

Panel on Administration of Justice and Legal Services
List of outstanding items for discussion
(position as at 22 April 2020)

**Proposed
timing for
discussion**

1. Proposed creation of a judicial post in the Judiciary and making permanent a directorate post in the Judiciary Administration

Proposed by the Judiciary Administration. The proposed creation of one judicial post of Justice of Appeal of the Court of Appeal of the High Court ("CA") (JSPS 17) is to cope with the increased workload of CA arising from, inter alia, the upsurge of civil appeals in relation to non-refoulement claims cases filed with CA. Making permanent a Principal Executive Officer (D1) post in the Judiciary Administration is to rationalize the existing manpower of the Accommodation Section so as to provide on-going and long-term strategic and management support to the Judiciary Administration on accommodation matters and court security.

May 2020

2. Additional courtrooms and associated facilities at lower ground fourth floor in the High Court Building

Proposed by the Judiciary Administration. The proposed project is for the construction of additional courtrooms and associated facilities at lower ground fourth floor of the High Court Building to meet operation needs of the court. The proposed scope of the project comprises the construction of six civil courtrooms, five consultation rooms, an entrance hall, a court lobby, offices for supporting staff, equipment rooms, toilet facilities, etc. The construction is tentatively scheduled to commence in late 2020 for completion in the third quarter of 2023. The Judiciary briefed Panel members on the project during their visit to the Judiciary on 21 May 2019.

May 2020

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discussion**

3. Consultation Paper on the proposed application of the United Nations Convention on Contracts for the International Sale of Goods ("CISG") to the Hong Kong Special Administrative Region ("HKSAR")

Proposed by the Department of Justice ("DoJ"). DoJ will brief the Panel on their consultation paper which was released in early March 2020. The consultation paper discusses various issues including: the salient features of CISG, the interplay between CISG and relevant Hong Kong law, the economic and legal considerations for extending CISG to Hong Kong, and subject to the consultation results, the proposed application and implementation of CISG in Hong Kong.

May 2020

The public consultation period has been extended to the end of September 2020 owing to the current public health situation.

4. The Law Reform Commission of Hong Kong ("LRC")'s Report on Review of Substantive Sexual Offences

Proposed by DoJ. LRC plans to brief members on the report published on 5 December 2019 which put forward the final recommendations for the reform of substantive sexual offences in the Crimes Ordinance (Cap. 200). These recommendations include the creation of a range of non-consensual sexual offences, the creation of a range of new sexual offences involving children and persons with mental impairment which are gender neutral, and the reform of a series of miscellaneous sexual offences.

June 2020

The report follows a study on the overall review of substantive sexual offences by LRC's Review of Sexual Offences Sub-committee which issued three consultation papers in September 2012, November 2016 and May 2018 respectively. The members were briefed by the Sub-committee at the Panel meetings held in December 2012, February 2017 and June 2018 respectively.

**Proposed
timing for
discussion**

At the Panel meeting on 20 January 2020, Hon CHAN Chi-chuen also suggested that the Panel should discuss the recommendations in LRC's Report on Review of Substantive Sexual Offences published on 5 December 2019. Members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

5. Recent developments on Hong Kong's legal and dispute resolution services in the Greater Bay Area

Proposed by DoJ. DoJ plans to provide information for discussion on the recent developments on Hong Kong's legal and dispute resolution services in the Greater Bay Area.

To be advised
by DoJ

6. Mediation initiatives of DoJ

Proposed by DoJ. As part of its continuous efforts to enhance Hong Kong's role as a leading centre for international legal and dispute resolution services in the Asia Pacific Region, DoJ has been undertaking a number of mediation initiatives to further develop and enhance the use of mediation in Hong Kong and to promote the mediation services of Hong Kong. DoJ will brief the Panel on the progress of the relevant initiatives.

To be advised
by DoJ

7. Opportunities and challenges for young legal practitioners in professional development

Proposed by DoJ. DoJ plans to discuss opportunities available to and challenges faced by young legal practitioners in professional development and what can be done to facilitate them in accessing the opportunities.

To be advised
by DoJ

**Proposed
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discussion**

8. Latest developments in international arbitration for Hong Kong

Proposed by DoJ. DoJ plans to brief the Panel on the latest developments in international arbitration for Hong Kong. DoJ will update members about the feedback of the arbitration community on the implementation of the Arrangement Concerning Mutual Assistance in Court-ordered Interim Measures in Aid of Arbitral Proceedings by the Courts of the Mainland and of HKSAR; the challenges faced by and opportunities available to international arbitral institutions in Hong Kong and some recent initiatives undertaken by them as well as other relevant developments.

To be advised
by DoJ

Dr Hon Priscilla LEUNG proposed to discuss impact of globalization on arbitration in Hong Kong at the work plan meeting on 30 October 2018. Hon Dennis KWOK considered that the Hong Kong International Arbitration Centre should be invited to give views on the subject.

9. Recent developments on the online dispute resolution and deal-making platform supported by the Government

Proposed by DoJ. DoJ plans to provide information for discussion on the recent developments on the online dispute resolution and deal-making platform supported by the Government.

To be advised
by DoJ

10. 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.

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**Proposed
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discussion**

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.

At the work plan meeting on 30 October 2018, the Judiciary Administration advised that it would provide an information paper on this subject for members' reference. The information paper on death investigations and inquests by the Coroner's Court (LC Paper CB(4)44/19-20(01)) had been circulated to Panel members for their reference on 25 October 2019.

Members of the pro-democracy camp requested, in a joint letter dated 28 October 2019 to the Panel Chairman, that priority should be given for the Panel to discuss the work of the Coroner's Court (LC Paper No. CB(4)293/19-20(01)).

11. Proposed upgrading of one permanent post of Senior Government Counsel to Assistant Principal Government Counsel (DL1) in the Mediation Team under the Planning, Environment, Lands and Housing Unit, Civil Division of DoJ

Proposed by DoJ. DoJ proposed to upgrade one permanent post of Senior Government Counsel to Assistant Principal Government Counsel (DL1) in the Mediation Team under the Planning, Environment, Lands and Housing Unit, Civil Division of DoJ for strengthening legal support at the directorate level for implementation of mediation initiatives and related administrative duties.

To be advised
by DoJ

12. 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

To be advised
by DoJ

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maker and dispute resolver and would brief the Panel on the progress and relevant plans.

13. Implementation of LRC's 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 LRC's 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

14. 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.

15. Abolition of the common law offence of champerty

At the Panel meeting on 25 March 2014, members were briefed by DoJ on the developments of the common law offences of maintenance and champerty in Hong Kong and the Administration's position on this item. Members were generally of the views that these offences were outdated. 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 again.

In June 2017, the *Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017* ("the Amendment Ordinance") 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. Following the issuance of the Code of Practice for Third Party Funding of Arbitration on 7 December 2018, the provisions of the Amendment Ordinance on third party funding of arbitration came into effect on 1 February 2019. The remaining provisions on mediation will commence pending agreement with the stakeholders on the relevant Code of Practice.

At present, Hong Kong lawyers are prohibited from charging outcome related fees in arbitration. A sub-committee of LRC was established in October 2019 to review the current position relating to outcome related fee structures for arbitration, consider whether reform is needed to the relevant law and regulatory framework and, if so, make such recommendations for reform as appropriate.

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 is taking a cautious approach in that third party funding for litigation should only be considered after at least some experience is gained from the operation of the Amendment Ordinance.

**Proposed
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discussion**

16. 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.

17. Implementation of Land Titles Ordinance (Cap. 585) ("LTO")

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 LTO enacted in 2004.

To be advised
by DEVB

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

To enable early implementation of title registration system in Hong Kong, DEVB is actively pursuing the proposal of implementing title registration on newly granted land first ("new land first" proposal). DEVB has been engaging major stakeholders through meetings of the LTO Steering Committee and the LTO Review Committee, briefing sessions and discussion meetings, etc. for seeking a consensus on the major issues for implementing the "new land first" proposal. The full package of necessary legislative amendments would only be available subject to a consensus on these major issues 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, it would be difficult for DEVB to commit to a definite timeframe for

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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.

18. 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 the Chief
Secretary for
Administration's
Office

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.

19. 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.

**Proposed
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20. Outcome of consultation on gender recognition by the Inter-departmental Working Group on Gender Recognition ("IWG")

IWG reported to the Panel the progress of its work on 18 July 2017. The Panel held a public hearing on 20 November 2017 to listen to stakeholders' views on the Consultation Paper on Gender Recognition issued by IWG in June 2017. At the Panel meeting on 11 October 2018, Hon CHAN Chi-chuen proposed to discuss the outcome of consultation on gender recognition by IWG.

To be advised
by DoJ

According to DoJ in April 2019, a meticulous count has revealed that, during the consultation period, IWG in fact received about 18 800 responses to the consultation paper from a wide range of perspectives. IWG is in the process of collating and analysing the responses received. IWG will brief the Panel on the results of the consultation as well as the proposed way forward on a date to be advised.

21. Length of remands

The Hong Kong Bar Association submitted a submission urging the Panel to examine whether a system could be devised to maintain records relating to the length of remands (LC Paper No. CB(4)1592/17-18(01)).

To be confirmed

At the Panel meeting on 29 October 2018, members agreed that the issue should be included in the Panel's List of outstanding items for discussion.

22. Arrangement between Hong Kong and the Mainland for reciprocal recognition and enforcement of judgments in civil and commercial matters

Proposed by Hon Dennis KWOK at the Panel meeting on 28 January 2019. He suggested the Panel discussed the issues relating to the information paper on Arrangement on

To be advised
by DoJ

Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of HKSAR provided by DoJ (LC Paper No. CB(4)433/18-19(01)).

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

23. Consultations on archives law and the access to information by LRC

Proposed by Hon Tanya CHAN at the Panel meeting on 20 January 2020. She requested that the Panel be updated on the latest progress regarding the consultation papers issued by the Archives Law Sub-committee and the Access to Information Sub-committee of LRC, which were discussed at the Panel meeting in February 2019.

To be advised
by DoJ

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

24. Workload of the Courts

Proposed by Hon Elizabeth QUAT at the Panel meeting on 20 January 2020. She suggested that the Judiciary should brief the Panel on measures to address the upsurge in the workload for the court as well as Judges and Judicial Officers ("JJOs") owing to the increase in judicial review cases related to non-refoulement claims, and to avoid the building up of a backlog of prosecutions listed for court hearings as a result of the large number of arrests made by the Police in recent months.

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

At the work plan meeting with the Panel Chairman and Deputy Chairman on 16 March 2020, the Judiciary Administration advised that it had been monitoring the workload of the court closely and taking measures to ensure that cases were processed in a timely manner as far as practicable. For example, the Judiciary had proposed the creation of one judicial post of Justice of Appeal of CA (JSPS 17) to cope with the increased workload of CA arising from, inter alia, the upsurge of civil appeals including non-refoulement claims cases filed with CA (see item 1 of this list). The Judiciary would provide more information in this regard under item 1 of this list.

25. Security of court buildings and safety of JJOs

Proposed by Dr Hon Priscilla LEUNG at the Panel meeting on 20 January 2020. She suggested that the security of court buildings as well as the protection of the personal safety of JJOs be discussed by the Panel. --

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

At the work plan meeting with the Panel Chairman and Deputy Chairman on 16 March 2020, the Judiciary Administration advised that the Judiciary placed great importance on safeguarding the security of court buildings and the personal safety of JJOs. The proposal to make permanent a Principal Executive Officer (D1) post in the Judiciary Administration (see item 1 of this list) was essential for providing enhanced support in this regard such that on-going and long-term strategic and management support could be provided to the Judiciary Administration on court security matters, amongst other things. The Judiciary would provide more updated information in the paper for item 1 of this list regarding the specific measures that had been/would be taken on the related matters.

Council Business Division 4
Legislative Council Secretariat
22 April 2020