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26 May 2009

Mrs. Carrie Yau,
Permanent Secretary for Home Affairs,
41/F., Revenue Tower,
5 Gloucester Road,
Wanchai, Hong Kong.

Dear Mrs. Yau,

Review of Criminal Legal Aid Fees

Thank you for your letter dated 24 April 2009 to Mr. Lester Huang, our immediate past President.

We noted that the Government has slightly revised its offer by an increase of HK$100 in the District Court hourly fee rate to apply under the new Criminal Legal Aid Fees Regime and indicated that it would be prepared to re-visit the proposed fee rates in 2 years' time.

However, we have grave concern that after a lapse of another 5 months, the Government has still failed to address questions of principle raised and provide the statistics requested for in our letter dated 19 December 2008. Nor has the Government reverted to us on the yardstick on which the present fee rates proposal and the suggested 2 years' review in the future were and will be based, despite the specific request of the LegCo Panel on Administration of Justice and Legal Services ("*LegCo AJLS Panel*") for it to reach consensus with the Law Society on this at its meeting on 16 December 2008.

We feel the need to reiterate that whilst we appreciate the Government has a duty to properly use public funds, we do not agree that the approach in relation to the review of criminal legal aid fees, which involves the very important role of upholding the Rule of Law and the obligations under the Basic Law, should be from a pure budgetary point of view.

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We are indeed concerned with the pace of the negotiation process and are eager to finalize this longstanding review exercise. However, it is clear that this cannot materialize unless we have the prompt feedback from the Government on our proposal to adopt the civil party and party taxation rates or if this is not found to be acceptable, to counter-propose a justifiable and acceptable yardstick for fee review.

We suggest the Government should proceed with the proposal to increase fees under the existing fee regime by 8.3% following completion of the regular biennial review forthwith without waiting for finalization of the overall fee review exercise.

Lastly, we are well aware of the need to revert to the LegCo AJLS Panel on the subject on 22 June and shall have no hesitation to report our concern on the lack of progress in negotiations with the Government to the Panel on that occasion.

Yours sincerely,

Christine W. S. Chu
Assistant Director of Practitioners Affairs

c.c. Dr. Hon. Margaret Ng, Chairman of LegCo AJLS Panel