

For information

Legislative Council Panel on Administration of Justice and Legal Services

Two-year Pilot Scheme to Provide Legal Advice for Litigants in Person

PURPOSE

This paper sets out the operational details of the “Two-year Pilot Scheme to Provide Legal Advice for Litigants in Person” (“LIPs Scheme”) for Members’ reference.

BACKGROUND

2. At its meetings on 28 November 2011 and 27 February 2012, we briefed and obtained the in-principle support of the Legislative Council Panel on Administration of Justice and Legal Services (“AJLS Panel”) on the LIPs Scheme. We also informed the AJLS Panel that a Steering Committee on the Provision of Legal Advice for LIPs (“Steering Committee”) would be set up, and undertook to provide further information to the AJLS Panel on the implementational details of the Scheme when finalised.

3. A Steering Committee, chaired by the Honourable Mr Justice Pang Kin-kee, has been set up to oversee and advise on the operation of the Scheme. Members of the Steering Committee comprised representatives from the two legal professional bodies as well as members from different backgrounds, including the social welfare, professional and academic fields. Membership of the Steering Committee is at Annex A.

4. The operational details of the Scheme, which have been endorsed by the Steering Committee, are set out in the ensuing paragraphs.

OPERATION OF THE SCHEME

5. The LIPs Scheme will be available to persons¹ who –

¹ “Person” does not include a body of persons corporate or unincorporated so as to authorise services to be granted to such a body.

- (a) have commenced or are parties to legal proceedings in the District Court, the Court of First Instance and the Court of Appeal of the High Court, and the Court of Final Appeal;
- (b) have not been granted legal aid²; and
- (c) satisfy the Scheme's income eligibility limit (see paragraphs 7 to 8 below).

6. The LIPs Scheme will operate on a “first-come-first-served” basis and provide advice on the civil procedural matters for different stages of the proceedings. Examples of advice to be given and cases that will not be covered are set out in **Annex B** and **Annex C** respectively.

Income Eligibility Limit

7. The Scheme aims to assist those who have not been granted legal aid but cannot afford private legal services, and as such the Steering Committee considered it necessary to set a financial eligibility limit for applicants. Having considered the resources available and the intention to cover as many applicants as possible, as well as the pilot nature of the Scheme, the Steering Committee agreed to set the financial eligibility limit at a monthly income of \$50,000 or an annual income of \$600,000. Following the practice of the Duty Lawyer Scheme operated by the Duty Lawyer Service and the statutory legal aid schemes administered by the Legal Aid Department, the income of the applicant's spouse, where applicable, will be counted towards the limit, unless the spouse is the opposite party of the proceedings or the applicant and the spouse are living separate and apart.

8. According to the 2011 Population Census, the monthly income eligibility limit at \$50,000 would cover 83.46% of all the domestic households in Hong Kong. It could also cover 91.9%, 86.11% and 86.84% of one-person, two-person and three-person households respectively as illustrated in the following table –

Domestic Households by Household Size and Monthly Income, 2011

Household Size	1	2	3	4	5 and over	Total
Monthly Income	Cumulative percentage of households covered					
Below 40,000	88.39%	80.37%	80.34%	70.63%	54.87%	76.55%
Below 50,000	91.90%	86.11%	86.84%	79.64%	66.15%	83.46%

Source: 2011 Population Census, Census and Statistics Department

² Including persons who have applied for legal aid but legal aid has not yet been granted.

9. Similar to the arrangement of the Duty Lawyer Scheme, applicants under the LIPs Scheme will be required to declare their income during the application stage. To prevent abuse of the declaration system, the LIPs Office will conduct periodic checks of the income of LIPs whereupon applicants will be required to provide documentary proof of the declared income. Applicants will also be reminded that knowingly and wilfully making a false declaration is a criminal offence.

Advice Sessions

10. Free legal advice on civil procedural matters will be given during the advice sessions attended by Resident Lawyers (RLs) of the LIPs Office or Community Lawyers (CLs) (i.e. volunteer lawyers) enrolled under the Scheme.

Quick Advice Sessions

11. For simple cases, the Scheme will provide Quick Advice Sessions (QASs) of not more than 15 minutes per session. On application, eligible LIPs will be invited on a first-come-first-served basis to attend the QAS. Subject to the availability of RLs and CLs and the actual operational situation, the LIPs Scheme could provide a maximum of 96 QASs per day³.

Appointment Advice Sessions

12. For complicated cases where more time is required to advise the LIPs, Appointment Advice Sessions (AASs) of not more than 45 minutes per session will be arranged. A case summary will be taken by the LIPs Office, and clients will be required to provide the necessary documents for the RLs/CLs' reference. The date of the advice session will be arranged after the LIPs Office has received all the necessary documents.

Maximum Number of Advice Sessions

13. Having considered the resources available and the intention to assist as many LIPs as possible, the Steering Committee agreed that a LIP could attend a maximum of five advice sessions (QASs and/or AASs) every three months for the same case. Additionally, the LIPs Office will

³ The operating hours of the LIPs Office will be from 8:45 am to 1:00 pm and 2:00 pm to 6:00 pm on Mondays to Fridays (i.e. 8 hours per day), except public holidays. Discounting turnaround time, a RL / CL could be able to provide three QASs per hour. Assuming that four lawyers will be engaged to work in parallel in one shift, the LIPs Office could provide a maximum of 96 QASs per day (i.e. four lawyers X three sessions per hour X eight hours of operation = 96 sessions).

have the discretion to provide additional sessions to assist those in need. The discretion should be exercised cautiously to deter abuse of the Scheme.

Community Lawyers

Eligibility of Community Lawyers

14. Lawyers with at least two years' post-qualification experience and holding a current practising certificate are eligible to enrol as CLs in their personal capacity on a pro bono basis. Law firms can also participate in the LIPs Scheme and assign eligible lawyers to enrol as CLs. As at 11 March 2013, some 40 barristers and solicitors have enrolled as CLs.

Service Arrangements

15. CLs can participate in two-hour or four-hour shifts, and indicate whether they would participate in QASs and/or AASs. CLs participating in QASs will be stationed at the LIPs Office during their shifts, while CLs enrolled in AASs will be arranged to attend the sessions on a need basis. An honorarium of \$500 per two-hour session and \$1,000 per four-hour session will be provided to the CLs.

16. CLs will be required to complete a simple advice session report for each advice session provided. Services provided by CLs under the LIPs Scheme will be covered by professional indemnity insurance.

Student Volunteers

17. Law students of local universities are being recruited to participate in the Scheme as volunteers. Although law students are not yet qualified to provide legal advice, they can assist in the operation of the Scheme by conducting preliminary interviews and taking case summaries for consideration by CLs/RLs. We believe this will provide an excellent opportunity for law students to gain valuable hands-on experience and exposure, and at the same time instilling the pro bono spirit in them at an early stage in their legal career. As at 11 March 2013, some 110 law students have enrolled as student volunteers.

Operation of the LIPs Office

18. The LIPs Office is headed by a full-time Centre-in-charge with legal qualification, who is underpinned by two full-time Resident Lawyers, a Legal Assistant and a Clerical Assistant. The LIPs Office is located at Room 217, LG2, High Court Building, 38 Queensway, Hong Kong. The operating hours of the LIPs Office will be from 8:45 am to 1:00 pm and 2:00 pm to 6:00 pm on Mondays to Fridays, except public holidays.

COMMENCEMENT OF THE SCHEME

19. As previously reported to the AJLS Panel, the objectives of the Scheme are to (a) provide legal advice on procedural matters to assist LIPs who cannot afford private legal services and who lack knowledge of their rights and responsibilities; and (b) promote the culture of providing pro bono legal advice by the legal profession. We believe that the provision of procedural advice under the Scheme could help facilitate access to justice by LIPs and other parties involved. This Scheme also has the full support of the Judiciary. With the Steering Committee's endorsement, the Scheme will be launched on 18 March 2013 and a press release will be issued. The Steering Committee will oversee the operation of the Scheme and review the work and services provided. Upon completion of the two-year pilot, we will seek the Steering Committee's advice on the future arrangements with regard to the provision of legal advice for LIPs in the light of the operational experience.

ADVICE SOUGHT

20. Members are invited to note that the operational details of the Scheme.

Home Affairs Bureau
March 2013

**Membership List of the Steering Committee
on the Provision of Legal Advice for Litigants in Person**

Chairman: The Honourable Mr Justice PANG Kin-kee, SBS

Members: Dr Anne CHEUNG Shann-yue

Ms Angelina LAI Fung-yee

The Honourable Mr Tony TSE Wai-chuen

Miss Catherine YEN Kai-shun

Mr Giles SURMAN

Representative of the Hong Kong Bar Association

Mr Stephen HUNG Wan-shun

Representative of the Law Society of Hong Kong

Mr Andy HO Chi-yin

Deputy Registrar of the High Court

Representative of the Judiciary

Ms Gracie FOO Siu-wai, JP

Deputy Secretary for Home Affairs

Representative of the Home Affairs Bureau

Ms Alice CHUNG Yee-ling

Deputy Director of Legal Aid (Administration)

Representative of the Legal Aid Department

Secretary: Mrs May TAM LAU May-chi

Centre-in-charge of the Office of the Two-year Pilot
Scheme to Provide Legal Advice for Litigants in Person

Examples of advice given under the LIPs Scheme

- (a) Explaining court rules and procedure including Practice Directions;
- (b) explaining court documents, orders and the various interlocutory applications that may be taken out by or against the litigants in person;
- (c) giving assistance and guidance on preparing court documents such as pleadings, list of documents, affirmations, witness statements with sample court forms for reference;
- (d) explaining the hearing/trial procedure including all preparatory work required for court hearing or trial (such as preparation of hearing or trial bundles);
- (e) explaining the costs involved in proceedings and the taxation of costs;
- (f) explaining the procedures on execution of a judgment or an order;
and
- (g) explaining the procedures for launching an appeal.

Example of cases not covered under the LIPs Scheme

- (a) Cases involving foreign law;
- (b) cases not involving a legal proceeding, e.g. how to apply for public assistance or public housing, how to apply for visa to go to another country, etc.;
- (c) cases where lawyers have already been engaged;
- (d) insufficient information is provided;
- (e) applications for letters of administration and the grant of probate;
- (f) the problems involve complicated legal issues which require detailed research and studying of documents;
- (g) the problems have been solved or superseded by event;
- (h) individuals who are shareholders, officers or representatives of limited companies which are parties to the proceedings and want to seek advice on behalf of the companies;
- (i) individuals repeatedly seeking advice from the Scheme concerning the same issues or subject matters without additional information;
- (j) individuals who, in the opinion of the LIPs Scheme, have the means to pay for legal advice;
- (k) individuals who have been granted legal aid in the same case; or
- (l) the request for advice exceeds the prescribed maximum number of advice sessions for an individual for a particular case.