

民事司法制度改革工作小組

為了完善我們的民事司法制度，確保民事訴訟可在合理的時間內，以恰當的訴訟費用、通過簡便的程序獲得公正審理，終審法院首席法官於 2000 年 2 月成立民事司法制度改革工作小組，對高等法院民事訴訟的規則和程序進行檢討，並提出修改建議。

工作小組的成員包括：

主席：終審法院常任法官陳兆愷

副主席：終審法院常任法官李義

委員：高等法院首席法官馬道立
(自 2003 年 8 月 18 日起)

高等法院上訴法庭副庭長
羅傑志

高等法院原訟法庭法官孫國治
(是項任命於其在 2003 年
8 月 17 日退休後終止)

高等法院原訟法庭法官夏正民

高等法院原訟法庭法官朱芬齡

律政司法律專員溫法德先生，
經諮詢律政司司長後獲委任為
小組成員

WORKING PARTY ON CIVIL JUSTICE REFORM

The Honourable Chief Justice appointed the Working Party on Civil Justice Reform ("Working Party") in February 2000 to review the rules and procedures of the High Court in civil proceedings and to recommend changes thereto, with a view to ensuring and improving access to justice at reasonable cost and speed.

The membership of the Working Party was as follows -

The Hon Mr Justice Chan, Permanent Judge of the Court of Final Appeal (Chairman)

The Hon Mr Justice Ribeiro, Permanent Judge of the Court of Final Appeal (Deputy Chairman)

The Hon Mr Justice Ma, Chief Judge of the High Court (as from 18 August 2003)

The Hon Mr Justice Rogers, Vice-President of the Court of Appeal

The Hon Mr Justice Seagroatt, Judge of the Court of First Instance (until 17 August 2003, appointment terminating upon retirement from the Bench)

The Hon Mr Justice Hartmann, Judge of the Court of First Instance

The Hon Madam Justice Chu, Judge of the Court of First Instance

Mr Ian Wingfield, Law Officer, Member of the Department of Justice appointed in consultation with the Secretary for Justice

法律援助署署長陳樹鏌先生	Mr Chan Shu-ying, Director of Legal Aid
資深大律師何沛謙先生（自2001年12月3日起），經諮詢大律師公會主席後獲委任為小組成員	Mr Ambrose Ho, S.C. (since 3 December 2001), Barrister appointed in consultation with the Chairman of the Bar Association
律師史沛加先生，經諮詢律師會會長後獲委任為小組成員	Mr Patrick Swain, Solicitor appointed in consultation with the President of the Law Society
香港大學韋健信教授	Professor Michael Wilkinson, University of Hong Kong
消費者委員會總幹事陳黃穗女士	Mrs Pamela Chan, Chief Executive of the Consumer Council
秘書：高等法院原訟法庭暫委法官潘兆初	Deputy Judge Poon, Deputy Judge of the Court of First Instance (Secretary)
研究員：許家灝裁判官	Mr K H Hui, Magistrate (Research Officer)



民事司法制度改革工作小組舉行有關民事司法制度改革最後報告書的記者會
The Working Party on Civil Justice Reform at the press conference on Final Report on Civil Justice Reform

最後報告書

工作小組的《最後報告書》已於 2004 年 3 月 3 日發布。工作小組經仔細研究自 2001 年 11 月發布《中期報告及諮詢文件》以來收到的各項意見後，於《最後報告書》內提出了共 150 項提議。這 150 項提議中，大部分都得到在先前諮詢期內曾經提供意見的有關人士或團體（包括香港大律師公會及香港律師會）的大力支持。

《最後報告書》就現行的訴訟程序和規則提出了多項的修訂提議。這些修訂旨在提高本地司法制度的成本效益、簡化訴訟程序及減少拖延情況，但同時緊守基本的原則，即務求讓與訟各方都得到公正對待。工作小組的提議主要包括 —

- 法庭為每宗爭議案件訂立進度時間表；
- 簡化大部分的訴訟程序以減少各程序所需的步驟；
- 鼓勵與訟人提交精簡的狀書、證人陳述書及口頭證供；
- 限制與訟人純為程序上的問題而提出上訴的權利；
- 採用文件審閱方式處理簡單的程序事宜而無需聆訊；
- 鼓勵訴訟各方之間坦誠相待；

THE FINAL REPORT

The Final Report of the Working Party was published on 3 March 2004. Having studied in detail the comments received on its Interim Report and Consultative Paper published in November 2001, the Working Party made a total of 150 recommendations in the Final Report. Most of the recommendations have significant support from those who responded in the consultation exercise, including the Bar Association and the Law Society.

The Final Report recommends a substantial number of amendments to the existing procedural rules and practices. These are changes which aim to improve the cost-effectiveness of our system, to make it less complex and to reduce delays, while always keeping in mind the fundamental requirement of doing justice between the parties. The major recommendations include –

- the introduction of timetables set by the court for each contested case;
- streamlining many procedures so that fewer steps are needed;
- discouraging over-elaborate pleadings, witness statements and oral evidence;
- limiting the right to take purely procedural questions on appeal;
- dealing with simple procedural matters on paper and without a hearing;
- encouraging greater openness between parties;

- 鼓勵與訟人在公平的情況下盡早和解；及
- 認真考慮其他可以解決與訟人之間糾紛的方法。

《最後報告書》及其《報告摘要》可在各級法院的登記處或詢問處取得，而民政事務總署各區民政事務處的諮詢服務櫃檯也有提供。我們亦已將《最後報告書》及其《報告摘要》上載至專為民事司法制度改革而設的網站<<http://www.civiljustice.gov.hk>>，方便公眾人士閱覽。

- encouraging earlier, fair settlements; and
- requiring proper consideration to be given to alternative means of resolving the dispute.

Copies of the Final Report and its Executive Summary are available at the registries or enquiries counters of courts at all levels and the public enquiry counters of all District Offices of the Home Affairs Department. They have also been uploaded onto the dedicated website of the Civil Justice Reform <<http://www.civiljustice.gov.hk>> for easy access by members of the public.



民事司法制度改革工作小組主席陳兆愷法官（中）公布民事司法制度改革最後報告書的內容，旁為副主席李義法官（左）及馬道立法官（右）

The Hon Mr Justice Chan, Chairman of the Working Party on Civil Justice Reform (centre), unveils details of the Final Report on Civil Justice Reform. Beside him are the Hon Mr Justice Ribeiro, Deputy Chairman (left), and the Hon Mr Justice Ma (right)



民事司法制度改革最後報告書及摘要
Civil Justice Reform Final Report and its Executive Summary

民事司法制度改革督導委員會

2004年3月19日，終審法院首席法官宣布接納《最後報告書》的改革提議，以及宣布成立民事司法制度改革督導委員會（督導委員會），其職權範圍如下——

「監督民事司法制度改革《最後報告書》內與司法機構有關的改革提議的推行情況。」

督導委員會由高等法院首席法官馬道立出任主席，其他成員包括高等法院上訴法庭副庭長胡國興、高等法院原訟法庭法官夏正民、朱芬齡、鮑晏明、芮安牟，及區域法院法官兼終審法院署理司法常務官歐陽桂如。司法機構政務處則提供行政及技術支援。

STEERING COMMITTEE ON CIVIL JUSTICE REFORM

On 19 March 2004, the Chief Justice announced his acceptance of the recommendations in the Final Report, and the establishment of the Steering Committee on Civil Justice Reform ("Steering Committee"), with the following terms of reference –

"To oversee the implementation of the recommendations of the Final Report on Civil Justice Reform relating to the Judiciary."

The Steering Committee is chaired by the Hon Mr Justice Ma, Chief Judge of the High Court. Other members are the Hon Mr Justice Woo, Vice-President of the Court of Appeal; the Hon Mr Justice Hartmann, the Hon Madam Justice Chu, the Hon Mr Justice Barma and the Hon Mr Justice Reyes, Judges of the Court of First Instance; and HH Judge Au Yeung, Judge of the District Court and Acting Registrar of the Court of Final Appeal. Administrative and technical support is provided by the Judiciary Administration.

督導委員會的主要工作如下—

- 監督對有關的主體及附屬法例作出所需修訂的工作，以及對有關的實務指示引進修訂，並草擬新的實務指示；
- 為法官及政務處人員制定有關的培訓計劃，以確保改革提議能夠順利及有效地施行；及
- 在適當時候研究提升有關的資訊科技系統及改善運作系統，確保已備有適當和足夠的支援。

考慮到改革涉及民事司法制度的重大改變，以及立法程序、提升資訊科技系統及改善運作系統所需的時間，我們預計《最後報告書》的提議需時兩至三年才可落實。司法機構在推行有關改革提議的過程中，會在適當時候諮詢法律界及其他相關人士的意見。

The major tasks of the Steering Committee are –

- To oversee the necessary amendments to the relevant primary and subsidiary legislation, and to introduce amendments to and draft new Practice Directions;
- To devise training programmes for judges and administrative staff for the smooth and effective implementation of the recommendations; and
- To look into the area of information technology enhancement and infrastructural changes in due course to ensure that appropriate and adequate support is in place.

Taking into account the substantial changes to the civil justice system, as well as the time required for the legislative process, information technology enhancement and infrastructural changes, it is expected to take two to three years to implement the recommendations in the Final Report. The Judiciary will consult the legal profession and other concerned parties as appropriate in the course of implementation.