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29 June 2018

Mr Lemuel WOO
Clerk to Panel on Administration of Justice and Legal Services
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Mr Woo,

**Response to Item 2 of the List of Follow-up Actions of the
Panel on Administration of Justice and Legal Services**

At the meeting of the Panel on Administration of Justice and Legal Services on 18 July 2017, Members requested the Home Affairs Bureau to provide supplementary information during the discussion of “measures to prevent the misuse of the legal aid system in Hong Kong and assignment of lawyers in legal aid cases” (agenda item III). The supplementary information is set out at **Annex**. We shall be grateful if you would circulate the information to Members of the Panel.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'G. PAK'.

(Gabriel PAK)
for Secretary for Home Affairs

c.c. Director of Legal Aid (Attn: Ms Doris LUI)

**Supplementary Information relating to
Measures to Prevent the Misuse of Legal Aid System in Hong Kong and
Assignment of Lawyers in Legal Aid Cases**

- (a) Breakdown of the appeal cases against the Director of Legal Aid (“DLA”)’s decisions by judicial review (“JR”) related and non-JR cases in respect of the applications as provided in paragraph 7 under civil legal aid for the years 2014, 2015 and 2016 of LC Paper No. CB(4)1386/16-17(03) –

Breakdown of the appeal cases against DLA’s decisions by JR related and non-JR cases			
Year	JR related cases	Non-JR cases	Total
2014	81	728	809
2015	86	619	705
2016	111	639	750

- (b) As provided in the table in paragraph 11 of LC Paper No. CB(4)1386/16-17(03), the total legal expenditure on legally aided cases involving JR in the financial year of 2016-17 was \$36.3 million and accounted for 5.02% of the total legal aid cost of 2016-17. As enquired by the Panel on Administration of Justice and Legal Services (“AJLS Panel”), 543 JR cases were involved in the legal expenditure incurred in 2016-17.
- (c) Regarding the total number of civil assignments to top 10 solicitors and counsel as provided in the tables in Annex B of LC Paper No. CB(4)1386/16-17(03), our response is set out below in respect of items (i) to (iii) –
- (i) how many were JR-related cases;
 - (ii) the amount of fees payable for each assignment; and
 - (iii) separate lists showing the distribution of the assignments, with information on the number of nominated lawyers involved and the breakdown for different types of assignments (including civil and section 9 assignments) and different categories of cases, for the year from 2014 to 2016.

Total number of civil assignments to top 10 solicitors from 2014 to 2016:

2014							
Rank	Case type				Total ^{^&}	Assignment in accordance with nomination	Fees received in this period* (HK\$)
	Personal injuries ("PI") -related	JR	Matrimonial	Others			
1	24	0	1	104	129	129	1,531,029
2	0	23	2	57	82	82	5,558,666
3	23	14	11	17	65	64	2,558,269
4	48	0	2	0	50	50	486,900
5	50	0	0	0	50	50	87,544
6	49	0	0	0	49	49	217,138
7	46	0	2	1	49	49	673,812
8	45	0	2	0	47	46	241,415
9	43	0	4	0	47	46	72,877
10	45	0	0	2	47	47	0

2015							
Rank	Case type				Total ^{^&}	Assignment in accordance with nomination	Fees received in this period* (HK\$)
	PI-related	JR	Matrimonial	Others			
1	45	0	1	0	46	46	0
2	4	5	0	36	45	45	128,228
3	42	0	3	0	45	34	1,545,027
4	44	0	0	0	44	44	1,203,516
5	4	7	1	31	43	43	22,200
6	1	0	0	42	43	43	0
7	42	0	0	0	42	42	1,854,531
8	40	0	2	0	42	41	714,955
9	31	0	0	10	41	41	121,896
10	41	0	0	0	41	41	408,061

2016							
Rank	Case type				Total ^{^&}	Assignment in accordance with nomination	Fees received in this period* (HK\$)
	PI-related	JR	Matrimonial	Others			
1	43	0	0	0	43	43	2,352,191
2	41	0	1	0	42	37	1,901,576
3	41	0	0	0	41	41	2,051,801
4	40	0	0	0	40	40	250,363

5	33	0	1	6	40	19	4,163,329
6	40	0	0	0	40	39	146,615
7	39	0	1	0	40	30	0
8	36	0	4	0	40	39	1,289,754
9	25	0	15	0	40	40	2,184,746
10	27	1	8	3	39	35	3,702,395

Notes:

[^] Generally, section 9 opinion assignments will not be assigned to legal aid panel solicitors.

* The legal fees paid to the solicitors were compiled on a cash basis. The amount of fees paid to a particular solicitor might not necessarily be related to the legal aid work assigned to him/her in the same period.

Total number of civil assignments to top 10 counsel from 2014 to 2016:

2014								
Rank	Case type				Total ^{@&}		Assignment in accordance with nomination	Fees received in this period [#] (HK\$)
	PI-related	JR	Matrimonial	Others				
1	0	13	0	16	29	(0)	29	1,244,375
2	27	0	0	1	28	(8)	14	1,068,098
3	20	0	0	8	28	(0)	27	1,285,923
4	25	0	0	3	28	(1)	28	493,200
5	0	3	0	24	27	(10)	27	688,990
6	27	0	0	0	27	(1)	26	289,640
7	23	0	0	3	26	(0)	26	222,560
8	0	8	0	18	26	(0)	25	995,078
9	25	0	0	1	26	(1)	23	1,070,226
10	25	0	0	1	26	(0)	26	0

2015								
Rank	Case type				Total ^{@&}		Assignment in accordance with nomination	Fees received in this period [#] (HK\$)
	PI-related	JR	Matrimonial	Others				
1	0	0	0	31	31	(0)	31	510,125
2	0	3	0	27	30	(0)	30	2,527,300
3	29	0	0	0	29	(1)	23	1,669,000
4	26	0	0	1	27	(1)	26	831,150
5	24	0	0	2	26	(0)	21	928,114
6	23	0	0	2	25	(4)	17	907,625

7	25	0	0	0	25	(0)	25	225,250
8	25	0	0	0	25	(0)	25	768,038
9	25	0	0	0	25	(0)	25	1,822,380
10	24	0	0	1	25	(0)	25	653,671

2016								
Rank	Case type				Total ^{@&}		Assignment in accordance with nomination	Fees received in this period [#] (HK\$)
	PI-related	JR	Matrimonial	Others				
1	0	1	0	27	28	(3)	28	661,980
2	0	1	0	27	28	(2)	27	415,000
3	24	0	0	1	25	(1)	21	885,610
4	25	0	0	0	25	(1)	25	446,460
5	0	1	0	24	25	(0)	25	536,300
6	20	0	1	4	25	(0)	24	1,573,625
7	25	0	0	0	25	(2)	24	942,385
8	22	0	1	2	25	(0)	22	526,750
9	23	0	0	1	24	(1)	20	547,375
10	23	0	0	0	23	(0)	22	981,825

Notes:

[@] The numbers in () indicate section 9 assignments.

[#] The legal fees paid to the counsel were compiled on a cash basis. The amount of fees paid to a particular counsel might not necessarily be related to the legal aid work assigned to him/her in the same period.

[&] As explained in paragraph 17 of LC Paper No. CB(4)1386/16-17(03), the Legal Aid Department (“LAD”) has, since 2013, tightened up enforcement of the limits set for the number of assignments handled by a lawyer and the cumulative amount of legal aid fees payable (where applicable) as stipulated in the Manual for Legal Aid Practitioners, covering civil and criminal cases of all categories. Moreover, pursuant to a review completed by LAD, the assignment limits have been revised as follows –

	Before review	Current (implemented with effect from 2 January 2018)
Solicitor	Civil: 45	Civil: 35
	Criminal: 30 cases or \$600,000 legal aid costs (whichever occurs first)	Criminal: 25 cases or \$750,000 legal aid costs (whichever occurs first)
Counsel	Civil: 25	Civil: 20
	Criminal: 30 cases or \$1.2 million legal aid fees (whichever occurs first)	Criminal: 25 cases or \$1.5 million legal aid costs (whichever occurs first)

- (d) The success rate for legally aided cases involving JR (i.e. cases with outcome in favour of the legally-aided persons) in the past five years –

Year	Number of cases involving JR with outcome in favour of the legally-aided person^{Note}	Success rate
2013	44	52%
2014	41	60%
2015	46	52%
2016	111	72%
2017	58	51%

Note: Figures include cases in which (1) judgement was in favour of the aided person; (2) precedent was set by the court subsequent to the grant of legal aid, thus favourable to the case of the aided person; (3) relief was given to the aided person by the opponent (government department/organisation) before conclusion of the legal proceedings; and (4) policy amendment was made by the opponent (government department/organisation) so that relief could be obtained by the aided person who therefore did not have to continue with the legal proceedings. While the AJLS Panel requested statistics covering the past ten years, the LAD has only maintained statistics on legally-aided JR cases with the outcome in favour of the legally-aided person from 2013 onwards.

- (e) The breakdown of “JR cases other than non-refoulement claims” by nature in respect of the legal aid applications involving JR received and certificates granted as provided in the second and third column of the table in paragraph 11 of LC Paper No. CB(4)1386/16-17(03) –

Breakdown of JR cases other than non-refoulement claims						
Item	2014		2015		2016	
	Applications	Certificates	Applications	Certificates	Applications	Certificates
Government Policies and related matters	100	10	168	29	169	11
Immigration matters (excluding non-refoulement claims)	13	1	19	3	21	1
Others	55	11	65	13	103	6
Total	168	22	252	45	293	18