

**For discussion
on 19 December 2018**

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

**Employment Opportunities and System in the Judiciary
for Legal Practitioners and Law Students**

PURPOSE

This paper provides general information on the employment opportunities and system in the Judiciary for legal practitioners and law students.

BACKGROUND

2. Article 92 of the Basic Law stipulates that Judges and Judicial Officers (“JJOs”) of the Hong Kong Special Administrative Region shall be chosen on the basis of their judicial and professional qualities and may be recruited from other common law jurisdictions.

3. The professional qualifications for appointment as JJOs at different levels of court are set out in the respective ordinances. In brief, a person shall be eligible to be appointed as a JJO if he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction, and has met the minimum years of practicing experience since becoming so qualified. The statutory minimum years of post-qualification practicing experience (“PQE”) of a Judge of the High Court is 10 years while those of a District Judge and a Magistrate are five years respectively.

SUBSTANTIVE APPOINTMENTS

4. Substantive appointments of Judges of the Court of First Instance of the High Court (“CFI Judges”), District Judges (“DJs”) and Permanent Magistrates (“Perm Mags”) are made through open recruitment exercises. A total of 12 open recruitment exercises for various judicial ranks were conducted from 2011 to 2017, which had all been completed. A total of 104 judicial appointments have been made as a result. 63 of the appointees were legal practitioners from outside the Judiciary. A new round of recruitment of JJOs has been launched by phases starting from mid-2018.

5. In each open recruitment exercise, advertisements are placed on the Judiciary's website and newspapers. Candidates from local and overseas may apply. Eligible candidates will be appointed as JJOs if they are found suitable on the basis of their judicial and professional qualities and are recommended by the Judicial Officers Recommendation Commission ("JORC") which is an independent statutory body set up to make recommendations to the Chief Executive on judicial appointments. In making recommendations on judicial appointments, it is important to maintain the highest standards in the Judiciary.

6. It is relevant to note that from the experience of the open recruitment exercises for JJOs conducted in the past few years, the actual PQE possessed by the appointed legal practitioners from outside the Judiciary are well above the minimum statutory requirements. For CFI Judges, the appointees had 25 years of PQE experience on average before they joined the Judiciary. For DJs and Perm Mags, the average length of PQE of the external appointees are 18 years and 14 years respectively.

ENGAGEMENT OF TEMPORARY JUDICIAL MANPOWER

7. It has been a long standing practice of the Judiciary to engage temporary judicial manpower resources at different levels of court as far as possible. In addition to meeting the courts' operational needs, the engagement of deputies from outside the Judiciary serves the purpose of providing opportunities for private practitioners to gain some judicial experience for their consideration of a judicial career in the future. The statutory professional qualification and experience requirements for deputy JJOs are the same as that for substantive JJOs as stipulated in the respective ordinances.

8. In line with the established deputy arrangements, the respective Court Leaders identify potential legal practitioners from outside the Judiciary and invite them to sit as deputies at different levels of court for specified periods. The respective Court Leaders also receive recommendations from serving JJOs from time to time. In some cases, interested legal practitioners may apply to the respective Court Leaders for the possibility of taking up deputy appointments. Occasionally, the two legal professional bodies, i.e. the Hong Kong Bar Association and the Law Society of Hong Kong may also make suggestions on potential candidates to the Court Leaders.

9. Having considered the relevant matters, the Court Leaders make recommendations on the suitable candidates to the Chief Justice who is the authority for the appointment of deputy JJOs. In making any deputy

judicial appointments, the Chief Justice takes the view that it is of the utmost importance that the Judiciary will continue to maintain the highest standards that the public expects of the Judiciary.

10. It should be noted that the number of deputy JJOs appointed fluctuates according to operational needs. As a point of reference, as at 1 December 2018, the total number of deputies engaged from outside the Judiciary is 30. The duration of sittings of deputy JJOs also varies. Normally, external deputies at the High Court and District Court levels are each appointed to sit for a few weeks at a time whereas those at the Magisterial level are appointed for a few months. Some deputies may be available to sit for longer periods, while some may take up deputy appointments again, having regard to their availability.

PROFESSIONAL SUPPORT FOR JUDGES

11. Apart from engaging members of the legal professions for judicial duties on a temporary basis, the Judiciary has also launched the Judicial Assistants Scheme and the Judicial Associates Scheme to employ legally qualified assistants to provide legal and professional support to JJOs for their discharge of judicial duties.

The Scheme on Judicial Assistants for the Court of Final Appeal

12. The Judiciary started in 2010 the Scheme on Judicial Assistants (“JDAs”) to provide assistance to appellate judges in the Court of Final Appeal (“CFA”) and the Court of Appeal of the High Court in conducting research on law points and assisting in other work of the courts. After a review in early 2015, the CFA and the High Court have separate schemes with a view to enhancing support to the respective courts and have conducted separate recruitment exercises for such purposes since 2015.

13. The JDA Scheme continues to operate for the CFA and dedicated JDAs are recruited to provide assistance to the appellate judges in the CFA on legal researches and other work of the court.

14. Under the JDA Scheme, candidates who possess a law degree and have/will have obtained a Postgraduate Certificate in Laws are eligible to apply vide open recruitment exercises which are conducted annually. JDAs are generally employed on a contract basis for a period of about a year. Occasionally, short extensions are arranged for some JDAs to assist with the handover process to the next group of JDAs. At present, five JDAs are employed for 2018 to 2019.

The Scheme on Judicial Associates for the High Court

15. For the High Court, legally qualified assistants have been engaged as Judicial Associates (“JudA”) to provide various legal and professional support to Judges of the High Court since 2015. The JudA Scheme is divided into two streams –

- (a) JudAs (General) provide assistance in civil cases and legal research work in the Judiciary. Priority would be given to civil cases in the High Court, in particular the Court of Appeal, although occasionally JudAs (General) would be asked to assist in the work of other levels of court and legal research on matters relating to the administration of the Judiciary; and
- (b) JudAs (Criminal Appeals) provide assistance to Justices of Appeal in hearing criminal appeals.

16. To be eligible to be a JudA, candidates must be solicitors or barristers admitted/called in Hong Kong or any other common law jurisdiction and have the relevant post-qualification experience as a solicitor or barrister. JudAs are recruited through open recruitment exercises which are conducted regularly, having regard to operational needs. Individual JudAs are appointed on a one or two-year contract and their terms may be renewable. At present, a total of 12 JudAs (General) and JudAs (Criminal Appeals) are engaged. Two more new recruits will assume duty in January 2019.

Professional Staff for the Executive Body of the Judicial Institute

17. A Judicial Institute is established in the Judiciary to provide continued support to JJOs at all levels of court on matters relating to judicial training, legal research and production/updating of manuals and directions etc. for enhancing their judicial skills and knowledge. An Executive Body (“EB”) is set up under the Judicial Institute to provide dedicated legal and professional support to JJOs. Currently, six legally qualified professionals with relevant experience in legal profession training are employed as Directors and Counsel to provide dedicated legal and research support to JJOs and to assist in the planning and provision of judicial training in various areas.

18. The Directors and Counsel of the EB under the Judicial Institute are recruited through open recruitment exercises. They are initially appointed for a period of three years and their terms may be renewable.

ADVICE SOUGHT

19. Members are invited to note the contents of this paper.

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