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Ms Sophie Lau  
Clerk to Panel on Administration  
of Justice and Legal Services  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Ms Lau,

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

**Measures for Handling Sexual Offence Cases and the Provision of Screens  
for Witnesses in Sexual Offence Cases during Court Proceedings**

The captioned item will be discussed at the meeting of the Panel on Administration of Justice and Legal Services (“AJLS Panel”) of the Legislative Council on 27 March 2017. The Judiciary understands that the Department of Justice of the Government will consult Members on the Statute Law (Miscellaneous Provisions) Bill 2017 which will include, inter alia, relevant 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. In this context, the Judiciary would like to provide an update on the various issues relevant to the court proceedings below.

## **Provision of Protective Screens and Special Passageways**

2. At the AJLS Panel meeting on 27 June 2016, the Judiciary informed Members that it had issued the new/revised Practice Directions so that the consideration of the need for a protective screen for witnesses would become a standing procedure in every sexual offence case that is brought before the court. The relevant Practice Directions took effect in August 2016. Introduction of this measure has ensured that consideration is given by the defence and the prosecution to the use of a protective screen in each and every sexual offence case.

3. In the course of consultation, some stakeholders have suggested that besides protective screens, a special passageway should also be provided at the same time for the witness to enter and leave the courtroom. At the AJLS Panel meeting in June 2016, the Judiciary explained to Members that the court has been trying to provide special passageways within the physical constraints of the relevant court building if such a passageway is considered necessary by the Judge concerned having regard to such factors as the needs of the witness and circumstances of the case. Given the physical constraints of individual court buildings (particularly the older ones), the Judiciary indicated at that time that turning this into a standing arrangement for cases heard in all court premises might not be operationally feasible and that the proposal would require further careful consideration.

4. The Judiciary has since given further thoughts and has just completed a review on this matter. In the light of latest developments, including the recent commissioning of a new law courts building (i.e. the West Kowloon Magistrates' Courts Building) and the smooth operation of the standing applications for protective screens since August 2016, the Judiciary considers that there is room to enhance the protection for the witnesses of sexual offence cases. The Judiciary has therefore put forward further amendments to the relevant Practice Directions<sup>1</sup> so that the consideration of the need for passageways will also become a standing procedure in every sexual offence case that is brought forward before the court. The application will be considered together with that for protective screens. The Judiciary is consulting the relevant stakeholders on the proposed changes. The consultation period will run until end April 2017.

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<sup>1</sup> They are Practice Direction 9.3 "Criminal Proceedings in the Court of First Instance", Practice Direction 9.4 "Criminal Proceedings in the District Court" and Practice Direction 9.10 "Use of Screens in Sexual Offence Cases in Magistrates' Courts".

5. With the provision of special passageways, the witness concerned will be concealed from the media, members of the public and the people relevant to the case as he/she enters or leaves the courtroom. He/she will however not be concealed from the others, including the Judiciary and Government staff involved in handling the case. Moreover, the exact passageway for each case may need to be adjusted according to the circumstances of the case and the physical constraints of the court building concerned etc. If a special passageway is not operationally feasible for a certain court building, the relevant case may have to be transferred to be heard at another court building where special passageway can be provided.

### **Preventing the Public from seeing the Witnesses**

6. Some stakeholders have raised concern that given the physical constraints of individual courtrooms, the TV screens for live TV link may sometimes be placed at a position where some other relevant people (e.g. member of the public or media) in the courtroom may be able to see the face of the witness. This may not be desirable if the witness does not wish to be recognized and/or the Judge considers it more appropriate to conceal the identity of a witness (e.g. by granting an anonymity order).

7. The Judiciary has been taking and considering measures to avoid the chance of such unintended disclosure. For example, partitions may be erected near the TV screens to conceal them from the sight of the members of the public and media etc. Other measures are also being explored to achieve this.

### **Statistics**

8. At the AJLS Panel meeting on 27 June 2016, the Judiciary was requested to provide statistics on sexual offence cases heard in the different levels of courts from 2014 to 2016.

9. Specifically, the Deputy Chairman of the AJLS Panel requested the Judiciary to provide the information in the manner as set out in a template. The Judiciary does not keep the statistics on some of the items in the template provided, and some of the information is not readily available. The Judiciary is however pleased to provide the following figures which are available :

- (a) Statistics relating to the provision of screens in sexual offence proceedings from 2014 to 2016 :

Year	Number of applications for the provision of screen	Number of such applications granted	Number of such applications refused
2014	22	20	2
2015	14	14	0
2016	41	41	0

- (b) Statistics on the types of sexual offence cases handled by all levels of courts from 2014 to 2016 :

Year	Number of sexual offence cases heard			
	Rape <sup>2</sup>	Indecent assault <sup>3</sup>	Others <sup>4</sup>	Total
2014	14	302	31	347
2015	14	239	24	277
2016	11	216	30	257

### **Training for Judges and Judicial Officers**

10. Some stakeholders have suggested that, among others, the Judiciary should provide training to Judges and Judicial Officers on an on-going basis so as to reduce the possible secondary victimisation to witnesses of sexual offence cases.


<sup>2</sup> Pursuant to section 118 of the Crimes Ordinance (Cap. 200).

<sup>3</sup> Pursuant to section 122 of Cap. 200.

<sup>4</sup> Other sexual offence cases include cases involving the following offences: (i) incest; (ii) buggery; (iii) indecent conduct; and (iv) unlawful sexual intercourse.

11. Training for Judges and Judicial Officers in this regard has been provided before. They also attend training sessions conducted by relevant local / foreign experts from time to time on the appropriate handling skills and arrangements for cases with such victims. With the recent establishment of the Judicial Institute, the Institute will also attend to the needs for training in the area of sexual offences and vulnerable witnesses.

Yours sincerely,



( Ms Wendy CHEUNG )  
for Judiciary Administrator