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**Legislative Council**

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**Establishment Subcommittee of the Finance Committee**

**Minutes of the 2<sup>nd</sup> meeting**  
**held in Conference Room 1 of Legislative Council Complex**  
**on Wednesday, 12 November 2014, at 8:30 am**

**Members present:**

Hon Kenneth LEUNG (Chairman)  
Hon SIN Chung-kai, SBS, JP (Deputy Chairman)  
Hon Albert HO Chun-yan  
Hon LEE Cheuk-yan  
Hon James TO Kun-sun  
Hon LEUNG Yiu-chung  
Hon Emily LAU Wai-hing, JP  
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN  
Hon WONG Ting-kwong, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon Starry LEE Wai-king, JP  
Hon WONG Kwok-kin, SBS  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon Albert CHAN Wai-yip  
Hon Claudia MO  
Hon NG Leung-sing, SBS, JP  
Hon Steven HO Chun-yin  
Hon WU Chi-wai, MH  
Hon YIU Si-wing  
Hon Gary FAN Kwok-wai  
Hon MA Fung-kwok, SBS, JP  
Hon Charles Peter MOK  
Hon CHAN Chi-chuen  
Dr Hon Kenneth CHAN Ka-lok

Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Dr Hon Helena WONG Pik-wan  
Hon IP Kin-yuen  
Hon Martin LIAO Cheung-kwong, SBS, JP  
Hon POON Siu-ping, BBS, MH  
Hon TANG Ka-piu, JP  
Hon CHUNG Kwok-pan

**Member attending:**

Hon CHAN Kin-por, BBS, JP

**Members absent:**

Hon Frederick FUNG Kin-kee, SBS, JP  
Hon Cyd HO Sau-lan, JP  
Hon CHEUNG Kwok-che  
Hon LEUNG Kwok-hung  
Hon Dennis KWOK

**Public Officers attending:**

Ms Esther LEUNG, JP	Deputy Secretary for Financial Services and the Treasury (Treasury)1
Mr Eddie MAK Tak-wai, JP	Deputy Secretary for the Civil Service (1)
Miss Emma LAU, JP	Judiciary Administrator
Mr Arthur NG, JP	Deputy Judiciary Administrator (Operations)
Ms Doreen KWAN	Assistant Judiciary Administrator (Corporate Services) (Acting)
Dr KO Wing-man, BBS, JP	Secretary for Food and Health
Mr Richard YUEN, JP	Permanent Secretary for Food and Health (Health)
Mr Chris SUN, JP	Head, Healthcare Planning and Development Office, Food and Health Bureau



Action

Mr NG considered that the ESC Chairman had the authority to make a decision on the Applications.

3. In response to the Chairman's enquiry as whether RoP 44 applied to ESC, Assistant Secretary General 1 said that RoP 44 was replicated in paragraph 26 of ESC Procedure.

4. Mr Alan LEONG stressed the need for the Chairman to observe the relevant provisions in RoP and ESC Procedure in discharging his duties. He pointed out that according to paragraph 3B of ESC Procedure, the power to accept applications for late membership on grounds other than indisposition or absence from Hong Kong rested with the Subcommittee but not the Chairman, and RoP 44 did not apply to the matter under question.

5. Dr Kenneth CHAN was of the view that RoP 44 did not apply to the consideration of late membership for the Subcommittee. Mr WU Chi-wai concurred with the view and suggested that the Chairman should seek the views of the Legal Adviser on the matter.

*(Post-meeting note: A note prepared by the Legal Service Division on requests for late membership under paragraph 4B of the Public Works Subcommittee Procedure ("PWSC Procedure") was circulated to all Finance Committee ("FC") Members vide Paper No. PWSC30/14-15 on 14 November 2014. Paragraph 4B of PWSC Procedure is the same as paragraph 3B of ESC Procedure.)*

6. Mr CHAN Chi-chuen said that as paragraph 3B of ESC Procedure had explicitly provided for the power of the Subcommittee on the matter, and this rule should override RoP 44.

7. The Chairman said that under the common law principles of statutory interpretation, a general provision could not override a specific provision. Having considered RoP 44 and paragraphs 26 and 3B of ESC Procedure, he was of the view that paragraph 3B of ESC Procedure was a specific provision for handling application for late membership of the Subcommittee, and it should override RoP 44 and paragraph 26 of ESC Procedure which were general provisions providing for residual powers of chairmen in respect of the rules of order for the businesses of committees.

Reasons of the Applications

8. Ms Emily LAU remarked that there was a similar discussion on application for late membership at the meeting of PWSC on 11 November 2014. She pointed out that in the past there were discussions between LegCo Members from the pan-democratic camp ("pan-democratic Members") and

Action

Members from the pro-establishment camp ("pro-establishment Members") on the allocation of chairmanships and deputy chairmanships for various committees of LegCo. However, during such discussions took place in October 2014, the pro-establishment camp indicated that Members of the camp would take up the chairmanships and deputy chairmanships of most committees in the current session. As both camps failed to reach an agreement, pan-democratic Members had acted on their own initiatives in joining the committees. This should not be regarded as an "ambush" as described by some Members. Ms LAU pointed out that the current situation was not beneficial to LegCo and it was necessary to state clearly the reasons leading to the situation.

9. Ms Starry LEE said that there was a mutual understanding between the pro-establishment camp and pan-democratic camp in the allocation of chairmanships and deputy chairmanships for LegCo committees. She pointed out that notwithstanding that pan-democratic Members had carried out the "non-co-operation movement" in LegCo and their disregard of the mutual understanding, pro-establishment Members had not departed from the agreed arrangement in joining committees. On the contrary, a large number of pan-democratic Members submitted replies for joining ESC and PWSC during the last few minutes before the registration deadline with the purpose to secure the chairmanships and deputy chairmanships of the two subcommittees. Regarding applications for late membership for LegCo committees, Ms LEE said that such applications were usually accepted by the relevant committees in the past. As why Mr Albert CHAN's application for joining ESC in June 2014 was rejected by the Subcommittee, she pointed out that it was because Mr CHAN had indicated that he would filibuster in the Subcommittee.

10. Mr WONG Ting-kwong and Mr KWOK Wai-keung disagreed with Ms Emily LAU's comments that the pro-establishment camp intended to seize the chairmanships and deputy chairmanships of most committees. Mr WONG remarked that according to the mutual understanding, ESC would be chaired by a pan-democratic Member in the third and fourth sessions of the current legislative term. He considered that pan-democratic Members had abandoned the mutual understanding and they had acted in a sneaky manner by submitting replies for joining the Subcommittee at the last few minutes before the registration deadline. He hoped that the Subcommittee would not delay making a decision on the Applications.

11. Mr KWOK Wai-keung remarked that pan-democratic Members had destroyed the mutual understanding. The fact that many Subcommittee members belonging to the pan-democratic camp had either arrived late or not present at the current meeting had shown their lack of commitment on the work of the Subcommittee. It was necessary for pro-establishment Members to join the Subcommittee.

12. Mr Alan LEONG said that in his earlier discussion with Mr IP Kwok-him, he had already explained that pan-democratic Members would compete for the chairmanships of all committees in the current session with the hope to rectify the problems of pro-establishment Members in servicing as the chairmen of committees in the past two sessions.

13. Mr LEE Cheuk-yan stressed that the Subcommittee should decide the Applications in accordance with paragraph 3B of ESC Procedure, and only accept the Applications when sufficient grounds were provided by the Applicant Members. Mr WU Chi-wai, Dr KWOK Ka-ki and Dr Kenneth CHAN held the same view.

14. On the reasons put forward by the pro-establishment Members in the Applications, Mr LEE Cheuk-yan noted that the reasons provided in the letters from the Applicant Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") were almost identical, i.e. mistakes made by the PAs of the relevant Members. He pointed out that such reasons were inconsistent with the remarks made by Mr TAM Yiu-chung on the matter during a recent television programme. In Mr LEE's views, the reasons provided in the letters had cast doubt on the integrity and conduct of the Applicant Members belonging to DAB.

15. Mr WU Chi-wai said that the right of non-members in participating in the discussion of Administration's staffing proposals was not restricted. He opined that the real reason for the Applicant Members to join the Subcommittee was to gain the voting right on proposals so as to support the Administration. He did not consider this a sufficient ground under paragraph 3B of ESC Procedure. Given that the final decision on a proposal rested with FC, the pro-establishment Members could take part in the votes at FC.

16. Noting that the discussion between the pan-democratic camp and pro-establishment camp in October 2014 had failed, Mr SIN Chung-kai said that pan-democratic Members had to exhaust all reasonable means in the contest for committee chairmanships and their actions should not be regarded as an "ambush". On Mr LEE Cheuk-yan's remarks about the television programme, Mr SIN shared that the reasons stated in the letters provided by the Applicant Members belonging to DAB might not be genuine, and as such, the integrity of these Applicant Members might be questionable. On the other hand, the reason stated by Dr CHIANG Lai-wan in her letter, i.e. the pan-democratic camp had betrayed trust and justice, was not acceptable, because as he had mentioned above, the pro-establishment camp had already pointed out clearly its intention to contest in all committee chairmanships.

Action

17. Mr CHAN Chi-Chuen pointed out that LegCo Members belonging to the People Power were not involved in the discussion between the pan-democratic camp and pro-establishment camp, and after the rejection of Mr Albert CHAN's application for joining ESC in the last session, they had already indicated publicly their intention to join both ESC and PWSC in the current session. On Mr KWOK Wai-keung's remarks that late arrival at or absence from the meeting of pan-democratic Members had demonstrated their lack of commitment on the work of the Subcommittee, Mr CHAN said that consideration should be given to revising the quorum of the meeting upward to one half of all members so as to ensure a larger number of members attending a meeting.

18. Mr Steven HO said that Mr Albert CHAN's application for late membership in the last session was rejected because his purpose was to filibuster in the Subcommittee, and such acts were against public interest. As regards the Applications in question, Mr HO said that the pan-democratic camp had indeed betrayed trust and justice because it had unilaterally destroyed the mutual understanding with the pro-establishment camp. The pro-establishment Members had to join the Subcommittee to enable its effective operation. He hoped that the Subcommittee could make a decision on the Applications as early as possible. If the Applications were rejected, the Applicant Members could then decide whether to appeal to FC as provided in paragraph 3B of ESC Procedure. In response to Mr HO's view, Mr LEE Cheuk-yan considered that "maintaining effective operations of ESC" was only a political consideration and did not constitute a sufficient ground for accepting applications for late membership.

19. Mr Albert CHAN clarified that he had not stated in his application letter for late membership submitted in June 2014 that he would filibuster. He said that he was entrusted by Mr LEUNG Kwok-hung, who was then imprisoned and could not attend meetings of the Subcommittee, to ask questions and raise motions at meetings on Mr LEUNG's behalf. He remarked that it was inappropriate that some Applicant Members had put the blame for missing the registration deadline on their PAs.

20. Mr Martin LIAO said that under the principle of majority rule, the minority had to give way to the majority, and the majority should not be seen as "overbearing". He re-affirmed that there had been a mutual understanding on the allocation of chairmanships and deputy chairmanships for committees in the past, under which pan-democratic Members had serviced as chairmen and deputy chairmen of some committees. He stressed that while the mutual understanding had been destroyed, it was time for both camps to rebuild it.

21. Dr KWOK Ka-ki remarked that the operation of LegCo had been distorted. The pro-establishment camp could prevail over the pan-democratic

Action

camp because many pro-establishment Members were returned from functional constituencies, and this problem could only be resolved by implementing constitutional reform. He considered it very inappropriate that many Applicant Members had put the blame for their own mistakes on their PAs. He opined that the PAs concerned should be given an opportunity to explain the matter to the Subcommittee.

22. Ms Starry LEE expressed dissatisfaction that some members had questioned Applicant Members' integrity in the absence of any concrete evidence.

23. Mr LEUNG Yiu-chung disagreed with the comments that pan-democratic Members had destroyed the mutual understanding. He said that pro-establishment Members had been dominant and taken up the chairmanships and deputy chairmanships of all important committees, and pan-democratic Members could only get the leftover positions. Mr LEUNG considered that there should be a fairer allocation in positions where both camps should take turns in taking up committee chairmanships and deputy chairmanships. Dr Kenneth CHAN echoed the views.

24. Mr CHAN Kin-por (an Applicant Member) pointed out that at the PWSC meeting on 11 November 2014, some pan-democratic Members had admitted that their acts were an "ambush", and this would imply that they had abandoned the mutual understanding. He commented that the Subcommittee should be forward-looking and decide the Applications as soon as possible.

25. Mr YIU Si-wing recalled that when the Subcommittee considered Mr Albert CHAN's application for late membership in the last session, Mr CHAN said that he would filibuster in the Subcommittee, and hence members had opposed his application. Mr YIU opined that Members should address the current problem at the source and find a way out.

Special meeting to consider the Applications

26. Dr KWOK Ka-ki suggested that the Subcommittee should convene a special meeting to consider the Applications, and invited the Applicant Members to attend and explain the grounds of their applications. To facilitate attendance of Subcommittee members and Applicant Members, alternative time slots should be provided for holding the special meeting as far as possible. Dr Kenneth CHAN, Mr LEE Cheuk-yan and Mr Albert CHAN expressed support for the proposal. Moreover, Applicant Members could provide supplementary information on their applications for the Subcommittee's consideration.



27. Mr YIU Si-wing, Ms Starry LEE, Mr WONG Ting-kwong, Mr KWOK Wai-keung and Mr CHAN Kin-por opposed to holding a special meeting to consider the Applications. Ms LEE said that the suggested special meeting was a form of filibustering.

28. Taking into account the discussion at the current meeting and in order not to delay consideration of the Administration's staffing proposals, the Chairman decided that a special meeting would be held for considering the Applications. He instructed the Clerk to make arrangements for the special meeting with Subcommittee members and Applicant Members.

29. Mr NG Leung-sing said that while he respected the decision of the Chairman on convening a special meeting, he considered that the matter could be handled in a more efficient manner by inviting Subcommittee members to indicate their support or otherwise of the Applications through circulation of papers.

*(Post-meeting note: Subcommittee members and Applicant Members were invited to indicate their availability on proposed time slots for holding the special meeting vide LC Paper No. ESC13/14-15 issued on 17 November 2014. Having considered the replies from Subcommittee members and Applicant Members, the Chairman subsequently decided that the special meeting be held on 3 December 2014, from 8:30 am to 10:30 am. The notice of meeting was issued vide ESC15/14-15 issued on 27 November 2014.)*

**EC(2014-15)11      Proposed creation of seven permanent judicial posts of three Justice of Appeal of the Court of Appeal of the High Court (JSPS 17), one Judge of the Court of First Instance of the High Court (JSPS 16), one Judge of the District Court (JSPS 13) and two Magistrate (JSPS 7-10); one non-civil service position of Executive Director; and two permanent civil service posts of one Chief Systems Manager (D1) and one Chief Treasury Accountant (D1) to be offset by the deletion of a Senior Treasury Accountant to strengthen the directorate structure of the Judiciary Administration in the Judiciary with immediate effect**

30. The Chairman drew members' attention to the two information papers provided by the Administration before the meeting. ECI(2014-15)7 provided an update on the overall directorate establishment position and

Action

forecast of possible proposals for creation and extension of directorate posts in the 2014-2015 legislative session. ECI(2014-15)8 set out the latest changes in the directorate establishment approved since 2002. He then reminded members that in accordance with RoP 83A, they should disclose the nature of any direct or indirect pecuniary interests relating to the funding proposals under discussion at the meeting before they spoke on the item. He also drew members' attention to RoP 84 on voting or withdrawal in case of direct pecuniary interest.

31. The Chairman said that the Judiciary's proposal was to create seven permanent judicial posts of three Justice of Appeal ("JoA") of the Court of Appeal ("CA") of the High Court, one Judge of the Court of First Instance of the High Court ("CFI Judge"), one Judge of the District Court and two Magistrate; one permanent non-civil service position of Executive Director (Judicial Institute) ("ED(JI)"); and two permanent civil service posts of one Chief Systems Manager ("CSM") and one Chief Treasury Accountant to be offset by the deletion of a Senior Treasury Accountant with immediate effect.

32. The Chairman advised that the Panel on Administration of Justice and Legal Services ("AJLS Panel") had been consulted on the proposal at its meeting on 24 June 2014. Panel members supported in principle the creation of the proposed posts. They expressed concern about the judicial establishment and manpower situation as well as lengthy court waiting times, and considered that the Judiciary should fill judicial vacancies as soon as practicable so as to alleviate the heavy workload of judges. Panel members further noted the need to increase judicial resources for providing "protected time" for Judges and Judicial Officers ("JJOs") in dealing with education and training matters with a view to maintaining a well-structured and sustainable development of judicial education. Some Panel members highlighted the required time for judges to handle cases involving litigants in person, and opined that relaxation in the eligibility for legal aid would enable more litigants to have legal representatives, which in turn would be conducive to more efficient use of court time.

Judicial manpower situation and court waiting times

33. Ms Emily LAU, Mr SIN Chung-kai, Dr KWOK Ka-ki, Mr Alan LEONG and Mr LEE Cheuk-yan expressed support for the staffing proposal. Noting that the workload of JJOs had been increasing and court waiting times were getting longer, they sought details about how the creation of the proposed posts could improve court waiting times and alleviate the heavy workload of JJOs. Dr KWOK further asked if the average amount of time spent by judges for reading papers and documents and writing judgments for cases could be quantified. He also expressed concern about whether the proposed increase in judicial manpower resources would be adequate to address the problems.

Mr CHAN Chi-chuen opined that it was important for the Judiciary Administration to develop targets for reducing the court waiting times with creation of the new judicial posts. Ms Starry LEE enquired about the existing targets of court waiting time at various levels of court.

34. Judiciary Administrator ("JA") advised that in view of the heavy workload of judges in the High Court, especially JoAs in CA, the Judiciary conducted a review of the judicial establishment and manpower situation in 2013. Three Judges were required to form one division for the purpose of listing appeal cases at CA. In practice, in order to cope with the heavy workload of CA and to help improve the waiting times, a number of CFI Judges had been deployed to sit as additional judges at CA. JA added that according to the Chief Judge of the High Court, cases handled by CA were getting more complex as many trials and interlocutory matters in CFI were getting longer and increasingly complicated. Moreover, when cases tried by lower courts involved increasingly complicated arguments and longer time, the corresponding appeals would also be lengthened. The amount of time that JoAs needed to read through materials and write judgments had increased substantially. With the proposed creation of the three JoA posts, it was expected that a greater proportion of the cases heard at CA would be conducted by divisions constituted solely by substantive JoAs than at present, thereby releasing judicial manpower at CFI back to that level of court. Given that cases considered by the High Court varied a great deal in nature and complexity, it was difficult to devise objective quantifiable indicators for measuring the workload of judges, nor was it possible to predict in quantifiable terms the impact of such additional posts might have on court waiting times, as these would be influenced by other factors such as the complexity of and hearing time required for each case. Hence, while the Judiciary envisaged that the creation of the new JoA and CFI Judge posts would help improve court waiting times, it would be difficult to predict the exact extent of improvement at this moment. Regarding the targets of average court waiting time at various levels of court, JA said that such information was provided in the 2014-2015 Controlling Officer's Report of the Judiciary. As revealed in the report, most of the average court waiting times at CFI and CA had exceeded their targets, while most of the waiting times at other levels of court were within targets. Moreover, the average court waiting time at CA for criminal appeals had met its target in 2013 because priority was given to timely disposal of such appeals. She assured members that the Judiciary would continue to review its manpower situation on a regular basis and submit staffing proposals to the Administration and LegCo where necessary. In addition, deputy judges were appointed in CFI as a measure to help reduce court waiting times pending the creation and filling of the permanent judicial posts.

35. Mr Alan LEONG asked if the proposed new JoA posts would be assigned for handling criminal appeals or civil appeals. JA re-iterated that creation of the posts would enable the formation of one more division constituted solely by JoAs for the purpose of listing appeal cases. There was flexibility in the allocation of appeal cases for handling by JoAs taking into account factors including the nature of the cases, expertise of JoAs concerned, etc.

36. In response to Mr KWOK Wai-keung's enquiry about whether it would be necessary to deploy CFI Judges to sit as additional judges at CA after creation of the JJOs posts, JA said that the creation of the new posts would not preclude such possibility. She added that a reasonable degree of participation by experienced CFI Judges in the appellate process would serve useful purposes and should be regarded as normal. There was also similar practice in other common law jurisdictions.

37. Mr CHAN Chi-chuen was concerned that the "Occupy Central" movement might lead to a surge in the number of litigations, and enquired if the Judiciary would plan for the required judicial manpower resources accordingly. JA responded that the Judiciary would conduct analyses on the adequacy of judicial resources with regard to past experience and ongoing trends. Past experience had revealed that there were fluctuations in the number of litigations. For instance, the number of civil cases tended to correlate with the economic cycle. She assured members that the Judiciary would deploy its resources having regard to the operational needs.

38. Pointing out that the insufficient number of courtrooms was among factors attributing to the long court waiting times, Ms Starry LEE asked about the initiatives implemented by the Judiciary to address the problem. JA advised that the Judiciary had requested the Administration to provide the necessary accommodation to meet its operational needs in the short, medium and long terms.

39. Mr Albert HO expressed concern about the heavy workload of the Family Court and the long waiting time for cases. He enquired about measures taken by the Judiciary to improve the situation. JA advised that a Review of Family Procedure Rules was underway. In that context, the judicial manpower resources requirement would also be considered. She added that the AJLS Panel had been briefed on the subject.

#### Recruitment of JJOs and mechanism for handling complaints against them

40. Mr Albert CHAN referred to his experience in observing proceedings in Magistrates' Courts which revealed varied attitudes adopted by Magistrates towards defendants. He pointed out that while some Magistrates

Action

were neutral in stance, professional and patient, some appeared to be impatient and did not respect the defendants. Moreover, he noted that many newly appointed Magistrates in recent years were previous staff members of the Department of Justice. Mr CHAN expressed concern about the mechanisms for recruitment of and handling complaints against JJOs. Mr Albert HO asked if the Judiciary would conduct overseas recruitment for JJOs.

41. JA advised that the recruitment and appointment of JJOs were conducted in accordance with the relevant provisions of the Basic Law, namely on the basis of candidates' judicial and professional qualities. Each appointment was made on the recommendation of the Judicial Officers Recommendation Commission ("JORC"). Open recruitments were conducted for the posts of Magistrate, Judge of the District Court and CFI Judge. Advertisements of recruitment exercises were published in the Judiciary website and newspapers, and eligible candidates from within the Judiciary, private practice and government departments in the executive arm could be appointed as JJOs if they meet the relevant judicial and professional requirements and were recommended by JORC. At the Chairman's request, the Judiciary Administration was invited to provide supplementary information on the number of Judges and Magistrates appointed in the past five years; and a breakdown of these appointed Judges and Magistrates by reference to their professional background.

*(Post-meeting note: The supplementary information provided by Judiciary Administration was issued to members vide LC Paper No. ESC16/14-15 on 28 November 2014.)*

42. Mr Albert CHAN stressed the need for the Judiciary to maintain an effective and transparent oversight mechanism of the conduct of JJOs. He enquired about the number of substantiated complaints against JJOs processed by the Judiciary in recent years, and whether there was any plan to use videos of court proceedings as a means to monitor the conduct of JJOs. JA responded that the Judiciary had published a Guide to Judicial Conduct providing guidelines to JJOs on their behaviours inside and outside courts. Moreover, there were established procedures for members of the public in lodging complaints against the conduct of JJOs. Details about complaints against JJOs were given in an information paper provided to the AJLS Panel in June 2014 (LC Paper No. CB(4)840/13-14(01)), by which Panel members were informed that the Chief Justice of the Court of Final Appeal had set up an internal working group to review the complaint mechanism.

43. Mr Alan LEONG highlighted the importance to fill the newly created JJO posts as early as possible, in particular the posts of CFI Judge as this would address the existing undesirable arrangement of deploying deputy judges to sit as CFI Judges. Ms Emily LAU and Mr Albert HO enquired

about the details of recruitments of JJOs conducted in recent years.

44. JA said that the Judiciary conducted a recruitment exercise each for Magistrates and Special Magistrates in the first half of 2014. In addition, recruitment exercise for CFI Judges had been conducted on a more frequent basis with a view to filling vacancies of CFI Judges as early as possible. A recruitment exercise for CFI Judges was launched in October 2014. There had been no open recruitment for JoA as these posts were usually filled by promotion from CFI Judges.

#### Functions of the Judicial Institute

45. Mr NG Leung-sing expressed concern about possible surge in the number of litigations arising from the "Occupy Central" movement which could exert pressure on the already heavy workload of JJOs. Given that a lot of the litigations might involve acts "on grounds of civil disobedience", Mr NG asked if the Judicial Institute ("JI") would provide the necessary training to prepare JJOs for such cases.

46. JA advised that the establishment of JI was among the major recommendations of the comprehensive review on judicial education conducted in 2012 by Mr Justice Frank STOCK, the then Vice-President of CA and Chairman of the former Judicial Studies Board. The said review, which had made reference to the relevant experience of other jurisdictions including the United Kingdom and Australia, had acknowledged the importance of enhancing judicial education and the provision of continuous training for serving JJOs to cater for their professional development, and hence recommended the setting up of JI to provide structured and sustainable judicial training for JJOs.

47. Mr LEE Cheuk-yan and Ms Claudia MO enquired about the reason for creating the proposed post of ED(JI) as a non-civil service position. With increasing number of litigations involving political disputes and human rights issues etc., they expressed concern about JI's strategies and emphases in the development of training programmes for JJOs, in particular whether JI would make reference to judicial training programmes of the Mainland and other jurisdictions in this regard. They also considered that JI's training programmes should reinforce JJOs on the concept of the rule of law.

48. JA explained that the candidate of the ED(JI) position must have both legal professional qualifications and working experience in the planning and administration of training programmes. There was no similar rank in the existing civil service establishment for the position. The institutional arrangement of JI included the Governing Body, which would provide strategic steer for the judicial education programmes including making

recommendations on the areas of training needs and judicial skills having regard to the work of the Judiciary; and the Executive Body, to be headed by ED(JI), which would be the executive arm of JI. JA stressed that it was the mission of the Judiciary to ensure an independent and effective judicial system which upheld the rule of law, safeguarded the right and freedoms of individual and commanded confidence within and outside Hong Kong. Under the existing judicial system in Hong Kong, JJOs would discharge their duties in an impartial manner. The appeal system also provided the right for persons aggrieved with courts' decisions to make appeals. Moreover, the reasons behind every court judgement were explained in detail. To this end, JI's Executive Body would provide the necessary professional support to JJOs in respect of judicial education and training to help them discharge their duties. On JI's contact with relevant organizations overseas, JA said that ED(JI) would be responsible for developing links with judicial training bodies in other jurisdictions, such as in Australia, the United Kingdom and New Zealand, to facilitate exchange of expertise and experience.

#### Provision of electronic services to the public

49. Mr SIN Chung-kai noted that creation of the CSM post was to support the implementation of the Information Technology ("IT") Strategy Plan of the Judiciary with the purpose to provide more effective and efficient service to all stakeholders. Given that members of the public and the media had great interest in written judgments delivered by the courts in recent years, especially those cases of wide public concern, Mr SIN opined that the Judiciary should enhance its IT resources to expedite the dissemination of written judgments on cases through the Judiciary's website as soon as possible.

50. JA responded that, in formulating the IT Strategy Plan of the Judiciary, the Judiciary had sought the views of stakeholders including the legal professional bodies, respective court users' committees, etc. on the proposals in the IT Strategy Plan. She supplemented that generally, all judgments delivered by courts at the District Court level and above were made available on the Judiciary website. The Judiciary had made efforts to fast-track the process of uploading the judgments of cases of great public concern.

#### Proposed motions raised by members in accordance with paragraph 31A of ESC Procedure

51. The Chairman informed members that Mr CHAN Chi-chuen and Mr Albert CHAN had respectively submitted one and three proposed motions under paragraph 31A of ESC Procedure on the agenda item. The Chairman said that he had considered the four proposed motions and ruled them directly related to the agenda item.

52. At 10:25 am, the Chairman said that if members had no objection, he would extend the meeting for 15 minutes to 10:45 am so that the Subcommittee could deal with the four proposed motions. Mr LEE Cheuk-yan did not agree to extend the meeting as he considered members would need time to study the proposed motions. Due to insufficient time allowed at the meeting, the Chairman said that he would invite members to consider whether the four proposed motions should be proceeded forthwith at the beginning of the next regular meeting to be held on 10 December 2014.

53. There being no other business, the meeting ended at 10:40 am.

Council Business Division 1  
Legislative Council Secretariat  
18 December 2014