

**立法會**  
**Legislative Council**

Ref : CB2/PL/AJLS

LC Paper No. CB(2)2134/09-10  
(These minutes have been seen  
by the Administration)

**Panel on Administration of Justice and Legal Services**

**Minutes of meeting**  
**held on Monday, 24 May 2010, at 4:30 pm**  
**in Conference Room A of the Legislative Council Building**

- Members present** : Dr Hon Margaret NG (Chairman)  
Hon James TO Kun-sun  
Hon LAU Kong-wah, JP  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Dr Hon Priscilla LEUNG Mei-fun  
Hon IP Wai-ming, MH  
Hon Paul TSE Wai-chun  
Mr LEUNG Kwok-hung
- Member attending** : Hon LI Fung-ying, BBS, JP
- Members absent** : Hon Albert HO Chun-yan (Deputy Chairman)  
Dr Hon Philip WONG Yu-hong, GBS  
Hon Emily LAU Wai-hing, JP
- Public Officers attending** : Item IV  
Home Affairs Bureau  
Ms LUI Kit-yuk, Grace  
Deputy Secretary for Home Affairs  
Ms MAK Tse-ling, Elaine  
Assistant Secretary for Home Affairs

Legal Aid Department

Mr KWONG Thomas Edward  
Deputy Director of Legal Aid

Ms Alice CHUNG Yee-ling  
Assistant Director of Legal Aid

**Attendance by** : Item IV  
**invitation**

Legal Aid Services Council

Hon Paul M P CHAN  
Chairman

Mr Raymond F K LAW  
Secretary

Hong Kong Bar Association

Mr Russell Coleman, SC  
Chairman

Mr Ruy Barretto, SC

Mr Nicholas Pirie

Mr Valentine YIM

The Law Society of Hong Kong

Mr Dennis HO  
Member of the Legal Aid Committee

Mr Leslie YEUNG  
Member of the Legal Aid Committee

The Hong Kong Federation of Trade Unions Rights  
& Benefits Committee

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Mr SO Pak-tsan  
Committee Member

Civic Party

Mr Dennis KWOK  
Member

Hong Kong Human Rights Monitor

Mr KWOK Hiu-chung  
Education Officer

**Clerk in attendance** : Miss Flora TAI  
Chief Council Secretary (2)3

**Staff in attendance** : Mr KAU Kin-wah  
Assistant Legal Adviser 6

Ms Amy YU  
Senior Council Secretary (2)3

Ms Wendy LO  
Council Secretary (2)3

Mrs Fanny TSANG  
Legislative Assistant (2)3

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**I. Confirmation of minutes of meeting**  
[LC Paper No. CB(2)1581/09-10]

The minutes of the meeting held on 29 March 2010 were confirmed.

**II. Information papers issued since last meeting**

2. Members noted that the following papers had been issued since the last meeting -

- (a) submission from the Hong Kong Human Rights Monitor [LC Paper No. CB(2)1465/09-10(01)];
- (b) paper provided by the Department of Justice ("DoJ") on details of the Framework Agreement on Hong Kong/Guangdong Co-operation relating to co-operation on legal matters [LC Paper No. CB(2)1580/09-10(01)]; and
- (c) paper provided by DoJ on pre-trial interviewing of witnesses by prosecutors [LC Paper No. CB(2)1599/09-10(01)].

3. Members agreed that the item referred to in paragraph 2(b) above be included in the Panel's list of outstanding items for discussion.

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4. Regarding the item referred to in paragraph 2(c) above, the Chairman said that members had expressed reservation about the introduction of the proposed scheme on pre-trial interviewing of witnesses when the subject was last discussed by the Panel on 23 June 2008. Upon the completion of a consultation exercise, DoJ had concluded that there was insufficient justification at the present time to warrant the introduction of such a scheme. Members agreed that the subject be deleted from the Panel's list of outstanding items for discussion.

Clerk

### **III. Items for discussion at the next meeting**

[LC Paper Nos. CB(2)1583/09-10(01) - (03)]

#### Items for discussion at the next meeting

5. Members agreed to discuss the following items at the next regular meeting to be held on 28 June 2010:

- (a) Law Reform Commission Report on Conditional Fees;
- (b) Bailiff services; and
- (c) Trial in the District Court.

#### Judicial manpower situation at the Court of Final Appeal and other levels of court

6. Regarding the item of "Appointment of Temporary/Deputy Judges and Judicial Officers" originally scheduled for discussion in June 2010, the Chairman informed members that as the former Subcommittee on Proposed Senior Judicial Appointments had referred to the Panel for follow up the policy issues of appointment of serving Justices of Appeal as non-permanent judges of the Court of Final Appeal ("CFA") and judicial manpower situation at CFA and other levels of court, the Judiciary Administration ("JA") had suggested that the information intended to be provided under the item of "Appointment of Temporary/Deputy Judges and Judicial Officers" be covered in an overall paper on judicial manpower situation, covering both the substantive and temporary/deputy judicial manpower situation at all levels of court. Members agreed to JA's suggestion. To allow sufficient time for JA to prepare the paper, members also agreed to defer the discussion of the item to a future meeting.

Clerk

#### Proposed amendments to the Solicitors (Professional Indemnity) Rules

7. As regards the proposed amendments to the Solicitors (Professional Indemnity) Rules which was on the Panel's list of outstanding items for discussion, the Chairman informed members that the relevant Amendment Rules had already been gazetted before the Panel had had the opportunity to discuss the legislative proposals. She added that it would be for the House Committee to decide whether it was necessary to appoint a subcommittee to consider the Amendment Rules.

**IV. Five-yearly review of the criteria for assessing the financial eligibility of legal aid applicants**

[LC Paper Nos. CB(2)1148/09-10(01), CB(2)1200/09-10(01), CB(2)1364/09-10(01) and CB(2)1583/09-10(04)]

8. Members noted the updated background brief prepared by the Legislative Council Secretariat on the five-yearly review of the criteria for assessing the financial eligibility of legal aid applicants ("five-yearly review") [LC Paper No. CB(2)1583/09-10(04)].

Views of deputations

*Legal Aid Services Council ("LASC")*

9. Mr Paul CHAN, in his capacity as the Chairman of LASC, presented the following views -

- (a) LASC welcomed the Administration's proposal of replacing the 35-percentile household expenditure with the median household expenditure as the deductible allowance in calculating disposable income;
- (b) while supporting in principle the Administration's proposal of exempting part of the savings of elderly applicants when calculating their disposable capital, LASC was of the view that the age requirement should be relaxed, as many people might have built up some retirement assets well before they were 65 and they could not be realistically expected to risk all their savings in engaging lawyers privately to fight a case;
- (c) the Administration should further explain the policy basis of how its proposed increase of the financial eligibility limit ("FEL") for the Ordinary Legal Aid Scheme ("OLAS") by 50% to \$260,000 was arrived at, including the Administration's policy on legal aid coverage and the probable population pool to be covered after the proposed increase, to assist in assessing the adequacy of the proposed level of increase;
- (d) while noting the Administration's proposed increase of the FEL of the Supplementary Legal Aid Scheme ("SLAS") by 100% to \$1 million, LASC considered that there was room for further increase without jeopardizing the financial viability of the scheme, as cases under SLAS had to pass the merits test and applicants were required to pay a contribution ranging from 6% to 10% of the damages recovered. LASC recommended that the FEL for the scheme should be further increased to \$1.3 million, on the basis that the average legal costs of a SLAS case that actually went to trial was \$1.297 million; and

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- (e) nevertheless, LASC hoped that the proposals put forward by the Administration could be brought into effect as soon as possible, while further related discussions could continue, so that more people could take early advantage of and benefit from the recommended increases.

*The Law Society of Hong Kong ("Law Society")*

10. Mr Leslie YEUNG considered it regrettable that the Administration had failed to provide a proper explanation on the basis for its proposals for the revised FELs for the two legal aid schemes, without which it would be difficult for the public to comment on the adequacy of the proposed increases. That said, the Law Society shared the view that the Administration's proposals were at least a step forward and should be put in place as early as practicable to widen access to legal aid. He added that the scope of SLAS should be further expanded to cover other types of cases.

*The Hong Kong Bar Association ("Bar Association")*

11. Mr Ruy Barretto referred members to the submission of the Bar Association for details of its views on a number of issues relating to the independence of legal aid, the five-yearly review and provision of free legal advice service [LC Paper No. CB(2)1601/09-10(01)].

12. Mr Valentine YIM briefed members on the views of the Bar Association on the issue of independence of legal aid as detailed in its submission. In gist, the Bar Association did not subscribe to the reasoning of LASC in its letter to the Chief Executive dated 16 October 2009 that there was no pressing need for establishing an independent legal aid authority. He stressed that the findings in LASC's recent review, which had departed significantly from its recommendations in the 1998 review, was retrograde, and LASC should not backtrack on the principle contained in its report on the 1998 review that it was an institutionally flawed arrangement for legal aid to be administered by a Government department. Mr Ruy Barretto supplemented that LASC should embark on a fresh review on the independence issue immediately, instead of deferring it to 2012.

13. Mr Ruy Barretto and Mr Nicholas Pirie then highlighted the following points on the five-yearly review:

*Adjustment of the FELs for OLAS and SLAS*

- (a) although the proposed increase of FELs was belated and not yet adequate, it was still welcomed as an improvement which widened to some extent the access to legal aid for the target groups;
- (b) the Administration should not adopt an across-the-board approach in setting FELs which would result in injustice in individual cases;

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- (c) the Administration had explained that in considering the revised FELs, it had taken into account three criteria, namely, the percentages of cases with litigation costs below the revised FELs, the levels of financial resources of the prospective applicants eligible for legal aid and the financial implications arising from the adjustments. For the sake of transparency and accountability, the Administration should provide for the Panel's reference all relevant data it had relied upon in determining the revised FELs;
- (d) the FEL for OLAS should be raised by at least 100% to \$350,000 in line with the proposed 100% increase for SLAS;
- (e) to reflect the full costs of the legal proceedings which might include liability to pay for the opponent's costs should the action fail in addition to the litigant's own legal costs, the FEL for SLAS should be raised to the region of \$3 million;

*Deductible allowance in calculating disposable income*

- (f) the deductible allowance for OLAS and SLAS should be set at a higher level. On the basis of the expert advice from Dr WONG Hung obtained by LASC in 2003, the Bar Association was of the view that the deductible personal allowance for OLAS and SLAS should be set at 66-percentile and 75-percentile of monthly household expenditure respectively which was considered more fair and consistent with the Administration's declared policy objectives that OLAS was intended for lower middle class and below, and SLAS for the middle class;

*Calculation of financial resources for the elderly*

- (g) the Bar Association proposed that the age requirement for exempting part of the savings in calculating disposable capital for elderly applicants be relaxed to age 50. It should be recognized that people at the age of 50 had usually built some retirement assets and they had to face undue hardship if they were required to risk most of their retirement savings for a litigation, bearing in mind that the average life expectancy of Hong Kong people was 82 to 83 years and people had to make provision for some 20 to 30 years of retirement;

*Scope of SLAS*

- (h) the scope of SLAS should be further expanded to cover other types of claims, such as cases concerning financial disputes; and
- (i) financial recoverability of a case should not be a criterion in granting SLAS applications as it was contrary to section 10(3) of the Legal Aid Ordinance (Cap. 91) which only required that an applicant had reasonable grounds for defending or taking legal proceedings.

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*The Hong Kong Federation of Trade Unions (Rights & Benefits Committee) ("HKFTU")*

14. Mr SO Pak-tsan said that HKFTU supported in principle the Administration's proposals of raising the level of personal allowance in calculating disposable income and exempting part of the savings of elderly applicants in calculating their disposable capital. HKFTU agreed with the revised FEL for OLAS but shared LASC's view that the FEL for SLAS should be further raised to \$1.3 million.

15. Mr SO urged the Administration to consider granting legal aid unconditionally for employees filing petitions for bankruptcy or winding up against their employers who had refused to effect payment of outstanding wages even after the Labour Tribunal ("LT") had so awarded. He pointed out that many employees could not afford the cost of filing such petitions which might amount to several tens of thousands of dollars, and which in many cases might also be disproportionate to the amount of wages they claimed for. He stressed that it was unfair to deprive employees of the right to recover outstanding wages and entitlements. Mr SO further said that the discretion of the Director of Legal Aid under section 5AA of the Legal Aid Ordinance to waive the means test should also be extended to cover cases where employees had been granted an award by LT but the employers concerned lodged an appeal to High Court.

*Civic Party*

16. Mr Dennis KWOK pointed out that according to the findings of the recent study on the demand for and supply of legal and related service in Hong Kong commissioned by DoJ, more than 50% of the individuals and small and medium sized enterprises ("SMEs") being surveyed found the existing legal advice service inadequate; 75% of the individuals and 67% of SMEs indicated that they would not seek legal help when faced with legal problems due to financial reasons; and 98% of the respondents did not seek free legal advice when faced with legal problems as such service was perceived to be of little use. He said that the one-off general advice given by the volunteer lawyers under the Free Legal Advice Service was not adequate to help people solve their legal problems. He urged the Administration to provide funding to non-governmental organizations for provision of community legal services, as in the case of the United Kingdom, Australia and Canada.

*Hong Kong Human Rights Monitor ("HKHRM")*

17. Mr KWOK Hiu-chung said that HKHRM welcomed in principle the Administration's proposals arising from the current five-yearly review. However, it considered that the special provision on exempting part of the savings when calculating disposable capital for elderly applicants should be extended to cover those who were chronically ill or disabled. While appreciating the importance of maintaining the financial stability of SLAS which was self-financed, HKHRM considered the Administration's refusal to expand the scope of SLAS disappointing.



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HKHRM also suggested increasing the rates of contribution for successful SLAS cases to strengthen the financial position of the SLAS Fund so that consideration could be given to expanding the scope of SLAS to cover other types of cases. He further opined that the means test should be waived for legal aid applications involving a possible breach of any international human rights conventions applicable to Hong Kong, any anti-discriminations ordinances and the Personal Data (Privacy) Ordinance, and where public interests were involved.

Response of the Administration to deputations' views

18. Deputy Secretary for Home Affairs ("DSHA") said that the setting of FELs was based on the principle that when a person faced legal proceedings, he was expected to draw on both his income and capital to meet the legal costs to the extent that he could do so without suffering undue hardship. As she had pointed out at the Panel meeting in March 2010, when the FELs were first introduced in 1992, no formula was used to arrive at the figures. In considering the revised FELs, the Administration had taken into account various factors including the percentages of cases with litigation costs below the revised FELs, the levels of financial resources of the prospective applicants eligible for legal aid and the financial implications arising from the adjustments. The proposed levels of increases, i.e. 50% for OLAS and 100% for SLAS, aimed to significantly enhance the FELs to make more people eligible for legal aid. She further explained that there was little room for enhancing the FEL for SLAS given its self-financing nature. Deputy Director of Legal Aid ("DDLA") supplemented that the Administration did not consider it appropriate to pitch the FEL for SLAS at a level equivalent to the full litigation costs of \$1.3 million, as some 80% of the legal aid cases were settled through mediation or negotiation.

19. In response to the enquiry of the Chairman on the rates of contribution payable by legally aided persons relating to wage claim cases, DDLA advised that for OLAS, the maximum contribution rate was 25% of the financial resources possessed by an aided person, with the maximum amount of contribution capped at \$43,950.

Discussions

*Legal aid for recovery of wages*

20. Mr IP Wai-ming pointed out that as a matter of fact, there was not much difference between the amount of contribution payable by a legally aided person for filing a petition for bankruptcy or winding up against the employer for recovery of wages (i.e. \$40,000 to \$50,000) and the cost of engaging a private lawyer (i.e. \$50,000 to \$60,000). He further pointed out that as in most cases, the contribution payable under legal aid and the cost of private litigation was much higher than the amount of the claim, employees concerned were practically forced to give up their right to recover wages and related entitlements. He said that LT handled an average of about 7 500 to 9 000 cases involving claims for recovery of wages each year, and it was estimated that employers had failed to pay the sum awarded by LT in about one-seventh of the cases. He recalled that in the past, there was a special team in the

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Legal Aid Department to provide assistance to employees in enforcing LT awards. Regrettably, such service had ceased after 1995. He urged that serious consideration be given to exempting the means test and payment of contribution in such cases to assist employees in recovering their wages and related entitlements. He further pointed out that with the implementation of Employment (Amendment) Ordinance 2010 which sought to criminalize the non-payment of LT awards, it was expected that cases of default payment of wages would decrease. Hence, HKFTU's proposal would not pose a heavy financial burden to the Administration.

21. DDLA responded that it was the established policy that all applicants for legal aid were required to go through both the means test and the merits test. He informed members that in 2009, there were 358 legal aid applications concerning the filing of a petition for bankruptcy or winding up against the employer for recovery of wages, of which only four applicants were not able to satisfy the means test. Two of these four cases had subsequently been granted legal aid after the applications were made under the name of other employees. As a result, only two such cases were not granted legal aid as a result of the applicants being over on means. He added that with the proposed increase in FEL, it was envisaged that more insolvency cases for recovery of wages would be covered by legal aid.

22. Ms LI Fung-ying said that she shared the views of HKFTU and Mr IP Wai-ming that special assistance should be given to employees to recover wages and other employment-related claims. She further said that the means test should also be waived for employees who had to face further litigation when their employers appealed against the awards granted to them by LT. She stressed that the number of unsuccessful legal aid applications concerning the filing of a petition for bankruptcy or winding up against the employer given by the Administration in the preceding paragraph did not reflect fully the actual situation as many employees had not applied for legal aid knowing full well that they were ineligible under the existing system due to excess of means. Mr SO Pak-tsan of HKFTU echoed a similar view.

23. The Chairman said that in cases where employers had failed to pay the sums awarded by LT, the Administration should come up with measures to ensure effective enforcement of LT awards.

24. Mr LEUNG Kwok-hung stressed that the prime objective of legal aid was to ensure that no one with reasonable grounds for taking legal action was prevented from doing so because of a lack of means. He considered it justified to use public funds to render assistance to employees who had been granted an award by LT to uphold the rule of law and the principles of natural justice. He opined that consideration could also be given to setting up a Fund financed by employers, along the lines of the Protection of Wages on Insolvency Fund which was funded by a levy on business registration certificate, to provide financial assistance to employees in recovering wages when the LT awards were not paid.

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25. DSHA said that in considering the proposal of granting exemption to cases where employers had failed to pay the sums awarded by LT, it was necessary to consider where the line should be drawn and whether such exemption should also apply to cases involving enforcement of rulings of other courts/tribunals.

26. Mr TAM Yiu-chung said that HKFTU had long called for the provision of special assistance to employees in obtaining legal aid for recovery of wages. He believed that it would not lead to abuse as the exemption was only be applicable to cases where awards had been granted by LT in respect of wages.

*FELs for OLAS and SLAS*

27. Mr IP Wai-ming said that it was regrettable that the Administration had failed to explain the basis for setting FELs for OLAS and SLAS. He did not subscribe to the Administration's view that it was inappropriate to raise the FEL of SLAS to \$1.3 million as suggested by LASC, and considered that further explanation from the Administration was needed.

28. Mr Paul CHAN disagreed with the Administration's view that it was inappropriate to use the average legal cost of a SLAS case as the FEL for SLAS as most legal aid cases were settled without going through the whole legal proceedings. He pointed out that when a person decided to take a case to court, he would need to prepare to shoulder the costs of the full proceedings. He stressed that given the selective nature of SLAS cases (i.e. the scheme covered only cases involving monetary claims of a reasonable size, with a good prospect of success and a high chance of recovering damages), there was room for further relaxing the FEL for SLAS to \$1.3 million without jeopardizing the financial viability of the scheme.

29. DSHA reiterated that there was no formula in arriving at the figures of FELs when they were first introduced. The Administration had to exercise prudence in allocating public funds for provision of legal aid services to those in genuine need of assistance. She stressed that the revised FELs for OLAS and SLAS represented substantial increases to the existing limits and appealed to Members to support the revised FELs so that they could be brought into effect as early as practicable.

30. The Chairman said that even though there might be no formula for determining the FELs, there must be a rationale for the revised levels of FELs proposed by the Administration, and it was incumbent upon the Administration to explain the basis for the revised FELs. She stressed that members had not disputed the need for revising the FELs, but they considered the proposed extent of increases inadequate to meet public needs.

31. Mr Russell Coleman stressed the importance of adopting a principled approach in determining the right level of FELs. He pointed out that if the FELs for OLAS and SLAS were set at inappropriate levels in the current five-yearly review, the next five-yearly review would start with the wrong benchmarks, resulting in further

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inadequacies in future. Mr Ruy Barretto echoed the need for applying a principled approach in setting the levels of the FELs. He reiterated that the revised FELS for OLAS and SLAS were inadequate and suggested that another Panel meeting be held as soon as possible to further discuss the five-yearly review.

*Scope of SLAS*

32. Ms Miriam LAU expressed disagreement with the Administration's view that the scope of SLAS could not be expanded to cover other categories of cases due to their relatively low success rates. She urged the Administration to consider expanding the scope of SLAS with a view to widening the middle class' access to justice. Noting that LASC had invited its Interest Group on Scope of Legal Aid to study the possible expansion of SLAS, she enquired when the Interest Group would make its recommendations to LASC.

LASC

33. Mr Paul CHAN advised that the Interest Group had looked into the issue of expanding the scope of SLAS and considered it inappropriate, for the time being, to recommend any extension. Nevertheless, the Interest Group would continue to study the issue. LASC had also invited the Interest Group to advise on the feasibility of setting up a Second-tier SLAS to further improve legal aid service. He undertook to revert to the Panel on the outcome of the study in about six months' time.

34. Mr Nicholas Pirie also disagreed with the Administration's view that it was not viable to expand SLAS to cover other types of cases as most of those cases were not covered by insurance. He pointed out most banks and financial institutions, i.e. the defendants in cases relating to mis-selling of financial products which were not covered by SLAS, were required to be insured since around 1994.

*Calculation of financial resources for the elderly*

35. While welcoming the Administration's proposal of disregarding part of the savings of the elderly in assessing their financial eligibility, Ms LI Fung-ying shared the view of LASC that the age requirement of 65 should be relaxed. She said that people in their 50's were naturally reluctant to use their savings for litigation as they were nearing retirement and it might be difficult for them to rebuild their retirement assets once they had been lost.

36. The Chairman opined that the age requirement for the Administration's proposal of disregarding part the savings of the elderly in assessing their legal aid applications should be relaxed to at least age 60, which was the general retirement age.

37. Mr TAM Yiu-chung concurred with the view that the age requirement under the proposal should be lowered to 60. He further suggested that consideration be given to extending the special provision to cover the chronically ill.

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38. DSHA explained that the age requirement was set at 65 as it was a generally accepted definition of "elderly". She stressed that in deciding where to draw the line for the age requirement, it was important to strike a proper balance between public affordability and provision of services to those in genuine need of assistance. She cautioned that if legal aid was granted to applicants who had certain savings but were unwilling to deploy for undertaking litigation, the costs incurred would ultimately be borne by the public purse. On the suggestion of extending the special provision to cover the chronically ill, she said that putting in place too many different exemptions would render the legal aid application vetting process more complicated and less clear to understand for the legal aid applicants. Nevertheless, she undertook to consider members' views on relaxing the age requirement and extending the proposal to cover the chronically ill.

HAB

39. The Chairman said that the policy objective of legal aid was to ensure that no person would be denied access to justice due to a lack of means. She stressed that the Administration should not consider legal aid from a social welfare angle.

40. Mr Ruy Barretto said that the gist of the issue was not whether a person was willing to use his retirement savings for litigation, but whether it would cause him undue hardship to spend most of the savings for retirement on litigation after years of hard work.

*Provision of free legal services*

41. Mr Dennis KWOK requested the Administration to respond to the calls for enhancing the provision of community legal services.

42. The Chairman said that the measures proposed by the Administration at the Panel meeting in March 2010 to improve the support services for volunteer lawyers under the Free Legal Advice Scheme was only a small step forward, and urged the Administration to conduct a comprehensive review on the Scheme.

43. DSHA reiterated that the Administration would revert to the Panel on its recommendations for enhancing the provision of free legal services by the end of the current financial year.

HAB

Conclusion

44. The Chairman said that while appreciating that the existing FELs should be revised as early as practicable, members considered it vitally important to grasp the opportunity of the current five-yearly review to make substantial improvements to the legal aid system to enhance access to justice. To facilitate the Panel's further discussion on the five-yearly review, she requested the Administration to provide a supplementary paper setting out -

- (a) the rationale for the proposed FELs for the two legal aid schemes;

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- (b) the reasons for ceasing the service of assisting employees in enforcing LT awards provided by the Legal Aid Department before 1995 and whether consideration could be given to providing such service again; and
- (c) assistance to be provided to employees in obtaining legal aid for recovery of wages and measures to be taken to ensure the enforcement of LT awards, with relevant statistics on such cases.

HAB

DSHA undertook to provide the requisite information within four to six weeks. The Chairman also invited deputations present at the meeting to give further views to the Panel in respect of the issue referred to in paragraph 44(c) above.

45. The Chairman further opined that LASC, which was vested with the statutory power and responsibility to advise the Chief Executive on legal aid policy in Hong Kong, was duty bound to look into the issue of assisting employees in obtaining legal aid for recovery of wages. She pointed out that under the existing system, the Director of Legal Aid had the discretion to waive the means test for criminal cases as well as cases involving a possible breach of the Hong Kong Bill of Rights Ordinance or an inconsistency with the International Covenant on Civil and Political Rights. Hence, it was not a question of whether exemptions could be made, but whether the exemptions were justified. As there was no legal representation in proceedings of LT, she considered it unfair that employees had to bear the financial burden for appeals against LT awards. She further opined that a review should be conducted on the procedures for applications to the Protection of Wages on Insolvency Fund for ex-gratia payments. She reiterated that LASC should look into the issue of assisting employees in obtaining legal aid for recovery of wages, as well as the expansion of SLAS and revert to the Panel on its recommendations in due course.

LASC

46. Members agreed that a special meeting be held in July 2010 to further discuss issues arising from the five-yearly review with the deputations attending the meeting. Members also agreed that the Panel on Manpower and all other Legislative Council Members be invited to join the discussion of the item.

Clerk

*(Post-meeting note: With the concurrence of the Panel Chairman, the special meeting was scheduled for 21 July 2010 at 4:30 pm.)*

## **V. Any other business**

47. There being no other business, the meeting ended at 6:32 pm.