

For Information
22 October 2007

LegCo Panel on Administration of Justice and Legal Services

Policy Initiatives of Home Affairs Bureau

Introduction

This note highlights policy initiatives concerning legal aid that Home Affairs Bureau (HAB) inherited from the Administration Wing of the Chief Secretary for Administration's Office and our plan to brief the Panel in this legislative session.

Five-yearly Review of the Criteria for Assessing the Financial Eligibility of Legal Aid Applicants

2. The legal aid policy objective is to ensure that no one with reasonable grounds for taking or defending legal action in the Hong Kong court is prevented from doing so because of a lack of means. The two cardinal criteria for granting legal aid are namely the means test and the merits test. The Administration undertakes to review once every five years the overall approach towards assessing the financial eligibility of legal aid applicants.

3. The Administration briefed the Panel on the scope of the 2007 five-yearly review on 26 March 2007. Taking into account the views expressed by Panel members and deputations at that meeting, the HAB and the Legal Aid Department are carrying out the review and examining options. We aim to consult the Legal Aid Services Council and the Panel on the specific proposals of the Review in mid 2008.

Review of the Criminal Legal Aid Fee System

4. With a view to achieving general compatibility of the criminal legal aid fee system with the prosecution fees regime adopted by the Department of Justice and at the same time providing reasonable and effective remuneration for the criminal legal aid lawyers within the remits of public affordability, the Administration has been reviewing the system with the Hong Kong Bar Association, the Law Society of Hong Kong,

and the Judiciary. We reported to this Panel earlier this year that a broad consensus had been reached with the two legal professional bodies on the proposed structure of the criminal legal aid fee system that would operate on a "marked-brief" basis. We further reported to the Panel on 25 June 2007 that the Administration had offered to the two legal professional bodies the proposed rates to the various payment items under the new fee structure. We note that the Law Society has strong views on our proposed rates. We have subsequently written to the Law Society in July 2007, inviting it to revert with specific revised proposed rates.

5. We shall report to the Panel on further development as soon as practicable, subject to the two professional bodies' feedback on the proposed rates.

Pilot Scheme on Mediation in Legally-Aided Matrimonial Cases

6. We briefed the Panel on the outcome of the evaluation of the Pilot Scheme on 25 June 2007. We also reported that, in line with the world trend and our local efforts of promoting mediation as an alternative to litigation, we intended to establish mediation in legally aided matrimonial cases as a permanent feature of the legal aid service. We are preparing the detailed features of the permanent arrangement. We aim to consult the Legal Aid Services Council and the Panel in mid 2008 on the detailed features.

Home Affairs Bureau
October 2007