

**COMMENTS OF HONG KONG BAR ASSOCIATION (“HKBA”)
ON POLICY PROPOSALS ON THE IMPLEMENTATION OF THE
INFORMATION TECHNOLOGY STRATEGY PLAN OF THE JUDICIARY
(1ST ROUND - JULY 2014)**

The Hong Kong Bar Association refers to the letter dated 24 July 2014 from the Judiciary Administration, enclosing the Policy Proposals on the Implementation of the Information Technology Strategy Plan of the Judiciary (1st Round - July 2014) (“ITSP-1”).

Mr. Jeremy S.K. Chan was invited to attend a preliminary discussion meeting on 02 April 2014, and substantive comments and suggestions were put forward by Mr. Chan on a preliminary basis. HKBA is happy to note that ITSP-1 has substantially adopted Mr. Chan’s comments and suggestions.

Paragraph 12 of ITSP-1 - HKBA supports and indeed recommends that e-services be introduced on an “additional option” basis, without taking away nor subtracting from existing services and channels. This is important from the point of view of access to justice - to ensure that legitimate expectations regarding the *status quo* are not undermined and to ensure that litigants with or without access to technology will have substantially the same access to justice.

Paragraph 14 of ITSP-1 - HKBA notes that legislative amendments are contemplated and are being separately undertaken. HKBA awaits those proposals and will no doubt be consulted in due course.

Paragraphs 16 & 21 of ITSP-1 - HKBA supports the proposal that electronic transactions taking place outside of Court Registry operating hours be deemed to be ‘effected’ or ‘received’ at the time the Court Registry next opens for operations. This is to ensure substantially equal access to justice, whether litigants are using e-services or not. For the avoidance of doubts and to ensure clarity, the relevant webpages should advertise this policy or principle, and state the Court Registry’s operating hours.

Paragraph 22 of ITSP-1 - HKBA supports these proposals. As technology and bandwidth improves over time, no doubt the relevant 'file size limit' will need to be revisited from time to time.

Recommendations on Time Sensitivity :-

R1 - HKBA supports and agrees. HKBA suggests using the expression "*when the Court Registry is next open for operations*" rather than "*on the following working day*" - because electronic transactions may take place during the period between 13:00 and 14:00.

R2 - HKBA agrees. Comprehensive information should be provided with the acknowledgement of receipt - for example, the number of files submitted, the action number / title, file type / nature, *etc ...*

R3 - HKBA agrees.

R4 - HKBA agrees - subject to the same suggestion / comment *per* 'R1' above. The relevant user should be made to specify in advance the total number of files that will be uploaded, prior to commencing submission of the first file.

R5 - HKBA agrees - subject to the same suggestion / comment *per* 'R1' above.

Paragraph 31 of ITSP-1 - HKBA confirms that it is agreeable to be considered as an 'entity', with an assigned PA A/C; so that HKBA will take up the role of account creation, management and administration of all Members (i.e. Barristers) requiring U A/C's.

Paragraph 33 of ITSP-1 - It is at present unclear as to how it will be verified that the relevant U A/C is indeed authorised to access / download the relevant information / conduct the relevant searches. No doubt the more detailed mechanics will be worked out in due course. HKBA will provide further views / comments as and when the same are available.

Paragraph 34 of ITSP-1 - In general, MSWord .doc / .docx format is not going to be desirable, as formatting is potentially variable (e.g. numbered lists, margins, pagination, fonts and sizes, *etc* ...). Generally speaking, .pdf is likely to provide more consistency and coherence. Pdf files should in general be submitted in a 'readable' form with embedded text or OCR'd.

Paragraphs 35 & 32 of ITSP-1 - It is unclear as to whether 'Type B' accounts will be restricted to litigants / parties. Insofar as the media / reports / journalists are concerned, much care needs to be taken before providing accounts, whether 'Type A' or 'Type B', in particular to ensure that access is only provided insofar as concerns matters of public record which are publicly available and accessible in any event.

Recommendations on Identity Authentication :-

R6 - HKBA agrees.

R7, R8, R9, R10, R11 - HKBA agrees.

R12 - HKBA agrees.

R13 - HKBA agrees in principle, but awaits the mechanics for achieving this in reality, e.g. the way to verify that the relevant U A/C is indeed authorised to access / download the relevant information / conduct the relevant searches.

R14 - HKBA agrees. See above suggestion / comment re: Paragraph 34.

Paragraph 44 of ITSP-1 -This is an area with which HKBA will be interested in being more intimately involved. HKBA awaits further proposals and particulars with regards to how paper documents, physical documents and items, 'exhibits', 'originals' and other physical media will be handled, dealt with and/or treated.

Paragraph 45 of ITSP-1 - This is another area with which HKBA will be interested in being more intimately involved. HKBA awaits further proposals and particulars with regards to the same.

Recommendations on Document Authentication :-

R15 - HKBA agrees.

R16, R17 - HKBA agrees in principle, but awaits further details and mechanics for achieving this in reality.

R18 - HKBA agrees.

R19 - HKBA agrees. Consideration might also be given as to whether the 'notification' ought to be sent by mobile 'SMS' either as well or instead. Mobile 'SMS' arguably provides better security or accountability than email.

R20 - HKBA agrees. Again, consideration might be given as to whether the 'one-time password' ought to be sent by mobile 'SMS' either as well or instead. Mobile 'SMS' arguably provides better security or accountability than email.

R21 - HKBA agrees.

Dated this 22nd August 2014
Hong Kong Bar Association