

法律援助服務局
LEGAL AID SERVICES COUNCIL

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Mrs Percy MA
Clerk to LegCo Panel on Administration
of Justice and Legal Services
Legislative Council
Legislative Council Building
8 Jackson Road, Central, H K

(Fax : 2509-9055 : 1 page)

Dear Mrs MA,

**Proposed transfer of the legal aid portfolio
to the Home Affairs Bureau**

Thank you for your letter of 29 May inviting views of the Legal Aid Services Council on the above subject.

The Legal Aid Services Council is a statutory body set up to oversee the administration of legal aid services provided by the Legal Aid Department, and to advise the Chief Executive on legal aid policy. Council's very first and foremost objective is to ensure the independent and impartial delivery of legal aid services, and that legitimate interests of legal aid applicants or aided persons are recognized and respected.

On 10 May 2007, the Administration briefed the Council on the proposed transfer of the legal aid portfolio to the Home Affairs Bureau (HAB). Presently legal aid falls within the policy portfolio of the Chief Secretary for Administration who is supported by the Administration Wing. Under the new structure, this policy responsibility will be shifted from the Administration Wing to the HAB which is also under the charge of the Chief Secretary. The restructuring, as we understand, is meant to rationalize the portfolios of the bureaux within the Government Secretariat. The work of the Legal Aid Department (LAD) will not be affected. There will be no changes to the scope of service and mode of service delivery currently undertaken by the Department. The Director of Legal Aid (DLA) will continue to exercise statutory functions vested in him by law and to consider legal aid applications according to

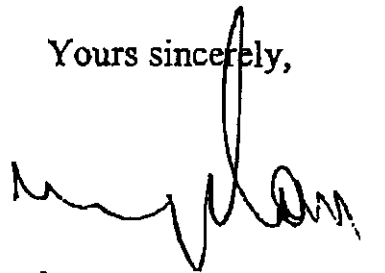
established criteria. Safeguards exist in statute and in practice to ensure that the exercise of DLA's powers and functions would not be interfered.

The Council noted the proposal. While the majority of members do not have strong views on this administrative arrangement, there is some concern on the operational independence of LAD after the transfer. There is call for this Council to step up its supervisory role to ensure that the provision of legal aid services is undertaken professionally and objectively without interference.

The Council holds it dearly that a cornerstone of the rule of law is legal aid. It consummates the value of everyone being equal before the law and facilitates those of limited means in their pursuit of justice. The Council will, as always, see to it that legal aid services are administered no less efficiently and independently than what are currently provided by the LAD under the purview of the Administration Wing. In so far as legal aid policy is concerned, the Legal Aid Services Council will continue to tender its advice to the Chief Executive as provided by statute. Our responsibility to the Chief Executive helps safeguard the independence of legal aid notwithstanding the regrouping of bureaux and departments. We will make our best efforts towards discharging this responsibility.

In September 1998, the Council recommended to the Chief Executive the establishment of an independent statutory legal aid authority. Although the recommendation was not accepted by the Administration then, Council feels it appropriate, with the passage of time and changes in the social environment, that we seek a review of the issue again. The Council will add this subject to its work plan for the current year while recognizing that this is an issue separate from the proposed transfer of the legal aid portfolio to HAB.

Yours sincerely,



Paul McCHAN

Chairman

(Chairman-Letter-LegCo)