

**For Information
22 October 2009**

LegCo Panel on Administration of Justice and Legal Services

Policy Initiatives of Home Affairs Bureau

Introduction

This note highlights policy initiatives concerning legal aid under the portfolio of the Home Affairs Bureau (“HAB”).

New Initiatives

Legal Aid in Criminal Cases Rules

2. At the meeting of the Panel on 25 May 2009, the Administration was requested by the Panel to consider the proposal to amend the Legal Aid in Criminal Cases Rules (Cap. 221D) to allow for legal aid to be granted in cases going to the Court of Final Appeal (“the CFA”) which do not involve a conviction. The Administration was also asked to take into account the observations made by the legal adviser to the Panel and the views of the Hong Kong Bar Association on the coverage of legal aid services in the Rules.

3. We agree that cases considered by the CFA which do not involve a conviction should also be covered by legal aid. Towards this end, the Administration is prepared to introduce legislative amendments to Rule 4 of Cap 221D in the coming legislative session. We are studying the legislative proposal in consultation with the Legal Aid Department (“LAD”) and the Department of Justice. We intend to consult the Panel on our legislative proposal at the Panel meeting later this year.

Free Legal Advice Service

4. We note that the Panel has asked for the Administration’s view on extending the scope of legal aid from litigation to legal advice. Under the legal aid policy, legal aid is to provide legal representation to eligible applicants by a solicitor and, if necessary, a barrister in civil or criminal proceedings. The two schemes in operation, i.e. the Ordinary Legal Aid Scheme and the Supplementary Legal Aid Scheme, both require applicants to pass the means and merits tests.

5. Currently, HAB provides subvention to the Duty Lawyer Services (“the DLS”) to operate a Free Legal Advice Scheme which provides, without means testing, free preliminary legal advice to members of the public. It aims 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. We are prepared to maintain the system and continue to subsidise the scheme. Nonetheless, we are examining ways to enhance support for the volunteer lawyers under the scheme. We intend to consult the Panel on our proposals in 2010.

On-going initiatives

6. The Administration briefed the Panel on the progress of the present Five-yearly Review of the Criteria for Assessing the Financial Eligibility of Legal Aid Applicants in April 2009. HAB and LAD are formulating concrete proposals, with a view to consulting the Legal Aid Services Council later this year.

7. As regards the negotiation with the Law Society of Hong Kong (“the Law Society”) on criminal legal aid fees, the Administration has yet to reach an agreement with Law Society since we last reported progress to the Panel in June 2009. The Administration has formally proposed to substantially increase the remuneration of solicitors undertaking criminal legal cases by 120% to 400%, depending on individual cases. With the proposed rates, the expenses on assigned-out criminal legal aid cases will be increased from \$90 million to about \$190 million. The Government appeals to the Law Society for acceptance of the proposed rates.

Home Affairs Bureau
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