

**For discussion
on 24 April 2017**

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

**Proposed Creation of Judicial Posts
and a Supernumerary Directorate Post in the Judiciary**

PURPOSE

This paper seeks Members' views and support on the Judiciary's proposals to create –

- (a) 14 permanent judicial posts to enhance the establishment of judicial manpower at various levels of courts/tribunal; and
- (b) one supernumerary civil service directorate post at Principal Executive Officer ("PEO") (D1) level for a period of around three years up to 31 March 2020 to provide directorate and strategic support to the formulation and implementation of a long term accommodation strategy for the Judiciary.

I. CREATION OF ADDITIONAL JUDICIAL POSTS

PROPOSALS

- 2. The Judiciary proposes to create –
 - (a) four posts of Judge of the District Court ("DJ") (JSPS 13) (see paragraphs 16 to 18);
 - (b) five posts of Deputy Registrar, District Court ("DR/DC") (JSPS 10) (see paragraphs 12 to 14 and 16 to 19);
 - (c) four posts of Adjudicator, Small Claims Tribunal ("Adjudicator") (JSPS 10) (see paragraphs 8 to 11 and 20 to 21); and
 - (d) one post of Magistrate (JSPS 7-10) (see paragraphs 4 to 7)

in the Judiciary to strengthen the establishment of the respective courts/tribunal in order to cope with the increased workload of the West Kowloon Magistrates' Courts ("WKM") and the Small Claims Tribunal ("SCT") following the reprovisioning at the West Kowloon Law Courts Building ("WKLCB"), the increasing workload of the Masters' Office of the District Court ("DC"), and the projected increases in workload arising from the implementation of the proposed increases in the civil jurisdictional limits for the DC and the SCT.

JUSTIFICATIONS

(A) Additional Judicial Posts of One Magistrate and Two Adjudicators, SCT Following the Reprovisioning at the WKLCB

3. On 13 April 2012, the Finance Committee of the Legislative Council approved the capital works project to construct the WKLCB at an estimated cost of \$2,723.1 million. The WKLCB is to reprovision and co-locate the former Tsuen Wan Magistrates' Courts ("TWM"), the SCT, the Coroner's Court ("CC") and the Obscene Articles Tribunal ("OAT") which were located in different buildings; to provide additional courtrooms and associated facilities to meet the shortfall in operational requirements and to cater for future expansion; and to provide the Judiciary with the ancillary support facilities which are inadequate or unavailable in the four courts/tribunals concerned. The SCT, the former TWM (now operating as the WKM in the WKLCB), the CC and the OAT had respectively moved in the WKLCB by phases from September 2016 to January 2017.

One Additional Magistrate Post for the WKM

4. There are currently seven Magistrates' Courts, namely the Eastern Magistrates' Courts, the Kowloon City Magistrates' Courts, the Kwun Tong Magistrates' Courts, the Shatin Magistrates' Courts, the Fanling Magistrates' Courts, the Tuen Mun Magistrates' Courts and the WKM.

5. In view of the constant heavy and uneven workload in the seven Magistrates' Courts since the closure of the former North Kowloon Magistrates' Courts on 1 January 2005, the opportunity had been taken to review the existing distribution of caseload, in particular charge cases. Since 2009, an internal working group was set up to review the distribution and to propose redistribution before the commissioning of the WKM.

6. When conducting the review, the working group took the following major factors into account:

- (a) Charge cases consumed most of the judicial resources and the majority of which was initiated by the Police. Thus, it was decided to focus on the review on charge cases in the early stage;
- (b) Caseload/workload should be more evenly distributed as far as practicable in proportion to the number of courts available for handling charge cases in each Magistrates' Courts;
- (c) Charge cases originating from the same police division/station would normally not be diverted to different Magistrates' Courts; and
- (d) Proximity of respective police division/station to the Magistrates' Courts was a relevant consideration.

7. The recommendations of the working group were further reviewed in 2014 based on the updated caseload of the seven Magistrates' Courts in 2013. According to the updated redistribution plan, the charge case caseload of the former TWM would increase from about 3 600 to about 6 150 when it operates as the WKM in the WKLCB, which amounted to an increase of about 70%. It was thus decided that the future WKM may eventually need to expand from the previously eight courts in the former TWM to 12 courts after the commissioning of the WKLCB. Of the four additional Magistrate posts required for the WKM, three are catered for by the redeployment of existing resources. One additional Magistrate post is hence proposed to be created.

Two Additional Adjudicator Posts for the SCT

8. The SCT is a tribunal which adopts a more informal approach to proceedings and its rules and procedures are less strict than those in most other courts and tribunals, and no legal representation is allowed therein. It provides a relatively quick and less costly avenue for litigants to resolve civil disputes involving lower claim amounts.

9. The SCT is operating two different types of courts, namely call-over and mention courts and trial courts. The adjudicator of the call-over and mention court hear cases at their call-over and mention stages, with these cases transferred to the trial courts for pre-trial review and trial proper.

10. The workload of the SCT is constantly heavy, leading to perpetual long court sitting hours for the adjudicators. When the SCT was located in the Wanchai Tower, there were huge physical constraints in adopting measures such as increasing the number of adjudicators to help coping with the heavy workload, as there was no space to provide for additional courtrooms, chambers and offices for support staff. This has also led to immense pressures in listing cases for keeping the waiting times within the target, and for trials to be concluded expeditiously.

11. The commissioning of the WKLCB provides a good opportunity to enhance the service of the SCT as a whole. With additional courtroom and associated facilities at the WKLCB, the number of courts run by the SCT could therefore be increased from eight to ten to ease off the already very heavy workload. To support the two additional courts for the SCT, two additional Adjudicator posts are thus required. (Please also see paragraphs 20 to 21 below on the proposed creation of another two Adjudicator posts to cope with the further projected increases in workload arising from the implementation of the proposed increases in the civil jurisdictional limits for the SCT.)

(B) Two Additional DR/DC Posts for Increasing Workload of the Masters' Office of the DC ("DC Masters' Office")

12. The DC Masters' Office was established in 2000 with the following judicial functions:

- (a) hearing and determining interlocutory applications in civil actions;
- (b) transacting all the business and exercising all the authority and jurisdiction that may be transacted and exercised by a DJ in chambers; and
- (c) taxing solicitors' bill of costs after trial by DJs.

13. Since July 2008, the DC Masters' Office has an establishment of four judicial posts of one Registrar, DC and three DR/DC. The establishment has remained unchanged over the years, notwithstanding the significant increase in workload. The main areas of increase include:

- (a) The hearings relating to Personal Injuries cases handled by the DC Masters' Office have been on the increase over the past few years.

An increase of 42% in the number of Personal Injuries cases filed at the DC was registered from 2009-10 to 2015-16;

- (b) The number of paper applications has increased substantially in recent years though there is no comprehensive statistics information;
- (c) Similarly, the number of cases with either party or all parties being litigants in persons has been increasing over the recent years, though there is no detailed statistical breakdown. Such a trend has resulted in more work on the part of Masters to guide the litigants through different stages of litigation including interlocutory applications, Case Management Summons, Case Management Conferences¹, and enforcement process after judgment including examination of judgment debtors and assessment of damages²; and
- (d) The other work which are not related to hearings have also been on the increase, e.g. enforcement of foreign maintenance orders.

14. To cope with the increasing workload, a temporary DR/DC was engaged for the DC Masters' Office since 2009. A further temporary DR/DC was engaged since February 2015. As the Judiciary considers that the need for these two additional positions of temporary DR/DC will continue, we suggest rationalising the manpower position of the DC Masters' Office by creating two permanent DR/DC posts.

(C) Additional Judicial Posts for the Implementation of the Proposed Increases in the Civil Jurisdictional Limits of the DC and the SCT

15. The Judiciary has set out its proposals on increasing the jurisdictional limits of the DC and the SCT in a separate paper to be discussed at the same meeting on 24 April 2017. To implement such proposals, additional judicial posts are required for enhancing the establishment of the DC and the SCT to cope with the projected increases in workload as a result.

¹ At a Case Management Conference, the court gives directions leading up to the trial of the action, and fixes a date for a pre-trial review and / or a trial date or period in which the trial is to take place. It is also the occasion for the court and the parties to discuss in detail the true nature of the issues in the case. In doing so, not only is there more efficient and effective management of the case achieved, this would also facilitate settlements.

² Hearings are conducted in open courts with the results appealable to the Court of Appeal.

Justifications

Additional Judicial Posts for the DC

16. Based on the latest average yearly civil caseload position of the Court of First Instance (“CFI”) of the High Court (“HC”) and the DC for the past four years from 2013 to 2016 and taking into account the increase in jurisdictional limits for the SCT, the civil caseload of the DC is projected to be increased as follows:

- (a) number of civil cases filed may increase by about 5% to the level of about 21 900 a year;
- (b) number of paper applications processed may increase by about 10% to the level of about 29 800 a year;
- (c) number of interlocutory hearings listed may increase by about 28% to the level of about 19 100 a year; and
- (d) number of trials listed may increase by about 24% to the level of about 556 a year.

17. The current caseload of the civil DJs is already very heavy. In 2016, 10 civil DJs (including Deputy Judges) are available for listing of hearings (the number fluctuated from nine to 11 in the past few years). On top of court hearings, the DJs also have to perform other judicial functions, such as processing paper applications, making pre-trial preparations and writing judgments etc. Indeed, the existing workload of the civil judges in the DC is heavy, thereby creating pressures on the judges in coping with the listing of the case on the one hand, and handing down judgments within a reasonable period on the other.

18. Based on the latest projections, the proposed increase in the jurisdictional limits of the DC would increase the workload of judges in the DC in respect of paper applications, interlocutory hearings and trials by 2%, 14% and 36% respectively. Four additional DJs would be required for the DC to handle the total civil workload after the proposal is implemented. In addition, the creation of these four DJ posts will provide civil judges in the DC with more sufficient time for pre-hearing preparation and writing of judgments.

19. At the DR/DC level, the proposal is expected to result in an increase in their workload in respect of paper applications, interlocutory hearings and trials by 21%, 41% and 18% respectively. Given the substantial increase in workload

on all fronts, particularly on interlocutory hearings which constitute a major part of the work of the DR/DC, it is estimated that three additional DRs/DC will be required to cope with the increased workload.

Additional Judicial Posts for the SCT

20. On the basis of the latest average annual civil caseload position of the DC and the SCT for the past four years from 2013 to 2016, it is expected that the proposed increase in the jurisdictional limit of the SCT will result in the following increases in its workload:

- (a) number of claims filed may increase by about 4% to the level of about 51 600 a year. If confining to the category of individual claims, the projected increase in claims filed will become about 14%; and
- (b) number of trials listed may increase by about 14% to the level of about 1 680 a year.

21. Having regard to the higher complexity of the cases transferred from the DC and the absence of legal representation at the SCT, it is estimated that two additional Adjudicator posts, one each for call-over and mention courts and trial courts, will be required to cope with the increased workload.

22. The main duties of a net total of 14 additional judicial posts proposed above, namely, four DJ posts, five DR/DC posts, four Adjudicator posts and one Magistrate post are as set out at **Annexes A to D respectively**.

Annexes
A to D

Related Matters

23. Despite the expected diversion of cases from the CFI to the DC arising from the above proposal, we do not suggest any changes to the establishment of the Judges and Judicial Officers (“JJO”) in the CFI. The JJOs at the HC have been under extreme work pressure for quite a number of years because of the growing number of civil cases filed and the increasing complexity of the cases. There is an urgent need to provide relief to the work pressures at the CFI level.

II. CREATION OF A SUPERNUMERARY PEO (D1) POST

PROPOSAL

24. The Judiciary proposes to create one supernumerary post of PEO (D1) for a period of around three years up to 31 March 2020 to provide directorate and strategic support to the formulation and implementation of a long term accommodation strategy for the Judiciary.

JUSTIFICATIONS

25. The Chief Justice of the Court of Final Appeal is the head of the Judiciary and is charged with the administration of the Judiciary under the Court of Final Appeal Ordinance (Cap. 484). In discharging his administrative responsibilities, the Chief Justice is assisted by, among others, the Judiciary Administrator and staff in the Judiciary Administration.

Shortfall in courtrooms and facilities for HC and DC

26. A recent review on the accommodation needs of the Judiciary reveals that while the requirements of the Court of Final Appeal has been met upon its relocation to 8 Jackson Road in September 2015, and courts/tribunals at magisterial level have also been largely met for the time being by the recent commissioning of the WKLCB, there is an acute shortage of courtrooms, chambers and supporting facilities at the HC and DC levels.

A long term accommodation strategy

27. Both the High Court Building (“HCB”) and the DC housed in the Wanchai Tower have been in use for three decades and have already reached their capacities. The Court of Appeal and the CFI of the HC have been housed at the HCB since 1984. Construction of additional courtrooms and chambers and other associated facilities has been constrained by the total floor area of the HCB. The existing facilities are increasingly inadequate for meeting the increasing operational needs of the HC. This is not conducive to effective delivery of court services to the community and administration of justice in the long run.

28. The situation is similar for the DC (including the Family Court (“FC”)) and the Lands Tribunal (“LT”). At present, the DC is housed in the Wanchai Tower, a joint-user general office government building which was commissioned in 1987 and accommodates users of several government departments apart from the courts. Owing to limited space in the Wanchai Tower, the LT is currently

accommodated in a historic building at 38 Gascoigne Road, Kowloon. In the recent review on civil jurisdictional limits of the DC and SCT and another ongoing review to streamline existing family court procedures, the Judiciary envisages a need to provide additional courtrooms, chambers and supporting facilities for the DC and the FC to support its future expansion. As a result, there would not be adequate space in the Wanchai Tower to co-locate the DC, the FC and the LT. In addition, the Judiciary is of the view that as a matter of principle, it is not desirable for courts to be housed in joint-user general office government buildings, as this is not conducive to projecting the independent image of the Judiciary.

29. To address the long term accommodation needs at the HC and DC levels, the Judiciary has been engaging in close dialogues with the Government to work out accommodation plans for reprovisioning the HCB and for reprovisioning and co-locating the DC, the FC and the LT. The Government has been actively identifying suitable sites to meet the Judiciary's requirements. The Judiciary is in the process of having active dialogue with the Government on the suitability and feasibility of the potential sites.

Need for a supernumerary PEO post

30. In order to help steer the important tasks of identifying the suitable sites for reprovisioning the HC (which includes the Competition Tribunal and the Judicial Institute) and the DC (which will co-locate the FC and LT), to examine the feasibilities of the potential sites in meeting the Judiciary's accommodation requirements, to work out a new planning and design strategy for courtrooms and court related facilities for achieving synergy and maximising operational efficiency, and to take follow up actions upon reaching agreement on the construction of the new court building projects, the Judiciary considers that there is an imminent need to have a directorate officer to spearhead the required tasks. Having regard to the size and complexity of the projects, the Judiciary considers it essential for a supernumerary PEO post be created to head the Project Planning and Accommodation ("P&A") Section for a period of around three years up to 31 March 2020 initially to provide directorate and strategic inputs for this long-term initiative. In view of the imminent operational need to kick start the tasks, since February 2016, a supernumerary PEO post³ has been created in the Judiciary to

³ With the endorsement of the Chief Justice and the support of the General Grades Office and approval of the Civil Service Bureau, a supernumerary PEO post was created on 1 February 2016 by holding against a vacancy at the Principal Magistrate rank on a temporary basis under delegated authority to urgently provide directorate and strategic support to the long term accommodation strategy of the Judiciary. This stop gap arrangement pending the approval of the Finance Committee for the creation of the PEO post has not had any practical effects on the judicial manpower position of the Judiciary, as the Principal Magistrate post had previously been frozen as a result of the closure of a former Magistrates' Courts.

provide the necessary strategic support to the projects. Subject to the endorsement of the Establishment Subcommittee and approval of the Finance Committee of the Legislative Council on the proposed creation of this supernumerary PEO post, the supernumerary PEO post created under delegated authority to provide the necessary manpower in the interim shall lapse. The Judiciary would review nearer 2020 whether the supernumerary PEO post in question should be extended.

31. Once the Judiciary and the Government have reached agreement on the sites for the project, the PEO is expected to play a key role in defining the project scope, consulting Court Leaders and judges on the formulation of planning concepts for the courtrooms and court related facilities, consulting all other internal and external stakeholders on the user requirements, securing funding approval and overseeing project implementation. As head of the P&A Section, it is important that the incumbent is holding a directorate position possessing the vision, acumen, leadership, experience and administrative skills to see through the projects from conception to fruition.

Annex E 32. The job description of the proposed PEO(P&A) post is at Annex E.

FINANCIAL IMPLICATIONS

33. The proposed creation of 14 permanent judicial posts will bring about an additional notional annual salary cost at mid-point of \$27,326,400 as follows –

Post	Notional annual salary cost at mid-point \$	No. of posts
Judge of the District Court (JSPS 13)	9,736,800	4
Deputy Registrar, District Court (JSPS 10)	8,820,000	5
Adjudicator, Small Claims Tribunal (JSPS 10)	7,056,000	4
Magistrate (JSPS 7-10)	1,713,600	1
Total	27,326,400	14

The additional full annual average staff cost, including salaries and staff on-costs, is \$39,943,920.

34. The proposed creation of one supernumerary PEO post will bring about an additional notional annual salary cost at mid-point of \$1,732,800. The additional full annual average staff cost, including salaries and staff on-costs, is \$2,392,824.

35. The Judiciary has included sufficient provision in the draft 2017-18 Estimates to meet the costs of the staffing proposals mentioned in this paper and will reflect the resources required in the Estimates of subsequent years.

ADVICE SOUGHT

36. Members are invited to give their views on and support to the proposals as set out in paragraphs 2 and 24 above.

WAY FORWARD

37. Subject to Members' views and support, the Judiciary intends to submit the proposals to the Establishment Subcommittee for endorsement and the Finance Committee for approval. The Judiciary hopes to implement the proposals as soon as practicable.

The Judiciary
April 2017

Job Description

Post title : Judge of the District Court

Rank : Judge of the District Court (JSPS 13)

Responsible to : Chief District Judge (JSPS 15)

Major Duties and Responsibilities –

To hear and dispose of proceedings in the District Court. District Judges may also be posted to the Family Court, or the Lands Tribunal or to the Masters' Office of the High Court where they will sit as Deputy Registrar, High Court.

Job Description

Post title : Deputy Registrar, District Court

Rank : Deputy Registrar, District Court (JSPS 10)

Responsible to : Registrar, District Court (JSPS 11)

Major Duties and Responsibilities –

1. To discharge judicial duties by sitting as Masters, which include –
 - (a) discharging the judicial functions which may be exercised by the Registrar, District Court;
 - (b) hearing interlocutory and summary applications of District Court civil cases in chambers;
 - (c) conducting examination of debtors, assessment of damages, taking of accounts and enquiries, and inter-pleader trials;
 - (d) acting as Practice Master; and
 - (e) taxing bills of costs.
2. To undertake case management work in the Personal Injuries List and in other cases of the civil jurisdiction in which effective case management will be developed.
3. To discharge duties as follows –
 - (a) assisting the Registrar, District Court in supervising the day to day operation of the District Court Registry;
 - (b) administering suitors' funds, which includes dealing with requests and applications by parents or guardians for payment out of infant's awards; and

(c) discharging the function of a commissioner for oaths.

Job Description

Post title : Adjudicator, Small Claims Tribunal
Rank : Adjudicator, Small Claims Tribunal (JSPS 10)
Responsible to : Principal Adjudicator, Small Claims Tribunal
(JSPS 11)

Major Duties and Responsibilities –

1. Undertaking judicial duties by sitting as Adjudicator, Small Claims Tribunal;
2. Undertaking case management work of the Small Claims Tribunal; and
3. Assisting the Principal Adjudicator, Small Claims Tribunal, when required, on the review of legislation and procedures affecting the Small Claims Tribunal.

Job Description

Post title : Magistrate

Rank : Magistrate (JSPS 7-10)

Responsible to : Chief Magistrate (JSPS 13)

Major Duties and Responsibilities –

To try cases in the Magistrates' Courts. Magistrates may also be posted to the Coroner's Court, Labour Tribunal, Small Claims Tribunal and Obscene Articles Tribunal where they will sit as Coroners, Presiding Officers, Adjudicators and Presiding Magistrates respectively, or to the Masters' Office in the District Court where they will sit as Deputy Registrar, District Court.

Job Description

Post title : Principal Executive Officer (Project Planning and Accommodation)

Rank : Principal Executive Officer (D1)

Responsible to : Assistant Judiciary Administrator (Corporate Services)
(Senior Principal Executive Officer) (D2)

Major Duties and Responsibilities –

1. To formulate and implement long-term accommodation strategy for the Judiciary;
2. To assist the management of the Judiciary in taking forward the major initiative to relocate the High Court and District Court, including –
 - (a) coordinating/analysing comments and seeking steer from Court Leaders in drawing up the future requirements of the High Court and District Court;
 - (b) negotiating with senior level of the Government on potential sites; and
 - (c) after the selection of sites, overseeing the planning and construction of new buildings equipped with the required specialist facilities for the High Court and District Court;
3. To plan and implement other works projects addressing the accommodation needs of the Judiciary in short to medium terms and/or rationalising the use of space for court and supporting facilities;
4. To oversee policy matters on accommodation issues including court/building security and venue property management matters; and

5. To supervise the Project Planning and Accommodation Section tasked with the responsibility to formulate policy for and oversee property management issues in Judiciary premises.
