

**For discussion on  
14 April 2011**

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

**Free Legal Advice Service**

**PURPOSE**

This paper briefs Members on the measures the Administration has implemented and intends to implement to improve the provision of legal information and free legal advice service to members of the public.

**FREE LEGAL ADVICE SCHEME**

2. The Government currently provides subvention for the Duty Lawyer Service (DLS) to provide free legal advice services for members of the public. The Free Legal Advice Scheme (the Scheme) 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). 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 make an appointment to meet the volunteer lawyer.

5. The number of cases handled under the Scheme between 2007

and 2010 are 6429, 6652, 6,635 and 6,592 respectively. In 2010, the largest number of cases handled was commercial and property disputes cases (1,387 cases) which accounted for 21.04% of all cases. The second largest category is matrimonial cases which made up 20.8% (1,371 cases) of the caseload.

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. However, the service hours should be extended and the waiting time for appointments should be shortened, as far as possible and subject to availability of resources. In light of the feedback from users and the volunteer lawyers, we have also explored with the Home Affairs Department (HAD) and the DLS the possibility to improve the support services for the scheme, and have implemented/will soon implement the improvement measures as follows –

- (a) We have provided 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. So far, nine Executive Assistants have been employed at a total cost of some \$1.9 million to support the Scheme. We will seek to employ para-legals to assist with appointment making and recording of case details to further enhance support for the Scheme.
- (b) We have arranged more training sessions for the dedicated team of DO staff to provide support in respect of preparation of the case summaries and the appointment service. We expect that with enhanced training, the support service for the volunteer lawyers will be improved, which will in turn enhance efficiency and effectiveness of the Scheme.
- (c) We will provide an additional session of service at the Wan Chai DO on Thursday evening with effect from May 2011. We will also keep in view the possibility of providing more sessions at other centres having regard to caseload, availability of volunteer lawyers, support staff and

accommodation.

(d) We will continue to enhance the handbook/manual for the volunteer lawyers such that volunteer lawyers can 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 clients.

(e) As a further initiative to enhance the Scheme, the Government has decided to offer a \$300 travelling allowance to volunteer lawyers under the Scheme for each pro bono legal advice session with effect from 1 April 2011. We have taken reference from the Housing Society's provision of \$300 allowance for volunteers of the Building Management Resource Centres to cover travelling expenses. The allowance serves as a token of appreciation to the volunteer lawyers.

7. A television Announcement in the Public Interests (API) to promote the Scheme has been produced and broadcast with effect from 31 March 2011.

8. The Government will continue to work with the DLS and the two legal professional bodies to step up promotion work and recruitment drive in order to encourage more lawyers to participate in the Scheme. As an initiative to encourage more members of the legal profession to volunteer to provide more free legal services to the public, we plan to launch a commendation scheme to recognize the pro bono services offered by volunteer lawyers to the community. Nominations will be invited from the two legal professional bodies, the DLS and law firms. Self-nomination is also welcome. Successful nominees will receive an award certificate from the Secretary for Home Affairs. Details of the commendation scheme are at [Annex](#).

9. Besides the DLS, the two legal professional bodies also provide free legal advice services to the public. The Law Society has set up a helpline for the public to obtain up to one hour of free initial legal advice

regarding personal injuries. The helpline is run by a panel of solicitors who are experienced in handling personal injuries claims. The Bar Association runs a free legal service scheme which aims to provide free legal advice and representation in court proceedings where legal aid is not available, where the client cannot reasonably afford private legal services and where the client has reasonable grounds for taking and defending the proceedings.

## **LEGAL INFORMATION**

10. The DLS also runs the Tel-Law Scheme to provide recorded legal information on a wide range of legal topics through telephone. The tape information provides brief introduction to specific topics. On average, a total of over 20,000 enquiries are received through Tel-Law Scheme in a year.

11. To enhance the provision of legal information, the DLS has also uploaded the recorded information in the website for public perusal and downloading.

12. The Government has also provided sponsorship to enable the services of the Community Legal Information Centre (CLIC) to be enhanced. The CLIC is a bilingual community legal information website. It aims to provide a quick on-line guide for the general public to find relevant legal information in Hong Kong. The project is established and run by the University of Hong Kong (HKU). The topics covered by CLIC include general legal information and frequently asked questions on anti-discrimination, bankruptcy & winding-up, bringing or defending a civil case, business & commerce, consumer complaints, defamation, employment disputes, immigration, insurance, intellectual property, landlord & tenant, matrimonial matters, personal injuries, probate, police and crime matters, sale and purchase of properties and taxation, etc. The information available at CLIC is for preliminary reference only.

13. In collaboration with the HKU, we will facilitate the following enhancements to CLIC -

- To expand CLIC to include special topics relevant to families, the youth and the elderly;
- To construct cross links between CLIC and other relevant web-pages such as Hong Kong Legal Information Institute, court or Government forms, Legal Aid Department, DLS and non-Government organizations, etc.;
- To develop a fast, flexible and powerful search engine in Chinese; and
- To arrange workshops, seminars and other publicity events to disseminate information in CLIC to the public.

## **LEGAL ADVICE FOR LITIGANTS IN PERSON**

14. According to the statistics provided by the Judiciary, as in year 2010, the number of cases where litigants were not represented during the trial amounted to about one-third to 65% of the total number of cases. We see a need to provide some service to those who have initiated legal proceedings but are not qualified for legal aid assistance and who require advice on the rules and procedures relating to court proceedings.

15. We note that the increasing number of litigants in person (LIPs) may pose a challenge to the Hong Kong civil justice system. The traditional civil justice system is designed on the assumption that parties have legal representation. Few LIPs have knowledge about the rules and procedures of the court. This causes them, the court and other parties in the proceedings difficulties in progressing and trying the case. As pointed out in the Final Report of the Working Party on Civil Justice Reform issued by the Judiciary in 2004, the difficulties faced by LIPs include:

- Lack of knowledge of the rules of procedural and substantive law;

- Lack of knowledge as to how to present their case at the interlocutory stages and at the trial;
- A sense of inequality and being disadvantaged where the other party has legal representation; and
- In some cases, a sense of grievance induced by perceived judicial irritation at having to deal with an unrepresented litigant unfamiliar with the law and court procedures.

16. The presence of LIPs in a case tends to pose problems for the court and the other parties and thereby increases the costs of litigation by leading to more court events and taking longer time to deal with the evidence and submissions.

17. A Resource Centre was set up in the High Court in 2003 to provide to the public information on court rules and procedural matters in civil proceedings in High Court and District Court. In order to maintain the court's impartiality, the staff in the Resource Centre does not provide legal advice to the public.

18. We note that Panel members and other stakeholders have proposed that more assistance be given to LIPs. We intend to embark on a trial scheme to provide assistance for those who have initiated legal proceedings but are not qualified for legal aid assistance and who require advice on the rules and procedures relating to court proceedings. We plan to provide sponsorship for a service operator to provide free legal advice to LIPs on procedural matters. The new scheme will be run on a 2-year pilot basis. In line with the Free Legal Advice Scheme, we will offer a \$300 travelling allowance to the volunteer lawyers under the trial LIPs scheme for each pro bono legal advice session.

19. The beneficiaries of the scheme are the LIPs who are not qualified for legal aid because of their means and cannot afford private legal services. Legal advice on procedural matters would be provided to assist the LIPs who lack the knowledge of their rights and responsibilities. The pilot scheme is proposed to be, subject to resource availability-

- (a) available to those who have commenced or are parties to legal proceedings in the District Court, High Court and Court of Appeal;
- (b) non-means tested;
- (c) available to those who are not qualified for legal aid assistance;
- (d) on a “first-come-first-served” basis; and
- (e) assistance and advice will be provided on the civil procedural matters only for different stages of the proceedings.

20. A service operator will be engaged to operate the LIP scheme. The service operator will recruit volunteer lawyers as well as full time administrators and legally qualified persons and para-legals to operate the scheme. The operator will process requests for appointments from clients and match the roster of volunteer lawyers and staff with appointment registers of clients.

21. It is proposed that each advice session for the clients will last for 45 minutes. During the interview, the lawyer will advise the client on the procedural matters of his case. The number of sessions for each client is subject to a cap to be determined by the operator having regard to resources available.

22. If the client requires free legal representation, he will be referred where appropriate to other relevant bodies such as the free legal representation scheme run by the Bar Association.

## **LEGAL REPRESENTATION FOR PERSONS UNDER CUSTODY IN POLICE STATIONS**

23. At present, persons under the police custody are entitled to be visited by his properly instructed solicitor, or by a solicitor who has been instructed by a third party on behalf of the person so detained, provided that no unreasonable delay or hindrance is caused to the process of investigation or the administration of justice.

24. In order to provide simple and concise information on the rights and entitlements to them, the Police have put in place a notice of the rights (the Notice). The following rights in relation to access to legal advice by a person under police custody are included in the Notice:

- (a) making private telephone calls to, or communicate in writing or in person with, a lawyer;
- (b) having a lawyer present during any interview with the Police;
- (c) communicating privately or refusing to communicate with a lawyer claiming to have been instructed by a third person on behalf of the person under police custody; and
- (d) being provided with a list of solicitors published by the Law Society of Hong Kong.

25. The Notice is served on each and every person under police custody or involved in the Police's enquiry. In addition, A2-sized posters of the Notice are prominently displayed in report rooms, police report centres, interview rooms and areas of detention to ensure these persons are reminded of their rights and entitlements while in police custody.

26. To supplement that, we have invited the DLS to convert legal information on criminal law and the rights of citizens upon arrest and questioning provided through the Tel-Law into pamphlets and posters and

we will seek the assistance of the Police to distribute/promulgate such materials to persons detained in police stations to facilitate them to further better understand their rights and entitlements.

27. To enable the detainees in need to better exercise their rights, we would like to see more lawyers volunteering to put their names in the list of solicitors (as volunteer lawyers) available for choice by the detainees in police stations who are in need of such legal advice. The commendation scheme for volunteer lawyers is a measure put in place to encourage such pro bono services.

### **ADVICE SOUGHT**

28. Members are invited to note the above improvement measures and comment on measures to provide free legal advice and information to members of the public.

**Home Affairs Bureau**  
**April 2011**

**SECRETARY FOR HOME AFFAIRS’  
COMMENDATION SCHEME FOR PROVISION OF  
PRO BONO LEGAL SERVICES**

**OBJECTIVES OF THE SCHEME**

The objective of the Scheme is to recognize the pro bono legal services provided by the legal professionals in Hong Kong for the community, and to commend those who have made such contributions, thereby encouraging more legal professionals in Hong Kong to volunteer to provide more free legal services to members of the public.

**ELIGIBILITY**

*(a) CATEGORIES OF AWARDS*

2. The Scheme comprises the following categories of awards-
  - i. Individuals (個人組); and
  - ii. Companies (公司組).
  
3. For **Individuals’ Award**, nominations of the following categories of legal professionals will be invited -
  - i. Barristers (大律師);
  - ii. Solicitors (律師);
  - iii. Retired judges (退休法官);
  - iv. Trainee solicitors (見習律師); and
  - v. Pupils (見習大律師).
  
4. For **Companies’ Award**, nominations of any law firm registered with the Law Society can be considered.

**(b) AWARD PERIOD**

5. The pro bono legal service work recognized under the Scheme should be performed within the award period from 1 June 2011 to 31 May 2012.

**(c) NOMINATIONS**

6. Nominations will be invited from the Law Society, the Bar Association, the Duty Lawyer Services and major law firms. Others may also make nominations, including self-nomination. Each nominator can make one or more nominations.

**(d) ENTRY CRITERIA**

7. Pro bono work recognized under the Scheme should not be-
- i. remunerative or involve any financial reward (except acceptance of souvenirs of insignificant commercial value or out-of-pocket expenses such as travelling or meals allowances);
  - ii. directly or indirectly related to political or religious activities (e.g. intended to indoctrinate the beneficiaries or engage them in political or religious movements); or
  - iii. directly or indirectly related to an elected office of a District Council or Legislative Council or any election campaigns.
8. Hours spent on pro bono legal service work should include the actual hours of service offered to the beneficiaries, as well as the travelling time and the hours spent on preparation and follow-up action.

## SELECTION CRITERIA

9. For **Individuals' Award**, participants should have performed pro bono legal service work for at least 25 hours in one or several of the following categories-

- i. Participation in the "Free Legal Advice Scheme" of The Duty Lawyer Service;
- ii. Participation in the "Bar Free Legal Service Scheme" of the Bar Association;
- iii. Participation in the Property Management Advisory Centres run by the Hong Kong Housing Society through the Law Society;
- iv. Participation in the Personal Injuries Helpline run by the Law Society;
- v. Provision of any other free legal advice/consultation services to members of the public, the government or other organizations (including public, private, charitable or non-profit-making organizations but excluding political parties);
- vi. Delivery of law talks/seminars/conferences on a free-of-charge basis (except travelling and meals allowances) organized by the government or other organizations (including public, private, charitable or non-profit-making organizations but excluding political parties); or
- vii. Conducting legal cases (including legal representation) which are taken up on pro bono basis throughout.

10. Nominees' volunteer work which falls outside the above will not normally be considered.

11. For **Companies' Award**, the nominated firms will have to demonstrate that they have made significant efforts in providing pro bono legal services in respect of-

- i. company policies/visions/missions; and
- ii. actual pro bono performed by partners/employees of the firms: the aggregate hours of pro bono services performed by the firm should exceed 25 hours x 10% of the total number of legal professionals (partners/employees) of the firm.

## **NOMINATION PROCEDURES**

12. Nomination forms can be downloaded from the Home Affairs Bureau (HAB)'s website or the District Offices. The completed forms must be signed by both the nominator and the nominee. A brief narrative of the services provided by the candidate setting out the nature and hours of pro bono legal service work done, with supporting documents where appropriate, must be attached to the nomination forms. All nomination forms together with the supporting narratives must reach HAB on or before 30 June 2012.

13. Successful nominees will receive an award certificate from the SHA. A presentation ceremony will be arranged in July/August 2012.

**- ENDS -**