

Panel on Administration of Justice and Legal Services
List of outstanding items for discussion
(position as at 26 October 2018)

**Proposed
timing for
discussion**

1. Review of duty lawyer fees

Proposed by the Chief Secretary for Administration's Office ("CSO"). The Administration will brief members on the outcome of the review of duty lawyer fees.

January 2019

2. Biennial review of criminal legal aid fees, prosecution fees and duty lawyer fees

Proposed by CSO. The Administration will brief members on the outcome of the 2018 biennial review of criminal legal aid fees, prosecution fees and duty lawyer fees.

January 2019

3. Implementation of the recommendations made by the Law Reform Commission of Hong Kong ("LRC")

Proposed by the Department of Justice ("DoJ"). LRC will provide its seventh annual report to the Panel on the Administration's progress in implementing the recommendations of LRC. This seventh report is made pursuant to the reporting mechanism introduced by the Panel in 2012 to follow up on progress of implementation of the LRC's recommendations by the relevant bureaux and departments.

May/June/July
2019

**Proposed
timing for
discussion**

4. Further expansion of Hong Kong's international legal and dispute resolution services market and branding Hong Kong's dual role as deal maker and dispute resolver

Proposed by DoJ. As part of its continuous efforts to promote Hong Kong's position as a leading centre for international legal and dispute resolution services in the Asia-Pacific region, DoJ has been actively branding Hong Kong's dual role as deal maker and dispute resolver and would brief the Panel on the progress and relevant plans.

Q2/Q3 2019

5. LRC's Report on Class Actions

Hon Holden CHOW proposed to discuss the work progress of introducing a class action regime in Hong Kong (LC Paper No. CB(4)255/17-18(01)).

To be advised
by DoJ

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.

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

On 22 January 2018, DoJ briefed the Panel on the launch of a consultation on the Continuing Powers of Attorney Bill which commenced on 28 December 2017. The Bill seeks to implement the LRC Report on Enduring Powers of Attorney: Personal Care. The consultation period ended on 28 April 2018. The Administration is now considering the responses received and will take them into account in refining the Bill. DoJ will brief the Panel on the result of the consultation as well as the proposed way forward on a date to be advised.

To be advised
by DoJ

7. 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.

In June 2017, the *Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017* was enacted to clarify that third-party funding for arbitration and mediation is not prohibited by the common law doctrines of maintenance and champerty, and to provide for related measures and safeguards. This Ordinance will come into effect after the issue by the statutory authorized body of a code of practice (currently under public consultation).

In view of the complexity of the issues involved in the proposed abolition of the common law offences of champerty and maintenance in Hong Kong, including those regarding the practice of recovery agents and litigation funding companies, and given the fundamental difference between litigation and consensual dispute resolution (arbitration and mediation), DoJ considers that a cautious approach should be adopted in respect of third party funding for litigation, which should only be considered after experience is gained from the operation of the *Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017*.

**Proposed
timing for
discussion**

8. 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.

9. 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 ("new land first" proposal). With a view to enabling early implementation of the title registration system in Hong Kong, DEVB is actively forging consensus amongst the major stakeholders on the "new land first" proposal. The full package of necessary legislative amendments would only be available subject to a broad consensus being reached with the major stakeholders and in consultation with the LTO Steering Committee and the LTO Review Committee.

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.

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

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(Note)

(Note: DoJ proposes to delete this item on the grounds that the matter had already been discussed at the joint Panel meeting (which included the Panel on Administration of Justice and Legal Services) held on 8 August 2017 and that the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill was passed by the Legislative Council on 14 June 2018.)

11. 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.

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(Note)

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.

(Note: The Judiciary Administration's response to this item was issued to members vide LC Paper No. CB(4)1602/17-18(01) on 8 October 2018. The Judiciary Administration proposes to delete this item.)

12. 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 the information they needed.

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(Note)

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.

(Note: The Judiciary Administration's response to this item was issued to members vide LC Paper No. CB(4)1602/17-18(02) on 8 October 2018. The Judiciary Administration proposes to delete this item.)

13. 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 CSO

**Proposed
timing for
discussion**

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.

14. 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, the Administration 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 CSO

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.

15. Prosecution policy and the cooperation relationship between the Department of Justice and the Independent Commission Against Corruption on criminal cases involving corruption

Dr Hon Junius HO proposed to discuss the prosecution policy and the cooperation relationship between the Department of Justice and the Independent Commission Against Corruption on criminal cases involving corruption (LC Paper No. CB(4)661/17-18(01)).

To be advised
by DoJ

At the Panel meeting on 26 February 2018, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

**Proposed
timing for
discussion**

16. Work of the Coroner's Court

Hon HUI Chi-fung proposed to discuss the work of the Coroner's Court (LC Paper No. CB(4)952/17-18(02)). He was concerned that there was a big difference between the number of death inquests held and the number of further death investigation reports ordered, and that the average waiting time of cases from the date of listing to hearing was too long.

To be advised
by the Judiciary

At the Panel meeting on 30 April 2018, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

17. Mutual legal assistance and agreement on surrender of fugitive offenders between Hong Kong and Taiwan

Due to a recent murder case in Taiwan which involved Hong Kong residents, Hon Holden CHOW and Hon Starry LEE proposed to discuss mutual legal assistance and agreement on surrender of fugitive offenders between Hong Kong and Taiwan (LC Paper No. CB(4)1165/17-18(01)).

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(Note)

At the Panel meeting on 28 May 2018, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

(Note: On 15 June 2018, DoJ advised that the item on "Cooperation between Hong Kong and other places on juridical assistance in criminal matters" included in the list of outstanding items for discussion of the Panel on Security (LC Paper No. CB(2)1480/17-18(01)) was broad enough to cover "Mutual legal assistance and agreement on surrender of fugitive offenders between Hong Kong and Taiwan" proposed by Hon Holden CHOW and Hon Starry LEE. At the Panel meeting on 25 June 2018, members agreed to request the Panel on Security to invite members of the Panel on Administration of Justice and Legal Services to join its discussion when the above subject was discussed.)

**Proposed
timing for
discussion**

18. Introducing codes of conduct for counsel and solicitors providing services to incorporated owners of buildings

Members noted that several submissions were received from property owners urging that the Hong Kong Bar Association and the Law Society of Hong Kong should introduce codes of conduct for counsel and solicitors providing services to incorporated owners of buildings.

To be
confirmed

At the Panel meeting on 28 May 2018, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.