

Panel on Administration of Justice and Legal Services

List of outstanding items for discussion

(position as at 21 February 2017)

**Proposed
timing for
discussion**

1. Measures for protecting mentally incapacitated persons during court proceedings

At the Panel meeting on 18 October 2016, Hon Holden CHOW proposed to discuss the issue of "Measures for protecting mentally incapacitated persons during court proceedings".

March 2017

The Department of Justice ("DoJ") will explain to members measures adopted by the prosecutions for protecting mentally incapacitated persons in criminal proceedings. It will also brief members on the working draft bill to be released for consultation for the implementation of the recommendations of LRC's "Report on Hearsay in Criminal Proceedings".

2. Measures for handling sexual offence cases and the provision of screens for complainants in sexual offence cases during court proceedings

At the Panel meeting on 18 October 2016, Dr Hon Elizabeth QUAT urged the Panel to actively follow up with the Administration and JA on the implementation of measures for handling sexual offence cases and the provision of screens for complainants in sexual offence cases during court proceedings discussed at the Panel meeting held on 27 June 2016.

March 2017

DoJ plans to consult members on the Statute Law (Miscellaneous Provisions) Bill 2017 which will include, inter alia, necessary provisions for implementing the proposal to give the court a discretion to permit complainants of certain sexual offences to give evidence by way of a live television link.

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

At the Panel meeting on 10 July 2012, members agreed that the Panel should follow up with the Administration on proposals not supported for inclusion in SLAS in the past, 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.

April 2017

Home Affairs Bureau ("HAB") submitted an information paper to the Panel on the progress of the review of SLAS which was issued on 18 June 2014 (LC Paper No. CB(4)822/13-14(06)). At the Panel meeting on 23 March 2015, members requested the Working Group on Expansion of SLAS of the Legal Aid Services Council ("LASC") to provide a report on the progress of its review to the Panel.

LASC completed the review on SLAS and submitted its recommendations to the Government. The Government is studying LASC's recommendations and plans to brief the Panel in April 2017.

4. Review of the Financial Jurisdictional Limits of the District Court and the Small Claims Tribunal

At the Panel meeting on 18 October 2016, Hon Holden CHOW proposed to discuss the issue of "Raising the amount of claims that could be handled by the Small Claims Tribunal" to enable more cases to be settled in a quick and inexpensive manner at the Small Claims Tribunal.

April 2017

JA proposes to brief members on the results of the review of the financial jurisdictional limits of the District Court and the Small Claims Tribunal.

**Proposed
timing for
discussion**

5. Manpower and other support for the Judiciary

At the Panel meeting on 23 November 2015, Dr Hon CHIANG Lai-wan suggested and members agreed to invite the Judiciary to update members on judicial manpower situation and support for judges and judicial officers at a future meeting of the Panel.

April 2017

At the Panel meeting on 18 October 2016, Dr Hon Priscilla LEUNG also proposed to follow up with JA on the issue of "Shortage of judicial manpower", having regard to the increasing deployment of deputy judges.

6. Legal education and training in Hong Kong

At the Panel meeting on 18 October 2016, Hon Steven HO proposed to follow up on the issue of "Legal education and training in Hong Kong", in particular the lack of places for the Postgraduate Certificate in Laws programmes offered by the three local law schools.

May 2017

7. Measures to prevent the misuse of the legal aid system in Hong Kong and assignment of lawyers in legal aid cases

At the Panel meeting on 18 October 2016, Hon Jeffrey LAM proposed to discuss the issue of "Measures to prevent the misuse of the legal aid system in Hong Kong", having regard to the increasing handling of legal aid applications from torture/non-refoulement claimants under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and that some of these aided persons often nominated the same lawyers on the Legal Aid Panel of the Legal Aid Department.

May 2017

At the Panel meeting on 18 October 2016, Dr Hon Priscilla LEUNG also proposed to discuss the issue of "Assignment of lawyers in legal aid cases".

**Proposed
timing for
discussion**

8. Handling of prosecution works before the Magistrates' Courts

An internal review was conducted by DoJ in 2016 of the handling of prosecution works before the Magistrates' Courts, including issues as to the future arrangement for the Court Prosecutor Grade. The primary aim of the review was to consider if there is any need, and if so how, to adjust the distribution and handling of cases to efficiently and effectively meet the current and future demand for prosecution service at the magistracy level. The Department of Justice will brief members on the proposed way forward formulated having regard to comments received in response to the consultation paper issued earlier last year.

May 2017

9. Provision of legal advice services for persons detained in police stations

Hon Dennis KWOK proposed to discuss the issue of "Provision of legal advice services for persons detained in police stations" in his letter dated 31 March 2015 to the Chairman of the Panel.

Q2 of 2017

As the suggestion to extend the Duty Lawyer Scheme for detainees at Police stations would entail substantial financial and operational implications, HAB advised the Secretariat on 16 November 2015 that the Government would need to carefully examine the feasibility in consultation with relevant bureaux and departments. Meanwhile, LASC completed a study regarding the provision of legal assistance to detainees. The Government will take into account LASC's findings and brief the Panel on the issue Q2 of 2017.

10. Progress of work of the Inter-departmental Working Group on Gender Recognition

At the Panel meeting on 18 October 2016, Hon CHAN Chi-chuen proposed to discuss the issue of the "Progress of work of the Inter-departmental Working Group on Gender

June/July 2017

**Proposed
timing for
discussion**

Recognition".

11. Mechanism for handling complaints against judicial conduct

At the Panel meeting on 18 October 2016, Hon Steven HO proposed to follow up on the issue of "Mechanism for handling complaints against judicial conduct".

End 2017

12. Rule of law in Hong Kong

At the Panel meeting on 18 May 2015, Dr Hon CHIANG Lai-wan proposed to discuss the issue of "rule of law in Hong Kong" at a future meeting of the Panel. Dr CHIANG pointed out that despite the fact that persons storming the Legislative Council Complex and causing severe damage to various parts of the Complex were caught by the CCTV cameras, no prosecution action had been brought against these persons.

To be advised by
DoJ

DoJ has suggested explaining to members its standard practice and policy in handling prosecution, after a case is submitted to DoJ by the law enforcement agencies after investigation.

13. Abolition of the common law offence of champerty

At the Panel meeting on 25 March 2014, members were briefed by DoJ on the recent developments of the common law offences of maintenance and champerty in Hong Kong and the Administration's position in relation to the item. Members were generally of the views that the common law offences of maintenance and champerty were outdated and should be reviewed to better suit the present day circumstances. DoJ was urged to adopt a liberal approach in addressing the issue and come up with ways to enhance access to justice for the middle-income group.

To be advised by
DoJ

The Secretariat has received a letter from Hon LEUNG Kwok-hung dated 1 September 2014 requesting the Panel to

**Proposed
timing for
discussion**

discuss the issue of abolition of the common law offence of champerty again.

14. Recovery of costs in pro bono cases

Hon Dennis KWOK proposed to discuss the issue of "Recovery of costs in pro bono cases".

To be advised by
DoJ

At the Panel meeting on 24 November 2014, members agreed that the issue be included in the list of items for discussion by the Panel.

15. Implementation of Land Titles Ordinance (Cap. 585)

During the discussion of the item on "Law Reform Commission Report on Adverse Possession" at the Panel meeting on 22 December 2014, Hon Dennis KWOK proposed that the Administration should be invited to brief members on the implementation progress of the Land Titles Ordinance (Cap. 585) ("LTO") enacted in 2004.

To be advised by
DEVB

Development Bureau ("DEVB") advised the Secretariat on 17 November 2015 that it plans to report the progress of the post-enactment review of the LTO to this Panel and the Panel on Development when the full package of necessary legislative proposed amendments to LTO is available.

DEVB is still engaging with major stakeholders on various changes to the rectification, indemnity and conversion arrangements under the LTO for the new title registration system. DEVB is actively forging consensus amongst the key stakeholders, subject to which will DEVB be in a position to consider launching a public consultation. The full package of necessary legislative amendments would only be available after considering the views of the public.

In view of the complexity of the issues involved, it would be difficult for DEVB to commit to a definite timeframe for report

**Proposed
timing for
discussion**

to members on the package of necessary legislative amendments at this stage; but DEVB and the Panel Clerk will keep in touch with each other should there be any update to such timeframe.

16. Legal issues relating to the co-location arrangements at the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link

At the Panel meeting on 18 May 2015, Hon Alice MAK proposed and members agreed to discuss the issue of "Legal issues relating to the co-location arrangements at the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link" as soon as practicable.

To be advised by
DoJ