

**For discussion on
29 March 2010**

**Legislative Council Panel on
Administration of Justice and Legal Services
Free Legal Advice Service**

PURPOSE

In response to Members' request, this paper briefs Members on the Administration's preliminary views on measures to improve the existing Free Legal Advice Scheme ("the Scheme") and how the provision of free legal advice service may be enhanced.

FREE LEGAL ADVICE SCHEME

2. The Scheme is operated by the Duty Lawyer Service (DLS) and it commenced operation in 1978. Its objective is to provide, without means testing, free preliminary legal advice to members of the public who face genuine legal problems and would not normally be able to afford fees for professional legal advice.

3. Legal advice is provided by volunteer lawyers on a roster and pro bono basis. The aim is to help clients understand the nature of their problems, rights and obligations under the law and the channels available for resolution. The one-off legal advice given is of a general nature.

4. The Scheme is run at nine Legal Advice Centres, each of which situated at a District Office (DO).¹ With exception of the Wanchai Centre, which operates twice a week, all other Centres operate once a week in the evening. A person who wishes to seek legal advice from the Scheme may attend any of DLS' 29 referral agencies (with 153 branches) to make an appointment to meet the volunteer lawyer. In normal circumstances for a client who does not request to be served at a particular centre, he would be given an appointment to meet a volunteer lawyer in about four weeks.

¹ The nine Legal Advice Centres are operating in the following District Offices: Central and Western, Eastern, Islands, Kwun Tong, Shatin, Tsuen Wan, Wanchai, Wong Tai Sin and Yau Tsim Mong.

5. The number of cases handled under the Scheme between 2007 and 2009 are 6429, 6652 and 6,635 respectively. In 2009, the largest number of cases handled was commercial and property disputes cases (1,493 cases) which accounted for 22.5% of all cases. The second largest category is matrimonial cases which made up 19.22% (1,275 cases) of the caseload.

POSSIBLE IMPROVEMENT MEASURES

Free Legal Advice Scheme

6. We consider that the free legal advice services currently provided under the Scheme can generally address the spectrum of common legal problems faced by users. In light of the feedback from users and the volunteer lawyers, we have explored with the Home Affairs Department (HAD) and the DLS the possibility to improve the support services for the scheme, as follows –

- (a) We plan to provide additional resources to the HAD for engaging dedicated staff in the DOs to be responsible for appointment making and recording of case details for the persons seeking service. The financial implications for the proposal will be around \$ 3 million to employ a dedicated team of 15 staff to support the Scheme.
- (b) We also plan to arrange more training opportunities for the dedicated team. Under the existing arrangement, over 300 HAD officers in 18 DOs work on a rotational basis to provide the case summary and appointment service, in addition to their existing duties. This arrangement is unsatisfactory, as a large pool of officers involved dilutes the effectiveness of training and briefing and makes the accumulation of experience difficult. We anticipate that by providing DOs with dedicated staff and with enhanced training, the support service for volunteer lawyers will be improved, which will in turn enhance efficiency and effectiveness of the service.
- (c) We are prepared to enhance the handbook/manual for the volunteer lawyers such that volunteer lawyers would be enriched with updated information (e.g. information published by relevant Government departments and agencies on civil and criminal related procedures and services) to facilitate their communication with users.

Community Legal Information

7. Apart from possible improvement to be made to the Scheme, the Administration has also examined means to strengthen support to the delivery of free legal information to the community. We are exploring the possibility of providing funding for an agency to provide this service. Considerations may be given to expanding the scope of legal issues covered in websites currently providing legal information to address more common concerns of those who seek free legal advice and assistance. The Administration is exploring the proposal with a prospective agent. We trust that enrichment of legal information through the internet will benefit the general public and the unrepresented litigants by assisting them to better understand their legal problems and providing pointers on the possible channels for addressing such problems.

OTHER CONSIDERATIONS

8. The Administration is aware of the demands from the community for the provision of more extensive free legal advice services to those who cannot afford legal services in the private market. We also note the discussion of the Panel in January 2009 concerning the call for enhanced assistance to unrepresented litigants. We are critically examining possible options for addressing the needs for more free legal advice services in Hong Kong, including assistance for unrepresented litigants, with due consideration to the sustainability of the mode of operation, financial implications, and impact on the private legal service sector. It has been suggested that a free legal advice hotline be set up to meet the demand. We are prepared to explore this option and other possibilities. We will take into account the views of the Panel and Legal Aid Services Council (“LASC”) in deliberating on the way forward.

9. Currently, preliminary legal advice of a general nature is provided under the Scheme. We note that some quarters of the community consider the current level of assistance not adequate. Some of them also hope that the scope of free legal advice could be expanded from a preliminary one of general nature to more case specific advice. In contemplating any changes to the current mode of service delivery, the scope of the legal advice to be tendered should be clearly defined. Under the current legislative framework in Hong Kong, legal aid only covers legal representation as specified in the Legal Aid Ordinance (Cap. 91) which does not include legal advice services. We note that the extent of free legal advice services in some jurisdictions may cover some

casework services. The range of services may include advice on merits of individual cases, follow-up advice as the litigation proceeds (as opposed to one-off advice), action to be taken on behalf of the enquirer such as negotiation on behalf of the enquirer by telephone, letter or face to face with the party concerned, preparation of court documents, etc.

10. As regards the proposal for the provision of publicly-funded legal advice to detainees in police stations, it is not within the current scope of legal aid service. The proposal will have significant impact on the legal aid policy and possible financial implications. As such we will need more time to carefully consider the full spectrum of implications of this proposal after consulting the relevant bureau and department as well as other stakeholders. We shall also take into account the views of Members and the LASC in deliberating further on this proposal.

ADVICE SOUGHT

11. Members are invited to note the proposed direction of exploring opportunities for expanding free legal advice service and comment on possible measures in this pursuit.

Home Affairs Bureau
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