

LEGISLATIVE COUNCIL BRIEF

2017-18 JUDICIAL SERVICE PAY ADJUSTMENT

INTRODUCTION

At the meeting of the Executive Council on 3 October 2017, the Council ADVISED and the Chief Executive (CE) ORDERED that the pay for judges and judicial officers¹ (JJOs) for 2017-18 should be increased by **2.95%** with effect from 1 April 2017.

JUSTIFICATIONS

Deliberations of the Standing Committee on Judicial Salaries and Conditions of Service

2. Judicial remuneration is determined under a mechanism which is separate from that of the civil service. Specifically, judicial remuneration is determined by the Chief Executive in Council after considering the recommendations of the independent Standing Committee on Judicial Salaries and Conditions of Service (Judicial Committee)². For the 2017 judicial remuneration review (JRR), the Judicial Committee submitted its report to the CE on 24 July 2017, recommending a 2.95% increase in the pay for JJOs for 2017-18. In coming up with this recommendation, the Judicial Committee has taken into account the basket of factors as approved by the Chief Executive in Council in May 2008 (see items (a) to (l) of paragraph 30 below), the principle of judicial independence and the position of the Judiciary. A copy of the Judicial Committee's report is at Annex. Key deliberations of the Judicial Committee and our assessment are set out in the ensuing paragraphs.

¹ "Judges" refer to officers in the grades of Chief Justice, Court of Final Appeal; Judge, Court of Final Appeal; Judge of the High Court; and Judge of the District Court. "Judicial officers" refer to officers in the grades of Registrar, High Court; Registrar, District Court; Member, Lands Tribunal; Magistrate; Presiding Officer, Labour Tribunal; Adjudicator, Small Claims Tribunal; Coroner; and Special Magistrate.

² The Judicial Committee is chaired by Professor Wong Yuk-shan. Other members are Mr T C Chan, Mr Alfred Chan, Ms May Tan, Ms Melissa Wu, Mr Dieter Yih and Mr Benjamin Yu.

A. Basket of factors

- (i) *Responsibility, working conditions and workload of judges vis-à-vis those of lawyers in private practice*

3. The Judicial Committee does not observe any major change in the responsibility and working conditions of JJOs. While the total caseloads of the Judiciary as a whole remained steady in the past few years, there was a noticeable decrease in the number of cases at the Obscene Articles Tribunal in 2016, which was mainly attributable to the reduction in the number of articles referred by the Magistrates' Courts to the Tribunal for determination.

4. Despite the relatively steady caseload figures, the Judiciary considers it important to point out that the caseload figures do not reflect fully the workload of JJOs and must not be looked at exclusively. They do not reflect the complexity of the cases, which directly affects the amount of time and efforts required of the JJOs to deal with the cases. Further, it is also very difficult to devise quantifiable indicators in a meaningful way to reflect the increasing workload and heavier responsibilities of JJOs. The above factors are generally true for all levels of court but the pressure is particularly felt at the level of the High Court. Increased complexity of cases not only means longer hearing time but also considerably more time is required for JJOs to conduct pre-hearing preparation and to write judgments. There are now many more lengthy trials. The high ratio of unrepresented litigants in civil cases also creates great challenges. Where there are unrepresented litigants, the JJOs are not properly assisted in dealing with complex legal issues. Hearings (and their preparation) take longer as a result. For the High Court, the Judiciary points out that in recent years, cases have become more complex as a result of the following additional factors. First, there are many complex trials involving Mainland undertakings, big money matrimonial disputes, complicated commercial crime and important public law cases. Second, new developments in the law resulting, for example, from the introduction of new legislation such as the Competition Ordinance (Cap. 619) have significant impact on the already heavy workload.

5. All along, the Judicial Committee recognises that caseload figures alone do not fully reflect the workload of JJOs, and the complexity of cases is also an important element. Overall, the Judicial Committee maintains its view that the nature of judicial work is unique. The responsibility and working conditions of JJOs are different from those of legal practitioners, rendering direct comparison between the two

inappropriate. The Judicial Committee trusts that the Judiciary would continue to monitor any changes in workload and keep in view its manpower position to ensure provision of quality services to court users and members of the public. We have no particular comment on the observations of the Judicial Committee in this regard.

(ii) *Recruitment and retention in the Judiciary*

6. As of 31 March 2017, against the establishment of 200 judicial posts, 158 were filled substantively. This represents a net decrease of four in the strength of JJOs as compared with 31 March 2016, arising mainly from retirement. On recruitment of JJOs, the Judicial Committee notes that up to 31 March 2017, a total of 91 judicial appointments were made in the 12 open recruitment exercises for various judicial ranks conducted between 2011 and 2016, with appointments of four Court of First Instance of the High Court (CFI) Judges and six District Judges made in 2016-17. Appointments of two District Judges were also made in April 2017. Meanwhile, the Judiciary has continued to engage temporary judicial resources to help relieve workload, including internal/external deputy and temporary or acting JJOs. The number of external deputy JJOs has increased from a total of 27 as at 31 March 2016 to 35 as at 31 March 2017.

7. The Judicial Committee notes that the Judiciary has been conducting open recruitment exercises at the CFI Judge level on a more regular basis in recent years, with four such exercises being conducted since 2012. With the completion of the latest round of recruitment exercise launched in 2016, a total of 20 appointments were made since 2012 with three appointments made in 2017. From the experience of the past few open recruitment exercises for CFI Judges, it is noted that the number of eligible candidates suitable for appointment could not fill the available vacancies. The Judicial Committee is fully aware of the persistent recruitment difficulties at the CFI level.

8. In the context of JRR 2016, the Judicial Committee examined the findings of the 2015 Benchmark Study on the Earnings of Legal Practitioners in Hong Kong (2015 Benchmark Study) and noted a clear trend of widening differential between judicial pay and earnings of legal practitioners. In particular, for CFI Judges, the findings clearly indicated that judicial pay has been consistently lower than legal sector earnings over the years, and the pay lag has further widened in recent years. Taking into account the persistent recruitment difficulties and the widening pay gap, the Judicial Committee recommended an upward pay adjustment of 6% for Judges at the CFI level and above following the

2015 Benchmark Study³. In addition, in 2016, the Judicial Committee considered and supported a package of proposals to enhance some of the conditions of service for JJOs (see paragraph 12(a) below). The pay adjustment and enhancement proposals were subsequently implemented in September 2016 and April 2017 respectively. The Judicial Committee will continue to keep in view the recruitment situation of JJOs, especially whether the improved remuneration package has helped the Judiciary in recruiting and retaining talents in the legal profession.

9. For District Judge, the Judicial Committee notes that two rounds of open recruitments were completed in 2012 and 2016. For the recruitment exercise in 2016, against 11 fillable vacancies, eight appointments were made in 2017. As for Magistrates, the last open recruitment exercises for Permanent Magistrates and Special Magistrates launched in 2014 were completed. All the 17 and five fillable vacancies of Permanent Magistrates and Special Magistrates were filled respectively as a result. A new round of recruitment exercise for Permanent Magistrates was launched in end 2016 and is still in progress.

10. We take note of the Judicial Committee's observation that there are persistent recruitment difficulties at the CFI level. In this regard, considering the findings of a comprehensive review of the conditions of service for JJOs conducted by the Judiciary, we approved the Judiciary's proposals to enhance certain aspects of the remuneration package for JJOs with effect from 1 April 2017 to make it more attractive to candidates of sufficient experience, quality and standing. We will keep a close watch on the implementation of the enhanced conditions of service for JJOs to see whether it will have a positive impact on recruiting and retaining the best possible talents to serve as JJOs. Meanwhile, we are of the view that the total package for JJOs, which comprises not only the remuneration package, but also other factors such as the high esteem of the Judiciary, individuals' commitment to serve the public and the opportunity to move to the next level of one's career, etc., remains reasonably attractive to outside talents who wish to join the bench.

³ An upward pay adjustment of 4% for JJOs below the CFI level was also recommended following the 2015 Benchmark Study.

(iii) *Retirement age and retirement benefits of JJOs*

11. Judges enjoy security of tenure⁴. The statutory normal retirement ages for JJOs are 60 or 65, depending on the level of court. Beyond that, extension of service may be approved up to the age of 70 or 71, depending on the level of court and subject to consideration on a case-by-case basis. For retirement benefits, JJOs are entitled to pension or provident fund according to their terms of appointment. The Judicial Committee notes that retirement is the main source of wastage among JJOs. The anticipated retirement will be three (or 1.9% of current strength) in 2017-18, increasing to 19 (or 12.0% of current strength) in 2018-19, and going down to ten (or 6.3% of current strength) in 2019-20. The Judicial Committee notes that the retirement situation may pose challenges to judicial manpower in the coming years, and considers that the Judiciary should continue to attract new blood and to groom and retain existing talents. The Judicial Committee also notes that the Judiciary is conducting a review on the statutory retirement ages of JJOs with a view to considering 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 Judiciary has engaged a consultant to conduct the review and will submit its recommendations to the Government before the end of 2017. We will keep a close watch on the conclusions of the review.

(iv) *Benefits and allowances enjoyed by JJOs*

12. Depending on their ranks, length of service and terms of appointment, JJOs are entitled to a range of benefits and allowances in addition to salary. The Judicial Committee notes that the following recent changes to the package of fringe benefits and allowances for JJOs –

- (a) enhancements to five areas of the conditions of service for JJOs (i.e. housing benefits, medical and dental benefits, Local Education Allowance, Judicial Dress Allowance and transport service for leave travel) were implemented with effect from

⁴ Any removal from office is subject to detailed statutory procedures, and the removal of the most senior Judges (i.e. the Chief Justice, Judges of the Court of Final Appeal and the Chief Judge of the High Court) has to be endorsed by the Legislative Council and reported to the Standing Committee of the National People's Congress for the record.

1 April 2017⁵;

- (b) the rates of Leave Passage Allowance⁶, Home Financing Allowance and Non-accountable Cash Allowance⁷ were revised following similar revisions in the civil service; and
- (c) the rates of two Extraneous Duties Allowances (Responsibility) (EDA(R)) for Justices of Appeal of the Court of Appeal of the High Court (JAs)⁸ in 2016-17 were revised based on the judicial service pay adjustments for 2016-17.

13. The Judicial Committee notes that the existing package of benefits and allowances is an integral part of judicial remuneration, and is an important component that has helped attract capable legal practitioners to join the bench. The Judicial Committee will continue to keep the situation under review. As mentioned in paragraph 10 above, we will keep a close watch on the implementation of the enhanced package of benefits and allowances for JJOs.

(v) *Prohibition against return to private practice in Hong Kong*

14. The Judiciary is unique in many aspects. A prominent feature is the prohibition against return to private practice. Specifically, the Chief Justice and Judges of the Court of Final Appeal are prohibited by statute from practising as barristers or solicitors in Hong Kong while holding office or at any time after ceasing to hold office. Judges at the District Court level and above must give an undertaking not to practise in future as barristers or solicitors in Hong Kong without the permission of the CE. On the other hand, judges enjoy security of tenure and high esteem, which may be seen as attractions for legal practitioners joining the bench. These are long established arrangements and nothing was changed during the 2017-18 judicial pay review exercise.

⁵ In 2016, at the invitation of the Government, the Judicial Committee considered the Judiciary's proposals to enhance these five areas of conditions of service. The Judicial Committee considered the proposals reasonable and well-justified, and therefore indicated support for them.

⁶ Leave Passage Allowance is an allowance to reimburse eligible officers (and their eligible family members, where applicable) their travel-related expenses.

⁷ The Home Financing Allowance and Non-accountable Cash Allowance are two different types of housing allowance offered to JJOs.

⁸ Both EDA(R)s are payable in recognition of the higher responsibilities taken up by JAs. One is for JAs sitting as Non-Permanent Judges of the Court of Final Appeal, while the other is for JAs appointed as Vice Presidents of the Court of Appeal of the High Court.

(vi) *Overseas remuneration arrangements*

15. The Judicial Committee continues to keep track of major developments, if any, on judicial remuneration of six overseas common law jurisdictions, namely, Australia, Canada, New Zealand, Singapore, the United Kingdom and the United States. There was no systemic change to the judicial remuneration systems in these jurisdictions in 2016-17. The six jurisdictions took different, but generally prudent, actions in their latest annual salary reviews for judges, with the annual adjustment rates more or less similar to the previous year. A key consideration behind their actions appeared to be the prevailing state of economy of the respective jurisdictions. While the Judiciary has not recruited from overseas in recent years, we consider that overseas remuneration arrangements remain a relevant factor in considering judicial pay since this provides a good reference of the international norm of how judicial pay reviews are handled. We note the observations of the Judicial Committee on overseas remuneration arrangements and have no particular comment.

(vii) *Cost of living adjustment*

(viii) *General economic situation in Hong Kong*

(ix) *Budgetary situation of the Government*

16. The Judicial Committee takes note of the information provided by the Government in May and June 2017 respectively on the cost of living adjustment, general economic situation in Hong Kong and the budgetary situation of the Government. The economy was then forecast to grow by 2% to 3% for 2017 according to the forecast in May 2017, while the rate of the underlying consumer price inflation (i.e. excluding one-off relief measures introduced by the Government) for 2017 was forecast to be 2%. The seasonally adjusted unemployment rate was at 3.2% in March to May 2017, as compared to 3.4% in the same period in 2016. The consolidated surplus of the Government for 2016-17 was \$110.8 billion and the fiscal reserves stood at \$953.7 billion as at end March 2017. The 2017-18 Budget forecasts a consolidated surplus of \$16.3 billion, equivalent to 0.6% of our Gross Domestic Product (GDP).

17. After the submission of the Judicial Committee's report in July 2017, the official GDP growth forecast for 2017 as a whole was revised upward to 3% to 4% in mid-August 2017, taking into account the stronger-than-anticipated actual growth outturn in the first half and the expectation that the economy would attain further solid growth in the rest of the year. The forecast rate of underlying consumer price inflation for 2017 was revised slightly downward to 1.8%. Meanwhile, the

seasonally adjusted unemployment rate stood at a low level of 3.1% in May to July 2017, signifying a full employment situation.

18. According to the Medium Range Forecast, the Government's budget will remain broadly-balanced in the next five years. However, Government's recurrent expenditure has grown at a trend rate of 7.2% per annum for the past five years (from 2012-13 to 2017-18 (estimate)), far outpacing the 5% growth in nominal GDP and 2.8% growth in government revenue. The Government is duty bound to contain the growth of expenditure. Personal emoluments and related expenses, together with staff-related spending on subventions, account for around 60% of Government's operating expenditure for 2017-18. In absolute dollar terms, these provisions have grown at a trend rate of 6.4% per annum for the past five years.

(x) *Private sector pay levels and trends*

19. The Judicial Committee notes that there was no comprehensive or representative pay trend survey on the legal sector. It also considers that direct comparison between judicial pay and legal sector pay is inappropriate having regard to the uniqueness of judicial work. Such being the case, with the private sector pay levels and trends being one of the factors under the balanced approach for determining judicial remuneration, the Judicial Committee continues to make reference to the gross Pay Trend Indicators (PTIs) from the annual Pay Trend Survey (PTS)⁹, which reflect the overall private sector pay trend, and capture, among others, the general market changes, cost of living, merit and in-scale increment in the private sector. As the gross PTIs have already included merit and in-scale increment in the private sector, the Judicial Committee considers it appropriate to subtract the cost of increments for JJOs from the gross PTI for the Upper Salary Band to arrive at a private sector pay trend indicator suitable for comparison with judicial pay. Accordingly, the private sector pay trend indicator as adjusted by the

⁹ The annual PTS measures the year-on-year average pay movements of full-time employees in the private sector over a 12-month period from 2 April of the previous year to 1 April of the current year. The PTIs derived from the PTS are grouped into three salary bands, reflecting the average pay movements of private sector employees in three salary ranges. Using the 2017 PTS as an example, the ranges of the three salary bands are as follows –

- (i) Lower Salary Band covering employees in the salary range below \$21,255 per month;
- (ii) Middle Salary Band covering employees in the salary range of \$21,255 to \$65,150 per month;
- and
- (iii) Upper Salary Band covering employees in the salary range of \$65,151 to \$132,580 per month.

In the absence of a comprehensive or representative pay trend survey on the legal sector, the PTI for the Upper Salary Band in the PTS is considered as a suitable reference for comparison with judicial salaries, which start at Point 1 of the Judicial Service Pay Scale, currently at \$82,150.

consolidated cost of increments (CCOI) for JJOs is +2.45% in 2017 (i.e. the relevant gross PTI at 2.53% less the CCOI for JJOs at 0.08%). We agree with the assessment of the Judicial Committee.

(xi) Public sector pay as a reference

20. With the approval of the Chief Executive in Council in 2008, the judicial pay adjustment mechanism is delinked from that of the civil service. Public sector pay is only one of the factors for consideration under the balanced approach in determining judicial pay. In the 2017 JRR, the Judicial Committee made reference to the decision of the Chief Executive in Council in June 2017 to increase the pay for civil servants in the directorate and upper salary band by 1.88% (equal to the net PTI for the Upper Salary Band (1.38%) plus 0.5%) with effect from 1 April 2017, subject to the approval of the Finance Committee of the Legislative Council (LegCo). The Judicial Committee also notes that a Pay Level Survey (PLS) is conducted every six years for civil servants to assess whether civil service pay is broadly comparable with that of the private sector at a particular reference point in time. The last PLS was conducted in 2013. Since JJOs and civil servants are subject to different and separate mechanisms for pay adjustment since 2008, the Judicial Committee considers it appropriate to examine the levels of judicial pay vis-à-vis the levels of earnings in the private sector in the context of a Benchmark Study in accordance with the existing mechanism for the determination of judicial remuneration. The next Benchmark Study will be conducted in 2020, subject to review nearer the time. We agree with the Judicial Committee that public sector pay is only one of the factors for consideration under the balanced approach.

B. Judicial independence

21. Apart from considering the basket of factors summarised above, the Judicial Committee continues to premise its deliberations on the need to uphold the principle of judicial independence. In particular, the Judicial Committee considers it essential to ensure that judicial remuneration is sufficient to attract and retain talents in the Judiciary, in order to maintain an independent and effective judicial system which upholds the rule of law and commands confidence within and outside Hong Kong. The need to maintain an independent Judiciary of the highest integrity is of utmost importance.

C. Position of the Judiciary

22. The Judiciary sought a pay increase of 2.95% for the judicial service in 2017-18 (i.e. the relevant gross PTI at 2.53% less the CCOI for JJOs at 0.08% plus 0.5%). The Judiciary considers that if the civil service pay adjustment is based on the net PTI plus 0.5%, the same approach should be adopted for the judicial pay adjustment in 2017. If the “plus 0.5%” is not adopted for the judicial pay adjustment in 2017, it would put the position of judicial remuneration in a less favourable position when compared to the public sector pay adjustment as a whole. The Judiciary also reiterated its position that there should not be any reduction in judicial pay as a matter of principle.

Recommendation of the Judicial Committee

23. Having considered the above factors, the Judicial Committee recommends that judicial pay for 2017-18 should be increased by 2.95% with effect from 1 April 2017.

The Government's views

24. We consider that the Judicial Committee has thoroughly examined the basket of factors as approved by the Chief Executive in Council in May 2008. It has taken into account the principle of judicial independence and reaffirmed its stance that it is essential to ensure that judicial remuneration is sufficient to attract and retain talents in the Judiciary, in order to maintain an independent and effective judicial system which upholds the rule of law. It has also considered the position of the Judiciary in its deliberations. We are satisfied that the Judicial Committee has taken a holistic view on the issue before arriving at its recommendation. We therefore support its recommendation that judicial pay for 2017-18 should be increased by 2.95%.

25. We note that the Judicial Committee has considered the basket of factors relevant to judicial pay adjustment, including justifications relevant to the judicial service, public sector pay increase and the Judiciary's position, in recommending the application of an additional 0.5% to the net PTI for JJOs in 2017-18. We agree with this balanced approach and believe it will help maintain the attractiveness of the judicial pay.

IMPLICATIONS OF THE PROPOSAL

26. The estimated financial implication for 2017-18¹⁰ arising from a 2.95% increase in the pay for JJOs is \$12.12 million which comprises \$10.07 million based on net PTI for JJOs of 2.45% and \$2.05 million attributable to the addition of 0.5%. The established practice is that the additional resources required for coping with the pay rise in a particular year will first be absorbed by the Judiciary. Additional provision, if required, will be sought according to the established mechanism. The recommendation is in conformity with the Basic Law, including the provisions concerning human rights, and has no staffing, economic, family, environmental, gender or sustainability implications.

PUBLIC CONSULTATION

27. The Judicial Committee has invited both the Judiciary and the Government to provide information relating to the basket of factors for its consideration. After the Judicial Committee submitted its recommendation to the CE, we have invited the Judiciary to give its response to the Judicial Committee's recommendation to increase the pay for JJOs for 2017-18 by 2.95%. The Judiciary has indicated its support for the Judicial Committee's recommendation. No public consultation outside the Judiciary has been conducted.

PUBLICITY

28. We have informed the Judiciary and the Judicial Committee of the Government's decision on the 2017-18 judicial service pay adjustment. We will also issue a press release and a spokesman will be made available to handle press enquiries. We will also brief the LegCo Panel on Administration of Justice and Legal Services in October/November 2017 before we proceed to seek the approval of the LegCo Finance Committee on the proposed pay adjustment. The Judicial Committee will separately release its report to the public.

¹⁰ The estimate was calculated by the Judiciary in around mid-August 2017 by multiplying the proposed judicial pay increase of 2.95% to the actual salaries and acting allowances for JJOs for the four months from April to July 2017 and their projected salaries and acting allowances for the eight months from August 2017 to March 2018.

BACKGROUND

29. Having considered the recommendations of the Judicial Committee, the Chief Executive in Council decided in May 2008 that a new mechanism, separate from that of the civil service, should be put in place to determine judicial remuneration. Specifically, the Chief Executive in Council agreed that judicial remuneration should be determined by the Executive after considering the recommendations of the independent Judicial Committee. The new mechanism comprises a Benchmark Study to be conducted on a regular basis and an annual review. The Judicial Committee has decided that the Benchmark Study should in principle be conducted every five years to check whether judicial pay is kept broadly in line with the movements of legal sector earning over time, with its frequency subject to periodic review. The last Benchmark Study was conducted in 2015. The next Benchmark Study will be conducted in 2020, subject to review nearer the time.

30. In advising on judicial remuneration, the Judicial Committee adopts a balanced approach, taking into account a basket of factors including –

- (a) responsibility, working conditions and workload of judges vis-à-vis those of lawyers in private practice;
- (b) recruitment and retention in the Judiciary;
- (c) retirement age and retirement benefits of JJOs;
- (d) benefits and allowances enjoyed by JJOs;
- (e) unique features of the judicial service, such as the security of tenure, the prestigious status and high esteem of the judicial offices;
- (f) prohibition against return to private practice in Hong Kong;
- (g) overseas remuneration arrangements;
- (h) cost of living adjustments;
- (i) general economic situation in Hong Kong;
- (j) budgetary situation of the Government;

- (k) private sector pay levels and trends; and
- (l) public sector pay as a reference.

ENQUIRIES

31. Enquiries on this brief should be addressed to Ms Jennifer Chan, Deputy Director of Administration, at 2810 3008 or Ms Christine Wai, Assistant Director of Administration, at 2810 3946.

Administration Wing
Chief Secretary for Administration's Office
3 October 2017

STANDING COMMITTEE ON JUDICIAL SALARIES AND CONDITIONS OF SERVICE

Report on Judicial Remuneration Review 2017

July 2017

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Chapter 1

Introduction

1.1 This Report sets out the findings and recommendations of the Standing Committee on Judicial Salaries and Conditions of Service (the Judicial Committee) in the Judicial Remuneration Review (JRR) 2017. The Review was conducted in accordance with the mechanism for the determination of judicial remuneration as approved by the Chief Executive-in-Council in 2008.

The Judicial Committee

1.2 The Judicial Committee is an independent advisory body appointed by the Chief Executive to advise and make recommendations on matters concerning the salary and conditions of service of Judges and Judicial Officers (JJOs)¹. It was first established in December 1987 in recognition of the independent status of the Judiciary and the need for the pay and conditions of service of JJOs to be dealt with separately from those of the civil service.

1.3 In May 2008, the Chief Executive-in-Council accepted all the major recommendations of the Judicial Committee's Report on the Study on the Appropriate Institutional Structure, Mechanism and Methodology for the Determination of Judicial Remuneration in Hong Kong in 2005² (the 2005 Report). With the approval of the Chief Executive, the Judicial Committee's terms of reference and membership

¹ Judges refer to officers in the grades of Chief Justice, Court of Final Appeal (CFA); Judge, CFA; Judge of the High Court; and Judge of the District Court (District Judge). Judicial Officers refer to officers in the grades of Registrar, High Court; Registrar, District Court; Member, Lands Tribunal; Magistrate; Presiding Officer, Labour Tribunal; Adjudicator, Small Claims Tribunal; Coroner; and Special Magistrate.

² The 2005 Report can be found in the website http://www.jsscs.gov.hk/en/publications/reports_jscs.htm.

were expanded. Its terms of reference and membership are at **Appendix A** and **Appendix B** respectively.

Judicial Independence

1.4 The Judicial Committee continues to premise its deliberations on the need to uphold the principle of judicial independence. It enables the court to adjudicate cases in a fair and impartial manner by ascertaining the facts objectively and applying the law properly. In discharging its functions, the Judicial Committee has to ensure that judicial remuneration is sufficient to attract and retain talent in the Judiciary, in order to maintain an independent and effective judicial system which upholds the rule of law and commands confidence within and outside Hong Kong. The need to maintain an independent Judiciary of the highest integrity is of utmost importance.

Judicial Remuneration

1.5 In recognition of the independence and uniqueness of the Judiciary, JJOs are remunerated according to an independent salary scale known as the Judicial Service Pay Scale (JSPS) (**Appendix C**). Judicial salaries are subject to regular reviews that are distinct from that carried out in respect of the civil service, with the Judicial Committee tendering advice to the Chief Executive on matters concerning judicial remuneration.

Judicial Remuneration Review 2017

1.6 In conducting the Review in 2017, the Judicial Committee invited the Judiciary and the Government to provide relevant data and views pertaining to the basket of factors³. The Judicial Committee then

³ The basket of factors which the Judicial Committee takes into account in reviewing judicial remuneration are set out in paragraphs 2.5 and 2.6.

exercised its best judgment in analysing and balancing all relevant considerations in formulating its recommendation. Having considered all relevant factors, the Judicial Committee **recommends** that judicial salaries should be increased by 2.95% in 2017-18.

Chapter 2

Mechanism for Judicial Remuneration Review

Mechanism

2.1 The mechanism for JRR, as approved by the Chief Executive-in-Council in May 2008, comprises two components: a regular benchmark study and an annual salary review.

Benchmark Study

2.2 In its 2005 Report, the Judicial Committee took the view that a benchmark study on the levels of earnings of legal practitioners should be conducted on a regular basis, in order to ascertain their earnings levels, monitor such trends and review judicial salaries where appropriate. The Judicial Committee also recommended that the information or data collected in the benchmark study should be analysed and compared with judicial remuneration in Hong Kong, with a view to checking whether judicial pay was kept broadly in line with the movements of legal sector earnings over time. The data collected should not be translated into precise figures for determining the levels of judicial salaries. Rather, the pay relativities between selected judicial positions and the corresponding legal sector positions should be systematically recorded to show whether the pay relativities were widening or narrowing over time. The data would facilitate the Judicial Committee in monitoring the private sector pay trends and considering whether and how adjustments to judicial pay should be made⁴.

2.3 The Judicial Committee further decided in 2009 that a benchmark study should in principle be conducted every five years, with its frequency subject to periodic review. Since then, the Judicial Committee has completed two benchmark studies in 2010 and 2015

⁴ The 2005 Report, paragraph 3.26.

respectively⁵. The next benchmark study will be conducted in 2020, subject to review nearer the time.

Annual Review

2.4 The Judicial Committee has agreed that an annual review on judicial remuneration should be conducted, including in the year when a benchmark study is carried out. This will enable the Judicial Committee to take a holistic view on the year-on-year changes in relation to the basket of factors, in conjunction with the findings of the regular benchmark study. During the review, the Judicial Committee will consider whether and, if so, how judicial pay should be adjusted.

Balanced Approach

2.5 Consistent with its recommendations in the 2005 Report as approved by the Chief Executive-in-Council, the Judicial Committee adopts a balanced approach in reviewing judicial remuneration by taking into account a basket of factors. The basket of factors includes the following –

- (a) the responsibility, working conditions and workload of judges vis-à-vis those of lawyers in private practice;
- (b) recruitment and retention in the Judiciary;
- (c) the retirement age and retirement benefits of JJOs;
- (d) the benefits and allowances enjoyed by JJOs;
- (e) prohibition against return to private practice in Hong Kong;
- (f) public sector pay as a reference;
- (g) private sector pay levels and trends;
- (h) cost of living adjustments; and
- (i) the general economic situation in Hong Kong.

⁵ A pilot study was conducted by the Judicial Committee in 2005 to ascertain the feasibility of such benchmark studies.

2.6 In addition to the above, the Judicial Committee has also agreed to take into account the following factors suggested by the Government –

- (a) overseas remuneration arrangements;
- (b) unique features of judicial service – such as the security of tenure, the prestigious status and high esteem of judicial offices; and
- (c) the budgetary situation of the Government – which is a relevant factor for consideration in adjusting civil service pay.

Chapter 3

Annual Review

Annual Review

3.1 This is the ninth year for the Judicial Committee to conduct the annual review of judicial salary in accordance with the mechanism for JRR as set out in Chapter 2. In conducting the Review, instead of applying a mechanical formula, the Judicial Committee continued to adopt a balanced approach taking into account the basket of factors and the views of the Judiciary.

Responsibility, Working Conditions and Workload

3.2 On the basis of the latest information provided by the Judiciary, the Judicial Committee did not observe any major change in the responsibility and working conditions of JJOs. Members of the Judiciary continued to discharge their functions in maintaining an independent and effective judicial system to uphold the rule of law and safeguard the rights and freedoms of the individual. The levels of court and the respective judicial ranks have remained the same as set out in **Appendix D**.

3.3 As regards workload, the caseloads of the Judiciary as a whole remained steady in the past few years. The caseloads in different levels of court between 2014 and 2016 are shown in **Appendix E**. In 2016, there was a noticeable decrease in the number of cases at the Obscene Articles Tribunal, which was mainly attributable to the reduction in the number of articles referred by the Magistrates' Courts to the Tribunal for determination. The number of articles referred by the Magistrates' Courts for determination is related to the number of concerned prosecutions brought before the Magistrates' Courts.

3.4 Despite the relatively steady caseload figures, the Judiciary has pointed out that the caseload figures do not reflect fully the workload of JJOs and must not be looked at exclusively. They do not reflect the complexity of the cases, which directly affects the amount of time and efforts required of JJOs to deal with cases. It is also very difficult to devise quantifiable indicators in a meaningful way to reflect the increasing workload and heavier responsibilities of JJOs. All the above are generally true for all levels of court but the pressure is particularly felt at the level of the High Court⁶.

3.5 Increased complexity in cases not only means longer hearing times but also considerably more time required of JJOs to conduct pre-hearing preparations and to write judgments. There are now many more lengthy trials. The high ratio of unrepresented litigants in civil cases also creates great challenges. Where there are unrepresented litigants, JJOs are not properly assisted in dealing with complex legal issues. Hearings (and their preparation) take longer time as a result.

3.6 Indeed, the Judicial Committee has all along recognised that caseload figures alone do not fully reflect the workload of JJOs, and the complexity of cases is also an important element. The Judicial Committee maintains its view that the nature of judicial work is unique. The responsibility and working conditions of JJOs are different from those of legal practitioners, rendering any direct comparison between the two inappropriate. The Judicial Committee trusts that the Judiciary will continue to monitor any changes in workload and keep in view its manpower position to ensure provision of quality services to court users and members of the public.

⁶ As advised by the Judiciary, for the High Court, there have been many complex trials involving Mainland undertakings, big money matrimonial disputes, complicated commercial crime and important public law cases in recent years. In addition, new developments in law resulting for example from the introduction of new or amended legislation collectively have significant impacts on the already heavy workload.

Recruitment and Retention

3.7 As of 31 March 2017, against the establishment of 200 judicial posts, 158 were filled substantively. This represents a net decrease of four in the strength of JJOs as compared with 31 March 2016, arising mainly from retirement. The establishment and strength of JJOs as at 31 March 2017 are in **Table 1** below –

Table 1: Establishment and strength of JJOs

Level of court	As at 31.3.2017*		Net change in strength over 31.3.2016
	Establishment	Strength	
CFA ⁷	4 (4)	4 (4)	0
High Court ⁸	59 (59)	44 (41)	+3
District Court ⁹	41 (41)	41 (37)	+4
Magistrates' Courts and Specialised Tribunals/Court ⁹	96 (96)	69 (80)	-11
Total	200 (200)	158 (162)	-4

* Figures in brackets denote position as at 31.3.2016.

3.8 On recruitment of JJOs, the Judiciary advised that a total of 12 open recruitment exercises for various judicial ranks were conducted between 2011 and 2016. Up to 31 March 2017, a total of 91 judicial appointments were made as a result of these open recruitment exercises, with appointments of four CFI Judges and six District Judges made in the 2016-17 financial year. Appointments of two District Judges were also made in April 2017.

3.9 The Judicial Committee noted that at the CFI Judge level, the Judiciary has been conducting open recruitment exercises on a more regular basis in recent years, with four such exercises being conducted since 2012. With the completion of the latest round of recruitment

⁷ The figures exclude one Permanent Judge post created for Non-Permanent Judge (NPJ) of the CFA. In practice, an NPJ is invited to sit in the CFA as required in accordance with the Hong Kong Court of Final Appeal Ordinance (Cap. 484).

⁸ For Senior Deputy Registrar and Deputy Registrar vacancies in the Masters' Office of the High Court, the functions are now mostly carried out by District Judges who are appointed as temporary Deputy Registrars under the cross-posting policy.

⁹ For judicial offices in the Masters' Office of the District Court and at the Labour Tribunal, Small Claims Tribunal and the Coroner's Court, the functions are carried out by Principal Magistrates or Magistrates under the cross-posting policy. The cross-posting policy provides greater flexibility in the posting of judicial officers between various courts to serve operational needs.

exercise launched in 2016, a total of 20 appointments were made since 2012 with three appointments made in 2017. From the experience of the past few open recruitment exercises for CFI Judges, it is noted that there have been recruitment difficulties at this level of court. The number of eligible candidates suitable for appointment could not fill the available vacancies.

3.10 The Judicial Committee is fully aware of the persistent recruitment difficulties at the CFI level. In the context of JRR 2016, the Judicial Committee examined the findings of the 2015 Benchmark Study on the Earnings of Legal Practitioners in Hong Kong (2015 Benchmark Study) and noted a clear trend of widening differential between judicial pay and earnings of legal practitioners. In particular, for CFI Judges, the findings clearly indicated that judicial pay has been consistently lower than legal sector earnings over the years, and the pay lag has further widened in recent years. Taking into account the persistent recruitment difficulties and the widening pay gap, the Judicial Committee recommended an upward pay adjustment of 6% for Judges at the CFI level and above following the 2015 Benchmark Study¹⁰. In addition, in 2016 the Judicial Committee considered and supported a package of proposals to enhance some of the conditions of service for JJOs¹¹. The pay adjustment and enhancement proposals were subsequently implemented in September 2016 and April 2017 respectively. The Judicial Committee will continue to keep in view the recruitment situation of JJOs, especially whether the improved remuneration package has helped the Judiciary in recruiting and retaining talents in the legal profession.

3.11 For District Judges, two rounds of open recruitments were completed in 2012 and 2016. For the recruitment exercise in 2016, against 11 fillable vacancies, eight appointments were made in 2017. As for Magistrates, the last open recruitment exercises for Permanent Magistrates and Special Magistrates launched in 2014 were completed.

¹⁰ An upward pay adjustment of 4% for JJOs below the CFI level was also recommended following the 2015 Benchmark Study.

¹¹ They include housing benefits, medical and dental benefits, Local Education Allowance, Judicial Dress Allowance and transport service for leave travel.

All the 17 and five fillable vacancies of Permanent Magistrates and Special Magistrates were filled respectively as a result. A new round of recruitment exercise for Permanent Magistrates has been launched in end 2016 and is in progress.

3.12 Meanwhile, the Judiciary has continued to engage temporary judicial resources to help relieve workload, including internal/external deputy and temporary or acting JJOs. The number of external deputy JJOs has increased from a total of 27 as at 31 March 2016 to 35 as at 31 March 2017.

Retirement

3.13 The statutory normal retirement ages for JJOs are 60 or 65, depending on the level of court. Beyond that, extension of service may be approved up to the age of 70 or 71, depending on the level of court and subject to consideration on a case-by-case basis. For retirement benefits, JJOs are either entitled to pension governed by the Pension Benefits (Judicial Officers) Ordinance (Cap. 401), or provident fund governed by the Mandatory Provident Fund Schemes Ordinance (Cap. 485) according to their terms of appointment.

3.14 Retirement is the main source of wastage among JJOs. The anticipated retirement will be three (or 1.9% of current strength) in 2017-18, increasing to 19 (or 12.0% of current strength) in 2018-19, and going down to ten (or 6.3% of current strength) in 2019-20.

3.15 The retirement situation may pose challenges to judicial manpower in the coming years. To address the situation, the Judicial Committee considered that the Judiciary should continue to attract new blood and to groom and retain existing talents.

3.16 Moreover, the Judicial Committee noted that the Judiciary is conducting a review on the statutory retirement ages of JJOs with a view to considering 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 Judiciary has engaged a consultant to conduct the review and will submit its recommendations to the Government at an appropriate juncture.

Benefits and Allowances

3.17 JJOs are entitled to a range of benefits and allowances in addition to salary. The package of benefits and allowances is an integral part of judicial remuneration, and is an important component that has helped attract capable legal practitioners to join the bench. The scope of their benefits and allowances is largely similar to that available in the civil service, with some adaptations having regard to the unique characteristics of the judicial service.

3.18 The Judicial Committee noted the following recent changes to the package of existing fringe benefits and allowances for JJOs –

- (a) Enhancements to five areas of the conditions of service for JJOs (i.e. housing benefits, medical and dental benefits, Local Education Allowance, Judicial Dress Allowance and transport service for leave travel) were implemented with effect from 1 April 2017¹²;
- (b) The rates of Leave Passage Allowance¹³, Home Financing Allowance and Non-accountable Cash Allowance¹⁴ were revised following similar revisions in the civil service; and

¹² In 2016, at the invitation of the Government, the Judicial Committee considered the Judiciary's proposals to enhance these five areas of conditions of service. The Judicial Committee considered the proposals reasonable and well-justified, and therefore indicated support for them.

¹³ Leave Passage Allowance is an allowance to reimburse eligible officers (and their eligible family members, where applicable) their travel-related expenses, e.g. air fares, accommodation, as well as car hire and related expenses.

¹⁴ The Home Financing Allowance and Non-accountable Cash Allowance are two different types of housing allowance offered to JJOs.

- (c) The rates of two Extraneous Duties Allowances (Responsibility) (EDA(R)) for JA¹⁵ in 2016-17 were revised based on the judicial service pay adjustments for 2016-17.

3.19 The existing package of benefits and allowances is an integral part of judicial remuneration, and is an important component that has helped attract capable legal practitioners to join the bench. The Judicial Committee will continue to keep the situation under review.

Unique Features of the Judicial Service

3.20 The Judiciary is unique in many aspects. A prominent feature is the prohibition against return to private practice. Judges at the District Court level and above must give an undertaking not to practise in future as barristers or solicitors in Hong Kong without the permission of the Chief Executive. The Chief Justice and Judges of the CFA are prohibited by statute from practising as barristers or solicitors in Hong Kong while holding office or at any time after ceasing to hold office. On the other hand, judges enjoy security of tenure¹⁶ and high esteem, which may be seen as attractions for legal practitioners joining the bench. The Judicial Committee noted that these were all long established arrangements and nothing was changed during the annual review in 2017.

Overseas Remuneration Arrangements

3.21 The Judicial Committee continued to keep track of major development, if any, on judicial remuneration in six overseas common law jurisdictions, namely, Australia, Canada, New Zealand, Singapore,

¹⁵ Both EDA(R)s are payable in recognition of the higher responsibilities taken up by JAs. One is for JAs sitting as NPs of the CFA, while the other is for JAs appointed as Vice Presidents of the Court of Appeal of the High Court.

¹⁶ Any removal from office is subject to detailed statutory procedures, and the removal of the most senior judges (i.e. the Chief Justice, Judges of the CFA and the Chief Judge of the High Court) has to be endorsed by the Legislative Council and reported to the Standing Committee of the National People's Congress for the record.

the United Kingdom and the United States. There was no systemic change to the judicial remuneration systems in these jurisdictions in 2016-17. The jurisdictions took different, but generally prudent, actions in their latest annual salary reviews for judges, with the annual adjustment rates more or less similar to the previous year. A key consideration behind their respective actions appeared to be the prevailing states of economy of the respective jurisdictions.

General Economic Situation and Cost of Living Adjustments in Hong Kong

3.22 The Government has provided detailed information on Hong Kong's economic and fiscal indicators for the Judicial Committee's reference. The Gross Domestic Product (GDP) grew notably by 4.3% in real terms in the first quarter of 2017 over a year earlier, sustaining the improving trend that began in the second quarter of last year. For 2017 as a whole, the Hong Kong economy is projected to grow by 2% to 3%. The year-on-year changes in GDP in real terms are shown in **Table 2** below –

Table 2 : Changes in GDP in real terms

Year	Quarter (Q)	GDP year-on-year % change
2016	Q1	+1.0%
	Q2	+1.8%
	Q3	+2.0%
	Q4	+3.2%
2017	Q1	+4.3%*

(Source: Figures published by the Census and Statistics Department)

* Preliminary figure

3.23 The labour market remained in a state of full employment and tightened somewhat in the first quarter of 2017. The seasonally adjusted unemployment rate in the first quarter of 2017 edged down further by 0.1 percentage point over the preceding quarter to 3.2%. The figure remained the same at 3.2% from March to May 2017. As compared to 3.4% in the same period in 2016, the unemployment rate has generally held steady over the past 12 months.

3.24 On changes in cost of living, headline consumer price inflation, as measured by the year-on-year rate of change of the Composite Consumer Price Index¹⁷, went down to 0.5% year-on-year in the first quarter of 2017, from 1.2% in the fourth quarter of 2016. For the 12-month period ended March 2017, headline inflation averaged at 1.8%¹⁸. Looking ahead, the consumer price inflation should remain well contained in the near term. Taking the latest developments into account, the forecast headline inflation for 2017 as a whole is 1.8%¹⁹.

Budgetary Situation of the Government

3.25 Based on the information from the Government, it had a consolidated surplus of \$110.8 billion in 2016-17 and the fiscal reserves stood at \$953.7 billion as at end March 2017. For 2017-18, a surplus of \$11.1 billion and a surplus of \$5.2 billion are estimated for the Operating Account and Capital Account respectively. This results in a surplus of \$16.3 billion in the Consolidated Account, equivalent to 0.6% of our GDP.

3.26 The annual staff cost of the Judiciary in 2017-18 is estimated at about \$1.3 billion, which is roughly 0.34% of the Government's total operating expenditure of about \$384.2 billion in the 2017-18 Estimates.

Private Sector Pay Levels and Trends

3.27 The Judicial Committee noted that there was no comprehensive or representative pay trend survey on the legal sector, although there were small surveys conducted by individual recruitment agencies with limited coverage, which were of little relevance to the

¹⁷ Composite Consumer Price Index reflects the impact of consumer price change on the household sector as a whole.

¹⁸ The underlying inflation netting out all Government's one-off relief measures for the 12-month period ended March 2017 averaged at 2%.

¹⁹ The forecast underlying inflation for 2017 is 2%.

Judiciary. Moreover, direct comparison between judicial pay and legal sector pay is inappropriate having regard to the uniqueness of judicial work. Such being the case, the Judicial Committee continued to make reference to the gross Pay Trend Indicators (PTIs) from the annual Pay Trend Survey (PTS)²⁰, which reflected the overall private sector pay trend, and captured, among others, the general market changes, cost of living, merit and in-scale increment in the private sector. As the gross PTIs already included merit and in-scale increment in the private sector, it is appropriate to subtract the cost of increments for JJOs from the relevant gross PTI to arrive at a private sector pay trend suitable for reference in the context of the JRR.

Cost of Increments for JJOs

3.28 JJOs are remunerated on the JSPS as set out in **Appendix C**. Save for the Special Magistrate and Permanent Magistrate ranks, which are on a pay scale of JSPS 1-6 and JSPS 7-10 respectively, pay progression in the other (and majority) levels of JJOs is limited. Only a small number of incremental creeps are granted to JJOs at JSPS 10-14 upon satisfactory completion of two and then another three years of service for the first and second increments respectively²¹. JJOs serving on JSPS 15 and above have no increment. The consolidated cost of increments (CCOI) as a percentage of total payroll cost for all JJOs in the past five years based on information from the Judiciary are set out in **Table 3** below –

²⁰ The annual PTS measures the year-on-year average pay movements of full-time employees in the private sector over a 12-month period from 2 April of the previous year to 1 April of the current year. The PTIs derived from the PTS are divided into three salary bands, reflecting the average pay movements of private sector employees in three salary ranges, i.e. –

- (i) Lower Salary Band covering employees in the salary range below \$21,255 per month;
- (ii) Middle Salary Band covering employees in the salary range of \$21,255 to \$65,150 per month; and
- (iii) Upper Salary Band covering employees in the salary range of \$65,151 to \$132,580 per month.

In the absence of a comprehensive or representative pay trend survey on the legal sector, the PTI for the Upper Salary Band in the PTS is considered as a suitable reference for comparison with judicial salaries, which start at JSPS 1, currently at \$82,150.

²¹ Pay points on JSPS 10-14 each has two increments. An officer remunerated on this segment of the JSPS may proceed to the first increment after satisfactory completion of two years of service in the rank, and to the second increment after satisfactory completion of another three years of service in the rank.

Table 3 : CCOI for JJOs (2012-13 to 2016-17)

Year	CCOI for JJOs
2012-13	0.23%
2013-14	0.14%
2014-15	0.55%
2015-16	0.43%
2016-17	0.08%

3.29 The Judicial Committee considered that adopting a CCOI for all JJOs (as opposed to having separate costs of increments for JJOs remunerated on incremental scales/spot rates) would avoid over-complicating the system. Moreover, it would help maintain the established internal relativities of judicial pay among various ranks. The Judiciary also agreed to this arrangement.

Private Sector Pay Trend for Judicial Remuneration Review Purpose

3.30 The gross PTI of private sector employees in the highest salary range was +2.53% for the 12-month period from 2 April 2016 to 1 April 2017. As mentioned in paragraph 3.28 above, the CCOI for JJOs in 2016-17 was 0.08%. The private sector pay trend for JRR purpose (i.e. calculated by subtracting the CCOI for JJOs from the gross PTI) in 2017 is therefore +2.45%.

3.31 The Judicial Committee also made reference to other private sector pay indicators. In 2016, private sector remuneration generally maintained an overall upward adjustment.

Public Sector Pay as a Reference

3.32 Historically, there was an informal linkage between judicial salaries and senior civil service salaries before the implementation of the existing mechanism for determining judicial remuneration. As concluded in the 2005 Report, while some reference to public sector pay was beneficial, pegging was not appropriate. De-linking judicial remuneration from that of the civil service would not only strengthen the perception of judicial independence, but would also provide the

necessary safeguard and reassurance to JJOs. The conclusion has also taken into account certain aspects that render it inappropriate for a direct comparison between the Judiciary and the civil service, e.g. judges do not have the collective bargaining process on annual pay adjustment which the Government has established with the civil service unions and staff associations²². Public sector pay is hence one of the factors under the balanced approach for determining judicial remuneration.

3.33 Under the improved civil service pay adjustment mechanism endorsed in 2007, civil service pay is compared with the prevailing market situation on a regular basis through three different surveys, namely (a) a PTS conducted every year to ascertain the year-on-year pay movements in the private sector; (b) a Starting Salaries Survey (SSS) conducted every three years to compare civil service starting salaries with those of the private sector having similar academic qualifications and/or experience requirements; and (c) a Pay Level Survey (PLS) conducted every six years to ascertain whether civil service pay is broadly comparable with private sector pay. Noting that SSS focuses only on the starting salaries of civil service jobs at entry level, only (a) and (c) may thus be relevant in the consideration of judicial remuneration.

Annual Civil Service Pay Adjustment

3.34 On annual civil service pay adjustment, the Judicial Committee has made reference to the decision of the Chief Executive-in-Council in respect of the annual civil service pay adjustment²³ which was made in June 2017 that the pay for civil servants in the Upper Salary Band and above should be increased by 1.88% (equal to the net PTI for the Upper Salary Band (1.38%) plus 0.5%) with retrospective effect from 1 April 2017, subject to the approval from the Finance Committee of the Legislative Council.

²² The 2005 Report, paragraph 3.14.

²³ In arriving at the decision, the Chief Executive-in-Council has taken into account the relevant factors (such as the net PTIs derived from the 2017 PTS, the state of the economy of Hong Kong, the Government's fiscal position, changes in the cost of living, pay claims of the staff sides, civil service morale).

Pay Level Survey

3.35 The Judicial Committee noted that a PLS is conducted at six-yearly intervals for civil servants to assess whether civil service pay is broadly comparable with that of the private sector at a particular reference point in time. The last PLS was conducted in 2013. Since JJOs and civil servants are subject to different and separate mechanisms for pay adjustment since 2008, the Judicial Committee considers it appropriate to examine the levels of judicial pay vis-à-vis the levels of earnings in the private sector in the context of a benchmark study in accordance with the existing mechanism for the determination of judicial remuneration. As mentioned in paragraph 2.3 above, the next benchmark study will be conducted in 2020, subject to review nearer the time.

The Judiciary's Position

3.36 The Judiciary has pointed out that any reduction of judicial salaries may well offend the principle of judicial independence, and reiterated that, in any case, judicial pay should not be reduced. The Judiciary sought a pay increase of 2.95% (i.e. the relevant gross PTI at 2.53% less the CCOI for JJOs at 0.08% plus 0.5%) for the annual adjustment for the judicial service in 2017-18.

3.37 The Judicial Committee noted the Judiciary's view that if the civil service pay adjustment is based on the net PTI plus 0.5%, the same approach should be adopted for the judicial pay adjustment in 2017. The Judiciary considered that if the "plus 0.5%" was not adopted for the judicial pay adjustment in 2017, it would put the position of judicial remuneration in a less favourable position when compared to the public sector pay adjustment as a whole.

Chapter 4

Recommendation and Acknowledgements

Recommendation

4.1 During the year covered by this report, the Judicial Committee has completed the annual review and formulated its recommendation in respect of the 2017-18 annual adjustment. Taking into account the basket of factors and having balanced all considerations, the Judicial Committee **recommends** that judicial salaries should be increased by 2.95% with effect from 1 April 2017.

4.2 For future reviews, the Judicial Committee will continue to adopt a balanced approach taking into account the basket of factors. Among others, we will keep in view the recruitment situation of the Judiciary and the outcome of review on the statutory retirement ages of JJOs. In addition, the Judicial Committee will continue to take into account the experience in the past JRRs conducted under the approved mechanism.

Acknowledgements

4.3 We would like to express our sincere gratitude to both the Government and the Judiciary for providing us with comprehensive and valuable information. Their contribution is most useful in facilitating our deliberation on the basket of factors under the approved mechanism for the determination of judicial remuneration. Our appreciation also goes to the Secretary General and the Joint Secretariat for their assistance in this review.

4.4 We would also like to record our heartfelt appreciation to ex-Chairman the Hon Bernard Chan, GBS, JP, for his outstanding leadership in steering the Judicial Committee through a number of important tasks during his six-year tenure. We would also like to express our gratitude to ex-Member Mrs Ayesha Macpherson Lau, JP, for her dedicated service in the past six years.

**Standing Committee on Judicial Salaries
and Conditions of Service**

Terms of Reference

I. The Committee will advise and make recommendations to the Chief Executive on –

- (a) the structure, i.e. number of levels and salary level; and conditions of service and benefits other than salary appropriate to each rank of judges and judicial officers and other matters relating thereto;
- (b) matters relating to the system, institutional structure, methodology and mechanism for the determination of judicial salary and other matters relating thereto which the Chief Executive may refer to the Committee; and
- (c) any other matter as the Chief Executive may refer to the Committee.

II. The Committee will also, when it so determines, conduct an overall review of the matters referred to in I(a) above. In the course of this, the Committee should accept the existing internal structure of the Judiciary and not consider the creation of new judicial offices. If, however, the Committee in an overall review discovers anomalies, it may comment upon and refer such matters to the Chief Justice, Court of Final Appeal.

**Standing Committee on Judicial Salaries
and Conditions of Service**

Membership in 2017

Chairman

Professor Wong Yuk-shan, BBS, JP

Members

Mr T C Chan, BBS, JP

Mr Alfred Chan Wing-kin, BBS

Ms May Tan Siew-boi

Ms Melissa Wu

Mr Dieter Yih, JP

Mr Benjamin Yu, SC, SBS, JP

Judicial Service Pay Scale
(with effect from 1 September 2016)

Judicial Service Pay Scale (JSPS)		Rank
Point	\$	
19	340,250	✧ Chief Justice, Court of Final Appeal
18	330,850	✧ Permanent Judge, Court of Final Appeal ✧ Chief Judge of the High Court
17	298,250	✧ Justice of Appeal of the Court of Appeal of the High Court
16	284,250	✧ Judge of the Court of First Instance of the High Court
15	230,500	✧ Registrar, High Court ✧ Chief Judge of the District Court
14	(223,000)	✧ Senior Deputy Registrar, High Court ✧ Principal Family Court Judge, District Court
	(216,550)	
	210,200	
13	(208,850)	✧ Deputy Registrar, High Court ✧ Judge of the District Court ✧ Chief Magistrate
	(202,850)	
	197,000	
12	(179,850)	✧ Assistant Registrar, High Court ✧ Member, Lands Tribunal
	(174,650)	
	169,450	
11	(165,450)	✧ Registrar, District Court ✧ Principal Adjudicator, Small Claims Tribunal ✧ Principal Magistrate ✧ Principal Presiding Officer, Labour Tribunal
	(160,900)	
	156,100	
10	(151,500)	✧ Adjudicator, Small Claims Tribunal ✧ Coroner ✧ Deputy Registrar, District Court ✧ Presiding Officer, Labour Tribunal
	(147,000)	
	142,800	
10	(151,500)	✧ Magistrate
	(147,000)	
	142,800	
9	132,575	
8	129,475	
7	126,385	

Judicial Service Pay Scale (JSPS)		Rank
Point	\$	
6	97,060	◇ Special Magistrate
5	92,560	
4	88,265	
3	86,205	
2	84,160	
1	82,150	

Note: Figures in brackets (for JSPS 10 – 14) represent increments under which the officer may proceed to the first increment after satisfactory completion of two years of service in the rank and to the second increment after satisfactory completion of another three years of service in the rank.

Levels of Court and Judicial Ranks

Level of Court	Rank	Pay Scale (JSPS)
Court of Final Appeal	Chief Justice, Court of Final Appeal	19
	Permanent Judge, Court of Final Appeal	18
High Court, Court of Appeal	Chief Judge of the High Court	18
	Justice of Appeal of the Court of Appeal of the High Court	17
High Court, Court of First Instance	Judge of the Court of First Instance of the High Court	16
Competition Tribunal		
High Court, Masters' Office	Registrar, High Court	15
	Senior Deputy Registrar, High Court	14
	Deputy Registrar, High Court	13
	Assistant Registrar, High Court*	12
District Court	Chief Judge of the District Court	15
	Principal Family Court Judge, District Court	14
	Judge of the District Court	13
District Court, Masters' Office	Registrar, District Court	11
	Deputy Registrar, District Court	10
Lands Tribunal	Member, Lands Tribunal	12
Magistrates' Courts	Chief Magistrate	13
	Principal Magistrate	11
	Magistrate	7 – 10
	Special Magistrate	1 – 6
Labour Tribunal	Principal Presiding Officer, Labour Tribunal	11
	Presiding Officer, Labour Tribunal	10
Small Claims Tribunal	Principal Adjudicator, Small Claims Tribunal	11
	Adjudicator, Small Claims Tribunal	10
Obscene Articles Tribunal	Magistrate	7 – 10
Coroner's Court	Coroner	10

* There is at present no post in the rank of Assistant Registrar, High Court.

Caseloads in Different Levels of Court between 2014 and 2016

No. of Cases Level of Court	2014	2015	2016
Court of Final Appeal			
– application for leave to appeal	141	127	129
– appeals	23	31	32
– miscellaneous proceedings	1	0	0
Total	165	158	161
Court of Appeal of the High Court			
– criminal appeals	452	442	400
– civil appeals	262	279	246
Total	714	721	646
Court of First Instance of the High Court			
– criminal jurisdiction			
• criminal cases	545	503	497
• confidential miscellaneous proceedings	346	402	405
• appeals from Magistrates' Courts	771	777	702
– civil jurisdiction	19 367	19 885	19 467
Sub-total	21 029	21 567	21 071
– probate cases	17 931	19 127	18 368
Total	38 960	40 694	39 439
Competition Tribunal^{Note}	N/A	0	0
District Court			
– criminal cases	1 079	1 118	1 215
– civil cases	20 639	20 346	21 902
– family cases	22 416	21 834	22 297
Total	44 134	43 298	45 414
Magistrates' Courts	322 964	317 006	334 048
Lands Tribunal	4 733	4 740	4 629
Labour Tribunal	4 039	4 006	4 326
Small Claims Tribunal	50 083	49 775	49 169
Obscene Articles Tribunal	12 143	4 278	226
Coroner's Court	146	93	83

^{Note} Competition Tribunal came into operation on 14 December 2015.