

Legislative Council
Panel on Administration of Justice and Legal Services

**Supplementary Information on Proposed Making Permanent of a
Supernumerary Directorate Post in the Judiciary Administration of
the Judiciary**

Purpose

In response to questions raised by Members at the meeting on 2 November 2020, this note provides supplementary information on the Judiciary's proposal to make permanent one supernumerary directorate post of Administrative Officer Staff Grade C (AOSGC) (D2) (\$179,350 - \$196,050) under the Judiciary Administration (Jud Adm) with effect from 1 February 2022. This should be read together with the paper discussed at the aforesaid meeting.

Additional information on the major duties of the proposed permanent AOSGC post

2. The proposed permanent AOSGC post will be designated as Assistant Judiciary Administrator (Planning and Quality) (AJA(PQ)) and will assist the Deputy Judiciary Administrator (DJA(PQ)) in taking forward duties set out in paragraphs 6 – 7 of LC Paper No. CB(4)58/20-21(03) on a long-term basis. Further information is provided below for Members' reference.

Monitoring the implementation of Information Technology Strategy Plan (ITSP)

3. In 2011 and 2012, the Judiciary conducted an Information System Strategy Study and obtained funding from Legislative Council (LegCo) in 2013 to implement a major information technology (IT) upgrading project called the ITSP to achieve the following objectives –

- (a) to enhance the existing IT systems with the prevailing technologies to ensure sustainable operation in the long run;
- (b) in support of the administration of justice, to provide more effective and efficient services of a higher quality to all stakeholders with the use of IT;

- (c) to facilitate active case management throughout the entire litigation/adjudication and ancillary processes to improve access to justice for the benefit of all stakeholders; and

- (d) to respond positively to the rising expectations of court users and the community.

4. The AJA(PQ) will be tasked to co-ordinate and help with steering the implementation of the major project. The key project under ITSP is an integrated court case management system (iCMS) which seeks to streamline and standardise court processes across different levels of court as appropriate and put in a place a number of non-court systems to meet the operational requirements of the Judiciary. This is being rolled out by phases, depending on the progress of legislative amendments and other practical implementation arrangements -

- (a) For Phase I, Stage 1, the iCMS is being implemented in the District Court (DC) and the Summons Courts of the Magistrates' Courts (MCs);

- (b) For Phase I, Stage 2, the iCMS will be extended to the Court of Final Appeal, the High Court (HC), the Competition Tribunal, the non-summons Courts of the MCs and the Small Claims Tribunal; and

- (c) For the remaining courts and tribunals, the iCMS will be implemented under Phase II.

5. According to the 2013 FC paper, Phase I of ITSP should have been completed within six years. In October 2019, the Director of Audit conducted an audit review on ITSP and issued a report on "Judiciary Administration's work in implementing projects under Information Technology Strategy Plan" in October 2019. As identified in paragraph 2.4 of the Audit report, there have been slippages in all the activities due to various difficulties. These mainly include problems relating to software upgrading, manpower shortage, procurement of IT infrastructure, and stakeholder engagement. Among others, the Director of Audit suggested and Jud Adm agreed to step up monitoring of the implementation of all projects under ITSP Phase I and to expedite actions where possible to complete the outstanding projects. Jud Adm has since then reviewed the governance structure of ITSP and made improvements at various fronts. Looking ahead, AJA(PQ) will be tasked to tighten the monitoring of the progress of various projects and provide effective

support to relevant teams such that the outstanding projects would be completed as soon as possible.

6. Despite the operational experience gained from implementation of Stage 1, we anticipate Stage 2 will give rise to more complex challenges given the involvement of more courts and types of proceedings. At this stage, we envisage that these will include (but are not limited to) the following complex tasks –

- (a) coping with the workflows of more different and complicated case types and proceedings in the HC;
- (b) interface with various prosecuting departments involved in handling charge cases in the MCs;
- (c) handling issues relating to authentication and access rights of documents; and
- (d) piloting and promoting the use of e-bundles at court hearings in tandem with e-filing of court documents.

7. With the rapid developments in technology and growing use of technology by court users, operational experience of iCMS in the DC so far has indicated the need for continuous improvements to the iCMS on an on-going basis. We expect that more user-friendly functions may have to be provided and more updated technologies may be used. For instance, with the Government's initiative of launching iAM Smart account as a new authentication method for electronic transactions, the Judiciary will need to consider whether and if so, how to incorporate the new feature into the iCMS.

8. Given the types and quantity of court proceedings and documents involved and the highly dynamic nature of the technology advancements, the phased implementation of ITSP and further developments of IT tools for service enhancements is expected to be an on-going process. Experiences in other jurisdictions such as Australia show that the implementation of electronic transactions of court businesses has to go through a phased process spanning many years, with some over 10 years. Improvements to existing systems are regularly required throughout the implementation process, say every one to two years. It is therefore necessary for the Judiciary to have a dedicated directorate officer who will need to monitor the technological developments with a view to taking forward the necessary policy and

legislative work for developing and adopting more technology solutions to enhance efficiency of court operations in a timely manner.

Policy and legislative changes on use of technology

9. Reviewing and putting forward timely and necessary legislative changes is another major area of AJA(PQ)'s responsibilities. There is an on-going need to review and amend the laws, court rules and practice directions to cater for electronic mode of transacting business at different levels of court as and when appropriate. The two major on-going exercises are set out for illustration purpose –

(a) Legislation on electronic transactions

Following the enactment of the Court Proceedings (Electronic Technology) Ordinance in July 2020 which provides for a general legal framework for iCMS, the Judiciary is drawing up the detailed court rules (subsidiary legislation) for tabling at LegCo in Q1, 2021 while drafting the relevant practice directions and administrative documents.

Apart from drafting legislation, there will be an on-going need to resolve the relevant policy and legal issues arising from electronic transactions. To illustrate, as iCMS is expected to operate round-the-clock whereas the physical court offices will operate according to their opening hours, we need to consider the suitable arrangements for determining the time of submission and issuance of documents to ensure that users who do not/cannot use iCMS will not be unfairly disadvantaged. This is particularly important for matters with statutory time limits. It is also necessary to determine what documents may/may not be suitable for using the electronic mode. Careful deliberation is required to ensure that an appropriate balance is struck between enhancing efficiency and safeguarding the rights of the parties concerned.

(b) Legislation on remote hearings

Due to legal impediments, remote hearing is not generally used in the context of criminal matters. The Judiciary is now working on the necessary legislative amendments and will submit the proposals to LegCo as soon as possible. AJA(PQ) will play a key role in the exercise. As we seek to provide

the Court with the flexibility to direct remote hearings where necessary, we have to be mindful that such an alternative mode will still be able to preserve the fairness and integrity of the relevant court proceedings. One important aspect is that we need to ensure that the conduct of remote hearing will not derogate the rights of the defendants to a fair and public trial. Not only will this require legal safeguards, suitable operational and administration arrangements have to be worked out. Extensive consultation with stakeholders such as the Correctional Services Department will be needed.

10. During the policy formulation process, an important task of the current AOSGC post responsible for ITSP-related duties is to engage stakeholders. In the past few years, the post-holder assisted in a massive consultation exercise involving over 60 parties and held a large number of engagement meetings to explain to the consultees the new initiative of ITSP put forward by the Jud Adm. Useful feedback and comments were received for the Jud Adm to further refine the policies involved. Such intensive engagement is required to be held on an on-going basis as iCMS is progressively extended to different levels of courts.

11. Looking ahead, the new AJA(PQ) will be responsible for identifying and tackling policy matters as he/she works on the detailed court rules (they are subsidiary legislation) and practice directions for all levels of courts as the project further progresses in phases. Experience indicates that this would involve protracted and laborious discussions because court processes and documents relating to different proceedings at different levels of courts are subject to different court rules.

Continued use of technology

12. As outlined in LC Paper No. CB(4)58/20-21(03), the new AJA(PQ) will provide dedicated support to the DJA(PQ) to assist him/her in making greater use of technology in conducting various court business, including IT and other modern management tools to enhance the efficiency of court support services. We see a strong need for strengthening the directorate support in this regard.

13. There have been significant changes in the landscape concerning the use of technology in court business since the outbreak of the COVID-19 pandemic in 2020. The Judiciary has taken the opportunity to review the situation and re-affirm the importance of long-term strategic planning on the Judiciary's use of technology. This

requires continual assessment of the changing operating environment of the Judiciary, the rapid technological developments, as well as the expectations and needs of court users have to be taken into account. Examples of the new and on-going IT initiatives include remote hearings, e-filing/e-transactions of court documents, e-appointments for registry services and use of e-bundles in hearings. It will also be necessary to assess whether more on-line platforms are to be used and whether artificial intelligence may be used in some of the court services for enhancing the efficiency of the litigation process. The new AJA (PQ) has to stay abreast of these developments with a view to identifying opportunities to build synergy in the use of technology on a continual basis.

14. During the COVID-19 pandemic, the Judiciary has been working on the use of remote hearing to facilitate the handling of civil proceedings using video conferencing facilities (VCF) and telephone. Two guidance notes have been issued. This option is currently available for handling civil cases in the HC, the Competition Tribunal and the DC including the Family Court. As we are developing more user-friendly and cost-effective technical option(s) for VCF, there should be room to encourage the use of VCF to a wider range of court users including unrepresented litigants. AJA(PQ) will need to keep abreast of practices in other jurisdictions and engage major stakeholders with a view to reviewing the policies and implementation arrangements of remote hearing on a regular basis.

Long-term planning of Judiciary-wide administrative initiatives

15. To ensure and sustain quality management in the Jud Adm, another important area of responsibility of AJA(PQ) is to ensure synergy and integration of IT development with two short-term and two longer-term new mega accommodation projects –

- (a) recommissioning of the Tsuen Wan Law Courts Building (expected completion in the third quarter of 2021);
- (b) provision of additional courtrooms and related facilities in the High Court Building (expected completion around 2024);
- (c) reprovisioning of the DC and the Family Court (to be co-located with the Lands Tribunal) (expected completion around 2028); and

(d) reprovisioning of the HC (expected completion at least 10 years later).

16. Taking into account the new and additional accommodation requirements, latest experience of coping with the public health situation and high-profile court proceedings such as video-conferencing facilities, broadcasting arrangements and court security measures, we see the need for the AJA(PQ) to assist in monitoring and reviewing the Judiciary's long-term accommodation strategy with a view to enhancing the efficiency and effectiveness of court operations on an on-going basis.

Judiciary Administration
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