

法律援助服務局
LEGAL AID SERVICES COUNCIL

2016
2017

Annual Report



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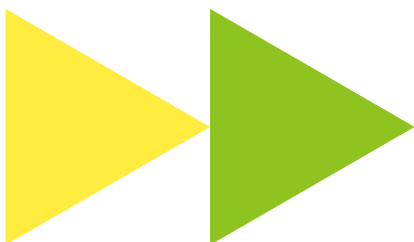
Overview

What is LASC

The Establishment

Established on 1 September 1996 under the Legal Aid Services Council Ordinance (Cap. 489), the Legal Aid Services Council (LASC) is a body corporate to supervise the provision of legal aid services provided by the Legal Aid Department (LAD), and to advise the Chief Executive on legal aid policy.

Since its establishment, the LASC has made recommendations on various aspects of the legal aid services in Hong Kong. On legal aid policy, the Council has provided the Government with advice on issues relating to the eligibility criteria, scope of services, etc., and has proposed measures to enhance the independence of legal aid. On the administration of legal aid services, the Council has made suggestions on ways to improve the application and processing procedures, system and arrangement for assigning cases to private lawyers, monitoring of assigned out cases, appeal procedures against legal aid refusal, etc. The Council has also conducted outreach activities such as conference and seminars to promote public awareness of legal aid.



Functions of the Council

The LASC is responsible for overseeing the administration of the legal aid services provided by LAD and the Department is accountable to the Council for the provision of such services.

In discharging its responsibility, the LASC may –

- (a) formulate policies governing the provision of services by LAD and give advice on the policy direction of the Department;
- (b) review the work of LAD from time to time and make such arrangements as are expedient and proper to ensure the efficient and economical discharge of the functions and provision of legal aid services by the Department;
- (c) keep under review the services provided by LAD and the plans for development of the Department; and
- (d) consider and advise on the estimates of expenditure of LAD.

The LASC shall not have the power to direct the LAD on staff matters and

the handling of individual cases by the Department.

The LASC also serves as the Chief Executive's advisory body on the policy of the Government concerning publicly-funded legal aid services provided by LAD and shall advise on –

- (a) the eligibility criteria, scope of services, mode of service delivery, future plans for improvements, funding requirements and future development of legal aid policy;
- (b) the feasibility and desirability of the establishment of an independent legal aid authority; and
- (c) any other aspect of legal aid which the Chief Executive may from time to time refer to the Council.

Interest Group

As a means to invite public participation in legal aid administration and obtain operational feedback from stakeholders, the LASC established interest groups which serve as a structured communication channel where the legal profession and lay members of the community may exchange views on the further development of legal

aid, and identify legal aid issues of significance to the objective of policy formulation and overseeing of the provision of legal aid services.

At present, there are two interest groups set up under the LASC, namely the Interest Group on Processing, Assignment and Monitoring of Assigned-out Cases and the Interest Group on Scope of Legal Aid. Each interest group is led by a Council member who is either a barrister or a solicitor. Generally, the terms of reference of the interest groups are to report to the Council feedback/ comments and recommendations in respect of the subjects under the purview of the interest groups; and to consider any issues referred to the interest groups by the Council.

Working Group

The Council also forms working groups as necessary to study specific issues in depth and make recommendations based on its findings to the Council. In 2016-17, there were two working groups. One of the working groups is to review the scope of Supplementary Legal Aid Scheme and the other one is to study the dissemination of legal aid information. The set-up of the latter aims at enhancing the operational transparency of LAD.

Overview

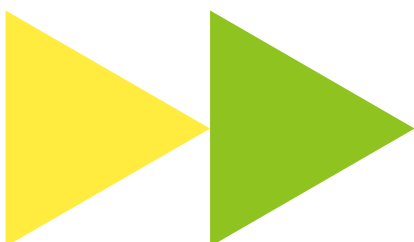
Vision, Mission and Values

Vision

The LASC actively contributes to upholding and enhancing the rule of law by striving to ensure equality before the law and access to justice by people of limited means.

Mission

The mission of LASC is to ensure provision of high quality, efficient and effective legal aid services and to secure adequate funding therefor; to seek to improve continually the legal and administrative systems concerning and affecting the provision of legal aid; to help increase public awareness of legal aid; and to keep under review the establishment of an independent legal aid authority.



Values

▶ **Committed**

The LASC is committed to its work and upholds its vision, mission and values (VMV) because it believes that legal aid is essential to the rule of law, and the Council contributes positively to legal aid services. While adhering to the provisions of the Legal Aid Services Council Ordinance, the Council endeavours to improve the provisions of the Ordinance in pursuit of its VMV.

▶ **Independent and Fair**

A greater degree of independence in legal aid administration was one of the reasons for establishing the LASC in 1996, and independence is therefore one of its core values. Thus, while acknowledging the interest or view of different stakeholders, the Council will take a disinterested position and pursue a course of action that is most appropriate in contributing to the rule of law and equality before the law. The Council will not ignore any fact or view that may be presented to it.

▶ **Accessible**

One of the reasons for establishing the LASC was to broaden public participation in legal aid administration. The Council will make such arrangements as to facilitate members of the public to obtain open information regarding the Council, or communicate with the Council on specific issues, or take part actively or passively in its work without prejudicing the discharge of its responsibilities. The Council will be accessible to the public, to stakeholders, and to interested parties locally or overseas.

▶ **Transparent**

A better understanding of the LASC will enhance trust in the Council and legal aid services being provided. It is a pre-requisite for active public participation in the Council's work. Therefore, the Council will make known to the public its work without breaching confidentiality in respect of specific issues or on specific occasions.

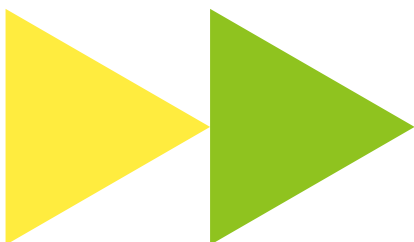
▶ **Responsive**

The LASC has to be responsive for two reasons. Firstly, legal aid service is provided within a wider environment. In order to provide sound advice on legal aid policy and to supervise effectively the legal aid services provided by Legal Aid Department, the Council has to be sensitive and proactive in respect of changes in social, economic and political conditions, legal practices and technological innovation. Secondly, timely and comprehensive response to public complaints or enquiries will build a more effective channel of communication with members of the public, and will contribute to greater public participation in legal aid administration through the Council. The LASC is ready to listen, to follow up with research, to deliberate and to act promptly.

Members of LASC

The Membership

The Council consists of: a Chairman who is not a public officer and who is not a barrister or solicitor or, in the opinion of the Chief Executive, who is not connected in any other way directly with the practice of law; 2 barristers and 2 solicitors, each holding a practising certificate issued under the Legal Practitioners Ordinance (Cap. 159); and 4 persons who, in the opinion of the Chief Executive, are not connected in any way with the practice of law. All members are appointed by the Chief Executive. The Director of Legal Aid sits on the Council as an ex-officio member.





The membership of the Council during the period from 1 April 2016 to 31 March 2017 is as follows:

- ▶ Dr Eric LI Ka-cheung, GBS, JP (Chairman)
- ▶ Ms Juliana CHOW Hoi-ling
- ▶ Mr Albert IP Yuk-keung (up to 31 August 2016)
- ▶ Ms Anna KWONG Sum-yee, FHKIA, MH
- ▶ Mrs Ayesha Macpherson LAU, JP (from 1 September 2016)
- ▶ Mr Clarence LEUNG Wang-ching, JP
- ▶ Mr Joseph LI Chiu-wah, LLB, LLM, Notary Public (up to 31 August 2016)
- ▶ Ms Melissa Kaye PANG, MH, JP
- ▶ Ms Josephine Antonetta PINTO
- ▶ Ms Connie WONG Wai-ching, SBS, JP
- ▶ Mr Thomas Edward KWONG, JP, Director of Legal Aid (ex-officio)

About the Members

Dr Eric LI Ka-cheung GBS, JP, Chairman



- A senior practising accountant by profession
- Chairman of audit committees of major public bodies and listed companies
- President of the Hong Kong Society of Accountants in 1994
- Legislative Council Member (Accountancy Functional Constituency) for 13 years, up to 2004
- Chairman of the Public Accounts Committee of the Legislative Council for 9 consecutive years during his tenure as Legislative Council Member
- Awarded the first Accountant of the Year of Hong Kong in 1993
- Received the International Accountant Award in 2002
- Awarded Honorary Doctorate in Law by the University of Manchester, Honorary Doctor of Social Science by the Hong Kong Baptist University, Honorary Doctor of Social Science of The Education University of Hong Kong, Honorary Alumnus of the London Business School and Honorary Fellow of the Chinese University of Hong Kong and the Hong Kong Polytechnic University.

Juliana CHOW Hoi-ling



- Holder of a PCLL of Laws from the University of Hong Kong
- Called to the Bar in 1986
- Legal Advisor to the Immigration Tribunal
- Chairman of Appeal Tribunal, Buildings Ordinance of Development Bureau
- Member of the Bar Association's Special Committees on Welfare and Barristers Qualification Examinations
- Member of Noise Control Appeal Board Panel, Water Pollution Control Appeal Board Panel and Waste Disposal Appeal Board Panel of Environmental Protection Department
- Previously served as lawyer of the Duty Lawyer Service from 1998 to 2007 and sat on the Bar Chambers Management Committee and Legal Aid Review Committee

Albert IP Yuk-keung



- Executive Director and Chief Executive Officer of Langham Hospitality Investments
- Independent Non-Executive Director of publicly listed companies - Hopewell Highway Infrastructure, Hopewell Holdings, Lifestyle International Holdings, Power Assets and TOM Group
- Non-Executive Director of Eagle Asset Management, Manager of Champion Real Estate Investment Trust
- Council Member and Adjunct Professor of Hong Kong University of Science and Technology
- Honorary Professor, Chairman of MSc Finance Board and Advisory Board Member, Faculty of Business, Lingnan University
- Adjunct Professor and member of the International Advisory Committee, College of Business, City University of Hong Kong
- Adjunct Distinguished Professor in Practice and member of the International Advisory Committee, University of Macau
- Adjunct Professor, Hong Kong Polytechnic University
- Adjunct Professor, Hang Seng Management College
- Board of Governor, Technological & Higher Education Institute
- Executive Fellow of Washington University in St. Louis
- Alumni Hall of Fame, Washington University in St. Louis
- Honorary Fellow of Vocational Training Council
- Vice Chairman of Board of Governor of World Green Organisation
- Member of Committee of Certification for Principalship, Education Bureau
- B.S. degree at Washington University in St. Louis (summa cum laude), and M.S. degrees at Cornell University & Carnegie-Mellon University

Anna KWONG Sum-yee
FHKIA, MH



- Authorized Person – Registered Architect and worked in both private, public and Catholic Diocese of Hong Kong before she commenced her practice in 2006
- President of the Hong Kong Institute of Architects (HKIA) (biennium 2009-2010)
- International Director, District 17 Governor and Area Director of Zonta International, President of Zonta Club of Kowloon
- Council and Executive Committee Member of Hong Kong Federation of Women
- A recipient of the Bauhinia Leadership Award organised by the HK Agency for Volunteer Service
- Two of her Conservation Projects for church/new buildings for NGOs/developers she carried out won the United Nations Educational, Scientific and Cultural Organisation Asia-Pacific Office “Culture Heritage & Conservation Award” and another Community Building Award from the HKIA
- Appointed by the HKSAR Government to the Town Planning Board, Council and Court of the Lingnan University, Trade Development Council – Infrastructure Development Advisory Committee
- Election Committee Member for the HKSAR Chief Executive (2006 & 2011)
- Election Committee Member for the National People's Congress Hong Kong Deputies (2007 & 2012)
- Appointed by a listed company to serve as a Non-Executive Independent Director in 2013

Ayesha Macpherson LAU JP



- Practising Accountant
- Member of Institute of Chartered Accountants in England and Wales
- Member of Hong Kong Institute of Certified Public Accountants ("HKICPA")
- Accounting Advisor of Ministry of Finance of the People's Republic of China
- Chairperson of International Fiscal Association - Hong Kong Branch
- Chairman of Joint Committee on Student Finance
- Chair of Audit Committee of St Paul's Co-Educational College
- Member of The Council and Human Resource Policy Committee of The University of Hong Kong
- Member of Joint Liaison Committee on Taxation
- Member of Executive Committee of Guangdong Province Federation of Women
- Executive Committee Member of Business and Professionals Federation of HK
- Member of Public Service Commission
- Member of Policy Research Committee of the Financial Services Development Council
- Member of Financial Infrastructure Sub-Committee of HK Monetary Authority
- Member of Council of Advisors and Audit Committee of Our HK Foundation
- Member of Advisory Committee of the SADS HK Foundation Limited (charity)
- Non-Executive Director of the Mandatory Provident Fund Schemes Authority
- Director of Crimson China Cultural Exchange Foundation Limited (charity)
- Previously served as Chairperson, Deputy Chair and Member of Hong Kong Institute of Certified Public Accountants Taxation Committee, Chair of Taxation Faculty Executive Committee of Hong Kong Institute of Certified Public Accountants, Deputy Chairperson of HKICPA Community Services Committee
- Previously served as member of Public Affairs Forum, Women's Commission, The Lump Sum Grant Independent Review Committee, Taskforce on Economic Challenges, Financial Reporting Review Panel - Financial Reporting Council, Hong Kong Trade Development Council, ICAC Advisory Committee on Corruption, Harbourfront Commission, Aviation Development Advisory Committee, Market Development Committee of the Financial Services Development Council, Standing Committee on Judicial Salaries and Conditions of Service and Joint Committee on Student Finance

Clarence LEUNG Wang-ching, JP



- Director of Sun Hing Knitting Factory Limited
- Honorary Chairman of the Y. Elites Association
- Chairman of Committee on Youth, the Business and Professionals Alliance for Hong Kong
- Member of Hong Kong Tourism Board
- Member of the Commission on Poverty
- Member of the Tourism Strategy Group
- Member of the Contract Hire Car Permits Selection Board
- Member of the Textiles Advisory Board
- Member of the Vocational Training Council
- Previously served as member of the Town Planning Board
- Previously served as member of HKSAR SME Committee
- Previously served as member of the Trade and Industry Advisory Board
- Previously served as a Part-time Member of the Central Policy Unit
- Awarded BA and MA honours in Economics by the University of Cambridge

**Joseph LI Chiu-wah
LLB, LLM, Notary Public**



- Senior Partner of Joseph Li & Co
- First admitted in England in 1986
- Served as a Senior Crown Counsel of the then Attorney General's Chambers before entering private practice
- Council Member of the Law Society of Hong Kong
- Chairman of the Working Party on Limited Liability Partnership of the Law Society
- Chairman of the Duty Lawyer Service Council

Melissa Kaye PANG
MH, JP



- Practising Solicitor
- China – Appointed Attesting Officer
- Notary Public
- Civil Celebrant
- Accredited General Mediator
- Managing Partner of Pang & Associates
- Vice President of the Law Society of Hong Kong
- Chairman of Committee on the Promotion of Civic Education
- Member of Independent Police Complaints Council
- Member of Corruption Prevention Advisory Committee of ICAC
- Member of the Standing Committee on Disciplined Services Salaries and Conditions of Service
- Member of Hong Kong Housing Authority

Josephine Antonetta PINTO



- Practising Barrister
- Admitted to the Hong Kong Bar in 1982
- Acted for the Duty Lawyer Service (1983-1993)
- Acting on Duty Lawyer Service Free Legal Advice Panel since 1983
- Member of the Committee of the Hong Kong Bar Association (1987-1989)
- Member of the Hong Kong Bar Association's Sub-Committees
 - Special Committee on Personal Injuries (2002-2006)
 - Sub-Committee on Admission of Overseas Counsel (1987-1988)
- Sub-Committee on Draft Basic Law (1988)
- Sub-Committee on Vietnamese Refugees (1988)
- Member of Committee on Mental Health (Amendment) Ordinance 1997 (1998-1999)
- Member of Joint Committee with Law Society on Continuing Legal Education (1988)
- Member of Guardianship Board under Mental Health Ordinance (1999-2002)
- Fellow of The Chartered Institute of Arbitrators (1993-1995)
- Consultant Editor of the Hong Kong Law Reports and Digest (2005 to date)

Connie WONG Wai-ching
SBS, JP



- Honorary University Fellow of Hong Kong Baptist University
- Master of Management Studies, University of Manchester, England
- Managing Director of Wong Sun Hing Limited, Executive Director of Onelink Industrial (Guangdong) Co Ltd and Managing Director of Guangzhou WanLing Real Estate Co Ltd since 1993
- President of the Kowloon Federation of Associations from 2009 to present
- Life President of the Federation of Hong Kong Guangxi Community Organisations Ltd and Standing Committee Member of The Chinese General Chamber of Commerce since 2012
- Vice Chairperson of HKCPPCC since 2008
- Standing Vice Chairperson of the Hong Kong Volunteers Federation since 2014
- Member of Kowloon City District Council since 2008 and served as the Chairperson of Kowloon City District Working Group on District Promotion of National Education
- Appointed as member of the Appeal Board (Amusement Game Centres) (2010 to present) and the Lotteries Fund Advisory Committee (2011 to present), as well as observer of the Independent Police Complaints Council (2014 to present)
- Served as Chairperson of Kowloon City District Civic Education Campaign Organising Committee, and sat on Kowloon City District Urban Renewal Forum and Kowloon City District Council Housing and Infrastructure Committee

Thomas Edward KWONG
JP, Director of Legal Aid



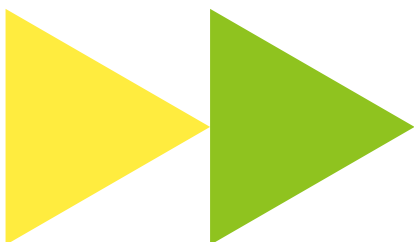
- Graduated with Bachelor of Political Science and Bachelor of Laws
- Admitted as a Solicitor of the Supreme Courts of New South Wales, England and Wales and the High Court of Hong Kong
- Joined the Legal Aid Department in October 1987 as a Legal Aid Counsel
- Appointed Director of Legal Aid in September 2013
- Member of the Civil Justice Reform Monitoring Committee, SJ's Steering Committee on Mediation and Regulatory Framework Sub-Committee and HKMAAL Mediation Accreditation Committee
- Honorable member of the Organising Committee of the 3rd Asian Mediation Association Conference (2014)
- Previously served as member of the CJ's Working Party on Mediation, Civil Court Users' Committee, Criminal Court Users' Committee, Criminal Procedure Rules Committee, Steering Committee on Family Mediation, SJ's Working Group on Mediation, SJ's Mediation Task Force, Law Reform Commission Sub-Committee on Class Actions, Employees' Compensation Assistance Fund Board, Traffic Accident Victims Assistance Advisory Committee and HKIAC Mediator Accreditation Committee

Chairman's Review

I am pleased to present the 2016-2017 Annual Report, the fifth during my term as Chairman of the Legal Aid Services Council.

Legal aid services form an integral part of the legal system and play an important role in contributing towards upholding the rule of law in Hong Kong. The purpose of legal aid is to ensure that all those who have reasonable grounds for pursuing or defending a legal action in the courts of Hong Kong will not be denied access to justice because of a lack of means. To qualify for legal aid, a person is required to satisfy both the means test and merits test as provided by the Legal Aid Ordinance (LAO).

In recent years, the numbers of challenges against the Government's policies and decisions through judicial review (JR) as well as applications for legal aid to lodge JRs have been on the rise. Some of the controversial cases have drawn much public attention and have been widely reported. The Council is glad that a monitoring mechanism is in place to ensure that the processing of legal aid applications is reasonable and to safeguard against abuse of legal aid. It is also pleased to see the value



of legal aid in JRs. Without legal aid, some of the JR cases may not be able to reach the Court of Final Appeal, the decision of which would help to clarify the law, for instance, the two leading legal aid test cases concerning the eligibility for right of abode, one of which involved persons born in Mainland China and adopted by Hong Kong permanent residents, and the other involved foreign domestic helpers who had lived in Hong Kong for more than 7 years. Based on the Court's rulings in these two cases, immigration policies on the matters were either established or reaffirmed.

2016-2017 was another year that marked the continuous and concerted efforts in enhancing legal aid services to the community.

The Supplementary Legal Aid Scheme (SLAS) is a self-financing scheme. It aims at providing legal assistance to people whose financial resources exceed the upper limit allowed under the Ordinary Legal Aid Scheme (OLAS) but are below a ceiling amount. In July 2016, the Council made a submission on the expansion of SLAS to the Chief Executive. In April 2017, the Council was glad to know that the Government

has accepted all of the Council's recommendations except that the age-related exemption of assets for means test for OLAS and SLAS was maintained at the age of 60.

The Legal Aid Department (LAD) engages counsel and solicitors in private practice to undertake litigation work in respect of criminal legal aid cases. The scale of fees payable to these lawyers as well as the fees assessment mechanism are prescribed in Rule 21 of the Legal Aid in Criminal Cases Rules under the Criminal Procedure Ordinance (Cap. 221). In the last Annual Report we mentioned that a review was conducted by the Government to revisit the revised rates of criminal legal aid fees after the enhanced payment structure of the criminal legal aid fees system had been implemented for two years, and as a result of the review, the Government proposed a package of increases. In November 2016, the Council was informed that the new fees had come into effect on 14 November.

Apart from the above-said review, the criminal legal aid fees are subject to regular review which is conducted on a biennial basis. In conducting the biennial review, the Government

takes into account mainly general price movement during the reference period and whether there has been difficulty in engaging the services of counsel and solicitors. Noting that the Consumer Price Index (C) for the period from July 2014 to July 2016 has increased by 4%, in December 2016 the Government proposed to adjust the criminal legal aid fees upward by 4% accordingly. According to HAB, a resolution would be moved in LegCo to effect the legislative changes and the commencement date would be appointed as soon as possible upon LegCo's approval. The Council hopes that the adjustment would be made at an early date.

Legal aid work is not distributed to counsel or solicitors on the Legal Aid Panel equally regardless of merits. The legally aided persons' interests are the paramount consideration. Counsel or solicitors on the Panel are selected by Legal Aid Counsel having regard to the type and complexity of the particular case, and the level of experience and expertise of the legal practitioners in the area concerned. In general, counsel or solicitors are selected in accordance with the established criteria, one of which is whether the counsel or solicitor being considered has exceeded the limits

set on the number of assignments handled and, where applicable, the cumulative amount of legal aid fees payable to a lawyer.

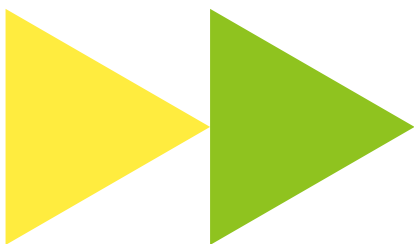
As there have been concerns over the assignment of legal aid cases to a specifically small number of solicitors, LAD has since the end of 2013 tightened up enforcement of the assignment limits for lawyers. LAD has also conducted a review on the assignment limits. As a result of the review, LAD proposed to adjust the civil case assignment limits for solicitors from 45 to 35 and from 25 to 20 for counsel. For criminal cases, the case limit for both counsel and solicitors was proposed to be revised from 30 to 25. Since the rates of fees payable to lawyers handling criminal legal aid cases has increased

quite substantially, the fees limit for solicitors was proposed to be adjusted from \$600,000 to \$750,000 and from \$1.2 million to \$1.5 million for counsel, whichever occurs first. Furthermore, in order to widen the pool of counsel for the provision of section 9 opinion, LAD proposed that a counsel who has earlier given a favourable section 9 opinion would not be assigned to handle the case if legal aid is subsequently granted.

The Council welcomes LAD's proposals and appreciates its effort to address the public concerns over the assignment of legal aid cases.

In September 2016, we saw the departure of our member Mr Albert IP Yuk Keung and Mr Joseph LI Chiu Wah, and the appointment of Mrs Ayesha LAU. The Council is very grateful to Mr IP and Mr LI for their unfailing support to its work and their invaluable contribution to enhancing its supervisory function and formulating effective legal aid policies. We believe that Mrs LAU, with her expertise in a different profession, will bring new perspectives and momentum to the Council in improving legal aid services to meet the rising expectations of the community.

Expansion of Supplementary Legal Aid Scheme



Recommendations

Having considered the Council's recommendations on the expansion of Supplementary Legal Aid Scheme ("SLAS") submitted to the Chief Executive in July 2016, policy objectives of legal aid, the guiding principles of SLAS as well as views from relevant government bureaux and departments, the Home Affairs Bureau ("HAB") reported to the Legislative Council ("LegCo") Panel on Administration of Justice and Legal Services ("AJLS") in April 2017 that the Government decided to –

- (a) accept LASC's recommendation on expanding the scope of SLAS to cover monetary claims exceeding \$60,000 –
 - (i) for professional negligence against financial intermediaries licensed for Type 1 (dealing in securities), Type 2 (dealing in futures contracts) or Type 8 (securities margin financing) regulated activities by the Securities and Futures Commission ("SFC"); and
 - (ii) for proceedings in derivatives of securities, currency futures or other

futures contracts when fraud, deception or misrepresentation was involved at the time of purchase;

- (b) accept LASC's recommendation that the scope of SLAS should not be expanded to cover claims against the incorporated owners of a multi-storey building, claims for property damage from accidents involving small marine boats, claims against property developers by minority owners in compulsory sales, claims against breach of trusts, claims involving disputes between limited companies and their minority shareholders, sale of goods and provision of services, class actions, defamation proceedings and election petitions;
- (c) accept LASC's proposal that no change is to be made to the level of financial eligibility limit ("FEL") for SLAS for the time being and that the FEL be monitored and reviewed annually; and
- (d) maintain the age-related exemption of assets for means test for the Ordinary Legal Aid Scheme ("OLAS") and SLAS at the age of 60.

Justifications

Scope and Guiding Principles of SLAS

SLAS is a statutory self-financing legal aid scheme which came into operation in 1984. It provides legal assistance to people whose financial resources exceed the statutory limit allowed under OLAS (currently at \$290,380), but are below the FEL specified for SLAS (currently at \$1,451,900).

The Supplementary Legal Aid Fund ("SLAF") which finances SLAS was set up under section 29 of the Legal Aid Ordinance. SLAF is funded by an initial seed money of \$1 million from the Lotteries Fund and an injection of \$27 million and a further injection of \$100 million by the Government in 1995 and 2012 respectively to support the operation of the expanded SLAS. Its income sources also include 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. The balance of SLAF stood at \$193 million as at end September 2016.

To maintain its financial viability, SLAS has been targeting at cases that carry a high chance of success with good damages to costs ratio since inception. SLAS covers mainly cases where the defendants are insured or where the likelihood for payment of damages is high (e.g. claims for personal injuries or death and work-related accidents). The high chance of recovery of damages helps ensure, to a large extent, the financial sustainability of the scheme. When deliberating on new categories of cases to be covered by SLAS, this principle should be borne in mind and one should not seek to cover cases which do not involve monetary claims, or have a relatively low success rate or poor prospect of recovery.

Categories of Cases Recommended for Inclusion in SLAS

(i) Professional Negligence Claims against Relevant Financial Intermediaries Licensed by the Securities and Futures Commission

For the financial sector, SLAS currently covers professional negligence claims against certified public accountants (practising) and negligence claims against insurers or their intermediaries

in respect of the taking out of the personal insurance products. LASC recommended that the scope of SLAS should be expanded to include monetary claims exceeding \$60,000 for professional negligence against financial intermediaries licensed for Type 1 (dealing in securities), Type 2 (dealing in futures contracts) or Type 8 (securities margin financing) regulated activities by the SFC (referred to as “relevant financial intermediaries”). These relevant financial intermediaries are required by law to maintain professional insurance.

One of the guiding principles of SLAS is that claims should have a high chance of recovery of damages. Having regard to the prospect of recoverability of legal costs and LASC’s recommendation that any expansion of SLAS should be made on an incremental basis, the Government agreed that SLAS should be expanded to cover financial intermediaries licensed for Types 1, 2 or 8 regulated activities at the current stage. Following the incremental approach, the Government did not intend to expand SLAS to cover other financial intermediaries which are not required by law to take out professional insurance for the time being.

(ii) Derivatives Claims

OLAS was expanded in November 2012 to cover proceedings involving money claims in derivatives of securities, currency futures or other futures contracts when fraud, deception or misrepresentation was involved at the time of purchase. As such, LASC recommended that the same should be included under SLAS.

According to the record of the Legal Aid Department (“LAD”), eight applications related to such proceedings were received under OLAS and no certificate was granted between November 2012 and December 2016. In the current review on SLAS, reference has been made to the experience gained from the inclusion of these claims under OLAS during the past four years. Since the proposed inclusion in SLAS would unlikely have a significant impact on the financial viability of SLAS, the Government supported LASC’s recommendation.

Categories of Cases Not Recommended for Inclusion in SLAS

The Government accepted LASC’s recommendations that the scope of SLAS should not be expanded to cover claims for the following

categories of cases. Its comments are summarized below –

(i) Sale of Goods and Provision of Services

With the Trade Descriptions Ordinance (“TDO”) (Cap. 362) in place to prohibit unfair trade practices deployed by traders against consumers, LASC recommended not including claims arising out of the sale of goods and the provision of services under SLAS for the time being. Should this be considered in future, it should be mindful of the fact that such claims generally have a lower success rate when compared with other types of proceedings under SLAS (e.g. personal injury and employees’ compensation) and a high cost-to-damage ratio, and the inclusion may compromise the financial viability of SLAF.

(ii) Class Action

LASC noted that there are different ways to structure a class action system. It could be a named plaintiff or a number of named plaintiffs to file a claim on behalf of a “class” of people or businesses who claim to have suffered from a common injury or loss. LASC considered that the inclusion of class action should be actively considered when the law governing class action is available.

The Director of Legal Aid (“DLA”) should also have discretion to grant legal aid in appropriate class action cases to allow flexibility for evolving situation or circumstances.

The Working Group on Class Actions (“Working Group”) and its Subcommittee are deliberating on the details of the proposed class action scheme. In the light of the current position, it was considered premature to give consideration to the question of funding in the present context before any proposed reform to permit class action has taken shape.

As regards the justifications for not expanding the scope of SLAS to cover claims against the incorporated owners of a multi-storey building, claims for property damage from accidents involving small marine boats, claims against property developers by minority owners in compulsory sales, claims for breach of trusts, claims involving disputes between limited companies and their minority shareholders, defamation proceedings and election petitions; and for maintaining the level of FEL for SLAS, the Government did not have any contrary view to LASC’s recommendations. More details of the Government’s comments on these items can be found from

the LegCo paper ref. CB(4)817/16-17(03).

Age Related Exemption for Assets Test

The current FELs for OLAS and SLAS are \$290,380 and \$1,451,900 respectively. The financial resources of an applicant is calculated as follows –

Monthly disposable income x 12 months + disposable capital

Monthly disposable income is the net monthly income after various allowable deductions have been made from gross income. The deductions include items such as rent, rates and a statutory allowance for the applicant’s own living expenses and that of their dependants. Disposable capital consists of all assets of a capital nature, such as cash, bank savings, jewellery, antiques, stocks and shares, and property.

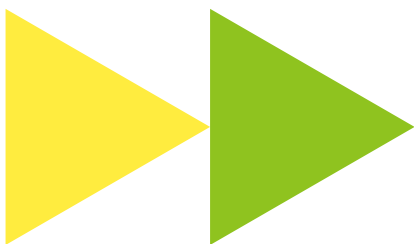
Capital disregards for elderly applicants was introduced in May 2011 with a view to better protecting elderly citizens’ right of access to justice by providing more favourable treatment of the disposable capital assets owned by elderly applicants when calculating their disposable capital, taking into account their

general lack of earning power and the prospect of diminishing earnings. For applicants who have reached the age of 60, an amount of capital equal to the FEL of OLAS, i.e. \$290,380, will not be counted as their capital for both OLAS and SLAS applications.

LASC suggested lowering the age limit to 55 so as to better protect the assets of the elderly from being depleted in litigation as they are approaching the end of their working life and could not earn back those monies. However, in view of the world trend in extension of retirement age, including the Government’s raising the retirement age for civil service new recruits from 60 to 65 for civilian grades since 1 June 2015, and with reference to the eligible age for various Government policies and services targeting at the elderly, the Government did not see strong justifications for lowering the age limit for assets test. As such, it was recommended maintaining the current age limit of 60.

The Council welcomed the Government’s proposals on the expansion of SLAS. It however hoped that the Government could reconsider lowering the age limit for assets test to 55 with a view to further protecting elderly citizens’ right of access to justice.

Review of Criminal Legal Aid Fees



Lawyers in private practice engaged to undertake litigation work on behalf of Legal Aid Department ("LAD") in respect of criminal cases are remunerated in accordance with the Legal Aid in Criminal Cases Rules (LACCR) under the Criminal Procedure Ordinance (Cap. 221), which specifies the fees payable to counsel and solicitors for criminal cases in different levels of Court. The Department of Justice ("DoJ") draws reference to the same scale of fees to engage counsel in private practice to appear for the prosecution in criminal cases. The duty lawyer fees are also determined with reference to the same scale of fees.

Pursuant to the report by the Secretary for the Treasury to the Legislative Council ("LegCo") Finance Committee in October 1992, the criminal legal aid fees, the prosecution fees and the duty lawyer fees (collectively referred to as "the Fees") are subject to review on a biennial basis to take into account changes in the Consumer Price Index (C) ("CPI(C)") during the reference period. In conducting the biennial reviews, the Government takes into account mainly general price movement during the reference period and whether there has been difficulty in engaging the services of counsel and solicitors.

As reported last year, in the biennial review of 2014, the Government proposed to increase the Fees by 7.7% in accordance with the movement in CPI(C) during the reference period from July 2012 to July 2014. The proposed 7.7% upward adjustment was incorporated in the proposed package of increases in criminal legal aid fees pursuant to the review commenced in March 2014. The Government sought the support of the LegCo Panel on Administration

of Justice and Legal Services in February 2016 and the proposed package of increases in criminal legal aid fees was approved by LegCo in June 2016. The new Fees came into effect on 14 November 2016.

In December 2016, the Council was informed that the Government had completed the 2016 biennial review. Noting that the CPI(C) for the reference period (i.e. July 2014 to July 2016) had increased by 4.0%, the

Government proposed to adjust the Fees upward by 4.0% accordingly. The impact of general price movement after July 2016 would be reflected in the next biennial review.

The following table summarises the adjustment to the Fees in the past three biennial reviews and the adjustment proposed for the current review –

Year	Adjustment	CPI(C) Movement
2010 review	+1.6%	+1.6%
2012 review	+9.3%	+9.3%
2014 review	+7.7%	+7.7%
2016 review	+4.0% (proposed)	+4.0%

It was noted that the proposed amendments to the LACCR had been submitted to the Criminal Procedure Rules Committee ("Rules Committee") chaired by the Chief Judge of the High Court for approval. Subject to the Rules Committee's approval, the Government will move a resolution in LegCo to effect the

legislative changes and will appoint the commencement date as soon as possible upon LegCo's approval.

The Council welcomed the proposed upward adjustment and is looking forward to the commencement of the revised criminal legal aid fees payable to counsel and solicitors.

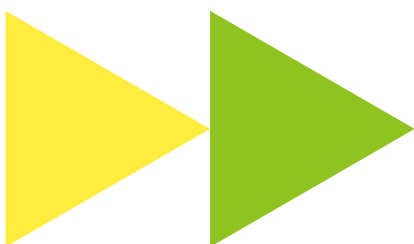
Assignment of Legal Aid Cases

In March 2017, the Legal Aid Department (LAD) sought endorsement from the Council of revising the limits set for assignment of legal aid cases to individual lawyer and the practice of assigning the case to counsel who has earlier given a favourable section 9 opinion.

Assignment limits for lawyers

Section 13 of the Legal Aid Ordinance (LAO) provides that where a legal aid certificate is granted, the Director of Legal Aid (DLA) may act for the aided person through Legal Aid Counsel or assign any counsel or solicitor to be selected by the aided person, if he/she so desires, or otherwise selected by DLA. DLA is required by virtue of section 4(1) of LAO to keep separate panels of counsel and solicitors who are willing to act for aided persons.

Legal aid work is however not distributed to counsel or solicitors on the Legal Aid Panel equally regardless of merits. The aided persons' interests are the paramount consideration. Counsel or solicitors are selected by Legal Aid Counsel having regard to the level of experience and expertise of the practitioners concerned and the type and complexity of the



particular case. In general, counsel or solicitors are selected in accordance with the established criteria, one of which is the counsel or solicitor concerned should not exceed the limit on assignments of legal aid work and/or, where appropriate, costs and fees paid or payable for such work in the past 12 months.

The assignment criteria for Panel lawyers were first introduced in 1997. Reviews on the assignment criteria and upper limits on the number of cases to be assigned and the amount of fees/costs paid to the individual Panel lawyer within a period of 12 months were conducted in 2000 and 2006 respectively.

Civil cases

The number of civil case assignments for any individual solicitor and counsel over any period of 12 months generally would not exceed 45 cases and 25 cases respectively. Provided that it is in the interests of the aided person, assignments to solicitors and counsel who exceed the assignment limits may be allowed with the approval of the directorate officer concerned.

In late 2013, LAD noted the number of assignments to a specifically small

number of Panel solicitors arising from aided persons' nomination, in particular for personal injury and related cases, had increased quite substantially. At the same time, there was also public concern that the nominations were caused by improper touting and champerty activities. Despite the fact that LAD would generally accept aided persons' nomination of lawyers when they exercise their right pursuant to section 13 of LAO, LAD is concerned that assigning too many cases to a particular Panel lawyer though nominated by the aided person may not be to the aided person's interest. In addition, it is also noted that since the Civil Justice Reform (CJR) in April 2009, personal involvement by solicitors handling civil cases including personal injuries and related proceedings has drastically increased due to the various procedural requirements under CJR and the very stringent time table for compliance. Any individual lawyer handling too many cases at one time may not be able to safeguard the interest of aided persons. To address all these concerns, LAD has since the end of 2013 adopted a strict adherence to the assignment criteria on the number of cases when assigning personal injury and related cases whereby aided person's

nomination would be turned down when the number of assignments to the nominated Panel solicitor has reached the assignment limit. The aided person would then be given an opportunity to make alternative choice of solicitor. By June 2015, LAD extended the strict adherence to the assignment criteria to cover all other types of civil cases. As a result, the total number of assignments to the top 10 lawyers has reduced substantially and in 2016, none of the Panel solicitors has assignments exceeded the maximum limit.

Following this step up measure on strict compliance with the assignment criteria on number of cases, LAD considered that the assignment limits should be reviewed.

On the other hand, the Hong Kong Independent Commission Against Corruption (ICAC) completed its study on Assignment of Civil Legal Aid Cases to Private Legal Practitioners and Experts (Assignment No. 19/2014) in 2015. Apart from making various recommendations in its report, ICAC also suggested LAD to consider reviewing the current threshold of cases assigned to each Panel lawyer.

ASSIGNMENT OF LEGAL AID CASES

In view of the above circumstances, LAD reviewed the civil case assignment limits for solicitors and counsel, and proposed to adjust the limits to 35 and 20 cases respectively.

Criminal cases

The criminal case assignment limits are 30 cases for both solicitors and counsel, and the fees limit for solicitors is \$0.6 million and that for counsel is \$1.2 million, whichever occurs first. Assignments to Panel lawyers who exceed the limits may be allowed with the approval of a directorate officer if it is in the

interests of the aided person.

In response to the call for change by the two legal professional bodies and in compliance with the report to the Legislative Council Finance Committee in October 1992 of conducting review biennially based on Consumer Price Index (C), the rate of fees payable to Panel lawyers handling criminal legal aid cases has been increased quite substantially since 2012.

With a view to widening the pool of lawyers handling criminal legal aid cases in particular when the

rate of fees payable to lawyers handling criminal legal aid cases being substantially increased, LAD proposed to revise the criminal case assignment limits for both counsel and solicitors to 25 cases. However, noting the recent increase in the rate of fees, it was proposed that the fees limit for solicitors be revised upward to \$750,000 and \$1.5 million for counsel.

Following is a table summarizing the LAD's proposed revision of the assignment limits on civil and criminal cases within 12 months:

	Civil Cases		Criminal Cases	
	Before Revision	After Revision	Before Revision	After Revision
Solicitor	45 cases	35 cases	30 cases or \$600,000 legal aid costs (whichever occurs first)	25 cases or \$750,000 legal aid costs (whichever occurs first)
Counsel	25 cases	20 cases	30 cases or \$1.2 million legal aid costs (whichever occurs first)	25 cases or \$1.5 million legal aid costs (whichever occurs first)

The above proposals had the support of the Council.

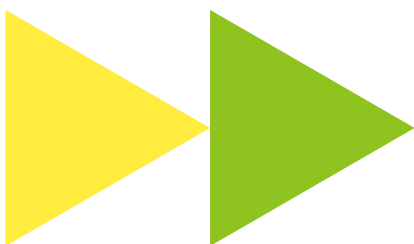
Assignment of counsel to prepare section 9 opinions

With a view to expanding the pool of counsel for provision of independent opinions under section 9 of LAO, LAD has since 2013 assigned those counsel on the Panel who have the relevant experience and expertise but with fewer assignments to

prepare section 9 opinions. As a step up measure, LAD proposed in March 2017 that as a general policy, a counsel who has earlier given a favourable section 9 opinion would not be assigned to handle the case if legal aid is subsequently granted save and except in special circumstances such as there is no other counsel with the required experience and expertise available to handle the case, or it is in the interest of the aided person to do so e.g. containing the amount of first charge to be borne by the aided person as in damages claim cases.

The Council welcomed the proposal.

Communication with Stakeholders and Other Legal Aid Bodies



The Administration

The Council maintains regular contacts with the Administration, an important stakeholder of legal aid.

In the past year, the Home Affairs Bureau (HAB) provided the Council with information on different legal aid issues, including the submissions to LegCo AJLS Panel entitled “Biennial Review of Criminal Legal Aid Fees, Prosecution Fees and Duty Lawyer Fees” and “Policy initiatives of the Home Affairs Bureau”. The representatives of HAB also attended the Council meeting to brief and exchange views with Council members on the two submissions.

Legal Aid Foundation, Taiwan

A delegation from the Shilin Branch of Legal Aid Foundation (LAF), Taiwan visited the Council on 13 May 2016. Members of the delegation included Chairman of the LAF, Shilin Branch, its Secretary and fourteen other members. The Assistant Director of Legal Aid (Policy & Development),

Ms Doris LUI, introduced the legal aid services provided by the Legal Aid Department. During the meeting, matters concerning the eligibility criteria for legal aid, costs of legal aid applicant and the application procedures were discussed.

LAF commenced operation on 1 July 2004. It provides the general public with legal aid, with the purpose of defending people's basic litigation rights. Legal aid recipients are those who lack financial means and are unable to receive proper legal protection or exercise their rights; or those who may not lack financial means but should be given aid according to the law, such as those involved in compulsory defense cases (where the minimum punishment of the crime is not less than three years imprisonment; or where the individual's ability to express in court is impeded by intellectual disability). The services of LAF include legal consultation, mediation and settlement, legal documents drafting and representation in court proceedings.

International Legal Aid Group

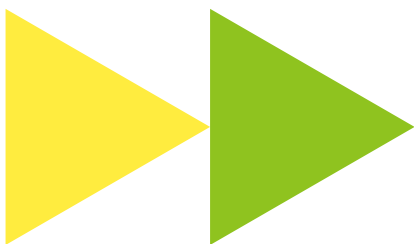
The International Legal Aid Group (ILAG) is a network of legal aid specialists including chief executives and managers from legal aid commissions, high ranking civil servants and leading academics in over two dozen countries. It is guided by an international steering group with Professor Alan Paterson as its Chair. Its mission is to improve evidence-based policy-making in the field of poverty legal services through discussion and dialogue relating to

international developments in policy and research. ILAG focuses primarily on the particular issues raised in jurisdictions which have established highly developed systems of legal aid. However, it is expanding its brief to include jurisdictions with less developed systems, particularly in jurisdictions close to its conference sites.

On the invitation of ILAG, Council chairman Dr Eric LI Ka Cheung will, on behalf of the Council, attend its conference to be held in Johannesburg, South Africa from 14 to 16 June 2017.



Certificate by Counsel Scheme



The Overview

Under section 26A of the Legal Aid Ordinance, a person who has been refused legal aid in respect of his/her appeal to the Court of Final Appeal (CFA) may seek a review of the Director of Legal Aid's refusal within 28 days of the decision. The application for review must be accompanied by a certificate by counsel stating that the person has a reasonable prospect of success in the appeal to the CFA and the grounds for that opinion.

If the person has been refused legal aid other than on ground of means, he/she may apply for the assistance scheme of the Council. Eligible applicants will be provided with a certificate by counsel free of charge. In respect of civil cases, a certificate by counsel will only be provided if the case concerned has been heard by the Court of Appeal (CA) and the intended appeal to the CFA is related to a judgment or decision or order on the substantive merits of the case as opposed to an interlocutory decision or order by the CA.

During the period from 1 April 2016 to 31 March 2017, the Council received 53 (46 criminal and 7 civil) applications for the provision of a

CERTIFICATE BY COUNSEL SCHEME

certificate by counsel. For the 46 applications in respect of criminal cases, the most common type of case the legal aid appellants were involved was "trafficking in a dangerous drug" which accounted for 45.7% of the total number of

criminal applications. As regards the 7 applications for civil cases, there was no overwhelming majority types of case. Of the 53 applications, 39 (36 criminal and 3 civil) applications were approved and 14 (10 criminal and 4 civil) applications were refused

by the Council.

In respect of the 39 approved applications, the Council made the following assignments for the provision of counsel certificate –

Criminal Case	Counsel	Solicitor
(a) No. of assignments to panel lawyers according to legal aid appellants' nomination	35	36
(b) No. of assignments to non-panel lawyers (who have represented the legal aid appellants in the appeal court) according to legal aid appellants' nomination	1	0
Total	36	36

Civil Case	Counsel	Solicitor
(a) No. of assignments to panel lawyers according to legal aid appellants' nomination	3	3
(b) No. of assignments to non-panel lawyers (who have represented the legal aid appellants in the appeal court) according to legal aid appellants' nomination	0	0
Total	3	3

Of the 39 certificates by counsel issued, 7 (criminal) certificates by counsel stated that the legal aid appellants have reasonable prospect of success in their intended appeal to the CFA and 32 (29 criminal and

3 civil) certificates by counsel stating that the legal aid appellants do not have reasonable prospect of success.

For the 7 criminal cases which had been certified by counsel to have

reasonable prospect of success, the Legal Aid Department (LAD) agreed to grant legal aid to 6 appellants after review.

A table showing the statistics relating to the applications received in 2015-2016 and 2016-2017 is appended below –

	1.4.2015 to 31.3.2016			1.4.2016 to 31.3.2017		
	Criminal Case	Civil Case	Total	Criminal Case	Civil Case	Total
Applications						
(a) approved	55	4	59	36	3	39
(b) refused	9	2	11	10	4	14
(c) aborted	4	0	4	0	0	0
Total	68	6	74	46	7	53
Certificate by Counsel						
(a) has reasonable prospect of success	4	1	5	7	0	7
(b) has no reasonable prospect of success	51	3	54	29	3	32
Total	55	4	59	36	3	39
Cases with reasonable prospect of success						
(a) legal aid granted upon review by LAD	4	0	4	6	0	6
(b) legal aid not granted upon review by LAD	0	1*	1	1	0	1
Total	4	1	5	7	0	7

* Legal aid was not granted to the appellant as he would not continue his appeal to CFA in respect of his civil case.



CERTIFICATE BY COUNSEL SCHEME

The statistics for the two years reveal that –

(a) the total number of applications in 2016-2017 has decreased by 28.4% (from 74 in 2015-2016 to 53 in 2016-2017), with a decrease of 32.4% in applications of criminal cases (from 68 in 2015-2016 to 46 in 2016-2017) and an increase of 16.7% in applications of civil

cases (from 6 in 2015-2016 to 7 in 2016-2017);

(b) the percentage of cases certified by counsel to have reasonable prospect of success has increased from 8.5% in 2015-2016 to 17.9% in 2016-2017; and

(c) the percentage of cases where legal aid was granted by LAD in the light of the counsel's

opinion has decreased from 100% in 2015-2016 (excluding the civil case in which the appellant decided not to continue his appeal to CFA) to 85.7% in 2016-2017.

In respect of the approved applications, \$1.044 million was committed in 2016-2017 as fees for counsel and solicitors for providing the certificates. Details are as follows –

	Number of Applications Approved	Counsel Fee/Case	Total Counsel Fee	Solicitor Fee/Case	Total Solicitor Fee	Total Fee
Criminal Case	36	\$15,000	\$540,000	\$9,000	\$324,000	\$864,000
Civil Case	3	\$40,000	\$120,000	\$20,000	\$60,000	\$180,000
Total	39		\$660,000		\$384,000	\$1,044,000

Since the implementation of the assistance scheme in April 2002, a total of \$27.924 million was committed for the provision of certificate by counsel.

Update on Panel of Lawyers

In providing the service under the assistance scheme administered by the Council, the Council maintains a panel of counsel and solicitors. To join the panel, counsel must have at

least 10 years' practising experience and for solicitors, 7 years. In addition, both the counsel and solicitors must have handled at least 3 Court of Appeal (CA) or Court of Final Appeal (CFA) cases in the past three years. Senior counsel are exempted from the minimum experience requirements.

As the administrator of the assistance scheme, the Council has the responsibility to ensure that counsel and solicitors on the panel possess both relevant experience and sound knowledge of the laws and practices

relating to appeal procedures and requirements for appeal to the CFA. To perform this duty, the Council conducted an updating exercise in October 2016 requiring panel lawyers to provide information to update their experience records. The Council also took the opportunity to invite members of Hong Kong Bar Association and the Law Society of Hong Kong, who have not yet registered with the Council, to join the panel. As at 31 March 2017, the numbers of counsel and solicitors on the panel were 68 and 38 respectively.

Administration

Attendance at Council Meetings

The Council has held six meetings in the year 2016/2017. Attendance rate of respective members is set out in the table below:

Name of Council Member	No. of Meetings Attended	Attendance Rate
Dr Eric LI Ka Cheung	6	100%
Ms Juliana CHOW	4	66%
Mr Albert IP #	3	100%
Ms Anna KWONG	6	100%
Mrs Ayesha Macpherson LAU *	3	100%
Mr Clarence LEUNG	5	83%
Mr Joseph LI #	2	66%
Ms Melissa PANG	4	66%
Ms Josephine PINTO	6	100%
Ms Connie WONG Wai Ching	4	66%
Director of Legal Aid	6	100%

* New member who joined the Council on 1 September 2016. During the period from September 2016 to March 2017, three meetings were held.

Former member who left the Council on 1 September 2016. During the period from April to August 2016, three meetings were held.

Housekeeping and Green Management Measures

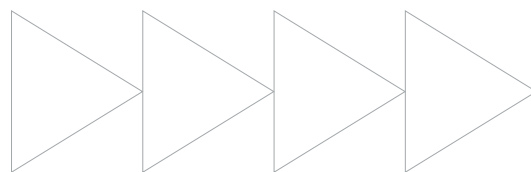
The works to enhance the office security was completed in August 2016. CCTV and Audio/Visual Intercom System had been installed at the entrance of the Council office. In regard to IT security, the Council, with reference to the guidelines issued by the Office of the Government Chief Information Officer, is in the course of formulating in-house guidelines to remind the Council staff to use their computers and transmit the electronic data in a secure manner and to reinforce the awareness against information leakage and IT security attacks.

The Council is committed to providing eco-friendly services and working environment. To minimize the environmental impacts, the Council has taken different measures including adopting electronic platform in disseminating information, avoiding sending original documents which have been sent by electronic means, reducing lighting to minimum requirement for illumination and setting office equipment to energy saving mode. The Council also follows the Reduce Reuse and Recycle (3Rs) concept and try its best to be an environmentally conscious consumer. In 2016/2017, the Council donated the obsolete computer equipment to the charity organization.

Staff and Finance

As at 31 March 2017, two posts in the secretariat were filled by contract staff recruited by the Council while four other posts were filled by civil servants seconded from the Government.

Subventions received from the Government for 2016-2017 was \$6.367 million. Total expenditure of the year was \$6.323 million.



Report of the Director of Audit



Audit Commission

The Government of the Hong Kong Special Administrative Region

Independent Auditor's Report To the Legislative Council

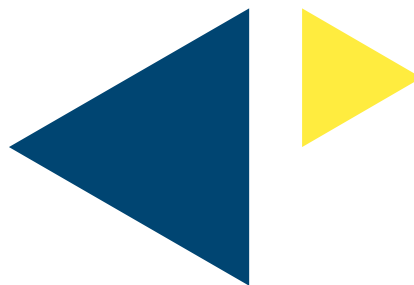
Opinion

I have audited the financial statements of the Legal Aid Services Council set out on pages 40 to 51, which comprise the balance sheet as at 31 March 2017, and the income and expenditure account, statement of changes in equity and statement of cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

In my opinion, the financial statements give a true and fair view of the financial position of the Legal Aid Services Council as at 31 March 2017, and of its financial performance and cash flows for the year then ended in accordance with Hong Kong Financial Reporting Standards ("HKFRSs") issued by the Hong Kong Institute of Certified Public Accountants ("HKICPA") and have been properly prepared in accordance with the Legal Aid Services Council Ordinance (Cap. 489).

Basis for opinion

I conducted my audit in accordance with section 13(1) of the Legal Aid Services Council Ordinance and the Audit Commission auditing standards. My responsibilities under those standards are further described in the *Auditor's responsibilities for the audit of the financial statements* section of my report. I am independent of the Legal Aid Services Council in accordance with those standards, and I have fulfilled my other ethical responsibilities in accordance with those standards. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.



Responsibilities of the Legal Aid Services Council for the financial statements

The Legal Aid Services Council is responsible for the preparation of the financial statements that give a true and fair view in accordance with HKFRSs issued by the HKICPA and the Legal Aid Services Council Ordinance, and for such internal control as the Legal Aid Services Council determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

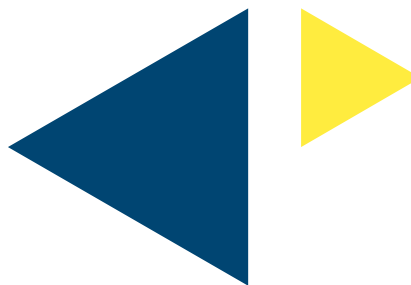
In preparing the financial statements, the Legal Aid Services Council is responsible for assessing its ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

Auditor's responsibilities for the audit of the financial statements

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Audit Commission auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with the Audit Commission auditing standards, I exercise professional judgment and maintain professional skepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Legal Aid Services Council's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Legal Aid Services Council;



REPORT OF THE DIRECTOR OF AUDIT

- conclude on the appropriateness of the Legal Aid Services Council's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that my cast significant doubt on the Legal Aid Services Council's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Legal Aid Services Council to cease to continue as a going concern; and
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

LIANG Kar-lun, Ken
Acting Principal Auditor
For Director of Audit

6 September 2017

Audit Commission
26th Floor
Immigration Tower
7 Gloucester Road
Wanchai, Hong Kong

Financial Reports and Accounts

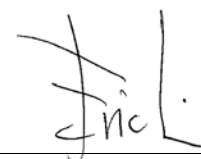
Balance Sheet

AS AT 31 MARCH 2017

	Note	2017 HK\$	2016 HK\$
NON-CURRENT ASSETS			
Property, plant and equipment	3	71,964	41,819
CURRENT ASSETS			
Cash and cash equivalents	4	379,976	365,756
Interest receivable		3	-
Deposit		2,200	2,200
		382,179	367,956
CURRENT LIABILITIES			
Provision for gratuities		(13,298)	(12,422)
Provision for untaken leave		(6,420)	(6,993)
		(19,718)	(19,415)
NET CURRENT ASSETS		362,461	348,541
NET ASSETS		434,425	390,360
Representing:			
GOVERNMENT FUNDS			
Recurrent subvention fund		434,425	390,360

The accompanying notes 1 to 12 form part of these financial statements.

Approved and authorised for issue by the Legal Aid Services Council on 6 September 2017.



(Dr Eric Li Ka Cheung)
Chairman

Income and Expenditure Account

FOR THE YEAR ENDED 31 MARCH 2017

	Note	2017 HK\$	2016 HK\$
INCOME			
Government subventions	6	6,757,360	6,170,957
Interest income		24	10
		6,757,384	6,170,967
EXPENDITURE			
Staff emoluments	7	(4,140,121)	(3,568,785)
Rent and management fees		(1,900,209)	(1,897,829)
Other expenses	8	(282,629)	(313,993)
		(6,322,959)	(5,780,607)
SURPLUS FOR THE YEAR		434,425	390,360
Other comprehensive income		-	-
TOTAL COMPREHENSIVE INCOME FOR THE YEAR		434,425	390,360

The accompanying notes 1 to 12 form part of these financial statements.

Statement of Changes in Equity

FOR THE YEAR ENDED 31 MARCH 2017

	HK\$
RECURRENT SUBVENTION FUND	
Balance as at 1 April 2015	98,844
Refunded to Government	(98,844)
Total comprehensive income for the year	<u>390,360</u>
Balance as at 31 March 2016	390,360
Refunded to Government	(390,360)
Total comprehensive income for the year	<u>434,425</u>
Balance as at 31 March 2017	<u><u>434,425</u></u>

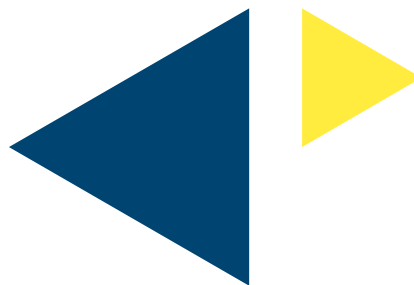
The accompanying notes 1 to 12 form part of these financial statements.

Statement of Cash Flows

FOR THE YEAR ENDED 31 MARCH 2017

	Note	2017 HK\$	2016 HK\$
Cash flows from operating activities			
Surplus for the year		434,425	390,360
Depreciation		19,135	12,585
Interest income		(24)	(10)
Increase in provision for gratuities		876	817
Decrease in provision for untaken leave		(573)	(550)
Net cash generated from operating activities		453,839	403,202
Cash flows from investing activities			
Acquisition of property, plant and equipment		(49,280)	(25,800)
Interest received		21	13
Net cash used in investing activities		(49,259)	(25,787)
Cash flows from financing activities			
Amount refunded to Government		(390,360)	(98,844)
Net cash used in financing activities		(390,360)	(98,844)
Net increase in cash and cash equivalents		14,220	278,571
Cash and cash equivalents at beginning of year		365,756	87,185
Cash and cash equivalents at end of year	4	379,976	365,756

The accompanying notes 1 to 12 form part of these financial statements.



NOTES TO THE FINANCIAL STATEMENTS

1. GENERAL INFORMATION

The Legal Aid Services Council (“the Council”) was established on 1 September 1996 under the Legal Aid Services Council Ordinance (Cap. 489).

The Council is a non-profit-making organization formed for the objective of supervising the provision of legal aid services in Hong Kong provided by the Legal Aid Department and advising the Government on legal aid policy.

The address of its registered office is Room 1601, 16/F, COFCO Tower, 262 Gloucester Road, Causeway Bay, Hong Kong.

2. SIGNIFICANT ACCOUNTING POLICIES

2.1 Statement of compliance

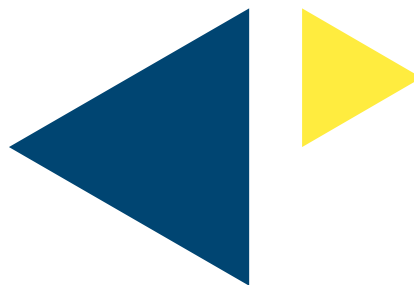
The financial statements have been prepared in accordance with all applicable Hong Kong Financial Reporting Standards (HKFRSs) issued by the Hong Kong Institute of Certified Public Accountants and the requirements of the Legal Aid Services Council Ordinance.

2.2 Basis of preparation

The financial statements have been prepared on an accrual basis and under the historical cost convention.

The preparation of financial statements in conformity with HKFRSs requires management to make judgements, estimates and assumptions that affect the application of policies and reported amounts of assets, liabilities, income and expenditure. The estimates and associated assumptions are based on experience and various other factors that are believed to be reasonable under the circumstances, the results of which form the basis for making judgements about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates.

The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimate is revised if the revision affects only that period, or in the period of the revision and future periods if the revision affects both current and future periods.



There are no critical accounting judgements involved in the application of the Council's accounting policies. There are neither key assumptions concerning the future nor other key sources of estimation uncertainty at the balance sheet date that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities in the next year.

2.3 Adoption of new / revised HKFRSs

The Council has adopted all new/revised HKFRSs which are effective and relevant to the Council for the current accounting period.

The Council has not early adopted any amendments, new standards and interpretations which are not yet effective for the current accounting period. The Council is in the process of making an assessment of what the impact of these amendments, new standards and interpretations is expected to be in the period of initial adoption. So far, it has concluded that the adoption of them is unlikely to have a significant impact on the Council's result of operations and financial position, except for HKFRS 16 Leases which is effective for accounting periods beginning on or after 1 January 2019. HKFRS 16 will primarily affect the Council's accounting as a lessee of leases for premises which are currently classified as operating leases. The adoption of HKFRS 16 is expected to lead to an increase in both assets and liabilities and affect the timing of expenses recognition in the income and expenditure account over the period of the leases. The Council has yet to assess the impact the standard on its financial statements.

2.4 Revenue recognition

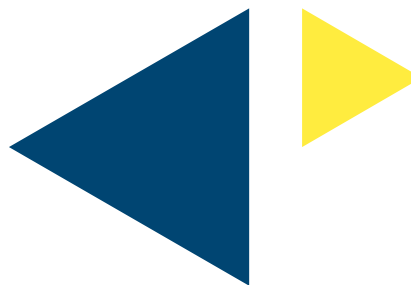
A government subvention is recognised when there is a reasonable assurance that the Council will comply with the conditions attaching to it and that the subvention will be received.

Government subventions relating to income are recognised in the income and expenditure account over the period necessary to match them with the costs they are intended to compensate.

Interest income is recognised as it accrues using the effective interest method.

2.5 Property, plant and equipment

Property, plant and equipment include furniture and fixtures, office equipment and computer equipment costing HK\$5,000 or more with estimated useful lives longer than one year.



Property, plant and equipment are stated in the balance sheet at cost less accumulated depreciation and any impairment losses. Depreciation is calculated to write off the cost of property, plant and equipment, less their estimated residual values, on a straight-line basis over their estimated useful lives as follows:

Furniture and fixtures	10 years
Office equipment	5 years
Computer equipment	3 years

Gains or losses arising from the disposal of property, plant and equipment are determined as the difference between the net disposal proceeds and the carrying amount of the asset, and are recognised in the income and expenditure account at the date of disposal.

2.6 Employee benefits

Contract gratuities, salaries and annual leave entitlements are accrued and recognised as expenditure in the year in which associated services are rendered by the staff. Staff on-costs, including pension and housing benefits provided to the staff by the Government, are charged as expenditure in the year in which the services are rendered.

2.7 Operating lease

Leases in which a significant portion of the risks and rewards of ownership is retained by the lessors are classified as operating leases. Rental payments made under operating leases (net of any incentives received from the lessors) are charged to the income and expenditure account on a straight-line basis over the period of the relevant leases.

2.8 Cash and cash equivalents

For the purpose of the statement of cash flows, cash and cash equivalents comprise cash on hand, demand deposits and other short-term highly liquid investments that are readily convertible to a known amount of cash and are subject to an insignificant risk of changes in value, having been within three months of maturity when acquired.

3. PROPERTY, PLANT AND EQUIPMENT

	Computer equipment HK\$	Office equipment HK\$	Furniture and fixtures HK\$	Total HK\$
Cost				
At 1 April 2015	98,552	51,774	-	150,326
Addition during the year	-	25,800	-	25,800
Disposal during the year	(1,580)	(35,000)	-	(36,580)
At 1 April 2016	96,972	42,574	-	139,546
Addition during the year	-	24,530	24,750	49,280
Disposal during the year	(23,006)	-	-	(23,006)
At 31 March 2017	<u>73,966</u>	<u>67,104</u>	<u>24,750</u>	<u>165,820</u>
Accumulated depreciation				
At 1 April 2015	69,948	51,774	-	121,722
Charge for the year	12,155	430	-	12,585
Written back on disposal	(1,580)	(35,000)	-	(36,580)
At 1 April 2016	80,523	17,204	-	97,727
Charge for the year	9,467	8,431	1,237	19,135
Written back on disposal	(23,006)	-	-	(23,006)
At 31 March 2017	<u>66,984</u>	<u>25,635</u>	<u>1,237</u>	<u>93,856</u>
Net book value				
At 31 March 2017	<u>6,982</u>	<u>41,469</u>	<u>23,513</u>	<u>71,964</u>
At 31 March 2016	<u>16,449</u>	<u>25,370</u>	<u>-</u>	<u>41,819</u>

4. CASH AND CASH EQUIVALENTS

	2017 HK\$	2016 HK\$
Cash at bank	379,029	363,483
Cash in hand	947	2,273
	<u>379,976</u>	<u>365,756</u>

5. CONTINGENCY RESERVE

As agreed in the Director of Administration's letter of 9 June 1999, the Council can carry a contingency reserve. The maximum amount of reserve is the sum of

- (a) bank interests earned in the preceding year; and
- (b) 5% of the surplus of the Council's recurrent subvention (excluding bank interests) over expenditure in the preceding year.

With effect from 2016-17, the reserve ceiling has been varied to 15% of the approved annual recurrent subvention, which refers to the subvention amount stated in the audited financial statements in the preceding year. If the level of the reserve exceeds the ceiling, the Council should return the amount in excess to the Government in the following financial year upon issuance of the audited financial statements.

6. GOVERNMENT SUBVENTIONS

Subventions received from the Government of the Hong Kong Special Administrative Region amounted to HK\$6,757,360 (2016: HK\$6,170,957):

	2017 HK\$	2016 HK\$
Annual recurrent grant	6,367,000	6,166,000
Contingency grant	390,360	4,957
Subventions from the Government	<u>6,757,360</u>	<u>6,170,957</u>

7. STAFF EMOLUMENTS

	2017 HK\$	2016 HK\$
Civil service staff:		
Staff cost	3,798,662	3,250,052
Non-civil-service contract staff:		
Staff salaries	304,073	283,696
Gratuities	15,763	13,860
Provident fund	15,204	14,185
Provision for untaken leave	6,419	6,992
	<u>341,459</u>	<u>318,733</u>
	<u>4,140,121</u>	<u>3,568,785</u>

8. OTHER EXPENSES

	2017 HK\$	2016 HK\$
Production of annual report/newsletter	63,612	55,647
General publications, periodicals and journals	44,892	44,527
Accountancy fee	40,500	40,500
Conference expenses	8,882	73,695
Other administration expenses	105,608	87,039
Depreciation	19,135	12,585
	282,629	313,993

9. FINANCIAL RISK MANAGEMENT

The Council's major financial instruments are cash at bank. The main risk associated with these financial instruments are credit risk and liquidity risk.

Credit risk

Credit risk is the risk that one party to a financial instrument will fail to discharge an obligation and cause the other party to incur a financial loss. In order to minimise the credit risk, the Council's cash at bank is placed with a major licensed bank in Hong Kong.

Liquidity risk

Liquidity risk is the risk that an entity will encounter difficulty in meeting obligations associated with financial liabilities. The Council has laid down a liquidity policy which is reviewed regularly by the Council members. This policy requires the Council to maintain a conservative level of liquid funds on a monthly basis to ensure the availability of adequate liquid funds to meet all obligations.

10. CAPITAL MANAGEMENT

The capital of the Council consists solely of funds from the recurrent government subvention. The Council's objectives when managing capital are:

- to comply with the Legal Aid Services Council Ordinance; and
- to maintain a capital base to fund the operation of the Council for the objective stated in Note 1 above.

The Council manages its capital to ensure that the level is adequate to fund future expenditure, taking into account its projected cash flow requirements, future financial obligations and commitments.

11. COMMITMENTS

The future aggregate minimum lease payments under non-cancellable operating leases are as follows:

	2017 HK\$	2016 HK\$
Within 1 year	909,200	1,691,112
After 1 year but within 5 years	-	909,200
	<u>909,200</u>	<u>2,600,312</u>

In June 2017, the Council has renewed the leases for its office premises. The aggregate minimum lease payment under the renewed leases amounted to HK\$5,179,824 up to October 2020.

12. FAIR VALUES OF FINANCIAL ASSETS AND LIABILITIES

All financial assets and liabilities are stated in the balance sheet at amounts equal to or not materially different from their fair values.