

CHAPTER 2

Judiciary

<p>Administrative and court support work of the Judiciary Administration</p>

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ADMINISTRATIVE AND COURT SUPPORT WORK OF THE JUDICIARY ADMINISTRATION

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PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

1.2 The **Judiciary**, headed by the Chief Justice, is responsible for the administration of justice. It is completely independent of the executive and legislative branches of the Government. Different levels of courts and tribunals hear and adjudicate criminal cases and civil disputes. Appendix A shows a list of the courts and tribunals.

Judiciary Administration

1.3 The **Judiciary Administration** is headed by the Judiciary Administrator, who assists the Chief Justice in the overall administration of the Judiciary. The Judiciary Administration is organised into four Divisions, as follows:

- (a) ***Operations Division.*** It provides support services for the operation of courts and tribunals, including the listing of cases, operation of registries, deployment of staff to assist judges, translation and interpretation services, and bailiff services;
- (b) ***Development Division.*** Its responsibilities include reviewing, coordinating and developing policies on court system, practices, rules and procedures, and operating the press and public relations office;
- (c) ***Quality Division.*** Its responsibilities include providing legal reference and operating Judiciary libraries, coordinating efficiency reviews and improvement initiatives, providing digital audio recording and transcription services, and information technology and system management; and
- (d) ***Corporate Services Division.*** Its responsibilities include managing human and financial resources, planning and implementing accommodation strategy, and general administration of the Judiciary.

An organisation chart of the Judiciary (showing the four Divisions of the Judiciary Administration) is at Appendix B.

1.4 The Judiciary Administrator is the Controlling Officer for all public funds expended by the Judiciary. The estimated expenditure for 2010-11 is \$1.1 billion. As at 31 December 2010, the Judiciary had a strength of 1,668 staff, comprising 162 judges and judicial officers, and 1,506 support staff.

Audit review

1.5 The Audit Commission (Audit) has recently conducted a review of the administrative and court support work of the Judiciary Administration. The review has focused on the following areas:

- (a) management of court waiting times (PART 2);
- (b) provision of accommodation for court operation (PART 3);
- (c) bailiff services (PART 4);
- (d) procurement of stores and services (PART 5); and
- (e) management of library collections (PART 6).

Audit has found room for improvement in the above areas and has made a number of recommendations to address the issues.

Acknowledgement

1.6 Audit would like to acknowledge with gratitude the full cooperation of the staff of the Judiciary and the Architectural Services Department (ArchSD) during the course of the audit review.

PART 2: MANAGEMENT OF COURT WAITING TIMES

2.1 This PART examines issues relating to the Judiciary Administration's management of court waiting times. The following issues are discussed:

- (a) setting court waiting time targets (paras. 2.3 to 2.8); and
- (b) monitoring and reporting court waiting times (paras. 2.9 to 2.15).

Court waiting times

2.2 As stated in the Controlling Officer's Report of the Judiciary, an operational objective of courts and tribunals is to ensure just and expeditious disposal of cases. The Judiciary considers that the waiting times (e.g. from filing of indictment to hearing) of the cases of the courts and tribunals are appropriate indicators of their performance. It has set performance targets, in terms of average waiting times, for the courts and tribunals (except the Juvenile Court). It reports the actual average waiting times, as compared with the targets, in the Controlling Officer's Report to indicate the extent to which the operational objective has been achieved. Appendix C shows the average waiting times for 2004 to 2010.

Setting court waiting time targets

2.3 The Judiciary sets average court waiting time targets in accordance with the provisions of the relevant ordinances or the recommendations of the court users' committees (Note 1). Details are as follows:

- (a) ***Targets based on ordinances.*** The waiting time target of 30 days (from filing of a case to first hearing) for the Labour Tribunal (LabT) is set in accordance with the provisions of the Labour Tribunal Ordinance (Cap. 25). Similarly, the target of 60 days for the Small Claims Tribunal (SCT) is set in accordance with the provisions of the Small Claims Tribunal Ordinance (Cap. 338) (Note 2); and

Note 1: *The three court users' committees are the Civil Court Users' Committee, the Criminal Court Users' Committee and the Family Court Users' Committee. They are established to discuss matters of concern to court users. Members of these committees comprise judges, representatives of the legal profession, representatives of other court users and lay persons.*

Note 2: *For 2004 to 2010, the waiting times for all cases in the LabT and SCT met the provisions of the ordinances concerned.*

- (b) **Other targets.** According to the Judiciary, targets other than the two mentioned in (a) above are set in accordance with the recommendations of the court users' committees. In setting the targets, reference has been made to a wide range of factors, including the waiting time statistics, caseload and complexity of cases, the time required by parties to prepare their cases, and the time required by the court or tribunal to process the cases.

Audit observations and recommendations

2.4 In 1994, after a review of the court waiting time targets, the Judiciary informed members of the court users' committees that the committees would review the targets annually. However, Audit found that, since 1997, the court users' committees had not carried out such annual reviews. In Audit's view, the Judiciary, in conjunction with the court users' committees, needs to regularly review the targets to determine whether revisions are required for motivating and measuring performance more effectively. This is because the factors taken into account in setting the targets (see para. 2.3(b)) may change significantly over time, and such changes may require corresponding revisions to the targets.

2.5 Audit noted that the actual waiting times for certain types of cases (Note 3) were significantly shorter than the targets throughout 2004 to 2010. However, given that no reviews of targets were conducted, the targets remained unchanged throughout the period. For example, for building management cases in the Lands Tribunal, the actual waiting times for 2004 to 2010 (ranging from 26 to 54 days) were 46% to 74% shorter than the target of 100 days set throughout the period. In Audit's view, the easy-to-achieve targets for such cases require particular attention of the Judiciary, as they may not serve the purposes of motivating and measuring performance.

2.6 In addition, Audit notes that the Judiciary has set waiting time targets for all courts and tribunals except the Juvenile Court (see para. 2.2). Audit could not find documented justification for not setting targets for the Juvenile Court. In Audit's view, the Judiciary needs to review the need for setting such targets.

Note 3: *Obvious examples included building management and tenancy cases in the Lands Tribunal, SCT cases and classification cases in the Obscene Articles Tribunal (see items (F)3, (F)4, (J)1 and (K)1 of Appendix C).*

Audit recommendations

- 2.7 **Audit has recommended that the Judiciary Administrator should:**
- (a) **in conjunction with the court users' committees, regularly review the court waiting time targets with reference to all relevant factors, in order to determine whether revisions are required for motivating and measuring performance more effectively;**
 - (b) **in reviewing the court waiting time targets, pay particular attention to cases for which the actual waiting times were significantly shorter than the targets, so as to determine whether revised targets should be set to reflect the latest situation; and**
 - (c) **review the need for setting waiting time targets for cases in the Juvenile Court.**

Response from the Judiciary

- 2.8 The **Judiciary Administrator** agrees with the audit recommendations. She has said that:
- (a) the Judiciary will, in consultation with the court users' committees, review the court waiting time targets and decide on the frequency of such regular reviews;
 - (b) in doing the review, attention will be paid to cases where the actual waiting times were consistently below the targets; and
 - (c) consideration will be given to whether a waiting time target should be set for cases in the Juvenile Court.

Monitoring and reporting court waiting times

2.9 The Judiciary manages court waiting times by monitoring them at all levels of courts and tribunals, and deploying necessary judicial and support staff resources with a view to keeping them within targets. According to the Judiciary, the overall performance for 2004 to 2010 was satisfactory. The majority of the average waiting time targets were achieved. Only a few targets were not met, mainly because there were more complex cases and increases in caseload.

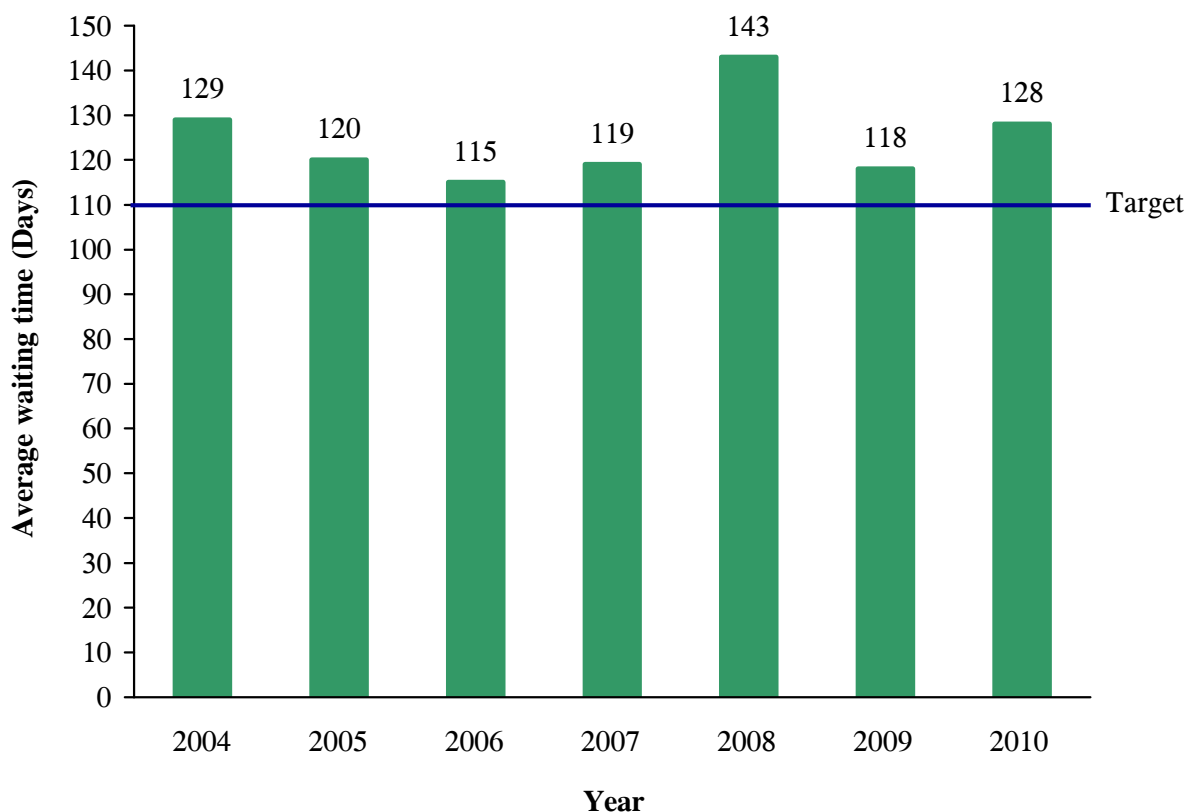
2.10 Appendix C shows the details of the average waiting times for 2004 to 2010. It can be seen that:

- (a) from 2004 to 2010, the number of targets not achieved in each year ranged from 3 to 10 (10% to 32% of the total number of targets);
- (b) in 2010, 6 targets (21% of the total 29 targets) were not achieved. These comprised:
 - (i) 1 target (substantive criminal appeal cases) for the Court of Final Appeal;
 - (ii) 3 targets (criminal fixture cases, civil fixture cases and appeals from Magistrates' Courts) for the Court of First Instance of the High Court;
 - (iii) 1 target (criminal cases) for the District Court; and
 - (iv) 1 target (defended cases) for the Family Court.

For these 6 types of cases, the average waiting times exceeded the targets by 1 to 46 days (1% to 38%); and

- (c) throughout 2004 to 2010, the target for defended cases in the Family Court was not achieved (see Figure 1). The average waiting times exceeded the target by 5 to 33 days (5% to 30%).

Figure 1

Average waiting times for Family Court defended cases
(2004 to 2010)

Source: Judiciary records

Audit observations and recommendations

2.11 The Judiciary attaches great importance to keeping the court waiting times reasonably within targets. This is because the Basic Law and the Hong Kong Bill of Rights Ordinance (Cap. 383) provide for constitutional rights to justice in the courts and tribunals without undue delay. From 2004 to 2010, the Judiciary achieved the majority of the targets, with the waiting times for certain types of cases significantly shorter than the targets (see para. 2.5).

2.12 However, as mentioned in paragraph 2.10, 10% to 32% of the targets were not achieved. In particular, one target was not achieved throughout the seven years. In Audit's view, the Judiciary needs to closely monitor the waiting times at different levels of courts and tribunals, and take effective measures (e.g. exploring productivity enhancements and redeploying resources if necessary) to address changes in their workloads, with a view to keeping their waiting times within the targets.

2.13 In addition, Audit notes that the Judiciary has focused its attention on the average court waiting times. Under certain circumstances, such average figures may not be sufficient to reflect the waiting times for the majority of the cases. For example, in 2009, the average waiting time for civil cases in the District Court was 104 days, which was significantly shorter than the target of 120 days. However, Audit's analysis of the individual cases revealed that 59% of the cases had waiting times exceeding 120 days. In Audit's view, apart from monitoring the average court waiting times, the Judiciary also needs to pay attention to the waiting times of individual cases. This will help obtain a full understanding of the court performance for determining whether the operational objective has been achieved.

Audit recommendations

2.14 **Audit has recommended that the Judiciary Administrator should:**

- (a) **closely monitor the waiting times at different levels of courts and tribunals, and take effective measures to address changes in their workloads, with a view to keeping their waiting times within the targets; and**
- (b) **for better performance management, monitor both the average court waiting times and the percentage of cases with waiting times exceeding the targeted averages.**

Response from the Judiciary

2.15 The **Judiciary Administrator** agrees with the audit recommendations. She has said that:

- (a) the Judiciary will continue to monitor closely the waiting time targets and make every effort to improve the waiting times. In respect of the waiting times of individual court levels in 2010, additional information is provided as follows:

- (i) the average waiting time for substantive criminal appeal cases of the Court of Final Appeal exceeded the target marginally due to the increasing complexity of cases involved;
 - (ii) the average waiting times applicable to the Court of First Instance of the High Court in respect of the criminal fixture cases, civil fixture cases and appeals from Magistrates' Courts exceeded the targets due to more complex and lengthy cases as well as more re-fixed cases. With the installation of three more courtrooms at the High Court Building towards the end of 2011, the Judiciary will be able to deploy additional judicial resources to deal with High Court cases with a view to improving the waiting times concerned;
 - (iii) the average waiting time for criminal cases of the District Court exceeded the target due to more complex cases. Judicial resources were redeployed in June 2010 with a view to improving the waiting time concerned; and
 - (iv) the average waiting time for defended cases of the Family Court exceeded the target due to an increase in caseload and more complex cases. Judicial resources will be redeployed to the Family Court starting from April 2011 to help reduce the waiting time; and
- (b) the Judiciary will take note of the percentage of cases with waiting times exceeding the targeted averages. It is noted that the percentage of civil cases in the District Court where the waiting times were longer than the targeted average reduced from 59% in 2009 to 20% in 2010.

PART 3: PROVISION OF ACCOMMODATION FOR COURT OPERATION

3.1 This PART examines the following issues relating to the provision of accommodation for court operation:

- (a) changes in the intended use of the former South Kowloon Law Courts Building (SKLCB) after it ceased to operate as Magistrates' Courts in July 2000 (paras. 3.3 to 3.18);
- (b) utilisation of courtrooms and support facilities in the Magistrates' Courts and the LabT after the latter's relocation to the SKLCB in January 2008 (paras. 3.19 to 3.27); and
- (c) management information for accommodation planning (paras. 3.28 to 3.33).

Accommodation for courts and tribunals

3.2 Under the court system in Hong Kong, prosecution and civil dispute hearings are handled by different levels of courts and tribunals according to their jurisdiction and the nature of cases. The courts and tribunals (under the purview of their respective court leaders) have different accommodation requirements in terms of location and facilities to suit their operational needs. At present, these courts and tribunals are housed in 12 government premises as follows:

- (a) the Court of Final Appeal headed by the Chief Justice is accommodated in the Court of Final Appeal Building in Central (Note 4) while the High Court (Court of Appeal and Court of First Instance) headed by the Chief Judge is accommodated in the High Court Building in Queensway;
- (b) the District Court, the Family Court and the Lands Tribunal under the purview of the Chief District Judge are accommodated in two different premises, i.e. the District Court and the Family Court in the Wanchai Tower (a joint user building which also houses the SCT), and the Lands Tribunal in a standalone court building in Yau Ma Tei; and
- (c) the seven Magistrates' Courts, the Coroner's Court and three tribunals (the SCT, the Obscene Articles Tribunal and the LabT) are headed by the Chief Magistrate. Apart from the SCT (see (b) above), the other courts and tribunals under the Chief Magistrate are accommodated in eight different premises:

Note 4: *The Court of Final Appeal will be relocated to the existing Legislative Council Building after the Council moves to the new Legislative Council Complex in Tamar.*

- (i) six standalone Magistrates' Courts buildings (Note 5);
- (ii) the Eastern Law Courts Building (a joint user building in Sai Wan Ho), which houses the Eastern Magistrates' Courts, the Coroner's Court and the Obscene Articles Tribunal; and
- (iii) the SKLCB (in Yau Ma Tei — Note 6), which houses the LabT.

Intended use of South Kowloon Law Courts Building

3.3 The SKLCB is a five-storey court building (from basement to third floor) constructed in the early 1970s. It was used as the South Kowloon Magistrates' Courts up to June 2000. From 1997 to 2003, the Judiciary had considered different uses of the SKLCB before finalising its present use as the LabT, as follows:

- (a) ***Support facilities or staff accommodation.*** According to an accommodation strategy endorsed by the Chief Justice in December 1997, a new West Kowloon Law Courts Building would be built for reprovisioning the North Kowloon and the South Kowloon Magistrates' Courts (Note 7). The SKLCB would be retained for support facilities or staff accommodation for the Judiciary;
- (b) ***Reprovisioning of SCT.*** In July 2000, shortly after the SKLCB was vacated, the Judiciary decided to use the SKLCB for reprovisioning the SCT. However, the planned reprovisioning work was put on hold in October 2002; and
- (c) ***Reprovisioning of LabT.*** In July 2003, the Judiciary Administrator was inclined to use the SKLCB for reprovisioning the LabT. At that time, the LabT was operating 13 courtrooms and two registries at two separate locations. Ten courtrooms and the main registry were accommodated in a private commercial building in Mongkok at an annual rental of \$10.3 million. The remaining three courtrooms and a subsidiary registry were housed in the Eastern Law Courts Building. In June 2004, the Chief Justice accepted an internal working party's recommendation to relocate the LabT. In the event, the SKLCB was renovated for accommodating the LabT in January 2008.

Note 5: *The buildings are located in Kowloon City, Kwun Tong, Fanling, Shatin, Tsuen Wan and Tuen Mun.*

Note 6: *The building is now known as the Labour Tribunal Building. For simplicity, the building is referred to as the SKLCB in this Report.*

Note 7: *The strategy also included the building of a new Hong Kong Island Law Courts Building for reprovisioning the Western and the Eastern Magistrates' Courts. The Eastern Law Courts Building would then be turned into a tribunal building to accommodate the Coroner's Court, the Obscene Articles Tribunal, the SCT and the LabT.*

Appendix D is a chronology of events in planning the use of the SKLCB from 1997 up to 2008 when it was used as the LabT.

Reasons for changing the intended use

3.4 Audit examined the Judiciary records to ascertain the reasons behind the decisions to change the intended use of the SKLCB which could affect the timing of putting the vacated SKLCB into use (see para. 3.3). Audit found that there was incomplete documentation of the decisions made, as follows:

- (a) ***Shelving the 1997 accommodation strategy.*** Based on the correspondence between the Judiciary and the Government Property Agency (GPA), the 1997 strategy (endorsed by the Chief Justice) to use the SKLCB for support facilities/staff accommodation had not been changed up to July 1999. However, since November 1999, the Registrar, LabT and the Chief Magistrate had started exploring the option of relocating the LabT to the SKLCB (see item 3 of Appendix D), suggesting that the strategy was shelved. There was no record to show at what level this decision was made and the reason behind the decision;
- (b) ***Reprovisioning of SCT.*** The only record about this decision was an internal e-mail of the Judiciary Administration stating that the Judiciary Administrator and the Chief District Judge decided at a meeting of 10 July 2000 to reprovision the SCT (see para. 3.2(b) and item 5 of Appendix D) to the SKLCB in order to release space for the expansion of the District Court. There was no record of the meeting to show the detailed considerations leading to the decision of reprovisioning of the SCT (i.e. whether it was made in consultation with the Chief Magistrate, the head of the SCT, who expressed reservation on such reprovisioning in May 2000 — see item 4 of Appendix D);
- (c) ***Shelving the reprovisioning of SCT.*** There was only a file note of October 2002 (written on the face of a Judiciary Administration’s internal memorandum which called for the completion of room data sheet for the reprovisioning of the SCT) stating that the “Action (for the reprovisioning of the SCT) stopped as future use of the South Kowloon Magistracy (i.e. the SKLCB) has yet to be confirmed”. There was no mention of the reason why there was a need for confirming the future use of the SKLCB (two years after it was decided to reprovision the SCT to the SKLCB) and whether relevant stakeholders (the Chief Magistrate in charge of the SCT and the Chief District Judge who supported the reprovisioning) had been consulted before stopping action; and
- (d) ***Reprovisioning of LabT.*** There was no record to show why in July 2003 the Judiciary Administrator was inclined to use the SKLCB for the LabT (see item 11 of Appendix D), which would affect the timing of putting the SKLCB into use.

3.5 In response to Audit's enquiries, the Judiciary Administrator in December 2010 provided the following information:

- (a) with the launch of the Enhanced Productivity Programme in 1998 requiring efficiency savings of 5% in the following four years (up to 2002-03), the number of staff of the Judiciary was reduced. The provision of staff accommodation at the SKLCB became unnecessary;
- (b) it was agreed at the meeting of 10 July 2000 that the SCT would be reprovisioned to the SKLCB in order to release space for the expansion of the District Court. While no record could be traced regarding the detailed considerations leading to this decision, the expansion need of the District Court was evident from the fact that the caseload of the District Court increased 14% from 34,423 cases in 2000 to 39,239 cases in 2001; and
- (c) the reprovisioning of the SCT was shelved in October 2002 because:
 - (i) based on the advice of the Committee on Resource Allocation (Note 8) in October 2002, the Judiciary decided in early 2003 to defer the Hong Kong Island Law Courts Building project (see Note 7 to para. 3.3(a)) as the project scope and technical feasibility had not been confirmed. As a result, the planned conversion of the Eastern Law Courts Building into a tribunal building could not materialise. To continue with the reprovisioning of the SCT to the SKLCB would mean eliminating the only prospect for de-leasing the rental premises of the LabT (see para. 3.3(c)). It was considered necessary at that juncture to review the long-term accommodation needs for the LabT and the SCT with a view to putting the resources to optimal use; and
 - (ii) the fitting-out works for the reprovisioning of the SCT to the SKLCB would involve the refurbishment of the air-conditioning system which contained asbestos (see Note 1 to Appendix D). In February 2002, the ArchSD commenced the asbestos decontamination works which were completed in July 2003.

Note 8: *The Committee, chaired by the Chief Executive, was the authority for approving the upgrading of a works project to Category B of the Public Works Programme. For a Category B project, works departments may undertake necessary planning and design work to render it ready for seeking funding approval of the Finance Committee of the Legislative Council.*

Audit observations and recommendation

Need for adequate documentation of key decisions

3.6 Audit noted the Judiciary Administrator's clarifications that there were changed circumstances leading to changes in the intended use of the SKLCB. However, in Audit's view, for accountability and review purposes, it is important to document key decisions made in changing an accommodation plan, such as those affecting the timing of putting a major court building into use (see para. 3.4(c) and (d)). In particular, there should be adequate documentation to show:

- (a) the rationale behind a decision and whether relevant stakeholders affected by the decision have been consulted (see para. 3.4(b) and (c)); and
- (b) the level at which a decision is taken to supersede the previous one made by the senior management (see para. 3.4(a)).

Audit recommendation

3.7 **Audit has recommended that the Judiciary Administrator should improve the documentation of key decisions made in an accommodation project to fully reflect the rationales behind and the level at which the decisions are taken.**

Response from the Judiciary

3.8 The **Judiciary Administrator** agrees with the audit recommendation. She has said that since the establishment of the Accommodation Strategy Group in 2008 (see para. 3.19), all key decisions made in respect of accommodation projects have been properly documented.

Option analysis

3.9 As mentioned in paragraph 3.3(c), in July 2003, the Judiciary Administrator was inclined to use the SKLCB for the LabT. Back in 1999 and 2000, the Chief Magistrate and his staff had explored the option of using the SKLCB for the LabT (see items 3 and 4 of Appendix D). However, in his memorandum to the Judiciary Administrator of May 2000, the Chief Magistrate indicated that he did not recommend such use based on the following grounds:

- (a) ***Space and other requirements.*** The SKLCB with 8 courtrooms was insufficient to accommodate the LabT, which had 12 courtrooms and about 140 staff (including 36 Tribunal Officers) at the time. Moreover, the only lift in the SKLCB was insufficient to cater for the LabT litigants' traffic; and

- (b) ***Restructuring cost.*** Substantial restructuring works and additional cost were required to convert the courtrooms and other areas of the SKLCB for the LabT's use.

Audit observations and recommendations

Need to improve option analysis

3.10 Audit noted that the Chief Magistrate's recommendation of May 2000 was based on his initial assessment as a user. However, there was no record to show that the Judiciary Administration had subsequently conducted a more detailed analysis of the option of using the SKLCB for the LabT, notwithstanding that:

- (a) the initial assessment that there was insufficient space in the SKLCB for the LabT was not based on an accurate site area calculation. In fact, according to an on-site survey by the ArchSD's consultant in early 2004, the usable area of the SKLCB (excluding the area for an additional lift) was 3,526 square metres (m²), which was comparable to the total gross floor area of 3,458 m² (Note 9) occupied by the LabT in its rental premises and in the Eastern Law Courts Building; and
- (b) the ArchSD's advice on the likely restructuring cost had not been sought and no cost-benefit analysis had been undertaken to compare this upfront cost with the long-term savings in rental cost as a result of de-leasing the rental premises of the LabT.

In Audit's view, there is merit for the Judiciary to seek specialist assistance at the option analysis stage of an accommodation project to provide accurate planning and costing data for making an informed decision.

Audit recommendations

3.11 **Audit has recommended that the Judiciary Administrator should:**

- (a) **assess options for an accommodation project in consultation with relevant court leaders; and**
- (b) **consider ways to improve option analysis for an accommodation project, including seeking specialist assistance to provide accurate planning and costing data for making an informed decision.**

Note 9: *The floor area information was provided in the 2006 Public Works Subcommittee paper on the relocation of the LabT to the SKLCB.*

Response from the Judiciary

3.12 The **Judiciary Administrator** agrees with the audit recommendations. She has said that the Judiciary Administration will take all necessary actions to improve option analysis for accommodation projects in consultation with relevant court leaders.

Fitting-out requirements

3.13 In July 2000, the Judiciary decided to reprovision the SCT to the SKLCB. In May 2001, the Judiciary obtained the GPA's endorsement of the reprovisioning proposal. However, it was not until October 2001 when the Judiciary sought funding for the reprovisioning project that the ArchSD was informed of the fitting-out requirements of the SKLCB. The Judiciary then requested the ArchSD to complete the works by early 2002 as the reprovisioning project was important for releasing space in the Wanchai Tower for the District Court expansion.

3.14 In January 2002, the ArchSD informed the Judiciary that in view of the large scope of the fitting-out works, the tentative completion date would be December 2002. As mentioned in paragraph 3.5(c)(ii), the fitting-out works would involve the air-conditioning system which contained asbestos. In February 2002, the ArchSD commenced the asbestos removal works which were completed in July 2003.

Audit observations and recommendations

3.15 It is crucial to the successful implementation of an accommodation project that project stakeholders have a clear understanding of each other's needs and expectations right from the beginning. In Audit's view, the Judiciary needs to provide user requirements (see para. 3.13) to the works agent (such as the ArchSD) at an early stage so that it can plan ahead the works requirement in good time and resolve any difficulties that may arise as soon as possible.

3.16 While the reprovisioning of the SCT was eventually shelved and replaced by the reprovisioning of the LabT (see para. 3.4(c) and (d)), there is a need to conduct a review of the entire planning process to see if there are lessons to be learnt (in addition to those mentioned in paras. 3.6, 3.10 and 3.15) for managing similar accommodation projects in future.

Audit recommendations

- 3.17 **Audit has recommended that the Judiciary Administrator should:**
- (a) **provide user requirements to the works agent (such as the ArchSD) at an early stage of an accommodation project as far as possible; and**
 - (b) **conduct a review of the planning of the use of the SKLCB to draw lessons for managing similar accommodation projects in future.**

Response from the Judiciary

- 3.18 The **Judiciary Administrator** agrees with the audit recommendations.

Utilisation of courtrooms and support facilities

3.19 *Accommodation Strategy Group.* In October 2008, the Judiciary Administrator set up an Accommodation Strategy Group (Note 10) with the following terms of reference:

- (a) to decide on policies and strategies for meeting the short-term, medium-term and long-term accommodation needs of the Judiciary;
 - (b) to develop guidelines and procedures for fostering optimal use of the accommodation resources in the Judiciary;
 - (c) to consider and decide on the strategies and measures for the effective management of all the Judiciary premises;
 - (d) to monitor and review accommodation projects in the Judiciary; and
 - (e) to formulate policies and institutional requirements on accommodation standards to maintain general consistency in all law courts buildings.
- 3.20 *Stocktaking exercise.* In June 2009, the Accommodation Strategy Group decided to undertake a stocktaking exercise of the use of accommodation in the Judiciary premises by phases, starting with the High Court Building. In June 2010, the stocktaking exercise found that storage space occupied about 1,100 m² (or 5% of the total net

Note 10: *The Accommodation Strategy Group comprises the Judiciary Administrator as the Chairperson, a Deputy Judiciary Administrator and seven other Judiciary staff.*

operational floor area — Note 11) of the High Court Building. However, the storerooms were not fully occupied, and files and stores inside were not properly placed. The Judiciary Administration was considering ways to improve the situation.

3.21 *Audit examination.* From October to December 2010, Audit visited the following courts and tribunal to examine their utilisation of courtrooms and other support facilities:

- (a) *Magistrates' Courts.* At present, there are seven Magistrates' Courts operating in different districts throughout Hong Kong (see para. 3.2(c)). They are provided with different numbers of courtrooms, ranging from 8 to 13. According to the Judiciary's 2008 accommodation strategy, the Tsuen Wan Magistrates' Courts would be reprovisioned to the planned West Kowloon Law Courts Building (see para. 3.3(a)). The reason for the proposed reprovisioning was that the Tsuen Wan Magistrates' Courts building, which was built in 1971, had become inadequate to meet current court service needs. For example, two of the Magistrates' chambers did not have separate security access and there were insufficient basic facilities, such as consultation rooms for litigating parties and witness waiting rooms; and
- (b) *LabT.* The LabT has commenced operation in the renovated SKLCB since January 2008. It is provided with 13 courtrooms. According to the 2008 accommodation strategy, the LabT would stay at the SKLCB on a long-term basis.

Audit observations and recommendations

3.22 Audit found that some of the courtrooms and support facilities in four Magistrates' Courts and the LabT had not been utilised for their intended purposes for a long period of time (see Table 1).

Note 11: *According to the GPA internal guidelines, the net operational floor area is defined as the total of the net floor areas of all rooms and spaces but excluding facilities such as partitions, circulation spaces, staircases, lifts and toilets unless otherwise stated.*

Table 1
Court facilities not in use
(December 2010)

Court/tribunal	Facilities not in use
LabT	4 (ranging from 40 to 58 m ² each) of the 13 courtrooms not in use since January 2008
Fanling Magistrates' Courts	1 (57 m ² — Note 1) of the 9 courtrooms not used for hearings since July 2002 and 1 refreshment kiosk (141 m ²) not in use since December 2007
Kwun Tong Magistrates' Courts	1 refreshment kiosk (220 m ²) not in use since January 2009
Tsuen Wan Magistrates' Courts	1 (65 m ²) of the 9 courtrooms not used for hearings since April 1991 (Note 2)
Tuen Mun Magistrates' Courts	1 (63 m ²) of the 8 courtrooms not used for hearings since April 1991 (Note 3)

Source: Audit site visits and Judiciary records

Note 1: The courtroom does not have the defendant dock and cell access, and cannot be used for criminal hearings. It is designated for care and protection proceedings of the Juvenile Court. According to the Judiciary, the courtroom was occasionally used for meeting and training purposes but no record of such uses was maintained.

Note 2: The courtroom has the same constraints as those mentioned in Note 1. Up to March 1991 when the former Tsuen Wan District Court and the former SCT (Tsuen Wan) were relocated to the Wanchai Tower, it was used for hearing their civil cases (and summons cases of the Tsuen Wan Magistrates' Courts). The courtroom is now used for storage purpose.

Note 3: The courtroom (with the same constraints as those mentioned in Note 1) was used for hearings of the LabT up to March 1991. It has since been occasionally used for meetings and briefings but such uses were not always recorded.

Need to put courtrooms and support facilities into effective use

3.23 **Courtrooms.** Audit noted that the caseload of courts and tribunals fluctuated from year to year, which was beyond the control of the Judiciary. For example, from 2004 to 2010, the number of Magistrates' Court cases varied from 298,257 to 337,442 a year. For the same period, the number of LabT cases varied from 4,670 to 8,273 a year. As a result, some of the courtrooms might not be required for hearings. In Audit's view, the Judiciary needs to keep the utilisation of court accommodation under regular review to see if any courtrooms have remained unused for a long period of time (such as those mentioned in Table 1) and consider suitable temporary use of these facilities. When planning for any new Magistrates' Courts (such as the West Kowloon Law Courts Building — see para. 3.21(a)) in future, the Judiciary needs to take into account these available courtrooms, and consider adopting flexible design for new courtrooms to facilitate alternative use.

3.24 **Refreshment kiosks.** Audit noted that the refreshment kiosks of the Fanling and the Kwun Tong Magistrates' Courts had been intermittently used before they were left vacant in December 2007 and January 2009 respectively. For 8.5 years since the opening of the Fanling Magistrates' Courts in July 2002 (up to December 2010), its refreshment kiosk was let out (at nil premium) for operation for three years only. As for the refreshment kiosk of the Kwun Tong Magistrates' Courts, it was let out for 47 months (also at nil premium) during the 86-month period from October 2003 (Note 12) to December 2010. The GPA had commented on various occasions that the kiosks had no commercial value. The Judiciary had attempted to let out the kiosks at nil premium in recent years but no bids were received. At present, both the Fanling and the Kwun Tong Magistrates' Courts buildings are provided with soft drink vending machines. In the circumstances, there is a need to consider the feasibility of converting these refreshment kiosks into other suitable use.

Need to expedite the stocktaking exercise

3.25 As mentioned in paragraph 3.20, in June 2009, the Accommodation Strategy Group decided to undertake a stocktaking exercise of the use of accommodation in the Judiciary premises by phases. Up to December 2010, the stocktaking exercise only covered the High Court Building. In the light of the audit findings on the utilisation of accommodation in Magistrates' Courts and the LabT (see para. 3.22), there is a need to expedite the planned stocktaking exercise to cover other courts and tribunals.

Note 12: *In October 2003, the Judiciary converted the canteen of the Kwun Tong Magistrates' Courts into a refreshment kiosk. According to a GPA Accommodation Circular of 2001, canteens should not be provided in government buildings located in areas where eating places are readily available.*

Audit recommendations

- 3.26 **Audit has recommended that the Judiciary Administrator should:**
- (a) **monitor the utilisation of courtrooms and consider suitable temporary use for those that have remained unused for a long period of time;**
 - (b) **when planning for any new court facilities (such as the West Kowloon Law Courts Building), take into account any spare capacity in the existing courts, and consider the use of flexible design for new courtrooms;**
 - (c) **consider the feasibility of converting the unused refreshment kiosks of the Fanling and the Kwun Tong Magistrates' Courts into other suitable use; and**
 - (d) **expedite the planned stocktaking exercise on the use of accommodation in the Judiciary premises.**

Response from the Judiciary

3.27 The **Judiciary Administrator** agrees with the audit recommendations. She has said that:

- (a) the Judiciary Administration will continue to maximise the utilisation of available courtrooms by using them temporarily for other purposes. In this regard, it should be noted that:
 - (i) the reserve courtrooms in the LabT are to cater for situations where there is an upsurge in caseload. Experience in the past indicates that the caseload could drastically reach 12,300 cases a year;
 - (ii) the reserve courtrooms in the LabT may be used for hearing civil cases of other levels of court if needed. Since May 2010, one courtroom in the LabT has been deployed to hear civil cases in the District Court; and
 - (iii) since the Fanling, the Tsuen Wan and the Tuen Mun Magistrates' Courts were constructed some years ago, their designs have some built-in constraints (e.g. without defendant dock and cell access) with the result that there are difficulties in converting some courtrooms for alternative uses (e.g. for criminal hearings). These courtrooms will however be used for hearing summons cases if such need arises; and

- (b) in planning for any new facilities including the West Kowloon Law Courts Building, the availability of existing court capacity and projected requirements will be taken into account. The Judiciary Administration has adopted the use of flexible design in the planning of the West Kowloon Law Courts Building project. It will continue to review such approach and make necessary improvements accordingly in future projects.

Management information for accommodation planning

3.28 At its first meeting held in October 2008, the Accommodation Strategy Group discussed a paper on the long-term strategic accommodation plan of the Judiciary. The paper set out the internal floor area (IFA — Note 13) currently occupied by courts and tribunals.

Audit observations and recommendations

3.29 Audit noted that for the purpose of the annual review of the fees and charges of services provided by the Judiciary, IFA information had been collected from registries of courts and tribunals since 1989. The IFA occupied by certain central administrative offices (e.g. the accounts offices and the Information Technology Management Section) in these courts and tribunals was used as one of the input data for costing exercises. Audit compared the IFA information for 2008-09 provided by the court/tribunal registries with that used in the 2008 Accommodation Strategy Group paper. Discrepancies were found as shown in Table 2.

Note 13: *According to a Lands Department Practice Note of 2003, the IFA of a unit comprises the enclosed internal space of the unit for the exclusive use of the occupier, including facilities such as balconies, toilets, lift lobbies and internal partitions.*

Table 2
Discrepancies in IFA information

Court/tribunal	IFA per 2008 Accommodation Strategy Group paper	IFA provided by court/ tribunal registries	Difference
	(a)	(b)	(c) = (a) - (b)
	(m²)	(m²)	(m²)
Court of Final Appeal	1,600	1,343	257
High Court (Court of Appeal and Court of First Instance)	36,000	48,310	(12,310)
District Court and Family Court	23,200	24,037	(837)
Lands Tribunal	2,000	2,959	(959)
Eastern Magistrates' Courts	10,580	10,881	(301)
Kowloon City Magistrates' Courts	16,800	11,480	5,320
Kwun Tong Magistrates' Courts	10,500	10,332	168
Fanling Magistrates' Courts	16,800	8,527	8,273
Shatin Magistrates' Courts	8,500	10,549	(2,049)
Tsuen Wan Magistrates' Courts	2,400	3,660	(1,260)
Tuen Mun Magistrates' Courts	8,500	10,690	(2,190)
Coroner's Court	620	1,400	(780)
LabT	5,800	2,620	3,180
Obscene Articles Tribunal	400	702	(302)
SCT	3,640	2,720	920

Source: *Judiciary records*

Remarks: *According to the Judiciary, the IFA information mentioned in the Accommodation Strategy Group paper (i.e. column (a) above) was compiled by making reference to information provided by the GPA whereas that provided by court/tribunal registries (i.e. column (b) above) was based on their own measurements.*

3.30 Audit is concerned that there were discrepancies in the IFA information (as shown in Table 2) maintained by the Judiciary Administration and the court/tribunal registries. In Audit's view, there is an urgent need to rectify the situation to ensure that there is a set of accurate and consistent IFA information to support various management functions (e.g. accommodation planning and costing exercises).

Audit recommendations

3.31 **Audit has recommended that the Judiciary Administrator should:**

- (a) **in consultation with the Government Property Administrator, reconcile the discrepancies in the IFA information of the Judiciary premises mentioned in paragraph 3.29; and**
- (b) **maintain an accurate and consistent set of IFA information to support accommodation planning and other management functions.**

Response from the Judiciary

3.32 The **Judiciary Administrator** agrees with the audit recommendations. She has said that the Judiciary Administration has already started liaising with the GPA on the actions to take with a view to reconciling the discrepancies in the IFA information of the Judiciary premises mentioned in paragraph 3.29.

Response from the Administration

3.33 The **Government Property Administrator** agrees with the audit recommendations. He has said that he is pleased to render advice and seek assistance from the relevant parties/works agent for the Judiciary Administrator to ascertain the IFA information.

PART 4: BAILIFF SERVICES

4.1 This PART examines the following issues relating to the Judiciary Administration's bailiff services:

- (a) monitoring bailiffs (paras. 4.4 to 4.11); and
- (b) monitoring contract security guards (paras. 4.12 to 4.18).

Bailiff Section

4.2 The **Bailiff Section** (Note 14) under the Operations Division of the Judiciary Administration provides mainly the following services to support the operation of courts and tribunals:

- (a) *Serving summonses and other documents.* The Bailiff Section is responsible for serving summonses and other legal documents issued by a court or tribunal on parties to a litigation and their witnesses. A person who is a party to a litigation may also request the Bailiff Section to serve documents on the other party, especially if he is not represented by a lawyer; and
- (b) *Executing court orders and judgements.* A person who has obtained a court order or judgement (e.g. for payment of money to him) can apply for its execution by the Bailiff Section if the order or judgement is not complied with. In executing a court order or judgement, bailiffs are authorised to seize goods and chattels. The seized items may be sold by public auction to recover the money owed by the debtor.

4.3 As at 31 December 2010, the Bailiff Section had a strength of 120 staff, comprising 2 Chief Bailiffs, 4 Assistant Chief Bailiffs, 13 Senior Bailiffs, 25 Bailiffs, 38 Bailiff's Assistants and 38 other support staff. The staff worked in six offices (Note 15).

Note 14: *Before 2 November 2009, the Bailiff Section was known as the Court Orders Section.*

Note 15: *The six offices comprised: (a) Headquarters Office; (b) Admiralty and High Court Office; (c) Hong Kong Regional Office; (d) Kowloon Regional Office; (e) New Territories Regional Office (Shatin); and (f) New Territories Regional Office (Tsuen Wan).*

Monitoring bailiffs

4.4 **Monitoring requirements.** According to the Judiciary's internal guidelines, Assistant Chief Bailiffs and Senior Bailiffs are required to conduct supervisory checks on the work of Bailiffs and Bailiff's Assistants. The objectives are to ensure that there are no omissions, mistakes and discrepancies made by the Bailiffs and Bailiff's Assistants, and to enhance their work knowledge through coaching. The requirements are as follows:

- (a) **Number of checks.** Assistant Chief Bailiffs and Senior Bailiffs should each conduct 10 and 32 checks per month, respectively (Note 16); and
- (b) **Monthly returns.** Assistant Chief Bailiffs and Senior Bailiffs should each submit a monthly return on the checks conducted to the **Bailiff Headquarters Office** by the tenth day of each month. If the number of checks conducted is less than the requirement, they should state the reasons in the returns.

4.5 **Audit examination.** Audit examined how the Assistant Chief Bailiffs and Senior Bailiffs checked the work of their Bailiffs and Bailiff's Assistants during the 22-month period from January 2009 to October 2010. The audit findings are reported in paragraphs 4.6 to 4.8.

4.6 **Returns not submitted.** For six months, one Assistant Chief Bailiff did not submit returns on the checks conducted to the Bailiff Headquarters Office, contrary to the Judiciary guidelines. Audit could not ascertain whether he had conducted any checks in those months.

4.7 **Number of checks less than requirement.** According to the returns submitted to the Bailiff Headquarters Office for the 22-month period, two Senior Bailiffs fully met the requirement on the number of checks. All the Assistant Chief Bailiffs and all other Senior Bailiffs conducted less than the required number of checks for some months, as elaborated below:

- (a) **Assistant Chief Bailiffs.** Each officer had shortfalls in the number of checks for 2 to 12 months. The shortfalls ranged from 1 to 8 checks (Note 17); and

Note 16: *According to the Judiciary, the required number of checks is reduced proportionally if an officer takes leave or performs non-operational duties (e.g. training).*

Note 17: *One Assistant Chief Bailiff did not conduct any checks for two months, and another did not conduct any checks for one month.*

- (b) **Senior Bailiffs.** Each officer had shortfalls in the number of checks for 2 to 12 months. The shortfalls ranged from 1 to 13 checks.

For all the months with less than the required number of checks conducted, the Assistant Chief Bailiffs and Senior Bailiffs concerned did not explain the reasons in their returns to the Bailiff Headquarters Office, contrary to the Judiciary guidelines.

4.8 **Checks not conducted on some staff.** One Assistant Chief Bailiff was responsible for supervising the staff of the Bailiff New Territories Regional Offices at both Shatin and Tsuen Wan. However, for six months, he only checked the work of Shatin Office staff but not Tsuen Wan Office staff.

Audit observations and recommendations

4.9 The audit findings in paragraphs 4.6 to 4.8 highlight areas of non-compliance with the guidelines and scope for improvement in conducting the supervisory checks. In Audit's view, for achieving the intended objectives (see para. 4.4), the Judiciary needs to take measures to ensure that supervisory checks are conducted properly in compliance with the guidelines.

Audit recommendations

- 4.10 **Audit has recommended that the Judiciary Administrator should:**
- (a) **require the Bailiff Headquarters Office to implement procedures to monitor the compliance with the Judiciary guidelines on conducting supervisory checks on the work of Bailiffs and Bailiff's Assistants; and**
 - (b) **issue additional guidelines requiring Assistant Chief Bailiffs and Senior Bailiffs to arrange their supervisory checks with adequate coverage of staff working in different locations, or state in their monthly returns the reasons for not doing so.**

Response from the Judiciary

4.11 The **Judiciary Administrator** agrees with the audit recommendations. She has said that the Judiciary Administration will:

- (a) take suitable measures in monitoring the performance of Assistant Chief Bailiffs and Senior Bailiffs to make sure that the targets are met and spot checks are conducted for staff in all regional offices; and

- (b) review the guidelines on conducting supervisory checks on the work of Bailiffs and Bailiff's Assistants. There were instances where the Assistant Chief Bailiffs and Senior Bailiffs had recorded the dates on which they took leave, attended meeting/training/medical appointment or had special operational duties, etc. in their returns to the Bailiff Headquarters Office as reference indications for conducting less than the required number of checks. This will be set out more clearly in future returns.

Monitoring contract security guards

4.12 *Security guards.* The Bailiff Section records all goods and chattels seized during the execution of a court order or judgement. It arranges contract security guards (Note 18) to safeguard them before they are auctioned (Note 19). In general, the security guards work in two shifts. A day shift starts from 9 a.m. and ends at 9 p.m. A night shift starts from 9 p.m. and ends at 9 a.m. the next day.

4.13 *Monitoring requirements.* The Judiciary has not issued guidelines on monitoring the security guards. In practice, five Bailiff Section offices (excluding the Bailiff Headquarters Office — see Note 15 to para. 4.3) conduct spot checks to verify whether the security guards safeguard the seized items properly (Note 20). For the 22-month period from January 2009 to October 2010, there were 1,495 cases with items seized by bailiffs and security guards arranged. The five Bailiff Section offices conducted a total of 2,386 spot checks and reported no major problems. The audit findings on these spot checks are reported in paragraphs 4.14 and 4.15.

4.14 *Timing of spot checks.* As mentioned in paragraph 4.12, the security guards work round the clock before the seized items are auctioned. Audit review of the timing of conducting the 2,386 spot checks revealed that all of them were conducted between 8:30 a.m. and 8:30 p.m., and on weekdays and Saturdays (excluding general holidays). Audit could not ascertain, from the Judiciary records, the rationale for conducting the spot checks at such times only and whether such practice met management objectives.

Note 18: *In addition to contract security guards, the Bailiff Section has several possession guards who are responsible for watching over seized items for Magistrates warrant cases.*

Note 19: *The debtor is allowed a period of five working days to settle the debt plus the costs of the execution. If he does not do so, the seized items will be sold by public auction.*

Note 20: *Spot checks are mainly conducted by the Admiralty and High Court Office. Bailiffs of the four regional offices conduct spot checks generally as a supplement to their supervisory monitoring work.*

- 4.15 ***Extent of spot checks.*** Of the 1,495 cases (see para. 4.13), Audit found that:
- (a) for 79 cases (with security guards arranged for 4 to 12 days), no spot checks were conducted; and
 - (b) for 37 other cases, there were two spot checks conducted within 20 minutes in each case (Note 21).

There were no Judiciary records indicating why different practices were adopted for the 116 cases (i.e. conducting no spot checks in 79 cases and two spot checks within a short time in the other 37 cases), and whether such practices met management objectives.

Audit observations and recommendations

4.16 The audit findings in paragraphs 4.14 and 4.15 suggest that there may be scope for improvement in the current practice of monitoring security guards. In Audit's view, the Judiciary needs to provide the five Bailiff Section offices with guidelines on monitoring security guards (e.g. on the timing and extent of spot checks and/or other monitoring procedures). This will help ensure that they monitor their security guards cost-effectively in accordance with management objectives.

Audit recommendations

- 4.17 **Audit has recommended that the Judiciary Administrator should:**
- (a) **review the cost-effectiveness of the current practice of conducting spot checks to monitor contract security guards;**
 - (b) **based on the review results, set guidelines on monitoring contract security guards; and**
 - (c) **require the Bailiff Headquarters Office to implement procedures to monitor the compliance by the five Bailiff Section offices with the guidelines.**

Response from the Judiciary

4.18 The **Judiciary Administrator** agrees with the audit recommendations. She has said that the Judiciary Administration will review the current practice of conducting spot checks and consider making improvements to the guidelines.

Note 21: *For each of 34 cases, one spot check was conducted by a bailiff of the Admiralty and High Court Office, and the other spot check by a bailiff of the regional office concerned. For each of the other 3 cases, the two spot checks were conducted by two different bailiffs of the same regional office concerned.*

PART 5: PROCUREMENT OF STORES AND SERVICES

5.1 This PART examines the following issues relating to the Judiciary Administration's procurement of stores and services:

- (a) procurement through tender procedures (paras. 5.3 to 5.12);
- (b) procurement of computer products under Standing Offer Agreements (SOAs — paras. 5.13 to 5.19); and
- (c) procurement through direct purchases and bulk contracts (paras. 5.20 to 5.27).

Stores and Procurement Regulations

5.2 The Stores and Procurement Regulations (SPRs — Note 22) regulate matters relating to the management and procurement of government stores and services. Controlling Officers are responsible for the general supervision and control of stores and services procured under their control, and ensuring that the activities are conducted within financial limits and are in strict accordance with the SPRs.

Procurement through tender procedures

5.3 *Tendering requirement.* According to SPR 220, departments shall procure stores and services with a value exceeding the specified financial limit (Note 23) through tender procedures. The SPRs set out detailed requirements on the tender procedures, including those on the invitation of tenders, receipt and clarification of tenders, evaluation of tenders and administration of contracts with successful tenderers. Paragraphs 5.4 and 5.5 give more details about the requirements on evaluation of tenders and administration of contracts.

Note 22: *The SPRs are made by the Financial Secretary/Secretary for Financial Services and the Treasury under section 11(1) of the Public Finance Ordinance (Cap. 2).*

Note 23: *For all stores, and services other than consultancy services and services for construction and engineering works, the specified financial limit is \$1.43 million with effect from February 2009 (\$1.3 million from May 1999 to January 2009). The requirements on procurement of stores and services with a value not exceeding \$1.43 million are shown in paragraph 5.20.*

5.4 ***Requirements on evaluation of tenders.*** The requirements of the SPRs on evaluation of tenders include the following:

- (a) tender evaluation should normally be conducted by an assessment panel consisting of not less than two persons;
- (b) the assessment panel shall examine the tenders against the technical specifications, terms and conditions laid down in the tender documents to determine whether they conform with the requirements;
- (c) departments shall prepare a tender report containing a clear recommendation on the tender to be accepted, and submit the report to the relevant tender board for endorsement; and
- (d) if the lowest conforming tender (or the tender of the highest overall scorer when a marking scheme is used for tender evaluation) is not recommended to be accepted, the tender report should provide detailed reasons.

5.5 ***Requirements on administration of contracts.*** The requirements of the SPRs on administration of contracts include the following:

- (a) where it is required by the terms of the contract, departments shall ensure that the successful tenderer has a valid policy or policies of insurance prior to executing the contract;
- (b) departments shall devise an effective monitoring mechanism to ensure that a contractor performs to standard and complies with the terms of a contract;
- (c) departments shall evaluate the performance of their contractors at least once every six months for contracts lasting more than one year, and upon completion of the assignment for contracts lasting a year or less;
- (d) as soon as it becomes apparent that the performance of a contractor is unsatisfactory or deteriorating, the department concerned must:
 - (i) notify the contractor in writing;
 - (ii) invite the contractor to explain the reasons for the unsatisfactory performance;
 - (iii) request the contractor to make improvements; and
 - (iv) step up monitoring;

- (e) if despite the action taken, the contractor fails to make any improvement in performance and the department is not satisfied with the reasons (if any) given by the contractor for his poor performance, the department must warn the contractor in writing that further poor performance of the contractor may result in the termination of the contract; and
- (f) departments shall keep the performance records of contractors for as long as they consider necessary but in any case, not less than three years upon completion of the contracts.

Audit examination of tendering cases

5.6 Audit examined 12 tendering cases with tenders received between June 2001 and March 2010. Audit found room for improvement in the evaluation of tenders and administration of contracts, as detailed in paragraphs 5.7 to 5.10.

Audit observations and recommendations

Need to improve tender evaluation procedures

5.7 In four cases, the Judiciary had made errors or omissions in evaluating the tenders, as summarised below:

- (a) ***Errors in calculating tender sum.*** In one case, the Judiciary stated in the tender report that there was only one conforming tender with a tender sum of \$44 million. As endorsed by the tender board, the Judiciary awarded the contract to the tenderer. Subsequently, the Judiciary found that it had made calculation errors (i.e. some monthly rates were taken as annual rates). It should have calculated the tender sum as \$61 million (Note 24), instead of \$44 million;
- (b) ***Omissions to conduct conviction checks.*** In two cases involving the provision of security guard services for the Bailiff Section, Audit found no documentary evidence that the Judiciary had checked whether the tenderers had conviction records under the Mandatory Provident Fund Schemes Ordinance (Cap. 485), contrary to Financial Circular No. 4/2006 (Note 25); and

Note 24: *In this connection, the Judiciary informed the Financial Services and the Treasury Bureau that the revised tender sum would not exceed the estimated contract value and that the tender results would not be affected. Subsequently, the Judiciary had strengthened its tender assessment panel with more accounting staff support.*

Note 25: *According to Financial Circular No. 4/2006 “Tightened measures on the management of service contractors”, in evaluating tenders for service contracts that rely heavily on the deployment of non-skilled workers, Controlling Officers should check the website of the Mandatory Provident Fund Schemes Authority to ascertain whether each of the tenderers has any conviction records.*

- (c) ***Omission to submit a tender to assessment panel.*** In one case, the Judiciary received four tenders. Three tenders were submitted to the assessment panel for evaluation. One oversized tender not kept in the tender box was omitted. Subsequent to the award of contract, the Judiciary realised the omission when it was handling an enquiry from the tenderer concerned (Note 26).

5.8 In Audit's view, the occurrences of the abovementioned errors and omissions, and the failures of detecting them before the award of contracts, suggest that there was room for improvement in the tender evaluation procedures. The Judiciary needs to review the four cases to identify the deficiencies in the procedures. Based on the review results, the Judiciary needs to improve the procedures to prevent and detect the recurrence of such errors and omissions.

Need to improve contract administration

5.9 Audit also found that, in four cases, there was room for improvement in the administration of contracts with the successful tenderers. A summary of the audit findings is set out below:

- (a) ***Tender accepted before all conditions fulfilled.*** In one case, the award of contract was subject to the tenderer's payment of a contract deposit and provision of copies of public liability policy of insurance. However, the Judiciary signed the Memorandum of Acceptance of Tender two weeks before the conditions were fulfilled;
- (b) ***Contractors' delays in complying with conditions.*** In two cases, the contracts required the contractors to submit certain documents about their staff at least two weeks before contract commencement to facilitate the Judiciary's supervision of their work. In the event, there were delays of 11 to 70 days in submitting the documents. There was no documentary evidence that the Judiciary had taken any follow-up actions (e.g. issuing warning letters); and
- (c) ***Contractor's performance not managed effectively.*** One case involved the provision of computer system maintenance services for 10 years (from July 2001 to June 2011). There was no documentary evidence that the Judiciary had fully followed the SPR requirements to evaluate the contractor's performance at least once every six months (see para. 5.5(c) and (f)). There were only records of two evaluations of the contractor's performance (conducted in July 2009 and

Note 26: *After conducting an evaluation in the presence of independent observers (including a representative of the Independent Commission Against Corruption), the assessment panel concluded that the tender concerned did not conform to the mandatory requirements, thus requiring no further actions.*

July 2010) for the 9.5 years (from July 2001 to December 2010). For the evaluation of July 2009, the users rated the contractor's performance as "poor". Despite the users' adverse comments, the Judiciary did not take appropriate actions (e.g. issuing a warning) to urge for improvements, contrary to the SPRs (see para. 5.5(d) and (e)).

5.10 In Audit's view, to safeguard its interests, the Judiciary needs to improve its administration of contracts to address the abovementioned issues.

Audit recommendations

5.11 **Audit has recommended that the Judiciary Administrator should:**

Evaluation of tenders

- (a) **review the four cases where errors or omissions were made in evaluating the tenders to identify the deficiencies in the procedures;**
- (b) **based on the review results, improve the tender evaluation procedures to prevent and detect the recurrence of such errors and omissions;**

Administration of contracts

- (c) **remind Judiciary staff to ensure that all conditions imposed on the tenderers are fulfilled prior to accepting the tenders and executing the contracts;**
- (d) **improve the procedures for monitoring contractors to ensure that they comply with the contract terms and perform to standard; and**
- (e) **require Judiciary staff to follow strictly the requirements of the SPRs on evaluating the performance of contractors, managing contractors with unsatisfactory or deteriorating performance, and keeping performance records of contractors.**

Response from the Judiciary

5.12 The **Judiciary Administrator** agrees with the audit recommendations. She has said that:

Evaluation of tenders

- (a) the review of the case of miscalculation of tender sum has already been completed. The other three cases will be reviewed with a view to improving the procedures in the evaluation of tenders;
- (b) based on the outcome of the review of the case of miscalculation of tender sum, improvement measures have been introduced for subsequent tendering exercises. Based on the review results of the other three cases, appropriate improvement measures will be introduced;

Administration of contracts

- (c) staff will be reminded regularly to ensure that all conditions imposed on the tenderers are fulfilled before accepting tenders and executing contracts;
- (d) procedures for monitoring contractors will be reviewed to ensure that they comply with the contract terms and perform to standard; and
- (e) staff will be required to follow strictly the requirements of the SPRs on evaluating the performance of contractors, managing contractors with unsatisfactory or deteriorating performance, and keeping performance records of contractors.

Procurement of computer products under Standing Offer Agreements

5.13 **SOAs.** Since January 2000, the Government Logistics Department (GLD) has entered into term contracts, in the form of SOAs, with suppliers to provide departments with a greater flexibility to procure personal computer products and related services. For purchases with a value not exceeding the financial limit specified in SPR 220 (\$1.3 million from May 1999 to January 2009, and \$1.43 million from February 2009 onwards), departments are required to obtain quotations directly from the SOA contractors. For purchases with a value exceeding the financial limit, departments are required to arrange tendering in accordance with SPR 220.

5.14 ***Financial limits.*** SPR 205 states that:

- (a) the financial limits set out in the SPRs refer to the total value of stores or services of a similar nature which, in normal practice, are obtained in a single purchase; and
- (b) Controlling Officers shall ensure that officers responsible for procurement matters interpret these limits strictly, and that they do not evade the limits by dividing procurement requirements into instalments, or by reducing the usual duration of contracts.

According to the GLD, when determining whether the required computer products and/or services should be procured from the SOA contractors or through tender procedures, departments should observe the principle and guideline stated in SPR 205.

5.15 ***Audit examination of computer project.*** To ascertain whether there was scope for improvement in the procurement of computer products from the SOA contractors, Audit selected a computer project for examination. The project involved upgrading the servers and network systems for the Judiciary computer systems. In 2007-08, funding of \$5.4 million was earmarked for the project. According to its records, from July to December 2008, the Judiciary made seven purchases of computer products from the same SOA contractor (Note 27). The total value of the purchases was \$5.11 million. Table 3 shows the details.

Note 27: *In accordance with the SOA procedures, the Judiciary invited quotations from the SOA contractors for each of the seven purchases. It turned out that the same SOA contractor was selected in all the seven cases after evaluation of the quotations obtained.*

Table 3

Purchases of computer products from the SOA contractor

Order	Date of purchase	Major items purchased	Value (\$ million)
1	24 July 2008	Servers and storage systems	1.26
2	1 August 2008	Power supply systems	0.35
3	7 August 2008	Servers and storage systems	1.28
4	7 August 2008	Servers and tape library systems	1.28
5	8 December 2008	Servers and storage systems	0.54
6	8 December 2008	Servers and network appliances	0.36
7	8 December 2008	Servers	0.04
Total			5.11

Source: Judiciary records

Audit observations and recommendations

5.16 Audit noted that the computer project's estimated expenditure was \$5.4 million. The actual expenditure was \$5.11 million. According to the then prevailing SPR 220, tendering was required for purchases with a value exceeding the financial limit of \$1.3 million (see para. 5.13). However, instead of conducting a tendering exercise, the Judiciary purchased the required computer products from the SOA contractor.

5.17 It can be seen from Table 3 that:

- (a) the total procurement requirements were divided into seven orders. The computer products purchased by these seven orders were of a similar nature and might otherwise be obtained in a single purchase;

- (b) the value of computer products purchased in each order was less than the financial limit of \$1.3 million, but only by a relatively small margin (\$0.02 million to \$0.04 million) for three orders; and
- (c) the seven orders were issued within a short period (4.5 months, from 24 July to 8 December 2008). In fact, two orders were issued on 7 August 2008, and three orders were issued on 8 December 2008.

There was no documented justification for making the purchase through seven separate orders. In Audit's view, in line with the principle and guideline stated in SPR 205 (see para. 5.14), the Judiciary should have procured the computer products through open tendering.

Audit recommendations

5.18 Audit has recommended that the Judiciary Administrator should step up monitoring of the procurement of stores and services to ensure that Judiciary staff:

- (a) **adopt tender procedures to procure personal computer products and services, where required by SPR 220, in order to obtain the best value-for-money offer through open competition; and**
- (b) **comply with the requirements of SPR 205 on interpreting the financial limits set out in the SPRs.**

Response from the Judiciary

5.19 The **Judiciary Administrator** agrees with the audit recommendations.

Procurement through direct purchases and bulk contracts

5.20 Under SPR 251, departments without Supplies Officers or above (such as the Judiciary) are delegated the authority to make direct purchases of stores with a value not exceeding \$500,000 (Note 28). However, if such stores items are already covered by a bulk contract arranged by the GLD, the procuring department shall seek the GLD's prior consent for not procuring through such contract having regard to value-for-money consideration. Under SPR 280, departments may make direct procurement of services with a value not exceeding \$1.43 million.

Note 28: *Departments with Supplies Officers or above may make direct purchases of stores with a higher value. For all departments, purchases of stores with a value exceeding their financial limits for making direct purchases but not exceeding \$1.43 million should be made through the GLD.*

Audit observations and recommendations

Books for leisure reading

5.21 The Judiciary has a Learning Resource Centre with 3,000 books and other materials for staff use. According to the Judiciary, the aim of establishing the Centre is to develop a culture of continuous learning and self-improvement for staff. This, in turn, will lead to the enhancement of staff performance at work.

5.22 In February 2010, the Judiciary, under its direct purchase authority, purchased 138 books for the Centre, including some for reading at leisure (e.g. those about children, cooking, health, investment, photography, science, sports and travel). The total cost of \$16,000 was charged to the Judiciary's training expenses account. Audit notes that, for the purpose of recreational activities, government departments are provided with the Staff Welfare Fund (Note 29). As such, the Judiciary needs to consider whether it is more appropriate to use the Staff Welfare Fund, instead of the training expenses account, to purchase books for leisure reading.

Mobile phones

5.23 Through a bulk contract arranged by the GLD, the Judiciary has procured 123 subscriber identity module (SIM) cards, mainly for the use of its bailiffs to operate mobile phones. At a fixed monthly charge (ranging from \$38 to \$58), each SIM card can be used to make a fixed number of minutes of voice calls per month. The voice call times range from 150 to 600 minutes per month. Within the same month, unused voice call times for any SIM cards can be transferred to any other SIM cards.

5.24 Audit examination of the utilisation of the 123 SIM cards in 2009-10 revealed that 54% of the total voice call time had not been used. In particular, 28 SIM cards (23%) had not been used throughout 2009-10. In Audit's view, the low utilisation of the SIM cards suggests that there may be scope for achieving cost savings by reducing the number of SIM cards and using SIM cards with shorter voice call times at lower monthly charges.

Note 29: *The Staff Welfare Fund is provided to departments for organising sports, recreational, social and welfare activities or for purchasing sports/recreational equipment for staff use. The purpose of the Fund is to improve staff morale and foster a greater sense of belonging in the civil service.*

Audit recommendations

5.25 **Audit has recommended that the Judiciary Administrator should:**

- (a) **consider whether it is more appropriate to use the Staff Welfare Fund, instead of the training expenses account, to purchase books for leisure reading; and**
- (b) **review the low utilisation of the SIM cards to determine whether the number of SIM cards can be reduced, and SIM cards with shorter voice call times at lower monthly charges can be used, with a view to achieving cost savings.**

Response from the Judiciary

5.26 The **Judiciary Administrator** agrees with the audit recommendations. She has said that:

- (a) the low utilisation of the SIM cards was partly caused by the use of the call-forwarding function by some SIM card users to forward calls to their personal mobile phones; and
- (b) action is being taken to examine the scope for achieving cost savings by using SIM cards with shorter voice call times at lower monthly charges.

Response from the Administration

5.27 The **Director of Government Logistics** supports the audit recommendations in this PART of the Report.

PART 6: MANAGEMENT OF LIBRARY COLLECTIONS

6.1 This PART examines the following issues relating to the Judiciary Administration's management of library collections:

- (a) manning of main libraries (paras. 6.3 to 6.6);
- (b) acquisition of library materials (paras. 6.7 to 6.10);
- (c) keeping of book registers (paras. 6.11 to 6.14);
- (d) stocktaking of library collections (paras. 6.15 to 6.19); and
- (e) missing books (paras. 6.20 to 6.25).

Library collections

6.2 The Judiciary Administration's court support work includes keeping comprehensive legal reference books and research materials. The Judiciary's three main libraries (located in the Court of Final Appeal, the High Court and the District Court) keep about 72,000 volumes of books and serials. Besides Judiciary staff, members of the legal profession and law students may apply for using these libraries. In addition, collections (about 102,000 volumes in total) are kept in chambers, Magistrates' Courts and tribunals, totalling 205 locations (Note 30). Access to these collections is restricted to Judiciary staff.

Manning of main libraries

6.3 The High Court and the District Court libraries are manned by Librarians seconded from the Leisure and Cultural Services Department. The Court of Final Appeal library is manned by a clerical staff, who reports to one of the Librarians in the High Court.

Audit observations and recommendation

6.4 Audit notes that the clerical staff in the Court of Final Appeal library does not work solely in the library. She has to perform other duties during Tuesday and Wednesday mornings. When she does not work in the library (including taking leave), nobody will take care of the library collections. In Audit's view, the Judiciary needs to man the library adequately to provide ready assistance to users and exercise proper controls over the library collections.

Note 30: *For simplicity, the collections in the three main libraries and in chambers, Magistrates' Courts and tribunals are all referred to as library collections in this Report.*

Audit recommendation

6.5 **Audit has recommended that the Judiciary Administrator should deploy adequate staff to man the Court of Final Appeal library to ensure the provision of ready assistance to users and the exercise of proper controls over the library collections.**

Response from the Judiciary

6.6 The **Judiciary Administrator** agrees with the audit recommendation. She has said that consideration would be given to bidding additional manpower resources or redeploying existing staff resources to ensure that the Court of Final Appeal library is adequately manned.

Acquisition of library materials

6.7 The Judiciary places standing purchase orders with suppliers to acquire new issues of law reports and periodicals when they are released. Where the suppliers do not deliver any publications, the Librarians are required to take prompt follow-up actions. This is because some users may have urgent needs to make reference to the publications. In addition, the Judiciary will not be able to acquire the publications when they are out of print.

Audit observations and recommendations

6.8 Audit noted that, in the High Court library records, missing issues of law reports and periodicals were marked with the status of “Late” or “Out of print”. Upon enquiry, the Judiciary informed Audit that follow-up actions on missing publications were taken according to the expected delivery dates based on past publishing patterns and shipment times. Audit’s sample check of the records of 30 missing publications as at December 2010 revealed that, in eight cases, there were delays in taking follow-up actions (when compared with the publication dates or the dates when the publications arrived at libraries of some local universities). For example, in one case, the Judiciary did not take follow-up actions until 16 months after the publication date. In Audit’s view, the Judiciary needs to review the procedures and take improvement measures as appropriate.

Audit recommendations

- 6.9 **Audit has recommended that the Judiciary Administrator should:**
- (a) **review the procedures for identifying ordered but undelivered publications and taking follow-up actions with the suppliers; and**
 - (b) **based on the review results, improve the procedures to ensure that prompt follow-up actions are taken for such publications.**

Response from the Judiciary

- 6.10 The **Judiciary Administrator** agrees with the audit recommendations.

Keeping of book registers

6.11 Books in chambers, Magistrates' Courts and tribunals are assigned with identification numbers. Registers are maintained in the offices concerned to keep track of their locations for facilitating retrieval by users.

Audit observations and recommendations

6.12 In December 2010, Audit's sample check of 90 books in three Magistrates' Courts revealed that seven books were not placed at the locations recorded in the book registers. Upon enquiry, the Judiciary informed Audit that sometimes the book registers were not updated when books were on loan to another magistrate temporarily. In Audit's view, the Judiciary needs to ensure that the book registers keep track of the locations of the books correctly in order that users can locate them readily.

Audit recommendations

- 6.13 **Audit has recommended that the Judiciary Administrator should:**
- (a) **review the procedures for keeping track of the locations of the books in chambers, Magistrates' Courts and tribunals; and**
 - (b) **based on the review results, take appropriate measures to ensure that the locations of books are recorded correctly in the book registers.**

Response from the Judiciary

6.14 The **Judiciary Administrator** agrees with the audit recommendations.

Stocktaking of library collections

6.15 **Requirements.** The Judiciary is required to observe the following requirements of the SPRs on stocktaking of library collections:

- (a) **Annual stocktaking.** Under SPR 715(b), the Judiciary should arrange to check inventories of library materials at least once a year; and
- (b) **Surprise stocktaking.** Under SPR 140(b), surprise stock checks should be conducted at irregular intervals at least once every three months.

According to the Judiciary's internal guidelines, Librarians of the three main libraries are responsible for conducting a full check of the materials in their libraries annually. For the collections in chambers, Magistrates' Courts and tribunals, certain support staff are responsible for conducting the annual full check.

6.16 **Audit examination.** Audit found that the Judiciary had not strictly complied with all the stocktaking requirements, as follows:

- (a) **Annual stocktaking.** The Judiciary did not conduct any full check of the materials in the three main libraries after implementing a library computer system in 2005 (see para. 6.21). For the collections in chambers, Magistrates' Courts and tribunals, a full check was conducted annually; and
- (b) **Surprise stocktaking.** Audit's sample check revealed that, between 2007-08 and 2009-10, surprise stock checks were conducted at the Court of Final Appeal library in accordance with SPR 140(b). However, for the High Court and the District Court libraries, and the collections in chambers, Magistrates' Courts and tribunals, the numbers of checks conducted in the three years were less than the requirement.

Audit observations and recommendation

6.17 Stocktaking of library collections helps verify the accuracy of the stock records and assess whether there are weaknesses in physical controls. It also helps maintain the accuracy of the library catalogues, which facilitate users to search and retrieve the materials needed. In Audit's view, the Judiciary needs to ensure that its staff comply with the stocktaking requirements as stated in the SPRs and the Judiciary's internal guidelines.

Audit recommendation

6.18 **Audit has recommended that the Judiciary Administrator should take measures to ensure that Judiciary staff comply with the requirements on stocktaking of library materials as stated in the SPRs and the Judiciary's internal guidelines.**

Response from the Judiciary

6.19 The **Judiciary Administrator** agrees with the audit recommendation. She has said that consideration would be given to stepping up measures in ensuring that the requirements on stocktaking of library materials are complied with.

Missing books

6.20 *Write-off requirements.* Under SPR 1040, for missing books not involving fraud, suspected fraud or negligence and where the amount of loss in any one case does not exceed \$500,000, the Judiciary may write off such an amount. When approving the write-off, the Judiciary officer with the delegated authority needs to certify in each case that:

- (a) no fraud, suspected fraud or negligence is involved;
- (b) an investigation and a record have been made of the circumstances and, where appropriate, steps have been taken to prevent a recurrence;
- (c) the amount is not in excess of his delegated authority; and
- (d) he is satisfied that the books are irrecoverable.

A half-yearly return, showing the description and amount written off in respect of each case, should be submitted to the Financial Services and the Treasury Bureau.

6.21 *Missing books.* According to the Judiciary records, 284 missing books (with a total cost of \$198,000) were written off between April 2007 and mid-January 2011. As at mid-January 2011, the Judiciary had yet to deal with 975 missing books (with a total cost of \$392,000). These 975 books (and 116 of the 284 books written off) were found missing when implementing a library computer system between 2001 and 2005 (Note 31). The other 168 books written off were found missing during stocktaking thereafter (see para. 6.16).

Note 31: *The Judiciary indicated that when implementing the library computer system, every book item purchased since the establishment of the former Supreme Court in 1844 had to be barcoded. It was believed that the missing books were due to human errors in the manual records which had been kept for over 160 years.*

Audit observations and recommendations

6.22 As mentioned in paragraph 6.21, 168 books were found missing during stocktaking after implementing the library computer system in 2005. As the Judiciary did not conduct any full check of the materials in the three main libraries (see para. 6.16(a)), it could not ascertain whether the libraries had a significant problem of missing books. In Audit's view, missing books, in general, suggest that there may be deficiencies in physical controls over library materials. Sound management practices require investigating the extent of the problem, ascertaining the causes and improving the controls to prevent recurrences.

Audit recommendations

6.23 **Audit has recommended that the Judiciary Administrator should:**

- (a) **ascertain the causes of any missing books found during stocktaking, and improve the controls as appropriate to prevent recurrences; and**
- (b) **take prompt actions to deal with the 975 missing books detected between 2001 and 2005.**

Response from the Judiciary

6.24 The **Judiciary Administrator** agrees with the audit recommendations. She has said that:

- (a) the control mechanism will be reviewed with a view to making appropriate improvements; and
- (b) prompt actions will be taken to deal with the 975 missing books detected between 2001 and 2005.

Response from the Administration

6.25 The **Director of Government Logistics** supports the audit recommendations in this PART of the Report.

Appendix A
(para. 1.2 refers)

Courts and tribunals in Hong Kong

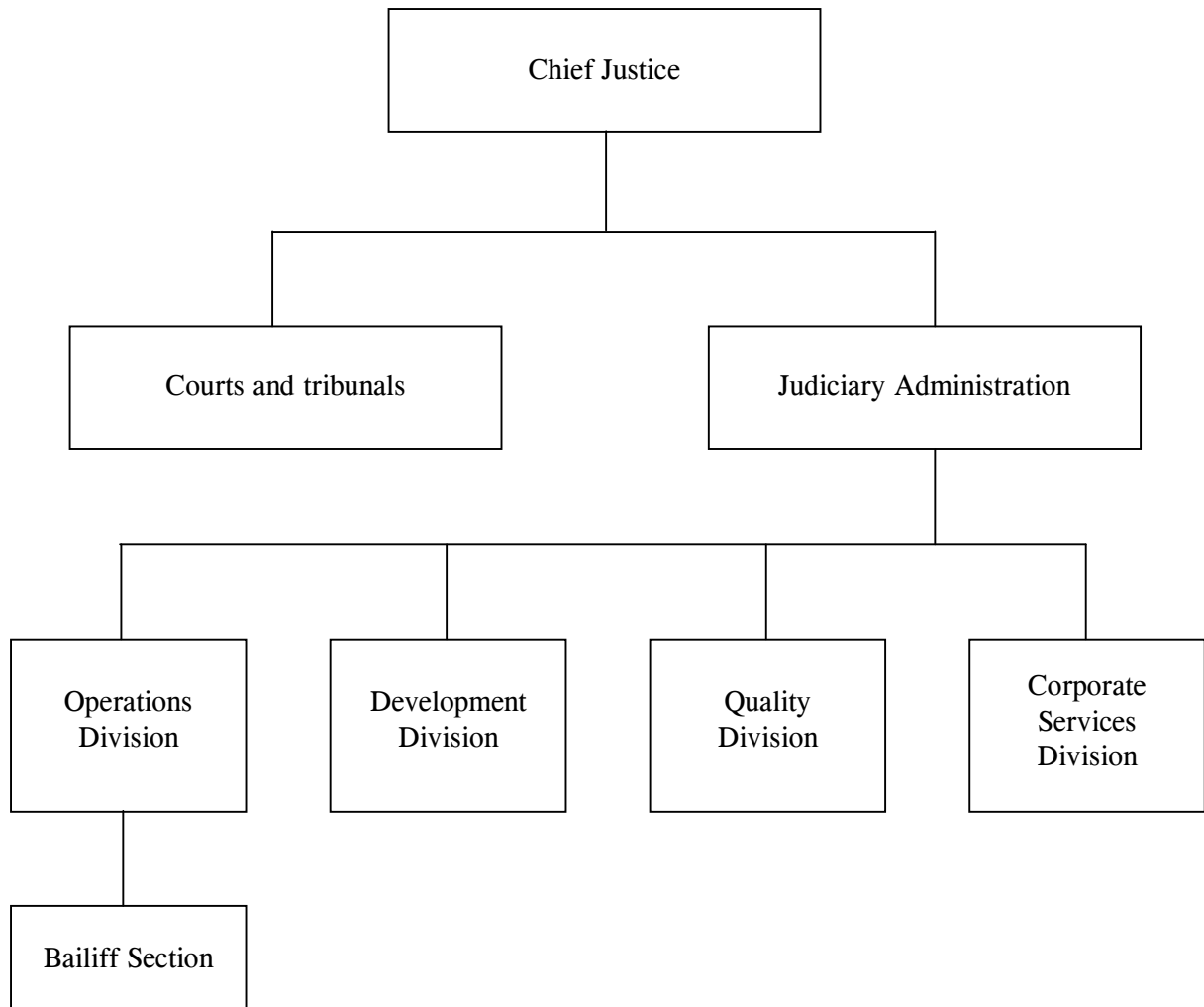
Court/tribunal	Jurisdiction
Court of Final Appeal	It is the highest appellate court in Hong Kong. It hears appeals on civil and criminal matters from the High Court (comprising the Court of Appeal and the Court of First Instance).
Court of Appeal of the High Court	It hears appeals on civil and criminal matters from the Court of First Instance, the District Court, the Lands Tribunal and various tribunals and statutory bodies.
Court of First Instance of the High Court	It has unlimited jurisdiction in both civil and criminal matters. It also hears appeals from Magistrates' Courts and certain tribunals.
District Court	It hears civil disputes with a value over \$50,000 but not more than \$1 million. In its criminal jurisdiction, the maximum term of imprisonment it may impose is seven years.
Family Court	It deals with matrimonial proceedings and family matters such as divorce, custody, ancillary relief and adoption.
Lands Tribunal	It deals with rating, valuation and tenancy disputes, and cases relating to building management and compensations for land resumption.
Magistrates' Courts (Note 1)	They mainly exercise criminal jurisdiction over a wide range of indictable and summary offences, and are empowered to impose sentences of up to three years' imprisonment and fines of up to \$5 million.
Coroner's Court	It conducts investigations and, if necessary, holds inquests into deaths.
Juvenile Court (Note 2)	It hears charges against children and young persons under the age of 16, excluding homicide cases. It also has the jurisdiction to make care and protection orders in respect of young persons under the age of 18.
Labour Tribunal	It deals with labour disputes where the amount of claim exceeds \$8,000 for at least one of the claimants in a claim or where the number of claimants in the claim exceeds 10. There is no upper limit on the amount of claim. Hearings are informal and no legal representation is allowed.
Obscene Articles Tribunal	It determines and classifies whether an article or other matter publicly displayed is obscene or indecent.
Small Claims Tribunal	It hears civil monetary claims founded in contract, quasi-contract or tort within its jurisdiction of up to \$50,000. Hearings are informal and no legal representation is allowed.

Source: *Judiciary records*

Note 1: *There are seven Magistrates' Courts, comprising the Eastern, Kowloon City, Kwun Tong, Fanling, Shatin, Tsuen Wan and Tuen Mun Magistrates' Courts.*

Note 2: *It sits in the Eastern, Kowloon City, Fanling, Tsuen Wan and Tuen Mun Magistrates' Courts.*

Judiciary
Organisation chart (extract)
(31 December 2010)



Source: Judiciary records

Appendix C
(paras. 2.2, 2.5 and 2.10 refer)

**Average court waiting times
(2004 to 2010)**

Item	Target (Note 1) (Day)	Actual							
		2004 (Day)	2005 (Day)	2006 (Day)	2007 (Day)	2008 (Day)	2009 (Day)	2010 (Day)	
(A) Court of Final Appeal									
1	Application for leave to appeal: Criminal (from notice of hearing to hearing)	45	44	62	46	40	40	37	42
2	Civil (from notice of hearing to hearing)	35	45	49	38	37	35	32	33
Substantive appeal:									
3	Criminal (from notice of hearing to hearing)	100	82	61	69	78	89	78	101
4	Civil (from notice of hearing to hearing)	120	86	118	91	110	95	105	97
(B) Court of Appeal of the High Court									
1	Criminal (from setting down of a case to hearing)	50	37	37	46	50	42	50	50
2	Civil (from application to fix date to hearing)	90	159	93	100	87	85	94	89
(C) Court of First Instance of the High Court (Note 2)									
1	Criminal Fixture List (from filing of indictment to hearing)	120	214	193	119	109	112	137	166
2	Criminal Running List (from setting down of a case to hearing)	90	135	69	66	57	63	85	81
3	Civil Fixture List (from application to fix date to hearing)	180	239	233	124	114	145	179	215
4	Civil Running List (from setting down of a case to hearing)	90	116	54	64	61	59	55	60

Appendix C
(Cont'd)
(paras. 2.2, 2.5 and 2.10 refer)

Item		Target (Note 1) (Day)	Actual						
			2004 (Day)	2005 (Day)	2006 (Day)	2007 (Day)	2008 (Day)	2009 (Day)	2010 (Day)
5	Appeals from Magistrates' Courts (from lodging of Notice of Appeal to hearing)	90	72	71	87	91	90	95	95
(D) District Court									
1	Criminal (from first appearance of defendants in District Court to hearing)	100	98	112	117	98	111	116	128
2	Civil (from date of listing to hearing)	120	54	120	125	58	85	104	80
(E) Family Court									
	Dissolution of marriage (from setting down of a case to hearing):								
1	Special Procedure List	35	68	29	45	33	31	32	32
2	Defended List (one day hearing)	110	129	120	115	119	143	118	128
3	Financial applications (from filing of summons to hearing)	110 - 140	113	124	101	83	89	85	88
(F) Lands Tribunal (from setting down of a case to hearing)									
1	Appeal cases	100	20	54	57	83	44	47	37
2	Compensation cases	100	68	90	85	141	96	64	42
3	Building management cases	100	26	49	48	54	40	33	30
4	Tenancy cases	60	23	31	40	41	27	23	27
(G) Magistrates' Courts (from plea to date of trial)									
1	Summons	50	64	94	95	95	78	63	50
	Charge cases:								
2	For defendants in custody	30 - 45	34	44	42	47	41	43	37
3	For defendants on bail	45 - 60	49	68	66	64	56	55	51

Appendix C
(Cont'd)
(paras. 2.2, 2.5 and 2.10 refer)

Item	Target (Note 1) (Day)	Actual							
		2004 (Day)	2005 (Day)	2006 (Day)	2007 (Day)	2008 (Day)	2009 (Day)	2010 (Day)	
(H) Coroner's Court									
1	From date of listing to hearing	42	46	48	43	36	40	37	39
(I) Labour Tribunal									
1	From appointment to filing of a case	30	8	13	12	10	17	28	22
2	From filing of a case to first hearing	30	24	25	25	25	24	25	24
(J) Small Claims Tribunal									
1	From filing of a case to first hearing	60	46	44	43	42	40	40	35
(K) Obscene Articles Tribunal									
1	From receipt of application to classification	5	2	2	2	2	2	2	3
2	From referral by a magistrate to determination	21	16	15	19	17	18	18	20
3	From receipt of application to review	35	19	21	27	N/A (Note 3)	N/A (Note 3)	N/A (Note 3)	N/A (Note 3)
4	From receipt of application to reconsideration	35	21	N/A (Note 4)	32	N/A (Note 3)	N/A (Note 3)	N/A (Note 3)	N/A (Note 3)
Total number of targets			31	31	31	29	29	29	29
Number of targets not achieved			10	10	10	7	3	6	6
Percentage of targets not achieved			32%	32%	32%	24%	10%	21%	21%

Legend: The actual waiting time exceeded the target.

Source: *Judiciary records*

Note 1: *For each court (except the Obscene Articles Tribunal — see Note 3), the targets for 2004 to 2010 were the same.*

Note 2: *Cases in the Court of First Instance are assigned as fixture or running cases in accordance with specified criteria (e.g. length of trial).*

Note 3: *According to the Judiciary, targets were no longer set for application to review and reconsideration cases in the Obscene Articles Tribunal from 2007 onwards, as no similar targets were set for other courts.*

Note 4: *In 2005, no articles for reconsideration were filed.*

Appendix D
(paras. 3.3, 3.4,
3.5 and 3.9 refer)

**Chronology of events in planning
the use of South Kowloon Law Courts Building
(1997 to 2008)**

Item	Date	Event
1	December 1997	The Chief Justice endorsed an accommodation strategy which included the planned use of the SKLCB for support facilities or staff accommodation after the building of the West Kowloon Law Courts Building to reprovise both the North Kowloon and the South Kowloon Magistrates' Courts.
2	1999	The Judiciary decided to close the South Kowloon Magistrates' Courts in order to achieve savings in line with the Enhanced Productivity Programme announced by the Chief Executive in the 1998 Policy Address.
3	November 1999	The Registrar, LabT reported to the Chief Magistrate that the SKLCB was not large enough to accommodate the LabT, given that the LabT had 135 staff which was expected to be increased to 143 when additional courtrooms for the LabT in the Eastern Law Courts Building came into operation in January 2000.
4	May 2000	The Chief Magistrate informed the Judiciary Administrator that: (a) the SKLCB was not recommended for use as the LabT because of insufficient space and unsuitable layout. Substantial restructuring works and additional cost were required for such use; and (b) while the SKLCB was large enough for the SCT, its unsuitable layout and hence the additional cost of restructuring rendered its use as the SCT not a worthwhile option.
5	July 2000	The South Kowloon Magistrates' Courts at the SKLCB ceased operation on 1 July 2000. The Judiciary Administrator and the Chief District Judge agreed at a meeting of 10 July 2000 that the SCT be reprovise to the SKLCB in order to release space for the expansion of the District Court.
6	May 2001	The GPA approved the Judiciary's proposed reprovise of the SCT to the SKLCB and increase of the courtrooms for the District Court.
7	October 2001	The Judiciary sought funding approval from the ArchSD for renovating the SKLCB for the SCT's use.
8	January 2002	The ArchSD confirmed that funding for the renovation works had been secured and the tentative completion date of works would be December 2002.
9	February 2002	The ArchSD commenced asbestos removal works (Note 1) prior to the renovation works.

Appendix D
(Cont'd)
(paras. 3.3, 3.4,
3.5 and 3.9 refer)

Item	Date	Event
10	October 2002	Action to reprovision the SCT to the SKLCB stopped (see para. 3.5(c)(i)).
11	July 2003	The Judiciary Administrator was inclined to use the SKLCB for the LabT and instructed planning on this basis.
12	November 2003	The ArchSD engaged a consultant to undertake on-site survey for a more accurate layout and site area calculation for planning purpose.
13	January 2004	Based on the survey information provided by the ArchSD's consultant, the Judiciary drew up an accommodation plan on the basis of 13 courtrooms and an additional lift at the SKLCB for the LabT.
14	June 2004	The Chief Justice accepted the recommendation of an internal working party (Note 2) to relocate the LabT.
15	August 2004	The ArchSD informed the Judiciary that the estimated cost of works was about \$60 million (Note 3).
16	February 2006	The Finance Committee approved funding of \$67.1 million for the reprovisioning of the LabT.
17	January 2008	The LabT commenced operation in the SKLCB.

Source: Judiciary records

Note 1: The SKLCB was built using asbestos materials for noise abatement purpose. Between 2000 and 2001, the ArchSD arranged for the removal of asbestos acoustic ceiling plaster and floor tiles only as other asbestos containing materials in the SKLCB were found to be in good condition. As the reprovisioning of the SCT would involve refurbishment of the air-conditioning system which contained asbestos, it was necessary to carry out further asbestos removal works.

Note 2: The working party was established by the Chief Justice in June 2003 to review the operation of the LabT and to recommend improvement thereto.

Note 3: According to a Financial Circular of 2004, a capital works project exceeding \$15 million requires a specific funding approval from the Finance Committee of the Legislative Council.

Acronyms and abbreviations

ArchSD	Architectural Services Department
Audit	Audit Commission
GLD	Government Logistics Department
GPA	Government Property Agency
IFA	Internal floor area
LabT	Labour Tribunal
m ²	Square metres
SCT	Small Claims Tribunal
SIM	Subscriber identity module
SKLCB	South Kowloon Law Courts Building
SOA	Standing Offer Agreement
SPR	Stores and Procurement Regulation