

## LAWSOCIETY OF SHONG KONG

## 香港 律 師 會

3/F WING ON HOUSE · 71 DES VOEUX ROAD CENTRAL · HONG KONG DX-009100 Central 1

香港中環德輔道中71號 永安集團大廈3字樓

TELEPHONE(電話):(852)2846 0500 FACSIMILE(傳真):(852)2845 0387 E-MAIL(電子郵件):sg@hklawsoc.org.hk

WEBSITE (網頁): www.hklawsoc.org.hk

URGENT

Our Ref Your Ref Direct Line Criminal CB2/PL/AJLS

BY EMAIL (pma@legco.gov.hk)

26 May 2008

President 會長

Lester G. Huang 黄嘉純

Vice-Presidents 副會長

Wong Kwai Huen 王桂壤 Junius K.Y. Ho 何君堯

Council Members

理事 Peter C.L. Lo 羅志力 Michael J. Lintern-Smith 史密夫 Ip Shing Hing 葉成慶 Billy W.Y. Ma 馬華潤 Svlvia W.Y. Siu 蕭詠儀 Cecilia K.W. Wong 黄 吳 潔 華 Alex T.H. Lai 黎庭康 Kenneth S.Y. Ng

熊運信
Dieter L.T. Yih
葉 德
Ambrose S.K. Lam
林新強
Joseph C.W. Li
李超華
Amirali B. Nasir
黎雅明

Stephen W.S. Hung

伍成業

Melissa K. Pang 彭韻僖 Thomas S.T. So 蘇紹聰 James E. Jamison 季明善 Angela W.Y. Lee

Secretary General 秘書長

李慧賢

Raymond C.K. Ho 何志強 Mrs. Percy Ma, Clerk to Panel,

Legislative Council Building,

8 Jackson Road,

Central, Hong Kong.

Dear Mrs. Ma,

## PANEL ON ADMINISTRATION OF JUSTICE AND LEGAL SERVICES ("LegCo Panel") MEETING ON 26 MAY 2008

We refer to today's meeting of the LegCo Panel and are pleased to confirm that the following representatives of the Law Society will attend the meeting on **Agenda Item V**:-

- 1. Mr. Dennis C. K. Ho (何志權律師), a member of the Legal Aid Committee (法律援助委員會成員);
- 2. Mr. Patrick M. Burke, a member of the Working Party on Recovery Agents (索償代理人工作小組成員); and
- 3. Ms. Christine W. S. Chu (朱穎雪律師), Assistant Director of Practitioners Affairs (執業者事務部副總監)

## Item V- Five-yearly review of the criteria for assessing the financial eligibility of legal aid applicants

We note that the Administration is still considering various aspects of the review and intends to consult the relevant stakeholders and revert to the LegCo Panel by the end of this year. We would urge the Administration to take into account the following matters in the 2007 5-yearly review exercise:-

- 1. **Results of the 2003 5-yearly review** the Administration should report on whether the concerns and issues raised in the 2003 5-yearly review have been addressed and identify outstanding issues to be pursued.
- 2. Proposals of the Law Reform Commission of the Hong Kong Conditional Fees Subcommittees to expand the SLAS.

/p 2

Deputy Secretary General I: No.114854 副秘書長

Heidi K.P. Chu 朱潔冰 US

- Proposals to expand the scope of services and percentage coverage of the society population by the Legal Aid Scheme The Society notes the Administration has endorsed the proposal to extend legal aid to cover mediation, and would like to seek clarification on how this will be implemented.
- 4. Recovery agents the Society has expressed concerns on the activities of recovery agents. These unqualified persons are using legal aid as a funding tool so that they can take a greater portion of damages from the Plaintiff leaving the legal aid to pay the costs of solicitors. Such recovery agents are not professionally qualified or subject to any code of professional conduct and there is no compulsory insurance covering any claims directed at them. The Society has sought advice from Senior Counsel on the legality of a number of recovery agent contracts and is advised that the contracts are champertous and unenforceable. Maintenance (of which champerty is a more serious form) remains a criminal offence in Hong Kong and recovery agents are liable to be prosecuted. The Administration must clarify what it has done to tackle this area of concern.
- 5. Criminal Legal Aid Fees Concern has been raised since 2003 that insufficient funding has undermined the criminal justice system. The Government should increase its budget on criminal legal aid without further delay in order to maintain the integrity of the system and to ensure equality of arms between the defence and the prosecution, and the fair treatment between the 2 branches of the profession.
- 6. Independence of the Legal Aid The legal aid system should be an independent body and the Government should indicate when this will be introduced.

Yours sincerely,

Christine W. S. Chu

Assistant Director of Practitioners Affairs

c.c.: Mr. Lester Huang, the President
Mr. Raymond Ho, Secretary General
Members of the Legal Aid Committee