

URGENT

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Mrs Percy Ma
Clerk to Panel
Panel on Administration of Justice and Legal Services
Legislative Council

23 January 2006

Dear Mrs Ma,

**Panel on Administration of Justice and Legal Services
Meeting on 23 January 2006 at 4:30 p.m.
“Annual review of financial eligibility limits of legal aid applicants”**

I refer to LC Paper No. CB(2)904/05-06(02) (“the Paper”) issued on 17 January 2006 for discussion by the Panel at this afternoon’s meeting (4:40 p.m. – 5:05 p.m., Revised Agenda Item V). I would like to draw to the Panel’s attention a likely problem area which I just spotted this morning.

2. The Administration proposes to increase the financial eligibility limits of legal aid applicants (“the Limits”) from \$155,800 by \$2,500 to \$158,300 for the OLAS and from \$432,900 by \$6,900 to \$439,800 for the SLAS. This is based on an accumulated increase of +1.6% in the CPI(C) from July 2003 to July 2005, with the increases in dollar terms rounded up/down to the nearest \$100.

3. The likely problem, as I perceive it, is this:

- (a) There was an increase of +0.4% in the CPI(C) from July 2003 to July 2004, but the Administration decided last year to reserve the small increase of +0.4%, whilst undertaking to consider the increase together with the outcome of the 2005 annual review, covering the period from *July 2004 to July 2005* (see §3 of the Paper).

(b) According to §11 of the extract from the minutes of meeting of the Panel on 14 December 2004, the Director of Administration said at that meeting that the intention of the Administration was to withhold the adjustment temporarily, pending the outcome of the next annual review due for August 2005 which would cover the period from *July 2004 to July 2005*. The justification given (see §11 of the said extract) was that:

- (i) the administrative and publicity costs of implementing the +0.4% adjustment appeared out of proportion with the possible benefits which the adjustment might derive (3 more applicants for OLAS and 2 more applicants for SLAS – see §3 of the said extract); and
- (ii) making frequent but less than substantive adjustments could cause confusion to the public.

(c) It appears that what the Administration now proposes is to “lump” the increase in CPI(C) for the period *July 2003 to July 2004 (+0.4%)* together with that for the period *July 2004 to July 2005 (+1.3%)*. This results in an overall increase of +1.6% in CPI(C) for the period July 2003 to July 2005

(d) This “lumping together” approach produces different figures, in dollar terms, from the “year-on-year approach”. I shall explain this in more detail in the following paragraphs.

4. If the increase of +0.4% in the CPI(C) *from July 2003 to July 2004* were implemented in 2005, it would have resulted in the following increase in the Limits:

OLAS: from \$155,800 by \$600 (rounded down from \$623) to \$156,400

SLAS: from \$432,900 by \$1,700 (rounded down from \$1,732) to \$434,600.

5. Another increase of +1.3% for the period *July 2004 to July 2005* would have produced the following increase in the Limits:

OLAS: from \$156,400 by \$2,000 (rounded down from \$2,033) to \$158,400

SLAS: from \$434,600 by \$5,600 (rounded down from \$5,649.80) to \$440,200

6. The difference between the two approaches is as follows:

| | Lumping together approach | Year-on-year approach | Difference |
|------|----------------------------------|------------------------------|-------------------|
| OLAS | \$158,300 | \$158,400 | \$100 |
| SLAS | \$439,800 | \$440,200 | \$400 |

7. What I would like to draw to the attention of the Panel is that:

- (1) The difference between the two approaches may be regarded as *de minimis*, but the difference is there.
- (2) It appears that the "lumping together approach" produces a result which is marginally less favourable to applicants for legal aid.
- (3) Under the existing policy, the Administration is supposed to conduct annual reviews of the Limits to take account of movements in CPI(C) so as to maintain the real value of the Limits. However, it appears that the "lumping together approach" has the effect of distorting the real value of the Limits.
- (4) In a scenario where say for three or four consecutive years the "lumping together approach" is followed (because of "insubstantial" increases in CPI(C) in those years), the said accumulated distortion may no longer be *de minimis*.

Yours sincerely,



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