

**Panel on Administration of Justice and Legal Services**  
**Meeting on 22 October 2010**  
**2010-11 Policy Initiatives of the Department of Justice**

**Statement by the Secretary for Justice**

Madam Chairperson, Members,

I am grateful for the opportunity to brief members on the policy initiatives of the Department of Justice in the coming year.

2. In presenting our policy initiatives last year, I anticipated a continuing trend of increase in both the volume and complexity of the work to be handled by the Department of Justice. This was indeed our experience in the past year. There has been a growth both in the number of advices we rendered to Government Bureaux and Departments and in the number of litigation and prosecution cases pursued. The legal issues raised in some of the advices and cases are complex, treading into new areas of law. On the law drafting front, apart from the on-going drafting work, we have dedicated efforts to enhancing the accessibility of legislation through improved design and greater clarity, and we have also started to work on the establishment of a new electronic database of Hong Kong legislation. The past year has been full of activity on all fronts and I expect no less in the coming year.

3. The relevant Panel Paper sets out the measures that we would pursue in the coming year. I would first introduce our two new initiatives in the coming year.

4. First, we would seek to enhance legal cooperation with Guangdong pursuant to the Framework Agreement on Hong Kong/ Guangdong. We have in the past years worked to facilitate the legal profession to have easier access to the Mainland services market under CEPA and its seven supplements. In the coming year, we would focus on capitalising the opportunities made available to us under the Framework Agreement. The overall objective of the Framework Agreement is to facilitate trade and investment by promoting greater co-operation between government organs in GD and HK as well as among legal professional bodies

of the two places. Trade and investment invariably bring with them the demand for legal services and support. We will seek to reinforce the existing communication mechanism in legal matters with our counterparts in Guangdong, explore new opportunities for Hong Kong lawyers to have better access to the legal services market in Guangdong and facilitate the notarisation of documents between the two sides.

5. Another new initiative is to introduce a Bill to provide for the establishment of an electronic database of Hong Kong legislation and provide for the publication of laws in a consolidated form with a legal status in both electronic and hard copies. The Legislation Publication Bill has just been introduced into the Legislative Council (on 20 October). We look forward to working closely with members to ensure the enactment of the Bill.

6. I would now highlight some of the on-going initiatives that we will be working on in the coming year.

### **Dispute Resolution**

7. One of our ongoing initiatives is to promote the development of Hong Kong as a regional centre for legal services and dispute resolution. Good progress has been made on the scrutiny of the Arbitration Bill by the Bills Committee. We look forward to the early enactment of the Bill which will provide a new arbitration regime based upon the Model Law of the United Nations Commission on International Trade Law and will make Hong Kong a more attractive place to conduct arbitration.

8. While we are entrenching our position as the arbitration hub in the region, mediation is taking roots in Hong Kong. The Mediation Working Group which I chaired published its recommendations in February this year for public consultation. The recommendations cover the important areas of regulation and accreditation, public education and legislation. We are encouraged by the positive responses. To assist the Department to take forward the recommendations, a Mediation Task Force will be set up. The Task Force will consider and advise on how the recommendations endorsed by the consultation should be implemented, consider and deliberate on the recommendations which have generated disagreement or divergent views during the consultation, and assist in the implementation of the recommendations with or without modification. In the coming year, with the

assistance of the Task Force, I expect that we would –

- work out the details of the proposed mediation legislation taking into account the development of the mediation landscape
- work with stakeholders to keep in view the development of the system of accrediting mediators
- work with relevant parties to explore the opportunities for initiating pilot mediation schemes in different sectors
- work with mediation service providers, professional bodies, community organizations and other stakeholders to take forward the various public education and publicity initiatives recommended by the Working Group

9. I am grateful for the Panel's support for the creation of a directorate post in the Department to assist in this important and meaningful initiative. We intend to provide a full account of the progress of our work to the Panel in mid-2011.

### **Raising Efficiency and Professionalism**

10. Improving our professionalism and the way we conduct our businesses are important elements that enable us to rise up to the workload challenge. Proper recognition also needs to be given to level of responsibilities being carried by colleagues in the Department. Earlier this year, the Prosecutions Division developed and implemented an initiative designed to enhance the Division's ability to provide legal advice. The FAST system has improved the Division's response time in rendering legal advice and enables better use to be made of our staff resources. We will continue to seek opportunities to improve efficiency in the coming year.

11. While we shall continue to strengthen the training and development programmes for members of the Government Counsel grade at different levels, it is undeniable that the nature of the work of members of the Government Counsel grade has been evolving over the years. Their roles and responsibilities have increased in scope and complexity. The number of

requests for legal advice has steadily increased and the timeframe within which advice needs to be given has tightened resulting in a greater burden on individual counsel. As I explained earlier on, the subject matters have become diverse, and it is not uncommon that legal issues which have not previously been visited are raised. As a result of these developments, some of the functions being carried out by Senior Government Counsel (SGC) in the Department have gone beyond the conventional level of complexity and diversity performed at the senior professional level. These functions are more akin to those undertaken by DL1 Directorates in the legal group of departments. We have conducted a review in the Department and come to the conclusion that there is a cogent case for creating an Assistant Principal Government Counsel rank at the DL1 level and to create a number of DL1 posts in the Department, offset by the deletion of a corresponding number of SGC posts. We will be seeking Members' views on our proposals at the Panel meeting in November and I hope members will support our proposal.

### **Meeting community expectations**

12. An area where DoJ interfaces with members of the public is in our prosecution services. In the past few years, we have witnessed a growing interest amongst members of the public in the delivery of justice. At present, victims of crime are treated in accordance with the Victims of Crime Charter which sets out the standard of service they can expect from the law enforcement agencies and other bodies involved in the criminal justice system. If they are unsatisfied and have a complaint about the way they have been treated, the information they have received or decisions which have been made, such as a decision not to prosecute, or a decision not to initiate an appeal against an acquittal or a review of the sentence, they can lodge a complaint with the Department of Justice. The Prosecutions Division is currently reviewing its complaint handling policy so that there will be greater transparency in the way the grievances of the public are addressed. It is envisaged that in future the registration of all complaints will be centralized in the Office of the DPP and each complaint will be investigated by an independent counsel. The section responsible for handling complaints will also gather and analyze any feedback and suggestions received from the public and/or the victims and make appropriate recommendations to the Director of Public Prosecutions with a view to enhancing the delivery of criminal justice.

## **Conclusion**

13. The other on-going initiatives of the Department are set out in the Panel paper. My colleagues and I would be happy to answer members' questions.