

SOUTH CHINA MORNING POST
20 FEB 1995

Administration does not interfere

OUR editorial headlined, "Reforms delayed" (February 11) suggested that "official procrastination" had delayed the desirable aim of achieving the greater independence of legal aid administration. This is not true.

In March 1992, the Administration set up a working group to undertake a comprehensive review of the law, policy and practice governing legal aid services.

The preliminary findings of the working group were set out in a report, which was published for public consultation in April, 1993.

One of the nine subject areas covered by the consultation paper was the administration of legal aid services.

The working group proposed that a Legal Aid Services Council (LASC) be set up, with responsibility for the overall management of publicly-funded legal aid services, but retaining the Legal Aid Department (LAD) as a government department.

The last response to the consultation paper, from the Bar Association and the Law Society, was received in October 1993.

The working group was then reconvened and considered carefully the comments received on all nine subject areas.

Its final report was approved by the Executive Council and pub-

lished in July, 1994. Your editorial stated that "a full 14 months after the Working Group's report, the same proposal was put to the Executive Council and passed". This is *not* correct.

In its final report published in July, 1994, the working group adopted a more positive approach than it had originally proposed.

In the light of the comments received, it recommended that the independent LASC should, once it was established, be specifically tasked to examine the option of dis-establishing the LAD.

Your editorial took it for granted that dis-establishment of the LAD is necessary for the administration of legal aid to be impartial.

The Administration does not agree that this is so.

Legal aid is already administered impartially.

The Director of Legal Aid is bound by law to take decisions on the grant of legal aid independently.

Contrary to the implication in your editorial, the Administration does *not* interfere in these decisions - nor indeed in the allocation of lawyers.

But we are not ruling out the option of dis-establishing the LAD at a later stage, and our two-step approach is not a delaying tactic.

On the contrary, we believe

that this approach will enable an independent LASC to be established more quickly.

Dis-establishing the LAD would not be a simple exercise.

It would, for example, be necessary to consult the staff of the LAD, work out detailed conditions of service for the staff of the new organisation and draw up bridging-over terms for serving staff.

The experience of other such exercises suggests that this could take a very long time to devise and implement.

A bill to establish the LASC was approved by the Executive Council seven months after the publication of the working group's final report.

This shows that the Administration has given the drafting of this bill the priority that it deserves.

In parallel, we have already worked on the administrative arrangements, such as the secondment of staff of the LASC, and we have briefed the Chinese side on our plans.

We will introduce the bill into the Legislative Council on Wednesday. And we aim to establish the independent LASC as soon as possible after the bill is enacted.

R.J.F. HOARE
Director of Administration