

**For discussion on  
26 January 2015**

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

**Policy Initiatives of the Home Affairs Bureau**

**INTRODUCTION**

This paper briefs members on details of the policy commitments in respect of legal aid and legal advice services in the Chief Executive's 2015 Policy Address.

**OUR VISION**

2. The provision of legal aid services is an integral part of the administration of justice. We strive to enhance the accessibility of legal aid and free legal advice services to the public which consummates the value of everyone being equal before the law.

**ON-GOING INITIATIVES**

**Free legal advice services**

*(a) Free Legal Advice Scheme*

3. The Government currently provides subvention for the Duty Lawyer Service ("DLS") to implement the Free Legal Advice Scheme ("FLAS") to provide free preliminary legal advice to members of the public at nine District Offices<sup>1</sup> of the Home Affairs Department ("HAD"). At present, there are over 1 000 lawyers participating in FLAS, handling about 6 700 cases per year. The Government will continue to work with DLS and the two legal professional bodies to promote the Scheme and encourage more lawyers to participate in FLAS.

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<sup>1</sup> The nine District Offices are (a) Central and Western, (b) Wan Chai, (c) Eastern, (d) Kwun Tong, (e) Wong Tai Sin, (f) Yau Tsim Mong, (g) Shatin, (h) Tsuen Wan and (i) Islands District Offices.

(b) *Pilot Scheme to Provide Legal Advice for Litigants in Person*

4. The Pilot Scheme to Provide Legal Advice for Litigants in Person (“LIPs Scheme”) commenced operation on 18 March 2013 to provide legal advice on procedural matters to LIPs who have commenced or are parties to civil legal proceedings at the District Court level or above. As at end December 2014, the LIPs Scheme had assisted 1 096 LIPs and conducted some 3 100 advice sessions, including 3 077 Quick Advice Sessions (“QASs”)<sup>2</sup>. In most circumstances, QASs could be arranged on the same day as the applications made by LIPs with sufficient documents. The Scheme has been well received by the clients and over 90 per cent of them are satisfied with the services provided. As at end December 2014, 55 lawyers and 104 law students had enrolled as community lawyers and student volunteers respectively under the Scheme. A Steering Committee chaired by the former High Court Judge Mr Pang Kin-kee, with representatives from the Judiciary, Home Affairs Bureau (“HAB”), Legal Aid Department (“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, including the way forward with regard to the provision of legal advice for litigants in person.

(c) *Recognition Scheme for Provision of Pro Bono Legal Services*

5. As an initiative to encourage more members of the legal profession to volunteer to provide free legal services to the public, HAB launched the debut Recognition Scheme for Provision of Pro Bono Legal Services (“Pro Bono Scheme”) in 2011/12. The Pro Bono Scheme was well-received, with 254 legal professionals and 31 law firms recognised. Riding on the success of the first Pro Bono Scheme, we have launched the second Pro Bono Scheme on 1 October 2014 to recognise pro bono legal services provided during the period from 1 October 2014 to 30 September 2015. Legal professionals who have provided pro bono legal services for at least 25 hours within the recognition period, and law firms that have made significant efforts in providing pro bono legal services, will be commended. As in the first Pro Bono Scheme, the Scheme comprises both “Individuals” and “Companies”<sup>3</sup> categories.

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<sup>2</sup> For straight forward cases, applicants would 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>3</sup> Companies’ Awards recognise qualified law firms that have made significant efforts in providing pro bono legal services in respect of their company policies, visions or missions; and the aggregate hours of pro bono legal services performed by the legal professionals within the recognition period should exceed 25 hours x 10% of the total number of the legal professionals of the firm.

Successful nominees will receive an award certificate as a token of the Government's appreciation at an award presentation ceremony to be conducted in the first quarter of 2016. We welcome nominations by 30 October 2015.

## **Legal aid services**

### *(a) The Ordinary Legal Aid Scheme and the Supplementary Legal Aid Scheme*

6. 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).

7. In recent years, the financial eligibility limits ("FELs") of the Ordinary Legal Aid Scheme ("OLAS") and the Supplementary Legal Aid Scheme ("SLAS") have increased substantially<sup>4</sup>, and the scope of OLAS and SLAS have also been expanded<sup>5</sup>. Whilst we are still gaining experience on the newly added proceedings, 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. Towards this end, 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>4</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>5</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. As regards SLAS, 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.

8. In 2015, we will introduce legislative amendments to implement a revised set of bandwidths of assessed financial resources<sup>6</sup> for determining contribution payable under the Legal Aid (Assessment of Resources and Contributions) Regulations (Cap. 91B), so that the bandwidths are more evenly distributed. We will also introduce legislative amendments to further adjust the FELs of OLAS and SLAS to take into account changes in the Consumer Price Index (C) subsequent to the last adjustments in June 2013.

*(b) Review of criminal legal aid fees*

9. In March 2014, 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 to review the rates of criminal legal aid fees payable to lawyers in private practice engaged to undertake litigation work. The working group had exchanged views, and will continue to meet to continue the deliberations. Subject to the deliberations and progress of discussions at the working group, we will introduce legislative amendments to implement the recommendations of the review. We will keep the AJLS Panel and relevant parties informed of the progress.

*(c) Strengthening the governance and operational transparency of LAD*

10. At its meeting on 24 June 2014, we briefed the AJLS Panel on the Administration's decision on LASC's recommendations on the independence of legal aid (LC Paper No. CB(4)822/13-14(05)). Among other things, the Administration has undertaken to follow-up on LASC's major recommendations regarding LAD's governance and operational transparency while maintaining the existing legal framework governing LASC's oversight role under the LASC Ordinance (Cap. 489) and legal aid funding support for LAD. Towards this end, LASC has set up a Task Force on Dissemination of Legal Aid Information with a view to, inter alia, making recommendations on the enhancement of LAD's operational transparency. The Administration will continue to support LASC's work in overseeing the delivery of quality legal aid services and the strengthening of governance and operational transparency of LAD within the existing legal framework.

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<sup>6</sup> "Financial resources" means the aggregate of an applicant's disposable income within a 12-month period and disposable capital. A person's disposable income is his gross income minus deductible items as allowed under LAO. A person's disposable capital is 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, minus deductible items as allowed under the LAO.

**ADVICE SOUGHT**

11. Members are invited to note the policy initiatives in respect of legal aid and legal advice services as set out above.

**Home Affairs Bureau  
January 2015**