

LCQ8: Enhancing judicial efficiency

Following is a question by Dr the Hon Junius Ho and a written reply by the Chief Secretary for Administration, Mr Chan Kwok-ki, in the Legislative Council today (November 30):

Question:

Some stakeholders in the legal sector have relayed that 25 years have passed since Hong Kong's return to the motherland, but the reform of the judicial system has still made no headway, and court operations are stuck in a groove with low efficiency. In this connection, will the Government inform this Council:

(1) whether it has formulated a specific timetable for implementing judicial reform; if so, of the details; and

(2) whether it will, by making reference to the practice of Mainland courts, introduce relevant technologies to the Judiciary, so as to enable its courts to conduct more remote hearings and expedite the preparation of transcripts of court proceedings; if so, of the details?

Reply:

President,

Having consulted the Judiciary, my reply to Dr the Hon Junius Ho's question is as follows:

(1) The Judiciary has always attached great importance to implementing judicial reforms with a view to enhancing the efficiency, effectiveness, accountability and transparency of judicial work and court operations. Major measures in recent years include the Civil Justice Reform, the review of family procedural rules, the review of the handling mechanism for complaints against judicial conduct, updating the Guide to Judicial Conduct, enhancing administrative procedures to expedite the processing of cases, and strengthening judicial education. Major details of the aforementioned measures are summarised in the ensuing paragraphs.

(a) Civil Justice Reform

The Civil Justice Reform, which came into effect in 2009, had given the Court more powers to manage the progress of cases, streamline and improve civil procedures, encourage and facilitate settlement between parties, and enable judicial resources to be better distributed and utilised.

(b) Review of family procedural rules

The review seeks to reform the procedural rules of the family justice system with a view to enhancing its efficiency and cost-effectiveness, as well as reducing its adversarial nature.

To implement the reforms, the Judiciary intends to introduce the Family Procedure Bill (FPB) as a new primary legislation to provide a clear legal basis for the making of a set of consolidated and streamlined court rules for family proceedings. The FPB received positive response during public consultation between February and April 2022. The Judiciary briefed the Legislative Council (LegCo) Panel on Administration of Justice and Legal Services in August 2022 and Members expressed their strong support for the FPB. The Judiciary is refining the Bill in light of views received and aims to introduce the FPB to the LegCo in early 2023.

(c) Review of the mechanism for handling complaints against judicial conduct

The Judiciary completed a review and put in place a two-tier structure for handling complaints against judicial conduct commencing August 2021 with a view to enhancing the transparency and accountability of the mechanism. Under the two-tier structure, a Panel of Judges comprising more than one judge at High Court level would investigate pursuable complaints against judicial conduct which are serious or complex, or have aroused wide public attention (Tier One). All cases investigated by the Panel of Judges in Tier One would be reviewed by the Advisory Committee on Complaints against Judicial Conduct (Advisory Committee) (Tier Two). The Advisory Committee, chaired by the Chief Justice of the Court of Final Appeal (CJ), comprises senior judges and members from the community with expertise and experience in judicial/professional/public services. Since August 2021, seven cases attracting massive complaints were put forward for consideration by the Advisory Committee and the decisions of the Chief Justice were made public on the Judiciary's website.

(d) Updating of the Guide to Judicial Conduct

Given the increasingly complex conditions in which judging takes place, and the increased public interest in the work of judges and judicial officers, the CJ set up a Working Party in 2021 to review the Guide to Judicial Conduct. Arising from this review, the 2022 Guide to Judicial Conduct was published in May this year. The Guide had been revised to take into account the impact of information technology developments, particularly the use of social media in the daily life, inclusion of general principles for handling cases involving public controversies, and guidance on behaviour in court and making comments on parties and other persons when performing judicial functions, etc.

(e) Enhancing the administrative procedures to expedite the processing of cases

The Judiciary has been making pro-active and dedicated efforts to enhance the efficiency in processing cases in court through multi-pronged measures which include:

(i) using alternative means of disposal for civil proceedings (including judicial reviews) such as remote hearings and paper disposals where appropriate to provide the court with more flexible means of disposing with court proceedings, particularly during unforeseen circumstances, such as a

prolonged epidemic;

(ii) more pro-active case management (including imposing a tight procedural timetable), providing additional court facilities, and making the best possible use of courtrooms and facilities to increase its functional capacity (such as broadcasting of proceedings in different court premises) to facilitate expeditious handling of cases with priority given to those related to the 2019 anti-extradition amendment bill incidents and national security;

(iii) making greater use of technology to enhance the efficiency of conducting court business, such as implementing an integrated Court Case Management System (iCMS) for handling court-related documents and payments through an electronic mode, expanding of the scope of e-appointment system for registry services, as well as using e-bundles, and digital evidence and exhibits handling system at court hearings; and

(iv) issuing new Practice Directions in May 2022 to give guidance on the timeframes within which judgments in different types of hearings in the High Court, the District Court (DC), the Lands Tribunal and the Family Court are normally expected to be handed down.

(f) Strengthening of judicial education

To help maintain and further develop the professional qualities and efficiency of judges, the Judiciary has been making efforts to strengthen and expand the work of the Hong Kong Judicial Institute (HKJI), in providing continuing judicial education for judges. Workloads permitting, judges will be given more "protected time" to attend judicial seminars and workshops on subjects such as court craft, judicial ethics, judgment writing and sentencing. In 2021, the HKJI has been organising a series of seminars on Chinese Law and legal system, which covers subjects such as the Constitution of the People's Republic of China, Basic Law and National Security Law. Continued efforts will also be made to organise exchange programmes in this regard.

(2) The Judiciary has been making on-going efforts to make use of technology to enhance the efficiency of court operations. In recent years, the Judiciary has launched a number of new initiatives. The major technology initiatives being pursued include the development of the iCMS across various levels of courts by phases to facilitate court users in handling court-related documents and making payments electronically. The iCMS was first rolled out in the DC on May 6, 2022. At present, the iCMS can be used for Personal Injuries Action, Tax Claims and Civil Actions of the DC. The Judiciary is planning to extend the iCMS to the summons cases at the Magistrates' Courts and the Employees' Compensation Cases at the DC in December 2022. Implementation of the iCMS for court users at other levels of courts will progress incrementally from 2024.

Remote hearing is another technology initiative. The Judiciary has been promoting the wider use of remote hearings for civil proceedings since April 2020. Over 1 600 remote hearings (including video-conferencing and phone hearings) have been conducted so far. The Judiciary is working on the draft

Courts (Remote Hearing) Bill to provide Judges and Judicial Officers with the flexibility to order remote hearings as appropriate, having regard to all relevant circumstances, as well as the dual requirements of open justice and fairness. The Bill seeks to remove legal obstacles to the general application of remote hearings to criminal proceedings and provide express provisions setting out how matters should be handled when a hearing is conducted remotely. A three-month public consultation on the draft Bill was launched in June 2022. The Judiciary aims to introduce the Bill to the LegCo next year.

On preparation of transcripts, parties to a court proceeding can apply for transcripts of court hearings and special requests for expedited service can be made in case of urgency. The Judiciary will normally be able to provide transcripts upon request in 24 hours to 45 days depending on the urgency of the request and the duration of the hearings concerned. The Judiciary has been conducting pilot tests on speech recognition software products with a view to making use of this technology in recording court proceedings where appropriate in the longer term, given the need to secure a sufficiently accurate level for the Cantonese language in Hong Kong courts.