

**For discussion
on 24 April 2017**

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

Judicial Manpower Position

PURPOSE

This paper seeks to provide the latest information on the judicial manpower situation at various levels of court in the Judiciary.

BACKGROUND

2. At the various meetings of the Legislative Council (“LegCo”) Panel on Administration of Justice and Legal Services (“Panel”) held in the past few years, Members expressed views on the issue relating to judicial manpower situation and invited the Judiciary to provide updates on the matter. Members would also like to be kept informed of the assistance currently provided to Judges.

JUDICIAL MANPOWER SITUATION

Judicial Establishment

3. Following an establishment review in 2013, the overall establishment of Judges and Judicial Officers (“JJOs”) has been enhanced from 193 to 200 upon the creation of seven additional judicial posts on 20 March 2015, including three Justice of Appeal of the Court of Appeal of the High Court (“JA”) posts, one Judge of the Court of First Instance of the High Court (“CFI Judge”) post, one District Judge (“DJ”) post and two Permanent Magistrate posts. The establishment change was reported to the Panel in May 2015 when it was last updated of the judicial manpower situation at various levels of court as set out in LC Paper No. CB(4)964/14-15(03). The establishment of JJOs has remained at 200 since then.

Filling of Judicial Vacancies

4. Since the last update of judicial manpower situation at the Panel meeting in May 2015, the Judiciary has conducted a new round of open recruitment exercises for CFI Judge, DJ and Permanent Magistrate. The recruitment exercises for CFI Judge and DJ have been completed and that for Permanent Magistrate is still in progress. A total of 12 judicial appointments, including four CFI Judges and eight DJs, were made through the open recruitment exercises so far since May 2015. During the same period, 22 judicial vacancies arose at different levels of court mainly due to retirement and elevation to higher levels of court. As at 10 April 2017, out of the 200 established judicial posts, 159 were substantively filled and there are 41 vacancies (as compared to 169 substantive JJOs and 31 vacancies in the last reported position in May 2015). The breakdown of the figures as at 10 April 2017 by levels of court is at the Enclosure.

Encl.

Manpower Positions at Various Levels of Court

5. More specifically, the judicial manpower position of judicial ranks at various levels of court as at 10 April 2017 is outlined briefly in the following paragraphs.

Court of Final Appeal

6. The Court of Final Appeal (“CFA”) has the full strength of one Chief Justice and three Permanent Judges (excluding the post created for a Non-Permanent Judge of the CFA).

Court of Appeal of the High Court

7. The Court of Appeal of the High Court (“CA”) has an establishment of 14 judicial posts, comprising the Chief Judge of the High Court and 13 JAs. The figure has included the three additional JA posts created in 2015, two out of which are substantively filled by internal elevation. There is currently one vacancy remaining which will be filled by suitable candidate in accordance with the established appointment policies and procedures at the appropriate time.

Court of First Instance of the High Court

8. With an additional CFI Judge post created in 2015, the present establishment of CFI Judges stands at 34, and 27 out of which are substantively filled with seven remaining vacant.

9. In respect of the recruitment of CFI Judges, four appointments have been made since May 2015. It is noteworthy that recruitment difficulty still persists at this level of court as proven by the fact that the number of eligible candidates found suitable for appointment was much smaller than the available vacancies. Upon completion of the latest recruitment exercise launched in June 2016, there are still seven vacancies remaining unfilled.

District Judge and Equivalent Ranks

10. With an additional DJ post created in 2015, the District Court, Family Court and Lands Tribunal have a total establishment of 37 judicial posts comprising the Chief District Judge, the Principal Family Court Judge and 35 DJs (excluding two posts of Member, Lands Tribunal). In addition, DJs are cross-posted to perform the duties of the High Court Masters' Office which has an establishment of 11 posts (one Registrar, four Senior Deputy Registrars and six Deputy Registrars). Altogether, there are 48 judicial posts at such ranks (excluding Members, Lands Tribunal).

11. The last recruitment exercise of DJ launched in May 2016 has been largely successful, resulting in the appointment of a total of eight DJs. Against the present strength of 46, there are currently only two vacancies at the DJ or equivalent ranks (excluding Members, Lands Tribunal). Compared to the last reported vacancy of seven in May 2015, the strength of DJ and equivalent ranks has improved.

Member, Lands Tribunal

12. There is an establishment of two Member, Lands Tribunal ("M/LT") posts, all have been substantively filled.

Magistrates' Courts, Specialized Courts and other Tribunals

13. Including the two Permanent Magistrate posts created in 2015, the total establishment of the Magistrates' Courts, Specialized Courts and other Tribunals stands at 94 at present. Judicial posts at this court level include the Chief Magistrate, 11 Principal Magistrates and equivalent, 71 Permanent Magistrates and equivalent and 11 Special Magistrates. In addition, Principal Magistrates and Permanent Magistrates are cross-posted¹ to the

¹ Under the cross-posting policy which has been well-established since 1988, the Judiciary deploys Principal Magistrates and Permanent Magistrates to the District Court Masters' Office to sit as Registrar (for Principal Magistrates) or the Deputy Registrars (for Permanent Magistrates). The cross-posting policy permits the Judiciary to exercise greater flexibility in the cross-posting of judicial officers between various courts.

District Court Masters' Office to perform the duties of the Registrar (for Principal Magistrates) or the Deputy Registrars (for Permanent Magistrates). The District Court Masters' Office has an establishment of four posts (one Registrar and three Deputy Registrars). Hence, altogether, there are 98 judicial posts at such ranks. Against the current strength of 67 judicial officers, the vacancy position stands at 31.

14. A new round of open recruitment exercise for Permanent Magistrate has been launched in December 2016 and is still in progress. It is envisaged that new appointments arising from this recruitment exercise will help reduce the number of existing vacancies.

MEASURES TO ADDRESS JUDICIAL MANPOWER ISSUES

15. Apart from the continuous effort to fill judicial vacancies through open recruitments of CFI Judges, DJs and Permanent Magistrates, the Judiciary has adopted the following measures in tackling the judicial manpower issues.

Creation of New JJO Posts

16. The Judiciary has been keeping its judicial establishment under constant review for meeting changing operational needs and facilitating the efficient delivery of judicial services. To cope with the increased workload of the West Kowloon Magistrates' Courts and the Small Claims Tribunal following the re-provisioning at the West Kowloon Law Courts Building, the increasing workload of the Masters' Office of the District Court, and the anticipated increases in the workload arising from the implementation of the proposed increases in the civil jurisdictional limits for the District Court and the Small Claims Tribunal, the Judiciary is proposing to create 14 permanent judicial posts at various levels of court/tribunal. The 14 additional posts include four posts of DJ, five posts of Deputy Registrar, District Court, four posts of Adjudicator, Small Claims Tribunal and one post of Magistrate. Details of the proposals are set out in a separate paper which will also be discussed at the meeting on 24 April 2017.

Engagement of Temporary Judicial Manpower

17. Pending the substantive filling of judicial vacancies through open recruitment, in line with the established practice, the Judiciary has been engaging and will continue to engage temporary judicial resources as far as practicable to help maintain the level of judicial manpower required, and thereby help maintain court waiting times at reasonable levels. Apart from

meeting the Courts' operational needs, the deputy arrangements also serve the purpose of providing opportunity for private practitioners to gain some judicial experience for their consideration of a judicial career in the future.

18. The number of deputy JJOs appointed fluctuates according to operational needs. The duration of their sittings also varies. As at 10 April 2017, the total number of deputy JJOs engaged to cope with the court's workload is 70, comprising 40 deputies who were appointed from within the Judiciary to act in higher positions and 30 deputies appointed from outside the Judiciary.

Various Reviews

19. The recruitment of JJOs in the past few years has been largely successful. However, the experiences of past open recruitment exercises for CFI Judges have revealed that there are particular recruitment difficulties at the CFI level as mentioned in paragraph 9 above. To address such issues, various reviews have been/are being conducted.

Judicial Remuneration Review

20. Arising from the 2015 Benchmark Study on the Earnings of Legal Practitioners in Hong Kong ("2015 Benchmark Study") and the annual review of judicial salary in 2016, the Finance Committee of the Legislative Council approved the following judicial pay adjustments on 11 February 2017 –

- (a) a pay increase of 4.85% for all JJOs with retrospective effect from 1 April 2016 as the annual adjustment for 2016-2017; and
- (b) a pay increase of 4% for JJOs below the CFI level and 6% for Judges at the CFI level and above with retrospective effect from 1 September 2016, having regard to the significant differential between judicial pay and legal sector earnings at the CFI level as well as the recruitment difficulty encountered at this level revealed in the 2015 Benchmark Study.

21. By way of background, it is relevant to note that the Standing Committee on Judicial Salaries and Conditions of Service ("the Judicial Committee") conducts annual reviews on the judicial remuneration of substantive JJOs and a separate benchmark study about every five years under well-established mechanisms. The purpose of the benchmark study is to keep in view of whether judicial pay has been kept broadly in line with the movements of legal sector earnings. The Judicial Committee adopts a

balanced approach in reviewing judicial remuneration by taking into account a basket of factors.

Review on the Terms and Conditions of Service of JJOs

22. To address the recruitment difficulties at the CFI level and also the long-term needs of the whole of the Judiciary, the Judiciary has conducted a review on the conditions of service of JJOs and proposed to the Government in January 2016 enhancements to five areas of the conditions of service of JJOs. With the support of the Judicial Committee, the Chief Executive-in-Council (“CE-in-Council”) has approved the proposed enhancement to commence with effect from 1 April 2017.

23. It is envisaged that the adjusted pay together with the enhanced conditions of service for JJOs will strengthen the Judiciary’s position in attracting talents to join the Bench, hence helping to alleviate the judicial manpower problem particularly at the CFI level.

Review on Statutory Retirement Ages of JJOs

24. The Judiciary has engaged a consultant, under the steer of an internal working group chaired by a Permanent Judge of the CFA and a steering group chaired by the Chief Judge of the High Court, to carry out a consultancy study to review the retiring ages of JJOs at all levels of court. The purpose of the review is to consider whether any changes should be made in order to attract quality candidates and experienced private practitioners to join the Bench at the later stage of their career life, in particular at the CFI level, and to facilitate the retention of judicial manpower. The consultant is expected to submit its Final Report to the Judiciary around mid 2017. The Judiciary will consider the consultant’s report and submit its recommendations to the Government at an appropriate juncture.

PROVISION OF PROFESSIONAL SUPPORT FOR JUDGES

25. To ensure that JJOs are provided with adequate professional support to carry out their judicial duties, legal and professional support will continue to be provided to JJOs through the engagement of legally qualified assistants under the Judicial Assistant Scheme and the Judicial Associate Schemes. The two schemes have proven to be useful and will continue to operate.

The Scheme on Judicial Assistants for the Court of Final Appeal

26. The Judiciary started in 2010 the Scheme on Judicial Assistants (“JDAs”) to provide assistance to appellate judges in the CFA and the CA of the High Court in the discharge of their duties. After a review in early 2015, the CFA and the High Court have separate schemes with a view to enhancing support to the respective courts and have conducted separate recruitment exercises for such purposes since 2015.

27. The JDA Scheme continues to operate for the CFA and dedicated JDAs are recruited to provide assistance to appellate judges in the CFA on legal researches and other work of the court.

The Scheme on Judicial Associates for the High Court

28. For the High Court, legally qualified assistants have been engaged as Judicial Associates to provide various legal and professional support to Judges of the High Court. Under the scheme -

- (a) Judicial Associates (General) provide assistance in general and civil work in the High Court, with priority given to the work in the CA. They may also assist in the work of the Court of First Instance and that of the Competition Tribunal where necessary.
- (b) Judicial Associates (Criminal Appeals) provide assistance to Justices of Appeal in hearing criminal appeals.

ADVICE SOUGHT

29. Members are invited to note the contents of this paper.

Judiciary Administration
April 2017

**Establishment, Strength and Vacancy of JJOs
(Position as at 10 April 2017)**

Level of Court	Establishment	Strength	Vacancy
Court of Final Appeal	4*	4	0
Court of Appeal of the High Court	14	13	1
Court of First Instance of the High Court	34	27	7
High Court Masters' Office	11	3	8#
District Court (including the Family Court and Lands Tribunal)	39	45	-6
<i>Judges</i>	<i>37</i>	<i>43</i>	<i>-6</i>
<i>Members, Lands Tribunal</i>	<i>2</i>	<i>2</i>	<i>0</i>
District Court Masters' Office	4	0	4^
Magistrates' Courts/ Specialized Court/ Other Tribunals	94	67	27
<i>Permanent Magistrates and Above</i>	<i>83</i>	<i>57</i>	<i>26</i>
<i>Special Magistrates</i>	<i>11</i>	<i>10</i>	<i>1</i>
Total	200*	159	41

Notes : * Excluding one Permanent Judge post created for a Non-Permanent Judge of the Court of Final Appeal.

For the vacancies in the High Court Masters' Office, the duties are mostly taken up by District Judges deployed under the cross-posting policy.

^ Duties of the District Court Masters' Office are all taken up by Principal Magistrates/Permanent Magistrates deployed under the cross-posting policy.