

Panel on Administration of Justice and Legal Services

List of outstanding items for discussion

(position as at 14 December 2017)

**Proposed
timing for
discussion**

1. Proposed creation of a permanent post of Deputy Principal Government Counsel in the International Law Division ("ILD") of the Department of Justice

Proposed by the Department of Justice ("DoJ"). The objective of creating the proposed post is to enable the ILD to better cope with the substantial increase in workload arising from existing and new initiatives as well as the increasing volume and complexity in the scope of work of its Treaties & Law Unit.

January 2018

2. Implementation of the Law Reform Commission in Hong Kong ("LRC") Report on Hearsay in Criminal Proceedings - Evidence (Amendment) Bill 2018

DoJ proposes to brief the Panel on the result of its consultation exercise on the Evidence (Amendment) Bill which ended on 31 July 2017 as well as the proposed way forward. In particular, the Bill, which seeks to implement the LRC Report on Hearsay in Criminal Proceedings, will be refined taking into account the result of the consultation exercise, with a view that the Bill be introduced into the Legislative Council as soon as possible.

March 2018

3. Mainland Judgments in Matrimonial and Family Cases (Reciprocal Enforcement) Bill

DoJ proposes to brief the Panel on the result of its consultation on the Mainland Judgments in Matrimonial and Family Cases (Reciprocal Enforcement) Bill as well as the proposed way forward. The Bill, which seeks to implement the Arrangement on Reciprocal Recognition and Enforcement of Civil Judgments in Matrimonial and Family Cases by the Courts of the Mainland and of the Hong Kong Special Administrative Region, will be

March 2018
(tentative)

refined taking into account the result of the consultation, with a view that the Bill be introduced into the Legislative Council in mid-2018.

4. Proposed legislative amendments further to the Review of the Supplementary Legal Aid Scheme

Proposed by the Home Affairs Bureau ("HAB"). The Administration plans to brief members on the proposed amendments to subsidiary legislation further to the review of the Supplementary Legal Aid Scheme ("SLAS") as well as the Judiciary's implementation of the revised civil jurisdictional limits of the District Court and the Small Claims Tribunal.

April 2018

The Administration briefed the Panel on the recommendations of the Legal Aid Services Council on the proposed expansion of SLAS and the Administration's position at the meeting on 24 April 2017.

At the work plan meeting on 31 October 2017, Dr Hon Priscilla LEUNG requested HAB to report its study on the suggestion of establishing a roster system for assignment of lawyers in legal aid cases.

5. Implementation of LRC Report on Enduring Powers of Attorney: Personal Care – Continuing Powers of Attorney Bill

DoJ proposes to brief the Panel on the result of its consultation exercise on the Continuing Powers of Attorney Bill which is expected to commence before the end of December 2017 as well as the proposed way forward. In particular, the Bill, which seeks to implement the LRC Report on Enduring Powers of Attorney: Personal Care, will be refined taking into account the result of the consultation exercise, with a view that the Bill be introduced into the Legislative Council as soon as possible.

April 2018

**Proposed
timing for
discussion**

6. Legal education and training in Hong Kong

Proposed by DoJ. At the Panel meeting of June 2017, the Government reported on the progress of the comprehensive review commissioned by the Standing Committee on Legal Education and Training ("SCLET"). The independent consultants appointed by SCLET are now preparing the report of the comprehensive review. DoJ proposes to brief the Panel again on the comprehensive review after publications of the consultants' report.

April/
June 2018

At the work plan meeting on 31 October 2017, Dr Hon Priscilla LEUNG and Hon Dennis KWOK requested that The Law Society of Hong Kong should be invited to brief the Panel on the latest progress about the Common Entrance Examination.

7. Proposed legislative amendments further to the review of the Director of Legal Aid's First Charge

HAB plans to brief members on the outcome of the review of Director of Legal Aid's First Charge and the proposed way forward.

Q2 2018

8. Mechanism for handling complaints against judicial conduct

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

Q2 2018

At the work plan meeting on 31 October 2017, the Judiciary indicated that it would provide an information paper on the review of the implementation of the revised mechanism for handling complaints against judicial conduct to the Panel before March 2018.

**Proposed
timing for
discussion**

9. LRC Report on Class Actions

Hon Holden CHOW proposed to discuss the work progress of introducing a class action regime in Hong Kong.

Within 2017-
2018
legislative
session

At the Panel meeting on 27 November 2017, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

10. Abolition of the common law offence of champerty

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

To be advised
by DoJ

On 1 September 2014, a member requested the Panel to discuss the issue of abolition of the common law offence of champerty again.

11. Recovery of costs in pro bono cases

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

To be advised
by DoJ

At the Panel meeting on 24 November 2014, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

**Proposed
timing for
discussion**

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

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

To be advised
by DEVB

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

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

In view of the complexity of the issues involved and that consensus amongst stakeholders is yet to be reached, it would be difficult for DEVB to commit to a definite timeframe for report to members on the package of necessary legislative amendments at this stage; but DEVB and the Panel Clerk will keep in touch with each other should there be any update to such timeframe.

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

At the Panel meeting on 18 May 2015, Hon Alice MAK proposed and members agreed to discuss the issue of "Legal issues relating to the co-location arrangements at the Hong Kong

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(Note)

Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link" as soon as practicable.

(*Note:* DoJ proposes to delete this item on the grounds that the matter was recently discussed at the joint Panel meeting (which included the Panel on Administration of Justice and Legal Services) held on 8 August 2017 and the special House Committee meeting held on 3 August 2017, and that the Government motion moved at the Council meeting of 25 October 2017 had been thoroughly debated and was passed at the Council meeting of 15 November 2017.)

14. Reducing the use of paper in the Judiciary

Dr Hon Elizabeth QUAT proposed to discuss the issue of "Reducing the use of paper in the Judiciary" in her letter dated 19 May 2017 to the Chairman of the Panel. Dr Hon Elizabeth QUAT stated that paper was predominantly used to date in various aspects of the current court procedures and litigation landscape, and it was environmentally unfriendly, given the sheer quantity of paper consumed annually. The Judiciary should keep abreast of technology development and promote the use of less paper in the Judiciary and encourage less consumption of paper in the judicial sector.

To be advised
by the
Judiciary

At the Panel meeting on 22 May 2017, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

15. Enhancing the Judiciary's website

Dr Hon Elizabeth QUAT proposed to discuss the issue of "Enhancing the Judiciary's website" in her letter dated 19 May 2017 to the Chairman of the Panel. Dr Hon Elizabeth QUAT stated that the Judiciary's website was not user-friendly and retrieval of information was difficult. Take the searching of Daily Cause Lists as an example, the absence of a search function made it difficult for members of the public to retrieve

To be advised
by the
Judiciary

the information they needed.

At the Panel meeting on 22 May 2017, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

16. Community legal assistance in Hong Kong

Dr Hon Fernando CHEUNG proposed to discuss the issue of "Community legal assistance in Hong Kong" in his letter dated 26 May 2017 to the Chairman of the Panel because he considered that the society had long been concerned about the challenges faced by the less advantaged people in accessing assistance services. Moreover, Dr CHEUNG requested to discuss the report titled "Finding Community Legal Assistance in Hong Kong" recently published by the Global Network for Public Interest Law on this issue.

To be advised
by HAB

At the Panel meeting on 26 June 2017, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

17. Financial Eligibility Limits for legal aid

The Hong Kong Bar Association Standing Committee on Legal Aid Reform submitted a submission relating to the Financial Eligibility Limits for legal aid (LC Paper No. CB(4)41/17-18(01)). At the request of the Panel, HAB has provided its response to the submission and the response was circulated to members on 30 October 2017 (LC Paper No. CB(4)130/17-18(01)).

To be advised
by HAB

At the Panel meeting on 30 October 2017, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

**Proposed
timing for
discussion**

18. Review on the statutory retirement ages of Judges and Judicial Officers ("JJOs")

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 Court of First Instance of the High Court 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.

To be advised
by the
Judiciary

At the work plan meeting on 31 October 2017, Dr Hon Priscilla LEUNG requested the Judiciary to report its measures to attract new blood as JJOs and to groom and retain existing talents when the Panel discusses the issue on the statutory retirement ages of JJOs.

19. Briefing out of cases by the Department of Justice

Proposed by Dr Hon Priscilla LEUNG at the work plan meeting on 31 October 2017. Dr LEUNG expressed concerns about the high litigation cost incurred owing to the briefing out of cases to senior counsels in the private practice and requested DoJ to consider recruiting more Government Counsels to handle the cases in-house.

To be advised
by DoJ