commenced or are parties to legal proceedings in the District Court or higher courts and have not been granted legal aid. The pilot scheme seeks to provide procedural advice to facilitate access to justice by LIPs and other parties involved.

HAB will submit a progress report to the Panel in June 2014 to account for the pilot scheme's first year of operation since March 2013.

**Proposed  
timing for  
discussion**

**6. Compensation for wrongful conviction**

Hon Dennis KWOK proposed to discuss the issue of "compensation for wrongful conviction".

To be confirmed  
by DoJ

Hon Dennis KWOK raised a written question on the above subject at the LegCo meeting of 22 January 2014. A written reply was provided by the Secretary for Justice ("SJ").

At the Panel meeting on 28 January 2014, members agreed that the issue be included in the list of items for discussion by the Panel.

**7. Abolition of the common law offence of champerty**

The above subject was referred to the Panel for discussion by Kwun Tong District Councillor, Mr TANG Wing-chun, in his letter dated 9 August 2013 [LC Paper No. CB(4) 99/13-14(01)].

To be confirmed  
by DoJ

A summary of the past discussions of the Panel on the subject can be found in LC Paper No. CB(2)899/08-09(05).

At the Panel meeting on 26 November 2013, members agreed that the issue of "Abolition of the common law offence of champerty" be included in the list of items for discussion by the Panel.

**8. Adjustment to scale rates**

Hon Dennis KWOK proposed to discuss the issue of "Adjustment to scale rates".

To be confirmed  
by the Judiciary  
Administration

The Law Society of Hong Kong has recently commissioned a review of the rates for calculating legal costs on party and party taxation ("scale rates") which were last revised by the Registrar of the High Court in 1997. The Law Society has formally endorsed the

**Proposed  
timing for  
discussion**

recommendations of the review report, including that the solicitors' hourly rates be raised to better reflect the current market conditions and that the scale rates should be adjusted annually according to an inflation-linked index.

The Judiciary considers that there are many important issues relating to the Solicitors' Hourly Rates for taxation on a party and party basis. They would not only affect the work and interests of the solicitors but would also have a much broader impact on many stakeholders in the community at large in the overall context of access to justice. The Chief Justice is in the course of appointing a working party to review the matter and make recommendations.

An information paper on "Review of solicitors' hourly rates" provided by the Judiciary Administration had been issued to the Panel in December 2013.

**9. Procedure for the making of subsidiary legislation relating to the legal professional bodies**

The Subcommittee on Solicitors (General) Costs (Amendment) Rules 2013 agreed that the Panel on Administration of Justice and Legal Services be requested to follow up with the Administration and related parties on the proper procedure for the making of subsidiary legislation relating to the legal professional bodies.

To be confirmed  
by DoJ

**10. Bilingual legislation drafting**

The Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions agreed that the Panel on Administration of Justice and Legal Services be requested to follow up with the Administration regarding the suggestion of the setting up of a panel of advisory language specialists to help ensure no discrepancies between the English and Chinese defined terms in the drafting of the legislation.

To be confirmed  
by DoJ

**Proposed  
timing for  
discussion**

**11. Issues relating to the role and functions of the Hong Kong Mediation Accreditation Association Limited**

At the meeting on 26 November 2013, Hon Ann CHIANG suggested and members agreed to revisit the issues relating to the role and functions of the Hong Kong Mediation Accreditation Association Limited at a future meeting.

To be confirmed by DoJ

**12. Duty Lawyer Service for non-refoulement claims under the unified screening mechanism**

Hon Dennis KWOK proposed to discuss the issue of the "Duty Lawyer Service for non-refoulement claims under the unified screening mechanism".

To be confirmed by the Security Bureau and HAB

At the Panel meeting on 23 July 2013, members agreed that the issue be included in the list of items for discussion by the Panel.

**13. Proposed amendments to Rule 4B(2) of the Solicitors' Practice Rules and Rule 8(4) of the Foreign Lawyers Practice Rules**

The Law Society of Hong Kong invites the Panel's views on its proposed amendments to Rule 4B(2) of the Solicitors' Practice Rules and Rule 8(4) of the Foreign Lawyers Practice Rules.

To be confirmed by the Law Society

At the Panel meeting on 23 July 2013, members agreed that the Law Society be invited to brief members on the proposed amendments to Rule 4B(2) of the Solicitors' Practice Rules and Rule 8(4) of the Foreign Lawyers Practice Rules.

**Proposed  
timing for  
discussion**

**14. Draft Solicitor Corporation Rules and consequential amendments to Legal Practitioners Ordinance (Cap. 159)**

The Law Society of Hong Kong intends to consult the Panel on two issues relating to solicitor corporations, namely, whether solicitor corporations should be required to take out top-up professional indemnity insurance and notify clients of the identity of the supervising partners. According to the Law Society, the Chief Justice had granted his approval in principle to the draft Solicitor Corporation Rules and consequential amendments to the Legal Practitioners Ordinance (Cap. 159).

To be confirmed  
by the Law  
Society

The Law Society had already made submissions on the two issues in its paper to the Panel on 2 September 2013.

The Law Society will consider in due course the question of whether to allow solicitor corporations to form partnerships.

**15. Implementation of the measures to strengthen the governance and operational transparency of the Legal Aid Department**

On 30 April 2013, the Legal Aid Services Council ("LASC") submitted to the Chief Executive its recommendations on the feasibility and desirability of the establishment of an independent legal aid authority in Hong Kong together with the report of a consultancy study on the issue. While the LASC agreed with the consultant that there is no immediate need to establish an independent legal aid authority, it has recommended a host of measures to enhance its function to oversee the delivery of quality legal aid services to strengthen the governance and operational transparency of the Legal Aid Department.

To be confirmed  
by HAB

At the Panel meeting on 25 June 2013, members received views from the deputations on the future development of legal aid in Hong Kong. Members agreed to follow up

**Proposed  
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discussion**

the issue pending supplementary information from the Administration. In September 2013, the Administration submitted an information paper to the Panel on legal aid costs for members' reference.

**16. Inclusion of the statutory Independent Police Complaints Council ("IPCC") under the purview of The Ombudsman**

During the scrutiny of the IPCC Bill introduced into LegCo in July 2007, the relevant Bills Committee discussed the question of whether the statutory IPCC to be established under the Bill should be subject to the jurisdiction of The Ombudsman. The relevant Bills Committee had sought the views of The Ombudsman on the matter, who indicated that she had no objection in principle to having the statutory IPCC under her purview though it was recognized that the decision was ultimately one of policy.

To be decided by  
the Panel

At the Panel meeting held on 27 April 2009, members raised the issue of whether the statutory IPCC, to be established on 1 June 2009, should be subject to The Ombudsman's jurisdiction. Members agreed to bring up the issue after IPCC had been in operation for some time.

The Administration informed the Panel in writing on 23 September 2011 that it had consulted the Security Bureau on including the statutory IPCC under the purview of The Ombudsman. The Security Bureau advised that IPCC had discussed the proposal in May 2011. IPCC members raised unanimous concern that the proposal, if implemented, would undermine the image and public perception of IPCC being an independent oversight body established under the IPCC Ordinance (Cap. 604) if IPCC were subjected to the scrutiny of another statutory authority.

At the meeting on 28 November 2011, members agreed that the Panel should review the issue in future.

**Proposed  
timing for  
discussion**

**17. Extending the applicability of the Ordinances of HKSAR to the offices set up by the Central People's Government ("CPG") in HKSAR**

The following five Ordinances have been adapted -

1. The Legislative Council Commission Ordinance (Cap. 443)
2. Plant Varieties Protection Ordinance (Cap. 490)
3. Patents Ordinance (Cap. 514)
4. Registered Designs Ordinance (Cap. 522)
5. Arbitration Ordinance (Cap. 341)<sup>1</sup>.

Relevant policy bureaux and departments are studying the remaining 10 Ordinances under their respective purview to examine the extension of applicability of the Ordinances to the CPG Offices.

Relevant bureaux and departments will consult their relevant LegCo Panels on the proposed amendments to the 10 remaining Ordinances according to their respective work programmes.

**18. Prosecutorial independence**

During the discussion on issues relating to prosecution policy and practice at the Panel meeting on 27 June 2011, some members were of the view that the existing arrangement of having SJ, a political appointee, to control prosecutions would undermine the public perception of the prosecutorial independence. They considered that the power to make prosecutions should rest with an independent Director of Public Prosecutions to ensure that prosecution decisions were free from political interference. Some other members, however, shared the Administration's view that it was SJ's constitutional responsibility to control criminal prosecutions as stipulated in Article 63 of the Basic Law and the control of prosecutions should continue to be rested with SJ.

To be decided by the Panel (Pending submission from the Hong Kong Bar Association)

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<sup>1</sup> Arbitration Ordinance (Cap. 341) was repealed and replaced by Arbitration Ordinance (Cap. 609), which was enacted in 2010. Section 6 of the Arbitration Ordinance (Cap. 609) provides that the Ordinance applies to the Government and the offices set up by the CPG in the HKSAR.



**Proposed  
timing for  
discussion**

Members noted that in the United Kingdom, a protocol between the Attorney General and the prosecuting departments was drawn up setting out when, and in which circumstances that the Attorney General would or would not be consulted on prosecution decisions and how the Attorney General and the Directors of the prosecuting departments would exercise their functions in relation to each other. The Administration was requested to consider whether a similar protocol should be adopted in Hong Kong. The Panel Chairman suggested that the Panel of the Fifth LegCo should be invited to consider as to how the issue should be followed up when the written submission of the Hong Kong Bar Association was available.

Council Business Division 4  
Legislative Council Secretariat  
20 February 2014