

LCQ16: Time taken for judicial processes

Following is a question by the Hon James To and a written reply by the Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, in the Legislative Council today (December 5):

Question:

A well-known legal maxim says that "justice delayed is justice denied". Regarding the time taken for certain judicial processes, will the Government inform this Council:

(1) in respect of the civil cases disposed of by the High Court in each of the past three years, of (i) the number of such cases, (ii) the median time interval between the dates on which the rulings were made and the dates on which the judgments were delivered (time for preparing judgments), and (iii) a breakdown, by the time for preparing judgments (i.e. more than six months, more than 12 months, more than 18 months, more than two years, and more than three years), of the number of cases and their percentages in the total;

(2) in respect of the applications for leave to lodge civil appeals disposed of by the Court of Appeal of the High Court in each of the past three years, of (i) the number of such cases, (ii) the median time interval between the dates on which the applications were filed and the dates on which the results were announced (time for processing applications for leave to appeal), and (iii) a breakdown, by the time for processing applications for leave to appeal (i.e. more than six months, more than 12 months, more than 18 months, more than two years, and more than three years), of the number of cases and their percentages in the total;

(3) in respect of the cases on which the Family Court delivered judgments in each of the past three years, of (i) the number of such cases, (ii) the median time for preparing judgments, and (iii) a breakdown, by the time for preparing judgments (i.e. more than six months, more than 12 months, more than 18 months, more than two years, and more than three years), of the number of cases and their percentages in the total; and

(4) whether it will review if the time taken for the judicial processes mentioned in the aforesaid three items is satisfactory, and explore the measures (e.g. allocating additional resources to the Judiciary and reducing judges' work other than handling cases) to allow more time for judges to concentrate on the preparation of judgments and handling of the aforesaid processes, so that injustice to litigants can be avoided?

Reply:

President,

The Government has consulted the Judiciary on the questions raised by the Hon James To. According to the information provided by the Judiciary, the Government's responses are as follows:

(1) In respect of the civil cases disposed of by the High Court in the past three years, the number of cases are listed below:

| Level of Court | Type of Cases | Number of Cases Disposed of | | |
|---|------------------------------------|-----------------------------|--------|--------|
| | | 2015 | 2016 | 2017 |
| The Court of Appeal of the High Court | Civil Appeals | 277 | 273 | 224 |
| The Court of First Instance of the High Court | Civil Jurisdiction | 16 870 | 16 413 | 14 832 |
| | Tribunal and Miscellaneous Appeals | 105 | 84 | 83 |

As regards the time taken from conclusion of hearing to delivery of judgments in respect of civil cases of the Court of Appeal of the High Court and the Court of First Instance of the High Court, the Judiciary only maintains statistics on the average time taken. These average figures are live data which may vary at different report generation date and time. For cases which hearings were concluded between 2015 and 2017, the latest available figures (Note 1) with the position as at February 28, 2018 are as follows:

| Level of Court | Type of Cases | Average time taken for cases with hearings concluded in the year (days)(Note 2) | | |
|---|------------------------------------|---|------|------|
| | | 2015 | 2016 | 2017 |
| The Court of Appeal of the High Court | Civil Appeals | 49 | 27 | 26 |
| The Court of First Instance of the High Court | Civil Trials/ Substantive Hearings | 99 | 76 | 48 |
| | Tribunal and Miscellaneous Appeals | 51 | 36 | 60 |

(2) (a) Before July 1, 2017, applications for leave to lodge civil appeals in

the Court of Appeal of the High Court were counted together with some other miscellaneous cases under the category of miscellaneous proceedings of the Court of First Instance of the High Court. Between 2015 and 2017, the total number of cases disposed of under the category was 2 478, 2 577 and 2 205 respectively. The Judiciary does not keep separate statistics on the applications for leave disposed of by the Court of Appeal of the High Court.

(b) With effect from July 1, 2017, applications for leave to lodge civil appeals in the Court of Appeal of the High Court have been put, together with some other miscellaneous cases, under a new category of miscellaneous appeal cases of the Court of Appeal of the High Court. In the period from July 1, 2017 to December 31, 2017, a total of 39 cases under the new category were disposed of. The Judiciary does not keep separate statistics on the applications for leave disposed of by the Court of Appeal of the High Court.

(3) In the three years between 2015 and 2017, the number of Family Court judgments delivered and uploaded to the Judiciary website was 172, 170 and 162 respectively. The Judiciary does not keep statistics on the time taken from conclusion of hearing to delivery of judgment in respect of the cases of the Family Court.

(4) (a) As a matter of principle, the Judiciary considers it important that reserved judgments are handed down within a reasonable time. While the Judiciary has not set any target time for delivery of judgments, the Judiciary has been monitoring the position closely and taking all possible measures to deal with the matter, including deploying further additional judicial resources as far as practicable. In January 2016, as an enhanced measure, the former Chief Judge of the High Court asked the Judges of the High Court to provide the parties concerned with an estimated date for handing down the reserved judgment if the relevant Judge considers that this may take longer than usual for such a reserved judgment to be delivered. The Acting Chief District Judge is also monitoring the position with regard to reserved judgments in the Family Court closely and taking all possible measures to deal with the matters.

(b) The Judiciary notes that having regard to the heavy workload and tight manpower situation, in particular, at the Court of First Instance of the High Court, there may be cases in which it takes longer than the normal period of time for reserved judgments to be delivered. The Acting Chief Judge of the High Court is fully aware of the situation, and is monitoring the situation closely and making every effort, e.g. by allowing more time for judges to deal with reserved judgments if needed, with a view to improving the situation, whilst balancing, among other things, the need to maintain a reasonable listing time for the hearing of cases.

(c) Furthermore, the Judiciary has advised that legally qualified assistants have been engaged as Judicial Associates to strengthen the legal and professional support to the High Court Judges for their discharge of judicial duties. Some of these Judicial Associates provide support to High Court Judges in civil cases and legal research work, and also provide assistance in

criminal appeals. Further, the Judicial Institute has been set up in the Judiciary to conduct research and provide relevant training to Judges and Judicial Officers (JJOs) for the enhancement of their judicial skills and knowledge.

(d) On a more general note, the Judiciary has been taking every possible measure to address issues arising from the tight manpower situation. Specifically, there have been recruitment exercises for JJOs of different court levels with a new round of recruitment exercise for Judges of the Court of First Instance of the High Court and District Judges in progress. In addition, having regard to the difficulty in the recruitment of the suitable talents in joining the bench, the terms and conditions of service for JJOs have been enhanced in 2017. A review of the statutory retirement age for JJOs has also been completed and the relevant legislative exercise to give effect to revisions to the statutory retirement ages for JJOs at all levels of courts is also underway.

(e) In addition, the Government has also supported the Judiciary's proposals to create additional judicial posts in the past years to meet its operational needs. In 2018-19, the Judiciary is seeking to create four posts of the Deputy Registrar of the High Court to strengthen the manpower position in the Masters Office of the High Court. The Government looks forward to receiving the support of the Legislative Council regarding these proposals.

(f) Lastly, the Judiciary has also pointed out that since 2017, there has been a sharp increase in torture claim cases filed with the Court of First Instance and the Court of Appeal of the High Court, and it is noted that more of such cases are now being filed with the Court of Final Appeal. The Judiciary is closely monitoring the situation and considering how such upsurge of cases should be handled without seriously affecting the processing of other civil cases. In this regard, the Judiciary would assess whether any additional requirements for judicial and other staffing resources are required, and if so, would put forward such proposals to the Government according to the established mechanism of the budgetary arrangements between the Judiciary and the Government.

Note 1: The latest available report was generated on February 28, 2018 and it would take some time to generate a further report.

Note 2: Since the figures are live data, the figures for a year would normally become stable by end of the subsequent year when judgments for most of the cases concluded in the year are delivered. This is particularly true for cases concluded toward the last quarter of the year.