# 立法會
# *Legislative Council*

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**Report of Panel on Administration of Justice and Legal Services for submission to the Legislative Council**

## Purpose

This report gives an account of the work of the Panel on Administration of Justice and Legal Services for tabling at the meeting of the Legislative Council (LegCo) on 10 July 2002 in accordance with Rule 77(14) of the Rules of Procedure of LegCo.

## The Panel

2. The Panel was formed by a resolution of this Council on 8 July 1998 and as amended on 20 December 2000 for the purpose of monitoring and examining Government policies and issues of public concern relating to administration of justice and legal services. The terms of reference of the Panel are in **Appendix I**.

3. The Panel comprises nine members. Hon Margaret NG and Hon TSANG Yok-shing were elected Chairman and Deputy Chairman of the Panel respectively. A membership list of the Panel is in **Appendix II**.

## Major work

Review of legal education and training in Hong Kong

4. The Panel had closely monitored the progress of the comprehensive review of legal education and training in Hong Kong which was initiated by the two legal professional bodies and supported by the Administration and the law schools of The University of Hong Kong (HKU) and The City University of Hong Kong (CityU). The review was proposed to be carried out in two stages, namely, a consultancy stage to be followed by a further study by a Review Panel. A Steering Committee was formed to oversee the work throughout both stages. Two overseas consultants commissioned to conduct the review published a report in August 2001.

5. At the two meetings held by the Panel in January and June 2002 respectively, the Steering Committee briefed members on the progress of its deliberations on some of the major recommendations in the Consultants' Report. The Panel noted that the Steering Committee had endorsed the recommendation of the Consultants that the Bachelor of Laws (LLB) be extended from three to four years. The Steering Committee had recommended to the University Grants Committee that funding be provided for the four-year LLB programme commencing in the 2004-05 academic year.

6. Regarding the recommendation of the Consultants that the Postgraduate Certificate in Laws (PCLL) should be replaced by a 16-weeks Legal Practice Course and a free-standing institution be established to conduct the course, the Panel noted that the Steering Committee, after lengthy discussion, considered that the PCLL should not be discontinued, but that it should be subject to major reforms. The Panel was advised that although the Law Society had reserved its position, viewing the reform of PCLL as an interim measure, it had indicated that it would review its position in the academic year 2003-04. The Academic Board to implement reforms to PCLL at both HKU and CityU respectively had been established.

7. The Panel had discussed a number of the recommendations of the Consultants. These included the adoption of a more interactive mode of teaching for LLB, reformed curriculum for LLB and PCLL, establishment of a conversion course for students graduated from foreign LLB course to convert to the local LLB and for graduates from other disciplines to convert to a law study, measures to improve the English and Chinese language standards, as well as resources for implementation of the proposed reforms. Some members requested the relevant parties to consider the transitional arrangement for students who had been guaranteed places to the PCLL programme administered by the School of Professional and Continuing Education of HKU (SPACE), and students who intended to take the part-time SPACE PCLL, following the introduction of a single "mixed mode" funded PCLL (replacing the "dual mode" of the Faculty and the SPACE PCLLs) in the academic year 2001-02.

8. In view of the progress made so far, the Steering Committee advised the Panel that it had no plans for a second stage of the review to be undertaken as originally envisaged. The Steering Committee recommended that a standing umbrella body with sufficient status and powers be established to oversee the implementation of reform of legal education and training and to monitor future direction of legal education. The body would be established by legislation and would replace the current Advisory Committee on Legal Education.

Promoting Hong Kong as a legal services centre

9. The Panel was advised that the Administration would promote Hong Kong as a legal services centre in three ways -

(a) assisting the legal profession to pursue their proposals for gaining entry into the Mainland market;

(b) promoting Hong Kong as a legal services centre for the negotiation and documentation of China-related contracts, and as a dispute resolution centre for such contracts; and

(c) as part of the promotion, to seek to establish a mechanism for the reciprocal enforcement of certain judgments delivered in Mainland and Hong Kong courts.

10. The Panel noted that with the assistance of the Department of Justice, the legal professional bodies had made representations to Mainland authorities on measures to enhance the access by Hong Kong lawyers to the legal services market in the Mainland. While the rule of "one city, one firm" had been removed, the rule that foreign law firms could not employ Mainland lawyers was likely to remain for some time, because of China's Agreements with the United States and the European Community. Regarding the proposal that Hong Kong lawyers could sit for the Lawyers' Qualifying Examination, this was accepted in principle. However, as Regulations were promulgated in the Mainland in July 2001 for the unified examination of judges, procurateurs and lawyers, the rules of examination had to be worked out between the three branches before the request from Hong Kong could be followed up.

11. In November 2001, the Panel also met with representatives of the Hong Kong International Arbitration Centre and the Hong Kong Institute of Arbitrators. Views were exchanged on matters such as the problems encountered by the local arbitration industry, measures required for promoting Hong Kong as a major international arbitration centre, and how the Government could best to assist in that regard.

12. In May 2002, the Administration sought the Panel's views on the proposal to establish a mechanism for reciprocal enforcement of judgments (REJ) in commercial matters between the HKSAR and the Mainland. Given the current legislative regime and the common law position on enforcement of foreign and Mainland judgments in Hong Kong, the Administration considered that the anomalous situation whereby a Mainland judgment could be enforced in the HKSAR, but not vice versa, should be addressed. The Administration also pointed out that an arrangement on REJ with the Mainland would benefit not only the HKSAR businesses, but also the international community doing business with the Mainland.

13. Under the Administration's proposal, the REJ arrangement should cover only money judgments given by a court of either the Mainland (at the Intermediate People's Court level or higher) or the HKSAR (at the District Court level or higher) exercising its jurisdiction pursuant to a valid choice of forum clause contained in a commercial contract.

14. Members had expressed a number of concerns. A member had questioned whether Mainland judgments were final and conclusive under the common law, in view of the system of civil procedures in the Mainland. Some members were concerned about the quality and qualification of judges in the Mainland, the differences in the laws and legal systems between the HKSAR and the Mainland, as well as the difficulties in enforcing Mainland court judgments effectively in the Mainland, let alone in Hong Kong. Some other members pointed out that the business sector had also expressed grave concern about the possible adverse impact on their interests with the implementation of REJ between the HKSAR and the Mainland.

15. The Administration explained that the proposed arrangement would only apply to judgments of the HKSAR or Mainland courts where the parties to a commercial contract had agreed that the court of either place or the courts of both places would have jurisdiction. The Administration assured the Panel that the proposed arrangement would only permit the enforcement of a judgment that was final and conclusive. The issue of how and when a judgment should be treated as final and conclusive would be considered in its discussions with the Mainland authorities. The Administration had also proposed that, as safeguards, registration of a judgment under the proposed arrangement might be refused or set aside under certain circumstances, for instance, if the judgment was obtained by fraud or in breach of natural justice.

16. The Panel noted that once a mutually satisfactory arrangement with the Mainland authorities had been reached, the Administration would introduce legislation to give it the requisite legislative backing. The Panel requested the Administration to keep members posted of further developments.

Process of appointment of judges

17. In accordance with Article 73(7) of the Basic Law (BL), LegCo had exercised its power to endorse the appointment of judges on two occasions, in June 2000 and December 2000. In the light of these two appointment exercises, the Panel decided to look into how LegCo could properly discharge its constitutional duty under BL, and how the system of appointment of judges might be improved to achieve greater transparency and accountability while ensuring judicial independence.

18. A working group was formed by the Panel to review the process of appointment of judges. In its deliberations, the Working Group on Process of Appointment of Judges (the Working Group) considered the Research Reports on Process of Appointment of Judges in the United States, the United Kingdom and Canada prepared by the Research and Library Services Division. The Working Group recommended and the Panel agreed that the views of the public, in particular the legal community, be sought on the issues identified by way of a consultation document. The Consultation Paper on Process of Appointment of Judges was published in December 2001, and the consultation period expired on 15 March 2002.

19. On the procedure for LegCo to endorse judicial appointment under BL 73 (7), the Consultation Paper had set out three options, namely, the "Normal Procedure" which embodied the process followed in the last appointment exercise, the "Expanded Normal Procedure" which expanded on the "Normal Procedure" but allowed for a prior established procedure to deal with controversial cases, and the "Special Procedure" which proposed to adopt, albeit in modified form, certain features of the system in the United States (US). As members considered that it was also necessary to review the existing system of appointment of judges not confining to those appointments which required LegCo's endorsement, the Consultation Paper had invited views on the membership, accountability and operation of the Judicial Officers Recommendation Commission (JORC).

20. The Panel received written submissions from the two legal professional bodies, the Judiciary, the Administration and a legal professional. The Panel also held a meeting in April 2002 to receive an oral presentation of views from the relevant parties. The Panel discussed two key issues identified in the consultation paper, namely, the endorsement procedure and the membership of JORC.

21. Regarding the procedure for LegCo to endorse judicial appointment under BL 73(7), the Panel noted that the Judiciary, the Bar Association and the Law Society were in favour of the "Normal Procedure", subject to adequate information to be provided to LegCo by the Administration on the judicial nominees. They considered that the "Special Procedure" was inappropriate for Hong Kong. Two major reasons cited against this option were that the US system would politicise the process of judicial appointment, and deter suitable candidates from being considered for appointment.

22. Regarding the membership of JORC, the discussion of the Panel was focused on whether the Secretary for Justice (SJ) should be a member of JORC. While the Administration considered the arrangement appropriate, the Law Society disagreed. As for the Bar Association, its majority view was that SJ, or a member of the Department of Justice (DOJ), should be a member of JORC. However, should SJ be a political appointee under the accountability system, there was a strong feeling within the Bar Association that it was more appropriate to have a representative of DOJ, instead of SJ, to be a member of JORC.

23. Some Panel members were of the view that there would be an inherent conflict of interest for SJ, a politically appointed member of the executive under the accountability system, to serve on a body responsible for recommending appointments to senior judicial offices and promotion of incumbent judicial officers. The Bar Association had revisited the issue and submitted a supplemental response to the Panel after the meeting. The Bar Association concluded that SJ, being one of the principal officials under the accountability system, should not be a member of JORC. A representative chosen amongst government lawyers, who was not holder of a pensionable office, could represent the views of government lawyers of the Department of Justice (DOJ) on JORC. It was considered necessary for a

representative of DOJ to be a member of JORC as DOJ was one of the three major court users.

24. Members agreed that the Working Group would further consider the views received, and prepare a final report for the endorsement of the Panel. The Judiciary advised the Panel that it would conduct a review of the operation of JORC after the Panel had issued the final report.

Review on provision of legal aid services

25. In December 2001, a working group was formed by the Panel to review the provision of legal aid services. The task of the Working Group on Legislation concerning the Provision of Legal Aid Services (the Working Group) was to identify issues for the purpose of review by the Administration. The Working Group had prepared a preliminary list of issues for the purpose of consultation with interested parties for endorsement by the Panel at its meeting in February 2002.

26. The Panel held a special meeting on 25 April 2002 to receive views from a number of organisations including the Bar Association, Law Society, Hong Kong Family Welfare Society, Hong Kong Press Council, Hong Kong Council of Social Service, Hong Kong Journalists Association, and Association of the Rights of Industrial Accident Victims on the preliminary list of issues for review. The organisations were in support of the proposal for the Administration to conduct a comprehensive review on the objective, adequacy and effectiveness of the existing legal aid regime. They also considered it opportune for a review of the upper eligibility limits for the Supplementary Legal Aid Scheme (SLAS) and Ordinary Legal Aid Scheme, which were grossly out of step with present day circumstances, to be undertaken. Some organisations expressed support for expanding the scope of the SLAS to cover defamation actions and other types of proceedings. The Bar Association also made proposals for reform of legal aid in criminal proceedings which was currently provided in the Legal Aid in Criminal Cases Rules of the Criminal Procedure Ordinance (Cap. 221).

27. The organisations also made comments on various aspects of the legal aid scheme, including the discretion of the Director of Legal Aid to waive the means test, assessment of financial resources, costs and contributions, legal aid for alternative means of dispute resolution. Some organisations made proposals for improvement of the services provided to applicants for legal aid and aided persons. Other organisations proposed that the effectiveness of the existing mechanism to monitor the delivery of services by Legal Aid Department's in-house lawyers and private legal practitioners assigned to aided persons should be improved.

28. The Panel agreed that the final list of issues for review would be sent to the Administration for consideration.

Interim Report and Consultation Paper on Civil Justice Reform

29. In February 2000, the Chief Justice appointed a Working Party to review the civil rules and procedures of the High Court, and to recommend changes thereto with a view to ensuring and improving access to justice at reasonable cost and speed. On 29 November 2001, the Working Party released the Interim Report and Consultation Paper on Civil Justice Reform (IRCP) for consultation with court users and all interested parties concerned. The original deadline for consultation was subsequently extended to end of June 2002.

30. In January 2002, the Panel was briefed on the progress of consultation since the IRCP was issued. The Panel held a special meeting on 14 March 2002 to receive views from the Consumer Council, Bar Association, Hong Kong Mediation Council and individual legal professionals on IRCP. While the Bar Association supported many of the recommendations in the IRCP, a procedural fine-tuning of the High Court Rules was preferable to an abrupt and complete over-haul. Members asked whether the proposed reform measures would benefit the general public with significant reduction in litigation costs. The legal profession advised that there was no clear evidence that the civil procedural reform in the United Kingdom would lead to substantial reduction in costs, particularly in relation to the more complex type of cases. Some members expressed reservations about the effectiveness of mandatory mediation and requested the Hong Kong Mediation Council to provide information on the systems in Australia and Canada which were practising mandatory mediation for specific types of litigation proceedings.

31. Hon Margaret NG, Chairman of the Panel, moved a motion on "Civil Justice Reform" for debate at the Council meeting on 8 May 2002. At the request of the Panel, the Chief Justice's Working Party agreed to take into account Members' views expressed at the motion debate.

Implications of the Court of Appeal judgment in Ng Siu Tung, Sin Hoi Choi and Li Shuk Fan on multi-party litigation

32. Some members pointed out that the judgments delivered by the Court of Final Appeal (CFA) on 29 January 1999 in the right of abode claims in Ng Ka Ling and Chan Kam Ng ("Ng & Chan" cases) gave rise to the subsequent interpretation of the Standing Committee of the National People's Congress (NPCSC) of Articles 22(4) and 24(2)(3) of the Basic Law (BL). The NPCSC interpretation had displaced the precedential value of the CFA judgments, and because of BL 158(3), had resulted in the non-representative applicants being deprived of the benefit of the right of abode acquired under the CFA's judgments as they were not the actual parties in the relevant legal proceedings. On 10 January 2002, CFA handed down its judgment on appeals arose from the applications of Ng Siu Tung, Sin Hoi Choi and Li Shuk Fan ("Ng, Sin & Li" cases) for judicial review. These members were concerned whether the outcome of the "Ng & Chan" cases had affected the way the appeal cases of "Ng, Sin & Li" cases were handled, and how multi-party public law cases involving the Government as a party should be handled in future.

33. The Legal Aid Department explained to the Panel that in dealing with the "Ng, Sin & Li" cases, it had generally followed the approach in the "Ng & Chan" cases. Under the "representative cases" approach, representative applicants were selected as lead applicants in legal proceedings funded by legal aid so that issues of law and facts common to all applicants were submitted to court for decision. This approach had the benefit of keeping the volume of litigation within reasonable bounds and keeping costs at a minimum while ensuring that all relevant legal issues were determined. In future, the viability of adopting the "representative cases" approach in handling cases involving a large number of applications for legal aid involving common issues of public importance for the court's decision would be closely examined on a case by case basis. In any event, counsel's advice would be sought before deciding on the most cost-effective way of funding the intended litigation while ensuring that all the applicants' interests were conserved.

34. Some members were concerned that there was an inherent danger in adopting the "representative cases" approach to deal with multi-party litigation involving contentious issues of general public importance, as the CFA judgment might be overruled by an NPCSC interpretation, hence could not apply to those parties represented by the representative litigants.

35. The Hong Kong Bar Association considered that a possible way to address the situation in which the precedential value of a CFA judgement could be displaced by a subsequent NPCSC interpretation was for the CFA to determine and dispose in its judgment the rights and obligations of both the representative litigants and those represented by them. Such judgments would then come within BL 158(3) as "judgments previously rendered", hence the represented litigants would not be affected in the event of a subsequent NPCSC interpretation overturning the CFA's decision.

36. The Panel concluded that the matter could be further considered in the context of the Interim Report and Consultative Paper on Civil Justice Reform which also addressed the issue of multi-party litigaton.

37. In a paper subsequently provided to the Panel, the Department of Justice explained that the perceived problem did not arise only in respect of an interpretation of NPCSC under BL 158(1). There were other situations in which the precedential value of a court's judgment could be lost, in a way that could prejudice those who were not parties to the previous litigation. If a public law litigation in future involved a large class of potential claimants, a specific undertaking could be given by the Administration to individuals (who could be identified as being covered by the undertaking) to the effect that they would be treated as if they were parties to the litigation. This would obviate the need for all claimants to join in the proceedings and would ensure that they would all benefit from (or be bound by) the courts' final decision.

Jurisdiction to award costs in criminal proceedings

38. In November 2001, the Panel discussed a proposal of the Law Society to introduce amendments to give a magistrate the power to award costs to defendants when an application for review by the prosecution was dismissed. The Panel noted that upon review of a magistrate's decision of acquittal of the defendant instituted by the prosecution under section 104 of the Magistrates Ordinance, the magistrate did not have power to award costs to the defendant even if he confirmed his decision to acquit.

39. Both the Administration and the Panel were in support of the proposal. The Panel urged the Administration to proceed with the proposed amendments to the Costs in Criminal Cases Ordinance expeditiously.

Consultation Paper on proposed amendment to the Conveyancing and Property Ordinance (CPO)(Cap. 219) concerning execution of conveyancing documents by corporations

40. By way of a consultation paper, the Administration sought the views of the Panel, among others, on an amendment proposed by the Law Society to rectify a problem concerning the execution of conveyancing documents by corporations. Section 20(1) of CPO deemed a document to be duly executed if a seal was authenticated by two signatories whose respective character or office was stated and who each had the requisite character or office according to section 20(1). Section 23 of CPO provided that an instrument appearing to be duly executed should be presumed, until the contrary was proved, to have been duly executed. Following the court's interpretation of section 23 of CPO in Grand Trade Development Ltd. v Bonance International Ltd. [2001] 3 HKC137, the Law Society noted that owing to an apparent misunderstanding of the effect of section 23, many conveyancing documents executed in the past on behalf of corporations were attested to by a single director in such a manner that it might now be impossible to prove or presume due execution. The companies might now be defunct and the responsible person could not be found, or the requisite board resolutions might have been lost. As a result, many vendors would be unable to prove good title to their property. The Law Society proposed to amend the law by introducing a presumption under a new section (proposed section 23A).

41. The Panel held a meeting on 20 March 2002 to receive views from the Bar Association, Law Society, Consumer Council, as well as Hong Kong Conveyancing and Property Law Association Limited. While the parties concerned agreed that legislative changes were necessary to address the situation, the major concern was that the scope of the proposed section 23A was too wide. At a further meeting held in June 2002, the Law Society submitted a revised section 23A which was jointly worked out with the Bar Association and the Hong Kong Conveyancing and Property Law Association Limited. However, the Administration considered that the presumption under the Law Society's revised amendment should only be

triggered when certain specified circumstances existed. The Administration agreed to continue discussion with the legal profession on the wording of the proposed amendment.

42. The Panel considered that there was urgency in resolving the matter and requested the Administration to proceed to bid for a legislative slot with a view to introducing a bill in the first half of the 2002-03 legislative session.

Fidelity fund

43. The Panel discussed the establishment of a statutory fidelity fund to protect members of the public from pecuniary loss resulting from fraudulent act of solicitors or their employees. Both the Administration and the Law Society were not opposed to the establishment of a fidelity fund, but considered that it was not an appropriate time to pursue the matter in view of the present economic climate and the financial difficulties faced by many members of the legal profession. The Law Society advised that apart from financial considerations, there was also no pressing need for the setting up of a fidelity fund given the small number of claims arising from such cases in the past.

44. A member was of the view that the establishment of a fidelity fund was necessary to protect the public, and to safeguard the professionalism of the legal practitioners. Moreover, many overseas jurisdictions had established such a fund. Another member expressed concern about the financial hardship caused to the relevant parties if a fidelity fund was set up by means of a levy imposed on the users or the legal profession, and requested the Law Society to consider stepping up regulation and introducing additional safeguards to avoid chances of defalcation committed by practitioners, such as misappropriation of clients' moneys.

45. On the method of funding, the Law Society was of the view that a levy imposed on the users of legal services would be most appropriate. Some members were of the view that a levy imposed on solicitors or users of legal services or both, or the implementation of a reinsurance scheme, could be viable means for the setting up and maintenance of a fidelity fund. A member suggested that the possibility of imposing a levy on users of particular types of legal services, such as conveyancing, might be considered.

46. The Panel noted that the relevant parties had no objection in principle to the setting up of a fidelity fund in due course for the better protection of users of legal services of Hong Kong. However, there were issues which warranted detailed consideration by the relevant parties before decisions could be made and steps be taken to implement the proposal. The Administration and the Law Society were requested to commence discussion and consultation as soon as possible.

Solicitor corporation

47. One of the proposals contained in the Consultation Paper on Legal Services published by the Attorney General's Chambers in 1995 was to allow solicitors to incorporate their practices as companies. The Administration introduced amendments to the Legal Practitioners Ordinance through the Legal Services (Miscellaneous Amendments) Bill which was enacted at the end of June 1997. The amendments provided that the Law Society may approve or refuse to approve an application for the approval of a company as a solicitor corporation in accordance with its rules. The Panel requested the Administration to update members on the progress of the matter.

48. The Panel noted that the Law Society had drafted the relevant rules for the comments of the Administration in June 2001, and the main outstanding issue concerned the insurance of solicitor corporations for the protection of consumers.

49. The Administration pointed out that under the draft rules prepared by the Law Society, there was no requirement for a company to have insurance coverage before it could be approved as a solicitor corporation. Under the English Solicitors Incorporated Practice Rules 1988, there was a requirement for a top-up insurance over and above the minimum requirement of indemnity insurance to be taken out by a solicitor's firm. The Administration considered it essential for the protection of consumers that there should be adequate indemnity insurance taken out by a solicitor corporation to cover civil claims made by its clients.

50. It was the initial view of the Law Society that the cover provided by the existing Hong Kong Solicitors Professional Indemnity Scheme was sufficient protection for the public. While it might be prudent for directors to take out directors' and officers' cover, the Law Society did not believe that this should be mandatory.

51. Members requested the Administration and the Law Society to continue discussion and revert to the Panel in due course.

Admission of notaries public in Hong Kong

52. At a Panel meeting in December 2001, the Hong Kong Society of Notaries (the Society) briefed members on the progress regarding the drafting of eight set of rules on notarial practice consequent upon the passage of the Legal Practitioners (Amendment) Ordinance 1998.

53. The Panel was advised by the Society that the draft rules had been prepared, and would be submitted to the Chief Justice for approval. However, there were two outstanding issues which had yet to be resolved, namely, notarial examination and professional indemnity for notorial practice.

54. In view of its limited resources and the relatively small membership of about 400, the Society was of the view that it would be more desirable to seek the services of the Scriveners Company in England to assist in drawing up the examination syllabus and providing examiners to set and mark the papers. As for the development of literature for potential candidates to prepare for the examination, the Society had approached the author of the authoritative textbook "Brooke's Notary" who had agreed to compile a Hong Kong supplement to his work. It was expected that the Society would conduct the new examination within one year.

55. Another issue that remained outstanding was whether it was necessary to make professional indemnity rules for notaries public in Hong Kong. The Panel noted that at present, most of the notaries public in Hong Kong were also practising as solicitors, hence were covered by the Solicitors' Indemnity Scheme (SIF). Of the 28 notaries public who were not covered under the SIF, many were not residing in Hong Kong or had retired from practice, but wished to retain their status as a notary public. There were only about six who were currently in Hong Kong and able to practise. According to the Society, there was a practical difficulty in making appropriate insurance indemnity arrangement for this small number of members, especially after the September 11 incident in New York. The Society had assessed the potential risks to the public of not being able to provide for indemnity coverage for the minority of its members. It had come to the conclusion that there was no real urgency for introducing the indemnity rule and would like to seek the Panel's views on the matter.

56. In view of the no claim situation in Hong Kong, members had no objection to the Society's intention to leave the issue of mandatory professional indemnity aside at the moment, and to proceed with the implementation of the other necessary rules.

Legislative proposals

57. The Panel was also consulted on the following legislative proposals -

(a) the giving of evidence by overseas witnesses in criminal proceedings via live TV link;

(b) competence and compellability of spouses in criminal proceedings;

(c) persistent sexual abuse of a child; and

(d) five sets of rules to be made by the Bar Council under the Legal Practitioners Ordinance (Cap.159).

58. The proposals referred to in paragraph 57 (a) and (b) above formed part of the Evidence (Miscellaneous Amendments) Bill 2002 which was introduced into LegCo on 29 May 2002.

59. The Panel discussed the proposal referred to in paragraph 57 (c) above at two meetings. In April 2002, the Administration responded to a previous joint submission from the Bar Association and the Law Society. However, the two legal professional bodies advised the Panel that they remained unconvinced that the Administration had made out a justifiable case for creating a new statutory offence of persistent sexual abuse of a child. The Panel requested the Administration to decide whether it should introduce a bill into LegCo, given the strong views expressed by the two legal professional bodies.

60. Regarding the proposal referred to in paragraph 57(d) above, the Panel was briefed on the Barristers (Qualification for Admission and Pupillage) Rules and the Barristers (Advanced Legal Education Requirement) Rules. The Panel noted that the former Rules provide for the qualification required for admission as a barrister, the requirements of pupillage and other consequential matters, while the latter Rules provide for the implementation of a compulsory legal education programme for all pupil barristers.

**Panel meetings**

61. Between the period from October 2001 and June 2002, the Panel held a total of 12 meetings. Representatives of the Bar Association and the Law Society attended most of these meetings. The Working Group on Process of Appointment of Judges and the Working Group on Legislation concerning the Provision of Legal Aid Services held a total of three meetings during the same period.

Council Business Division 2
Legislative Council Secretariat
8 July 2002

**Appendix I**

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

## Membership List

| | |
|---|---|
| **Chairman** | Hon Margaret NG |
| **Deputy Chairman** | Hon Jasper TSANG Yok-sing, JP |
| **Members** | Hon Albert HO Chun-yan<br>Hon Martin LEE Chu-ming, SC, JP<br>Hon James TO Kun-sun<br>Hon Miriam LAU Kin-yee, JP<br>Hon Ambrose LAU Hon-chuen, GBS, JP<br>Hon Emily LAU Wai-hing, JP<br>Hon Audrey EU Yuet-mee, SC, JP<br><br>(Total : 9 Members) |
| **Clerk** | Mrs Percy MA |
| **Legal Adviser** | Mr Jimmy MA |
| **Date** | 11 October 2001 |

**Appendix II**

## Legislative Council

## Panel on Administration of Justice and Legal Services

## Terms of Reference

1. To monitor and examine, consistent with maintaining the independence of the Judiciary and the rule of law, policy matters relating to the administration of justice and legal services, including the effectiveness of their implementation by relevant officials and departments.

2. To provide a forum for the exchange and dissemination of views on the above policy matters.

3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.

4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.

5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.