

## **Report of the Committee on Personal Injuries 2020**

1. Of course Covid 19 has delayed a number of the initiatives which this Committee wished to launch this year, and in particular the establishment of a Marine equivalent of the Motor Insurers Bureau, for uninsured cases and underinsured cases. We wish to increase insurance coverage for buildings, from no compulsory insurance for third party property damage, and a minimum limit of HK \$ 10 million for any one event for injury and death coverage for multi-storey incorporations, and no coverage for other buildings.
2. We hoped to start discussions with the Insurance Industry about these areas, but the limits on the numbers of face to face meetings have prevented this.
3. The loss of Dennis Kwok from the Legislative Council is also a big blow, as he contributed much to the background work that this Committee (and others of course) is required to do. At the time of writing we are trying to re-establishing our links in Legco to try to get background support for these initiatives.
4. We have been concerned about the length of time it takes a case to get tried or heard in the High Court and also the District Court and have held discussions with the relevant judges about improving the listing. Pre-Covid the average length of time has risen from 4 years in 2006 through to 2019 – 6 /7 years in the High Court. PI cases are one of the major points of contact the judiciary have with members of the public, and immediate steps should be taken to provide 2 more judges in the District Court and 2 more in the High Court to reduce these lists. Transferring 600 PI cases from the high court to the District Court, without allocating more judges produces the inevitable result of dissatisfaction of all court users.
5. Particularly we have focused on ECC Cases as it is clear that the original procedure for injured employees to issue Applications themselves is now outmoded as most are issued by solicitors and/or with the assistance of the Legal Aid Department, may be as many as over 1200 each year. As Section 21 of the ECO allows the use of the District Court Practice and Procedures, we are exploring with the judiciary whether or not the EC Rules can be amended to shorten the commencement procedures which currently take 5 or 6 months. The average hearing times are long delayed again.
6. We will raise court delays generally with the Legco Judicial Services Sub-Committee in the next session.

7. Lastly , we are still concerned about the way in which the Employees' Compensation Assistance Fund Board is operating;
- (i) Pay out rates are based on figures from 2002.
  - (ii) Payments out are slow as the Board still insists that the applicant either bankrupts or liquidates the employer before the Board will consider a payment. In one recent case, this process has taken over 10 years for a seriously injured applicant has been paid by this board.
  - (iii) The Board seems impervious to suggestions of reform, even though it could afford to be more generous as it has reserves of over HK \$ Billion in its published accounts.
  - (iv) The Board appears to be over reserving currently, having paid back the government \$240 million some years ago, when it had been short of funds caused by the HIH Insurance Company collapse.

### Conclusion

8. (1) We wish the former chairman of this committee, Mr. Justice Bharwaney, a long and healthy retirement, and look forward to working more with his successor Madame Justice Marlene Ng.
- (2) It only remains for me to thank members of the Committee for their hard work particularly Christina Lee and Keith Tam keeping the Committee on track, in meetings and reviewing what is written as a result.

### Membership:

Nicholas Pirie (Chairman)  
Ruy Barretto, SC  
Christina Lee  
Julia Lau  
Kamlesh Sadhwani  
Theresa Low  
Edward Poon  
Eric Tsoi  
Mike Lam  
Cindy, Li Shantong  
Keith Tam (Secretary).

Nicholas Pirie  
Chairman  
Standing Committee on Personal Injuries

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