

**For information on  
24 June 2014**

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

**Progress Report on  
the Review of the Supplementary Legal Aid Scheme and  
Operation of the Two-year Pilot Scheme  
to Provide Legal Advice for Litigants in Person**

**INTRODUCTION**

This paper briefs Members on the progress of review of the Supplementary Legal Aid Scheme (SLAS) and other legal aid issues, and to account for the first year of operation of the Two-year Pilot Scheme to Provide Legal Advice for Litigants in Person (LIPs Scheme).

**LEGAL AID**

2. The policy objective of legal aid is to ensure that no one with reasonable grounds for pursuing or defending a legal action is denied access to justice because of a lack of means. To qualify for legal aid, a person is required by law to satisfy the means and merits tests as provided by the Legal Aid Ordinance (LAO) (Cap. 91). At present, a person whose financial resources<sup>1</sup> do not exceed \$269,620 is financially eligible for legal aid under the Ordinary Legal Aid Scheme (OLAS), which covers most proceedings at District Court level and above.

**Supplementary Legal Aid Scheme**

3. SLAS came into operation in 1984 and aimed at providing legal assistance to people whose financial resources exceeded the upper limit

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<sup>1</sup> Financial resources means the aggregate of an applicant's yearly disposable income and disposable capital as computed under the Legal Aid (Assessment of Resources and Contributions) Regulations (Cap. 91B). A person's **disposable income** is his gross income minus deductible items as allowed under the Regulations. A person's **disposable capital** is defined as the sum of his credit balance, money due to him, the market value of non-money resources and the value of business or share in a company, unless such items should be disregarded under the Regulations.

allowed under OLAS, but below a certain amount<sup>2</sup>. SLAS is a self-financing scheme and is mainly funded by the application fees payable by applicants, the interim contributions from aided persons and the final contributions from a percentage deduction of the damages recovered in successful cases. All along, the guiding principles governing the scope of proceedings covered by SLAS should be those: (a) which deserve priority for public funding in the sense that significant injury or injustice to the individual, as distinct from that to a commercial concern or a group of citizens, is involved; and (b) which involve monetary claims and have a reasonably good chance of success.

### **Scope of SLAS**

4. With the Legislative Council (LegCo)'s support, the scope of SLAS was significantly expanded in November 2012<sup>3</sup>. Whilst we are still gaining experience on the newly added proceedings and assessing their impact on the Supplementary Legal Aid Fund<sup>4</sup>, we have invited the Legal Aid Services Council (LASC) to conduct a further review on the scope of SLAS with a view to presenting a new round of recommendations to the Administration. We understand that the LASC has formed a Working Group on Expansion of SLAS to follow up on the review. In the course of the review, the Working Group will take into account comments expressed by stakeholders including the LegCo Panel on Administration of Justice and Legal Services (AJLS Panel) and the two legal professional bodies. The Administration will provide assistance and information as required to facilitate the work of the Working Group.

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<sup>2</sup> The financial eligibility limit for SLAS is currently set at \$1,348,100.

<sup>3</sup> In addition to the pre-existing claims relating to personal injuries, employees compensation and medical, dental and legal professional negligence, the scope of SLAS was significantly expanded in November 2012 to cover a wider range of professional negligence claims, negligence claims against insurers or their intermediaries in respect of the taking out of personal insurance products, monetary claims against the vendors in the sale of completed or uncompleted first-hand residential properties, and representation for employees in appeals against awards made by the Labour Tribunal.

<sup>4</sup> The LegCo Finance Committee's funding approval of \$100 million was obtained in December 2012 to support the operation of the expanded SLAS. As at end May 2014, the balance of the Supplementary Legal Aid Fund was \$189.5 million.

## **Financial eligibility limits**

5. Notwithstanding the substantial increases in the financial eligibility limits (FELs)<sup>5</sup> and expansion of scope of OLAS<sup>6</sup> and SLAS in recent years, the Administration has begun the review of the two sets of FELs. We will take into account the suggested FEL levels and relevant justifications as put forward by stakeholders. The review will also cover the criteria for assessing the financial resources of legal aid applicants, payments and calculations of contributions and the Director of Legal Aid (DLA)'s First charge<sup>7</sup>, so as to identify areas where legal aid services may provide better benefits to and accommodate the situation of applicants and aided persons in need.

## **Review of criminal legal aid fees**

6. In enacting the Legal Aid in Criminal Cases (Amendment) Rules 2012, which implemented a revised payment structure, the Administration undertook to review the rates of criminal legal aid fees payable to lawyers in private practice engaged to undertake litigation work on behalf of the Legal Aid Department (LAD) in two years (i.e. March 2014). Towards this end, the Home Affairs Bureau (HAB) formed a working group comprising representatives from the Hong Kong Bar Association and the Law Society of Hong Kong, as well as government representatives from LAD and the Department of Justice and held the first meeting in March 2014. The working group had exchanged views, and will continue to meet to continue the deliberations.

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<sup>5</sup> The FELs of OLAS and SLAS were increased substantially (i.e. from \$175,800 to \$260,000 for OLAS, and from \$488,400 to \$1,300,000 for SLAS) in May 2011. In June 2013, the FELs were further increased to \$269,620 and \$1,348,100 respectively to take into account changes in the Consumer Price Index (C).

<sup>6</sup> The scope of OLAS was expanded in November 2012 to cover monetary claims in derivatives of securities, currency futures or other futures contracts when fraud, misrepresentation or deception was involved in respect of the sale.

<sup>7</sup> If aided persons are successful in recovering and/or preserving any money or property in the legally aided proceedings, they will be required to repay DLA the costs and expenses incurred by LAD out of the money/property recovered or preserved. DLA's right to recover the costs and expenses incurred is known as DLA's First Charge.

## LIPS SCHEME

7. In March 2013, we informed the AJLS Panel of the operational details of the LIPs Scheme (vide LC Paper No. CB(4)477/12-13(01)). The Scheme commenced operation on 18 March 2013 to provide legal advice on procedural matters to litigants in person (LIPs) who have commenced or are parties to legal proceedings in the District Court level or above. An overview of the operation of the LIPs Scheme up to end March 2014 is summarised in the ensuing paragraphs. The detailed statistics are set out in **Annex**.

8. During its first year of operation, the LIPs Scheme had assisted 660 LIPs and conducted a total of 1 591 advice sessions, including 1 574 Quick Advice Sessions (QASs)<sup>8</sup>. In most circumstances, QASs could be arranged on the same day as the applications made by LIPs with sufficient documents.

9. Among the LIPs assisted by the Scheme –

- (a) over 72.1% had secondary level or below education;
- (b) over 63.3% were aged above 50; and
- (c) over 57.4% had an income below \$10,000 per month or \$120,000 per year.

10. Of the cases covered during advice sessions –

- (a) 47.1% were cases heard in the Court of First Instance of the High Court, including civil actions<sup>9</sup>, bankruptcy proceedings, personal injuries and miscellaneous proceedings;
- (b) 27.4% were District Court cases, including civil actions and personal injuries cases, while Family Court cases accounted for over 18.3% of LIPs cases, mostly regarding matrimonial causes proceedings;

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<sup>8</sup> For straight forward cases, applicants will be arranged to attend the next available 15-minute QAS. For complicated cases where more time is required to advise the applicants, an Appointment Advice Session of not more than 45 minutes per session would be arranged.

<sup>9</sup> Examples of civil action include claims regarding contract, debt, defamation, intellectual property, landlord and tenant.

(c) 6.8% were cases for the High Court's Court of Appeal; and

(d) 0.4% were Court of Final Appeal cases.

11. LIPs clients were invited to complete a survey at the end of their advice sessions. Of the 1 569 surveys received –

(a) 98.5% of respondents agreed that the advice provided by the Scheme answered their questions (including 18.8% who considered the advice partly answered their questions);

(b) 98.7% of respondents indicated that they would seek the Scheme's assistance again if necessary; and

(c) 97% of respondents would recommend the LIPs Scheme to their friends.

12. A Steering Committee chaired by the former High Court Judge Mr Pang Kin-kee, with representatives from the Judiciary, HAB, LAD, Hong Kong Bar Association, the Law Society of Hong Kong, as well as members from different backgrounds including the social welfare, professional and academic fields has been set up to oversee and advise on the operation of the LIPs Scheme. We will continue to monitor and review the operation of the Scheme.

## **ADVICE SOUGHT**

13. Members are invited to note the progress of legal aid issues and the operation of the LIPs Scheme.

**Home Affairs Bureau  
June 2014**

**Operation of the  
Two-year Pilot Scheme to Provide Legal Advice for Litigants in Person**

The operational statistics from the first year of operation of the Two-year Pilot Scheme to Provide Legal Advice for Litigants (LIPs Scheme) since its implementation on 18 March 2013 up to 31 March 2014 are set out in the ensuing tables –

- (A) utilisation rate;
- (B) court case(s) per litigant in person (LIP);
- (C) profiles of LIPs;
- (D) legal aid application status;
- (E) nature of cases;
- (F) duration of Quick Advice Sessions (QASs) conducted;
- (G) areas of advice given during advice sessions (including QASs and Appointment Advice Sessions (AASs));
- (H) ineligible applicants – reasons for refusal;
- (I) feedback of LIPs;
- (J) participation of Community Lawyers (CLs); and
- (K) participation of Student Volunteers (SVs).

**(A) Utilisation rate**

	2013										2014			Total
	Mar 18-31	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	
No. of working days	9	20	21	19	22	22	19	21	21	20	21	19	21	255
No. of telephone enquiries	23	20	34	30	41	55	63	84	70	48	59	50	83	660
No. of visitors (tickets issued) <sup>1</sup>	68	134	205	122	205	188	183	212	253	194	216	187	238	2 405
No. of applications processed	45	89	129	88	153	118	124	135	177	141	139	132	185	1 655
No. of eligible applications <sup>2, 3</sup>	44	87	120	87	151	118	122	134	175	141	136	131	184	1 630
No. of new eligible LIPs	34	53	65	42	58	45	61	43	65	45	50	44	55	660
No. of ineligible applicants	13	22	36	24	21	27	29	30	26	18	44	28	31	349
No. of QASs conducted	40	85	116	84	148	109	115	130	167	136	133	128	183	1 574
No. of AASs conducted	2	0	2	3	1	5	2	1	1	0	0	0	0	17
Average no. of advice sessions conducted per day	4.67	4.25	5.62	4.58	6.77	5.18	6.16	6.24	8.00	6.80	6.33	6.74	8.71	6.24
Average no. of advice sessions per LIP														2.41

<sup>1</sup> Since 26 April 2013, the number of visitors has been collated through the queue ticketing system installed at the LIPs Scheme's office (LIPs Office), whereby all persons would need to collect a queuing ticket when they approach the LIPs Office and wait to be served (including general enquiries, processing applications, etc.). Therefore, the number of visitors includes persons paying multiple visits to the LIPs Office (e.g. multiple advice sessions, returning with further enquiries or supporting documents, etc.).

<sup>2</sup> The reasons that the total number of advice sessions (QASs + AASs = 1 591) is less than the number of eligible applications (1 630) include – (a) the case did not involve legal issues; (b) matter outside of scope of the LIPs Scheme e.g. probate cases; (c) client wished to be advised on merits of the case; (d) repeated matter; (e) applications withdrawn; (f) client did not return for advice session; and (g) client exceeded maximum number of five advice sessions per three months.

<sup>3</sup> For LIPs who attended multiple advice sessions, they were required to complete a re-application to ensure that they still satisfied the basic requirements for the LIPs Scheme. The figures for “eligible applications” cover both the initial applications and the subsequent re-applications.

**(B) Court case(s) per LIP**

<b>Eligible LIPs with -</b>	<b>No. of LIPs</b>	<b>Percentage</b>
One case	582	88.18%
Two cases	54	8.18%
Three cases	17	2.58%
Four cases	5	0.76%
Five cases	0	0.00%
More than five cases	2	0.30%
<b>Total</b>	<b>660</b>	<b>100.00%</b>

**Remark:**

During the period from 18 March 2013 to end March 2014, there were 32 instances where clients had used up their five advice sessions per three-month period per case quota<sup>4</sup>.

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<sup>4</sup> LIPs may attend a maximum of five advice sessions (including QAs and AAs) every three months for the same case.



(C) Profile of LIPs<sup>5</sup>

	<b>No.</b>	<b>Percentage</b>
No. of eligible applicants	<b>660</b>	-
<b>Legal aid applications</b>		
Have applied but not been granted legal aid (application being processed / refused)	251	38.03%
<b>Monthly income / income for the last 12 months</b>		
below \$10,000 / below \$120,000	379	57.42%
\$10,001-\$20,000 / \$120,001-\$240,000	161	24.39%
\$20,001-\$30,000 / \$240,001-\$360,000	61	9.24%
\$30,001-\$40,000 / \$360,001-\$480,000	43	6.52%
\$40,001-\$50,000 / \$480,001-\$600,000	16	2.42%
\$50,001 or above / \$600,001 or above	0	0.00%
<b>Education level</b>		
Primary or below	122	18.48%
Secondary	354	53.64%
Tertiary or above	150	22.73%
Professional	34	5.15%
<b>Age Group</b>		
18-30	15	2.27%
31-40	75	11.36%
41-50	152	23.03%
51-60	237	35.91%
61 or above	181	27.42%
<b>Languages spoken</b>		
Cantonese	596	90.30%
English	86	13.03%
Putonghua	106	16.06%
Others <sup>6</sup> (including French, German, Greek, Hakka, Hindi, Ilocano, Indonesian, Italian, Japanese, Russian, Shanghainese, Spanish, Tagalog, Thai, Urdu, Vietnamese and 圍頭話)	19	2.88%

<sup>5</sup> Based on headcount of eligible applicants. The status provided by LIPs in the initial application is used for the purpose of compiling this table.

<sup>6</sup> Free interpretation services had been arranged for two clients who spoke Indonesian and Urdu respectively.

**(D) Legal aid application status**

Profile	2013						2014			Total	Percentage
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar		
No. of eligible persons	58	45	61	43	65	45	50	44	55	466	
Have applied but not been granted legal aid	19	16	21	12	17	9	14	11	13	132	28.33%
<b>Legal aid status</b>											
Awaiting approval	3	4	5	3	2	1	4	2	4	28	6.01%
Legal aid granted	0	0	0	0	0	0	0	0	0	0	0.00%
Legal aid partially granted <sup>7</sup>	0	0	2	0	0	1	0	0	0	3	0.64%
Not granted because of not passing means test	3	2	4	1	1	2	2	1	1	17	3.65%
Not granted because of not passing merits test	7	5	5	3	9	2	5	5	4	45	9.66%
Not granted with reasons unknown <sup>8</sup>	1	2	0	3	1	1	0	1	0	9	1.93%
Appealing against Legal Aid Department decision	4	2	1	0	3	2	2	0	2	16	3.43%
Granted but had been discharged	2	1	1	2	2	0	1	2	2	13	2.79%
Application withdrawn	2	1	3	0	0	1	1	0	0	8	1.72%

**Remark:**

Since July 2013, additional information was sought from applicants regarding the status of their legal aid application. An applicant may indicate “Not granted because of not passing means test” and/or “Not granted because not passing merits tests” or “Not granted with reasons unknown”, as well as “appealing against legal aid decision” on the application form.

<sup>7</sup> For example, legal aid was not granted for a divorce proceeding, but was granted for related proceedings on ancillary relief and/or the custody of the children.

<sup>8</sup> Reasons for refusal of legal aid are stated in the rejection letters issued by the Legal Aid Department to applicants. However, LIPs applicant may not recall the exact reason when filling out the application for the LIPs Scheme.

**(E) Nature of cases**

<b>Action matter</b>	<b>Total</b>	<b>Percentage</b>
<b>District Court</b>		<b>27.35%</b>
Civil action <sup>9</sup>	158	20.39%
Distrain Case	1	0.13%
Employee's Compensation	6	0.77%
Miscellaneous proceedings	18	2.32%
Personal injuries	29	3.74%
<b>Family Court</b>		<b>18.32%</b>
Matrimonial Causes	122	15.74%
Joint application	17	2.19%
Miscellaneous proceedings	3	0.39%
<b>High Court – Court of First Instance</b>		<b>47.10%</b>
Civil action <sup>9</sup>	155	20.00%
Admiralty action	1	0.13%
Administrative Law	9	1.16%
Probate action <sup>10</sup>	8	1.03%
Bankruptcy proceeding	52	6.71%
Caveat	10	1.29%
Citation application	1	0.13%
Winding Up	3	0.39%
Labour Tribunal appeal	4	0.52%
Application under the Mental Health Ordinance	2	0.26%
Miscellaneous proceedings	74	9.55%
Personal injuries	31	4.00%
Small Claims Tribunal appeal	10	1.29%
Application to set aside a Statutory Demand	5	0.65%
<b>High Court – Court of Appeal</b>		<b>6.84%</b>
Civil appeal	53	6.84%
<b>Court of Final Appeal</b>		<b>0.39%</b>
Final appeal (Civil)	1	0.13%
Miscellaneous proceedings	2	0.26%
<b>Total<sup>11</sup>:</b>	<b>775</b>	<b>100.00%</b>

<sup>9</sup> Examples of civil action are claims regarding contract, debt, defamation, intellectual property, landlord and tenant.

<sup>10</sup> While applications for grant of probate are outside of the scope of the LIPs Scheme, probate actions are contentious proceedings over the validity of will(s) or who should be the administrator or executor of the estate of a deceased person.

<sup>11</sup> As shown in table (B), as there are LIPs who have sought assistance for multiple cases, therefore the total number of cases (775) is higher than the total number of eligible LIPs (660).

**(F) Duration of QASs conducted**

<b>Duration of QASs</b>	<b>Sessions</b>	<b>Percentage</b>
Less than 15 mins	470	29.86%
16-30 mins	845	53.68%
More than 30 mins	259	16.45%
Total QASs conducted	1 574	100.00%

**(G) Areas of advice given during advice sessions  
(including both QASs and AASs)**

<b>Advice given</b>	<b>Total</b>	<b>Percentage</b>
Appeal procedure	230	9.30%
Case management	200	8.08%
Computation of time	32	1.29%
Default judgment and admission	31	1.25%
Discovery	37	1.50%
Enforcement of court orders/judgments	52	2.10%
Explanation of legal terms/court documents	341	13.78%
How to comply with court orders/directions	122	4.93%
Interlocutory application	106	4.28%
Legal costs	117	4.73%
Next step in the legal proceedings	301	12.17%
Pleadings	158	6.39%
Preparation of affirmation/court documents	324	13.10%
Preparation of hearing/appeal bundle	230	9.30%
Service of court documents	54	2.18%
Settlement	43	1.74%
Others	96	3.88%
	<b>Total<sup>12</sup>:</b>	<b>2 474</b>
		<b>100%</b>

<sup>12</sup> As the advice given during advice sessions could cover more than one area, therefore the total number shown in the above table exceeds the total number of advice sessions.

**(H) Ineligible applicants – Reasons for refusal**

<b>Reasons</b>	<b>Total</b>	<b>Percentage</b>
Complicated case	0	0.00%
Exceed financial eligibility limit <sup>13</sup>	11	3.15%
Exceed advice session quota	4	1.15%
Insufficient information <sup>14</sup>	49	14.04%
Legally aided	0	0.00%
Legally represented	14	4.01%
Means to pay	0	0.00%
No court action commenced	96	27.51%
No legal issue	18	5.16%
Not a party (but wished to join in the proceeding)	15	4.30%
On behalf of LIP	29	8.31%
Outside of scope of the LIPs Scheme –	79	22.64%
Coroner’s Court	2	0.57%
Criminal	37	10.60%
Foreign Law	2	0.57%
Legal Aid appeal	4	1.15%
Letters of Administration/Probate case	8	2.29%
Labour Tribunal	3	0.86%
Lands Tribunal	7	2.01%
Small Claims Tribunal	4	1.15%
Others	12	3.44%
Others	5	1.43%
Problem resolved	0	0.00%
Representative of limited companies	21	6.02%
Repeated matter	8	2.29%
<b>Total :</b>	<b>349</b>	<b>100.00%</b>

<sup>13</sup> The LIPs Scheme’s financial eligibility limit is set at a monthly income of \$50,000 or an annual income of \$600,000. The income of an 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.

<sup>14</sup> Insufficient information – cases where applicants could not provide identification documents, court case number or relevant court documents on which advice was sought.

**(I) Feedback of LIPs**

<b>1. Session attended</b>	<b>No. of replies</b>	<b>Percentage</b>
QASs	1 558	99.30%
AASs	11	0.70%
Total :	1 569	100.00%
<b>2. How do you know about our Scheme</b>		
Pamphlet/ Publicity materials	352	22.46%
Recommended by friends/ relatives	111	7.08%
Referred by other Government Departments/ NGOs	305	19.46%
Referred by judges & Masters/ Court Registries/ Resources Centre	732	46.71%
Others, including – <i>(a) publicity materials at the High Court;</i> <i>(b) passed by LIPs Office by chance;</i> <i>(c) referred by security guard of the High Court;</i> <i>(d) subsequent attendance.</i>	67	4.28%
Total :	1 567	99.87%
<b>3. The advice given answered your questions</b>		
Yes	1 251	79.73%
No	23	1.47%
Partly	295	18.80%
Total :	1 569	100.00%
<b>4. You will seek assistance from the Scheme again if necessary</b>		
Yes	1 544	98.72%
No	20	1.28%
Total :	1 564	99.68%
<b>5. You would recommend this Scheme to your friends</b>		
Yes	1 515	97.12%
No	45	2.88%
Total :	1 560	99.43%

<b>6. Reasons for not engaging lawyers (collected since July 2013)</b>		
Cannot afford lawyers' fees	976	70%
Have the ability to conduct the proceedings without the need to engage lawyers	57	4%
Applied for legal aid and awaiting approval	46	3%
Application for legal aid was rejected	105	8%
Prefer to conduct proceedings without lawyers	141	10%
Others, including – <i>(a) not satisfied with the lawyers arranged by the Legal Aid Department;</i> <i>(b) unhappy encounter with privately engaged solicitors;</i> <i>(c) do not trust lawyers;</i> <i>(d) not sure of own position and would like some advice before next step;</i> <i>(e) private family matters not to be disclosed to lawyers;</i> <i>(f) do not think that the Plaintiff could win the case;</i> <i>(g) no lawyer was willing to accept case (mental health case).</i>	65	5%
Total :	1 390	100.00%

**Remark:**

Out of a total of 1 591 QASs/AASs, the LIPs Office received 1 569 completed survey sheets from clients.

**(J) Participation of Community Lawyers**

	2013										2014		
	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Total No. of CLs enrolled	49 (44 barristers, 5 solicitors)			52 (45 barristers, 7 solicitors)							53 (46 barristers, 7 solicitors)		
No. of CLs invited to attend advice sessions	0	0	18	0	0	9	0	0	19	6	0	4	8
No. of CLs who have attended advice sessions	0	0	9	0	0	6	0	0	9	6	0	1	4

**Remark:**

One CL has waived the honorarium for the session attended and future sessions.



**(K) Participation of Student Volunteers**

<b>Student Volunteers (SVs)</b>	<b>Jan 2014</b>	<b>Feb 2014</b>	<b>Mar 2014</b>
Total no. of SVs enrolled (as at January 2014)	CityU: 37 (15 PCLL) CUHK: 32 (8 PCLL) HKU: 5 (2 PCLL)		
No. of SVs invited to attend	29	26	6
Attended two-hour session	CUHK: 4 HKU: 2	CityU: 7	CityU: 2

**Remark:**

Although the services of SVs (for taking case summaries as originally envisaged) were no longer required as the LIPs Scheme mainly provides QASs, law students from City University of Hong Kong (CityU), The Chinese University of Hong Kong (CUHK) and The University of Hong Kong (HKU) who have enrolled as SVs were invited to the LIPs Office to understand the operation of the LIPs Scheme and to observe advice sessions conducted by Resident Lawyers/CLs with the consent of the clients. Most SVs commented that the advice sessions offered good opportunities for them to broaden their outlook and gain hands-on civil litigation experience.