

STANDING COMMITTEE ON JUDICIAL SALARIES AND CONDITIONS OF SERVICE

Report on Judicial Remuneration Review 2021

September 2021

司法人員薪俸及服務條件常務委員會
Standing Committee on Judicial Salaries and Conditions of Service

1 September 2021

The Honourable Mrs Carrie Lam Cheng Yuet-ngor, GBM, GBS
The Chief Executive
Hong Kong Special Administrative Region
People's Republic of China

Dear Madam,

On behalf of the Standing Committee on Judicial Salaries and Conditions of Service, I have the honour to submit a report containing our findings and recommendations for the Judicial Remuneration Review 2021, which has been conducted in accordance with the mechanism and methodology for the determination of judicial remuneration approved by the Chief Executive-in-Council in May 2008.

Yours faithfully,



(Wong Yuk-shan)
Chairman
Standing Committee
on Judicial Salaries and Conditions of Service

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Chapter 1

Introduction

1.1 This Report sets out the findings and recommendations of the Standing Committee on Judicial Salaries and Conditions of Service (the Judicial Committee) in the Judicial Remuneration Review (JRR) 2021. The Review was conducted in accordance with the mechanism for the determination of judicial remuneration as approved by the Chief Executive-in-Council in 2008.

The Judicial Committee

1.2 The Judicial Committee is an independent advisory body appointed by the Chief Executive to advise and make recommendations on matters concerning the salary and conditions of service of Judges and Judicial Officers (JJOs)¹. It was first established in December 1987 in recognition of the independent status of the Judiciary and the need for the pay and conditions of service of JJOs to be dealt with separately from those of the civil service.

1.3 In May 2008, the Chief Executive-in-Council accepted all the major recommendations of the Judicial Committee's Report on the Study on the Appropriate Institutional Structure, Mechanism and Methodology for the Determination of Judicial Remuneration in Hong

¹ Judges refer to officers in the grades of Chief Justice, Court of Final Appeal (CFA); Judge, CFA; Judge of the High Court; and Judge of the District Court (District Judge). Judicial Officers refer to officers in the grades of Registrar, High Court; Registrar, District Court; Member, Lands Tribunal; Magistrate; Presiding Officer, Labour Tribunal; Adjudicator, Small Claims Tribunal; Coroner; and Special Magistrate.

Kong in 2005² (the 2005 Report). With the approval of the Chief Executive, the Judicial Committee's terms of reference and membership were expanded. Its current terms of reference and membership are at **Appendix A** and **Appendix B** respectively.

Judicial Independence

1.4 The Judicial Committee continues to premise its deliberations on the need to uphold the principle of judicial independence. In discharging its functions, the Judicial Committee is guided by the principle that judicial remuneration should be sufficient to attract and retain talent in the Judiciary, in order to maintain an independent and effective judicial system which upholds the rule of law and commands confidence within and outside Hong Kong. The need to maintain an independent Judiciary of the highest integrity is of utmost importance.

Judicial Remuneration

1.5 In recognition of the independence and uniqueness of the Judiciary, JJOs are remunerated according to an independent salary scale known as the Judicial Service Pay Scale (JSPS) (**Appendix C**). Judicial salaries are subject to regular reviews that are distinct from that carried out in respect of the civil service, with the Judicial Committee tendering advice to the Chief Executive on matters concerning judicial remuneration.

² The 2005 Report can be found on the website http://www.jsscs.gov.hk/en/publications/reports_jscs.htm.

Judicial Remuneration Review 2021

1.6 This year, the Judicial Committee completed a benchmark study which is conducted once every five years in addition to the annual review on judicial remuneration. The Judicial Committee has invited the Judiciary and the Government to provide relevant data, information and views pertaining to the basket of factors³, as well as views and observations in relation to the benchmark study. The Judicial Committee then exercised its best judgment in analysing and balancing all relevant considerations in formulating its recommendation. Having considered all relevant factors, the Judicial Committee **recommends** that judicial salaries be frozen in 2021-22.

³ The basket of factors that the Judicial Committee takes into account in reviewing judicial remuneration are set out in paragraphs 2.5 and 2.6.

Chapter 2

Mechanism for Judicial Remuneration Review

Mechanism

2.1 The mechanism for JRR, as approved by the Chief Executive-in-Council in May 2008, comprises two components: a regular benchmark study and an annual salary review.

Benchmark Study

2.2 In its 2005 Report, the Judicial Committee took the view that a benchmark study on the levels of earnings of legal practitioners should be conducted on a regular basis in order to ascertain their earnings levels, monitor such trends and review judicial salaries where appropriate. The Judicial Committee also recommended that the information or data collected in the benchmark study should be analysed and compared with judicial remuneration in Hong Kong, with a view to checking whether judicial pay was kept broadly in line with the movements of legal sector earnings over time. The data collected should not be translated into precise figures for determining the levels of judicial salaries. Rather, the pay relativities between selected judicial positions and the corresponding legal sector positions should be systematically recorded to show whether the pay relativities were widening or narrowing over time. The data would facilitate the Judicial Committee in monitoring the private sector pay trends and considering whether and how adjustments to judicial pay should be made⁴.

⁴ For details, please see paragraph 3.26 of the 2005 Report.

2.3 The Judicial Committee further decided in 2009 that a benchmark study should in principle be conducted once every five years, with its frequency subject to review. Since then⁵, the Judicial Committee has completed two benchmark studies (in 2010 and 2015), and has recently completed another in 2020, i.e. the 2020 Benchmark Study on the Earnings of Legal Practitioners in Hong Kong (2020 Benchmark Study). The details of the 2020 Benchmark Study are set out in Chapter 4.

Annual Review

2.4 The Judicial Committee has agreed that an annual review on judicial remuneration should be conducted, including in the year in which a benchmark study is carried out. During the year in which a benchmark study is carried out, the Judicial Committee will take a holistic view on the basket of factors, in conjunction with the findings of the benchmark study. The Judicial Committee will then consider whether and, if so, how judicial pay should be adjusted in the context of the annual review.

Balanced Approach

2.5 Consistent with its recommendations in the 2005 Report as approved by the Chief Executive-in-Council, the Judicial Committee adopts a balanced approach in reviewing judicial remuneration by taking into account a basket of factors. The basket of factors includes the following –

- (a) the responsibility, working conditions and workload of judges vis-à-vis those of lawyers in private practice;
- (b) recruitment and retention in the Judiciary;
- (c) the retirement age and retirement benefits of JJOs;
- (d) the benefits and allowances enjoyed by JJOs;

⁵ A pilot study was conducted by the Judicial Committee in 2005 to ascertain the feasibility of such benchmark studies.

- (e) prohibition against return to private practice in Hong Kong;
- (f) public sector pay as a reference;
- (g) private sector pay levels and trends;
- (h) cost of living adjustments; and
- (i) the general economic situation in Hong Kong.

2.6 In addition to the above, the Judicial Committee has agreed to take into account the following factors which are suggested by the Government –

- (a) overseas remuneration arrangements;
- (b) unique features of judicial service – such as the security of tenure, the prestigious status and high esteem of judicial offices; and
- (c) the budgetary situation of the Government – which is a relevant factor for consideration in adjusting civil service pay.

Chapter 3

Annual Review

Annual Review

3.1 This is the thirteenth year for the Judicial Committee to conduct the annual review of judicial salary in accordance with the mechanism for JRR as set out in Chapter 2. In conducting the Review, instead of applying a mechanical formula, the Judicial Committee continues to adopt a balanced approach taking into account the basket of factors and the views of the Judiciary.

Responsibility and Working Conditions

3.2 On the basis of the latest information provided by the Judiciary, the Judicial Committee has not observed any major change in the responsibility and working conditions of JJOs. Members of the Judiciary continue to discharge their functions in maintaining an independent and effective judicial system to uphold the rule of law and safeguard the rights and freedoms of the individual. The levels of court and the respective judicial ranks have remained the same as before, and are set out in **Appendix D**.

Workload and Complexity of Judicial Work

3.3 As regards workload, owing to the Judiciary's adjustments to court business and social distancing measures in response to the COVID-19 epidemic, the number of cases filed in 2020 at various levels of court has fallen by varying magnitudes, mostly by less than 20% with a few types of proceedings by about 25%, when compared with 2019. The caseloads in different levels of court between 2018 and 2020 are shown in **Appendix E**.

3.4 The Judicial Committee notes that the Judiciary has been faced with the influx and upsurge of caseloads relating to non-refoulement claims since 2017. In 2020, there was a sharp increase in the number of related applications for leave to appeal filed with the CFA and civil appeals filed with the Court of Appeal of the High Court. There was also a significant increase in the number of related applications for leave to apply for judicial review filed with the Court of First Instance (CFI) of the High Court. The Judiciary states that the rapid and substantial upsurge in cases relating to the social events in 2019 has posed mounting challenges to it in terms of manpower resources and court facilities.

3.5 The Judiciary has pointed out that the caseload figures do not reflect fully the workload of JJOs (even after discounting the drop in caseload arising from the epidemic) and must not be looked at exclusively. They do not, for instance, reflect the complexity of the cases, which directly affects the amount of time and efforts required of JJOs to deal with the cases. It is also very difficult to devise quantifiable indicators in a meaningful way to reflect the increasing workload and heavier responsibilities of JJOs. All the above are generally true for all levels of court but the pressure is particularly felt at the levels of the High Court and the District Court⁶.

⁶ As advised by the Judiciary, for the High Court, there have been many complex trials involving complicated commercial crime, long and complicated criminal trials and important public law cases. A sharp increase in non-refoulement claim cases also has a significant impact on the already heavy workload. As for the District Court, there has been a substantial increase in the civil caseload following the jurisdictional rise from \$1 million to \$3 million with effect from December 2018. Moreover, the rapid and substantial upsurge in social event cases has also brought unprecedented challenges to the District Court.

3.6 Increased complexity in cases not only means longer hearing times but considerably more time is required for JJOs to conduct pre-hearing preparation and to write judgments. There are now many more lengthy trials, particularly for criminal cases. The high ratio of unrepresented litigants in civil cases also creates great challenges, where there are unrepresented litigants, JJOs are not professionally assisted in dealing with complex legal issues. Hearings (and their preparation) take a longer time as a result.

3.7 The Judicial Committee has all along recognised that caseload figures alone do not fully reflect the workload of JJOs, and the complexity of cases is also an important element. The Judicial Committee maintains its view that the nature of judicial work is unique. The responsibility and working conditions of JJOs are different from those of legal practitioners, rendering any direct comparison between the two difficult. The Judicial Committee takes note that the Judiciary has been taking measures to address issues arising from the tight manpower situation and will continue to monitor any changes in workload and keep in view its manpower position to ensure provision of quality services to court users and members of the public.

Recruitment and Retention

3.8 As at 31 March 2021, against the total establishment of 222 judicial posts, 162 were substantively filled. This represents a net increase of six in the strength of JJOs as compared with the position as at 31 March 2020. The change in establishment arises from the creation of new posts, and the change in strength is the result of successful judicial appointments, offset by retirement. The establishment and strength of JJOs as at 31 March 2021 are set out in **Table 1** below –

Table 1: Establishment and strength of JJOs

Level of court	As at 31.3.2021*		Net change in strength over 31.3.2020
	Establishment	Strength	
CFA ⁷	4 (4)	3 (4)	-1
High Court ⁸	64 (63)	41 (44)	-3
District Court ⁹	53 (50)	45 (45)	0
Magistrates' Courts and Specialised Tribunals/Court ⁹	101 (101)	73 (63)	+10
Total	222 (218)	162 (156)	+6

* Figures in brackets denote position as at 31.3.2020.

3.9 On recruitment of JJOs, the Judiciary has advised that a total of 15 open recruitment exercises for filling judicial vacancies at various levels of court were conducted from 2011 to 2020. Up to 31 March 2021, a total of 129 judicial appointments were made as a result of these open recruitment exercises, and of the appointments, ten Permanent Magistrates were appointed in 2020-21.

3.10 The Judicial Committee notes that at the CFI level, the Judiciary has completed five open recruitment exercises since 2012. A total of 26 CFI Judges have been appointed as a result. A new round of recruitment exercise was launched in November 2020 and is presently in progress.

3.11 The Judicial Committee is fully aware of the persistent recruitment difficulties at the CFI level, and has recommended a spectrum of measures to address such difficulties. In the context of JRR 2016, the Judicial Committee examined the findings of the 2015 Benchmark Study on the Earnings of Legal Practitioners in Hong Kong (2015 Benchmark Study) and noted a clear trend of a widening

⁷ The figures exclude one Permanent Judge post created for Non-Permanent Judge (NPJ) of the CFA. In practice, an NPJ is invited to sit in the CFA as required in accordance with the Hong Kong Court of Final Appeal Ordinance (Cap. 484).

⁸ For Senior Deputy Registrar and Deputy Registrar vacancies in the Masters' Office of the High Court, the functions are now mostly carried out by District Judges who are appointed as temporary Deputy Registrars under the cross-posting policy.

⁹ For judicial offices in the Masters' Office of the District Court and at the Labour Tribunal, Small Claims Tribunal and Coroner's Court, the functions are now mostly carried out by Principal Magistrates or Magistrates under the cross-posting policy. The cross-posting policy provides greater flexibility in the posting of judicial officers between various courts to meet operational needs.

differential between judicial pay and earnings of legal practitioners. In particular, for CFI Judges, the findings clearly indicated that judicial pay had been consistently lower than legal sector earnings over the years, and the pay lag had further widened since 2010. Taking into account the then persistent recruitment difficulties and the widening pay differential, the Judicial Committee had recommended an upward pay adjustment of 6% for Judges at the CFI level and above following the 2015 Benchmark Study¹⁰. In addition, in 2016, the Judicial Committee considered and supported a package of proposals to enhance certain aspects of the conditions of service for JJOs¹¹ which, it was hoped, could assist in addressing the difficulties. The pay adjustment and enhancement proposals were subsequently implemented in September 2016 and April 2017 respectively. This year, from the findings of the 2020 Benchmark Study (as elaborated in Chapter 4), the Judicial Committee observes that while judicial pay for CFI Judge is still lower than its corresponding legal sector earnings, the pay gap has narrowed.

3.12 For District Judges, the Judicial Committee notes that three rounds of open recruitment exercises have been launched since 2011 and were all completed. A total of 36 judicial appointments were made as a result. A new round of recruitment exercise was launched in March 2021 and is now in progress. For Permanent Magistrates, four rounds of open recruitment exercises have been completed since 2011. A total of 55 Permanent Magistrates have been appointed as a result, including ten in 2020-21. A new round of recruitment exercise will be launched later this year.

3.13 Furthermore, following the enactment of the Judicial Officers (Extension of Retirement Age) (Amendment) Ordinance (Amendment Ordinance) on 6 December 2019, the new retirement age arrangements for JJOs came into effect on the same date. The changes introduced in relation to the extension of the retirement ages for JJOs are essentially as follows –

¹⁰ An upward pay adjustment of 4% for JJOs below the CFI level was also recommended following the 2015 Benchmark Study.

¹¹ They include housing benefits, medical and dental benefits, Local Education Allowance, Judicial Dress Allowance and transport services for leave travel.

- (a) for Judges at the CFI level and above, the relevant retirement age has been extended from 65 to 70¹²;
- (b) for District Judges, notwithstanding the relevant retirement age being maintained at 65, there would be allowance for discretionary extension of term of office beyond this age¹³; and
- (c) for Members of the Lands Tribunal, Magistrates and other Judicial Officers at the magisterial level, the relevant retirement age has been extended from 60 to 65¹².

The Judiciary believes that extending the retirement ages of JJOs would have a positive impact on attracting quality candidates who are in private practice to join the bench at a later stage of their career life, in particular at the CFI level, and also on retaining experienced judicial manpower where appropriate.

3.14 The Judicial Committee will continue to keep in view the recruitment situation of JJOs, especially whether the measures mentioned in paragraphs 3.11 and 3.13 could help the Judiciary in recruiting and retaining talents.

3.15 Meanwhile, the Judiciary has continued to engage temporary judicial resources where appropriate to help relieve workload, including appointing internal/external deputies and appointing temporary or acting JJOs. The number of external deputy JJOs serving at a particular point in time is, by its nature, a snapshot only, reflecting the particular situation subsisting at that time. With this caveat, the Judicial Committee notes that the number of external deputy JJOs has decreased from a total of 41 as at 31 March 2020 to 35 as at 31 March 2021.

¹² Before the enactment of the Amendment Ordinance, the term of office for CFA Judges may be extended by no more than two periods of three years; and for other JJOs, a period of not exceeding five years in aggregate.

¹³ After the enactment of the Amendment Ordinance, the discretionary extension of term of office has been extended to District Judges with an extension period of not exceeding five years in aggregate.

Retirement

3.16 As mentioned in paragraph 3.13, following the enactment of the Amendment Ordinance which came into effect on 6 December 2019, the new statutory normal retirement ages for JJOs now stand at 65 or 70, depending on the level of court. Beyond that, extension of service may be approved up to the age of 70, 75 or 76, depending on the level of court and subject to consideration on a case by case basis. For retirement benefits, JJOs are either entitled to pension governed by the Pension Benefits (Judicial Officers) Ordinance (Cap. 401), or provident fund governed by the Mandatory Provident Fund Schemes Ordinance (Cap. 485) according to their terms of appointment.

3.17 Retirement is the main source of wastage among JJOs. The anticipated retirement in 2021-22 will be 9 (or 5.6% of current strength), rising to 11 (or 6.8% of the current strength) in 2022-23 and then to 12 (or 7.4% of the current strength) in 2023-24.

3.18 The Judicial Committee notes that under the Amendment Ordinance, certain serving JJOs may opt to transfer to the new retirement age arrangements within an option period of two years from 6 December 2019 to 5 December 2021, or before their reaching the original normal retirement age/expiry of extended term of office, whichever is the earliest.

3.19 The Judicial Committee trusts that the Judiciary will keep in view the implementation of the new retirement age arrangements as well as other challenges to the judicial manpower that may be posed by the retirement situation, and that it will continue to attract new blood and to groom and retain existing talents.

Benefits and Allowances

3.20 JJOs are entitled to a range of benefits and allowances in addition to salary. The package of benefits and allowances is an integral part of judicial remuneration, important as it is, that has helped attract capable legal practitioners to join the bench.

3.21 Further to the implementation of enhancements to five areas of the conditions of service for JJOs (i.e. housing benefits, medical and dental benefits, Local Education Allowance, Judicial Dress Allowance and transport services for leave travel) with effect from 1 April 2017, the Judicial Committee notes the following recent changes to the rates of a number of fringe benefits and allowances for JJOs –

- (a) The rates of Judiciary Quarters Allowance, Non-accountable Cash Allowance¹⁴ and the ceiling rates of Medical Insurance Allowance¹⁵, Local Education Allowance¹⁶ and Judicial Dress Allowance¹⁷ were revised in accordance with the established adjustment mechanisms;
- (b) The rates of Leave Passage Allowance¹⁸ and Home Financing Allowance¹⁴ were revised following similar revisions in the civil service; and
- (c) The rates of two Extraneous Duties Allowances (Responsibility) (EDA(R)) for Justices of Appeal of

¹⁴ Judiciary Quarters Allowance, Non-accountable Cash Allowance and Home Financing Allowance are various types of housing allowance offered to eligible JJOs.

¹⁵ Medical Insurance Allowance is an allowance to reimburse eligible JJOs and their eligible dependants the premium of their medical insurance plans.

¹⁶ Local Education Allowance is an allowance to reimburse eligible JJOs the cost of education of their dependent children (up to four at any one time and at ages below 19) who are receiving full-time primary/secondary education in Hong Kong.

¹⁷ JJOs of the High Court and the District Court may, on first appointment, be reimbursed with the cost of purchasing their required judicial attire on a “once-and-for-all” basis.

¹⁸ Leave Passage Allowance is an allowance to reimburse eligible JJOs (and their eligible family members, where applicable) their travel-related expenses, e.g. air fares and accommodation.

the CA of the High Court (JAs)¹⁹ remained unchanged in 2020-21 in tandem with the pay freeze of judicial salaries in 2020-21.

3.22 The Judicial Committee stands ready to review the package of benefits and allowances if invited to do so by the Government.

Unique Features of the Judicial Service

3.23 The Judiciary is unique in many aspects. A prominent feature is the prohibition against return to private practice. Judges at the District Court and High Court levels must give an undertaking not to practise in future as barristers or solicitors in Hong Kong unless the Chief Executive permits. The Chief Justice and Judges (including permanent and non-permanent judges) of the CFA are prohibited by statute²⁰ from practising as barristers or solicitors in Hong Kong either while holding office or at any time after ceasing for any reason to hold office. On the other hand, judges enjoy security of tenure²¹ and high esteem, which may be seen as attractions for legal practitioners joining the bench. The Judicial Committee notes that these are established arrangements which continue to apply during the annual review in 2021.

Overseas Remuneration Arrangements

3.24 The Judicial Committee notes that the systems of judicial remuneration in six overseas common law jurisdictions, namely, Australia, Canada, New Zealand, Singapore, the United Kingdom and the United States, did not undergo any significant changes in 2020-21. The jurisdictions took different, but generally prudent, actions in their

¹⁹ Both EDA(R)s are payable in recognition of the higher responsibilities taken up by JAs. One is for JAs sitting as NPs of the CFA, while the other is for JAs appointed as Vice Presidents of the Court of Appeal of the High Court.

²⁰ Section 13 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484).

²¹ Any removal from office is subject to detailed statutory procedures, and the removal of the most senior judges (i.e. the Chief Justice, Judges of the CFA and the Chief Judge of the High Court) has to be endorsed by the LegCo and reported to the Standing Committee of the National People's Congress for the record.

latest annual salary reviews for judges, with the annual adjustment rates more or less similar to the previous year. A key consideration behind their respective actions appeared to be the prevailing states of the economy of the respective jurisdictions.

General Economic Situation and Cost of Living Adjustments in Hong Kong

3.25 The Government has provided detailed information on Hong Kong's economic and fiscal indicators for the Judicial Committee's reference. The Gross Domestic Product (GDP) resumed an appreciable year-on-year growth of 7.9% in real terms in the first quarter of 2021 after six consecutive quarters of contraction, led by a very strong growth of exports of goods. However, the recovery was uneven across sectors and overall economic activities remained below the pre-recession level, as some consumer-facing and tourism-related activities had been particularly hard hit by the COVID-19 epidemic and the resultant social distancing measures. Looking ahead, the global economic recovery should bode well for Hong Kong's external trade in the near term, though cross-boundary travel and tourism will likely take time to recover. The improved local business sentiment, coupled with the support from various government relief measures, should help domestic demand to improve in the period ahead. Considering that the economic recovery is uneven and the epidemic still poses uncertainties, the Hong Kong economy is projected to grow by 3.5% to 5.5% for 2021 as a whole, after registering a record annual decline of 6.1% in 2020. The year-on-year changes in GDP in real terms are shown in **Table 2** below –

Table 2: Changes in GDP in real terms

Year	Quarter (Q)	GDP year-on-year % change
2020	Q1	-9.1%
	Q2	-9.0%
	Q3	-3.6%
	Q4	-2.8%
2021	Q1	7.9%

(Source: Figures published by the Census and Statistics Department on 14 May 2021)

3.26 The labour market was under pressure in the first quarter of 2021, but the situation has improved recently amid the economic recovery and receding local epidemic. The seasonally adjusted unemployment rate went up from 6.6% in the fourth quarter of 2020 to a 17-year high of 7.2% in the three-month period ending February 2021, before declining to 6.8% in the first quarter of 2021. The figure in March – May 2021 further declined to 6.0%²². Looking ahead, the pressure on the labour market should ease further as the economy continues to recover, especially if the local epidemic remains well contained. Yet, as the pace of economic recovery is uneven across sectors, the unemployment rates in some sectors may take a longer time to return to the pre-epidemic levels.

3.27 On changes in the cost of living, headline consumer price inflation, as measured by the year-on-year rate of change of the Composite Consumer Price Index (CCPI)²³, went up to 1.2% in the first quarter of 2021, from -0.6% in the fourth quarter of 2020. For the 12-month period ending March 2021, headline consumer price inflation averaged 0.1%²⁴. Looking ahead, while local inflation may go up slightly alongside the economic recovery, overall price pressures should stay mild for the year as a whole, as the local economy is still operating below its capacity and global inflation remains largely contained. Taking the latest developments into account, the forecast headline inflation for 2021 as a whole is 1.6%²⁵.

²² The seasonally adjusted unemployment rate in March – May 2020 was 5.9%.

²³ CCPI reflects the impact of consumer price change on the household sector as a whole.

²⁴ The headline consumer price inflation includes the effect of the Government's relevant one-off relief measures while the underlying consumer price inflation excludes the effect of these measures. The underlying consumer price inflation for the 12-month period ending March 2021 averaged 0.6%.

²⁵ The forecast underlying inflation for 2021 is 1.0%.

Budgetary Situation of the Government

3.28 According to the information provided by the Government, the consolidated deficit for 2020-21 is \$232.5 billion and the fiscal reserves stood at \$927.8 billion as at end-March 2021. For 2021-22, a deficit of \$141.6 billion and a surplus of \$4.9 billion are estimated for the Operating Account and Capital Account respectively. After the net proceeds from the issuance of bonds and notes of \$35.1 billion are taken into account, there is an estimated deficit of \$101.6 billion in the Consolidated Account, equivalent to 3.6% of the GDP.

3.29 The annual staff cost of the Judiciary in 2021-22 is estimated at about \$1.59 billion, which is roughly 0.26% of the Government's total operating expenditure of about \$611.9 billion in the 2021-22 Estimates.

Private Sector Pay Levels and Trends

3.30 As set out in paragraphs 1.6 and 2.3 above, the Judicial Committee has recently completed the five-yearly 2020 Benchmark Study to track the movements of legal sector earnings in Hong Kong. The details of the 2020 Benchmark Study are set out in Chapter 4.

3.31 Meanwhile, the Judicial Committee notes that there was no comprehensive or representative pay trend survey on the legal sector, although there were small surveys conducted by individual recruitment agencies with limited coverage, which were of little relevance to the Judiciary. Moreover, it would be difficult to make any direct comparison between judicial pay and legal sector pay having regard to the uniqueness of judicial work. Such being the case, the Judicial Committee continues the arrangement for making reference to, among other factors in the basket, the gross Pay Trend Indicators (PTIs) from

the annual Pay Trend Survey (PTS)²⁶ conducted by the Pay Survey and Research Unit and commissioned by the Pay Trend Survey Committee, which reflected the overall private sector pay trend, and captured, among others, the general market changes, cost of living, merit and in-scale increment in the private sector. As the gross PTIs already included merit and in-scale increment in the private sector, it is appropriate to deduct the cost of increments for JJOs from the relevant gross PTI to arrive at a private sector pay trend suitable for reference in the context of the JRR.

Cost of Increments for JJOs

3.32 JJOs are remunerated on the JSPS as set out in **Appendix C**. Save for the Special Magistrate and Permanent Magistrate ranks, which are on a pay scale of JSPS 1-6 and JSPS 7-10 respectively, pay progression at the other (and majority) levels of JJOs is limited. Only a small number of incremental points are granted to JJOs at JSPS 10-14 upon satisfactory completion of two and then another three years of service for the first and second increments respectively²⁷. JJOs remunerated at JSPS 15 and above have no increment. The consolidated cost of increments (CCOI) as a percentage of total payroll cost for all JJOs is therefore much smaller than that for the civil service. The figures in the past five years, compiled based on information supplied by the Judiciary, are set out in **Table 3** below –

²⁶ The annual PTS measures the year-on-year average pay movements of full-time employees in the private sector over a 12-month period from 2 April of the previous year to 1 April of the current year. The PTIs derived from the PTS are divided into three salary bands, reflecting the average pay movements of private sector employees in three salary ranges, i.e. –

- (i) lower salary band covering employees in the salary range below \$24,070 per month;
- (ii) middle salary band covering employees in the salary range of \$24,070 to \$73,775 per month; and
- (iii) upper salary band covering employees in the salary range of \$73,776 to \$147,235 per month.

Since 2009, the Judicial Committee had agreed that in the absence of a comprehensive or representative pay trend survey for the legal sector, reference should be made to the PTIs from the annual PTS reflecting overall private sector pay trend. The PTI for the upper salary band in the PTS is considered a suitable reference for comparison with judicial salaries, which start at JSPS 1, currently at \$93,525.

²⁷ Pay points on JSPS 10-14 each has two increments. An officer remunerated on this segment of the JSPS may proceed to the first increment after satisfactory completion of two years of service in the rank, and to the second increment after satisfactory completion of another three years of service in the rank.

Table 3: CCOI for JJOs (2016-17 to 2020-21)

Year	CCOI for JJOs
2016-17	0.08%
2017-18	0.56%
2018-19	0.16%
2019-20	0.15%
2020-21	0.29%

3.33 Since 2011, the Judicial Committee has considered that adopting a CCOI for all JJOs (as opposed to having separate costs of increments for JJOs remunerated on incremental scales/spot rates) would avoid over-complicating the system. Moreover, it would help maintain the established internal relativities of judicial pay among various ranks. The Judiciary has also agreed to this arrangement.

Private Sector Pay Trend for Judicial Remuneration Review Purpose

3.34 According to the findings of the 2021 PTS, the gross PTI for the upper salary band was -1.00% for the 12-month period from 2 April 2020 to 1 April 2021.

3.35 In JRR 2019 exercise, the Judicial Committee agreed with the Judiciary’s proposal that the approach of the refined methodology as approved by the Chief Executive-in-Council in June 2019 for calculating the payroll costs of increments (PCIs) for the civil service²⁸ be adopted for deriving the net PTI for judicial service from 2019-20 onwards. In accordance with this approach, the average CCOI for all JJOs from 2009-10²⁹ to 2019-20 (0.29%) or the actual CCOI for all JJOs for the year (also 0.29% for 2021-22)³⁰, whichever is the lower, should be adopted for deriving the net PTI for judicial service for 2021-22. As

²⁸ In considering the 2019-20 civil service pay adjustment in June 2019, the Chief Executive-in-Council also decided to put a cap on the PCIs to be deducted from the gross PTIs. Specifically, from the 2019-20 civil service pay adjustment onwards, the average PCI from 1989-90 (i.e. the year when the PCIs deduction arrangement was first introduced) to 2019-20 for each salary band of the civil service, or the actual PCI for the particular salary band of the civil service for the year, whichever is the lower, will be adopted for deriving the net PTI for that salary band of the civil service (“the refined methodology”).

²⁹ It is the year when the pay adjustment for JJOs was first determined under the new mechanism separate from that of the civil service.

³⁰ For the purpose of JRR 2021, the CCOI for JJOs for the year refers to the actual CCOI incurred in 2020-21 which is 0.29% as mentioned in paragraph 3.32.

the average CCOI from 2009-10 to 2019-20 and the actual CCOI for the year happen to be the same (i.e. 0.29%), the actual CCOI for the year is adopted in calculating the private sector pay trend for JRR purposes in 2021 (or the net PTI for judicial service for 2021-22) which is -1.29% (calculated by deducting the actual CCOI for the year (0.29%) from the gross PTI for the upper salary band (-1.00%)).

3.36 The Judicial Committee has also made reference to other private sector pay indicators. In 2020, wages and earnings showed mild year-on-year increases, and the magnitudes reduced when compared with the previous year.

Public Sector Pay as a Reference

3.37 Historically, there was an informal linkage between judicial salaries and senior civil service salaries before the implementation of the present mechanism for determining judicial remuneration. As concluded in the 2005 Report, while some reference to public sector pay was considered beneficial, mechanical pegging was not appropriate. De-linking judicial remuneration from that of the civil service would not only strengthen the perception of judicial independence, but would also provide the necessary safeguard and reassurance to JJOs. The conclusion has also taken into account certain aspects that render it inappropriate for a direct comparison between the Judiciary and the civil service, e.g. judges do not have the consultative process on annual pay adjustment which the Government has established with the civil service unions and staff associations³¹. Public sector pay is but one of the factors under the balanced approach for determining judicial remuneration.

3.38 Under the improved civil service pay adjustment mechanism endorsed in 2007, civil service pay is compared with the prevailing market situation through three different surveys, namely (a) a PTS conducted every year to ascertain the year-on-year pay movements

³¹ For details, please see paragraph 3.14 of the 2005 Report.

in the private sector; (b) a Pay Level Survey (PLS) conducted every six years to ascertain whether civil service pay is broadly comparable with private sector pay; and (c) a Starting Salaries Survey (SSS) which will be conducted as and when necessary in future in response to specific circumstances³². As the SSS focuses only on the starting salaries of civil service jobs at the entry level, only (a) and (b) may be relevant in the consideration of judicial remuneration.

Annual Civil Service Pay Adjustment

3.39 On the annual civil service pay adjustment in 2021-22, the Judicial Committee notes the decision of the Chief Executive-in-Council in respect of the annual civil service pay adjustment which was made in June 2021 that the pay for civil servants in all salary bands including the upper salary band and above should be frozen with effect from 1 April 2021.

3.40 The Judicial Committee notes that as set out in paragraphs 3.25 to 3.27, there are both unfavourable and encouraging factors at the same time as far as the state of the economy is concerned. While the unemployment rate still stands at a high level, the state of the economy has shown a clear trend of recovery. Although the COVID-19 epidemic in the past year has had a great impact on various industries in Hong Kong, labour market conditions will likely improve in the period ahead as the economy continues to recover, particularly so if the epidemic remains well contained. Local inflation may go up slightly alongside the recovering economy. At the same time, the efforts and contributions of civil servants at all ranks in fighting the epidemic in the past year are worthy of recognition. After balancing all relevant factors under the established annual civil service pay adjustment mechanism³³,

³² Previously, SSS was conducted once every three years. In December 2018, the Standing Commission on Civil Service Salaries and Conditions of Service (Standing Commission) completed a review on the PLS and SSS and recommended, among other things, that in future, SSS should be conducted as and when necessary in response to specific circumstances. On 9 April 2019, the Chief Executive-in-Council decided that the recommendations of the Standing Commission as contained in its Report No. 59, including those ones relating to the future conduct of SSS, should be accepted in full.

³³ The factors are the net PTIs, the state of Hong Kong's economy, the Government's fiscal position, changes in the cost of living, the pay claims of the staff side and civil service morale.

the Chief Executive-in-Council made the decision to freeze civil service pay for 2021-22.

Pay Level Survey

3.41 The Judicial Committee notes that a PLS is meant to be conducted at six-yearly intervals for civil servants to assess whether civil service pay level is broadly comparable with that of the private sector at a particular reference point in time. The last PLS was conducted in 2013. The Judicial Committee notes that the Standing Commission has accepted the Government's invitation to conduct the next PLS and is now proceeding with the preparatory work. Since JJOs and civil servants are subject to different and separate mechanisms for pay adjustment since 2008, the Judicial Committee considers it appropriate to examine the levels of judicial pay vis-à-vis the levels of earnings in the private sector in the context of a benchmark study (instead of the PLS) in accordance with the existing mechanism for the determination of judicial remuneration. As mentioned in paragraphs 1.6 and 2.3, the Judicial Committee has recently completed the 2020 Benchmark Study, details of which are set out in Chapter 4.

The Judiciary's Position

3.42 The Judiciary indicates that it has no objection to freezing judicial salaries for 2021-22 despite the negative net PTI for judicial service at -1.29%, in the light of the Government's decision to freeze the civil service pay in 2021-22 despite the negative net PTIs for the civil service.

3.43 The Judiciary points out that despite the positive net PTI for judicial service at 2.57% in JRR 2020 exercise last year, the Judiciary expressed no objection to freezing judicial salaries for 2020-21, so as to demonstrate to the community that the Judiciary understood and was prepared to share the impact of the adverse economic situation. The Judiciary considers that any percentages of adjustment accumulated since 2020-21 in terms of the net PTI for judicial service that had not

been applied to the judicial service should be taken into account in subsequent judicial pay adjustment exercises³⁴. The Judiciary also reiterates that as a matter of principle, there should be no reduction in judicial pay even if the pay is reduced for the civil service for any reasons.

³⁴ For details, please see paragraph 3.44 of the Report on JRR 2020 on the website http://www.jsscs.gov.hk/en/publications/reports_jscs.htm.

Chapter 4

2020 Benchmark Study on the Earnings of Legal Practitioners in Hong Kong

Background

4.1 As set out in Chapter 2, a benchmark study on the levels of earnings of legal practitioners is conducted once every five years, in order to ascertain their earnings levels, monitor such trends and review judicial salaries where appropriate. Following the completion of the 2010 and 2015 Benchmark Studies, the Judicial Committee has resolved that another benchmark study should be conducted in 2020, and the findings of the study be made available for consideration alongside the basket of factors in the context of the present JRR.

Conduct of the 2020 Benchmark Study

4.2 The Judicial Committee commissioned Towers Watson Hong Kong Limited (the Consultant) in November 2020 to provide professional advice on the survey methodology and to conduct the fieldwork for the 2020 Benchmark Study³⁵. The Judicial Committee accepted the Consultant's recommendation that the key aspects of the survey methodology of the 2015 Benchmark Study should continue to be adopted for the 2020 Benchmark Study to ensure that the survey findings are comparable with those of the previous studies.

³⁵ The Judicial Committee completed the 2010 and 2015 Benchmark Studies also with the assistance of a consultant on each occasion.

4.3 The 2020 Benchmark Study consists of (a) a questionnaire survey on the earnings of barristers and solicitors; and (b) interviews with barristers and solicitors on their perceptions on judicial service and remuneration³⁶.

4.4 In line with previous studies, the upper quartile (P75) level of earnings of legal practitioners³⁷ are compared to judicial pay³⁸ at three judicial ranks, *viz.* CFI Judge, District Judge and Magistrate. **Table 4** below sets out the legal sector references adopted for the 2020 Benchmark Study –

Table 4: The 2020 Legal Sector References

Judicial Rank	2020 Legal Sector Reference
CFI Judge	Senior Counsel with 18 to 28 years of practice
District Judge	Junior Counsel with 14 to 24 years of practice
	Solicitors with 14 to 24 years of practice
Magistrate	Junior Counsel with 5 to 15 years of practice
	Solicitors with 5 to 15 years of practice

The above legal sector references represent the range of experience that the majority of the current JJO population for each of the judicial ranks possess before they join the Judiciary. These references form the basis for comparison between judicial pay at each of the three judicial ranks and their corresponding legal sector earnings.

4.5 Using 31 March 2020 as the survey reference date, the Consultant conducted the fieldwork from March to April 2021 with the support and assistance from the Hong Kong Bar Association, the Law Society of Hong Kong, law firms, public bodies and corporations.

³⁶ The 2020 Benchmark Study also includes a related research of pay practices in the legal/judicial sector in six overseas common law jurisdictions, namely, Australia, Canada, New Zealand, Singapore, the United Kingdom and the United States, for the reference of the Judicial Committee.

³⁷ For barristers and solicitors who are partners/sole proprietors of firms, their earnings are the total amounts received from the practice of law, less any expenses incurred directly relative to practising law, excluding any benefit-in-kind, and before taxes. For solicitors or in-house legal practitioners who are employed by law firms, public bodies and corporations, their earnings include base salaries, fixed allowances paid in cash, guaranteed and flexible bonuses, long-term incentives granted for the year, and pension/retirement contributions by the employers for pension/retirement schemes, excluding any benefit-in-kind, and before taxes.

³⁸ Judicial pay is the sum of a base salary and fringe benefits, including housing benefits, retirement benefits, medical benefits, leave passage and education allowances, that are paid over 12 months.

4.6 After verification, the Consultant obtained 994 responses (comprising 221 barristers and 773 solicitors) to the questionnaire survey that meet the statutory requirements for appointment as JJOs³⁹. All of these responses are used for the qualitative analysis of legal practitioners' perceptions towards serving in the Judiciary. Of the 994 responses, 935 (comprising 194 barristers and 741 solicitors) fall within the 2020 legal sector references (as set out in **Table 4** above) and form the basis for deriving the legal sector earnings. The legal sector earnings so derived are used for comparison with the judicial pay in the 2020 Benchmark Study.

4.7 Separately, the Consultant conducted interviews with 49 legal practitioners comprising 17 barristers, 26 solicitors, three in-house legal practitioners and three legal academics in order to obtain an in-depth understanding of their views on judicial service and remuneration.

4.8 The Consultancy Report on the 2020 Benchmark Study is available on the website of the Joint Secretariat at <http://www.jsscs.gov.hk>.

Findings of the 2020 Benchmark Study

Differentials between Judicial Pay and Legal Sector Earnings

4.9 Similar to previous studies, the differentials between judicial pay and legal sector earnings are presented as a percentage using the following formula –

$$\frac{\text{Judicial Pay less Legal Sector Earnings}}{\text{Legal Sector Earnings}} \times 100\%$$

³⁹ Under the law, barristers and solicitors with at least five years of practice are eligible for appointment as Magistrates (Magistrates Ordinance, Cap. 227) or District Judges (District Court Ordinance, Cap. 336). Barristers and solicitors with at least ten years of practice are eligible for appointment as CFI Judges (High Court Ordinance, Cap. 4).

4.10 The differentials between judicial pay and legal sector earnings (in HK\$ million) based on the 2020 legal sector references, alongside the differentials in the 2010 and 2015 Benchmark Studies, are set out in **Table 5** below –

Table 5: Differentials between Judicial Pay and Legal Sector Earnings (in HK\$ million)

Judicial Rank	Judicial Pay			2020 Legal Sector Reference (Years of Practice)	2010 [^]		2015 [^]		2020	
	2010	2015	2020		P75	Diff.*	P75	Diff.*	P75 [#]	Diff.*
CFI Judge	4.34	5.39	7.82	Senior Counsel (18 to 28 years)	7.50	-42%	13.50	-60%	15.0	-48%
District Judge	2.75	3.37	4.56	Junior Counsel (14 to 24 years)	2.50	10%	3.50	-4%	4.25	7%
				Solicitors (14 to 24 years)	2.50	10%	3.50	-4%	3.82	19%
Magistrate	1.87	2.10	2.91	Junior Counsel (5 to 15 years)	1.75	7%	2.50	-16%	2.44	19%
				Solicitors (5 to 15 years)	1.65	13%	1.75	20%	2.01	45%

[^] The legal sector references for 2010 and 2015 Benchmark Studies, which represent the range of experience that the majority of the then JJO population for each of the judicial ranks possess before they join the Judiciary, are slightly different from the 2020 legal sector references.

* Diff. denotes differential between judicial pay and legal sector earnings.

[#] More than half of the barrister and solicitor respondents report that the COVID-19 epidemic has an adverse impact on the levels of their 2019-20 earnings. In view of the statistical significance, the Consultant has adjusted the legal sector earnings by adding back the estimated loss reported by each individual respondent so as to derive a level of earnings that can represent a more typical year suitable for comparison with judicial pay in the 2020 Benchmark Study.

4.11 **Table 5** above shows that –

- (a) for the rank of CFI Judge, while judicial pay is consistently below its legal sector earnings in 2010, 2015 and 2020, the pay lag narrows from -60% in 2015 to -48% in 2020; and
- (b) for the ranks of District Judge and Magistrate, judicial pay is ahead of the respective legal sector earnings in 2020. This pattern is different from the position in 2015 but similar to that in 2010. The findings also reveal that Junior Counsel (whose earnings levels are pertinent legal sector references for District Judge and Magistrate) generally have higher but more volatile earnings as compared with their solicitor counterparts.

Perceptions towards serving in the Judiciary

4.12 The qualitative information obtained from the questionnaire survey and the interview findings both show that “serving the community” is the most often cited “driver of interest” in considering a career in the Judiciary. Pay is not determinative but an important factor to be considered in terms of the timing of making a career move to the Judiciary. Barristers generally cite “inflexibility in working arrangements” as the most prevalent concern that makes a career in the Judiciary less attractive. On the other hand, solicitors (vis-à-vis barristers) have less intention to join the bench as they believe that their work nature is less relevant to the Judiciary. In general, legal practitioners (particularly solicitors) state that they do not have a thorough and clear understanding of the different judicial opportunities in the Judiciary.

General Guidelines for Application of Findings

4.13 In line with previous studies, the Judicial Committee has endorsed the following general guidelines for the application of findings revealed by a benchmark study –

- (a) the findings of a benchmark study will not be translated into precise figures for determining the levels of judicial salaries. The findings will facilitate the Judicial Committee in monitoring the private sector pay trends and considering whether and how adjustments to judicial pay should be made;
- (b) in ascertaining the need for judicial pay adjustment, the Judicial Committee should have regard to a basket of factors, including but not limited to the findings of the benchmark study. There may be a case for proposing positive adjustments to judicial pay if –
 - (i) the findings demonstrate a clear trend of a widening advantage of earnings of legal practitioners over judicial pay; or

- (ii) the Judiciary encounters persistent recruitment and retention difficulties; or
 - (iii) there are obvious changes in perception and attitude from survey respondents that show that remuneration has become an important factor in considering judicial appointment; and
- (c) if adjustments to judicial pay of the three judicial ranks of CFI Judge, District Judge and Magistrate⁴⁰ are made, the pay for the other levels of JJOs would be determined by internal relativity.

Observations, Considerations and Analysis

4.14 Pursuant to the above general guidelines, and taking into account the data, information and views provided by the Judiciary, the Judicial Committee has made the following observations, considerations and analysis –

- (a) the Judicial Committee recognises that there is no precise “formula” as such in applying the findings of the 2020 Benchmark Study. The task of the Judicial Committee is to take on board and balance the relevant factors and considerations, exercise its best judgment and tender its impartial advice to the Government;
- (b) legal sector earnings, as compared with judicial pay, are more susceptible to the impact brought about by the state of the economy. The poor economic performance in 2020 has inevitably affected the earnings of legal practitioners (particularly those with less experience). This results in a reversed or widening lead of judicial pay of the ranks of District Judge and Magistrate over the legal sector earnings;

⁴⁰ At present, CFI Judge and District Judge are remunerated at JSPS Points 16 and 13 respectively, whereas Magistrate is remunerated on a pay scale of JSPS Points 7 to 10.

- (c) in terms of remuneration practices, judicial pay is more structured. JJO ranks are career positions in their own right with some (but not always) progression to higher ranks. On the other hand, the earnings in the legal sector indicate progress along a clear career path with typically lower earnings associated with the experience equivalent to Magistrate and District Judge. Less experienced legal practitioners anticipate that their earnings will accelerate as they progress. This highlights the inherent differences in remuneration practices between judicial service and the legal sector, and due regard should be given to such inherent differences when one is to interpret the findings of the 2020 Benchmark Study. The Judicial Committee also believes that it is necessary and appropriate to maintain internal pay relativity between the different ranks of the judicial service;
- (d) turning to the recruitment and retention situation, the Judicial Committee notes that the Judiciary is facing recruitment difficulties at the CFI level (as set out in paragraph 3.11 above). As at 31 March 2021, the rank of CFI Judge had an establishment of 34 posts and a strength of 27 CFI Judges, representing a vacancy of 7 (or 20.5%). The Judicial Committee notes that while the Judiciary has put in substantial efforts in a bid to improve the situation (some of the measures being undertaken are set out in paragraphs 3.11 and 3.13), the problem persists;
- (e) the Judicial Committee observes that judicial pay for lower levels of court (*viz.* District Judge and Magistrate) is ahead of the legal sector earnings. Given such differentials at these levels of court and against the background that there are recruitment difficulties at the CFI level, the Judicial Committee considers that consideration could be given to the option of filling more judicial vacancies at lower levels of court by legal practitioners in private practice, and filling more vacancies at higher levels of

court by internal elevation, subject of course to the availability of suitable candidates. Hence, the Judicial Committee considers it essential that judicial pay is sufficiently attractive even at lower levels of court so that there is a sufficient pool of talents who can be groomed to rise through the ranks to fill the positions at the higher levels of court; and

- (f) noting that legal practitioners (particularly young solicitors) in general are unaware of the availability of the different judicial opportunities in the Judiciary, the Judicial Committee considers that further consideration could be given to adopting a more proactive approach in engaging the legal profession to help promote the availability of such opportunities. Consideration could also be given to stepping up publicity for recruitment exercises, which could possibly help attract more potential candidates to consider a career in the Judiciary and facilitate those with an interest to join to plan in advance.

The Judiciary's Views

4.15 In the course of the 2020 Benchmark Study, the Judicial Committee has invited the Judiciary to put forth its views as well as any data or information which will facilitate the Judicial Committee's deliberations. The Judiciary indicates that it has no objection to maintaining the judicial pay levels for JJOs, having regard to the key findings of the 2020 Benchmark Study. For the rank of CFI Judge, there is no widening of the gap between judicial pay for CFI Judge and its corresponding legal sector earnings which may warrant an imminent increase in pay levels as compared to that arising from the 2015 Benchmark Study. As for the ranks of District Judge and Magistrate, as opposed to the position in 2015, judicial remuneration has become higher than the respective legal sector earnings. The Judiciary holds the view that the pay levels for JJOs below the level of CFI Judge should remain unchanged, given there should be no reduction in judicial pay as a matter of principle.

Chapter 5

Recommendation and Acknowledgements

Recommendation

5.1 During the year covered by this report, the Judicial Committee has completed the annual review and the 2020 Benchmark Study and formulated its recommendation in respect of the 2021-22 annual adjustment.

5.2 The Judicial Committee considers that the prevailing economic environment warrants a prudent approach in determining adjustments to judicial remuneration. The Hong Kong economy is still on the path to recovery alongside the improving global economic conditions and the receding local epidemic. In the private sector, while the private pay trends in 2021 show different directions, the labour market shows improvement as the economy continues to recover. In the public sector, the pay for civil servants in the upper, middle and lower salary bands and the directorate is frozen in 2021-22, despite the negative net PTIs for the civil service. Taking into account the basket of factors including the findings of the 2020 Benchmark Study, and on the basis of its observations at paragraph 4.14 and the Judiciary's at paragraphs 3.42, 3.43 and 4.15 above, having balanced all considerations, the Judicial Committee **recommends** that judicial salaries be frozen with effect from 1 April 2021.

5.3 The Judicial Committee will, under the approved mechanism, adopt a balanced approach taking into consideration the basket of factors and the views of the Judiciary in taking forward future annual reviews. Factors prevailing at that time including the recruitment situation of the Judiciary and other relevant developments will be considered holistically

in each review. In addition, the Judicial Committee will continue to take into account the experience in the past JRRs conducted under the approved mechanism.

Acknowledgements

5.4 We would like to express our sincere gratitude to both the Government and the Judiciary for providing us with comprehensive and valuable information. Their contribution is most useful in facilitating our deliberation on the basket of factors under the approved mechanism for the determination of judicial remuneration.

5.5 We would like to record our thanks to all parties who have contributed to the conduct of the 2020 Benchmark Study, in particular the Hong Kong Bar Association, the Law Society of Hong Kong as well as all participating barristers, solicitors, legal academics, public bodies and corporations.

5.6 We would also like to record our appreciation to Ms May Tan Siew-boi and Ms Melissa Wu who retired in December 2020 from the Judicial Committee after six and four years of dedicated service respectively.

Standing Committee on Judicial Salaries and Conditions of Service

Terms of Reference

I. The Committee will advise and make recommendations to the Chief Executive on –

- (a) the structure, i.e. number of levels and salary level; and conditions of service and benefits other than salary appropriate to each rank of judges and judicial officers and other matters relating thereto;
- (b) matters relating to the system, institutional structure, methodology and mechanism for the determination of judicial salary and other matters relating thereto which the Chief Executive may refer to the Committee; and
- (c) any other matter as the Chief Executive may refer to the Committee.

II. The Committee will also, when it so determines, conduct an overall review of the matters referred to in I(a) above. In the course of this, the Committee should accept the existing internal structure of the Judiciary and not consider the creation of new judicial offices. If, however, the Committee in an overall review discovers anomalies, it may comment upon and refer such matters to the Chief Justice, Court of Final Appeal.

**Standing Committee on Judicial Salaries
and Conditions of Service**

Membership in 2021

Chairman

Professor Wong Yuk-shan, SBS, JP

Members

Mr Chan Tze-ching, BBS, JP

Mr Alfred Chan Wing-kin, BBS

Mr Jat Sew-tong, SBS, SC, JP

Ms Miranda Kwok Pui-fong

Ms Cecilia Lee Sau-wai, JP

Mr Dieter Yih Lai-tak, JP

Judicial Service Pay Scale
(with effect from 1 April 2020)

Judicial Service Pay Scale (JSPS)		Rank
Point	\$	
19	387,400	✧ Chief Justice, Court of Final Appeal
18	376,600	✧ Permanent Judge, Court of Final Appeal ✧ Chief Judge of the High Court
17	339,550	✧ Justice of Appeal of the Court of Appeal of the High Court
16	323,650	✧ Judge of the Court of First Instance of the High Court
15	262,450	✧ Registrar, High Court ✧ Chief Judge of the District Court
14	(253,900)	✧ Senior Deputy Registrar, High Court ✧ Principal Family Court Judge, District Court
	(246,550)	
	239,300	
13	(237,750)	✧ Deputy Registrar, High Court ✧ Judge of the District Court ✧ Chief Magistrate
	(230,950)	
	224,250	
12	(204,750)	✧ Assistant Registrar, High Court ✧ Member, Lands Tribunal
	(198,850)	
	192,950	
11	(188,400)	✧ Registrar, District Court ✧ Principal Adjudicator, Small Claims Tribunal ✧ Principal Magistrate ✧ Principal Presiding Officer, Labour Tribunal
	(183,150)	
	177,700	
10	(172,450)	✧ Adjudicator, Small Claims Tribunal ✧ Coroner ✧ Deputy Registrar, District Court ✧ Presiding Officer, Labour Tribunal
	(167,350)	
	162,550	
10	(172,450)	✧ Magistrate
	(167,350)	
	162,550	
9	150,930	
8	147,400	
7	143,885	

Judicial Service Pay Scale (JSPS)		Rank
Point	\$	
6	110,500	◇ Special Magistrate
5	105,375	
4	100,485	
3	98,140	
2	95,815	
1	93,525	

Note: Figures in brackets (for JSPS 10 – 14) represent increments. An officer may proceed to the first increment after satisfactory completion of two years of service in the rank and to the second increment after satisfactory completion of another three years of service in the rank.

Levels of Court and Judicial Ranks

Level of Court	Rank	Pay Scale (JSPS)
Court of Final Appeal	Chief Justice, Court of Final Appeal	19
	Permanent Judge, Court of Final Appeal	18
High Court, Court of Appeal	Chief Judge of the High Court	18
	Justice of Appeal of the Court of Appeal of the High Court	17
High Court, Court of First Instance	Judge of the Court of First Instance of the High Court	16
Competition Tribunal		
High Court, Masters' Office	Registrar, High Court	15
	Senior Deputy Registrar, High Court	14
	Deputy Registrar, High Court	13
	Assistant Registrar, High Court*	12
District Court	Chief Judge of the District Court	15
	Principal Family Court Judge, District Court	14
	Judge of the District Court	13
District Court, Masters' Office	Registrar, District Court	11
	Deputy Registrar, District Court	10
Lands Tribunal	Member, Lands Tribunal	12
Magistrates' Courts	Chief Magistrate	13
	Principal Magistrate	11
	Magistrate	7 – 10
	Special Magistrate	1 – 6
Labour Tribunal	Principal Presiding Officer, Labour Tribunal	11
	Presiding Officer, Labour Tribunal	10
Small Claims Tribunal	Principal Adjudicator, Small Claims Tribunal	11
	Adjudicator, Small Claims Tribunal	10
Obscene Articles Tribunal	Magistrate	7 – 10
Coroner's Court	Coroner	10

* There is at present no post in the rank of Assistant Registrar, High Court.

Caseloads in Different Levels of Court between 2018 and 2020

No. of Cases Level of Court	2018	2019	2020
Court of Final Appeal			
– application for leave to appeal	194	493	342
– appeals	40	16	13
– miscellaneous proceedings	0	0	1
Total	234	509	356
Court of Appeal of the High Court			
– criminal appeals	388	376	241
– civil appeals	611	597	653
– miscellaneous proceedings	204	321	263
Total	1 203	1 294	1 157
Court of First Instance of the High Court			
– criminal jurisdiction			
• criminal cases	421	424	366
• confidential miscellaneous proceedings	402	340	440
• miscellaneous proceedings (criminal)	789	684	772
• appeals from Magistrates' Courts	620	603	428
– civil jurisdiction	18 605	19 050	17 984
Sub-total	20 837	21 101	19 990
– probate cases	20 797	21 005	16 521
Total	41 634	42 106	36 511
Competition Tribunal	3	1	3
District Court			
– criminal cases	1 188	961	1 119
– civil cases	21 453	25 942	24 153
– family cases	23 345	22 386	17 585
Total	45 986	49 289	42 857
Magistrates' Courts	340 612	332 746	317 104
Lands Tribunal	4 299	5 721	4 432
Labour Tribunal	3 955	4 323	3 533
Small Claims Tribunal	55 007	55 879	39 821

Level of Court	No. of Cases	2018	2019	2020
Obscene Articles Tribunal		9 240	21 163	14 131
Coroner's Court		167	117	98

