

立法會
Legislative Council

LC Paper No. CB(4)977/18-19
(These minutes have been seen
by the Administration)

Ref : CB4/PL/AJLS

Panel on Administration of Justice and Legal Services

Minutes of meeting
held on Monday, 26 November 2018, at 4:30 pm
in Conference Room 2 of the Legislative Council Complex

Members present : Dr Hon Priscilla LEUNG Mei-fun, SBS, JP (Chairman)
Hon Dennis KWOK Wing-hang (Deputy Chairman)
Hon James TO Kun-sun
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Kin-por, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon CHAN Chi-chuen
Dr Hon Fernando CHEUNG Chiu-hung
Hon Martin LIAO Cheung-kong, SBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Alvin YEUNG
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon Holden CHOW Ho-ding
Hon YUNG Hoi-yan
Hon CHEUNG Kwok-kwan, JP

Members absent : Hon CHUNG Kwok-pan
Hon HUI Chi-fung

**Public officers
attending**

: Agenda item III

Department of Justice

Miss LEE Sau-kong
Deputy Solicitor General
(Policy Affairs) (Acting)

Ms Peggy AU YEUNG
Senior Assistant Solicitor General
(Special Duties) (Acting)

Miss Melissa KIANG
Senior Government Counsel

Agenda item IV

Administration Wing, Chief Secretary for
Administration's Office

Ms Kitty CHOI, JP
Director of Administration

Ms Jennifer CHAN, JP
Deputy Director of Administration 2

Ms Karyn CHAN
Assistant Director of Administration 2

Legal Aid Department

Mr Thomas Edward KWONG, JP
Director of Legal Aid

Mr Chris CHONG, JP
Deputy Director of Legal Aid
(Policy & Administration)

Attendance by invitation : Agenda item III

Hong Kong Bar Association

Mr Andrew MAK Y S

Agenda item IV

Hong Kong Bar Association

Mr Jeremy J BARTLETT, SC

Mr Nicholas PIRIE

Clerk in attendance : Mr Lemuel WOO
Chief Council Secretary (4)6

Staff in attendance : Mr YICK Wing-kin
Senior Assistant Legal Adviser 2

Ms Macy NG
Senior Council Secretary (4)6

Ms Emily LIU
Legislative Assistant (4)6

Action

I. Information papers issued since the last meeting

(LC Paper Nos. CB(4)139/18-19(01) - Joint declaration from
and (02) 24 Members regarding the
handling of a motion
proposed by Hon HUI
Chi-fung at the Panel
meeting on 29 October 2018,
and the Clerk's letter dated
30 October 2018 to the
24 Members

LC Paper No. CB(4)217/18-19(01) - Submission from the Hong
Kong Bar Association
relating to the ex gratia

compensation for defendants
in aborted criminal trials)

Members noted the above papers issued since the last meeting.

II. Items for discussion at the next meeting

(LC Paper No. CB(4)230/18-19(01) - List of outstanding items for discussion

LC Paper No. CB(4)230/18-19(02) - List of follow-up actions)

Regular meeting in December 2018

2. Members noted that the following items would be discussed at the next regular meeting to be held on 19 December 2018 –

- (a) Proposed creation of one permanent post of Principal Government Counsel, one permanent post of Deputy Principal Government Counsel, one supernumerary post of Deputy Principal Government Counsel and upgrading of one Assistant Principal Government Counsel to Deputy Principal Government Counsel post in the Department of Justice ("DoJ"); and
- (b) Employment opportunities and system in the Judiciary for law students and legal practitioners.

3. Members agreed to invite relevant organizations/parties to give views on item (b) above.

(Post-meeting note: The list of deputations to be invited was issued to members on 29 November 2018 via LC Paper No. CB(4)266/18-19.)

Follow-up to annual work plan meeting

4. The Chairman informed members that the list of outstanding items for discussion ("outstanding list") of the Panel on Administration of Justice and Legal Services ("AJLS Panel") (LC Paper No. CB(4)230/18-19(01)) had been updated following the work plan meeting with the Administration and the Judiciary Administration held in late October 2018. She drew members' attention to the following major changes:

- (a) "Legal issues relating to the co-location arrangements at the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express

Rail Link ("XRL")" had been deleted from the outstanding list as matters had been overtaken by event with the commissioning of XRL; and

- (b) "Reducing the use of paper in the Judiciary" and "Enhancing the Judiciary's website" had been deleted from the outstanding list, which would be followed up under the new item on "Proposed legislative amendments for the implementation of the Information Technology Strategy Plan of the Judiciary".

5. The Chairman also informed members that, in relation to the item on "Mutual legal assistance and arrangement on surrender of fugitive offenders between Hong Kong and Taiwan" on the outstanding list, she had asked the Clerk to explore with the Panel on Security whether it agreed to hold a joint Panel meeting to discuss the item. The Panel on Security had replied that it would be more appropriate for AJLS Panel to discuss the matter. In this connection, the item would be kept on the outstanding list.

(Post-meeting note: At the meeting of AJLS Panel on 29 January 2019, members were informed that the Panel on Security had decided to discuss the cooperation between Hong Kong and other places on juridical assistance in criminal matters at its meeting on 15 February 2019 and had invited members of AJLS Panel to attend the meeting. AJLS Panel agreed to remove the item on mutual legal assistance and arrangement on surrender of fugitive offenders between Hong Kong and Taiwan from AJLS Panel's outstanding list.)

III. Proposed arrangement between Hong Kong and the Mainland for reciprocal recognition and enforcement of judgments in civil and commercial matters

(LC Paper No. CB(4)230/18-19(03) - Administration's paper on proposed arrangement on reciprocal recognition and enforcement of judgments in civil and commercial matters between Hong Kong and the Mainland

LC Paper No. CB(4)230/18-19(04) - Paper on the proposed arrangement between Hong Kong and the Mainland for reciprocal recognition and enforcement of judgments in

civil and commercial matters
prepared by the Legislative
Council Secretariat
(background brief))

6. Deputy Solicitor General (Policy Affairs) (Acting) of DoJ ("DSG(P)(Ag)") briefed members on the outcome of the public consultation exercise on the proposed arrangement on reciprocal recognition and enforcement of judgments ("REJ") in civil and commercial matters between Hong Kong and the Mainland ("Proposed Arrangement") conducted by the Administration through the consultation paper on the Proposed Arrangement issued in July 2018 ("the Consultation Paper"). She also briefed members on the key features of the latest Proposed Arrangement.

Views of the Hong Kong Bar Association

7. Mr Andrew MAK, Hong Kong Bar Association ("the Bar Association") said that the Bar Association had invited its members specializing in different areas of law to give views on the Consultation Paper and the Bar Association had then made its submission to DoJ. While the Bar Association agreed in principle to various proposals in the Consultation Paper, it considered that the details of certain areas such as types of relief, level of court for dealing with the registration application and the arrangements for specific areas of law, had to be further studied.

8. Mr Andrew MAK noted that the main features of the Draft Hague Judgments Convention had been adopted in the Proposed Arrangement, which was considered acceptable to the Bar Association. However, given that the discussion regarding the Proposed Arrangement had started in 2006, which was more than 12 years ago, Mr MAK urged the Administration to take the latest circumstances into account when drafting the legislation to implement the Proposed Arrangement. Mr MAK also said that the Bar Association would further consult its members when the details of the relevant legislative proposal were made available.

Discussion

9. The Chairman indicated support for the Proposed Arrangement. However, she considered that the Administration should also consider the four places on both sides of the Strait, i.e. the Mainland, Hong Kong, Macao and Taiwan, so that judgments on disputes which had been settled in court in one of the four places would not have to be re-litigated in the other three places owing to the lack of an REJ arrangement.

Proposed exclusion of corporate insolvency and debt restructuring as well as personal bankruptcy

10. The Deputy Chairman said that he had passed the submission of the Company and Insolvency Law Society ("COINS") to the Secretary for Justice on its suggestions to develop Hong Kong into a centre for providing corporate insolvency and debt restructuring services to other jurisdictions. He asked whether the Administration had followed up with COINS' suggestions and its latest stance on the subject.

11. In reply, DSG(P)(Ag) advised that DoJ's current plan was to establish an arrangement with the Mainland for the mutual recognition and assistance in cross-border insolvency and debt restructuring ("bilateral arrangement on cross-border insolvency"), and to conduct a stand-alone consultation exercise on such an arrangement. Senior Assistant Solicitor General (Special Duties) (Acting) of DoJ added that the objectives of the proposed bilateral arrangement on cross-border insolvency would be to provide for recognition in the Mainland of liquidators (and provisional liquidators) appointed by Hong Kong courts, and the grant of assistance by Mainland courts, and to provide similar treatment to the Mainland liquidators in Hong Kong.

12. The Deputy Chairman said that, while he supported the proposed bilateral arrangement on cross-border insolvency with the Mainland, the Administration should also follow up with COINS' suggestion to establish mutual recognition and assistance in insolvency and debt restructuring matters with other jurisdictions so as to develop Hong Kong into a centre for corporate insolvency and debt restructuring in the region.

13. Mr CHEUNG Kwok-kwan noted with concern that relevant stakeholders had expressed their view that there was a pressing need to establish the bilateral arrangement on cross-border insolvency with the Mainland. He enquired about the timetable for taking forward the proposed bilateral arrangement on cross-border insolvency. DSG(P)(Ag) said that the current plan was that a public consultation exercise on the proposed bilateral arrangement would be conducted in the first quarter of 2019.

14. Mr CHEUNG Kwok-kwan further enquired whether the Administration would discuss a proposal with the Mainland prior to the public consultation or whether the public consultation would be conducted before discussions with the Mainland. In response, DSG(P)(Ag) said that the Administration would be conducting preliminary discussions and exchange views with the Mainland and seeking the initial views of relevant stakeholders in Hong Kong on the details of the proposed bilateral arrangement on cross-border insolvency in parallel.

Matrimonial and family matters

15. Dr Fernando CHEUNG noted that the Proposed Arrangement would cover two types of disputes, i.e. disputes between family members on division of property and disputes on property arising from engagement agreements, which were not covered by 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 ("the Matrimonial Arrangement"). Dr CHEUNG expressed concerns about why these disputes were covered under the Proposed Arrangement. He also reiterated his worries that whether under the Proposed Arrangement or the Matrimonial Arrangement, REJ might give rise to unfairness since the factors taken into consideration by the Mainland courts in their judgments might be different from those taken into account by the Hong Kong courts.

16. DSG(P)(Ag) explained that disputes in the Mainland over division of property between family members and those arising from engagement agreements were usually regarded in Hong Kong as civil or commercial disputes rather than as "family or matrimonial" disputes. For this reason, the two types of disputes were covered under the Proposed Arrangement instead of the Matrimonial Arrangement.

17. Dr Fernando CHEUNG further asked whether judgments relating to disputes on maintenance arising from marital relationship or co-habitation relationship were included in the Proposed Arrangement. DSG(P)(Ag) advised that as judgments relating to disputes on maintenance arising from a marital relationship had been covered by the Matrimonial Arrangement, they would not be covered by the Proposed Arrangement. As for judgments relating to disputes on maintenance arising from co-habitation relationship, it would not be covered by either the Matrimonial Arrangement or the Proposed Arrangement.

18. The Chairman observed that engagement agreements in the form of contracts were quite popular in the Mainland and, therefore, she agreed that judgments relating to disputes on property arising from engagement agreements should be included in the Proposed Arrangement.

Trial supervision system in the Mainland

19. The Chairman was concerned about how the trial supervision mechanism in the Mainland would affect the implementation of the Proposed Arrangement. She pointed out that at common law, the recognition and enforcement of a foreign judgment (including a Mainland judgment) was allowed if certain conditions were satisfied, including that the judgment was final and conclusive.

Under the trial supervision system, however, review of a legally effective judgment might be initiated by some parties subject to the fulfillment of certain conditions, which might lead to uncertainties.

20. DSG(P)(Ag) explained that the Administration noted that retrial of a case was possible under the trial supervision system in the Mainland, but such cases were very rare. After consideration, the Administration suggested taking a pragmatic approach by adopting the principle that judgments which were legally enforceable under the law of the requesting place would be eligible for recognition and enforcement under the Proposed Arrangement.

21. DSG(P)(Ag) further said that under the above principle, the following legally enforceable Mainland judgments would be covered by the Proposed Arrangement: any judgment of the second instance; any judgment of the first instance from which no appeal was allowed, or the time limit for an appeal had expired and no such appeal had been filed; and any of the above-mentioned judgments made in accordance with the procedure for trial supervision.

Recognition and enforcement of a Hong Kong judgment under appeal in the Mainland

22. The Chairman and Mr Holden CHOW asked about the arrangement for the recognition and enforcement of a Hong Kong judgment which was under appeal. DSG(P)(Ag) replied that under the Proposed Arrangement, legally enforceable Hong Kong judgments could be enforced in the Mainland even though the concerned judgments were under appeal. Nevertheless, the relevant Mainland court would have the discretion to suspend the enforcement of a Hong Kong judgment in the Mainland until the relevant appeal proceedings in Hong Kong had been completed.

Level of courts to deal with applications for registration of judgments

23. Mr Holden CHOW asked whether the amount of money involved in a Mainland judgment on civil and commercial cases would be the factor for determining the level of court in Hong Kong to deal with the application to register the Mainland judgment under the Proposed Arrangement.

24. DSG(P)(Ag) advised that under the Foreign Judgments (Reciprocal Enforcement) Ordinance (Cap. 319), the High Court had exclusive jurisdiction to deal with applications to register eligible foreign judgments. On the other hand, since the majority of family dispute cases were dealt with by the District Court ("DC") in Hong Kong, the Administration proposed that DC would deal with applications to register a Mainland judgment under the Matrimonial Arrangement. She said that the Administration was still considering the

appropriate level of court in Hong Kong for dealing with applications to register a Mainland judgment under the Proposed Arrangement.

Grounds for refusal

25. The Chairman enquired about the grounds for refusal to recognize and enforce a judgment, in particular whether public interest would be one of the grounds for refusal. In reply, DSG(P)(Ag) referred members to paragraphs 43 to 47 of the Administration's paper on details of the grounds for refusal. She highlighted that recognition and enforcement must be refused if the requested Hong Kong court considered that the recognition and enforcement of the Mainland judgment was manifestly contrary to the basic legal principles of Hong Kong law or the public policy of Hong Kong.

Provision of one-stop assistance for Hong Kong people

26. Ir Dr LO Wai-kwok noted that a mediation mechanism had been established by the Mainland and Hong Kong under the Investment Agreement of Mainland and Hong Kong Closer Economic Partnership Arrangement ("CEPA") for dealing with disputes arising within the framework of CEPA. He said that similar one-stop services should be set up under the Proposed Arrangement to provide assistance to Hong Kong residents who were facing disputes arising from their investments in the Mainland, but were not covered by CEPA.

27. DSG(P)(Ag) agreed that mediation was helpful in resolving disputes, but explained that the Proposed Arrangement was to provide a statutory mechanism for REJ in civil and commercial matters between Hong Kong and the Mainland and, therefore, its focus was on disputes which had already been settled in courts in the Mainland or Hong Kong.

IV. Community legal assistance in Hong Kong

(LC Paper No. CB(4)230/18-19(05) - Administration's paper on community legal assistance in Hong Kong

LC Paper No. CB(4)230/18-19(06) - Paper on community legal assistance in Hong Kong prepared by the Legislative Council Secretariat (background brief))

Briefing by the Administration

28. Director of Administration ("DoA") briefed members on the legal aid and free legal advice services provided to the public in Hong Kong as set out in the Administration's paper (LC Paper No. CB(4)230/18-19(05)).

Views of the Hong Kong Bar Association

29. Mr Jeremy J BARTLETT, SC and Mr Nicholas PIRIE of the Bar Association presented the views detailed in its submission (LC Paper No. CB(4)256/18-19(01)).

30. Mr Jeremy J BARTLETT, SC said that according to the statistics obtained by the Bar Association in 2017 for the preceding 11 years, there was a high proportion of cases with unrepresented parties in certain court hearings including the magistracy appeals, appeals to Masters, etc. These statistics illustrated the lack of proper access to justice as well as the considerable delays inherent in these cases, which had contributed to the long court waiting times.

31. Mr Nicholas PIRIE was disappointed to note that there had been no basic legal aid reform for a couple of years. In particular, there was lack of follow-up to the Bar Association's suggestions to expand the scope of the Supplementary Legal Aid Scheme ("SLAS") to cover claims, for instance, against the owners' corporations ("OCs") of a multi-storey building which would help improve the safety and maintenance of old buildings. Regarding the financial eligibility limits ("FELs"), Mr PIRIE pointed out that its annual adjustment only took account of the Consumer Price Index (C) ("CPI(C)") for the reference period without regard to the changes in CPI(C) on professional services costs, hence had not reflected the increase in legal costs. He also considered that FELs should not just take account of one set of litigation costs, but also the costs of an opposing party should the applicant lose the case.

32. Mr Jeremy J BARTLETT, SC said that the Bar Association and The Law Society of Hong Kong ("the Law Society") shared the views that, while enhancing the pro bono legal services was a laudable project, these services must not operate in a piecemeal fashion. The development of pro bono legal services should take place as part of the long-overdue reform of the over-arching legal aid services. In this regard, Mr BARTLETT said that the Bar Association would, together with the Law Society, continue dialogue with the relevant stakeholders and the Administration to exchange views on these areas.

Legal aid and related issues

33. The Deputy Chairman said that in the Chief Executive's 2018 Policy Address and Policy Agenda, it was stated that the Administration would strive to enhance legal aid services to benefit more people who could not afford private legal fees. He enquired about the measures which would be taken by the Administration to take forward this policy initiative.

34. In response, DoA advised that the Administration had taken forward a number of measures to enhance the accessibility of legal aid services with a view to benefitting more members of the public, including conducting a review of FELs of the Ordinary Legal Aid Scheme and SLAS; and inviting the Legal Aid Services Council ("LASC") to embark on a review and revisit whether the scope of SLAS should be expanded to cover, for example, claims against OCs of a multi-storey building.

35. DoA also said that the Administration would introduce legislative amendments to implement the proposed adjustments to the amounts specified in sections 18A(5) and 19(B) of the Legal Aid Ordinance (Cap. 91) ("LAO") relating to the Director of Legal Aid ("DLA")'s First Charge. Moreover, the Administration would report on the outcome of the biennial review of criminal legal aid fees to AJLS Panel at its meeting in January 2019.

36. Dr Fernando CHEUNG said that the provision of legal aid was an important cornerstone of Hong Kong ensuring that access to justice would not be denied due to a lack of means. However, he pointed out that according to the report on a study conducted by the Global Network for Public Interest Law ("PILnet") in 2017 entitled "This Way — Finding Community Legal Assistance in Hong Kong", the provision of community legal assistance in Hong Kong was not without problems, such as the lack of knowledge on community legal assistance among the grassroots and the underprivileged.

37. In response, DLA said that he had met and exchanged views with the representatives of PILnet in 2017. DLA agreed that it would be important to maintain close liaison with the non-governmental organizations ("NGOs") especially those which referred cases to the Legal Aid Department ("LAD") from time to time. He and his colleagues had paid visits to these NGOs to enhance their understanding of the legal aid regime in Hong Kong while, at the same time, LAD could better understand their needs. LAD would strive to expedite the processing of legal aid applications, in particular those referred by NGOs, and provide necessary assistance (including interpretation service) to members of the public in the course of processing their applications. DLA said that LAD would continue to communicate and cooperate with NGOs and organizations providing pro bono legal services.

Supplementary Legal Aid Scheme

38. Dr Fernando CHEUNG said that LASC had undertaken that it would further consider the proposal to include class action under SLAS and that the Bar Association was also very concerned about its progress. He enquired whether there was a concrete timetable for including class actions into SLAS.

39. In reply, DoA advised that a cross-sector working group set up by DoJ and its sub-committee were studying the Law Reform Commission of Hong Kong's proposals of introducing a class action regime in Hong Kong. As the subject matter was highly technical and very complicated, more time would be needed for the working group and its sub-committee to carry out their work and the timetable was not yet available. LASC would revisit these issues when the law governing these areas became available and well formulated.

Assignment of cases to lawyers

40. The Chairman said that, given that LAD generally assigned lawyers nominated by legally aided persons to represent them according to their wishes, some members of the legal profession had expressed the views that criminal or civil legal aid cases were often assigned to a handful of law firms. In response, DLA said that pursuant to LAO, legal aid cases were assigned to lawyers on the Legal Aid Panel on an individual basis rather than on a law firm basis. When an aided person nominated a lawyer pursuant to section 13 of LAO, the nomination would be given due weight and would not be rejected unless there were compelling reasons.

Duty Lawyer Scheme

41. Dr Fernando CHEUNG noted that the defendants in the Magistrates' Courts ("MCs") provided with legal representation under the Duty Lawyer Scheme (except committal proceedings) would only meet the duty lawyers assigned to them on the first day of court appearance. He considered that, in this way, the legal assistance for the defendants came too late and might cause injustice, and that free legal advice should be offered to them at an earlier stage.

42. DoA acknowledged that some defendants in MCs might need early legal advice before they could meet their duty lawyers. In this connection, basic information on the legal aspects of everyday problems, including criminal procedures and defendants' rights, could be obtained through the Tel-Law Scheme provided by the Duty Lawyer Service. She said that more than 80 legal topics were available under the Tel-Law Scheme and on the Duty Lawyer Service's website at the moment.

Duty lawyer fees

43. Noting from the Chief Executive's 2018 Policy Address and Policy Agenda that there would be an increase in the fees payable to duty lawyers providing legal assistance under the Duty Lawyer Scheme (i.e. duty lawyer fees), the Deputy Chairman enquired about the proposed rate of adjustment to the duty lawyer fees, and when the revised fees would come into effect.

44. In reply, DoA said that the Administration had completed a review of duty lawyer fees. Having considered the recommendations of the Working Group on Review of Duty Lawyer Fees set up to conduct the review, the Administration proposed to adjust duty lawyer fees upwards by over 50%. DoA said that the Administration would report the outcome of the fees review to AJLS Panel in January 2019.

Expansion of the scope of the Duty Lawyer Scheme

45. The Deputy Chairman asked, with a view to providing early legal advice to defendants appeared in DCs, whether the scope of the Duty Lawyer Scheme could be expanded to complement the legal aid services currently provided to defendants of cases heard in DCs.

46. DoA explained that, currently, legal aid was available for representation in committal proceedings in MCs, civil and criminal proceedings in DCs or courts at levels above, while duty lawyer representation was offered to any defendant in MCs (except committal proceedings) through the Duty Lawyer Scheme. To qualify for legal aid, a person would be required to satisfy both the means test and merits test as provided by LAO while duty lawyer service was provided to defendants on the first day of court appearance without any means testing. Therefore, there was a clear demarcation between the coverage of legal aid services and that provided under the Duty Lawyer Scheme.

47. DoA further said that, if the Duty Lawyer Scheme was expanded to DC where legal aid was being provided, there would be an overlap in legal assistance and advice services, which might cause confusion and would have substantial implications for the legal aid policy.

Encouraging more experienced legal practitioners to participate in the Duty Lawyer Scheme

48. The Chairman noted that many young lawyers were willing to participate in the Duty Lawyer Scheme. She considered that it was good to them since this would enable them to gain more litigation experience. However, since the very experienced lawyers, in particular the Senior Counsel, would be able to

contribute their wealth of legal knowledge to help the defendants in assessing their legal positions, the Chairman hoped that the Duty Lawyer Service would also encourage more Senior Counsel to participate as duty lawyers.

49. In response, DoA advised that at present, around 73% of the duty lawyers under the Duty Lawyer Scheme and around 53.5% of the volunteer lawyers under the Free Legal Advice Scheme had at least 10 years of post-qualification experience. Regarding the Chairman's suggestion, DoA said that to her knowledge, some Senior Counsel had also shown interest and participated in the two schemes.

Free Legal Advice Scheme

50. In response to Dr Fernando CHEUNG's concerns about the need for early legal assistance by some defendants in MCs, DoA said that the Free Legal Advice Scheme offered by the Duty Lawyer Service was also available to the defendants. A person who wished to seek such services could attend any referral agency of the Duty Lawyer Service (28 in total with 153 branches) to make an appointment to meet a volunteer lawyer without means testing at one of the nine designated District Offices ("DOs") of the Home Affairs Department ("HAD"), i.e. the Legal Advice Centre ("LAC").

Promotion of the Free Legal Advice Scheme

51. Dr Junius HO considered that the number of cases handled by volunteer lawyers under the Free Legal Advice Scheme offered by the Duty Lawyer Service, i.e. 6 400 cases per year, was too small to cater to the growing needs for free legal advice. As such, he suggested that the Administration should take a more proactive approach by communicating with relevant stakeholders, such as OCs, to enhance the publicity of the Scheme, thereby making the free legal advice service widely known and more accessible to the public.

Long waiting time for the Free Legal Advice Scheme services

52. Dr Fernando CHEUNG said that the average waiting time for meeting the volunteer lawyers under the Free Legal Advice Scheme was about six to eight weeks from the booking of an appointment, on average. He urged the Duty Lawyer Service to speed up the processing of the applications in cases for urgent legal advice. Dr Junius HO expressed a similar concern and said that waiting for six to eight weeks was unacceptable, particularly for those needing urgent legal advice.

53. In response, DoA said that while the average waiting time across all LACs was around six to eight weeks, for LACs in Central and Western DO and

Wanchai DO, the average waiting time was about 39 days. She said that the Duty Lawyer Service regularly reviewed and improved the appointment arrangements for the Free Legal Advice Scheme to enhance its efficiency. For cases requiring urgent legal advice, the Duty Lawyer Service would give special consideration to these cases and, where circumstances permitted, accord priority to such cases and arrange a legal advice session as soon as practicable.

Contracting out the Free Legal Advice Scheme services

54. Noting that the Official Receiver's Office had launched a scheme to contract out winding-up cases to private institutions as the number of petitioned cases of winding-up of companies had continued to rise, Dr Junius HO considered that similar arrangement could be adopted for providing the Free Legal Advice Scheme services. He said that the government subvention provided to Duty Lawyer Service for running the Free Legal Advice Scheme might be used for contracting out the free legal advice services to the over 800 local law firms. By doing so, Dr HO considered that not only the growing demand for free legal service could be catered for, the waiting time for receiving free legal advice services could also be reduced.

55. In reply, DoA said that Dr Junius HO's suggestion might give rise to concerns about possible touting activities. In this connection, it must be considered with due care and prudence. Dr Junius HO replied that contracting out duty lawyer services would not lead to improper touting because solicitors had to comply with the Hong Kong Solicitors' Guide to Professional Conduct and the names of the lawyers participating in the Duty Lawyer Scheme had already been available on the website of the Duty Lawyer Service for public information.

56. The Chairman said that, if free legal advice cases were to be contracted out, the Administration should closely monitor the operation of the arrangement and put effective measures to combat touting and champerty activities. Mr Paul TSE had reservation on contracting out cases under the Duty Lawyer Scheme to law firms in Hong Kong as it was difficult to ensure that each and every lawyer would strictly comply with the Hong Kong Solicitors' Guide to Professional Conduct. Therefore, it would be difficult to prevent improper touting activities from occurring if the free legal advice services were contracted out.

Free legal advice service on building management

57. Dr Junius HO noted that, after closure of the Building Management Resources Centres of HAD in 2006, HAD had set up District Building Management Liaison Teams ("DBMLTs") in its 18 DOs to provide

comprehensive support services for owners and OCs on building management matters. Dr HO said that as a support service offered by DBMLTs to assist owners and OCs, HAD also launched the Free Legal Advice Service on Building Management in 2015 with the Law Society arranged for its members to meet with owners or OCs to provide professional advice on the interpretation of the provisions of the Building Management Ordinance (Cap. 344) and other related legal matters. Besides HAD, Dr HO said that the Urban Renewal Authority was also providing free legal advice services on building management issues.

58. Dr Junius HO considered that there might be overlap in the free legal services on building management issues provided by various organizations. In this regard, he suggested that the Administration should consider consolidating all the services to be provided under one roof, i.e. the Free Legal Advice Service of the Duty Lawyer Scheme, to enhance coordinating the provision of such services.

59. In response, DoA advised that DBMLTs were responsible for assisting owners in forming OCs, attending OCs' meetings and giving advice to owners and OCs to help tackle building management issues. Free legal advice on building management was just one of the support services at DBMLT's disposal to assist owners and OCs, such as over disagreements or disputes on building management and maintenance between OCs and owners. In this connection, the Administration considered it appropriate for HAD to continue providing free legal advice service on building management.

Allowances for volunteer lawyers

60. Dr Junius HO considered that the present practice of providing volunteer lawyers with an allowance of \$300 to reimburse travelling expenses and as a token of gratitude for their attending a free legal advice session of about 2.5 hours was far too low. He suggested raising it to \$1,000. DoA agreed that there was room for improvement in this regard and undertook to raise the matter with the Duty Lawyer Service.

New measures for providing free legal advice services

61. The Chairman and Mr Paul TSE considered that the Administration should formulate new measures to address the unmet needs for legal advice services. The Chairman suggested that the Administration should be alert to the rapid changes in society giving rise to new needs for legal assistance and take advantage of advances in technologies in meeting their needs, such as the application of artificial intelligence.

62. Mr Paul TSE suggested that, besides one-on-one legal advice sessions, consideration should be given to holding group sessions for members of the public who shared similar needs for free legal advice on common topics such as matrimonial, estates handling, occupational injuries, etc. He said that this should be a more effective and efficient way of providing free legal advice.

63. DoA undertook that the Administration would, through collaborating with the Duty Lawyer Service and the two legal professional bodies, implement enhancements, step up promotion and encourage more lawyers to participate in the Free Legal Advice Scheme.

(At 6:23 pm, the Chairman suggested and members supported extending the meeting for 15 minutes to 6:45 pm.)

Legal Advice Scheme for Unrepresented Litigants on Civil Procedures

64. The Deputy Chairman shared the Bar Association's views that the increasing number of unrepresented litigants had caused unnecessary delay in court proceedings, and asked what improvement measures would be taken by the Administration. In reply, DoA said that the Administration would set up an additional office for the Legal Advice Scheme for Unrepresented Litigants on Civil Procedures in Wanchai Tower to meet the increasing service needs and provide more accessible service to unrepresented litigants involved in DC and Family Court cases. The new office was expected to commence operation in the first quarter of 2019.

Provision of legal advice services for persons detained in police stations

65. Dr Fernando CHEUNG asked about the Administration's progress in following up LASC's recommendations made in 2016 that a publicly funded scheme be made available to ensure that detainees could have access to legal advice on their rights once their liberty was restricted ("LASC's proposed scheme"). LASC recommended that LASC's proposed scheme should be introduced on a pilot basis, implemented in stages and kept under review, and four representative police stations would be identified for the pilot scheme as a start. Mr Paul TSE also considered it important to provide legal advice services to persons detained in police stations to protect their legal rights.

66. In reply, DoA explained that as reported to AJLS Panel at its previous meetings, the Administration was studying LASC's proposed scheme. Given that LASC's proposed scheme would have substantial financial and operational implications, the relevant bureaux and departments were carefully examining the feasibility and implications of LASC's proposed scheme under various scenarios. As such, the timetable of implementing LASC's proposed scheme

was not yet available. Upon completion of internal deliberation, the Administration would report to AJLS Panel again on the recommended way forward.

67. Dr Fernando CHEUNG recalled that, in a homicide case that took place in Mei Lam Estate in 2015, a mentally incapacitated person ("MIP") was erroneously arrested by the Police. In that case, the legal assistance provided to the person concerned was instrumental to his release and upholding the justice. In this connection, Dr CHEUNG suggested that LASC's proposed scheme should be implemented by phases, starting with the underprivileged including children, MIPs, victims of sexual violence, etc. as the first step. In reply, DoA said that while she could appreciate the concerns behind Dr CHEUNG's suggestion, it had to be considered carefully as the suggestion might be perceived as discriminatory if only certain groups were provided with the services.

Pro Bono Legal Services

68. Dr Junius HO noted that under the Recognition Scheme for Provision of Pro Bono Legal Services, Individual Awards and Special Awards would be presented to legal professionals for having provided pro bono legal services for not less than 30 hours and 50 hours respectively within the designated two-year recognition period. Dr HO considered that the recognition period should be extended so that the pro bono legal services provided during a period longer than two years would be recognized. DoA responded that the Administration would take Dr HO's views into account.

V. Any other business

69. There being no other business, the meeting ended at 6:35 pm.